

Transgendering the matrix: Reconceptualising the intersections of sex, gender and sexuality - Sally Hines

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1. Introduction

In recent years 'transgender' has moved from the margins to emerge as a subject of increasing social and cultural interest across Europe. To my mind, of key importance in considering these moves is the question of praxis: to what extent do the aforementioned developments speak to the material concerns of trans people? Or, in other words, has a social, cultural and legal focus on 'transgender' made any difference? Thus I seek to map the ways in which trans narratives highlight the multifarious intersections across, and between, sex, gender and sexuality. An intersectional account of (trans)gender challenges both elements of feminist theory and politics, and medical understandings of transsexuality. Such challenges, I suggest, lead to contestations around 'transgender' within both feminist and trans communities –members of each have thus variously embraced and resisted 'transgender' as a signifier of gender transformation. I argue that for 'gender' to remain a meaningful theoretical concept and a fruitful political site, it needs to be pluralized in order to take account of multiple gendered expressions and identities. Such a project, I suggest, would further detach 'gender' from 'sex', and set in motion a more developed intersectional account of gendered lives and social positionings.

2. A theoretical turn to transgender

2.1 *The chicken or the egg? Foregrounding gender or sexuality*

From the 1960s, social perspectives on gender and sexuality have challenged traditional accounts, which, from the 19th century, had located gender and sexuality (alongside 'sex') as biologically given. Moreover, such a framework naturalised the relationship between sex, gender and sexuality. Implicit here is the naturalization of heterosexuality; what Butler (1993) terms the 'heterosexual matrix'. Thus, sex, gender and sexuality hierarchically correlate. Feminist analysis challenged understandings of gender and sexuality as inherent; theorising both as socially produced. Yet, the categories remained tied through prevailing debate around whether gender constituted sexuality, or sexuality, gender (Alsop, Fitzsimons and Lennon, 2002; Hines, 2007a, 2007b; Richardson, 2007).

In the main, feminist analyses have privileged gender over sexuality (Wittig, 1981; Delphy, 1984; Jackson, 1999). As Richardson (2007) details, from this perspective, gender is the founding principle from which modern sexual categories arise. Gender is thus theorised as a dual system of power relations. While a model of gender over sexuality is largely associated with materialist feminism, other feminist writers took the opposite approach in privileging sexuality over gender. From this perspective, relations of heterosexuality and homosexuality hierarchically produce the categories of male and female. Thus MacKinnon argued that 'sexuality is the lynchpin of gender inequality' (Mackinnon, 1982: 533).

A different feminist approach to the relationship between gender and sexuality emerged from writers who theorised gender and sexuality as distinct though overlapping categories (Hollibaugh, 1989; Rubin, 1989; Vance, 1989; Sedgwick, 1990). In distinguishing between gender and sexuality, this framework independently theorises gender and sexual difference while also recognising their related characteristics (see Hines, 2007a; Richardson, 2007). Moreover, from this premise, an either/or theorising of gender and sexuality problematically fuses 'sex' and gender. In this way, Rubin (1989) questioned the extent to which feminist theory was able to account for an axis of sexual inequality -political, social, cultural, legal, economic and ideological. Rubin thus argued that a political theory of sexuality requires an ideological framework that distinguishes between the categories of sex and gender (Hines, 2007a). Rubin's intervention was important in theorising 'sex' (alongside gender and sexuality) as socially constructed (see also Vance, 1989). This move challenged existing feminist approaches to gender and sexuality, as discussed above, in which 'sex' was naturalised. Further, the consideration of 'sex' as socially determined paved the way for a more complex reading of gendered and sexual binary constructions.

2.2 Beyond the binaries: Queer theory

Whether theorising gender as the principle organising tool that determined sexuality, or vice versa, social inequalities between men and women were paramount to feminist analysis. Relations of power, then, functioned at the level of the social and operated through gendered oppositions. The development of queer theory affected significant challenges to this analytical model. First, queer theory focused attention on the cultural production of power; thus fracturing a predominant focus on the social realm. Second, queer theory problematised binary models of male/female, hetero/homo that underpinned existing feminist analyses. Echoing the earlier work of scholars such as Hollibaugh (1989), Rubin (1989) and Vance (1989), writers at the forefront of queer theory argued for an analytical de-coupling of gender and sexuality (Butler, 1990; Sedgwick, 1990; Halperin, 1995). The separation of gender and sexuality, these scholars claimed, allowed closer interrogation of dynamics within and across these categories (see Richardson, 2007). From here on in, difference signifies the instability and contingency of gender and sexual identity categories. Thus, diversity within the categories of male/female and hetero/homo are open to scrutiny. As I have suggested elsewhere (Hines, 2007a), such considerations are important for theorising practices of gender diversity where erotic desire does not inevitably fit binary understandings of either gender or sexuality; or, to use Martin's (1998) phrase, to theorise 'sexualities without genders'. Although queer theory has, in the main, placed more import on the celebration and progressive potentials of difference, attention to diversities within gendered and sexual categories enables a critical examination of the power relations contained within, as well as produced across, these sites.

Queer theory was also important in advancing critiques of the naturalisation of 'sex'. Like Rubin (1989) and Vance (1989), Butler (1990) argued that existing feminist theory failed to provide a social analysis of 'sex'. A binary categorisation of 'sex' and 'gender', she argued, restricted feminist understandings: 'The presumption of a binary gender system implicitly retains the belief in a mimetic relation of gender to sex whereby gender mirrors sex or is otherwise restricted by it' (Butler, 1990:6). Moreover, the idea of 'sex' as a constitution of the biological body, and 'gender' as the social translation of 'sex', disabled a more productive understanding of gender as distinct from sex. Queer theory, then, problematised earlier feminist tendencies to foreground gender or sexuality, which, in either case, neglected the social construction of 'sex'. Yet despite the

recognition of the overlapping features of gender and sexuality, patterns and effects of interconnection are largely undertheorised in queer theory. This exclusion can be remedied by turning to intersectional analysis.

2.3 Theorising intersections

The significance of intersectionality, both conceptually and methodologically, arises from its premise that traditional singular models of theorizing oppression, such as those based on class, race or gender, fail to account for the ways in which forms of inequality interrelate (Crenshaw, 1989; 1991). Further, intersectional studies have been important in illustrating how modes of inequality do not just rub up against each other, but systematically interweave to give shape to one another. Arising from Black feminist scholarship and activism, intersectionality emerged in the 1970s to critique the silence around race and ethnicity within the women's movement (see hooks, 1984). The absence of race theorizing, it was argued, constituted white middle class women as the feminist subject. In common with queer analyses of sexuality as existing on an inside/out binary (Fuss, 1991), intersectional theorists such as hooks (1984) and Collins (1986), linked systems of oppression to either/or modes of analysis. Thus Collins (1986) pointed to the construction of social relations through 'dichotomous oppositional difference', for example, male/female, black/white, which, in turn, work to construct hierarchical social relations.

Conceptually, intersectional analysis has been productively applied in feminist, and particularly, post-colonialist feminist, literature to theorise social divisions of gender, race and class. Additionally, intersectional developments open avenues for richer empirical studies of inequality. McCall (2005) has detailed the methodological significance of intersectionality for social research; drawing out the productive methods of different intersectional approaches for sociological research, which, she argues, previously failed to address multiple forms of oppression. Intersectionality has also brought a significant political intervention, the recognition of which was centrally positioned within calls for political and social equality (Collins, 2000). Thus, for Collins (2007), intersectionality accounts for how patterns of social inequality work together to form a 'matrix of dominance'. Similarly, Ritzer speaks of 'vectors of oppression and privilege' (2007: 204). Yet, a politics of intersectionality requires analytical precision. From this point, it is important to be mindful of the way in which intersectionality has, at times, been opaquely and individualistically applied (see Conaghan's [2009] critique of intersectionality). Similarly, it is important to ensure that intersectionality does not merely work as an additive framework whereby categories of 'difference' are described or listed, yet remain outside of a critical analysis of power relations and a politics of redistribution.

While the intersections of gender with ethnicity, race and class have been subject to analysis within intersectional studies -all-be-it with, perhaps, limited political effects- the intersections of gender and sexuality have been largely peripheral to an intersectional turn (Anthias, 2001; McCall, 2005; Richardson et al., 2006; Richardson, 2007). Given that studies of sexuality have, arguably, moved from the margins to take a more central place within social and cultural theorisations of inequality over the last decade, this is somewhat surprising. There are, though, notable exceptions. Wilton, for example, has argued that 'discourses of gender and sexuality are inextricably interwoven' (1996: 125), while Alsop et al (2002) discuss the 'interweaving' of gender and sexuality. Richardson (2007) also pays attention to the intersections of gender and sexuality in theorising their relationship as 'patterned fluidities'. The terminology here is significant. While 'fluidity' speaks to the unstable and plural features of gender and sexuality, Richardson's notion of 'patterning' evokes social dynamics and relations of power. In this way, Richardson adds an

important caveat to queer analyses that foreground transgression at the expense of material considerations. Similarly, calls for a 'queer sociology' (Seidman, 1996; Roseneil, 2000; Valocchi, 2005; Hines, 2007a), a 'poststructuralist sociology' (Namaste, 2000), and a 'material queer studies' (Hennessy, 2006) stress the need to understand gender and sexuality as both socially relational and performatively constructed (Hines, 2007b).

Valocchi's (2005) discussion of queer social research is important for my argument here. In stressing the importance of empirical work on gender and sexuality that is guided by a queer analytical framework, Valocchi (2005) suggests that queer sociological analysis holds the potential to destabilise the relationship between sex, gender and sexuality. Such a framework enables a productive rethinking of power and resistance; moreover, a queer sociological analysis, he proposes, offers a way to 'interrogate the gendered nature of sexuality, the sexualized nature of gender, and the complex but patterned nature of human subjectivity across various axes of social difference' (Valocchi, 2005: 766). Valocchi rightly warns of the eclipsing effects of separating gender and sexuality for people whose identities are complexly situated. Similarly, Valentine's (2003; 2007) work illustrates the ways that non-normative gender and sexual positions may be overshadowed in conceptual and political frameworks of identity that disconnect gender and sexuality. These interventions are important for developing queer analyses that avoid indiscriminate theorisations of agentic fluidity and, which, subsequently, fail to account for patterns of social inequality (see Hines, 2006, 2007a, 2009).

Such themes map onto methodological discussions of intersectionality; particularly in relation to what McCall (2005), in her discussion of different intersectional approaches, terms 'anticategorical complexity', that is, the deconstruction of analytical categories. Anticategorical approaches have been critiqued for failing to account for the material and corporal significance of identity categories as they impact upon power relations and affect the distribution of resources. Taken one step further, this critique has been levelled at anticategorical intersectional approaches for failing to recognise how identity 'matters' on a subjective level (see Erel et al). I would suggest, however, that anti-categorical complexity need not inherently be oppositional to a material analysis or a politics of redistribution. Rather, such a framework can bring to light the ways in which power relations are discursively and materially embedded in identity categories. Thus McCall details how an anticategorical approach has productively worked to challenge singular models of identity:

There are no longer two genders but countless ones, no longer two sexes but five (Fausto-Sterling, 2000). In a remarkably short space of time, bisexual, transgendered, queer and questioning individuals have been added to the original divide between gay and straight sexuality groups [...].

(McCall, 2000: 1754)

Rather than discounting subjective investments in identity, then, an anticategorical approach may productively bring to light identities which have been previously marginalised within gender or sexual binary frameworks. Conceptual moves have thus been made to bring sexuality –and its relationship with gender– into intersectional analysis. Yet there has been little empirical research that has examined the lived experiences of such intersections. From this juncture, I move on to explore the intersections of gender and sexuality as they are articulated in the lived realities of some of the trans people who have participated in my research.

3. Research notes

In the following parts of this paper I draw on data from two qualitative research projects. The section *Talking Gender/Talking Sex* draws on data from research entitled 'Transgender Practices of Identity, Intimacy and Care' (2000-2004). This research examined the construction of individual and collective identities, the impact of gender transition on intimate relationships, and the role in social movements in providing practices of care within transgender communities.¹ The research sought to explore how gender and sexual categorisations impact upon understandings, practices and experiences of transgender, and to address the ways in which these issues feed into debates around identity, intimacy, care, social movements and citizenship.

Thirty-two two-stage, in-depth interviews were conducted across the UK for this research. Thirteen of the sample group had, variably, transitioned from male-to-female; thirteen from female-to-male and four identified as bigendered. Fourteen members of the sample group identified as heterosexual; ten as bisexual; four as lesbian; one as gay and one as queer. Eighteen participants were in relationships and twelve were single. Three members of the sample group remained married to their pre-transition partners. Seven participants were parents. A little under half of the sample lived in rural locations and just over half in urban areas. The age range of the sample group was from 25 to 71. While the occupations of participants were mixed, overall occupational biographies suggested a higher representation of middle class participants than working class. Participants were at different stages of transition, and the sample included people who use hormone therapy and/or a range of surgical modifications, and those who reject such interventions. All participants resided in the UK.

The preceding section *Misrecognising Gender and Sexuality in Law* draws on data from a later ESRC-funded project entitled 'Gender Diversity, Recognition and Citizenship' (2008-2010), which explored the impact of the UK Gender Recognition Act (GRA, 2004) upon individual and collective transgender identities and practices of intimacy. Representing the civil recognition of gender transition, the GRA enables the change of birth certificates and grants some trans people the right to marry in their acquired gender. Of central importance to this project are the ways in which trans people variously understand and experience this changing policy landscape. Moreover, the research sought to understand the social relations, identities and cultural values that shaped the GRA, and the ways in which the GRA has shaped these in turn. Research themes explored the extent to which gender recognition brings new meanings to gendered, sexual, intimate and embodied identities, and considered how gender recognition speaks to issues of gendered and sexual citizenship, and to debates around recognition and assimilation. As such, the research built on the previous project by considering the extent to which legal change impacted upon individual and collective identity formation and experience. Further, the research considered what recent policy developments around gender recognition say about gender and sexuality, and their intersections, more broadly.

A range of qualitative methods were used in this project: policy analysis; analysis of virtual materials; focus group interviews and one-to-one interviews. The empirical data drawn on in this chapter is from the individual interviews. Twenty-five in-depth interviews were conducted with trans people across the UK. Nineteen participants had, variably, transitioned from male-to-female, five from female-to-male, and one participant identified as 'non-gendered'. The age range of the sample group was from 26 to 69. Participants lived in both rural and urban settings, though there were a higher number of participants from urban areas. Fifteen participants were in relationships

and of these, three remained married to their pre-transition partners and three were in civil partnerships. Ten participants were single. Nine participants described themselves as heterosexual and the remaining sixteen used a wide variety of terms to describe non-heterosexual identities; such as 'gay', 'lesbian', 'queer' 'bisexual' 'asexual' and 'pansexual'. The occupations of participants were mixed, but like the first research, the sample group overall suggests a higher representation of middle-class participants. Thirteen participants had successfully registered for a gender recognition certificate; five had unsuccessfully applied; seven had chosen not to apply. All participants lived in the UK.

Drawing on data from across these two projects allows me to take an intersectional analysis to a further level. Data from the first project, 'Transgender Practices of Identity, Intimacy and Care', is useful for exploring the ways in which the intersections of gender and sexuality are complexly illustrated in research narratives. Data from the second project, 'Gender Diversity, Recognition and Citizenship', is relevant in considering how these intricacies are absent within recent legislative strategies that address gender and sexual diversity.

4. Talking gender/talking sex

In the first research project, 'Transgender Practices of Identity, Intimacy and Care', the intersections of gender and sexuality were often apparent when I asked participants how they described their gender and what terms they used to express their sexuality. Significantly, sexual categorising terms were often drawn upon to describe gender identification, while gendered codes influenced many participants' discussions of sexuality. In describing her gender identity, Gabrielle, for example, said: 'I mean words are really tricky. I guess I'd say I'm a trans lesbian [...]' (Gabrielle, Age 45), whereas, when articulating his gender identity Del said: '[...] I call myself a hermaphrodyke sometimes. I've been a lesbian or a dyke. I've been a queer dyke. Queer is probably the term I feel best describes me. I could call myself a queer trannie boy. Everything is qualified in one way or another [laugh]' (Del, Age 44).

Such overlapping linguistic codes illustrate the limits of language. Thus dominant categorical frameworks are unable to account for the complexities of gendered and sexual transformations (Hines, 2007a). Reflecting this, several participants said that they found it hard to describe both their gender and sexual identities. In relation to articulating gender, Rebecca, for example, said: '[...] there isn't a term which I'm absolutely content and happy with', and, when talking about sexual identification, said '[...] there's a lack of language to describe my sexuality' (Rebecca, Age 55). Apparent here are the failings of existing classificatory systems in accounting for transgender identities and desires; as Hale comments: 'categories and terms always assume a nontransgendered paradigm -nontransgendered people's subjectivities and embodiment are always the reference points for these categories' (Hale, cited in Cromwell, 1999: 130).

Yet intersections of gender and sexuality are not simply a linguistic issue. Rather, many participants' narratives indicated the ways in which gender and sexuality map on to each other in more experiential ways. Participants spoke in different ways about how gender transition had impacted upon their sexual subjectivities and identities. For some research participants, gender questioning emerged from reflections around sexuality. Paul, who identified as heterosexual, articulated this link:

Well the big thing for me was my sexual identity before the gender identity issues really came to the fore, when I started having relations with women, not men. So suddenly the issue flared up, 'was I a lesbian?' [...] But once that had all settled down, and I'd come to terms with that, and then it became obvious that there was more to it than that. That was just the starting point on a long road. I was heading much further than that.

(Paul, Age 34)

Paul intimates that he was dissatisfied with the category 'lesbian' as an adequate reflection of sexual desire, though he had yet to identify as male. Moreover, he discusses how reflections around sexual identity led to him questioning his gender identification. In this way, Paul's masculinity is developed as much through his sexual subjectivity as his gendered identity; indicating how gender and sexuality may overlap in complex forms. While, for some research participants, the gender of those they desired remained the same through gender transition, for others, gender transformations brought shifts in sexual identity and practice. Dionne, who identified as bisexual, for example, spoke of an increased fluidity of sexual expression through transition: '[...] now I'm starting to fancy men, which I never did before. I'm very open sexually, it doesn't matter what sex someone is if they like me and I like them.' (Dionne, Age 40). For Dionne, then, movement between the categories of male/female enabled her to transgress the categories of heterosexual/homosexual.

William, who also identified as bisexual, contextualised his sexual trajectory within a trans movement that enabled both a physical and a psychological space for sexual diversity: 'There's all these people around me, trans people around me, who are just very open about their relationships and all that [...]' (William, Age 25). While Paul locates gender questioning as arising from reflections around sexuality, William speaks of how his identity as trans enabled him to reflect on sexuality. In the following quotation, the aforementioned 'openness' around sexuality thus intersects with gendered reflexivity:

You've already got to be honest with yourself, come to terms with, you know, saying this is who I am. So I think people think there's no point in me, you know, hiding something else. Or maybe also, if you're open, if you're used to being open about lots of things you can just easily be open with your sexuality, you know.

(William, Age 25)

For these research participants, thinking and living through the complexities of gender intersects with re-conceptualisations of sexuality –or vice versa. While for Paul, Dionne and William, gender and sexuality intersected in unforeseen ways, other participants spoke of how they consciously developed gender and sexual identity positions to problematise normative correlations of sexuality and gender identification. In talking about his long-standing job as a sex-worker, Philip articulates the complexities of sexuality in relation to gendered bodily changes. Several years before our interview, he had begun taking hormones and, more recently, had chest surgery, though he had not undergone genital surgery. In the following quotation, Philip discusses how his changing gendered body had broadened his client-base over the last decade:

[...] I have a few clients who I've had for more than five or ten years, who don't know that I've transitioned. Then I advertised for a while as female-to- male TV (transvestite) during hormones and I picked up a few clients who I think really saw me as female, liked the idea of me as a butch female. And one or two still come and know about the hormones and

transition, and are quite interested in it. Then my most recent reincarnation has been as a male-to-female post-op [...].

(Phillip, Age 42)

Philip's narrative indicates how transition may give shape to varied gender and sexual practices, which, reflexively performed, undermine the naturalisation of either. The potential fluidity of both gender and sexuality was also apparent when participants talked about how gender transition impacted upon intimate encounters. In this way, Gabrielle, who described herself as a 'trans lesbian', spoke of how intimate relationships impacted on both gendered and sexual self-identity:

I was with someone briefly before and she was quite a butch presenting lesbian woman and I became quite a butch presenting lesbian woman too when I was with her [...].

(Gabrielle, Age 45)

Both Philip and Gabrielle position gender and sexuality as relational processes, which not only interweave, but whose interrelations shift through interactions with lovers and sex partners. The relationality of the intersections of gender and sexuality is also evident in Svar's narrative when he talks about how a relationship with a heterosexual-identified woman reinforced his masculinity:

When I met my partner it was very interesting for me having had relationships, lesbian relationships, or with women who identified as lesbians. It was really refreshing; it was just when I was six months or a year into my transition, to start this relationship with a woman who was used to having relationships with men. Because she treats me like a guy, she calls me 'he'.

(Svar, Age 41)

Here Svar draws on the intersections of gender and sexuality to discuss how his partner's recognition of his masculinity worked to subjectively reinforce his identification as male.

Thus far, by drawing on the narratives of some of the research participants from the first project, I have explored how intersections of gender and sexuality are illustrated in the lived experiences of participants in several ways: linguistically -through the interweaving of gendered and sexual articulations; as starting blocks in subjective reflections around gender and sexual identities; as shifting performances that interweave with embodied changes; and as dynamic relational practices. These points indicate how gender transition may enable increased sexual possibilities and open up a greater diversity of sexual identifications (Hines, 2007a). Moreover, the participants' narratives considered here signpost the scope for multifarious negotiations of gender and sexuality in contemporary society more broadly. Yet, as I move on to address by drawing on data from the second research project, despite recent legal changes that attempt to speak to lived experiences of gender and sexuality diversity, the instabilities of gender and sexuality –and the complexities of their intersections- are maligned in current law. Further, as I will discuss, legal understandings work to constrain the diversities of both gender and sexuality.

5. Misrecognizing gender and sexuality in law

The Gender Recognition Act (GRA, 2004) came into being in 2004, enabling trans people to legally change their birth certificates and to marry or civilly partner in their acquired gender. In the same year, the UK Civil Partnership Act (CPA, 2004) brought civil recognition for same-sex relationships in the UK, granting some degree of parity between rights afforded to same-sex and heterosexual married couples -for example, in relation to property, inheritance, tax, pension and social security benefits, and parental responsibility for a partner's child. Elsewhere (Hines, 2007a; 2007b; 2008; 2009) I have discussed how medical understandings of transsexuality are problematically written into the legal framework of the GRA; arguing that, consequently, trans people, such as Rebecca quoted above from the first research project, who do not confirm to the gender binaries of male and female, and those who refuse to divorce from their partners whom they married prior to transition, remain unrecognised in UK law. I have also, elsewhere, critiqued the notion that civil partnerships represent full equality of rights and social capital when considered alongside marriage (Hines, 2009). In each of these respects, current UK law continues to discriminate against and marginalise practices of gender and sexual diversity. In developing this analysis here, I proceed to examine the ways in which gender and sexuality are co-positioned within and across these two pieces of legislation (the GRA and the CPA). I suggest that rather than speaking to the complexities of gendered and sexual intersections, such legal co-positioning collapses issues of gender and of sexuality. The results of this process, I argue, are two-fold: first, creative ways of living gender and sexuality are maligned; second, new forms of discrimination are instituted.

Prior to the implementation of the GRA, fierce debates in Parliament focused on the impact of gender recognition on marriage, or more specifically, on the potential threats to the *institution* of marriage. Key to contestation was the notion that, in legally recognising gender as acquired, the GRA would enable same-sex marriage -for example, on gaining gender recognition a trans woman in an existing marriage would be legally married to her wife. Such concerns overshadowed dissent about gender recognition itself. Put another way, panic about effects of the GRA on the sanctity of marriage was more fervent than moral qualms about gender transition per se. Evidently, the idea of same-sex marriage raised conservative hackles more than the idea of a man becoming a woman or vice versa.ⁱⁱ The protection of marriage as a heterosexual union was of central concern to discussions in both the House of Common and the House of Lords surrounding what was then the Gender Recognition Bill (GRB). Despite citations of the small number of people who remained married to their pre-transition partners,ⁱⁱⁱ the GRB was passed only on the proviso that married trans people divorce before being deemed eligible for a full gender recognition certificate:

To receive a full Gender Recognition Certificate, a transsexual person must be unmarried and not in a UK civil partnership. This is because, under the laws of the UK, a marriage is only valid if it is contracted by two people of the opposite sex in law. A civil partnership may only be formed between people of the same sex in law. So, for example, a male-to-female transsexual person who has not received legal recognition as a woman remains in law male and may only marry a woman. She may not marry a man.

(Tribunals Service: The Gender Recognition Panel, Guidance for Married People or those in Civil Partnerships: http://www.grp.gov.uk/documents/guide_married_civil_partner_05.pdf)

As Sharpe rightly comments, the divorce clause ‘was retained for the explicit purpose of insulating marriage from homosexual incursion’ (Sharpe, 2007: 13). A number of research participants in the second research project ‘Gender Diversity, Recognition and Citizenship’, raised the divorce clause as an issue of both political and personal concern. Stephanie, for example, stated:

[...] Parliament said it was a way of letting gay people sneak in and [...] get married. As if that was going to do any harm to anybody. But that’s what it’s about. It’s a vicious nasty thing really.

(Stephanie, Age 59)

The determination, though, was not reached without criticism from other members of Parliament who argued that the requirement of divorce would fragment families. These MPs also pointed out the paradox of this for a conservative position of ‘protecting’ the notion of ‘family’ itself.^{iv} Moreover, the divorce clause angered many members of trans activist groups. Thus Claire MacNab, former vice-president of trans campaigning group ‘Press for Change’ states: ‘There is no other situation that I am aware of where a person has to choose between their marriage and another human right —it’s absurd’ (MacNab, 2005). Here McNab points to the irony of new patterns of inequality and discrimination emerging from legislation passed within a framework of equalities and diversity.

The divorce clause was defended through frequent recourse to the Civil Partnership Act, which came into effect in April 2005, eight months before the enactment of the Gender Recognition Act in December 2005. It was argued that the divorce clause was non-discriminatory as trans couples could register for civil partnerships following divorce. Indeed, such cross-referencing is written into each of the Acts. Reflecting this, in ‘Written Answers’ to Parliamentary questions, The Parliamentary Under-Secretary of State, Lord Filkin stated:

If the Government's proposed legislation on same-sex civil partnerships is enacted, couples who have ended their marriage to allow one partner to gain legal recognition in the acquired gender will be able to register a civil partnership and hence regain a legal status for their relationship.

(Filkin, 2004)

The fault-line within this reasoning is that civil partnerships as they currently stand are unintelligible for people who do not identify as lesbian or gay (Hines 2007a, 2009). Thus the GRA and the CPA carry a set of assumptions about gender, sexuality and intimacy, which are based on a hetero/homo binary; one can be heterosexual (marry) or homosexual (civilly partner). Yet such formulations did not work for many of the participants in the second project, and only two out of 25 research participants were in civil partnerships. Cheryl, who describes her sexuality as ‘largely heterosexual’, is in a long-term relationship with her male partner. In talking about relationship recognition, Cheryl is clear that a civil partnership would not work for her or her partner: ‘I would not be comfortable getting married as a couple of gay men because I don’t see that as me’ (Cheryl, Age 51). Cheryl’s points here indicate again the exclusions that emerge from the co-positioning of the GRA and the CPA; bringing to light how the framing of civil partnership as representative of same-sex relationship recognition may not work for trans people whose sexual identities are not gay or lesbian.

Stephanie, who has successfully applied for gender recognition, also speaks of the ways in which a hetero/homo divide informs the legal framework in which the GRA and the CPA are co-positioned. Stephanie lives with the woman who, until recently, was her wife of many years, and is the mother of her three children. In order for Stephanie to gain gender recognition, the couple have divorced. Asked if they would now register for a civil partnership, Stephanie is unambiguous: 'I think it's highly inappropriate' (Stephanie, Age 59). During her interview, Stephanie spoke at length about the symbolic, emotional and financial effects of the divorce clause. Initially, Stephanie talked of the law's irrationality:

[...] it's upsetting because it basically says these two people can't stand each other. Which is [...] what it's {divorce} normally about. We're not dealing with that situation and they've forced us into it.

(Stephanie, Age 59)

Asked how her and her partner had arrived at the decision to divorce, Stephanie talked about the emotional impact of the divorce clause on her relationship:

With much angst and upset. Terrible. Horrible [...] I hate the fact that I was making her suffer, through no fault of her own. She hated me for making her suffer through no fault of her own. I didn't want not to be married; she did not want not to be married.

(Stephanie, Age 59)

Stephanie also articulated the practical and financial implication of divorce:

We aren't well prepared for death, of either of us. It's very hard. I mean our property here is way above...we imagine there's inheritance tax issues all round; it's just that the marriage annulment destroys all previous wills. It's as if one partner has died.

(Stephanie, Age 59)

Finally, Stephanie spoke about the impact of the divorce clause on parenting relationships; indicating a further way in which the juxtaposition of the GRA and the CPA fails to recompense for legal inequalities.

Because a marriage annulment...the thing is this is a marriage, which did exist and the children, if you have any, do exist, they also don't seem to have any rights [...]. In a civil partnership, the civil partnership does not recognise that both parties can have children together. You have to adopt them {your children}.

(Stephanie, Age 59)

Stephanie's narrative indicates that marriage may be significant for a range of reasons that are unconnected to sexual identification and/or sexual practice; reflecting, for example, long-term emotional, practical, financial and parenting commitments. That the law requires such commitments to be dissolved was a source of much resentment for the majority of research participants. As Stephanie remarked:

I've found nobody who thinks it's even marginally acceptable. And the stress and unhappiness caused is immeasurable.

(Stephanie, Age 59)

Consequently, several research participants had decided to remain married and not to apply for gender recognition. Jasmine, for example, said:

We have had long discussions about it and we have come to the conclusion and I think we are both happy with this and that is we are not prepared to annul the marriage. And I went through a stage where I was saying, well I don't think it matters that much because it is a legal thing rather than a... But X {partner's name} was just not buying it and she was saying, no it is a bit more than that. It is just a bit more than what a judge says in a law court that the marriage is annulled. It is actually very significant and she sort of persuaded me that, yes it is more significant. You can't just say that it never existed.

(Jasmine, Age 36)

Sarah also refuses to divorce from her wife. In the following quotation she expresses anger at having to choose one right (marriage) over another (gender recognition):

I wanted to go through this without losing my work, my friends, my family and in particular my marriage and I have achieved all that but it has been at the cost of recognition. So I have done everything that I wanted to do that I can do but I am denied certain other things that are very important to me.

(Sarah, Age 50)

Research narratives not only indicate the ways in which gender and sexuality may intersect in complex ways, but also bring to light the ways in which these intersections are woven through intimate ties and affective processes. As is evident from the above discussion, however, current UK law attaining to gender and sexuality diversity fails to account for these processes of intersectionality or of relationality; illustrating a legal imaginary that is detached from contemporary lived experiences. Further, such derivative legal frameworks give rise to new forms of inequality, which, as attested to by the above research participants, significantly impede on agentic and creative possibilities of living gender and sexuality in contemporary society.

6. Conclusions

In this paper I have drawn on research narratives on gender and sexuality in order to consider transgender as a site that often brings to light the lived intersections of gender and sexuality. Yet, as I have also empirically examined, recent UK legal frameworks, which developed in light of increased social and cultural awareness of gender and sexual diversity, fail to account for the complexities of this inter-relationship. Thus current UK legal frameworks lag far behind the nuanced ways of *being* gendered and sexual subjects, and lack sophistication to account for diverse practices of doing gender and sexuality. Consequently, I have suggested, recent years have witnessed new patterns of gendered, sexual, intimate and embodied inequality. Already marginalised individuals and disenfranchised social groups thus face further levels of discrimination. Indeed, those who are members of the most disenfranchised groups become marginalised further.

In exploring a number of ways in which gender and sexuality interweave in the narratives of some of the trans women and men who participated in my research, I have attempted to consider the intersections of gender and sexuality at the level of lived experience in order to cast a critical eye on the fault-lines in current legal understandings and practices pertaining to gender and sexual diversity. Seemingly, the impacts of a theoretical, methodological and, arguably, cultural turn to the complexities of identity and difference have not been headed by legal jurisprudence. Throughout this paper, I have suggested that, if conceptualised and applied with a close eye on lived experience, intersectionality can enable recognition of the complexities of gendered and sexual lives, and bring into focus gender and sexual diversities. Thus an intersectional framework can be significant if applied as praxis; to inform action as a method of social research that is guided by a politics of change. Here on in, the theoretical considerations of intersectionality can be significant in enabling a move beyond singular models of identity -as written into law, or, indeed, as embedded in broader social and cultural structures or discourses. I suggest, then, that the application of intersectionality at the level of lived experience offers a fruitful method for exploring the nuances that run within, across and between the categories, materialities and corporealities of gender and sexuality.

ⁱ This project was funded by the ESRC research group 'Care, Value and the Future of Welfare' in the School of Sociology and Social Policy at the University of Leeds (2000-2004). See Hines (2007a) for a more detailed methodological discussion of this research.

ⁱⁱ Norman Tebbit, for example, introduced a 'wrecking amending' based on his view that gender reassignment surgery constituted 'mutilation'. Other Conservative MPs, such as Anne Widicombe and Andrew Selous opposed the Gender Recognition Bill on religious grounds.

ⁱⁱⁱ In the House of Commons second Reading, it was stated that there were between 150 and 200 people who remained married after gender transition (cited by Oaten, House of Commons 2nd Reading 23 February 2004, Col. 69).

^{iv} Such issues were raised, for example, by Hon. Dr. Harris (House of Commons Standing Committee A, 9 March 2004, Col 60).

Biography Sally Hines.

Sally Hines is Associate Professor in the School of Sociology and Social Policy, and Director of the Centre for Interdisciplinary Gender Studies at the University of Leeds. Her recent research has focused on political and subjective meanings and significance of the UK Gender Recognition Act ('Gender Diversity. Recognition and Citizenship', ESRC, 2009-2012). She is currently working on an ESRC funded Knowledge Exchange project, which seeks to enable knowledge sharing and networking between academics, activists, policy makers, support groups and user groups working around gender and sexual diversity (Recognising Diversity? Equalities in Principle and Practice' (ESRC, 2012-2013). She is co-editor (with Yvette Taylor) of the ESRC Seminar Series 'Critical Diversities' and co-editor of the Routledge book series 'Advances in Critical Diversities'. She has co-edited special journal editions of *Sociology* (Special Issue on Sexualities) and *Gender, Place and Culture* (Special Issue on Transgender). She has published in a wide range of journals including *Sociology*; *Gender, Place and Culture*; *Sociological Research Online*; *Critical Social Policy*; *Journal of Gender Studies*. Books include: *TransForming Gender: Transgender Practices of Identity*

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and Intimacy (Policy Press, 2007); *Transgender Identities: Towards a Social Analysis of Gender Diversity* (ed. Routledge, 2009); *Theorizing Intersectionality and Sexuality* (ed. Palgrave MacMillan, 2011); *Sexualities: Reflections and Futures* (Palgrave MacMillan, 2012); *Gender Diversity, Recognition and Citizenship: Towards a Politics of Difference* (Palgrave MacMillan, 2013) She is currently working on two book projects: *Exchanging Diversity: The Purchase of Difference* (Routledge, 2014) and *Gender, Society and Culture* (Sage, 2016). Sally is co-convenor of the British Sociological Association (BSA) Gender Study Group.



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