

BRIEFING

A QUESTION OF GENDER

Transsexuals are denied the right to change their sex legally as well as bodily. Silvia Perrini puts the case for greater tolerance

It's doubtful whether the present fad for baritones with flowing tresses and dazzling makeup has done much to improve public understanding of transsexuality. Gender bender headlines abound for one reason only: they sell newspapers now that sex and drugs have lost their appeal.

The very mention of transsexuals is enough to raise a snigger, conjuring up visions of pantomime dames and cracking falsettos. But our legal system does more than snigger. It raises insuperable obstacles which effectively deny transsexuals the new identities they have suffered so much to create for themselves. And suffering is no exaggeration. After all, as one medical expert put it, transsexuals don't just want to change their clothes: they want to change their sex.

Transsexuality, or gender dysphoria as it is medically known,

is the condition in which an individual with obvious anatomical characteristics of one sex inexorably believes that he or she is of the opposite sex. Recent medical advances now make it possible for transsexuals, or intersexes, to achieve a new sexual identity, or rather for their appearance to match the sex to which they had always felt they belonged.

Boy or girl?

Since the late 'fifties, doctors and researchers have recognised that the simple characterisation of individuals as 'men' and 'women' is too crude. In America, Dr Nathaniel Armstrong established a 'spectrum of sex' which defined the various stages between the 'typical male' and the 'typical female'.

It had become clear, for example, that the chromosomal test administered to athletes by the Olympic Games Committee

was much too simplistic. To illustrate, in several surprise decisions mothers of three or four children had been disqualified from running because their skin contained an unusually large number of male chromosomes. That test has now been abandoned in favour of more sophisticated analyses.

Even Dr Armstrong's 'spectrum' approach, which envisages four ways of defining an individual—by chromosomes, by internal sexual organs, by external sexual organs, and by psychology—is now also thought to be too narrow.

At birth a child is assigned to one sex or another according to the visible sexual organs. But in a few—though by no means rare cases—it is impossible to identify the sex. A child is then given a provisional registration which can later be revised if necessary. In some tragic cases doctors take the decision that a male

child will never develop an adequate penis to allow a normal sex life. He is then—with the parents' consent, of course—castrated, and later given further plastic surgery and hormone treatment to allow development as a 'woman'.

Some experts believe that it would be right to give all individuals a *provisional* sex determination until after puberty—a move which would certainly help transsexuals. At birth transsexuals usually display normal sexual characteristics. But between the ages of six and eleven it begins to become clear that there are also psychological characteristics typical of the opposite sex. Usually, they are suppressed as a result of parental pressure.

In adolescence it is not uncommon for transsexuals to react by assuming exaggerated male or female attitudes. April Ashley, for example, like many other

male transsexuals, went into the navy as a merchant seaman.

But there comes a time when the transsexual recognises the overpowering need to live and be known as an individual of the opposite sex. SHAFT (Self Help Association for Transsexuals) estimates that one in every 200 people has *some* form of 'gender identification problem'. A good deal of controversy surrounds the cause of transsexuality. It has become unfashionable to talk about a 'female personality' or a 'male brain', but it seems that the root cause is not, as was once thought, childhood conditioning.

One theory is that in the uterus the developing foetus is affected by widely differing levels of either female or male hormones released by its mother's placenta. To put it in its simplest form, the sexual organs and the child's brain are affected and developed in two quite separate ways: a female brain in a male body, or a male brain in a female body.

So from adolescence the transsexual feels he is in the 'wrong' body. There are now a number of Gender Identification Units

in hospitals around the country, and psychologists and surgeons who specialise in helping the transsexual achieve his transformation to the 'right' body.

It has long been possible for surgeons to construct artificial female sexual organs, or 'pouches' as they are often called. Today it is even possible for an artificial penis and scrotum to be constructed, using the patient's own skin and thigh muscle, and silicone implants. The whole gruelling process can take years. Even after surgery, further counselling in an After Care Centre may be necessary. But instead of helping transsexuals to establish themselves in a new identity, the law strands them in limbo.

The legal position

The law says that a birth certificate can only be altered if there has been an error of fact at the time of birth—in other words if the midwife got it wrong. And the law does not recognise transsexuality as such an error. So a male-to-female transsexual is forced by law to travel with a passport clearly declaring her to be a man,

clearly pointing her out as a freak, and *vice versa*.

Of course, a transsexual can change his or her name. It doesn't even require a deed poll—habitual use is enough, as the officer who caught Marilyn speeding found.

Love and marriage

No male-to-female transsexual can ever marry a man after surgery. That was made painfully clear by the famous April Ashley divorce case: her husband had married her knowing the full story, but when they separated he resisted her claims for maintenance by successfully arguing that they were never legally married. Transsexuals are, of course, entitled to marry: providing male-to-females marry other women, and female-to-males marry other men!

Against this cosy scenario, it's also worth remembering that a man who forces a male-to-female transsexual to have sexual intercourse with him cannot be guilty of rape. At most, he could be charged with assault. It's very difficult to know the precise number of individuals

who have successfully undergone transsexual operations in this country. Estimates run in thousands rather than hundreds.

But instead of allowing them to build a full new life with a job and marriage, the law leaves them 'non-persons'. They cannot sue employers for sex discrimination, and are forced to take their pensions according to whether they were born male or female.

If they are arrested, they are sent to the 'wrong' prison—where their hormone treatment may be discontinued at the prison governor's discretion. The law showed more tolerance in Ancient Rome, when hermaphrodites (who have the physical sexual characteristics of both sexes) were free to choose in adult life whether they wished to be known as male or female. In many states of America, in France and in Germany, transsexuals automatically have their birth certificates and passports changed after surgery is completed. Perhaps it's time that the law here caught up with the advanced surgical techniques so successfully carried out each year in Britain. □