

Theorizing Transgender Citizenship in Canada

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At least since T.H. Marshall's *Citizenship and Social Rights*, social citizenship has been a mainstay of rights discourse in Canada. Entitlements to social programs inclusive of health care, social assistance, employment insurance, and pensions were tied to citizenship in the post-war era insofar as Canadians had the right to access these social programs simply because they were citizens. As such, citizenship became more than official recognition of belonging to a particular political community and the associated civil and political rights, and became also about the right to basic levels of social welfare. As Janine Brodie has suggested, however, in an increasingly neoliberal state, citizenship is becoming less tied to social rights and more associated with participation in the market economy, primarily through employment, as well as consumption. In "Restructuring and the New Citizenship," Brodie writes that in the wake of neoliberalism, and especially in times of economic crisis, "the new good citizen is one who recognizes the limits and liabilities of state provision and embraces her obligation to work longer and harder in order to become more self-reliant," thus framing citizen-state relations in terms of market-based conditionalities (131).

Whether access to social programs or employability are seen as the basis of legitimate citizenship, many transgendered and transsexual people (trans people) in Canada have long experienced exclusion. From a well-documented inability to access much needed health care services to a disproportionately high unemployment rate, trans people in Canada have been unable both to access the benefits of the social citizenship that was part of the welfare state and to be framed as the "good," employed citizens of the increasingly neoliberal state. However, in spite of the well-documented nature of these trends and an influx of scholarship related to the rights of trans people, academics looking at the Canadian context have, to date, largely focused on the issue of human rights protections without examining how trans people have been denied access to social programs long associated with Canadian citizenship.² Furthermore, while the exceptionally high unemployment rate of trans people has been subject to a certain degree of scrutiny, this has rarely been in terms of the relationship between employability and citizenship and never from a public policy perspective.

This essay, then, will examine the links between trans gender identity, citizenship and the changing social welfare regime in Canada. To do so, this essay will first examine how the concept of "transgender citizenship" has emerged and how it has been theorized in related scholarship. Then, this essay will describe how the exclusion of trans people from citizenship often associated with access to civil, political, and social rights is increasingly linked to employment in the wake of an increasingly neoliberal social welfare regime. In doing so, it will identify how transgender citizenship might be theorized in the Canadian context. The final pages of this essay will explore how the notion of transgender citizenship might be used as a tool of analysis to address the exclusion of trans people from Canadian citizenship, by pointing to future research.

¹The author would like to thank Amber Gazso for her insightful comments on earlier drafts of this essay

² In the last decade or so, scholarship has emerged that examines how trans people have accessed health care, and the related obstacles and inroads to care. This is discussed at length in the latter parts of this essay, but please see Viviane Namaste's *Invisible Lives* and the more recent work of Bauer, et. al. as part of the ongoing Trans PULSE project (both cited below) for more information.

On Sexual Citizenship

As Jeffrey Weeks writes, discussion on citizenship has long followed the Marshallian tradition, focusing on the phases of citizenship as civil or legal, political and then social, that it entails. However, Weeks continues, “contemporary critiques and developments of the idea of citizenship have demonstrated the lacunae in Marshall’s teleology: by broadening the scope; uncovering the gendered nature of the concept and laying bare its national and racialized dimensions” (38). Speaking particularly to the gendered nature of Marshallian citizenship, scholars like Brodie, Sylvia Walby, Ruth Lister and many others have interrogated the way in which conventional notions of citizenship developed prior to and including Marshall’s model, have relied heavily on patriarchal assumptions. These assumptions include the idea of a male-breadwinner of the nuclear, heterosexual family that has been institutionalized in social policy thereby often negating other potential income earners, recipients of social assistance and family forms.

A most important element of these feminist interventions has been challenging the divisions between the public and the private spheres on which the dominant notion of citizenship, as male, as enabled by the reproductive labour of women in the home, has relied. This work has identified the ways that certain citizens may be excluded from aspects of citizenship, discriminated against, or otherwise marginalized from their potential public identity as citizens on the basis of experiences often deemed to be the domain of the private sphere, namely reproduction and sexuality. In the last twenty years, feminist and queer studies scholars alike have thus developed and used the notion of sexual citizenship to draw attention to the differing capacities of diverse citizens to access “sexual and reproductive rights” and a “political subjectivity that has not been diminished by inequalities based on...sex, gender and reproductive capacity” (Cabral and Vitturo 262). The use of sexual citizenship to do so, however, has taken a number of different forms.

For example, in *Sexual Citizenship: The Material Construction of Sexualities*, David T. Evans uses sexual citizenship to explore a shift in understandings of citizenship rights from post-war citizen entitlements to contemporary understandings of the good and “active” citizen contributing as a worker, taxpayer and most importantly, a consumer. In this work, first published in 1993, Evans argues that while certain minority groups, such as white, middle-class, gay men, are granted a level of legal and social rights in exchange for the capital that they provide, their citizenship is limited because their sexuality brands them immoral in the eyes of the heteronormative state. According to Evans, others, like trans people, remain further marginalized and without access to legal and social rights due to their inability to provide capital as workers/consumers in the same way. For trans people of colour, disabled trans people and others that differ even more from the model of the white, heterosexual, able-bodied, coherently gendered, middle-class “full” citizen, the marginalization experienced might be even more acute.

While Evans focuses on the relationship between capitalism, citizenship, sexuality and morality, sexual citizenship is taken up very differently in David Bell and Jon Binnie’s *The Sexual Citizen*. In this book, Bell and Binnie examine sexual citizenship using a framework of citizenship rights and responsibilities. Published seven years after Evans’ *Sexual Citizenship*, *The Sexual Citizen* argues that certain sexual minorities are often granted legal rights so long as they are “privatized, deradicalized” and “deerotized” — economically productive and nondescript (Bell and Binnie 3). As a result, the socially assimilated are

framed as good citizens whereas those who seek to disrupt social convention are deemed dissidents. Bell and Binnie thus propose the “queering of citizenship,” which they define as “bringing the erotic and embodiment into discussions of citizenship, and making space for dissident citizenship” through the socio-political recognition of diverse sexual practices and identities (Monro and Warren 349).

Jeffrey Weeks similarly argues for inclusion through recognition and like Evans, sees a clear link between the rise of economic liberalism and the possibility for a more robust citizenship to be experienced by those experiencing discrimination on the basis of their sex, gender and sexuality. Perhaps Weeks’ most important contribution is the idea that movements struggling for sexual citizenship “have had two characteristic elements: a moment of transgression and a moment of citizenship” (36).³ In brief, Weeks argues that the former is an articulation of identities that contest pre-existing social institutions by subverting or transgressing “traditional ways of being” (36). The moment of citizenship that follows involves increased recognition of the rights related to the newly articulated identities and incorporation of the same into socio-legal institutions. For Weeks, the real possibilities for inclusion for those marginalized on the basis of their sex or sexuality comes from both of these moments – identity recognition through the articulation of diverse identities.

Theorizing Transgender Citizenship

Despite the differences in strategies used by these authors, the literature on sexual citizenship collectively highlights “how traditional definitions and requirements of citizenship have neglected the complex features of gender and sexuality” (Hines 4.6.). Furthermore, this literature demonstrates the dichotomy of the good, heterosexual, reproductive, coherently gendered citizen and the bad citizen who is or presents as otherwise. It is in this work, and particularly in Evans’ *Sexual Citizenship* that notions of transsexual citizenship first begin to emerge. In his chapter entitled “Trans-Citizenship: Transvestism and Transsexualism,” Evans describes the challenges facing what he explicitly calls the “transsexual citizen,” particularly in relation to social recognition and rights protections. However, while he does use the term “transsexual citizenship” at one point, Evans’ chapter only offers a cursory overview of trans people’s interactions with the state, leaving the task of more comprehensively interrogating citizenship for others. Nan Amalilla Boyd’s “Bodies in Motion: Lesbian and Transsexual Histories,” is one text that begins to do this task by building on Evans’ work to more clearly describe the relationship between the state and trans people in terms of citizenship. However, it was not until the publication of Surya Monro and Lorna Warren’s “Transgendering Citizenship” in 2004 that the literature on sexual citizenship was really extrapolated to begin to theorize a more complete notion of transgender citizenship. In this work, Monro and Warren use feminist theories of citizenship and the sexual citizenship

³ The moment of transgression, for Weeks, is “characterized by the constant invention and reinvention of new sense of the self,” when, for example, “the non-heterosexual comes out as lesbian or gay” or “the housewife joins a consciousness-raising group” (37). It is in these moments that individuals transgress their normal, bounded ways of being and instead, declare their intent to engage with and indeed embody and embrace their own, marginalized identities. The moment of citizenship follows when those marginalized make claims to inclusion, social recognition and affirmation of their identities, effectively making claims to “equal protection of the law, to equal rights in employment, parenting, social status, access to welfare provision, etc.” (37).

literature, in combination with interview data to try to conceptualize transgender citizenship. In demonstrating the ways in which common experiences of exclusion and different notions of identity might be mobilized to for the purpose of the “development of models of transgender citizenship...both as a way of expanding our understanding of citizenship, and as a means of informing [preexisting] political debates” (Monro and Warren 359).

At least since the publication of Monro and Warren’s work, theories of transgender citizenship have proliferated, albeit using examples outside of the Canadian context. Scholarly works abound that describe the ways in which trans people have differently experienced limits on their access to the social, civil and political rights associated with citizenship in the U.K., Argentina, Australia, Japan, the United States and elsewhere (Monro and Warren; Cabral and Vitturo; Aizura; Mackie; Spade). For the most part, these works identify the ways in which trans people are unable to access the legal protections and social programs widely available to cisgendered (non-transgendered) citizens. For example, in their examination of the ways that trans people in Argentina are continually excluded from citizenship through the state’s failure to recognize (or in many cases allow) physiological gender transitions, Cabral and Vitturo present a (trans)sexual citizenship that is “a diminished, decreased citizenship...that...compromises not only the *citizen* status of trans persons but also, and centrally, their *human* status (262, emphasis in the original). For authors like Cabral and Vitturo or Surya Monro and Lorna Warren, trans gender citizenship is primarily about a lack of access to the legal and political rights tied to citizenship status as well as related social programs.

Although much of these recent theorizations of transgender citizenship examine the diminished citizenship that trans people experience in terms of a lack of access, as do Cabral and Vitturo, others criticize the ways that access to certain rights and social programs have been acquired. These works, building on the contributions of Evans and Weeks on sexual citizenship, describe how what might be understood to be transgressive gender expression has often been exchanged for citizenship rights. While Evans, as mentioned above, describes the good, neoliberal, sexual citizen as de-radicalized and socially assimilated, such authors as Aren Aizura, Dean Spade and Vera Mackie examine how trans people must similarly assimilate, de-radicalize and frame their identities as fitting into conventional notions of the good citizen in order to access the civil, political, and to a lesser extent, social rights associated with citizenship. Aizura’s work on transsexual citizenship in Australia, for instance, posits that in order to access to certain rights associated with citizenship in Australia, trans people have been required to reproduce nationalist tropes of whiteness and coherent gender. More specifically, Aizura describes the case of *Re Kevin* in the family court of Australia that sought, in 1998, to determine whether or not a female-to-male trans person could be legally wed to another woman (considering that at the time same-sex marriages were illegal in Australia, an issue now in flux). Presented both by the media and his lawyer as a contributing member of Australian society, and as “a typical Aussie bloke” in line with the Howard government’s perpetuation of the typical “white, politically conservative, masculine” “Aussie bloke” as the national ideal, Aizura identifies how Kevin’s legal success relied on notions of the white, heterosexual, middle-class, working male citizen to have his marriage recognized (297-299). Aizura’s work thus raises the question of what elements of Kevin’s life had to be emphasized and which others were played down in order to have his relationship recognized.

As part of a fairly new body of scholarly literature, works on transgender citizenship,

then, are beginning to demonstrate two different, but very interconnected ways of how transgender citizenship might be theorized. First, it has been conceptualized as a diminished or partial citizenship in which trans people cannot access the civil, political, and social rights available to cisgendered citizens. For authors like Aizura, Spade, Mackie and others, however, transgender citizenship is a compromised citizenship that requires trans people to negotiate and construct their identities in certain ways, in order to access the same civil, political and social rights otherwise diminished.

The Canadian Case

Diminished Citizenship: Social Rights/Social Citizenship

As mentioned above, when T.H. Marshall was writing about “Citizenship and Social Rights” in the 1950s, citizenship was coming to be based on the notion of entitlement wherein the social contract of the post-war welfare state allowed universal access to a menu of civil and political rights in addition to access to certain social programs. In Canada, this idea of social citizenship entitlements was entrenched with the advent of national, state-supported social programs, like social assistance, unemployment insurance and universal health care. Although, as Walby, Brodie, Lister, Pulkingham, and others have noted, access to social citizenship in the post-war welfare state was not wholly universal and certainly excluded already marginalized groups, the citizenship regime of the post-war welfare state relied heavily on the social consensus that citizens could, for the most part, access certain rights protections and social programs on the mere basis of their status as citizens “deserving” of income and social supports due to their sharing of the risks associated with old age, unemployment, etc.

This is particularly relevant in the case of trans people in Canada. When citizenship is taken to mean a right to civil and political rights protections, as well as access to social programs, it is clear that trans people have limited access. For example, in relation to social programs, the barriers trans people face in obtaining quality health care in Canada are well documented. Trans people have widely experienced difficulties in accessing quality health care, from health professionals with no information or misinformation about treating trans people to health professionals uncomfortable with, resistant to or refusing to treating trans people in places where health care is scarce already (Bauer et. al. 8-9). Much research and activism is currently focused on remedying these issues and although conditions have been said to have improved over time, these obstacles to quality care persist.

As pertaining to rights protections, prior to 1990, the decisions regarding human rights claims made by trans people in the Canadian courts and human rights tribunals were largely decided in ways that disadvantaged the interests of the trans claimants (Denike, Renshaw, and Rowe 54-60). Although recent judgments are more likely to find in favour of claimants who are trans people than those ruled prior to 2000, without formal rights protections for trans people in human rights legislation, judgments regarding the discrimination experienced by trans people continue to be made on the basis of sex or disability, rather than on the basis of gender identity or expression, requiring trans people to construct their identities in ways other than as trans people. While this may not be problematic for some, who identify as disabled or as discriminated against on the basis of their sex, others may engage with the courts as a

means to have their rights as trans people recognized.⁴ Despite that “some court and tribunal decisions have indicated that trans people are protected under the rubric of sex discrimination in federal, provincial and territorial human rights legislation,” these *de facto* protections are seen by many to fail to provide the social recognition and legitimacy for trans people in ways that widespread inclusion *de jure* might be able to accomplish (Smith 93-94). Thus, while there are an ever increasing number of rights protections and social supports available to trans people in Canada, access these sorts of legal and social citizenship rights are either limited, non-existent, or fail to recognize the rights of trans people in ways that the rights of cisgendered people are recognized and validated, making the current state of affairs for trans people from coast to coast to coast often better than ever, but still inconsistent at best.

The idea of citizenship based on entitlements to certain rights and social programs is becoming antiquated as the welfare state is rapidly being dismantled. The scaling back of the post-war social contract that has been taking place over the last thirty years has seen successive governments reducing when not eliminating funding to the social programs on which social citizenship has long been based. In this context, “what it means to be a citizen and what the citizen can legitimately ask the state” has changed dramatically (Brodie, “Restructuring” 130). This new relationship is one in which citizens are not seen as “passive” and dependent recipients of the social benefits associated with the welfare state, but rather citizens need be “active,” self-sufficient contributors to the national economy through their labour. Citizenship thus means the capacity to engage in the waged economy rather than an entitlement to certain social programs in the increasingly neoliberal state.

It is noteworthy that there is an expanding literature on the welfare regime of the so-called social investment state in the Canadian case. Extending from British scholar Anthony Giddens’ work on the “third way” as a means to integrate a measure of social welfare into market capitalism, the social investment model is used to describe the funding of particular sorts of social programs that seek to develop human capital in the short term to ensure a self-sufficient and economically viable population in the future. The focus of the social investment state, at least as discussed in the Canadian context, is efficient spending in the present in order to reap the benefits in the future, which has translated to a particular focus on policies that relate to children. Additionally, the social investment state does involve a small social safety net, however, unlike the post-war welfare state that often used social programs for redistributive purposes, the social services of the social investment state are in place to support and assist those without work to retrain or find work so that they may quickly become integrated into the market economy once again.

While an important model to discuss in terms of citizenship regimes, the social investment state, like the neoliberal state, relies on notions of people’s capacity to interact with the market economy either as consumers or, most relevant here, workers. Though a social safety net is in place and government spending works to provide assistance to citizens down on their luck, the social investment state privileges citizens-as-workers, framing the citizen-state relationship through employment. As such, authors like Janine Brodie have dismissed the idea of the social investment state, identifying that there is little evidence to support such a shift in Canada’s citizenship regime, and further, that this shift is little more a

⁴ See for example the case of *Micheline Montreuil v. Canadian Forces Grievance Board*, [2007] 53 C.H.R.R.

rhetorical move used to shape the public perception of “neoliberal governing practices” as social investment, effectively cloaking neoliberal ideology by framing it in terms of investment (“Putting Gender Back In” 175).

For trans people in Canada, then, an experience of diminished citizenship in the contemporary period might have to do both with limited access to the programs associated with a social citizenship and to a greater extent, with employability. Despite the dismantling of the social safety net instituted post-war, Canadians writ large are not yet entirely without social citizenship rights, and thus advocacy for a more robust citizenship for trans people in Canada cannot omit addressing the obstacles that trans people face in terms of legal and political rights or in accessing social programs. However, whether Canada has an increasingly neoliberal citizenship regime or displays more of the attributes of the aforementioned social investment state, social recognition is largely dependent on demonstrating that individuals are viable contributors to the capitalist economy.

In “Normalized Transgressions: Legitimizing the Transsexual Body As Productive,” Dan Irving describes trans people have done so. He writes that medical experts, transgender studies scholars, activists and others work to identify trans people as “productive citizens,” contributing as both workers and consumers to capitalism. Irving argues that trans people have been constructed and must construct themselves as “capable of participating in capitalist production processes” and as such, “reinforce dominant exploitative class relations” in order to achieve the social recognition involved in contemporary models of citizenship (47). In keeping with theories of transgender citizenship that imagine it as a compromised citizenship, doing so requires trans people to construct their identities in line with neoliberal imperatives, sacrificing self-determination for the social recognition and citizenship that come with being an efficient and productive worker.

Basing the citizenship of trans people contingent on participation in the paid economy is problematic for at least two reasons. First, engaging in the practice of “cultivating social subjectivities that demonstrate [one’s] ability to contribute to economic progress” eliminates the potential for resistance to social hierarchies (Irving 55). Simply accepting a model of citizenship that privileges the gainfully employed trans person over the unemployed fails to challenge the ways in which the neoliberal state works to reproduce colonial, patriarchal and heteronormative power structures. The marginalization experienced by trans people of colour, for instance, or trans people who do not speak English or French goes unchallenged through tacit acceptance of a neoliberal citizenship regime. The self-sufficient model of the citizen-worker thus “undermine[s] the potential for a politics of resistance and create[s] fractures within [trans] communities based on class, race, [...] and ability,” in ways suggestive of the notion of compromised citizenship described above (Irving 55).

Second, the need for trans people to make claims to citizenship based on paid labour requires trans people to be employed, and employed in particular ways. To this end, various studies have demonstrated a very high unemployment rate amongst trans people. Christine WG Burnham’s well-cited needs assessment of transsexual and transgendered people in Canada includes a survey of 152 trans people that identifies a 40 per cent unemployment rate amongst those surveyed, in spite of 71 per cent of those surveyed having at least two years of post-secondary education. Comparatively, the national unemployment rate in 1999 (the year Burnham’s study was published) was less than 8 per cent. Of those surveyed, 71 per cent also were low-income earners according to federal government standards. (Burnham as cited in Shelley 82; Darke and Cope 32). Furthermore, research published in 2007 that involved 89

trans people in Ontario identified that 40 per cent of participants were “unemployed, unable to work, or self-described their employment status as ‘underemployed.’” More than 55 per cent of participants were, in keeping with Burnham’s findings, low-income earners (Bauer et. al. 4). Given this high rate of unemployment (40 per cent in both studies), the inability for individual trans people to make claims to citizenship as workers simply because there are so many who are not working becomes clear.

In the case of transgender and transsexual sex workers, these same problems with claims to citizenship as a worker occur not because of unemployment, but rather because the labour in question is not sanctioned by the state. Viviane Namaste, among others, has identified that there is a significant and disproportionate population of trans people in Canada who are engaged in sex work. Looking to the appalling experiences of verbal and physical abuse that interview participants (all of them transgender and transsexual sex workers) have had with the police, Namaste demonstrates how the ongoing victimization of transgender and transsexual sex workers not only delegitimizes their work (which is not recognized as work by the state), but also how this results in the alienation of certain trans people from the state and resultantly to perceptions of belonging within Canada as a socio-political community. Transgender and transsexual sex workers thus experience a diminished, or partial citizenship because their work is illegal, because they do not fall within the framework of legitimate workers and because they experience violence at the hands of agents of the state.

What follows then, is that contemporary transgender citizenship in Canada must be theorized through the history of Canada’s citizenship regimes, and include aspects of both the post-welfare and neoliberal regimes in overlapping ways reminiscent of the social investment state. Following the work of Cabral and Vitturo, and in relation to the status of trans people’s access to healthcare and human rights protections, transgender citizenship in Canada is a diminished citizenship due to the lack of civil, political, and social rights available to trans people relative to cisgendered citizens. However, given the neoliberal turn and the increasing importance given to notions of self-sufficiency and independence as workers, any way that transgender citizenship is theorized must take into account the way that the citizenship of trans people is further diminished by challenges to employment and as mentioned, the failure of governments in Canada to recognize sex work as legitimate employment.

Compromised Citizenship: Employability/Neoliberal Citizenship

The well-documented concentration of trans people in the sex trade is but one explanation for the high rate of unemployment amongst trans people. Challenges to employment are closely tied to discrimination, access to healthcare and to processes of transition wherein trans people are less likely than cisgendered citizens to present a coherent gender (Burnham 22-23). It becomes clear in discussing the particular challenges to trans people’s participation in the labour force that simply fitting into conventional notions of citizenship— by framing one’s identity in terms of normative citizenship as a citizen worker in the way authors like Aizura, Irving and others have discussed— is simply not possible for many trans people, and particularly, trans people in Canada.

Transitioning presents a number of challenges for acquiring and maintaining employment. The aforementioned study of 89 trans people in Ontario demonstrated that “transitioning negatively affected one’s chances with job successes, often relegating people to low paying jobs, and for some, impacting their ability to pay for the basic necessities in life.”

According to this study, people “often found themselves having to leave their employment and line of work before transitioning” (Bauer et. al. 4). The relationship between transitioning and employment is a complex one discussed at length in Christopher Shelley’s study of the experiences of trans people living in the Greater Vancouver area. In terms of the difficulty of maintaining employment while going through a gender transition, Shelley describes the experiences of research participants Wynn and Jeb, who both felt uncomfortable remaining in their jobs while transitioning due to the attitudes of their co-workers towards trans people. Both quit their jobs in order to get out of a hostile work environment. In Jeb’s case, the derogatory language used by co-workers to describe patrons who were transgendered or transsexual resulted in a situation wherein Jeb was tremendously uncomfortable in his workplace and thus decided to leave (83). These negative experiences described by Wynn and Jeb are by no means limited to trans people undergoing physiological transition as regardless of the status of their transition, trans people with jobs “report frequent workplace harassment, including a refusal to use gender-appropriate pronouns, refusal to use the person’s name, denial of the use of appropriate washrooms, derogatory comments about appearance, and breaches of privacy” (Darke and Cope 35). However, the processes of transition exacerbate the gender incoherence of many trans people and render people more vulnerable to being identified as transgendered or transsexual, and as a result, the target of discrimination.

The difficulties in obtaining or maintaining employment are often worsened by a lack of healthcare or care that is inadequate to addressing the practical needs of patients. In her *Invisible Lives: The Erasure of Transgender and Transsexual People*, author Viviane Namaste discusses the “real-life test” that requires transsexual people to live in their new gender role before receiving a diagnosis for gender dysphoria that will enable access to hormones. Hormones are an integral part of transition for trans people who desire to change their bodies to “match” their gender identities as hormones facilitate many of the physiological changes that make easier social presentation as male or female. As Namaste describes, for female-to-male trans people, the administration of testosterone affects facial and body hair growth, the tone of one’s voice, muscle mass and eventually results in the cessation of menstruation, while the estrogen administered to male-to-female trans people, causes fat tissue to be redistributed and “softens the skin, promotes breast development and arrests male pattern baldness” (160). In short, hormones are an important part of physiological gender transition and play a role in the capacity of many trans people to be coherent or to pass in their gender role by allowing the trans person in question to more easily present the secondary sex characteristics, i.e. facial hair, commonly associated with their chosen gender.

The real-life test might be seen to limit trans people’s access to employment largely because of the ways that hormones are necessary for some people to pass or be coherent in their new gender. The delaying of hormonal treatments in combination with the need to engage in the real-life test renders passing difficult for some, as demonstrating one’s dedication to living in their chosen gender is complicated by the visible attributes do not correspond. Given that Darke and Cope note that “in seeking employment, trans people may succeed in getting interviews based on written applications, but may not be hired if they are identified as trans either in an interview or in their documentation,” it follows that presenting an unintelligible or incoherent gender —not passing as male or female— is often detrimental to procuring employment. The challenges of acquiring and holding a job are, in this way,

rendered substantially more difficult by the displaying of incoherent gender. For those trans people who are not interested in transition, and whose gender identity involves ambiguity or incoherence, these challenges are particularly difficult to overcome.

While the strict enforcement of the real-life test has reportedly been relaxed in the gender identity clinic that Namaste describes (and other clinics have been known to have a broader understanding of what living cross-gender might entail), employment remains a key component of identifying to psychologists and doctors that one is dedicated to their chosen gender and deserving of the gender dysphoria diagnosis that will give them entitlement to hormones and related care. As such, the real-life test presents a catch-22 of sorts, wherein trans people need to cross-live and to be employed for a period of time to access the hormones that will help them appear more masculine or feminine, however, in order to acquire or maintain employment people need to appear coherently gendered, which might not be possible without the use of hormones. In brief, without hormones, it is difficult to pass as either male or female, but without a coherent gender presentation, it is difficult, as detailed above, to find and/or maintain the employment that the real-life test requires.

Trans people who have stable employment (and are perhaps more likely to be employed in workplaces subject to human right legislation, or where human rights legislation is taken seriously) are, then, those who are most likely to pass the real-life test and as a result, to be given the diagnosis necessary to transition. It is, however, those people with stable employment who are most likely to have the resources available to transition without the sanctioning of the Canadian state via public health insurance and related institutions, through private clinics and abroad. It is often those people with low incomes or without stable employment who might not qualify under the real-life test who are most in need of a diagnosis of gender identity in order to gain access to hormones and to funding for sex reassignment surgery, simply because they may not otherwise have the means to acquire the care that they need. What this means then, is a privileging of those trans people who are well, or stably employed over those who are not, perpetuating and supporting class divisions.

Transgender citizenship in Canada must mean understanding both how the state has limited the capacity of trans people to be citizens, by not providing adequate recognition in social policy and law. However, the idea of citizenship as so closely tied to civil, political, and social rights has evolved with the emergence of the neoliberal state, and understandings of what it means to be a transgendered citizen must include some measure of employment. Thus, transgender citizenship is the diminished or partial citizenship of trans people in terms of lack of access to rights and social programs, but in addition, it is also about the barriers trans people face in terms of being recognized as citizen-workers. Without work, or work that is recognized as work, trans people are distanced from notions of the neoliberal citizen, however problematic, and as such are excluded from the social recognition and access to a limited menu of social programs that it entails. Additionally, more than a diminished citizenship, the idea of the neoliberal citizen as self-sufficient and “legitimately” employed, as demonstrated, marginalizes trans people from the first. Returning to the literature that has previously theorized transgender citizenship, this concept is more than a diminished citizenship, and must involve a measure of compromised identity, insofar as some trans people, primarily the gainfully employed with intelligible gender presentations, do have access to citizenship as workers, but may have done so by sacrificing transgressive identity — related to gender or not — in order to fit in to society, acquire recognition and consequently access the benefits of citizenship. This is not to say the fears associated with passing do not

prevail for those who access the rights available largely to cisgendered citizens, but it is to say that transgender citizenship must be comprised of both a sometime diminished and sometimes compromised citizenship in relation to accessing civil, political and social rights, as well as in being recognized as a legitimate member of society, in order to encapsulate the particular nature of citizenship as experienced by many trans people. Considering this literature, then, in Canada transgendered citizenship can be theorized as both a diminished and compromised citizenship in ways that understand both social exclusion on the one hand, and the denying of diverse identities through conformity to models of “market citizenship,” on the other, in order to acquire a degree of social inclusion.

Extending Transgender Citizenship

As this essay has examined how transgender citizenship has been and may be theorized with a focus on neoliberal understandings of citizenship in Canada, the next step is the application of this theory. This is not possible in this essay due to temporal and spatial constraints, but for example, such a study might involve applying transgender citizenship to social assistance programs in various Canadian legislative jurisdictions. By using the idea of the productive citizen as the ideal-type of the neoliberal citizenship regime in such a study, it might be possible to elaborate upon and further refine the notion of transgender citizenship here proposed. Like the experiences of transsexual sex workers in exchanges with police described by Viviane Namaste, the direct relationship involved in the provision of income support between trans people and the state might be an effective approach to looking at how unemployed trans people, who are not captured by the citizen-worker model advanced by a neoliberal citizenship regime, relate to the state through social assistance, or perhaps through employment insurance. Furthermore, this type of study could examine in greater depth the ways in which trans people’s experiences with social assistance are tied to notions of dependency and of being deserving or undeserving, and in doing so, draw parallels between the experiences of trans people and other groups similarly marginalized from mainstream understandings of what it means to be a citizen. Using the broad ideas of access to rights and employment as the basis of potential claims to citizenship, such a study could thus provide a nuanced examination of how unemployed and low income trans people perceive their relationship to the state and how that relationship might be improved

By suggesting how the existing literature on transgender citizenship might be categorized and describing transgender citizenship through the lens of citizenship regimes in Canada, this essay has developed a preliminary theory of transgender citizenship in the Canadian context. More particularly, this essay has examined transgendered citizenship in Canada as a diminished citizenship wherein trans people are denied access to civil, political and social rights that follow from the post-war model of social citizenship, as well as to the citizenship rights that follow from the worked/consumer identities associated with a neoliberal citizenship regime. Furthermore, this essay has positioned this diminished citizenship against the notion of a compromised citizenship, extending from the work of Aren Aizura, Dan Irving, Dean Spade and others, wherein trans people construct their identities in ways that conform to the market-related expectations of the neoliberal state as a means to achieve a degree of social inclusion.

Nevertheless, the merits of this theory lie in its application. Using transgender citizenship as a theoretical basis for the study of social policy related to trans people is

necessary in order to more clearly articulate how trans people experience discrimination and marginalization and further, how the lives of trans people might then be improved by renegotiating the relationship between trans people and the state, in this case, through social policy. More clearly, transgender citizenship can be used to describe what conventional notions of citizenship are not — diminished, compromised and potentially transgressive. By using transgender citizenship to examine social policy, and furthermore, to think about citizenship regimes, this concept might serve to identify what gaps exist between the quality of life and citizenship experienced by cisgendered people and that experienced in the diverse lives of trans people, hopefully working to inform and inspire reform.

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