



I3 The Art of Manliness: Law, Gender, and Sexuality in a 19th-Century Case Study

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Learning Overview: After attending this presentation, attendees will understand the role of jurisprudence in the investigation of sex and gender issues in individuals with Disorders of Sex Development (DSD) (i.e., congenital conditions in which development of chromosomal, gonadal, or anatomical sex is atypical).

Impact on the Forensic Science Community: This presentation will impact the forensic science community by presenting a multidisciplinary framework based on the analysis of a 19th-century case study that will demonstrate the impact of jurisprudence in identifying the biological sex, gender identity, and social-sex role in a person with sex or gender non-conformity.

Carmela C. was born in 1880 in Castelvetro, an Italian medieval village near Trapani. When she was in her 20s, her parents, Caterina and Antonio, took her to the Civil Hospital in Palermo because she had not yet had her period. Here, Carmela was examined by the physician Saverio Tomasini who diagnosed multiple genital anomalies. Moreover, Tomasini conducted a lengthy interview with Carmela at which she confessed to having sex with female partners and feeling her gender was masculine. Apart from her physical aspect, Carmela was a charming girl with long black hair. Carmela did not recognize herself as a woman; attending to any female activities or getting married to a man disgusted her. She desired to be a coachman and meet the girl of her dreams. So, Carmela was more than glad when Tomasini told her she was not a girl. She had genital reconstructive surgery and masculinized her name in Carmelo. The physician Giuseppe Castellana, who wrote a scientific paper on this case, operated. In the years that followed, Carmelo became a coachman and a husband.

This unique case was the occasion for Tomasini to rethink the role of legal medicine and jurisprudence in the assignment of sex in newborns with DSD. He confronted the Italian Civil Code in a transnational perspective with the French and German Codes and intensely discussed Art. 374. Tomasini analyzed the Prussian Criminal Code in which sex reassignment is highly recommended in infants with ambiguous external genitalia after 18 years of age in the presence of a medicolegal expert who would certify the conformity of the patient's anatomical and psychological sex in keeping with his/her status and gender role (Art. 19-23). Tomasini thus proposed a review of Art. 374, including a medical certification of "uncertain sex" for newborns with DSD. He then analyzed Art. 105, 106, 107, and 112 of Italian Civil Code studying the relationship between DSD, marriage, and divorce. Tomasini's analysis underlined the issue of legally recognizing a "third gender," a process started in 2013 when Germany allowed an "indeterminate" gender option on birth certificates. In 2014, both Australia and India permitted the registration of a person's sex as "non-specific." Even as Lesbian, Gay, Bisexual, Transgender (LGBT) rights in Italy have evolved significantly over the course of the past years, DSD persons may still face some legal challenges because of incomplete legislation.

In conclusion, DSD presents a unique challenge regarding medicolegal management; increasing the focus on forensic sciences will help to protect a person's sexual identity beyond stereotypes and prejudices.

Disorders of Sex Development, Case Report, Intersex