

An Overview of Gender Identity Problems



Gender Studies

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Abstract

Being always the target of legends and literary writings, from the ancient Greek myths to Virginia Wolf's characters, the concept of gender identity, scientifically surveyed has been considered an enigma since years '50. A dispute which has involved all categories from the lawmakers to the simple people, is related with the gender theories, identities and a lot of other themes that are not directly related with it, but has been part of different discussions (for ex. sexual orientation). The gender theory have had the power to polarize doctrine as it has been talked too much about it. From one hand the doctrine pretends that 'sex' defines gender, and on the other hand the gender is not defined by 'sex'. According to them, female or male identity has not been taken from nature but has been created from society. Gender studies consist of an interdisciplinary field of researches that deal with gender and the way how society at different times and different spaces, has interpreted the differences between masculine and feminine. So, at this way they have legitimated not only the inequality between man and woman, but also refusing the civil rights of no hetero-sexualizes. There are bisexual, multi sexual or transsexual organizations, where their doubting genitive identity is crucial for their survival. To characterize them not as natural behaviors means to ignore reality and intentionally choose to be against nature.

The Gender

Its beginnings, "genre or gender" recognizes the 50s - 60s⁶⁴ in American psychiatric, sociological and anthropological research. For a long time it was thought that sex did not only correspond to gender, but defined it too. Later it was necessary to make a differentiation of anatomical and biological category affiliation, sex (female or male) of psychological and social category (gender). Psychiatrist and psychoanalyst Robert Stoller has introduced for the first time the term "gender identity"⁶⁵ that has become part of our vocabulary.

A human was born female or male (there are more cases of rare occurrence of intersexuality), but his gender identity (of the deceased man or woman) and his gender expression (to embrace socio - cultural masculinity and femininity behavior and expectations, so in accordance with the gender role) does not always match his biological sex⁶⁶.

With the word "sex" they began to refer only to a person's physical dimension, so only to his anatomy, while by the word "gender" people began to show the perception that they have for themselves (so, gender identity) and in the same way the social system created around that identity (so, gender roles). The difference between anatomic sex and gender roles remains to the foundation of a new thought: Well, there may be a discontinuity between the body with which man is born and the image he has for himself (how it feels) and the role that is attributed by others (gender stereotypes)⁶⁷.

The confusion and overlapping between sex, gender identity and gender role (and sometimes even sexual orientation) has generated confusion and clinical, scientific errors. Robert Stoller talks about nuclear⁶⁸ gender identity: a girl or a boy at a young age can early develop a belonging gender sense in a relatively independent way of the state of chromosomes or genital anatomy.

⁶⁴ <http://www.ilpost.it/2015/04/16/teoria-del-genere-gender-theory>

⁶⁵ Green, R. "Robert Stoller's *Sex and Gender*: 40 Years On", Springer, December 2010, Volume 39, Issue 6

⁶⁶ http://www.direnews.it/newsletter_psicologia/anno/2015/aprile/14/?news=03

⁶⁷ <http://bibliobs.nouvelobs.com/essais/20131213.OBS9493/theorie-du-genre-judith-butler-repond-a-ses-detracteurs.html>

⁶⁸ http://www.direnews.it/newsletter_psicologia/anno/2015/aprile/14/?news=03

The fifth edition of the Diagnostic and Statistical Manual of mental disturbance (DSM - 5)⁶⁹ includes significant changes, starting from the choice of a new diagnostic denomination: from the "disorders of gender identity" to "dysphasia gender", not outlining disease or disorder, but subjective suffering, 'dysphoria' of a physical or mental condition such incompatible as to require necessary interventions for sex reassignment, including surgery. With "gender dysphoria" wants to emphasize the emotional, painful and excruciating component with the gender determined at birth, as well as the treatment of mental illness diagnosis.

Feminist Thought About Gender

Gender category is initially studied in contemporary feminist reflections on the subject, identity and difference. American radical feminism⁷⁰ of the seventies, has put on the spotlight of its discussion the sexuality and has defined gender category as a social and cultural creation of roles and sexes.

According to these studies, female or male identity, has not been given by nature but has been created by society. At this social construction, the differences between biological sex has been transformed into gender roles differences, which have been returned to hierarchy: men are born to work and product, while women to reproduce and nursing. The hierarchy of differentiation have led to the oppression of women by men and the creation of solid boundaries between gender identities by removing or unrecognized those who stand outside this norm.

So, a man born male should feel man, seen by society as man and should deal with the obligations that society has assigned to them, so to live within the well-defined framework. All this leads to changes in social and legal orders, searching for new rights: the choice of sex, the protection of sexual minorities, the right to homosexual marriage and adoption, the right to have a child etc.

One of feminist thinkers of a great influence in the last decade, Judith Butler, says that matter, bodies and sexual differences are declaimed pieces: do not exist "women" or "men" so, feminine or masculine nature, but exist repeated and forced "actions" of the dominant codes. In the interview given to "Le Nouvel Observateur"⁷¹ she explained her position very well by answering to those who think that gender theory consists of a denial of sex and its implementation will mainly lead to this consequence. She tells that many people ask her if she accepts the existence of biological sex. Biological sex exists, certainly exists! The definition of sex requires a language and a framework of understanding - because it can be opposed in principle as anything else.

Butler says that gender theory does not describe the "reality" in which we live, but heterosexual norms embedded in our heads. Norms that are transmitted by media, films, our parents or we perpetuate in our fantasies. There are norms that prescribe what we should do to be a man or woman, and we must continuously negotiate with them.

Some of us are very related and passionate to them and strictly follow them; others refuse them. Exist who hate but are fit in them, while others benefit from uncertainties. Butler would like to contribute in creating a world as a place where one can live easily. There are two categories of people who because of their gender or sexuality, are the focus of ongoing conflicts. Bisexuality: Sexual orientation makes it difficult to love men and

⁶⁹ Diagnostic And Statistical Manual Of Mental Disorders Fifth Edition Dsm-5, American Psychiatric Association. 2013

⁷⁰ "Radical" because he proposed the undergo on the roots of women's inhalation, going upon their victory to civil rights and their economic independence

⁷¹ <http://bibliobs.nouvelobs.com/essais/20131213.OBS9493/theorie-du-genre-judith-butler-repond-a-ses-detracteurs.html>

women as well, it requires that the person definitely makes a choice. Or in the case of intersex people, sexually ambiguous or undecided. Some require that the ambiguity be accepted as it is without forcing these people becoming women or men. How can we help them? Germany has introduced the law of the "third sex" between categories body's control, except female or male. And this is an attempt to make the world more livable.

Is sexual identity related to nature or culture?

The "gender theory" is often accused to be the enemy of natural order and that it has denied deny the biological differences between men and women. Who admits that our life is determined by our body, is threaten to fall into a reduced natural dimension (my body is my destiny) and become part of a series of stereotypes (e.g. women are not good at mathematics or mechanical engineering and men do not cry during the movie, etc.) or deny the identity or recognition of whom avoids to the twin concepts of "man - woman".

It is important that people especially children to be educated with gender differences and accept others as they are, without prejudices that often go so far as to affect life. A similar initiative has been undertaken in Italy and France. These projects talk about "education differences" and not to gender but their main objective is to support the school structures in the construction of gender identity, to promote the development of freedom expression of personality respecting others as well as individual differences, such as equality between women and men, the plurality of family models and sexual roles, combating sexism in language and culture, the fight against homophobia, bullying and all forms of violence against women.

Italian association of psychologists has come up with a document⁷² "On the scientific importance of gender studies, sexual orientation and their spread in Italian school context." which aims to encourage national debate on the topics of dissemination of studies, gender and sexual orientation in Italian schools and to clarify the scientific discrepancy concept of gender ideology.

Italy itself is in its infancy, in the first attempts to extend discussions on gender identity in schools, so is being discussed on academic ranks the necessity of spreading these concepts in schools. There are only a few initiatives in two or three schools that have been accompanied by a lot of debates and are opposed by parents. This happens because they are misunderstood on their initiative that aims to educate the differences. Monsignor Tony Anatrella⁷³ in the book "Theory of gender and the homosexuality origin" presents the risks of this theory, very dangerous according to him. This is a theory which claims that there are no differences between the sexes in the professions and that love does not depend on the attraction between men and women. According to opponents of this theory, sexual identity is not established, but accepted, and taken for granted since birth, so we are born female or male. The only thing that matters is the biological sex. Gender is an academic smokescreen.

What is Gender Theory or Not

The gender theory does not really exist. It is a propaganda that distorts gender studies. In academic areas none talk about gender theory. Gender theory is used by certain circuits to create consensus around sexist and homophobic positions⁷⁴.

In "AG About Gender" magazine, Sarah Garbagnoli calls the gender theory a controversial label, created in the late '90s and early 2000s, in order to distort and illegitimate, everything was produced until that

⁷² http://www.aipass.org/files/AIP_position_statement_diffusione_studi_di_genere_12_marzo_2015.pdf

⁷³ Lungo, D. L'ideologia del gender è solo una trovata propagandistica? *Lotta quotidiana*, 03 Luglio 2015

⁷⁴ Regina, S. Cosa (non) è la teoria del gender, *Wired*, 13 mars 2015

time in the field of Gender Studies within academies in the 20th years of 70/80. In recent years this terminology has been spread through the slogans of thousands of demonstrators against the adoption of the reforms needed to prevent and counter the discrimination and mistreatment of heterosexual persons.

Laura Scarmoncin, another studier of gender in South Florida University, reinforces the idea that there is no sense to talk about gender theory, as well as about gender ideology. It's a rhetorical power to go ahead with extended LGBT studies. Nicia Vassallo⁷⁵ professor of the theoretical philosophy in Geneva's University underlines that the only response is to comprehend how different cultures have developed the social roles of women and men. To reflect on the fact that the actual dichotomies of sex (female/male) and of gender (woman/man) are not able to describe the complexity of reality. Furthermore, this result is not a product of LGBT notorious lobbies but dozens years of interdisciplinary studies. School is where gender stereotypes, so ingrained in our society must be overcome by offering students the necessary mechanisms become the 'man' and 'woman' they want to.

The main purpose of gender education is the psychological, physical, sexual and interacting growth of boys and girls; creates for them better conditions to plan the future without being influenced by the expectations of being a male or female (so, a little girl can wish to become a mechanical, or a boy works in a nursery).

The psychoanalyst Vittorio Lingiardi, and psychologist of dynamic psychology at "La Sapienza" university of Rome, says: "It is not only considered that the characteristics of the man and woman changes throughout history and in different cultural contexts, but even the concept of family has passed through different configurations: nuclear families, adoptive families, one-parent, recomposed, homo parents, enhanced etc". Legitimizing those, means affecting the real life of many parents and their children. There are many ways to be parents (and not all are a function of gender). This is confirmed by the most important scientific organizations and professional in the field of mental health as the American Academy of Pediatrics, the British Psychological Society, Associazione Italiana di Psicologia etc. after forty years of clinical observations and research.

Lingiardi states that: basically, conscious adults and able to care, male or female, heterosexual or homosexual, can be very good parents. The children need to be strongly related with responsible parents. The family is the result of not only a reproductive copulation, but as well as of the desire, of a project and social affective relationship.

Gender studies include an interdisciplinary investigation field dealing with gender and how society, in different time and space, has interpreted the differences between masculine and femininity, legitimating not only inequality between men and women, but denying the right of citizenship of no heterosexual.

Unnatural or Against Nature?⁷⁶

Nature is not homophobic. On the contrary! In the book "In identity crisis" Gianvito Martino, director of the Neuroscience section of San Rafels in Milan, explains and documents that is a great paradox to label homosexuality, but not to determine sex as unnatural. There are organizations, bisexual, or transgender contrast with the identity that characterizes nature. Determining such behaviors as unnatural mean to ignore the reality of things, or purposely choose to be against nature.

⁷⁵ Regina, S. *Cosa (non) è la teoria del gender*, Wired, 13 mars 2015

⁷⁶ Martino, G., "In crisi d'identità - contro natura o contro la natura?", Mondadori
<http://www.mondadorieducation.it/libro/gianvito-martino/in-criasi-d-identita-/120900042798>

Skin and blood cells become stem cells, female rats become male rats, and vice versa. There is no doubt that we have reached the point that to define identity in biological level is a mission destined to fail because the concept of identity in itself does not have sense in nature. Cells may decide to change the form, the function, and the identity, even when it takes its final form, considered until recently unchangeable and irreversible.

The gender, so being female or male, is the topic of many changes that could concuss the meaning – exist bisexual or transgender creatures for which their suspicious gender identity is essential to their existence. The genre can change. It is precisely the lack of identity that makes life possible, and is the contrast between concepts of flexibility with the concept of identity that characterizes the nature. At this point of view the scientific studies will frighten us less because it will find out what nature knows from milliard of years and the ideological issues related with sexual themes, genre or race cannot be covered with a biological reality that it does not exist. To specify natural behaviors as unnatural ones means to ignore the reality of things, choose with purpose to be against nature.

About Meaning of Transgender

According to the dictionary of medicine (encyclopedia Treccani, the vocabulary of medicine 2010) with the word transsexual is understood a person whose sexual identity does not correspond to living psychological male or female identity and that generally follows the purpose of change (through medico-pharmacological and surgical interventions) of primary and secondary sexual indicators.⁷⁷

When we talk about transgender we mean gender identity. Sex shows the difference between people based on the chromosomal content and genital formation. Gender identity indicates "the sense of belonging" to one or another gender by allowing us to say: "I am a man or I am a woman", regardless of anatomical birth sex.

This situation brings a deep confusion because we expect that a male body to contain a man and a woman contain a female body. They live in uncomfortable conditions because they feel that something is wrong with the mechanism used for sexual individualization (sex determination solely based on the genitals) and have difficulty on understanding what is happening, much more then when should explain it to others.

Generally, when the fear is overcome, is followed the transition path to the desired sex which in some cases may end with the surgical transformation of anatomic sexual characteristics. Transgender situation is quite rare. It deals with only 0.005% of the world population. Most of the clinical studies in this area agree with the fact that transgender is the result of a complex combination of psycho-socio-biological factors.⁷⁸

It is important to remember that the process of creating each individual's gender identity, transgender or not, takes place in the context of significant affective relations and socio-educational environment on the basis of biological predisposing characteristics. In transsexual persons, for reasons not well-understood have emerged over many hypotheses, the combination of these factors could lead to transgender identity.

It is important to underline the fact that when it talk about "transsexual choice" we refer to the moment when the person decides to manifest out what he actually lives inside: it does not show a choice in terms of intentional or willful word, but taking this route because there is no other possible way. Many transsexuals think that surgery is the solution of their basic problems. In reality the surgical intervention is not so necessary by all; it solves only some person's problematic aspects of the life, born in the wrong body.

⁷⁷ http://www.treccani.it/enciclopedia/transessuale_%28Dizionario-di-Medicina%29/

⁷⁸ <http://www.onig.it/drupal/?q=node/8>

Homophobia

The roots of homophobia are different and generally interrelated between them. Some are archaic : nightmare of a world that is not reproduced (as lesbians and gays are not fruitful, mothers and fathers); anxious ghosts of male and female passivity and activity; fear transformed into hatred for what is perceived as foreign or different; its denial of homosexual interests. Other, somewhat updated, seem as they are feed by undeniable increasing of gay visibility in household life, in international jurisdiction, and in the collective imaginary. If in the past, the scandal was "deviance", today what worries and scare up, is the possibility of a gay normalcy and his affective and familiar realization. The homophobes of these days seeks to punish what itself allows belonging to social curtain. So the problem is the citizenship.

From psychological perspective, the dislike or distrust of homosexuals, stems from the concern for a potential disorder, something outside it proper places compared to the identity and gender roles, a kind of embarrassment to the idea that there may be something feminine in a male or masculine in a woman. Here arises the motivation to make sure about the "masculinity" and "femininity". The foundation⁷⁹ of homophobia in fact consists in a sort of protective polarization of gender roles, leading to fear and resentment toward ghosts' passivity and dependence on men as well women activity. So do not think a man can be passive and dependent while a woman independent and active. It is a very primitive defense, caught after a naive idea of the relevant anatomy and mating / reproduction, which unfortunately is terribly efficient to leave things on their place.

The Legal Situation

Albania does not recognize the self-determination of sex. There is still no law to determine the cases, conditions, criteria and procedures followed for changing the sex. Because of not recognizing, it does not provide and regulate the consequences that may arise from the change of sex. So up to here we are "covered" - I don't know phenomenon and I do not have to visualize and customize consequences. The problem is whether the change of sex has occurred at a place where recognizes the individual right to change gender and the consequences will take place in Albania too.

An Albanian for instance, registered in the civil state as female, changes sex in a trade where is allowed and returns home? Will the Albanian state record this change of gender and give new documents where is reflected the new sex? If not, will it register the marriage between two persons of a similar gender? Will it refuse to recognize this marriage? But if he was married in Albania, will it continue to recognize this marriage even why after gender changing results a marriage inside the same gender, a marriage that our state does not recognize? How will this change the determination of the retire age?

In this case are risen up a lot of questions and hypothesis that require solutions. The most important freedoms belong to individuals as human beings and not as participants in a particular political community. Albania's Constitution recognizes the rights and fundamental freedoms, both as individuals and as a social formation and the rights of the family as a community founded on marriage. Articles 8 and 12 of the ECHR guarantees the right of each person to have a private and familiar life and it should not be a matter of state interference, unless the law provides justified restrictions for national security reasons, economic welfare, protection of order, prevention of crimes, health, moral or freedom protection.

⁷⁹ Lingiardi, V. Come nasce l'omoobia – VOX

On the other hand the prohibition of marriage between persons of the same sex has no relevance in this situation. Transsexuals are not subject to the same legal regime to couples of the same gender and protection based on sexual orientation. Gender identity is very clear to homosexuals. In this issue we are dealing with discrimination based on state of the transsexual person as a result of the exercise of the right to gender identity, applying a treatment unfavorable to them.

A Short Part from European Court of Human Rights

Positive protection of personal identity has raised many developments mainly about transgender sexual identity. It was a cause for particular developments with regard mainly to sexual identity, the right to know the origin and the right image. We should emphasize that the European judge has avoided so far hypothesis of positive obligations in charge of the State in the choice of the name.

The Convention, however, is a living instrument. So it is not a surprise that the Court's position on these sensitive and controversial issues have changed. In the case of *I and Christine Goodwin versus United Kingdom*, the Court, taking in consideration the scientific developments and international practice, together with the need for consistency between legal systems, and taking in consideration as well the growing constraints on individuals provoked by the non recognition in law of their new gender, it came to the conclusion that most countries do not enjoy the margin of appreciation as regards the acceptance of the status of transsexuals. The only maneuvering space remains related with the recognition procedures.

It is now obligatory for the States and their jurisdiction. States must respect “the right to sexual self-determination” of transsexuals and not to limit the recognition of the right of persons interested in the reimbursement of medical expenses for sex change operation by posing as a therapeutic need.

Violation of positive obligations arising under Article 8 against the rights of transsexuals can also result from a gap of legislation. This has been the main points discussed in the case of *L. versus Lithuania*, where there was no law regulating full operation gender change even though the law of Lithuania had recognized the rights of transsexuals to change not only their gender but also their marital status. Until then, no adequate medical institution may be appropriate or available in a reasonable way for people who wanted to do so.

Consequently, the applicant was in an intermediate position of a transsexual before surgery, he had only a part of the operation, where certain important documents were changed, but until to a complete operation, his own code will not be changed. So in certain key situations of his private life, his opportunities for employment or travel abroad, he would be considered to be female. The Court noted that the legislative gaps associated with gender reassignment surgery had left plaintiff in a situation of uncertainty in relation with his private life and the recognition of his true identity. Although budgetary constraints of public health service might have justified some initial delays in implementing the rights of transsexuals under the Civil Code, the passage of more than four years without the approval of the necessary legislation is judged to be excessive. Especially considering the small number of persons involved, the Court held that the burden on the state budget cannot be viewed as too heavy, thus proving a violation of Article 8.

ECHR has defined that gender identity and sexual orientation form part of the scope of an individual's private life, and therefore there should be no government interference in them.

Conclusions and recommendations

The issue of sex accompanies us from birth, from blue or pink balloon that parents put at the entrance of the maternity rooms or at home where a boy or a girl is born. After this, besides clothing which differentiates them exist even the toys: machines for boy, dolls for girls, forming palaces for boys, utensils for girls. Often this scheme of male and female activities are reaffirmed on the primary school books, on posters where mother cooks and prepares the table while father watches TV or reads the newspaper. Even diapers are different for girls and boys, not only because children are physically different, but they are differentiated from the childhood. As discussed above, not all stereotypes or all stigmas made about sex are scientifically supported. More simply, we can say that the aim of gender theory is neither to eliminate the anatomical differences that exist between men and women nor to "teach" or push children to become homosexuals, but to make children and all people to understand that a little boy can play with dolls and this does not mean that he will necessarily be gay (even if it will be accepted by society) and a little girl wear in blue. Gender theory fights stereotypes and stigma that are created by man to make life more difficult. There should be disclosed heterosexuality as norm and homosexuality (including bisexuality) as deviance. Both are equally normal. Advocating one or another sexual orientation as normal or be born male is more normal than feeling like that after birth (though born female), the people are frustrated for things that do not exist and make them not live in peace and happiness.

The state's duty is to respect human rights and to work for the improvement of conditions for real enjoyment of these rights. The state should become the main initiator in using all its possibilities and capacities to improve the lives of people - which is the main purpose of existence of the state.

Albanian Parliament has not regulated at all area of gender identity and the right to self-determination even adopted the Convention and is obliged to make the approximation of legislation. Being delayed in this regard, it has the opportunity to adopt the best practices of other countries and not to make the same "mistakes". It is necessary to establish a law that recognizes and guarantees gender identity and the right to self-determination. This law not only should recognize and allow the correction of sex in Korea but also provide procedures for recognition and transcription registry office where the correction of sex is done outside the territory of the Republic of Albania as well as adjust all the consequences that arise in cases the self-determination of sex.

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