

# Law and the Human Body: Bodily Autonomy of Queer People

## Abstract

Alongside the positive shift in the perception of LGBT+ people, a conservative wave in the form of the antigender movement is also rising. It advocates against bodily autonomy and reproductive rights of queer people, as well as those of women. It also calls for a return to 'traditional' values and regarding the nuclear family and heterosexuality as superior. The local context has not been spared of such a movement. This thesis aims to critically analyse how and to what extent bodily autonomy of queer people is currently being achieved, and how it is affected by the construction of legal sex/gender.

The first part focuses on feminist and queer theory with an emphasis on the role of queer theory within theory of law. This serves as a theoretical basis for analysing the state of bodily autonomy of queer people and its reflection in the law. A section on the concepts of social construction of sex/gender as well as the related trans and intersex categories is also included. Lastly, I address the current political opposition to bodily autonomy of queer people.

In the second part, I discuss both legal and practical issues concerning queer corporeality and autonomy in the context of sex/gender, with a main focus on the legal reflection of trans and intersex existence. First, I address the coercive interventions targeting queer bodies that are relevant to the Czech context – in particular, the mandatory and forced castration required to have one's gender marker changed and involuntary normalising interventions to intersex children's bodies. Furthermore, I look at the equally crucial possibility to undergo bodily interventions one chooses and the circumstances that may prevent access to them. This section is concluded by an analysis of the concept of sex/gender within the legal system and its potential regulatory models.

Considering the given restriction of queer people's rights as well as integrity violations, bodily autonomy is clearly intrinsically linked to the construction of sex/gender in law. The current normative conception excludes all those who do not fit into its fixed and binary categories. To preserve itself, this legal construct seeks to downplay or deny their identity and normalize their bodies. Most importantly, abandoning both the rigidity and binarity of the current regulation is needed. At the same time, along with partial reformative steps aimed at improving the status of

the people concerned, it is also possible to attempt to rethink our overall approach to the legal category of sex/gender and consider the possibility of abandoning its state registration altogether.