Introduction and objectives

> 'I trained to become an assistant cook on a course managed by the VDAB [the public employment agency in Flanders]. At the end of the course, I had to complete a traineeship and the VDAB traineeship director told me I would have to apply using my legal name and gender. I felt obliged to do so because I wanted to successfully complete the course and find a job. That had a great psychological impact on me because during the course I was constantly given orders by using my male name. Once I completed the traineeship, the manager told me that I could have been employed but that other colleagues were against it because I was transgender. I was finally not employed officially because I did not satisfy educational requirements.'
>
> (Transgender woman from Belgium[1])

Figures concerning transphobia, violence and discrimination against trans* people[2] all over the world are alarming. According to the first trans*-specific survey carried out by the European Union Agency for Fundamental Rights (FRA) (2014), 54% of trans respondents reported discrimination and harassment in the 12 months prior to the survey. Furthermore, 2,982 killings of trans* people were reported from 2008 to 2018 worldwide (Transgender Europe, 2018b). Trans* people are discriminated against, excluded or aggressed in virtually all areas of social life, such as healthcare (e.g. Cruz, 2014; Lasso Báez, 2014), the public

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[1] Extracted from: Amnesty International. (2014). *The State decides what I am. Lack of legal gender recognition for transgender people in Europe*. UK: Amnesty International.

[2] The term 'trans* people' is used throughout this thesis as an 'umbrella term' to refer to a heterogeneous group of people whose demarcation lines are blurred. It includes terms such as transsexual, transgender, trans, transvestite, etc. Drawing on Elliot's suggestion, I use this term to 'acknowledge the heterogeneous and non-harmonious constitution of the group' (Elliot, 2009, p. 7). A theoretical definition is provided further on given that it requires the adoption of a theoretical stance.

space (e.g. Alessandrin, 2016; Whittle, Turner, & Al-Alami, 2007), employment and the workplace (e.g. Bender-Baird, 2011; Lehtonen, 2016; Moulin de Souza & de Pádua Carrieri, 2015), public services (e.g. Spade, 2015; Begun & Kattari, 2016), the justice system and prisons (e.g. Buist & Stone, 2014; Erni, 2013), educational settings (e.g. Curtis, 2016; DePalma & Jennett, 2010; Resende Alves & Costa Moreira, 2015) among others.

Simultaneously, trans* people are increasingly visible and seem in vogue nowadays. A number of celebrities, such as Caitlyn Jenner, Lana and Lilly Wachowski, have recently 'come out' as trans*. *National Geographic* magazine put a trans* girl on the cover of its 2017 special issue on the 'gender revolution'[3]. Several TV series, such as *Transparent* and *Sense8*, include positive trans* main characters. The 2018 Belgian drama film *Girl*–depicting the story of a trans* girl in her teenage years–has been a great success in and outside Belgium[4], winning several awards in international film festivals. And the list goes on. In general, representations of trans* people in the public and cultural scene appear to be more positive than in previous decades (Platero, 2015). However, the increasingly positive public opinion on trans* people seems to be in contradiction with the yet high levels of discrimination and exclusion that they experience. How is this apparent incongruence to be understood?

The present thesis stems from an interest in understanding transphobia and discrimination against trans* people in the present context, which is characterised by increased social tolerance and respect towards them and a tendency towards the depathologisation of their identities. However, instead of treating trans* issues as isolated concerns affecting a minority of people, I approach them from the larger framework of gender norms and categories (Chapter 1, section 1.1.). I locate the definition of trans* people on the other side of the coin of the definition of the categories 'woman' and 'man'. I argue that inequalities between women and men are based upon the establishment of both a

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[3] See https://www.nationalgeographic.com/magazine/2017/01/.

[4] Trans* people's response to the film was however ambivalent. Whereas some applauded the sensibility of the film, others criticised it because of its narrow focus on genitalia and self-harm (see https://parismatch.be/culture/cinema/188731/girl-deconseille-personnes-transgenres).

hierarchical relationship *and* a binary opposition between them. In other words, we can only treat women differently from men–e. g. to assign them different skills, roles, resources and positions in society–*if* we 'know' they are 'women' and not 'men' (and vice versa). Therefore, the definition of the binary opposition–that is, the boundary that divides humanity into women and men–is necessary to the unequal organisation of society and the transgression of the boundary represented by trans* people destabilises that social organisation.

In this thesis I thus interrogate how the binary opposition between the categories 'woman' and 'man' and its transgression are defined. In this sense, it is important to note that I do not rely on the common 'sex-gender distinction' that separates the 'truth' of the biological body ('sex') from the 'social construction' of personality and behaviours ('gender'). Instead, I assume a social constructionist stance also on the body, which leads me to use the term **'sex/gender categories'** in order not to separate the two notions (Chapter 1, point 1.1.1). In this sense, the attention is turned towards the constitution of sex/gender categories.

Gender has not only identity effects but also material effects. It is indeed **a principle that organises the socioeconomic system** upon binary sex/gender categories (Chapter 1, point 1.1.2.). Feminist scholars have unveiled how society has been historically structured along gender lines, leading to an unfair distribution of resources and power in the detriment of women. However, the specific form that the gendered organisation of society takes has changed over time and across places and it interacts with other axes of social stratification such as social class, ethnicity and nationality. In other words, the type of characteristics and activities attributed to women and men are not universal, but context-dependent. Still, what remains stable in most societies and social groups is the permanent character of the binary opposition between women and men.

As a consequence, from the 19th century, people who **transgress the binary opposition have been pathologised** by psychiatry and psychology (Chapter 1, point 1.1.3.). This has been done in terms of both a sexuality disorder and an identity disorder. Although different diagnostic terms have been consecutively used over time–'transvestism', 'transsexuality', 'gender identity disorder', 'gender dysphoria'–, they do

not represent actual different diagnoses. 'Trans* terminology' was thus initially coined to name the transgression of norms constituting the binary opposition between women and men. The depiction of something as 'a transgression' establishes, in turn, the norm. The voice of trans* people was neither heard nor trusted. The emergence of trans* activism and Trans Studies enabled to put into question the alleged 'scientific' knowledge about trans* people as well as the pathologisation of their experiences and identities.

Drawing on this framework, I situate the **research problem** in the definition of trans* people as 'abnormal', which in turn reproduces the binary opposition between women and men. I suggest the following **minimum definition of trans* people** for research purposes: *'people who transgress–to varying degrees and in different ways–the socially situated norms that define the binary opposition between women and men in specific contexts'.* This definition should be understood as perpetually provisional because, should the binary opposition not be assumed, the distinction between 'trans*' and 'non-trans*' sex/gender categories would lose all sense. Following this reasoning, I state that, in spite of the fact that the psychiatric pathologisation of trans* people is increasingly questioned, they are still overall defined as 'abnormal'. Indeed, the very continued existence and use of trans*-related terms nowadays indicate that they are still depicted as a deviation from sex/gender norms and, thus, norms constituting how to be a woman and how to be a man are still in place.

In particular, I argue that increasing positive social attitudes towards trans* people leads to the sophistication of the construction of their 'difference' as 'abnormal', which is becoming more subtle and less openly prejudiced. In turn, this sophistication reifies the permanent and unalterable binary opposition leading, as a consequence, to the maintenance of the binary organisation of society and the social exclusion of trans* people in many areas of social life, as well as violence and discrimination against them. On that basis, the **general research question** of the thesis is: *how has the transgression of sex/gender norms been redefined nowadays so that the binary opposition sustaining the gendered binary organisation of society is maintained?* In other words, which other discourses– beyond pathologisation–are employed nowadays to define trans* people as 'abnormal', thereby reifying the binary opposition between women and men?

To answer this question I examine **two specific cases**: the legal certification of sex[5] in Belgium and the definition of the (gendered) worker subject. This choice responds to three different reasons. First, the thesis was developed within a transdisciplinary research project drawing on social/work psychology and law[6]. Second, the two cases allow tackling both identity and material aspects of the constitution of sex/gender categories. And third, and most importantly, the two cases relate to two major problems reported by trans* people in Belgium at the time I started my PhD project[7]: the medical and psychiatric criteria established by the Act regulating the modification of the legal mention of sex for trans* people at that time–the *Loi du 10 mai 2007 relative à la transsexualité* (M.B. 11 juillet 2007, 2007)–and the high level of employment discrimination they were experiencing. The two cases are fully developed in Chapter 1 and led to two **specific research questions** each.

The first case, **the legal certification of sex in Belgium** (Chapter 1, point 1.2.1.), starts with the fact that legal sex is assigned at birth to every individual in Belgium and is indicated in identity documents by means of several sex markers. The 'mismatch' between the legal sex markers and the physical appearance of an individual can lead to social exclusion and discrimination. However, many jurisdictions have based the modification of the legal sex upon strict medical and psychiatric criteria that go against human rights. That was the case of the *Loi relative à la transsexualité.* This Act has nonetheless been recently substituted by another Act[8]–hereafter

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[5] I employ the word 'sex' because this is the term used in Belgian civil status legislation and identity documents such as the birth certificate and the identity card. Even the recent *Loi du 25 juin 2017 réformant des régimes relatifs aux personnes transgenres en ce qui concerne la mention d'une modification de l'enregistrement du sexe dans les actes de l'état civil et ses effets* (Moniteur Belge, 2017) talks about the registration of 'sex' in spite of its shift in focus towards 'gender'.

[6] This thesis was possible thank to the ULB *"Mini-ARC"* scholarship granted by the *Région Wallonie-Bruxelles* whose aim is the promotion of transdisciplinary doctoral research. The project lies between psychology and law, but the PhD programme in which it takes place belongs to the Faculty of Psychology (ULB). Therefore, psychology remains the main discipline of the project.

[7] October 2015.

[8] *Loi du 25 juin 2017 réformant des régimes relatifs aux personnes transgenres en ce qui concerne la mention d'une modification de l'enregistrement du sexe dans les actes de l'état civil et ses effets* (M.B. 10 juillet 2017, 2017).

Loi transgenre–removing most medical and psychiatric criteria for trans* people to modify the legal sex. However, the binary opposition has been maintained–trans* people can still choose only between two legal sexes (female or male). Therefore, *1) how has the definition of women and men changed for trans* people between the two Belgian 'trans* Acts' so that the binary opposition is maintained?* Moreover, the criteria to certify the legal sex of the rest of the population have not changed, *2) how has Belgian civil law defined the binary opposition between women and men for different categories of people over time and with what effects?*

The second case, **the definition of the (gendered) worker subject** (Chapter 1, point 1.2.2.), draws on the fact that employment is one of the social areas in which trans* people report most discrimination in Belgium. However, the few studies on attitudes towards trans* people in Belgium indicate a generally positive and non-pathological view on them. At the same time, work and employment are organised along gender lines but gender analysis of these areas usually take for granted the binary opposition between women and men, instead of examining how it is constituted within the context of work. Moreover, the worker subject is usually defined as a 'neutral subject' devoid of sex/gender and sexuality. Therefore, *3) how are both the binary opposition between women and men and its transgression defined by workers nowadays?* And *4) how do workers' definitions of sex/gender categories interact with their definition of the worker subject[9] and what are the implications in terms of inclusion or exclusion in the workplace?*

To respond to these research questions, the **general objective** of the thesis is to understand how the redefined transgression of sex/gender norms nowadays actually keeps on maintaining the binary opposition that sustains the gendered organisation of society in the two particular cases described above. The **specific objectives** can be detailed as follows:

1) To describe how changes between the *Loi relative à la transsexualité* and the *Loi transgenre* actually maintain the binary opposition between women and men and the implications for trans* people.

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[9] Although from a feminist perspective 'worker' is not limited to the person who receive a monetary compensation for work, here I refer exclusively to the notion of 'employee' since the focus of the thesis is on discrimination in employment.

2) To specify how Belgian legislation regulating the mention of sex in the civil status has defined the binary opposition between women and men for different categories of people over time and its consequences.

3) To detail how workers define nowadays the binary opposition between women and men and its transgression.

4) To identify how those sex/gender definitions interact with their definition of the worker subject and the implications in terms of inclusion or exclusion in the workplace.

The adoption of a feminist epistemological perspective[10] impacts not only the kind of objects or subjects studied, but also–and especially–the general view on research, including the type of methodology. Indeed, feminist research is not merely the extension of traditional research in non-sexist ways, but it implies both a critical stance on the research process and a reconceptualisation of **theory, method and research topic as interdependent**[11] (Wilkinson, 1986a, 1986b). It thus asks for coherence between the epistemological stance assumed, the theoretical and methodological framework adopted, the method followed and the way the techniques are used. With this in mind, the first question that arose within my doctoral work concerned the adoption of a methodological framework and a method that were consistent with the epistemological stance of the thesis and the approach I developed towards the research problem–that the definition of trans* people as

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[10] See Preface.

[11] In this regard, the distinction between epistemology, methodology, method and technique is an important one. *Epistemology* is 'a theory of knowledge that answers questions about what is Truth, who can be a knower and what can be known' (Harding, 1987, p. 3). It is thus a set of assumptions about the social world that effects the decisions researchers make. A *methodology* is a 'general approach towards the study of an object or process' (Íñiguez-Rueda, 1995, p. 6). It includes the set of theoretical, conceptual and technical tools that help us conceptualise and give an answer to a research problem. A *method* concern the 'specific pathways that allow us to carry out the analysis of the objects we want to study' (1995, p. 6). It entails all the activities and operations required to understand the research problem. Lastly, *techniques* are 'data collection procedures' (1995, p. 7). The techniques are not associated to any specific methodology or method, but the way they are used depend on them.

'abnormal' lies at the heart of discrimination against them, which in turn reproduces the binary opposition between women and men.

To this end, I carried out a **conceptual review of the literature** concerning transphobia and discrimination against trans* people (Chapter 2). The aim of this review was to identify theoretical and methodological perspectives employed in contemporary human and social research on the topic (2005-2016), including how trans* people were defined and where the problem of discrimination was located. By looking at the implications of the different approaches identified, I detected some theoretical and methodological limitations and gaps in the literature, which oriented my decision over the methodology to be adopted in the thesis.

The **methodology** of the thesis draws on discursive psychology (DP) (Chapter 3, section 3.1.). DP is a theoretical and methodological approach to discourse analysis that focuses on language in use (*discursive practices*) and the actions carried out by language (*functions* or *effects*). Particularly, the aim of the analysis is the elucidation of the *effects* of discourse, which are not directly observable. The underlying idea is that people *do different things* when they express themselves. The actions carried out by people's discursive practices are of two types: interpersonal and ideological. Interpersonal functions relate to actions such as arguing, apologising, explaining, making orders, etc. *Ideological* effects concern the maintenance and promotion of certain social relations by means of the different versions of reality that are conveyed. It is this second type of effects that are of particular interest in the thesis. The elucidation of the effects is carried out through the identification of *variability* within the discourse. The variability of discursive practices is inevitable because of the *dilemmatic* nature of common sense, which determines the *argumentative* nature of discourse. In this sense, the absence of argumentation is indicative of a common adherence to a particular stance, thereby revealing where the *norm* is. *Discursive practices* are thus the **research object** of DP and *the elucidation of their effects* is the **aim of the analysis**. Particularly, the analysis consisted of the identification of discursive practices, their variability and their effects in Belgian legislation regulating the mention of sex in the civil status and in workers discourses.

The thesis adopts a **case study design** (Chapter 3, section 3.2.). It consists of *two* case studies: the legal certification of sex in Belgium and the definition of the (gendered) worker subject. In both cases, the **method** to analyse the discursive practices is inspired by discursive psychology. It consists of the identification of *discursive practices* and their *variability* in order to elucidate their *effects*. However, the **procedure** followed to produce the data differs due to the particularities of each case.

The first case–the legal certification of sex in Belgium–is a **documentary study** in which a document search allowed me to retrieve all the documents pertaining to the *Loi relative à la sexualité* and the *Loi transgenre* (texts of the Acts, bills, amendments, documents reflecting parliamentary work and Circulars) as well as to identify all legislative texts regulating the certification of sex in Belgium over time. Following the step, I carried out a discourse analysis to specify the discursive practices used in the two 'trans* Acts' to define the binary opposition (specific obj. 1) and a content analysis to describe how sex has been certified for different categories of people (specific obj. 2).

The second case–the definition of the (gendered) worker subject–is an **interview study** in which I explored how workers express their views on sex/gender issues at work. I carried out five group interviews with co-workers from five different work organisations in Brussels. The organisations were selected according to the horizontal segregation of the Belgian labour market. I thus chose two organisations from traditionally 'feminine' professions, two organisations from traditionally 'masculine' professions and one organisation from a 'neutral' profession. The group interviews were audio-recorded and transcribed. Following the step, I realised a discourse analysis of the transcriptions. The analysis entailed two parallel tasks: the identification of the discursive practices used by workers to define sex/gender categories (specific obj. 3) and the specification of the discursive practices used by workers to define the (gendered) 'worker subject' (specific obj. 4).

The **empirical section** of the thesis is divided into two parts, each of them corresponding to a case study. In the first empirical section (Chapters 4 and 5) I present the results of the analysis of the legal certification of sex in Belgium. **Chapter 4** describes the discursive

practices used in the *Loi relative à la sexualité* and the *Loi transgenre* to define the binary opposition, whereas **Chapter 5** presents how sex has been certified for different categories of people. In the second empirical section (Chapters 6 and 7) I present the results of the analysis of the definition of the (gendered) worker subject. **Chapter 6** contains the description of the discursive practices used by the interviewed workers to define sex/gender categories, while **Chapter 7** describes the discursive practices employed by the workers to define the (gendered) worker subject. The description of the results follows the same structure in the four empirical chapters. I first describe the identified discursive practices and then I present the variability in their use and the effects they produce. They are illustrated with quotes from the materials. Giving that the particular uses of language are the focus of this type of discourse analysis, the quotes are presented in the original language (French).

An additional and shorter empirical chapter (***Addendum***) is added at the end of the second empirical section. In this chapter, I describe how my presence in the interviews, as well as the interaction between the participants, led them in a few occasions to *question* the norm that divides humankind into two mutually exclusive groups–women and men–, as well as their own definition of the worker subject. These moments illustrate how social interaction can open up alternatives that question taken for granted norms, thereby helping to promote social change.

In the last chapter of the thesis, I present the **conclusions and discussion** of the results in light of the initial claim of the thesis. I discuss how the discursive practices identified in the legal certification of sex in Belgium and the definition of the (gendered) worker still overall define trans* people as 'abnormal' in spite of the fact that the psychiatric pathologisation of trans* people is increasingly questioned, thereby reifying the binary opposition between women and men. I expose how this definition of trans* people have also effects on the gendered organisation of society. Following the step, I address the theoretical and methodological implications of the results in relation to both the research process in general and the way sex/gender is understood and studied in particular. The chapter concludes with some political perspectives.

The final **purpose** of the thesis is to promote an informed critical attitude towards the discursive practices that constitute trans* people as 'abnormal' and, ultimately, to highlight the inseparability of trans* and feminist struggles.