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The Principle of Autonomy in Cases of Gender Reassignment for People with Gender Dysphoria.

Prof. Mirko Daniel Garasic — SUPERVISOR

Eva Prodi - 085482 — CANDIDATE

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A Lidia

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Introduction

Despite being one of the fundamental pillars at the core of the bioethical discourse, the principle of autonomy is still a truly controversial issue. As the etymology of the word indicates, the concept of autonomy refers to the possibility for individuals to exercise their own will and self-determine their identity and behaviors during the course of their lives. This principle has been considered as the main drive behind the proliferation of arguments in favor of issues such as the right to euthanasia or abortion. Several major developments within the scientific and social sphere have brought to modern societies the possibility for individuals to exercise one of the most deeply-rooted yet controversial rights: the possibility to decide over their own body, even in cases in which such choice implies a radical change of what is considered as its "natural" disposition. This might be the case of individuals who suffer from Gender Dysphoria and may therefore carry the burden of the oppression of living in an "inhospitable" body, thus feeling the need to cope with the impossibility to identify with their biological sex. Despite the fact that it is still a highly debated issue, transitioning is nowadays possible in several countries in the world, where transgender people can finally undergo a process of gender reassignment so as to finally feel at ease with their gender identity. However, when it comes to permanently altering one's own anatomy, such as in cases of sex reassignment surgery, the principle of autonomy may come at odds with the requirements of the medical and juridical system. Indeed, transgender people need to go through a complex process made of requests and consequent decisions taken by external actors, who may interfere with their own desires or feelings and in some cases even impede their transitioning process from the very beginning. For instance, in the majority of those states where legislation about the issue is present, the legality of gender change still depends on the pathologization of the patient, namely on psychological and psychiatric evaluations and diagnoses of mental disorder. Besides the medical aspect, the process of legal recognition also hinges on a number of bureaucratic procedures which need to be undertaken, which often involve the assessment of many prerequisites or make the recognition of gender identity dependent on the sex reassignment surgery or even on the concept of passability, which considers the resemblance of your external appearance to the one commonly associated to the gender you perform.

However, there is no doubt that recognition before the law is truly important for transgender people to reach a valuable degree of acceptance within a society which still often times unfortunately discriminates them, whether directly or indirectly. Not only being officially recognized on a legal point of view implies the possibility to change one's own name and documents, but it also allows them to get married and, in some instances, to adopt. Nonetheless, the jurisdiction over one's own body is still

somewhat left in the hands of a system which often leads to the pathologization of the individuals, or in the worst cases, to the denial of their own will.

For this reason, one question may arise: is it really possible to think of a society where gender is "undone", as Judith Butler's notable research postulates, and individuals can define and express their gender identity in a truly autonomous way?

This thesis aims at proposing possible answers to this question through an analysis of the autonomy of people with Gender Dysphoria during the different steps of their path. Therefore, a first account of the principle of autonomy within medical ethics will be provided, as a theoretical basis upon which the whole topic can be developed. Besides the notion of autonomy within the bioethical and philosophical discourse, different changes and developments which affected the understanding of such principle in modern societies will be analyzed, before proceeding with the evaluation of its important role within the transsexual experience. Hereafter, the meaning of Gender Dysphoria and the consequences of such diagnosis will be introduced and explained, and transsexual people's struggle for being able to change their own body will be shown through an historical account of the slow recognition of their rights. The process of transitioning in those countries where it has been deemed possible, such as Italy, will thus be illustrated in all its different steps and internal contradictions, alternated with the excerpts of the stories of two transsexual women I had the pleasure to interview. Three specific ethical issues which emerge in the process of transitioning will thus be taken into account, each one referring to a different stage of the gender transitioning process, in order to assess whether the possibility for transgender individuals to choose for their own body is actually provided, or alternative paths shall be pursued which enhance their self-determination. A new perspective on the approach to transsexualism will finally be explored, through an analysis of Judith Butler's book titled *Undoing Gender*.

1. The principle of Autonomy

1.1. The roots of the term.

The meaning of the word autonomy itself needs to be clarified before proceeding to analyze the subsequent philosophical principle. Indeed, many times in the course of our lives we must have made use of such word, perhaps in different or even opposite contexts, without actually asking ourselves the real meaning of it. We might have asked for more autonomy when our parents did not give us permission to do something we truly wanted to do, but we also might have used the term when we were referring to the freedom of some country or some people of self-determination or self-rule. We might also have felt a higher degree of autonomy when we first experienced living alone, but we can also speak of autonomy when we refer to the economic independence of an individual. Words like freedom, self-determination and self-government are just some of the synonyms for autonomy provided in the dictionaries. However, is the use of such words truly interchangeable? Assigning proper meanings to the words is certainly not the main purpose of this dissertation. However, an agreement over the understanding associated with the concept of autonomy is necessary to ensure consistency within the discourse and to grasp the correlation with the proposed topic.

The Cambridge Dictionary defines autonomy both as "the right of an organization, country or region to be independent and govern itself" and as "the ability to make your own decisions without being controlled by anyone else".[1] This dichotomy between the collective and the individual-level autonomy dates back to the origins of the concept and finds its meaning in the etymology of the word itself, which is first used as a neologism aimed at connoting a cornerstone of the Greek culture in Plato's *The Republic*. Indeed, the two terms that compose the whole word represent two concepts which coexisted within the Greek culture and society, namely αὐτος (autos, literally translated as "self") and νόμος (nomos, which has a much broader meaning and is generally translated as "law" or "custom"). This fundamental sense of belonging which characterized the Greek πόλεις (that happen to be the first attestations of real political communities in which human beings collectively took part) make the first developments of the notion of autonomy quite different from the subsequent "modern" use of the word. In fact, self-rule, which is the

[1] "Definition of autonomy," Cambridge Advanced Learner's Dictionary & Thesaurus, accessed May 1, 2020, https://dictionary.cambridge.org/dictionary/english/autonomy.

most accurate literal translation from Greek, was not conceived as a possibility on the individual level of action, while it was an essential requirement for the achievement of real freedom as collective entities (i.e. states, peoples, colonies and communities).

Among the first attestations of the use of the word, a notable one is found in one of the most eminent examples of an historical account which dates back to the fifth century B.C. In his *Histories* about the origins of the Greco-Persian Wars, the Greek historian Herodotus narrates the agreement between Persians and Athenians as a possibility for the latter to become "*autonomoi*". Many other authors, among them Thucydides, Demosthenes and Polybius have subsequently spoken of autonomy in order to refer to the possibility for cities or populations to achieve a condition in which they could create their own laws and truly acquire liberty and self-government. It can therefore be assumed that within this perspective the real meaning and importance of the "law" or "custom" cannot be separated from the "self", in a system in which this self has been incorporated by a sense of belonging into a greater collectivity, which can be either the community or the city itself. Due to this collective dimension associated to the concept of autonomy, the first attestations of a more individual dimension of autonomy have often acquired a much more negative connotation.

"*Is it not with fame and praise that you depart to the corpses' depths? You were not struck down by wasting sicknesses, nor did you pay the wages of the sword, but autonomous (αὐτόνομος), you alone of mortals go living into Hades*" (817-822).[2]

With these rather ambiguous words, Sophocles reproaches Antigone, the protagonist of the homonymous notable tragedy, for acting in accordance with her own will. Numerous subsequent examples may be found in which the use of the word relates to a perceived fracture in the relationship between the individual and the "custom" represented by the social and political systems.

However, it is only many centuries later that the distinction between the collective and individual dimension of autonomy emerges, and it is expressly stated by the Greek philosopher Dio Chrysostom in "*The Eightieth Discourse: On Freedom"*, which dates back to the first century A.D., where he holds that

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[2] David Mcneill, "Antigone's Autonomy," *Inquiry: An Interdisciplinary Journal of Philosophy* vol. 54 no. 5 (September 2011): 412, https://doi.org/10.1080/0020174X.2011.608877.

"only the philosopher is autonomous, since he is able to live under his own law, while all ordinary people are subject to direction by outside forces".[3] These words create a stark contrast between the two meanings associated with the concept of autonomy, since autonomy of a city or country cannot be claimed if individuals are still subjected to a superior authority. However, it is too early to speak of an individualization of citizens and members in a society which still relies on a sense of belonging and is perceived as a single entity. Therefore, autonomy has remained a rather utopic concept for centuries, until the power of religion and its intrinsic differences and disputes raised the first concerns about the possibility to grant a degree of freedom of worship, which was ensured at first to countries with the principle *cuius regio, eius religio* (to each country its own religion), and thereafter to individuals, as expressed in Thomas Blount's *Glossographia*.[4] Blount's definition of autonomy as "liberty to live after one's own Laws" is emblematic of a deeper and more personal understanding of the term which is slowly being delineated and affirmed.

However, it is only with the scientific and philosophical revolution brought about by the Enlightenment that the concepts of self-determination, liberty and rationality begin to permeate every aspect of human life and influence the notion of autonomy in a profound and perhaps irreversible way. Indeed, with individuals being deemed capable of understanding every aspect of life, even the rules governing the world, a new conception of morality and autonomy arises, in which the two coincide. It is with the German philosopher Immanuel Kant that a revolution of thought occurs, according to which human beings are autonomous for the very fact that they are rational and able to understand what is to be considered moral. Influenced by Rousseau's idea of a social contract to which individuals choose to be subject, Kant's conception of autonomy of the will implies the moral obligation to "act only on that maxim which you can at the same time will to be a universal law". However, one shall not confuse the notion of universalizability of one's own law with living according to heteronomous principles, without fully reasoning upon our will, since that would mean being subject to a superior authority, be it the social or political context.[5] Furthermore, an essential drive for the development of a philosophical discourse around autonomy was the contribution of the British philosopher John Stuart Mill and his theorization of utilitarian liberalism.[6] Indeed, getting even closer to what we mean today for the concept of autonomy,

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[3] John M. Cooper, *Stoic Autonomy* (Cambridge University Press, 2003), 4, https://doi.org/10.1017/S0265052503202016

[4] Thomas Blount, *Glossographia*, (London: To. Newcomb, 2nd ed., 1661).

[5] Louise Campbell, "Kant, Autonomy and Bioethics," *Ethics, Medicine and Public Health* vol. 3 no. 3 (July-September 2017), https://doi.org/10.1016/j.jemep.2017.05.008.

[6] John Christman, "Autonomy in Moral and Political Philosophy," *The Stanford Encyclopedia of Philosophy* (Spring 2018), Edward N. Zalta (ed.), https://plato.stanford.edu/archives/spr2018/entries/autonomy-moral/.

Mill indicates the necessity of drawing a line of acceptability between one's own freedom of action and other people's one, where "every citizen is free to develop her potential according to her preferences, as long as the resulting actions do not interfere with an equivalent freedom of expression that must be granted to others."[7]

1.2. The modern conception of autonomy: recent developments and achievements.

In order to understand the historical development of the conception of autonomy, we must take into account that since ancient times, the possibility for individual autonomous behaviors has been strongly conditioned by mechanisms of power and authority occurring at the social and political dimension of society. Therefore, the exercise of personal autonomy was dependent on factors such as the social position, the economic condition, but even on gender, ethnicity or sexual orientation. Some social categories have clearly been privileged in the pursuit of autonomy of thought and action simply because they represented the majority holding the reins of power. Among the many instances of the instrumental use of autonomy as a means to exacerbate inequalities we may find the practice of slavery, which has been predominant in the whole course of history and still continues to be enacted even though in apparently different forms. Moreover, the privation of the autonomy of individuals is at the basis of every political repression, oppression, and imposition of power since the very beginning of international relations between countries and peoples. It is, then, with the slow but consistent achievement of new rights and powers occurring during the 20th century that the concept of autonomy comes to dominate the political and philosophic sphere. Indeed, the acquisition of a higher degree of autonomy becomes a direct consequence of the insurgence of minority classes and minorities in general, that challenge the status quo seeking a more equal distribution of a number of privileges: among these, autonomy. With the increasing level of education, political participation and awareness, autonomy becomes one of the supporting pillars in the fight for more rights. According to Lucas Swaine, what accounts for the increasing interest in individual-level autonomy is the discontent for the authoritarian politics which led many people to ask for individual rights, but also the spread of democracy and its implications, such as universal suffrage and freedom of speech and opposition. Among the factors listed by Swaine we also find the increased religious liberty which grants individuals a higher degree of self-determination and rational thinking,

[7] Mirko Daniel Garasic, *Guantanamo and Other Cases of Enforced Medical Treatment: A Biopolitical Analysis*, (Springer Briefs in Ethics, 2015).

and, finally the detachment from the idea of a social place which confers rules and expectations.[8] It is therefore in this context of acquired social rights and liberties that the notion of autonomy begins to challenge the philosophical discourse bringing about, in particular, new issues for the development of the discipline of bioethics. As stated in the Stanford Encyclopedia of Philosophy, in fact, *"Autonomy, then, is very much at the vortex of the complex (re)consideration of modernity."*[9]

New issues arise which claim the need for a political response, and these debates come to polarize society in such a way that the urgency of an ethical parallel path to be followed becomes evident. For this reason, the discipline of bioethics and its attention for the most delicate and controversial questions arising in the modern world become the most suitable path through which the "conundrums" can be unraveled. Together with many scientific discoveries and the development of new medical practices, in fact, new doubts arise over the interpretation of the principles stated in the Hippocratic Oath, which was and still is an essential cornerstone for ethical standards in the medical field. In particular, different moral commitments contained in the Oath which physicians must swear to respect come at odds with the increased autonomy of patients and the diminished paternalistic role of physicians in the decisions regarding other informed and autonomous individuals. It is the case with abortion and euthanasia, the two probably most discussed ethical issues of the last decades which still remain controversial for many, since they seem to challenge the ethical pillar of medicine of *primum non nocere*, meaning "First do no harm". Together with the principle of non-maleficence, many other passages of the Oath clashed with some basic liberties acquired by individuals, such as the one to autonomously decide over their own body. In fact, even though many of the core principles embodied by the Oath remain pertinent and applicable even nowadays, the very fact that the text dates back to the 400 B.C. makes it reliant on and influenced by the customs and ethical framework of those days, and therefore sometimes anachronistic. Furthermore, some additional factors which must be taken into account include the outrageous historical events of the 19th century, such as the continuous violations of human rights during the two World Wars and, in particular, the atrocities committed by Nazis for the sake of eugenic theories which led to the death of millions of human beings involved in genetic experimentation. These terrible events made the creation of a new universal moral and ethical code a priority for the international community. The Nuremberg "Doctors'" Trial, starting in December 9th, 1946 and closing in August 20th, 1947, represents

[8] Lucas Swaine, *Ethical Autonomy: The Rise of Self-Rule*, (Oxford Scholarship Online, 2020), https://doi.org/10.1093/oso/9780190087647.001.0001.

[9] John Christman, "Autonomy in Moral and Political Philosophy", *The Stanford Encyclopedia of Philosophy* (Spring 2018), Edward N. Zalta (ed.), https://plato.stanford.edu/archives/spr2018/entries/autonomy-moral/.

a major turning point for medical ethics, leading to the drafting and creation of the *Nuremberg Code*, which has been defined as "the most important document in the history of ethics in medical research and the basis of modern rules and principles that safeguard the rights of people undergoing medical experimentation."[10] Moreover, only one year after the publication of the Nuremberg Code, the World Medical Association issues the Declaration of Geneva and the subsequent International Code of Medical Ethics, which further assess the duties and moral commitments of physicians towards their patients, colleagues, and in general as regards the medical profession. Few decades later, following the scandal of the infamous Tuskegee Syphilis [clinical] Study in which hundreds of African American men were involved without being properly informed of the consequences, a commission was instituted in the United States in order to "identify the basic ethical principles that should underlie the conduct of biomedical and behavioral research involving human subjects and to develop guidelines which should be followed to assure that such research is conducted in accordance with those principles."[11] In the so called Belmont Report, the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research thus assesses the importance of three main principles of biomedical ethics, namely: the respect for persons as autonomous agents, the principle of beneficence and the principle of justice. This moment is broadly considered as the beginning of the so called "principlist" approach of bioethics, which finds its most evident expression in the work by Beauchamp and Childress.

1.3. The principle of autonomy in biomedical ethics.

In the textbook which has become a cornerstone for the discipline of biomedical ethics, the two American philosophers Thomas L. Beauchamp and James F. Childress identify four principles which must guide not only research involving human subjects, but the whole range of possible actions in the field of research and medicine. They are: respect for autonomy, non-maleficence, beneficence and justice.[12] In the following paragraph of this dissertation, therefore, we shall finally focus on the principle of autonomy and on its meaning and use within the bioethical field, so as to assess its importance for the

[10] Helen Askitopoulou and Antonios N. Vgontzas, "The relevance of the Hippocratic Oath to the ethical and moral values of contemporary medicine. Part I: The Hippocratic Oath from antiquity to modern times," *European Spine Journal* vol. 27 (July 2018), https://doi.org/10.1007/s00586-017-5348-4.

[11] The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, *The Belmont Report: ethical principles and guidelines for the protection of human subjects of research*, (April 1979), https://www.hhs.gov/ohrp/regulations-and-policy/belmont-report/read-the-belmont-report/index.html.

[12] Kenneth Iserson, "Principles of biomedical ethics," *Emergency medicine clinics of North America* vol. 17, no. 2 (May 1999), https://doi.org/10.1016/S0733-8627(05)70060-2.

specific topic of transsexualism and the process of gender reassignment. First of all, before proceeding to the explanation of the characteristics of the principle of autonomy itself, the meaning of the word "principle" shall be clarified. As the etymology of the word suggests, the term refers to something which is original, with the word original meaning the very origins of something. In fact, the Latin word "principium" is a compound from the adjective "primus", which can be translated as "origin, first part" and the verb "capere", meaning "to take".[13] Through the etymology the core idea behind the word can be grasped. A principle is something "that takes first", since it encompasses a wide range of norms and rules which are just the concrete realization of the more general and universal axiom. In the case of autonomy, citing Beauchamp and Childress, the principle can be defined according to two meanings: "as a negative obligation: autonomous actions should not be subjected to controlling constraints by others. As a positive obligation, this principle requires respectful treatment in disclosing information and fostering autonomous decision-making". Besides the definition, however, the principle requires a number of rules which need to be respected, these are:

1. Tell the truth.
2. Respect the privacy of others.
3. Protect confidential information.
4. Obtain consent for interventions with patients.
5. When asked, help others make important decisions.[14]

Two more variables which are essential for assessing the degree of autonomy of an act or a person must be considered: they are *voluntariness*, the individual's degree of freedom of choice without any interference by external factors and under any direct or indirect influence, and *informed consent*, meaning the ability of the individual to rationally make a decision in a context which offers the highest possible degree of awareness and information about the decision itself. What we can grasp from the notion of the principle of autonomy, which is going to be further elaborated in the next chapters, is thus the centrality of the individuals and the essential need of considering their stances when it comes to their own lives. Moreover, what must be taken into account when we consider the fundamental principles within the field of bioethics is that the discipline has developed quite recently as a branch of ethics within the huge field

[13] "Etymology of principle," Online Etymology Dictionary, accessed June 7, 2020, https://www.etymonline.com/word/principle

[14] Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*. (Oxford: Oxford University Press, 2001), 65.

of Western philosophy. Therefore, Western culture and principles have influenced not only the methods, based on rational thinking and logic and evidence-based arguments, but also the essence of arguments themselves. Indeed, the most influential contributions in the assessment of the first bioethical questions were primarily provided by white and rich men who could afford higher studies in moral philosophy, members of that privileged majority which was mentioned before, often influenced by religious precepts or conservative ideals. Furthermore, in many socio-political frameworks, the paternalistic attitude which had characterized the role of physicians has nowadays been adopted by politicians, judges and, more in general, the state. More and more frequently in the recent past, the state has interfered in bioethical questions and sought to provide answers to the most controversial cases. In many instances, the autonomy of decision of one individual, which for the very meaning of the term should be a matter of one's own will, has instead become a matter of debate for a whole nation. A number of cases can be cited in which a political debate has developed over the decision of one or few individuals over their own lives. The case of Eluana Englaro, for instance, has polarized the public opinion and has become a matter of political decision over the possibility for her to keep on living in a vegetative state through the use of modern technologies such as electronic ventilators and feeding tubes. Another, more recent, case which has become a political and juridical matter of debate is Dj Fabo's physician-assisted suicide. His decision over the end of his own life has questioned the meaning of autonomy and self-determination in such a way that it has led to judicial proceedings and charges for the pro-euthanasia activist Marco Cappato, who helped Dj Fabo obtaining assisted suicide. When autonomy of the single individual becomes a concern for others, unless it is the case of non-competent persons like children or severely disabled individuals who might not be able to guarantee an informed decision, one must understand whether the benefits of a paternalistic behavior eventually outweigh the suffering of the individual in question. With this aim in mind we shall approach the next chapter, which seeks to explain the condition of individuals who must everyday autonomously define themselves and their own body.

2. Gender Dysphoria

2.1. Introduction to the issue.

Undoubtedly, the phenomenon of transgenderism is, nowadays, still fraught with confusion. For this reason, the terms "transsexual" and "transgender" are broadly used as synonyms, when referring to individuals who do not conform to the sex which was assigned to them at birth and therefore decided to encompass different processes of change in order to "perform" as the sex they identify with. However, this connotation of transgender people is only partially true, and a deeper analysis of the issue must be offered before going into details as regards the process of gender reassignment. In fact, not all transgender people seek to undergo transition from their biological sex to the opposite one. Not only, the notion of "transgender" refers to a much broader category of persons, including those who do not feel at ease within the binary distinction between male and female, and therefore do not define themselves as belonging to just one of the two, or they do identify as a third gender. Therefore, it can be said that "transgender" is an umbrella term which includes lots of different aspects of gender identity and shall not be confused with transsexuality, which is the specific issue of concern of this dissertation. For the sake of clarity of language and meanings, a first distinction must be made between two distinct concepts, namely "sex" and "gender".

The notion of biological sex is probably more straightforward, since it is much more connected to the popular connotation and use and is often associated to a set of more concrete criteria which resemble the traditional dualistic vision of male and female. These criteria refer to the biological attributes, physical characteristics such as internal and external genitalia, sex chromosomes and genes, sex hormones and so on.[15] These differences are naturally interiorized in a society based on the tradition of archetypal notions of the two sexes such as the "coupling" of animals in Noah's Ark, or the story of "Adam and Eve", also known as the *biblical norm of sex* perspective, in which "the only way to interpret the genitalia is within this biblical norm and hence as either anatomically male or female."[16] However, the binary distinction between the two sexes leaves out not only intersex people, meaning those individuals born with genitalia

[15] Milton Diamond, "Sex and gender: same or different?" *Feminism & Psychology Journal*, vol. 10 no. 1 (February 2000), https://doi.org/10.1177/0959353500010001007.
[16] Tarynn M. Witten et al., "Transgender and Transsexuality," *Encyclopedia of Sex and Gender,* Springer Boston (January 2004): 217, https://www.researchgate.net/publication/226925733_Transgender_and_Transsexuality

or, in general, sexual anatomy which does not conform to the existing criteria. It also fails to consider the social and psychological aspects and consequences that the notions of male or female bring about. This is exactly where the concept of gender comes into the discourse. Gender is a rather discussed term which owes its elusiveness to the fact that it was only recently introduced into the sphere of language, and to its close connection with the more abstract context of social sciences. In fact, the notion of gender comes with a number of educative, social, psychological and contextual factors which shape the perception of one's own characteristics as "masculine" or "feminine". The conceptualization of gender is therefore a more personal and subjective matter, which depends on the individual experience of one's own identity. Undoubtedly, the link between sex and gender is, unfortunately, still profoundly rooted and unavoidable, and this connection which is often taken for granted is instead exactly where gender dysphoria arises.

In the following chapters, we will take into account the role of society in the construction of gender, in order to understand the degree of autonomy of the single individuals on their gender identity and affirmation. However, a deeper overview of transsexuality is essential in order to understand the wide range of problems and possibilities transsexual people need to go through.

2.2. The term and its meaning.

The term "dysphoria", whose meaning is "discomfort, fidget", comes from the Greek words "*dys*" (meaning difficult, bad, abnormal) and "*phero*" (verb meaning to bear). Through the etymology and the literal translation as "difficult to bear", the truly painful connotation of the word can be grasped, and we can thus understand why the term has been adopted to describe a condition which "involves a conflict between a person's physical or assigned gender and the gender with which he/she/they identify."[17] As we shall see in the analysis of the criteria, the importance of the term is also connected to its focus on distress, rather than on identity, since the latter should not be tackled as pathology, while it is the painful experience and feeling of discomfort attached to such condition which is sometimes so unbearable that it needs to be treated as a psychological disorder.

Because of the relatively recent development of gender studies, and the often too low degree of awareness as regards trans studies in particular, the international scientific community has struggled to find a proper definition and classification for the diagnosis. Different criteria and diagnostic indicators

[17] "What is Gender Dysphoria?", American Psychiatric Association, https://www.psychiatry.org/patients-families/gender-dysphoria/what-is-gender-dysphoria.

have been identified, especially by the American Psychiatric Association (APA), and the diagnosis of Gender Dysphoria has substituted that of Gender Identity Disorder in the Fifth Edition of Diagnostic and Statistical Manual of Mental Disorders (DSM-5) issued in 2013 by the organization. One of the reasons behind the choice is that the term "disorder" would have further stigmatized those people whose condition is still often seen as detaching from the hetero-normative spectrum of gender identity. Furthermore, the diagnosis of Gender Dysphoria specifically addresses those people whose gender at birth is contrary to the one they identify with (therefore gender nonconformity or gender fluidity are not included), in order to provide the effect for which such diagnosis is still needed, namely access to healthcare and all the possible options for transitioning. Another major change in the conceptualization of Gender Dysphoria comes from the World Health Organization, which has recently removed transgender issues from the chapter on mental health disorders and has instead included them in the one regarding sexual health in his International Classification of Diseases approved in 2018. These controversies about the use of the term and the consequent debate over the consequences of pathologizing such condition, which are linked to the regulations and requisites necessary to accede the process of transitioning, make the management of such phenomenon an important matter of debate. Before analyzing the medical and legal aspects which follow a diagnosis of Gender Dysphoria and the degree of autonomy which these processes leave to the individuals, a brief overview of the criteria for the diagnosis will be provided.

2.3. The diagnosis of Gender Dysphoria.

The following paragraph will be based on the indications provided by the American Psychiatric Association in its DSM-5, which contains a specific chapter for the diagnostic criteria of Gender Dysphoria (GD). The first distinction which needs to be made concerns the age of the subject in question. In fact, different criteria have been identified for children and for adolescents and adults.

As regards children, the risk of a "false-positive", meaning a diagnosis of GD based on particular cross-gender behaviors which do not actually result in a desire to pursue a process of transitioning has made the first of the following criteria a necessary one for the assessment of Dysphoria in children, and the diagnosis requires the fulfillment of at least six criteria out of eight. On the other hand, diagnostic indicators for adolescents and adults seem to be less stringent, with the satisfaction of at least two of the six criteria being considered a sufficient requirement for the diagnosis. The whole list of criteria will now

be provided, alternated to some excerpts of the stories of two young trans women who I had the pleasure to meet during this work, whose names I am going to change so as to preserve their privacy.

"I have always known that I was not in the right body. I felt this difference between my soul and my body. My mother told me that when I was three I was amazed by my aunt's wedding dress. I played with toys commonly for girls, I felt more comfortable playing with girls rather than boys and I wanted to wear long hair. When you are a child you do not think doing something like that is possible, therefore you just suffer without trying to explain." (Excerpt of an interview with Silvia).

Hereafter, the list of diagnostic criteria for Gender Dysphoria in children:

A. A marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months' duration, as manifested by at least six of the following (one of which must be Criterion A1):
    1. A strong desire to be of the other gender or an insistence that one is the other gender (or some alternative gender different from one's assigned gender).
    2. In boys (assigned gender), a strong preference for cross-dressing or simulating female attire; or in girls (assigned gender), a strong preference for wearing only typical masculine clothing and a strong resistance to the wearing of typical feminine clothing.
    3. A strong preference for cross-gender roles in make-believe play or fantasy play.
    4. A strong preference for the toys, games, or activities stereotypically used or engaged in by the other gender.
    5. A strong preference for playmates of the other gender.
    6. In boys (assigned gender), a strong rejection of typically masculine toys, games, and activities and a strong avoidance of rough-and-tumble play; or in girls (assigned gender), a strong rejection of typically feminine toys, games, and activities.
    7. A strong dislike of one's sexual anatomy.
    8. A strong desire for the primary and/or secondary sex characteristics that match one's experienced gender.[18]

[18] Kenneth J. Zucker, "The DSM-5 Diagnostic Criteria for Gender Dysphoria," in *Management of Gender Dysphoria: A Multidisciplinary Approach* ed. Carlo Trombetta, Giovanni Liguori and Michele Bertolotto (Springer-Verlag Italia, 2015), 35.

"Since I was a child I've always played with toys typical of girls, and my playmates were girls. Later on, when I went to school but even outside school I started hanging out mainly with other girls. My parents made me play sports for boys, and I already did not like soccer, but when you are a child you do not know what transsexuality is." (Sara, a young transsexual woman).

B. The condition is associated with clinically significant distress or impairment in social, school, or other important areas of functioning.

"When I was fourteen years old I understood what transsexuality was, since there was a transsexual woman in my neighborhood and she was always mocked around for her semblance. I realized that it was possible to change one's body, but since I saw that everybody made fun of her I did not go any deeper into the issue until I met a girl, when I was seventeen, who opened up a whole new world for me. Since then, I started dressing up as a woman in clubs…" (Sara).

As regards Gender Dysphoria in Adolescents and Adults, the criteria are the following:

A. A marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months' duration, as manifested by at least two of the following:
    1. A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics).
    2. A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics).
    3. A strong desire for the primary and/or secondary sex characteristics of the other gender.
    4. A strong desire to be of the other gender (or some alternative gender different from one's assigned gender).
    5. A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender).

6. A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender).[19]

"Adolescence was traumatic, since the body starts changing, my beard began to grow and I initially tried to become adequate to what society expected from me, in order not to be bullied. Then I started reading and getting to know many characters who spoke about transgenderism, and I realized it was possible. If someone does not feel comfortable within the body in which he/she was born, he/she can transform it" (Silvia).

B. The condition is associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.[20]

Among the arguments in favor of the importance of the existence of a specific set of diagnostic criteria is the consequent possibility for transsexual people to undergo the process of transition, which encompasses different stages which we are going to analyze in the following paragraph. However, doubts may arise over the degree of autonomy left to the individual and the medicalization of deviance that a diagnosis of Gender Dysphoria may signify. The following section will thus go through the different stages required in the majority of countries before and during the process of transition, in order to analyze the dialogue between the individual and the different institutions involved in light of the principle of autonomy.

2.4. Medical issues in the management of Gender Dysphoria.

The Fifth Edition of the DSM contains new provisions for the wide spectrum of possibilities of cases of Gender Dysphoria. In fact, not all people who are diagnosed with Dysphoria are automatically willing to start a process of gender transition. The decision may depend on many factors: most of them may concern the degree of acceptance of such condition in the context of one's own life, others may include socio-economic conditions but also the very unwillingness of the individual to undertake such process. Moreover, many may decide to stop at earlier stages, (i.e. they might not undergo sex reassignment

[19] Zucker, "The DSM-5 Diagnostic Criteria for Gender Dysphoria," 35-36.
[20] Zucker, "The DSM-5 Diagnostic Criteria for Gender Dysphoria," 35-36.

surgery) or to undergo just some of them (i.e. psychotherapy or hormonal treatment). In order to better understand the importance and meaning of the different stages and the degree of autonomy of the individual at each stage, we are first going to explore the clinical guidelines drawn up by the World Professional Association for Transgender Health (WPATH) in the Seventh Edition of the Standards of Care (SOC) for the Health of Transsexual, Transgender, and Gender Nonconforming People.

Together with the raised awareness of the phenomenon brought about by the development of gender studies and movements during the second half of the 20th century and the increasing number of experiences of trans people finally being recognized, a number of medical and psychological treatments were also developed or allowed for the management of the Dysphoria. For the sake of a linear explanation of the path of gender transition which can be undertaken, either *in toto* or in part by a transsexual person, and in order to better understand the active role of the subject in question in the decisions regarding such path, the point of view of a hypothetical transsexual person who seeks to begin the process of gender change will be taken. In the following chapter, we will then be able to consider a number of bioethical issues which arise in the course of the now described transitioning process.

Let us suppose, for instance, that I am fifteen years old and my gender assigned at birth was "male". Since the very beginning of my childhood, however, I identify myself as more in conformity with the typical characteristics and social norms attached to the other gender. Not only I would rather play with those toys stereotypically associated with girls, I also prefer being dressed in more "feminine" clothing and engage with playmates of the other gender. Let us also suppose that I have no other external influences conditioning my choice, since my family and friends support me, which is unfortunately not always the case. As soon as my body starts changing with puberty and the secondary sex characteristics develop, the feeling of distress is even more difficult to bear and I become more self-aware of my desires. Therefore, I start socially changing my gender role, taking those social roles commonly associated to the gender I identify with. In fact, it is demonstrated that increasing numbers of adolescents have already started living in their desired gender upon entering high school.[21] This means adapting the expression of one's own physical appearance to the one which is more in conformity with one's own self-identified gender and may include haircuts, clothing, makeup, or whatever it takes to conform to the stereotyped standards of the binary distinction between male and female. Going back to the case we are considering, let us suppose that I start performing as the other gender but I realize that I want to do something more

[21] Peggy T. Cohen-Kettenis and Friedemann Pfäfflin, "The DSM Diagnostic Criteria for Gender Identity Disorder in Adolescents and Adult," *Archives of Sexual Behavior* 39 (April 2010), https://doi.org/10.1007/s10508-009-9562-y

in order to mitigate the feeling of distress which still accompanies me despite the fact that my external appearance is beginning to match the preferred gender role. I therefore turn to a mental health specialist who shall make a psychological assessment of my condition. Undergoing a psychological path and treatment is deemed necessary for a complete evaluation of the condition. According to the Standards of Care which were previously mentioned, in fact, "a psychodiagnostic and psychiatric assessment – covering the areas of emotional functioning, peer and other social relationships and intellectual function/school achievement – should be performed".[22] As we have seen when we considered the criteria of the DSM-5, in the majority of countries where the process of gender reassignment is legal, a diagnosis of Gender Dysphoria is still necessary in order to provide a direct and easier access to healthcare and allow further medical interventions, which are classified by the World Professional Association for Transgender Health according to their reversibility.

First of all, a fully reversible intervention which is possible after the diagnosis consists in the pubertal suppression through the use of Gonadotropin-releasing hormone (GnRH) analogues, which stop the release of sex hormones like testosterone and estrogen during puberty, thus limiting or stopping breast development and delaying or stopping menstruations for those identified as females at birth, or decreasing the growth of facial and body hair, preventing voice deepening and limiting the growth of genitalia in those identified as male at birth.[23]

Despite the fact that these so-called puberty blockers do not imply permanent and irreversible changes, the whole process shall be followed by a pediatric endocrinologist and a mental health professional, whose role in bioethical terms we will analyze in the next chapter. The subsequent category which is identified includes partially reversible interventions, since such treatment is likely to have a long-term effect on one's own body: hormone therapy, also known as cross-hormone treatment, is the most common and essential step for transsexual people, whether or not they seek to undergo sex reassignment surgery (SRS) later. While the puberty suppression therapy is aimed at preventing or delaying the development of primary and secondary characteristics of one's assigned gender, cross-hormone treatment consists in the administration of external hormones like testosterone and estrogen, in order to induce the

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[22] Eli Coleman et al., "Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People," *International Journal of Transgenderism,* vol. 13 no. 4 World Professional Association for Transgender Health, (2012): 15, https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care_V7%20Full%20Book_English.pdf.

[23] Mayo Clinic Staff, "Pubertal blockers for transgender and gender diverse youth", *Mayo Foundation for Medical Education and Research Digital Newsletter,* (August 2019), https://www.mayoclinic.org/diseases-conditions/gender-dysphoria/in-depth/pubertal-blockers/art-20459075.

development of those primary or secondary characteristics of the self-affirmed gender. Because of its partially irreversible consequences and its possible collateral effects, the administration of hormone therapy involves some requirements such as a diagnosis of Gender Dysphoria provided by a mental health professional but also an assessment of the "capacity to make a fully informed decision and to consent for treatment, age of majority and good control of significant medical and/or mental comorbid conditions".[24] After several months, the first effects of the feminizing or masculizing process shall be observed. This means that, according to the Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People, provided by the WPATH:

In FtM (Female to Male) patients, the following physical changes are expected to occur: deepened voice, clitoral enlargement (variable), growth in facial and body hair, cessation of menses, atrophy of breast tissue, and decreased percentage of body fat compared to muscle mass.

In MtF (Male to Female) patients, the following physical changes are expected to occur: breast growth (variable), decreased erectile function, decreased testicular size, and increased percentage of body fat compared to muscle mass.[25]

These physical changes are in the majority of cases a source of relief from the feeling of distress which is caused by the external appearance. The acquired possibility to express one's own gender role in a way that is also linked to visible and esthetic characteristics may often times alleviate the dysphoria and make it bearable for some individuals. However, while some people may decide to stop the process of gender transition at this particular stage, some others may feel the need to undergo sex reassignment surgery to modify the primary and/or secondary sex characteristics. Some examples of surgical interventions are genital surgery like penectomy, vaginoplasty, hysterectomy or phalloplasty but also breast or chest surgery, voice surgery, hair reconstruction and a number of different modifications which make one's own physical anatomy as congruent as possible to the one of the affirmed gender. Going back to the example previously taken, that fifteen years old boy has already reached the age of majority, and is considered capable of taking informed decisions. Despite the fact that the hormone treatments he was able to undergo have modified his external appearance so much that the strong feeling of distress starts

[24] Cécile A. Unger, "Hormone therapy for transgender patients," *Translational Andrology and Urology*, vol. 5, no. 6, (December 2016): 878, https://doi.org/10.21037/tau.2016.09.04

[25] Eli Coleman et al., "Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People," 33-50.

being alleviated and his body is beginning to show features commonly associated to females, he is still legally considered as a man. The pronouns through which we refer to *her* also change, since she is to be considered a woman in all respects. However, her documents do not match her identity yet, and her affirmed gender remains like a personal matter of self-expression. At this point of the process, indeed, legal issues emerge in a society which is still fundamentally based on a binary distinction between males and females. In fact, despite the modern achievements brought about by feminist movements and the importance assumed by equality of rights, the organization and structure of society still rely much on traditional views of the two genders. Biological sex, and consequently gender roles associated with it, still shape the jurisprudence of many states. Analyzing the whole range of possibilities and laws which regulate the process of gender confirmation worldwide would require a whole different dissertation and would not meet the purpose of this one. For this reason, the current legal situation in Italy, which is similar to the one present in many other countries, will be taken into account, so that we can actually ask ourselves whether the system in place is ethically appropriate, and, if not, what else can be done in the future.

2.5. Legal aspects of gender reassignment.

Even though transsexuality is a phenomenon which has its roots in the very early days of our society, with the mythological tales of Hermaphroditus and Tiresias being famous examples of the merging of two sexes into a single character, the term was first used only in 1910 by the sexologist Magnus Hirschfeld and medical techniques for sexual reassignment surgery date back to the first decades of the 20th century. The first cases of operations on sexual organs are observed in 1917 with the first hysterectomy and gonadectomy, and in 1932, when the first vaginoplasty was performed in Berlin. However, the few number of notable and documented cases and the low degree of acceptance of a still stigmatized phenomenon delayed the process of juridical recognition of transsexual people and therefore the development of legislation in this regard. Italy was the third European country, after Sweden (1972) and Germany (1980), to recognize the condition of transsexual people as legally relevant.[26] Starting from the 1960s, transsexuality became a matter of public and political concern and the work of many activists like Mario Mieli and Marcella di Folco, founder of the Italian Transsexual Movement (MIT), led to the introduction of Law 164/1982, "Rules Concerning the Rectification of Sex-Attribution". This law grants

[26] Massimo Pacitti, "Transessualismo e diritto in transizione Profili giuridici della disforia di genere" (Tesi di Laurea, Università di Pisa, 2016), 6, https://core.ac.uk/download/pdf/79622466.pdf.

transsexual people "the freedom to change their own bodies and name conforming to their inner gender".[27] Despite being considered a good result for the trans community, this provision still relies on the pathologization of Gender Dysphoria and makes the surgical operation a compulsory precondition to legal gender recognition and therefore to the possibility of changing one's gender identity on documents. Only in 2015, with the ruling no. 221/2015, the Constitutional Court removed such obligation, therefore leaving transsexual people free to decide whether they want to undertake surgical operation or not. However, the modification of secondary sexual characteristics (meaning those features which emerge during puberty, such as facial hair and breasts, which do not include sexual reproductive organs) through hormones is still considered as a necessary prerequisite for the possibility of changing one's legal gender identity. The complete transition therefore still requires the consent of a designated judge, who shall provide authorization for the surgical intervention and for the change of documents. The decision is based on the two - psychological and psychiatric – assessments which we previously mentioned, and on the evaluation of the path undertaken by the transsexual person since then. As regards previous rulings over the possibility to change documents and undergo sexual reassignment surgery with the National Health Service, jurisprudence is still very fragmented and lacks a unified response. Indeed, the judgement often depends on the tribunal one refers to, or even on one's external aspect which is sometimes adopted as a criterion for the assessment of the true desire to undergo gender transition.

The evaluation of the overall effects of such passage over the whole path towards gender reassignment will be further analyzed in the next chapter, which seeks to identify the most difficult stages of the process and evaluate the possible bioethical concerns that may arise.

[27] Stefania Voli, "(Trans)gender citizenship in Italy: a contradiction in terms? From the parliamentary debate about Law 164/1982 to the present," *Association for the Study of Modern Italy Journal*, vol. 23, Special Issue 2 (Cambridge University Press, 2018) https://doi.org/10.1017/mit.2018.8.

3. Three controversial issues

3.1. Further bioethical considerations regarding the process of gender transition.

After analyzing the difficult and lengthy path which transsexual people still need to undertake in order to conciliate their body with their psyche and alleviate the feeling of dysphoria, the most delicate stages of the process will be taken into account. Three main steps of the process of transitioning, which have or may become a matter of debate and controversy, will be taken into account and analyzed in light of the principles which drive biomedical ethics. The three main issues revolve around the principles which have been mentioned in the first chapter of this dissertation and raise some questions about their application in the process of gender transition. First of all, the first part of the process will be taken into consideration, in particular when the patient in question is still adolescent. The possibility to undergo a process of modification of one's own body always raises some ethical issues, which will be analyzed in light of the principles of autonomy and the subsequent requirement of informed consent. The second issue concerns the moral tenet which has always guided the profession of physicians from the previously introduced Hippocratic Oath to the principles of biomedical ethics identified by Beauchamp and Childress: the principle of non-maleficence, in particular the prohibition to remove or operate on healthy organs. This may be the case, however, in the course of surgical operations such mastectomy or penectomy performed on healthy transsexual individuals. Such situation may thus imply a conflict between the principle of autonomy and the imperative of "Do no harm", and raises issues about the importance of taking into account mental health not only as a prerequisite for an informed decision, but also as a condition which is difficult to bear and needs to be tackled in close contact with the patient, who shall not therefore be deprived of the capacity to self-determine and self-judge. The third point concerns the role of the state in the autonomy of decision over one's own body. Indeed, we have mentioned a number of complications in which the transsexual person may incur during the gender transitioning process, such as a denied authorization for sex reassignment surgery from the tribunal based on, for instance, the requirement of further psychological and psychiatric assessments performed by different designated mental health professionals. While the paternalistic role of physicians seems to be diminished in light of the autonomy of the patient, the juridical system still struggles in finding ways to accommodate the condition of transsexual people in a way that leaves them free to self-determine without consequences on their civic or legal status. Let us proceed to a deeper analysis of the issues in question.

3.2. Gender transition during puberty – how much autonomy is left to adolescents?

As we have seen in the previously mentioned Standards of Care provided by the WPATH, in most cases the first difficulties connected to the dysphoria are experienced as early as the period of puberty. This happens because, on the one hand, these years represent a delicate stage for psychological development, therefore constituting the passage from childhood to adulthood and making individuals much more aware of feelings and emotions but also of the external context which shapes their representation and personality. On the other hand, together with this psychological process, physical development takes place and the body starts taking on the characteristics of the biological sex, those secondary sex characteristics which condition the social expression of one's own gender identity. For this reason, starting the hormone therapy as early as possible would reduce the dysphoria by hindering the development of those characteristics which often exacerbate such feeling. Despite the fact that the process is monitored by mental health professionals in constant contact with the patient's parents or guardians, the decision requires the ultimate consent of the patient, who must be informed of the benefits and risks of such treatment.

Regardless of the specific age required by law in the different countries, the age of majority is a fundamental prerequisite for autonomous decisions that should not be interfered with, unless in other specific cases of lack of proper autonomy. A minor is instead often deemed too unconscious or inexperienced to make a rational and informed choice. The question becomes even more controversial if we think about the fact that transsexuality is still somehow treated as a mental health issue, since the decision to undergo transition still requires a psychological assessment and diagnosis. This requirement thus places these people in a controversial position, in which the line between acceptance of such condition and the possible presence of comorbidities or other mental health issues is still questioned. However, considering them incompetent until the age of 18 would delay a process of transition which is, in most cases, the main option available to alleviate the feeling of distress. Not only this delay would increase suffering in the short term, but it is also likely to hinder the whole process of gender transition, since the primary and secondary sex characteristics will have fully developed when the patient will be deemed competent to autonomously choose to begin the hormone therapy. The American researcher and philosopher of medicine William J. Winslade explores the issue of competence of children and adolescents in the book Contemporary Debates in Bioethics, published in 2014. His argument is based upon three fundamental interconnected moral considerations: respect for persons, personal autonomy to

make decisions, and personal control over one's body.[28] While the first ethical imperative can apply to every kind of situation, personal autonomy and personal control over one's own body seem to be particularly suitable principles in the case of transsexual people, who are both willing to define autonomously their own gender and to acquire, thereafter, full control over their bodies, modifying them so that they are more congruent with their true self. According to psychologist Diane Ehrensaft, director of mental health in the Child and Adolescent Gender Center at Benioff Children's Hospital of the University of California at San Francisco, "hormones for youth who qualify for them have offered a tremendous boost in well-being and also a reduction in anxiety, depression, and suicidality that often plague transgender youth when they experience their bodies as totally discordant with their self-knowledge of their authentic gender".[29] On balance, it may be argued that the administration of puberty-blocking hormones before the age of majority can be considered legitimate in those cases where pediatric and psychological evaluations allow such intervention, also because the effects of such treatment are classified as completely reversible, and may therefore be allowed when the potential benefit of the patient may outweigh the concerns regarding a possible breach of the norms behind informed consent.

3.3. The principle of "First do no harm" and surgical interventions on healthy organs.

The process of body modification which transsexual people may decide to undergo sometimes involves interventions on organs which, strictly speaking of anatomic functioning, would not need any modification. The main examples are mastectomy and hysterectomy for trans men, or penectomy in the case of trans women. These interventions involve the removal of parts of the body which do not present any pathological condition and therefore may raise bioethical concerns for physicians who have vowed not to perform surgical operations on healthy organs. In this case, in fact, the principle of non-maleficence clashes with the right over one's own body and the principle of beneficence reinterpreted in light of mental health issues, which were not a primary concern until recently. The lack of knowledge about the issue and persistent reticence in speaking about it has also made it difficult for cisgender people (namely, those whose gender identity is congruent with the biological sex) to empathize with the condition of transgender people, transsexuals in particular. This often places physicians in front of an ethical dilemma

[28] William J. Winslade, "The Child Should Have the Right to Refuse Medical Treatment to Which the Child's Parents or Guardians Have Consented," in *Contemporary Debates in Bioethics*, ed. Arthur L. Caplan and Robert Arp, (John Wiley & Sons, Inc., 2014), 177.
[29] Susan Kreimer, "The Ethics of Navigating Teen Gender Transitions," *Leapsmag* (October 2018), https://leapsmag.com/the-ethics-of-navigating-teen-gender-transitions/.

as regards the true benefit of the patient. The evaluation, however, should take into account either the nature of the suffering of the patients and the possible benefits that they may acquire, which often outweigh the physical suffering associated with the surgery and its consequences. Citing George R. Brown's words in the Jefferson Journal of Psychiatry, "the Oath of Hippocrates reminds us that the relief of suffering is the quintessential task of all of medicine"[30]. Once it is clear and psychologically assessed that the cause of suffering in the case of transsexual people resides in the dysphoria generated by the incongruence between their body and their identity, the only way through which such quintessential task can be pursued is by alleviating their suffering and therefore perform a surgical procedure when needed.

3.4. The role of the state in the recognition of transsexual people's rights: is it still too paternalistic?

If we consider the development of the relationship between the physician and the patient since the discipline of medicine was instituted, an increasing tendency to leave a degree of autonomy to the patient can be observed. The increasing importance acquired by self-determination and autonomy since the 20th century have raised many questions about the sometimes too paternalistic role of the physician in decisions which concerned others' bodies and lives. Provided that all the useful information is given and that the individual is deemed competent to choose, the burden of choice is nowadays much more on the shoulders of the patients or their parents or guardians. This can be observed also in the case of Gender Dysphoria. Once the necessary diagnosis of the psychologist is provided, which resembles the will of the patients and assesses a still delicate and unfortunately controversial condition, physicians cannot refuse to treat such patients, for the very respect of the principle of beneficence which we have mentioned before. This principle, instead, seems to be still a matter of debate when it comes to legally assess the gender change and one's own civic and legal status. Despite the fact that prior medical intervention is not mandatory anymore, authorization by the designated tribunal is still needed in order to have insurance for the sex reassignment surgery and the possibility to change documents.

"I was already conscious of what I wanted to do, since I did not feel my body as mine, I used to refer to my penis as a cancer. But I felt powerless because I had to leave the decision over my own life in the

[30] George R. Brown, "Bioethical Issues in the Management of Gender Dysphoria," *Jefferson Journal of Psychiatry* vol. 6: Iss. 1, Article 6 (1998), 35, https://doi.org/10.29046/JJP.006.1.004.

hands of others, of a judge who had to give the authorization for the surgical operation". (Excerpt of an interview with Sara).

Since the Italian jurisprudence regarding the requirements which need to be fulfilled for authorization is still unclear, the condition of many transsexual people often depends on the tribunal they address to. The authorization also depends on the concept of "passability", which means the degree to which the individual can perform as the affirmed gender, and still links the perception of gender to the binary dichotomy of the biological sexes. This paternalistic attitude towards transsexual people fails to address the real problem of stigmatization and, instead, worsens it by not allowing individuals who already identify as a specific gender to adapt their own body and their documents to their gender identity. Indeed, a failed authorization to sex reassignment surgery may cause huge discomfort in one's social relationships as well as self-acceptance. Similarly, having official documents which do not match the performed gender can create distress and force these people to explain their private condition to strangers.

"I have lived for one year with documents that did not match my gender. This is something which really hurts: I was an independent woman and when I had to show documents I usually had to struggle with people who were disrespectful. One day I went to a job interview, which was the second call for the same corporation, but when I showed my documents for the recruitment, I was rejected." (Silvia).

Having one's own official documents such as ID cards, driver's license and passport amended is an essential step for transsexual people, since it states their legal status as the affirmed gender. Allowing these people to have their identity recognized must therefore be a prerogative for the judicial system which takes these cases into account, so that as soon as these people are able to reaffirm their gender and undergo the process of transitioning, legal recognition is provided which supports their self-determination.

4. "Undoing Gender", a possible way forward?

4.1. A philosophical perspective on gender.

In the course of this dissertation, the main aim was to assess whether something could be done, based on bioethical concerns, in order to improve the experience of gender transition for transsexual people. For this reason, the perspective was generally as concrete as possible. However, much philosophical work has been done in this regard which cannot be left unmentioned, especially because it seems to offer a third way of looking at the phenomenon of transsexuality, which goes beyond the binary framework in which it is necessarily embedded. This perspective is embodied by an American philosopher whose name is Judith Butler, who has written a lot about the topic, offering perhaps one of the most innovative outlooks on gender and trans studies. In her famous book titled "Undoing Gender", written in 2004, she begins by stating that "the terms that make up one's own gender are, from the start, outside oneself, beyond oneself in a sociality that has no single author".[31] What she means is that gender is the result of some social roles and behaviors that are constantly produced and reproduced and therefore become the normativity. Some people conform to those particular gender norms and find themselves comfortable within the distinction, some others feel like they do not fit into these categories and look for a way to authentically express themselves. The social norms and roles associated with the categories of male and female have been created and consolidated throughout the whole course of our history, since the very ancient times. The natural capacity associated to biological females to carry out pregnancies and give birth to children was used as a motivation to relegate them to that particular social role for centuries. The patriarchal system has developed throughout a binary system which distinguished men and women, and not only embedded gender in a stereotyped structure which kept male and female characteristics separate and self-excluding to each other, but subordinated the feminine for the sake of the development and affirmation of the masculine.

In this historical and social context, one's own personhood is inevitably shaped by external factors. In particular, gender is always produced and reproduced in relations with the other. According to J. Butler, in fact, "the social norms that constitute our existence carry desires that do not originate with our individual personhood". Therefore, the question arises whether our desires can be separated from our gender. Butler analyses this problem within the Hegelian conception of desire as a desire for recognition.

[31] Judith Butler, *Undoing Gender* (New York: Routledge, 2004), 1.

According to the eminent German philosopher Friedrich Hegel, our self becomes part of the social reality only through the experience of recognition, which is both given and received in a process which endows the individual with self-consciousness. In the *"Phenomenology of Spirit*", indeed, the author asserts that "self-consciousness attains its satisfaction only in another selfconsciousness."[32]
If the view of the individual looking for recognition to become a socially viable being is accurate and true, it makes us reevaluate the importance of the standards according to which a human can be considered as such. In fact, the canons that confer to some individuals the characteristic of "humanness" can actually deprive others of such characteristics. In a binary system where only two "options" are available for human beings to be considered and valued as such, those who do not conform to such scheme become unviable, excluded. In this perspective, some terra nullius develops between the need for recognizability as a prerequisite for existing in society and the impossibility to recognize one's self within the terms that such a society offers.
This is the condition in which, among others, transgender people find themselves and struggle in the course of their lives. Indeed, while they feel the force of attraction of a society which seeks to assimilate them, therefore requiring as much coherence to the normative framework as possible, they also experience the impossibility and unwillingness to fit into such framework, and they look for the possibility to escape the stereotypes by escaping their own external representation which categorizes them into these stereotypes.

4.2. The struggle for recognition in the binary system of society.

The pathologization of Gender Dysphoria is still a necessity in a society which tends to normalize diversity and make a whole spectrum of differences in one's self-perception fit into just two categorizations. Indeed, the pathological distress which these people feel might also be seen as the result of a stigmatizing social context, which makes the pathology an exogenous, not endogenous one. The diagnosis of a disorder presupposes that there is something wrong in how one perceives one's own gender, presupposing that there is a proper model of experiencing gender life and identity. On the other hand, as we have seen when we have analyzed the necessary procedures for gender reassignment, the

[32] Georg Wilhelm Friedrich Hegel, *The Phenomenology of Spirit* trans. Terry Pinkard (Cambridge University Press, 2018), 107, https://libcom.org/files/Georg%20Wilhelm%20Friedrich%20Hegel%20%20The%20Phenomenology%20of%20Spirit%20(Terry%20Pinkard%20Translation).pdf

diagnosis of Gender Dysphoria is still an essential step and can be considered as a way through which the heteronomy seeks to assimilate these individuals into the binary system of male/female. However, a more radical change could actually occur, which does not "force" into the fixed scheme and does not seek to solve the issue with the same mechanisms which create it, namely gender stereotypes and norms.

This is where the flaws of the system emerge, since true autonomy over one's own body cannot be guaranteed in a system which does not support other choices since it still relies on rigid social gender norms. As Butler states, in fact, "individuals rely on institutions of social support in order to exercise self-determination with respect to what body and what gender to have and maintain, so that self-determination becomes a plausible concept only in the context of a social world that supports and enables the exercise of agency."[33] The point would be, therefore, not about eliminating such norms and social institutions, but avoiding their universalizability, recognizing the very fact that some norms fail to consider some individuals, making their lives unlivable. The binary system which presupposes that those who seek to become men, for instance, also refuse all the feminine characteristics, is a system which implicitly states that all the biological females automatically possess the so called "proper femininity". By the same token, a man who shows characteristics similar to the feminine stereotypes is often classified as homosexual or atypical, as if being man automatically implies conforming to the standards of a proper masculinity. Such views are empirically inaccurate and do not take into account the spectrum of gender identity and characteristics not related to biological sex. What is, instead, worth analyzing and questioning is the conception of the body as a rigid "institution" of reality. Our society, indeed, provides a specific set of standards as regards what bodies should look like and how individuals can conform to the normativity. By so doing, however, society fails to include different groups of human beings, ignoring the fact that the body is not a fixed and unchangeable structure, but an evolving and aging process. According to Butler, indeed, "the body is that which can occupy the norm in myriad ways, exceed the norm, rework the norm, and expose realities to which we thought we were confined as open to transformation"[34]. Denying the very possibility for individuals who do not conform to the binary gender norms to be recognized as they really are does not make the system more solid. On the other hand, overcoming the limits of the body would make the link between the perception of the external and the internal existence less interconnected and, therefore, oppressive. Gender, according to Butler, is constantly created in the making of social interactions and developments, and it is exactly in this dynamic creation that resides a possible solution to the issue.

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[33] Butler, *Undoing Gender*, 7.
[34] Butler, *Undoing Gender*, 217.

5. Conclusions

In the course of this dissertation, we have analyzed the whole path that transsexual people need to undergo if they want to alleviate the suffering caused by the impossibility to feel at ease within their body and, therefore, within the social norms that such body implies. We have assessed how the principle of autonomy plays a crucial role in the reaffirmation of one's own perceived gender and needs to be further developed and implemented in the course of gender transition, through the adoption of legal and social measures which guarantee to transsexual people the liberty and right to express themselves and be recognized as they want to be. On the other hand, we have also acknowledged the contradictions that may arise within a binary system where the identity of many individuals does not only depend on their autonomous perceptions but also on the response and recognition of the "Other". How can, therefore, the principle of autonomy be reconciled with the individuals' right to self-determination in a society which still fails to recognize as viable the standards through which some individuals seek to define themselves? What Butler proposes is, therefore, the need for "social transformation". In her words: "something besides theory must take place, such as interventions at social and political levels that involve actions, sustained labor, and institutionalized practice". If gender is constantly created through social norms, *undoing* it would not mean living without any norms, but recognizing their double effect on individuals and adapting those which are not inclusive and, therefore, acceptable. For this reason, by recognizing that the process of *doing* gender is constantly evolving, and that gender is not a fixed set of stereotyped characteristics which is given to someone, new social norms can be created which allow these people to be recognized by society. To this aim, the notion of "human" must be constantly reinterpreted and never considered as already defined according to a narrow set of beliefs or standards which are inevitably only valid for those who develop those standards. For this reason, the social and political spheres, which are at the center of the process of categorization and reproduction of such standards must adopt a critical approach towards the heteronormative *status quo*, so as to take into account and favor the possibility for everyone to be recognized as human being and be granted the conditions for a livable life, with the full range of rights, among them the right to autonomously self-determine one's self, with the support of the political, institutional and social environment.

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SUMMARY:

Introduzione

Il principio di autonomia costituisce un pilastro fondamentale della bioetica, nonché una delle forze propulsive dei numerosi cambiamenti che hanno caratterizzato la modernità, tra cui importanti conquiste come il diritto all'aborto e al divorzio. La possibilità del singolo di decidere della propria vita e, dunque, del proprio corpo è però ancora al centro di numerosi dibattiti: è il caso del suicidio assistito, della maternità surrogata ma anche del percorso di riassegnazione sessuale a cui coloro che ogni giorno vivono l'oppressione di essere rappresentati da un corpo e da un ruolo sociale a cui non si sentono conformi possono sottoporsi per riaffermare la loro identità di genere, che è altresì identità sociale. Nonostante i progressi recentemente raggiunti in molti paesi del mondo, il percorso di transizione di genere per le persone transessuali dipende ancora da un numero di pratiche mediche, legali e burocratiche che spesso ostacolano l'autoaffermazione dell'individuo e ne limitano dunque l'autonomia.
La presente dissertazione si propone di riportare l'esperienza di persone con disforia di genere che decidono di sottoporsi al percorso di transizione, affiancando all'analisi dei procedimenti medici e legali una visione che tenga in considerazione i quesiti etici che da tali procedimenti derivano. Una nuova prospettiva verrà infine individuata nella proposta della filosofa statunitense Judith Butler, autrice del libro "Undoing Gender" e di numerosi altri saggi sul tema.

Capitolo 1: Il principio di autonomia.

Le radici del termine "autonomia" affondano nella cultura della Grecia antica e in tale contesto assumono una dimensione più collettiva che individuale, nonostante il termine compositivo "autos", traducibile come "di se stesso" faccia riferimento alla dimensione personale. Questo perché tutto ciò che riguardasse la "nomos", ovvero la "legge" acquisiva una connotazione collettiva e pubblica in una civiltà in cui l'individuo era prima di tutto cittadino e parte integrante della *polis*. Numerosi scritti di famosi storici come Erodoto, Tucidide e Demostene fanno riferimento all'autonomia come alla condizione in cui un'intera popolazione è libera di autodeterminarsi. L'autonomia individuale, invece, per millenni concepita in accezione negativa (come si nota nelle aspre parole con cui Sofocle rimprovera Antigone per aver agito autonomamente), assume una connotazione individuale più solida con il filosofo greco

Dione Crisostomo, che considera "autonomo" il filosofo, ovvero l'unico individuo che è in grado di vivere secondo la propria legge, senza essere influenzato da condizionamenti esterni. È solo con il consolidarsi della religione e della sua forza persuasiva che l'autonomia, nella particolare accezione di autonomia religiosa e libertà di culto, viene a configurarsi come caratteristica fondamentale dello stato moderno, secondo il principio "cuius regio, eius religio".

Durante la rivoluzione scientifica e filosofica che l'Illuminismo porta con sé, con la presa di consapevolezza della capacità degli individui di capire razionalmente le leggi che governano il mondo, nuove concezioni di moralità e autonomia emergono, fino a convergere grazie agli studi del filosofo tedesco Immanuel Kant: se l'uomo è in grado di capire la legge che potrebbe applicare universalmente, allora è al contempo in grado di agire autonomamente secondo quella stessa legge morale. I limiti alla libertà individuale vengono poi introdotti da John Stuart Mill, che offre un ulteriore contributo fondamentale allo sviluppo del concetto, individuando la linea di demarcazione tra la libertà di azione personale del singolo e quella dell'Altro, a cui tale libertà deve sempre essere garantita.

La concezione moderna di autonomia è condizionata inoltre da anni di meccanismi di potere politici e sociali che hanno riservato la libertà di azione a particolari classi privilegiate, in base al genere, all'etnia o a un numero di altri fattori ritenuti discriminanti. La privazione o il mancato diritto all'autodeterminazione è ancora oggi uno dei principali mezzi di oppressione e repressione delle minoranze. Durante il ventesimo secolo, però, un'acquisita coscienza politica e sociale di intere comunità sfida lo status quo alla ricerca di una distribuzione più equa dei privilegi, primo fra tutti dell'autonomia. Secondo Lucas Swaine, infatti, il suffragio universale, il malcontento nei confronti di politiche autoritarie, la libertà di parola e la maggiore libertà di culto sono da individuare tra i fattori di maggior importanza per lo sviluppo di un desiderio di autonomia che poi trova esempio in battaglie come le rivoluzioni del 1968, nonché le lotte per il diritto all'aborto e al divorzio. Parallelamente a nuove risposte politiche, emerge dunque la necessità di una disciplina che si occupi di nuove controverse questioni che emergono in un terreno ancora dissestato. Le terribili violazioni dei diritti umani, tra cui gli esperimenti di eugenetica nazisti e i nuovi esperimenti su una popolazione non informata avvenuti durante lo studio sulla sifilide di Tuskegee portano la comunità scientifica e medica ad interrogarsi profondamente sull'importanza di princìpi che regolino la condotta delle ricerche biomediche. Una risposta univoca fondamentale trova espressione nel *Belmont Report*, documento redatto da un'apposita Commissione che sancisce i princìpi che devono guidare la bioetica medica. È l'inizio di un approccio principlista alle questioni etiche, che trova la sua massima rappresentazione nel lavoro di Beauchamp e Childress.

Dei quattro princìpi che Childress e Beauchamp riportano come pilastri fondamentali della bioetica medica, ci soffermeremo sul principio di autonomia, che implica, in quanto tale, una serie di fattori che garantiscano all'individuo la padronanza dei requisiti per una decisione realmente autonoma, tra cui il consenso informato e la volontarietà. Il principio di autonomia, in quanto parte integrante della bioetica, è stato indubbiamente condizionato dal contesto culturale in cui tale disciplina si è sviluppata, e il suo sviluppo è intrinsecamente connesso a fattori politici, culturali e legali. In molti casi, infatti, lo stato e le istituzioni hanno interferito con le decisioni individuali autonome, con un approccio paternalistico alla regolamentazione di tali possibilità decisionali. Per questo motivo, l'analisi dell'esperienza delle persone transessuali sarà volta a dare spazio alla loro voce, nella speranza di offrire un nuovo punto di vista, più individuale, all'approccio alla questione.

Capitolo 2: La disforia di genere.

Prima di affrontare la questione della disforia di genere, può risultare importante rimarcare la differenza tra sesso biologico e genere. Per sesso biologico si intende quello che viene assegnato alla nascita sulla base di criteri fisici e genetici di base che hanno portato alla distinzione tra i due sessi. Tale distinzione è naturalmente interiorizzata come fondamentale caratteristica della nostra società sin dai tempi di Adamo ed Eva, e porta con sé non solo una caratterizzazione anatomica di maschi e femmine, ma dei modelli ideali a cui conformarsi. Il sistema binario che prevede tale dualità, tuttavia, ha portato all'esclusione e al mancato riconoscimento non soltanto delle persone intersessuali, che non presentano cromosomi totalmente maschili o femminili, ma anche delle persone transgender. Ecco che la nozione di genere assume quindi un'importanza fondamentale, superando una classificazione biologica dell'individuo per offrirne una incredibilmente più ampia, influenzata da fattori educativi, sociali, psicologici e contestuali che modificano la percezione individuale del proprio io. L'identità di genere si sviluppa quindi come uno spettro di rappresentazioni di sé che non dipendono strettamente dalle caratteristiche biologiche. Indubbiamente, l'influenza diretta del sesso biologico sull'identità di genere è ancora profondamente radicata e inevitabile, e tale connessione che è spesso data per scontata è invece esattamente il punto di origine della disforia di genere.

Il termine "disforia di genere" indica l'incongruenza tra il genere con cui l'individuo si identifica e il genere assegnatogli alla nascita e il profondo senso di angoscia e sofferenza che ne consegue. Nonostante il fenomeno sia stato recentemente rimosso dalla lista dei disturbi mentali dell'Organizzazione Mondiale

della Sanità, una diagnosi di disforia di genere risulta ancora necessaria per ricevere supporto medico e legale durante il percorso di riassegnazione di genere e rettifica anagrafica. Diversi fattori sono stati individuati dall'American Psychiatric Association (APA) per identificare la disforia di genere nei bambini, negli adolescenti e negli adulti. L'elaborato riporta i criteri diagnostici fondamentali per la diagnosi, alternati alle testimonianze di due ragazze transessuali che hanno contribuito a una comprensione approfondita del percorso raccontando la loro esperienza.

I procedimenti necessari dal punto di vista medico vengono poi presi in considerazione, con l'ausilio degli *Standards of Care per la Salute di Persone Transessuali, Transgender e di Genere Non-Conforme*, elaborati dalla World Professional Association for Transgender Health. Tre principali fasi, che vengono distinte in base al grado di reversibilità dell'intervento, possono costituire il percorso di transizione dal punto di vista medico. La prima categoria prevede la somministrazione di ormoni che blocchino la pubertà, sopprimendo la produzione di estrogeni o testosterone. La seconda riguarda poi la terapia ormonale vera e propria per mascolinizzare o femminilizzare il corpo, mentre la terza, irreversibile, comprende interventi volti a modificare chirurgicamente l'aspetto fisico.

Anche l'iter legale per la riassegnazione sessuale è piuttosto complesso: la rettifica anagrafica e l'adattamento dei nuovi documenti al genere riaffermato, nonché la possibilità di sottoporsi alle operazioni chirurgiche per il cambio di sesso richiedono ancora un numero di procedure burocratiche e, soprattutto, il consenso di un giudice designato.

Capitolo 3: Tre questioni controverse.

I momenti più delicati del processo di transizione richiedono ulteriore approfondimento e considerazioni etiche. Tre questioni, in particolare, possono essere oggetto di controversie.

Prima fra tutte, l'inizio della transizione, in cui nelle maggior parte dei casi il paziente è ancora estremamente giovane. In questi casi, imprescindibile diventa la presenza di un consenso informato e la capacità di deliberare autonomamente, specialmente nel momento in cui si preveda l'amministrazione di ormoni come estrogeni o testosterone, le cui conseguenze sono parzialmente irreversibili.

La seconda questione riguarda invece uno dei punti cardine della medicina sin dal Giuramento di Ippocrate, ovvero il principio di non maleficenza, e più specificatamente il divieto di operare o rimuovere organi sani. Se, da un lato, le operazioni chirurgiche di riassegnazione sessuale come mastectomia e penectomia comportano la rimozione di organi sani, analizzando la questione dal punto di vista della

salute mentale, si può capire l'insorgenza della necessità di effettuare tali operazioni per garantire il vero beneficio del paziente.

Il terzo quesito concerne infine il ruolo dello stato nella decisione della possibilità per l'individuo di autodeterminarsi e decidere del proprio corpo. Infatti, mentre il ruolo paternalistico dei medici sembra aver perso forza alla luce dell'autonomia individuale del paziente, il sistema giuridico ancora non risulta pienamente in grado di offrire modalità adatte a conciliare facilmente la condizione di queste persone e il loro stato civile e legale.

Capitolo 4: *Undoing Gender*, "disfare" il genere può essere una prospettiva risolutiva?

Se nei precedenti capitoli un approccio più concreto è stato adottato, al fine di analizzare l'esperienza delle persone transessuali e ricercare soluzioni concrete per permettere loro di affermare la propria identità senza restrizioni, nell'ultimo capitolo l'analisi prende in considerazione una prospettiva filosofica che non può non essere menzionata. Si tratta degli studi della filosofa americana Judith Butler, che offrono una nuova visione del genere come costrutto sociale, composto da diversi fattori che vengono prodotti e riprodotti socialmente fino a diventare la norma. In un sistema binario che riconosce come uniche possibilità il genere maschile e quello femminile, dunque, chi non si riconosce in tale schema o negli stereotipi ad esso associati è inevitabilmente escluso, non riconosciuto dalla società. All'interno della prospettiva Hegeliana di desiderio come desiderio di riconoscimento, i termini che definiscono un individuo come essere umano possono al contempo privare altri individui di tale definizione, rendendoli di fatto non riconoscibili, non umani. Nel caso delle persone transessuali, inoltre, la mancanza di conformità agli schemi già imposti trova risoluzione nell'attuazione degli stessi meccanismi che la creano, recando ulteriore sofferenza per quegli individui che, a seguito della transizione, continuano a non conformarsi perfettamente al genere riaffermato. Evitare di universalizzare le norme sociali di genere e di riconoscere nel corpo l'istituzione principale in cui questi stereotipi risiedono e si attuano potrebbe quindi essere una via percorribile verso l'accettazione delle diverse sfaccettature del genere e, soprattutto, degli esseri umani in quanto tali.

Conclusioni.

Dalla precedente valutazione delle diverse difficoltà che emergono durante il percorso di transizione di genere è emersa senza dubbio la necessità di continuare a prendere in considerazione l'importanza

dell'autonomia individuale in processi decisionali così complessi e, al contempo, intimamente radicati. La creazione e l'adozione di misure legali e sociali che garantiscano alle persone transessuali una maggiore libertà di espressione della loro identità risulta quindi necessaria. D'altro canto, l'analisi filosofica dei meccanismi che si trovano alla base dell'identità di genere rende evidente le profonde falle di un sistema binario in cui la percezione del sé di ogni individuo prende forma e in cui, tuttavia, mancano degli standard di riconoscimento essenziali perché alcuni siano davvero rappresentati e riconosciuti. Com'è possibile, dunque, permettere a questi individui di determinarsi pienamente e, soprattutto, autonomamente, se i termini di tale riconoscimento restano ancora una deviazione dalla normalità, un terzo binario da far ricongiungere inevitabilmente con i due principali? Ciò di cui necessitiamo è, secondo Butler, una "trasformazione sociale", che vada oltre la teoria, che "disfi" le norme alla base della creazione del genere e metta in dubbio lo status quo, non per una società anomica, ma per una società davvero inclusiva.