Pink Hearts In Blue Bodies: The Children On The Operating Table

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The Swedish government proposes to introduce a new law allowing 15 to 18-year-old minors to undergo genital surgery if they so wish, and if the procedure has been approved by the National Board of Health and Welfare. Permission from parents will *not* be an absolute requirement if the health service deems a self-identified transgender adolescent has sufficient understanding to fully comprehend the nature and consequences of the medical procedure. I argue the proposed law is regressive, would signify dereliction of the state's duty of care, and should alert the country to the current abuse of children's rights to bodily integrity perpetrated in the name of progressivism.

Like all Western countries, the UK is undergoing or has undergone changes to the laws about adult transgender rights, indeed it was at the forefront of constituting adult transgenderism as a dimension of legal personhood with the Gender Recognition Act (GRA) 2004. However, we 'lag behind' Sweden in its campaign to introduce genital surgery as a child's right. Although children aged 16 and over are deemed by UK law to be competent under certain circumstances to consent to medical or surgical treatment, the child's autonomy in the matter of genital surgery is restricted because of the invasive and irreversible nature of the procedure. Despite this difference between the two countries, the UK embraces the principle behind Swedish law reform that: 'gender identity' is inherent and that a child can born in 'the wrong body'; the child has a legal right to 'gender identity' as a fundamental aspect of its personhood; and puberty blockers and cross-sex hormones can be administered to facilitate the child's gender self-affirmation.

Trans affirmative proponents of genital surgery argue that state failure to legally ratify this 'right' should be in contravention of children's human rights as these are set out in the Convention on the Rights of the Child (UNCRC). They insist adult transgender rights are commensurable with children's rights and they work to include the child's 'right' to genital surgery in the UNCRC definition of the rights of the child. In order to examine the consensus between the Swedish state and trans affirmative discourse it is important to briefly examine the theory of 'gender identity' upon which the ethical case for transgender rights is made.

The Yogyakarta Principles for law reform are set out in a civil society document that is widely referenced for its articulation of a rights-based framework on 'gender identity'. Transgender rights are defined as politically progressive and intersectional with the rights of

other oppressed or marginalized groups: 'All human beings are born free and equal in dignity and rights. All human rights are universal, interdependent, indivisible and interrelated … and gender identity [is] integral to every person's dignity and humanity and must not be the basis for discrimination or abuse'. The definition of 'gender 'identity' is vague, blurs the distinction between sex and gender, and reflects essentialist stereo-typical notions of gender:

> *Gender identity is understood to refer to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.*

The seemingly innocuous, all-inclusive concept 'gender identity' has been embraced by the left as progressive and it now supersedes in popularity the previous gender critical model. In this latter model, sex (i.e. whether one is born female and male) is not "assigned" but is a biological reality, and gender is not "each person's deeply felt internal and individual experience" which should be automatically affirmed but the structural, hierarchical stereotypes society maps onto biological sex. Transgender activists have successfully campaigned for the social acceptance of 'gender identity' as an allegedly more sophisticated analysis of gender, and from the end of the 20th century to the present 'gender identity' has been established as a civil right and is now constituted as a dimension of legal personhood.

Belief that 'gender identity' marks a sea-change for human rights provides the grounds for the state's proposed law reform. Advocates insist that 'no eligibility criteria, such as medical or psychological interventions, a psycho-medical diagnosis, minimum or maximum age … shall be a prerequisite to change one's name, legal sex or gender'. They argue this approach to children is part of the obligation of the state to 'guarantee and protect the rights of everyone, including all children, to bodily and mental integrity, autonomy and self-determination'. 'Bearing in mind the child's right to life, non-discrimination, the best interests of the child, and respect for the child's views' this means a commitment to:

> *ensure that children are fully consulted and informed regarding any modifications to their sex characteristics … and ensure that any such modifications are consented to by the child concerned in a manner consistent with the child's evolving capacity*

What is wrong with this seemingly laudable approach which puts the child's autonomy, agency and self-determination at the forefront of adult oversight and state obligation?

Firstly, the rights of children to have their best interests prioritised begs the question of what their best interests are and who determines them. From a gender critical perspective, the idea that the state mandates its national health system to require no "psycho-medical diagnosis" and no "minimum or maximum age" does not make children's interests paramount but prioritises the political interests of transgender adults to redefine transgenderism as a 'born' rather than a psychological condition. The GIDS, a National Health Service UK specialist clinic for gender dysphoric children describes a child's self-identification as a phenomenon that encompasses a wide variety of psychological presentations which cannot be explained by one factor, namely a certainty of 'true' gender arising from an inner feeling. 'Gender dysphoria' – unhappiness with one's gender – is the only condition for which a doctor prescribes or performs surgery where there is no test and the diagnosis is self-report. There is no credible neuro-scientific evidence for the narrative that a natal male or female brain exists, let alone that a 'pink' or 'blue' brain can be located in the 'wrong' sexed body. A senior consultant at the GIDS acknowledges 'the meaning of trans rests on no demonstrable foundational truths but is constantly being shaped and re-shaped in our social world'.

Secondly, the child's ability to consent to genital surgery only has value if he or she has accurate information about the nature of procedures and their adverse health effects. The child needs to be informed that genital surgery, aside from inevitable sterility, will have complex consequences and include the need for continuous hormone use and reliance on life-long medical care. Informed consent must include the views of clinicians and endocrinologists who, even though they carry out medical procedures, point to the inevitable serious physical harm of cross-sex hormones. The child needs to be made aware that procedures, including the exogenous sex-related hormones that will accompany genital surgery, will only create the *appearance* of sexual characteristics that differ from her or his chromosomal makeup and the gametes their body would produce in the absence of intervention. The human body is a whole organism, and seeks homeostasis; interventions, whether surgical or hormonal, *cannot* actually create the desired sexed body but can only modify the appearance and functioning of the child's own sexed body. Surgery on male bodies to create a simulated vagina requires on-going dilation to keep the cavity from closing; surgery on female bodies to produce a penis cannot create a fully functioning and sensate organ. The genitals of the other sex can never truly be created, and surgery will result in loss

of sexual sensation. Furthermore, the child's consent to genital surgery only has value if other models, such as the gender critical model, are made available as ways for understanding their gender discomfort. The adolescent should also be made aware that detransitioned persons advocate for alternative care, support and perspectives that do not involve hormones and surgery.

Finally, the new law would ultimately place genital surgery outside of the control of National Board of Health and Welfare, since under the newly conceived rights, the service would ultimately be compelled to concede the decision-making to the children. The obligation to perform genital surgery would supersede any clinical misgivings, and the purpose of the support given would not be medical but to facilitate the child's self-determination. A child's right to self-determination needs to be balanced by adult oversight. Can a 15-year-old truly predict the consequences their teenage decision-making will have on their future adult selves? The ethical issue of whether the child can consent to genital surgery goes beyond an assessment of whether the adolescent has mental capacity and can express independent wishes. Children are social beings as well as independent actors who 'take up' normative identities made available to them within the prevalent culture and which may lead them to wish for and consent to harmful treatments. The media, the internet, and trans affirmative educational programmes which provide workshops about 'gender identity' for school teachers and children as young as four, collectively provide the background to children's everyday lives. The child's capacity for consent is not sufficient to counter systemic attitudes and beliefs, which may for example account for the current statistical prevalence of girls wanting to transition. In combination, these influences construct a definitive set of 'truths' about 'gender identity' which, ironically, reproduce a catalogue of gender stereo-types that confirm to children they are transgender, that medical re-assignment of their sexed body will resolve gender discomfort, and that without social and physical intervention they will be likely to self-harm and probably commit suicide.

In conclusion, I contend that clinicians are unable to operate within the medical ethos to which they aspire, namely 'first do no harm'. The affirmative model blurs the distinction between sex and gender such that 'gender identity' as a 'born' property enables the state to countenance law reform even though the inevitable result will make children sterile and consign them to a life-long pursuit of difficult and painful physical and psychological transitioning that will uphold and deepen socially constructed gender based oppression and never actually change a person's biological sex.

The transgender field is highly politicized, and the rise of identity politics means that any suggestion that 'gender identity' is psychological and sociological is automatically construed as transphobic. The general climate of fear – fear of causing offence, fear of being accused of transphobia or, in the terrible case of parents, the horrendous fear they will lose their children if they refuse permission for surgery – means that reasoned debate has become almost impossible. Within the context of highly contested and unverifiable theories, the citizens of all democratic countries should be able to ask without reprisal: How free is the medical profession to formulate its own views about performing genital surgery, given the force field of competing and opposing discourses which are knotted together into bigger issues of authority and meaning-making? Who has the right to make knowledge about sex and gender which then informs clinical practice? Who decides what is politically progressive, and whose 'truths' does the state authorise to create social policy?

Close inspection of the proposition made by transactivists that human rights based on "gender identity" are "universal, interdependent, indivisible and interrelated" reveals this assertion to be misguided. If Sweden passes a law allowing 15 to 18-year-olds to undergo genital surgery it will not signify the extension of children's rights but their egregious breach. That the abuse and sterilization of children's bodies might soon be legally sanctioned in Sweden in the name of progressivism should alert us to the extreme dangers of transgender identity politics.