

Transgender Identity in Children and Adolescents: Therapeutic Controversies – Ethical Orientation

AD HOC RECOMMENDATION

Berlin, 21 February 2020

On 19 February 2020, the German Ethics Council organised a public event on the topic of transgender identity in children and adolescents. Its aim was to raise public awareness for the in many respects difficult questions of dealing appropriately with the phenomenon of transgender identity in both medicine and society. Furthermore, the Council wanted to enter into a dialogue with individuals concerned, experts from the fields of medicine, ethics and law, and the audience.

The number of children and youths who feel that their gender identity is at odds with the sex assigned to them in the civil registry has risen sharply in recent years. There is public controversy about what conclusions should be drawn from this and, in particular, which medical and psychotherapeutic options are appropriate. German lawmakers have also begun to address these questions.¹ With regard to children and adolescents, who are in any case a particularly vulnerable group, the therapeutic measures considered in the context of transgender identity require special ethical consideration.

Tension arises from the fact that, on the one hand, the capacities of reflection and decision-making are still developing in adolescents and, on the other hand, the physical changes taking place in puberty create time pressure. In this situation, both the treatment options considered and refraining from using them can have serious and sometimes irreversible consequences. The adults involved – the parents who have custody and the specialists in charge of treatment – are faced with the task of taking the minors' views and wishes into account while also safeguarding their well-being. The ethical challenge is to support minors on their way to their own gender identity and, at the same time, to protect them from – at times irreversible – harm. It is an aggravating factor that some decisions have to be made when the child's abilities of reasoning and judgment are not yet fully developed.

The German Ethics Council is well aware that parents as well as persons providing counselling and treatment in this situation face an extremely complex and important task.

The reasons for the marked increase in the number of people seeking treatment and counselling, of whom a high proportion are female (according to their birth sex), are controversial and urgently require further clarification. Moreover, the long-term

effects of medical treatments need to be further investigated in order to place the difficult prognostic decisions on a better empirical basis.

Even so, the German Ethics Council considers it advisable to highlight the following ethical principles as guidance in the support and treatment of children and youth with transgender identity:

- In German law, the general right of personality includes the right to lead a life in accordance with one's own subjectively perceived gender identity and the right to recognition of this identity.
- In all decision-making processes, minors must be heard and their views and wishes must be taken into account according to age and maturity. In the present context, this rule is all the more important as it relates to questions of personal identity, on which ultimately the person concerned has to decide.
- Minors should participate in the therapeutic process in such a way that at any time they are prepared to face the decisions which become more momentous with increasing age. In this process, it is the task of the responsible parents and the persons treating the child to provide them with the best possible support.
- Where minors have sufficient insight and judgement to understand the scope and significance of the planned treatment, to form their own judgement and decide accordingly, their will is authoritative for the most part. Under these circumstances, they may not be treated without their consent, let alone – solely based on the parents' consent – against their will.
- The benefits and harms of the relevant medical and other therapeutic measures, which are in part contentious, must be carefully weighed in each individual case. Not only the risks, (side-)effects and long-term consequences (including possible infertility) which minors might experience as a result of active medical and other therapeutic interventions must be taken into account, but also those that may loom if interventions are not carried out. Particularly in view of the dispute over certain courses of action, the persons concerned as well as their parents have a right to balanced information and counselling.
- A destigmatising approach to transgender identity in children should be encouraged and any discriminatory pathologisation of gender incongruence ought to be counteracted. Suitable psychosocial counselling services and their cooperation with medical institutions should be strengthened.

¹ Cf. "Draft Bill Protecting Children against Sex Reassignment Surgery" [Entwurf eines Gesetzes zum Schutz von Kindern vor geschlechtsverändernden operativen Eingriffen] (Federal Ministry of Justice and Consumer Protection's draft as of 09.01.2020) and "Draft Bill to Protect against Conversion Therapies" [Entwurf eines Gesetzes zum Schutz vor Konversionsbehandlungen] (cabinet decision as of 18.12.2019).

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