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Queering and diversifying gender in equality work at European higher education institutions

Zusammenfassung

Queering und Vervielfältigungen von Geschlecht in der Gleichstellungsarbeit an europäischen Hochschulen

In den letzten Jahren hat die zunehmende Anerkennung von Forderungen und Bedürfnissen der LGBTIQ* Communities zu Änderungen im EU-Recht beigetragen. Vor diesem Hintergrund plädieren die Autor*innen für ein queeres und damit vielfältiges Verständnis von Gender in den Gleichstellungsdiskursen an Hochschulen. Anhand der Fallbeispiele Deutschland und den Niederlanden werden rechtliche und diskursive Bedingungen sowie die Motivationen, Herausforderungen und Chancen der Akteur*innen im jeweiligen Hochschulsystem aus einer queeren Perspektive betrachtet. Die Beispiele zeigen, wie unterschiedlich die Umsetzung von EU-Richtlinien in nationales Recht erfolgt ist. Sie machen ebenfalls deutlich, dass Veränderungen in den Hochschulen derzeit von hoch motivierten Akteur*innen wie Studierenden, Gleichstellungs- und Diversity-Beauftragten oder einzelnen Einrichtungen angestoßen werden. Als aufeinander aufbauende, analytische Konzepte können „queering" und „diversifying" dazu beitragen, heteronormative Vorannahmen und diskriminierende Prozesse im gleichstellungspolitischen Kontext an Hochschulen zu erkennen. Sie erlauben ferner die Entwicklung von Strategien, die die Komplexität von Geschlechteridentitäten und Diskriminierungen berücksichtigen.

Schlüsselwörter
Queer, Gender, Gleichstellung, Hochschule, Antidiskriminierung, EU

Summary

Against the background of recent changes to EU legislation to meet the demands and needs of LGBTIQ* communities, the authors seek to situate a queered and diversified understanding of gender firmly at the centre of the gender equality discourse in higher education (HE). Based on case examples, the legal and discursive status quo in German and Dutch HE institutions as well as actors' motivations, challenges and opportunities are examined through a queer lens. The results highlight how differently EU legislation is transposed into national law. They also show that change is currently driven by highly motivated individual actors, be they students, gender equality and diversity officers, or individual institutions. We argue that queering and diversifying should be understood and used as modes to reflect on and analyse the processes that lead to heteronormative understandings of gender in HE and to develop strategies that take the complexities of gendered identities and discrimination into account.

Keywords
queer, gender equality, higher education, non-discrimination, EU

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1 Introduction

European institutions in higher education (HE) have been in the midst of profound change for some time now. While these transformation processes increasingly took the shape of entrepreneurial and new public management principles, they also opened up new trajectories for the implementation of gender equality policies (cf. Binner et al. 2013; Barry et al. 2011). Most prominently, such trajectories have been manifested in the equality framework promoted and carried out by the European Union. The enactment of the Amsterdam Treaty in 1997 gave rise to the strategy of gender mainstreaming[1] and to new forms of non-discrimination policies on the grounds of sex, race and ethnicity, religion and belief, age, disability and sexual orientation with a horizontal approach, recognizing discrimination across multiple inequalities (Bell 2002: 385). The Charter of Fundamental Rights (2000: Article 21) also recognises these different grounds of discrimination to be taken into account. As these enactments suggest, in order to tackle discrimination and inequalities on multiple levels, gender has to be considered in its intersection with other categories of inequality (Kantola 2014).

Gender equality policies in the EU are well developed. Yet, their definition of gender mostly rests on the presumption, that gender equality pertains to equal opportunities between women and men (Squires 2013: 742; see also Verloo 2006), thereby confirming a binary and heteronormative concept of gender. This understanding is contested by current strategies and policies addressing sexual orientation and gender identity[2], which are gaining more prominence. For instance, discriminations related to transgender, like "sex stereotyping" and gender reassignment, as well as to intersex persons are, following the rulings of the European Court of Justice, covered by gender equality laws. According to the findings of the EU lesbian, gay, bisexual and transgender (LGBT) survey, conducted by the European Union Agency for Fundamental Rights (FRA), LGBTIQ*[3] subjects encounter discrimination and violence due to their sexual orientation, gender identity or gender expression (FRA 2014). Taking into account that these acts of violations are fuelled by heterosexism (Evans/Rankin 1998: 170) and are linked to questions of gender,

1 In the context of gender mainstreaming as a so-called dual strategy, there have been a range of measures and programmes supporting women's advancement on the one hand and (re-)shaping governmental structures on the other hand. Although much has been achieved since the inception of the Amsterdam Treaty, we are still far from reaching gender equality, in terms of women's equal participation in all areas and at all levels of the scientific community (European Commission 2016).

2 EU bodies define the term 'gender identity' according to the Yogyakarta Principles (YP) on the Application of International Human Rights Law in relation to sexual orientation and gender identity as follows: "Each person's deeply felt internal and individual experience of gender, which may or may not correspond to the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms". This definition covers therefore transgender issues (European Institute for Gender Equality, EIGE 2018). In November 2017, the terms 'gender expression' and 'sex characteristics' were included in the Principles, regarding the needs and experiences of inter*persons.

3 In this article we use the acronym LGBTQ* (lesbian, gay, bisexual, trans, inter and queer) as an umbrella term to describe individuals or communities who identify themselves as LGBTQ or are perceived as belonging to one of these characters as well as regarded by topics and issues. The use of the asterisk symbolises that the lists is a contested one. It also indicates that queer is not only used as a theoretic and academic approach but as an identity category by queer activists themselves.

they fall into the realm of gender-based violence. EU policies, however, mostly regard gender and sexuality as distinct and as fixed categories. The same holds true for national legislations in Germany and the Netherlands. What is missing is a common understanding of gender and sexual orientation that goes beyond solely "men and women" and sexual orientation as restricted to gay, lesbian or bisexual. Debates on gender identity and LGBTIQ* issues are not only present at EU level but also for example in Germany and the Netherlands the matters of intersex and gender identity are being discussed (Adamietz 2011; Plasterk 2016; Baer/Elsuni 2017; College voor de Rechten van de Mens 2017).

The aim of this paper is to analyse how matters of gender equality are embedded in discourse, policies and practices at HE institutions in Germany and the Netherlands. What understanding of gender is present in the institutions' equality policies and practices? What initiatives are there for a more diverse gender approach? As law shapes gender relations and contributes to the construction of gender (Baer/Elsuni 2017: 270), we take the desideratum of a complex understanding of gender in gender equality law as a point of departure for a comparative discussion of HE gender equality legislation and policies in Germany and the Netherlands. Most strikingly, the chosen examples show how differently EU non-discrimination and gender equality legal frameworks are transferred into national contexts. Methodologically, their varying approaches necessitate a tailor-made analysis of how gender is conceptualised in the respective gender equality policies and if or how queer approaches are herein considered. First, we will give a brief overview of the legal situation in Germany and the Netherlands regarding equality and non-discrimination followed by an analysis of gender equality work in the German and Dutch national contexts. For Germany, there exists a history of criticism from gender studies scholars with regard to the binary model of gender in gender equality work as well as some suggestions to the modes of incorporating a more diversified model of gender into gender equality work (see Blome et al. 2013 for an overview). But there is still a gap between gender theory and the equality work done in institutions of HE. Therefore, we will present an overview of the situation in Germany and sketch recent developments of initiatives, which questions the heteronormative concepts of gender equality policies. As for the Netherlands, there are various projects that deal with equality work in the field of HE (e. g. Talent naar de Top, Charter Diversiteit, Workplace Pride), but how gender equality measures are designed and implemented exactly differs considerably across institutions. Unlike in Germany, national law does not determine equality measures at Dutch HE institutions. We therefore chose to closely analyse one university and take their gender equality work as an example of how matters on gender identity are reflected in policies and practices of Dutch HE institutions. A comparative consideration of both national contexts will demonstrate the importance of single players and groups for queering and diversifying gender in HE. We conclude this paper with an outlook for the future.

The accounts are by no means a complete representation of the landscapes in HE. They are rather intended to give a concrete and contrasting example of how EU gender equality and non-discrimination frameworks are approached on a national level and if and how gender is understood beyond heteronormativity. We advocate a more complex understanding of gender in equality work in HE, which considers the intertwining effects of gender identity and sexual orientation. But before diving into the country examples, we will first illustrate our approach of queering and diversifying the concept of gender.

2 Queering and diversifying gender in HE gender equality policies

Queer theories and research analyse the social construction of sexuality and identity and question the origins and effects of concepts and (identity) categories (Brim/Ghaziani 2016). Through the deconstruction of stable sexes, genders and sexualities they challenge any kind of sexuality or identity that falls into normative and deviant categories. Therefore, we understand queer as an anti-categorical concept that follows poststructuralist approaches and that can be linked to postcolonial and some strands of intersectional approaches (Dietze/Haschemi/Michaelis 2009). We use queering and diversifying as modes to move beyond a still persistent understanding of the social category gender as a fixed and homogenised identity in gender equality work in HE.

There have been previous attempts to apply queer approaches to gender equality politics, like the concept "queerversity" (Engel 2013). This concept is based on the understanding that identities are neither one-dimensional nor immutable, but emerge from complex power relations. Queer theories herewith critically analyse how identity politics create hierarchically positioned identity categories. Whereas emancipatory and identity politics focus on the inclusion of marginalised groups, queer theories aim to disrupt pre-established categories. The mechanisms of classification and definition of social identities indirectly support discrimination and oppression, as the recognition for minorities always affirms the majority as the defining centre (Engel 2006; 2013). Criticising identity politics, however, also bears the risk of neglecting how questions of categorization play an important role in the (re)production of power relations, mechanisms of inclusion and exclusion as well as in matters of visibility and invisibility. Activists and scholars in the context of black lesbian feminism (cf. Moraga/Anzaldúa 1981) and in the field of "queer of color critique" (Brockenbrough 2016) have been pointing out the complex intersection of multiple identities and experiences of discrimination and the need to designate these marginalised positions. Therefore, we follow Anthias' (2011) concept of positioning and belonging. In our view the attempt to balance identity-based positions of belonging with notions of fluidity and reflections upon positioning is vital for both, theory and practice. In this sense, belonging is of

> "experiential, practical and affective dimensions […]. Belonging is not just about membership in a community […] It is also about the social places constructed by such identifications and memberships, and the ways in which social place has resonances on stability of the self, on feelings of being part of a larger whole, and it is about the emotional and social bonds that are related to such places" (Anthias 2011: 208f.).

Yet, integrating queer approaches into gender equality work at institutions of HE as well as balancing out the temporality of fluent gendered concepts with the demands of policy-making is not an easy task. Not only is gender equality work an applied field with its own knowledge and experience, but it is also based on a legal framework.

3 Country laws and policies in Germany and the Netherlands

The aim for gender equality in HE is framed by EU, federal and state legislation. As stated above, the EU directives on equal treatment[4] were strong drivers for the implementation of a legal framework on non-discrimination policies. Though Germany and the Netherlands have quite similar legal systems, their approaches towards legislation on non-discrimination differ (Mulder 2017). Whereas the Dutch Equal Treatment Act came into existence in 1994, Germany is one of the European latecomers concerning non-discrimination policies. In the following section we will present a short overview on the legal frameworks in both countries and identify their inherent gender concepts.

3.1 Germany

The Basic Law is the foundation for all legislation regarding equal rights or non-discrimination policies in Germany. Article 3(2), passed in 1994, not only states that men and women have equal rights, but obliges the state and its institutions to actively promote equality between men and women and to work towards the elimination of existing disadvantages. Article 3(3) of the Basic Law prohibits discriminations or privileges based on sex, parentage, race, language, homeland and origin, faith, or religious or political opinions and bans discrimination based on disability. Of particular note is the lack of protection against discrimination based on sexual orientation.

Therefore, the achievement of the objective of gender equality at institutions of HE is a constitutional duty. This means that on the one hand, the legal framework strengthens gender equality work. On the other hand, it confirms a binary definition. According to Adamietz (2011) sex, respectively gender, is an indeterminate legal concept in German law. Over the past years, the legal interpretation of sex/gender has relied on the assumption of a binary and heteronormative model (cf. Baer/Elsuni 2017). Nevertheless, the legal concept of gender has been extended by means of case law of the Federal Constitutional Court on behalf of jurisdiction on transgender and intersex issues and equal rights for same-sex couples (Adamietz 2011).[5]

A more multidimensional perspective on equality work has been introduced through the enactment of the General Equal Treatment Act (German abbreviation: AGG) in 2006. The AGG covers the prohibition of discrimination on the grounds of racial or ethnic origin, sex, religion or belief, disability, age and sexual identity. It also defines sexual

4 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation; Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services; Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

5 How far the Federal Constitutional Court's decision from October 2017 that the Civil Status Act does not provide for a third option – besides the entry 'female' or 'male'– and is hence incompatible with the Basic Law (BVerfG 2017) will foster changes in the binary legal gender definition cannot be stated at present (July 2018).

(or other) harassment as a form of discrimination, because harassment on the grounds of gender or sexual orientation is a violation of the principle of equal treatment (Kocher/Porsche 2015: 9). With the adoption of the AGG, the category sexual identity[6] as a ground for discrimination was applied for the first time in German law. Similar to the legal concept of gender, there is no formal definition of 'sexual identity'. The term covers discrimination related to an individual being, who is – or is perceived as – lesbian, gay, bisexual or heterosexual (Bell 2012: 137). And differing from the EU, the category also covers discrimination on the behalf of gender identity or intersex issues (Kocher/Porsche 2015). The AGG primarily focuses on discrimination at work. Therefore, the application of the AGG at institutions of HE addresses mainly staff. However, this also means that a protection gap for students still exists in Germany (see also Kocher/Porsche 2015). In sum, it can be stated that gender equality work at HE is embedded in a strong legal framework, whereas diversity policies do not yet have a comparable legal foundation, despite the enactment of the AGG. Furthermore, they lack a coherent meaning of the different dimensions they cover (Klein 2016: 151).

3.2 The Netherlands

In the Netherlands, the content and implementation of gender equality policy measures at universities are not prescribed by national law. It is in the hands of the universities how they implement equality policies. However, the Dutch Equal Treatment Act and the Equal Treatment Act for Men and Women are in force. These legal policies on gender equality and non-discrimination were already established before the Amsterdam Treaty of 1997 and are anchored in the Dutch Equal Treatment Act of 1994 which prohibits unequal treatment on grounds of gender, marital status, race, nationality, religion, faith, political opinion and hetero- or homosexual preference. Both direct and indirect discrimination based on these grounds are illegal. Direct discrimination refers to the different treatment of persons based on for example their gender. Indirect discrimination refers to supposedly neutral regulations, norms and/or actions that affect persons differently compared to other persons in the same situation. This applies to all aspects of employment and professions and to the supply of goods and services.

Although the laws on equal treatment forbid any form of discrimination based on gender, the Dutch Equal Treatment Act still maintains a binary and unified understanding of gender with men and women as the only two gender categories. This is not to say that the Equal Treatment Act in this form is exclusionary of other gender categories or that discrimination based on gender, race and sexual orientation are not prohibited under this law, but it does not explicitly broaden the concept of gender. Recent debates on trans identities led to the presentation of a new parliamentary bill that advocates the explication of discrimination against transgender and intersex persons to be included in the Equal Treatment Act (Plasterk 2016; College voor de Rechten van de Mens 2017). Petitioners of the bill demand that prohibition of discrimination based on sexual characteristics, gender identity and gender expression be added to the already existing gender category in order to enhance the attention of this form of discrimination and to show the affected

6 Whereas the EU Directive 2000/78 and the EU non-discrimination policies use the term 'sexual orientation', German law speaks of 'sexual identity'.

persons that 'the law is on their side' (Telegraaf 2017, translation SV). This parliamentary bill is currently being processed but has not yet been passed and implemented. Thus, the question remains how this probable change in law will affect equality policies.

4 Gender equality policies and practices in German and Dutch Higher Education

The overview of the legal frameworks on gender equality and non-discrimination in Germany and the Netherlands has demonstrated the distinct role of national legislation on institutions of HE. In Germany, a strong legal framework with institutionalised gender offices is on hand whereas the legal system in the Netherlands pursues an open approach towards equality. The following portraits illustrate different areas of queering and diversifying gender and how these areas are challenged and changed by smaller groups and individual players.

With regard to Germany, we draw our data from secondary literature and a selection of universities websites for statements and initiatives on queer issues. We also analysed documents and statements from the Federal Conference of Women's Representatives and Equal Opportunities Officers at Universities (German abbreviation: BuKoF)[7]. These data indicate that issues of sexual orientation and diverse gender identities, much less a queer approach to gender, are rarely incorporated in policies as well as practices at HE institutions in Germany. With regard to the Netherlands and their diverse equality policies, we decided to take a single university (Leiden) as an example. We analysed the university's equality policies and conducted an interview with Isabel Hoving, the diversity officer of the university, on her work and the university's policies with regard to gender equality. At Leiden University (as in many Dutch HE institutions) no distinction is made between gender equality and diversity policies and officers. Matters regarding gender identity and LGBTIQ* are therefore part of the diversity programme.

4.1 Germany

In Germany, gender equality work at institutions of higher education is presently well established and a leadership task (see Blome et al. 2013 for an overview). The introduction of gender mainstreaming, diversity and non-discrimination policies in the course of implementing new public management principles have contributed to major changes in gender equality work in HE (Klein 2016; Löther/Riegraf 2017). New players, besides the officers for women's affairs or gender equality, have entered the field and new divisions such as central staff units or diversity divisions have emerged (Czock/Donges/Heinzelmann 2012). These developments are as controversially discussed as the concept of gender in gender equality work (cf. Andresen/Koreuber/Lüdke 2009; Riegraf/Plöger 2009) for various reasons. Critics have referred to the entanglement of gender

7 We also draw on our knowledge and expertise in the field of gender equality work and as (former) members of the BuKoF and especially as members of two commissions of the BuKoF, which tackle the heteronormative and one-dimensional understanding of gender in gender equality work in German gender equality in HE.

mainstreaming with neoliberalism as well as to the conceptualisation of gender in equality work as a still binary category. Thus, the claim for broadening the concept of gender is not a new one in the German-speaking context.

What is striking in the German context is that the dimensions of sexual orientation/identity and gender identity/expression remain mostly invisible in gender equality as well as in diversity programmes (Czock/Donges/Heinzelmann 2012; Klein/Heitzmann 2012). There are a few regional studies (cf. Klein/Rebitzer 2012), but large-scale surveys on the experiences of LGBTIQ* students, faculty and staff have not yet been conducted. Furthermore, a sufficient body of literature and research addressing queer and LGBT issues is pending in HE in Germany. The lack of LGBT and queer research related to HE can be explained by the fact, that Queer or LGBT Studies in Germany are rarely institutionalised[8] and gender research on higher education does seldom go beyond a binary gender concept. Support structures and political representation for LGBTIQ* students are mostly provided by the usually autonomous organised student association. With few exceptions, neither gender equality offices nor diversity divisions provide support for or incorporate LGBTIQ* issues comprehensively (Czock/Donges/Heinzelmann 2012). Furthermore, there are hardly any drop-in and counsel centres for students, teachers and administrative staff who are exposed to racist, queer and/or transphobic violence as Thompson and Vorbrugg (2018: 91) show. This is in line with the findings of the expertise on sexual harassment in universities, commissioned by the Federal Anti-Discrimination Agency (Kocher/Porsche 2015). The expertise showed that guidelines on gender-based violence and sexual harassment tend to exclude LGBTIQ* students and employees. However, currently we can witness some change on this topic, as the German Rectors' Conference (HRK) launched a statement on the prevention for sexual harassment in April 2018. This statement included the dimensions sexual orientation and gender identity (Hochschulrektorenkonferenz 2018).

Moreover, the binary interpretation of gender has been challenged due to activist work, queer and gender theorising. Joint initiatives like the working group "Gender and Queer Studies" at the University of Rostock have emerged and intend to bring in a queer approach to research as well as to teaching and HE politics (Behrens/Zittlau 2017). There is also some effort to provide support to trans and inter rights. For example, the Equal Opportunities and Diversity Unit at the University of Göttingen offers peer-to peer-counselling for trans students.[9] Some universities have installed gender-neutral toilets and/or provide for early name changes on student records. But still, these activities focus mainly on specific target groups. A comprehensive strategy how to tackle heteronormative patterns in the HE culture and organisational structure is missing.

Moreover, gender equality officers have started to debate how to combat heteronormativity in HE, leading to the foundation of a new commission on Queer Gender Equality Policies in Higher Education (Queere Gleichstellungspolitik an Hochschulen) on their general meeting in 2017[10]. To what extend these initiatives will contribute to a de facto transformation of the two fix gender categories remains to be seen.

8 The first study programme that includes queer in its name is the MA Gender & Queer Studies programme at the University of Cologne, which was launched in winter term 2017.

9 Retrieved 16 July 2018 from https://www.uni-goettingen.de/en/580847.html.

10 For more detail see: https://www.bukof.de/queere-gleichstellungspolitik.html (retrieved 16 July 2018).

4.2 The Netherlands

Unlike Germany, the content of equality policy measures at Dutch HE institutions is not prescribed by national law. For the scope of this paper we decided to take Leiden University as an example. Leiden University was founded in 1575 and is one of the Netherlands leading universities. It is comprised of seven faculties in the Arts, Sciences and Social Sciences that are spread out over several locations in Leiden and The Hague. The University has over 6 500 staff members and 26 900 students. Its focus on diversity began in 2012, when the newly appointed *rector magnificus* decided to systematically implement diversity policies at all levels of the university. As part of this programme, Isabel Hoving was appointed diversity officer in 2014. Under the banner of 'Diversity through Excellence', the university launched a programme focusing on the potential of diversity, thereby breaking with target group policies that had previously been used as a measure for inclusion. In an interview with one of the authors of this paper, Isabel Hoving states that this type of politics was the result of the idea that "they" (minority groups) were different and that "we" (the university) had to help "them" in order to keep up with "our" norms and standards. With the new programme, the university wants to turn this around and critically evaluate its policies, focusing on where they are excluding people, and on how to attract a more diverse group of students and employees.

Isabel Hoving also explains how in her work, it is important to approach diversity not as a sum of categories, but that diversity work is always tailored work: "We want to approach everyone as an individual and offer support and mentoring where individuals themselves find that necessary. They are the directors of the process we support" (translation SV). As a result of this approach, the university does not have equality programmes exclusively for certain groups. There are networks in place that focus on certain interest groups such as a women's scientist network and a transgender network, but these are initiated and coordinated by students and employees themselves and not established by the diversity office. This does not mean that the diversity officer does not work closely together with these interest groups in the establishment of policies or the execution of practices. For example, the transgender network together with the diversity office, has compiled a brochure on trans identities that is available for download at the university's diversity website. With the instalment of gender neutral toilets at the university, both parties worked hand in hand. But as Isabel Hoving explains, "when people come to us, we do not say: you are like that, so go to that group" (translation SV). Instead, the emphasis should be on individuality, inclusiveness and tailor-made solutions. In practice, this means that everybody can come to the diversity office regardless of what their issues or questions are, and it is the university's task to tackle these issues. This may take the shape of awareness training, policy measures or individual support. Sometimes, procedures need to be made visible and changed where possible. For example, this has been the case with regard to maternity leave and adoption leave for families with two fathers, or procedures concerning visibility and language in official statements and documents.

One aim of this paper is to point to the binary and uniform understanding of gender in equality policies in HE and examine where and how insights from queer theory can be meaningfully brought together with equality practices at universities. Taking Leiden University as an empirical example, how are equality policies designed? What does this

mean for the concept of gender? Where are (hetero)normative structures reproduced and how can they be disrupted? Queer theory in this analysis is not used to solve the question of inequality, nor as a new form of diversity management, but as a lens to reflect on the universities' equality policies.

With its concept 'Excellence through Diversity', Leiden University wants to break with an equality politics that focuses on target groups and minorities. This includes gender and LGBTIQ* minorities. As Isabel Hoving explains, such politics reinforce and reproduce normative expectations that minorities have to live up to, and as such do not take into account the complexities of discrimination. So instead of relying on identity politics, Leiden University purposely focuses on supporting individuals in their particular, unique and complex position. Hereby, established normative expectations and predefined identity categories such as man and woman are questioned and not used as a basis for participation or inclusion (and exclusion). Instead of referring to diversity as different from the norm, diversity is approached as a form of excellence. Difference is understood not as deviance or opposition, but as a source for greater potential. The danger here lies in the instalment of excellence as a new norm, therewith reproducing inequalities and using diversity as a form of neoliberal exploitation (Thompson/Zablotsky 2016). As such, the meaning and definition of excellence requires continuous questioning. In their selection process, for example, Leiden University tries to diversify their selection procedures, trying to attract and welcome creativity, social involvement and students who think critically and from non-privileged positions. Since the university is an academic institution though, quality measures as well as access to education remain linked to certain standards and are difficult to constantly diversify. In addition, it should be taken into account that exclusion and inequality affect certain groups and that identity politics make visible how discriminatory mechanisms lead to unequal categorical positions.

In order to work on equality not only within the university but also with regard to access to HE, the university aims to reflect its own exclusionary mechanisms. As Isabel Hoving explains, the question that the university asked itself is: where is it excluding people? And where is it not addressing forms of discrimination? Asking this question and critically reflecting on its mechanisms of inclusion, exclusion and participation have been a first step in the disruption of normative structures. This does not mean that structures at the university have been de-normalized and de-hierarchized as a whole or that everybody is granted access to higher education, neither that identity categories no longer play a role. But the diversity office's intention is to focus on inclusion and tailor-made solutions for every individual creates room to reflect on the effects of equality policies' effects on gendered identities and is a powerful step towards disrupting (hetero)normative structures and the reproduction of fixed gender categories as well as towards making individuals' lived experiences a pivotal aspect of policy-making.

5 Comparative discussion of the German and Dutch examples

We started our exploration from the desideratum of a complex notion of gender within EU legislation and national law. Comparing the policies of HE institutions in Germany

and the Netherlands has shown two contrasting implementations of EU directives into national policies and highlighted their possibilities and constraints.

Due to distinct national legislation and administrative structures, equality policies are embedded differently in HE policies in Germany and the Netherlands. In the former, the appointment of equality officers is formally organised by state law, resulting in high levels of engagement and resources in generating equal opportunities between men and women. However, because legislation determines to a large extent the content of equality programmes at Germany's HE institutions, there seems to be limited room to incorporate a more diversified understanding of gender into the existing policies and practices. There are some initiatives that focus on the needs of LGBTIQ*, but these have up to now not been transposed within formal structures. Usually they come from student and activist groups that act outside the legal framework and official policies. The recent establishment of the 'Queer Gender Equality Policies in Higher Education' initiative might change this, but it is still to be seen what its effects on the current policies are going to be.

In contrast to Germany, the Dutch equality policies at HE institutions are less strongly embedded in national law. As a result, the institutions' equality programmes differ gravely in their content, available resources and staff. Also, matters of gender equality are often discussed within a larger (legislative) framework of diversity and non-discrimination in general. As the case of Leiden, among initiatives at other Dutch universities, exemplifies, this leaves room for a different approach toward (gender) equality. Hence, in the Netherlands it is easier to integrate new ideas on gender, queer and difference into policies and practices because there is no official framework. Alterations are, however, not straightforward and strongly depend on the work of individual players. As our cases show, there is not one way or one solution, but in order to do justice to the complexity of multiple discriminations and gendered identities, a critical analysis of the current equality policies at HE institutions and the including and excluding mechanisms is necessary to combat heteronormative structures and ongoing discriminations. Insights from queer theory can be helpful as a basis to think different about gendered identities and how they are reflected in current equality policies. One strategy could be to not solely rely on identity politics but to focus on the (heteronormative) mechanisms behind excluding policies and practices and take that as an incentive for structural change.

6 Outlook

Bringing queer approaches together with HE gender equality policies and practices is not an easy task. Also, there is no all-encompassing solution how to integrate a more diversified understanding of gender identity into equality work. With this paper we argue for the development of strategies that take the complexities of gendered identities and discriminations into account. Gender diversity and non-discrimination work can benefit from a more precise ability to analyse the complex reasons for discrimination and the subsequently possible solutions. Players in the field should be keenly aware that non-discrimination policies focusing only on single dimensions of discrimination or on the individual risk are shifting responsibility on to that individual experiencing discrimina-

tion, while also confirming and reproducing fixed identities. Analysis of discriminatory practices as well as the underlying power relations should be reflected clearly in policy and practice. As a next step, we would like to see further and more in-depth research – using a queer lens – into European Higher Education itself.

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