

INTERSEX: THE ETHICAL DIFFERENTIATION BETWEEN BINARY AND BIPOLAR ORDERS

Benedikt Schmidt*

Humboldt University, Berlin

Abstract

Intersex is an ethical issue that lies at the interface of medical, sexual and fundamental ethics. So far, however, it has received little attention in theological and ethical considerations. The paper first structures intersex with the help of a bio-psycho-social model of gender and examines intersexuality against the background of three culturally powerful anthropological organisational models. In a second step, the ethical consequences of the monopolar, binary and bipolar models are then demonstrated. However, the significance of the topic goes beyond the rare phenomena of intersex due to its theological and anthropological characteristics. They shape our cultural understanding of sexuality, identity, dignity and of a flourishing life. As a result, it is determined that only a bipolar order structure and the Christian “ordo amoris” mutually strengthen each other in their persuasive power, creating an inclusive space of appreciation.

Key Words: Intersex, Bipolar Model, Binary Model, Theological Ethics, Anthropological Models, Dignity, Medical Ethics

1. Outlining the Theologically Ethical Discussion of Intersexuality

24-year-old Rene regularly seeks out the endocrinology department at the University hospital.¹ Genetically, Rene is male, with

* Benedikt Schmidt, born 1987 in Münster, Germany, is assistant professor of Theological Ethics at Humboldt University of Berlin, Central Institute for Catholic Theology. His main research interests include ethics of self-relation (self-love), bioethics, philosophical ethics, ethics of relationships and interreligious ethics. Email: benedikt.schmidt@hu-berlin.de.

¹ Due to the author's background in German academia, numerous sources originate from this context. Nonetheless, many central sources were intentionally chosen from English language literature. In this sense, the academic discourse

XY chromosomes; physically, Rene has breasts and a vagina, appearing female, despite lacking internal female reproductive organs.² Rene identifies as female and is in a committed relationship with a man. Because the testicles in her abdomen were removed within her first year of life, she will continue to need hormone therapy for the rest of her life, which is provided by the endocrinologist.

This brief case report chronicles the phenomenon of androgen insensitivity. "Complete androgen insensitivity syndrome," or CAIS, describes how a person would produce male hormones (androgens) with limited or completely obstructed effects, leading to the development of female genitalia during embryonic development. It is one of the more common configurations among otherwise rare and diverse cases of intersex. The incompatibility of physical sex attributes within the binary concept of male and female sex or gender defines intersex. Although reliable statistical estimates are limited, respectable figures suggest that around 0.05%-1.5% of the population present some form of intersex.³ This group is particularly vulnerable, with over 50% of those affected suffering from suicidal thoughts. In Western industrial nations, more than 90% of the affected undergo surgical intervention during childhood, often multiple times, to

between both German and English theological ethics should be encouraged and supported. The author expresses his gratitude to Elisabeth Evans for her helpful support with the English wording of the article.

² Adapted from D. J. Del Can Sánchez et.al., Gender Incongruity in a Person with 46, XY and Complete Androgen Insensitivity Syndrome Raised as a Female, in: Archives of Sexual Behavior 51 (2022), 2353-2357. DOI: 10.1007/s10508-021-02183-6.; cf. M. Diamond/L. A. Watson, Androgen Insensitivity Syndrome and Klinefelter's Syndrome, in: Child and Adolescent Psychiatric Clinics of North America 13 (2004), 623-640, 623-630. DOI: 10.1016/j.chc.2004.02.015.

³ Cf. L. Sax, How common is Intersex? A Response to Anne Fausto-Sterling, in: The Journal of Sex Research 39 (2002), 174-178. DOI: 10.1080/00224490209552139; K. Beier et.al., Sexualmedizin. Grundlagen und Klinik sexueller Gesundheit, München 2021, 371-392. DOI: 10.1016/B978-3-437-22851-3.50021-9; J. Woweries, Intersexualität – Medizinische Maßnahmen auf dem Prüfstand, in: E. Schneider/C. Baltes-Löhr (ed.), Normierte Kinder, Bielefeld 2018, 249-264, 252-256. DOI: 10.14361/transcript.9783839424179.249; S. Cornwall, Intersex, Theology and the Bible. Troubling Bodies in Church, Text, and Society, in: The Oxford Handbook of Theology, Sexuality and Gender, New York 2015, 657-675. DOI: 10.1057/9781137349019; Megan DeFranza, Sex Difference in Christian Theology. Male, Female and Intersex in the Image of God, Grand Rapids/Cambridge 2015, 23-46. One of the convincing classifications into three categorical fields for the different phenomena of intersex is presented by K. Mairinger-Immisch, Mehrdeutige Körper. Über die Anerkennung intergeschlechtlicher Menschen in Theologie und Kirche, Bielefeld 2024, 30-33. DOI: 10.14361/9783839466520-021.

establish a sex distinction. The absolute majority of those affected retrospectively evaluate the result thereof as ranging from unsatisfactory to traumatic. Only 10% of intersex people perceive their physically ambiguous existence as a positive chance at life. Approximately 70% of intersex people consider themselves neither distinctly male nor female and are medically classified as “DSD”. There is contention whether this abbreviation stands for “Differences of Sexual Development” or “Disorders of Sexual Development”. Is this phenomenon about pathological disorders or normative differences? In terms of available medical directives, different titles used to describe the phenomenon in different countries. While Germany, France, and India utilise “differences/variations”⁴, the influential Consensus-Statement from the USA in 2006 uses “intersex disorders”.⁵ Türkiye also refers to “disorders”,⁶ whereas Australia incorporates the discourse into the title of their medical directive: “A guide to differences/disorders of sex development”⁷. From a diachronic perspective, it becomes increasingly clear that medical pathologising is subject to scrutiny.

In the public eye, intersex is only marginally perceived.⁸ Intersexuality is often categorised as one of many genders. Within the spectrum of gender identities and sexual orientations, intersex has been included as the “I” in LGBTQIA+. However, sexual orientation

⁴ Cf. Deutsche Gesellschaft für Urologie e.V. et.al. (ed.), S2k-Leitlinie Varianten der Geschlechtsentwicklung (11.2024), online resource: https://register.awmf.org/assets/guidelines/174-0011_S2k_KF_Varianten-der-Geschlechtsentwicklung_2024-11.pdf. Last accessed: June 03, 2025; Haute Autorité de Santé, Avis de bonnes pratiques de prise en charge des enfants présentant des variations du développement génital (10.03.2022), online resource: https://www.has-sante.fr/upload/docs/application/pdf/2022-03/ac_2022_0015_vdg.pdf. Last accessed: June 03, 2025; Y. K. Sarin et.al., Indian Association of Pediatric Surgeons Guidelines on the Management of Differences in Sex Development, in: Journal of Indian Association of Pediatric Surgeons 26/27 (2022), 376-380. DOI: 10.4103/0971-9261.352296.

⁵ Cf. C. P. Houk et.al., Global DSD Update Consortium. Consensus statement on management of intersex disorders, in: Pediatrics 118 (2006), 753-757. DOI: 10.1542/peds.2006-0738.

⁶ Cf. M. Çetinkaya et.al., Diagnosis and treatment approach in newborn infants with ambiguous genitalia with sex development disorder, in: Turkish Archives of Pediatrics 53, Supplement 1 (2018), 198-208. DOI: 10.5152/TurkPediatri Ars.2018.01818.

⁷ Cf. K. A. Vora/S. Srinivasan, A guide to differences/disorders of sex development/intersex in children and adolescents, in: Australian Journal of General Practice 49 (2020), 417-422. DOI: 10.31128/AJGP-03-20-5266.

⁸ Cf. C. Lang, Intersexualität. Menschen zwischen den Geschlechtern, Frankfurt/New York 2006, 298-329.

as such (lesbian, gay, bisexual) is inherently different from intersex. Additionally, intersex differs from transgender, which describes the incongruence between physical sex and gender identity.⁹ Sometimes, people with intersex traits are also confronted with the severely problematic assumption that – because of their physical ambiguity – they must be asexual. Without a doubt, intersex people, akin to people in the LGBTQA+ community, frequently face discrimination and prejudice. One particular point they consistently highlight from their own perspective is the somatic reality of their ambivalence sex.¹⁰ This unique characteristic sets intersex people apart from the rest of the LGBTQA+ community. In such instances, when gender is associated with self-determination, people with intersex characteristics will insist on the "natural" state of their bodies.

The Catholic Church's moral teachings barely acknowledge intersex,¹¹ mentioning it only briefly within the context of a critical analysis of the subject of gender. The document "Male and female He created them", released by the Congregation for Catholic Education in 2019, states:

From the point of view of genetics, male cells (which contain XY chromosomes) differ, from the very moment of conception, from female cells (with their XX chromosomes). That said, in cases where a person's sex is not clearly defined, it is medical professionals who can make a therapeutic intervention. In such situations, parents cannot make an arbitrary choice on the issue, let alone society. Instead, *medical science* should act with purely therapeutic ends, and intervene in the least invasive fashion, on the basis of objective parameters and with a view to

⁹ Cf. S. Goertz, Irritierende Kontingenzen. Transsexualität als moraltheologische Herausforderung, in: Klaus Arntz et.al. (ed.), *Zukunftshorizonte katholischer Sexualethik*, Freiburg 2016, 354-358, 349. DOI: 10.15496/publikation-53286.

¹⁰ Cf. Ulrike Klöppel, XXOXY ungelöst. Hermaphroditismus, Sex und Gender in der deutschen Medizin, Bielefeld 2010, 603-606. DOI: 10.14361/9783839413432; S. Zobel, Intergeschlechtlichkeiten – Eigene Realitäten, eigene Normen, in: E. Schneider/C. Baltes-Löhr (ed.), *Normierte Kinder*, Bielefeld 2018, 227-247, 232-235. DOI: 10.25595/2152; S. Cornwall, Intersex, Theology and the Bible. Troubling Bodies in Church, Text, and Society, in: *The Oxford Handbook of Theology, Sexuality and Gender*, New York 2015, 657-675, 670. DOI: 10.1057/9781137349019.

¹¹ Susannah Cornwall summarizes Catholic tradition as such: "Intersex has been chronically underexamined in Christian theology, or discussed only as an adjunct to questions of transgender or homosexuality" (S. Cornwall, *Laws "Needful in Later to Be Abrogated"*. Intersex and the Sources of Christian Theology*, in: S. Cornwall (ed.), *Intersex, Theology, and the Bible. Troubling Bodies in Church, Text, and Society*, London 2015, 147-166, 165. DOI: 10.1057/9781137349019).

establishing the person's constitutive identity [which is the chromosomal identification according to the Magisterium; B.S.] (no. 24).¹²

The following number continues this thought:

Efforts to go beyond the constitutive male-female sexual difference, such as the ideas of "intersex" or "transgender", lead to a masculinity or femininity that is ambiguous, even though (in a self-contradictory way), these concepts themselves actually presuppose the very sexual difference that they propose to negate or supersede. This oscillation between male and female becomes, at the end of the day, only a 'provocative' display. (no. 25)

Intersex as such is not recognised here. Furthermore, with the primary intention to repudiate "free choice" of gender identity and to identify "male-female differences" as ontologically constitutive, intersex is discredited as merely an "idea" within the field of "gender". Thus, people with intersex characteristics become victims of the document's critique of "gender theory", as their bodies appear superficially ambiguous. The standard recommended action is that, based on the (supposed) chromosomal binary distinction, phenotypically appropriate augmentations should be made through medical intervention. This recommendation corresponds with "optimal gender policy", first implemented in the 1950s on the advice of sexual scientist John Money (1921-2006).¹³ He claimed that physical ambivalence could be overcome according to the maxim of "nurture over nature" through medically fabricated unambiguity and gender-appropriate measures of upbringing.¹⁴ The document, however, postulates a somatic unambiguity and follows the maxim "nature over nurture," according to which all future actions should be handled. Then, intersex identity is established through the choice to be intersex rather than by a profoundly ambivalent body.

¹² Congregation for Catholic Education, „Male and Female He Created Them“. Towards a Path of Dialogue on the Question of Gender Theory in Education (02.02.2019), online resource: https://www.vatican.va/roman_curia/congregations/ccatheduc/documents/rc_con_ccatheduc_doc_20190202_maschio-e-femmina_en.pdf. Last accessed: June 03, 2025.

¹³ On the medical-historical background cf. U. Klöppel, *XXOXY ungelöst. Hermaphroditismus, Sex und Gender in der deutschen Medizin*, Bielefeld 2010, 591-599. DOI: 10.14361/9783839413432. On the background in theological and cultural studies cf. Megan DeFranza, *Sex Difference in Christian Theology. Male, Female and Intersex in the Image of God*, Grand Rapids/Cambridge 2015, 107-150.

¹⁴ On the paradox logic of manufacturing the natural cf. C. Lang, *Intersexualität. Menschen zwischen den Geschlechtern*, Frankfurt/New York 2006, 84.

The declaration "*Dignitas infinita*", from 2024, makes important changes in the Magisterium's teachings. Here, intersex is mentioned contextually with "transsexuality":

It follows that any sex-change intervention, as a rule, risks threatening the unique dignity the person has received from the moment of conception. This is not to exclude the possibility that a person with genital abnormalities that are already evident at birth or that develop later may choose to receive the assistance of healthcare professionals to resolve these abnormalities. However, in this case, such a medical procedure would not constitute a sex change in the sense intended here. (no. 60)¹⁵

This challenges the affirmation of paternalism in the medical context and the recommendation to establish a physically distinct sex. At the same time, the phenomenon of intersex is again mentioned as a marginal, pathological "abnormality" that can be corrected medically. People are not recognised as intersex in their existence.

Framing this demonstrates how, depending on the perspective, intersex as a subject becomes into question in both medical and sexual ethics. Both, in turn, reflect fundamental anthropological and ethical assumptions that guide ethical judgment. Intersex illustrates the intersection of the three main fields of theological ethics at an ethical crossroads.¹⁶

The following sections outline two standard organisational models – binary and bipolar – from an anthropological perspective, with a brief exploration of the historically significant monopolar model, to clarify the potential for discourse on the subject of intersex. The theologically ethical consequences will be analysed in the third and fourth chapters, corresponding with medical and sexual ethics.

2. Fundamental Theological Ethics: A Reflection on Anthropological-Organisational Models

Human somatosexual development occurs across four levels: chromosomes (XY or XX), gonads (testes or ovaries), internal sex organs (vas deferens etc. or uterus etc.), and genitals (scrotum, penis, or vagina)

¹⁵ Dicastry for the Doctrine of the Faith, Declaration "*Dignitas Infinita*" on Human Dignity (25.03.2024), online resource: https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_dcf_doc_20240402_dignitas-infinita_en.html. Last accessed: June 03, 2025.

¹⁶ An extremely instructive insight from a philosophical ethical perspective is provided by Deutscher Ethikrat, *Intersexuality*. Opinion, Berlin 2013.

clitoris).¹⁷ The commonly accepted initial method of identifying an individual by their genitals assumes that all four levels are concordant for assigning sex. Levels two through four evolve from a bipotent formation, meaning that the development towards male or female characteristics is generally possible. The presence or absence of the SRY gene sequence determines whether testes or ovaries develop, which then start producing androgens or oestrogens during the eleventh week of pregnancy.

This somatosexual development establishes the basis for a bio-psycho-social model of sex/gender. At a fifth level, within the area of the somatic, the spectrum of hormonal sex is amended. The dominance of androgens or oestrogens varies depending on sex. Furthermore, social gender (culturally ascribed gender roles) is recognised as the sixth level, and psychological gender identity (personal experience, understanding, and self-identification of gender) is identified as the seventh level. Klaus Beier defines the latter as: "Deep and enduring certainty and experience of one's own individuality, one's own behaviour and one's own experience as distinctly and uninhibitedly male or female, or somewhere in" between".¹⁸ Gender identity, in which the somatic and sociocultural components are indubitable contributors,¹⁹ is of particular relevance from a first-person perspective. This results from the "precedurally-dynamic, constantly unfinished integration performance of a person"²⁰ and is intimately tied to the flourishing of one's own identity. This fundamental importance is gaining consideration in an increasing number of countries at the eighth, the normative-legal level, where the predominant focus is on the possibility to decide on one's own civil status and name according to gender identity. Such legal regulations exist for intersex people, varying in their specific forms in Australia, Germany, France, India, Columbia, Pakistan, South Africa, Türkiye, and Taiwan.²¹

¹⁷ For the following context, see the standard scientific work, K. Beier et al., *Sexualmedizin. Grundlagen und Klinik sexueller Gesundheit*, München³2021, 65-112. DOI: 10.1016/B978-3-437-22851-3.50021-9.

¹⁸ Ibid., 66. Own. trans.

¹⁹ „Variability of gender identity supervenes on the underlying biological and psychological conditions, which may be conscious or subconscious, but are unchangeable.“ (C. Kunert, *Geschlechtsidentität und Selbstmodell*, in: G. Schreiber (ed.), *Das Geschlecht in mir*, Berlin/Boston 2019, 157-197, 186. Own. trans. DOI:10.1515/9783110614626).

²⁰ J. Sautermeister, *Sexualität und Identität. Theologisch-ethische und moralanthropologische Reflexionen*, in: K. Hilpert (ed.), *Zukunftshorizonte katholischer Sexualethik*, Freiburg 2011, 112-133, 116. Own. trans.

²¹ Cf. High Court of Australia, *NSW Registrar of Births, Deaths and Marriages v Norrie* (02.04.2014), online resource: <https://www.hcourt.gov.au/assets/publications/>

The eight levels of bio-psycho-social gender are illustrated in graphic 1. Rene's introductory medical case study exemplifies how intersex requires no concordance between the eight levels, and/or how the levels themselves do not adhere to a binary structure. Therefore, even the chromosomal level is not restricted to either XX or XY, but can also include X0 (Turner), XXY (Klinefelter), or Triple-X, although these are quite rare. The central column shows transitional phenomena across all levels. Somatosexual differentiation and the bio-psycho-social model linked to it are far too complex than following a binary determinism.

Bio-psycho-social model of sex/gender			
Level	Male	Inter	Female
1. chromosomes	Rene	transitional phenomena	XX
2. gonads	Rene	transitional phenomena	ovaries
3. internal organs	vas deferens etc.	Rene	uterus etc.
4. genitals	scrotum, penis	transitional phenomena	Rene
5. hormones	androgens	Rene	oestrogens
6. social gender	male roles	transitional phenomena	Rene
7. psychological identity	male self-image	transitional phenomena	Rene
8. civil status	male	divers or N/A	Rene

Thus, from an anthropological interpretation, intersex within the bio-psycho-social model does not refer to a third gender or a

judgment-summaries/2014/hca-11-2014-04-02.pdf. Last accessed: June 03, 2025; Gesetz über die Selbstbestimmung in Bezug auf den Geschlechtseintrag vom 19.06.2024, in: BGBl. 2024 I Nr. 206; Code civil Art. 61-5 – 61-7; Supreme Court of India, National Legal Services Authority vs. Union of India and Others (15.04.2014), online resource: <https://indiankanoon.org/doc/193543132/>. Last accessed: June 03, 2025; Decreto 1227 de 2015 (04.06.2015), in: Diario oficial. Año cli. N. 49532, online resource: <https://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/30019850>. Last accessed: June 03, 2025; Supreme Court of Pakistan, Muhammad Aslam Khaki v. SSP Operations Rawalpindi and others (04.11.2009), online resource: <https://www.icj.org/wp-content/uploads/2012/07/Khaki-v.-Rawalpindi-Supreme-Court-of-Pakistan.pdf>. Last accessed: June 03, 2025; Alteration of Sex Description and Sex Status Act (09.03.2003), online resource: <https://www.gov.za/documents/alteration-sex-description-and-sex-status-act>. Last accessed: June 03, 2025; Türkischer Verfassungsgerichtshof, Judgment No. 165 (29.11.2017), online resource: [https://database.ilga.org/api/downloader/download/1/TR%20-%20JUD%20-%20Constitutional%20Court%20Judgment%20165%20\(2017\)%20-%20OR%20\(tr\).pdf](https://database.ilga.org/api/downloader/download/1/TR%20-%20JUD%20-%20Constitutional%20Court%20Judgment%20165%20(2017)%20-%20OR%20(tr).pdf). Last accessed: June 03, 2025; Taipei High Administrative Court, Wu Yuxuan v. Taipei City Zhongzheng District Household Registration Office (02.12.2021), online resource: [https://database.ilga.org/api/downloader/download/1/TW%20-%20JUD%20\(HC\)%20-%20December%20No.%20110-522%20\(2021\)%20-%20OR-OFF\(zh\).pdf](https://database.ilga.org/api/downloader/download/1/TW%20-%20JUD%20(HC)%20-%20December%20No.%20110-522%20(2021)%20-%20OR-OFF(zh).pdf). Last accessed: June 03, 2025.

discretionary choice of one's own gender identity,²² but rather to create a bipolar space. The theological ethicist Eberhard Schockenhoff summarises as follows:

Effectively, the discourse on the anthropological basic pattern of binary gender cannot be interpreted as a rigid scheme that only allows for an either/or with inescapable constraints. Like all organisational terms of human existence, the anthropological basic pattern of binary gender represents an open framework that requires flexible allocations and exhibits a wealth of variables, deviations, and intermediate stages.²³

Binary genders, in terms of male and female, are organisational terms in anthropology. As such, these terms are reconstructed from real life, must reflect the state of affairs in social and human sciences, and need to be validated through practical application in human life. They are interpretations and comprehensions – but not random constructs²⁴ – of being human. The question is not whether sex/gender should be classified with organisational labels, but which organisational model is persuasive, especially from an ethical point of view.

The bipolar model classifies according to the *types* of *male* and *female*, while the binary model organises according to the *classes* of *men* and *women*.²⁵ These models of structural organisation are clearly distinct: class affiliation is an either/or phenomenon, i.e., either belongs or does not belong to a class. Without exception, all people are classified as either men or women. Types, however, have elements

²² Vgl. S. Cornwall, Bodily Rights and Gifts. Intersex, Abrahamic Religions and Human Rights, in: *Cult Health Sex*. 2020, 1-15, 3. DOI: 10.1080/13691058.2020.1743882.

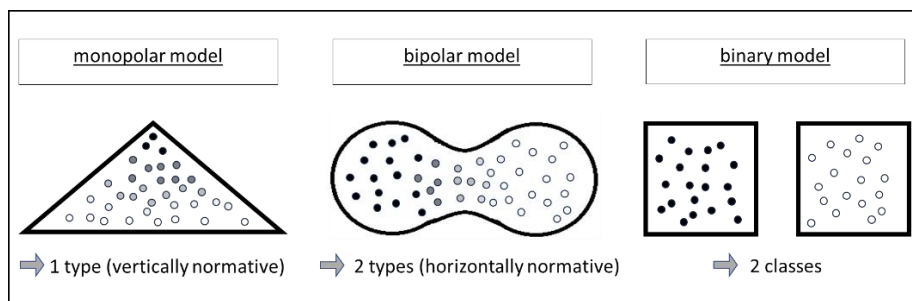
²³ E. Schockenhoff, *Die Kunst zu Lieben. Unterwegs zu einer neuen Sexualethik*, Freiburg 2021, 346. Own. trans. DOI: 10.17879/THRV-2021-3417.

²⁴ In contrast G. Schreiber, *Geschlecht als Leerstelle? Zur Verfassungsbeschwerde 1 BvR 2019/16 gegen die Versagung eines dritten Geschlechtseintrags*, in: *Ethik und Gesellschaft* 13 (2019), 1-29, 3. DOI: 10.18156/eug-1-2017-art-7, who emphasizes a constructivist understanding of sex. This is in contradiction to the physical experiences of people with intersex characteristics.

²⁵ On “classes” and “types” as organizational structures, see subchapter 1.2 in C. Lehmann, *Sprachtypologie und Universalienforschung* (2003), online resource: <https://www.christianlehmann.eu/ling/typ/>. Last accessed: June 03, 2025; A. Lob-Hüdepohl, *Zwischen “männlich” und weiblich” – eine Spurensuche im sexualmedizinischen Befund zur sexuellen Identität*, in: K. Hilpert/J. Sautermeister (ed.), *Kirchliche Sexualmoral vor dem Abgrund? Theologische Perspektiven zum Synodalen Weg*, Freiburg 2023, 171-182, 182. DOI: 10.5771/9783451829789-171.

that are particularly characteristic of them and others that are more peripheral. Differences between types are gradual, allowing for transitional forms.

At present, it is characteristic to think of gender within quintessential duality – binary or bipolar. Thomas Laqueur, an American historian of culture and sciences, has raised awareness of the historical one-sex model, prevalent in classical antiquity.²⁶ This can also be referred to as the pyramidal monopolar-model. There is *one* type, male, which is realised gradually,²⁷ with women and children occupying a lower level of realisation, but not *another* gender. This applies to men as well, conforming more or less to the normative type. The bipolar model expresses equivalence in its horizontal normative structure, as opposed to the vertical normative structure of the monopolar model. The three models are depicted in graphic 2:



These three organisational structures yield significantly different consequences for people with intersex characteristics. Within the monopolar model, they are ranked in an inferior placement, determined by their ability to embody the one male type. The binary model entirely displaces intersex people, while the bipolar model places them impartially on the scale of male and female.

²⁶ Cf. T. Laqueur, *Making Sex. Body and Gender from the Greeks to Freud*, Cambridge/London 1990, DOI: 10.1017/S0025727300054284. On the historical background cf. Ulrike Klöppel, *XXOXY ungelöst. Hermaphroditismus, Sex und Gender in der deutschen Medizin*, Bielefeld 2010, 299f., 586f. DOI: 10.14361/9783839413432. The "early modern idea of a continuum of genders was displaced in the second half of the 17th century by the concept of strict gender dimorphism, only to be taken up again in the 18th century in the form of a gradual stage model" (ibid., 299. Own. trans.).

²⁷ Anders K. Petersen cites Diana Swancutt as follows: The symbol of masculinity during antiquity was „the impenetrable penetrator, he who could not be invaded“ (A. K. Petersen, *Auf der Suche nach einem Rahmen zum Verständnis der Konzeption von Geschlecht und Sexualität im frühen Christentum*, in: Matthias Morgenstern et al. (ed.), *Männlich und weiblich schuf Er sie*, Göttingen 2011, 33-66, 44).

From a historical epistemology perspective, the question is how the binary model became dominant. The only truly binary gender dimension in humans is sexual reproduction.²⁸ It is characteristic of Christian tradition, as well as for state population policy, according to historian Norbert Finzsch, to focus on this dimension.²⁹ Gender is understood and standardised as binary when its ultimate aim is reproduction. It can be described as a reproduction-focused model, since it requires two complementary classes for reproduction.

3. The Binary Model and its Theologically Ethical Consequences

The binary model has dominated the sociocultural consciousness and the medical handling of intersex patients for a long time. As theologian Selma Schwarz has recently demonstrated, parallels also exist in Islam.³⁰ According to US-American theologians Todd Salzman and Michael Lawler, the binary model was enforced in the Christian context with the prevalent idea of complementarianism.³¹ Everything is made dependent on the complementarianism of male and female genitalia, which are, in turn, based on a binary chromosomal complementarity: Two supposedly distinct binary classes of humanity exist that supplement each other on chromosomal, genital, and interpersonal levels.

²⁸ Thus, it can also be referred to as *gender-specific* differences: “These can only be found in those functions and/or structures that are directly linked to the specific functions of the sexes in the process of biological reproduction” (K. Beier et.al., *Sexualmedizin. Grundlagen und Klinik sexueller Gesundheit*, München 2021, 66. Own. trans. DOI: 10.1016/B978-3-437-22851-3.50021-9.).

²⁹ Cf. N. Finzsch, *Abjekte Körper. Zur Kulturgeschichte der Monstrositäten*, Bielefeld 2024, 475. DOI: 10.1515/9783839474488.

³⁰ Cf. S. Schwarz, *Ethische Betrachtungen zu Intergeschlechtlichkeit aus aš‘arītischer theologischer Perspektive*, in: R. Alsoufi et.al. (ed.), *Wege zu einer Ethik*, Baden-Baden 2023, 237-259. DOI: 10.5771/9783748932413-15. A brief, instructive comparison of the three perspectives of Judaism, Islam, and Christianity is available by S. Cornwall, *Bodily rights and gifts. Intersex, Abrahamic religions and human rights*, in: *Cult Health Sex*. 2020, 1-15, 3-7. DOI: 10.1080/13691058.2020.1743882.

³¹ Cf. T. Salzman/M. Lawler, *Reconstructing Complementarity as a Foundational Catholic Sexual Ethical Principle*, in: S. Goertz (ed.), *“Who Am I to Judge?” Homosexuality and the Catholic Church*, Berlin/Boston 2022, 213-231. DOI: 10.1515/9783110705188-008; T. Salzman/M. Lawler, *Sexual Ethics. A Theological Introduction*, Washington D.C. 2012, 64-68. DOI 10.1111/heyj.24_12251; similar in her analysis is S. Cornwall, *Ratum et Consummatum: Refiguring Non-Penetrative Sexual Activity Theologically, in Light of Intersex Conditions*, in: *Theology & Sexuality* 16 (2010), 77-93. DOI: 10.1558/tse.v16i1.77.

The central argument is the biblical narration of creation:³²

So, God created man in His own image, in the image of God He created him; male and female He created them. And God blessed them. And God said to them, "Be fruitful and multiply and fill the earth and subdue it, and have dominion over the fish of the sea and over the birds of the heavens and over every living thing that moves on the earth." (Genesis 1:27f)³³

The logic behind a binary reading of the passage is as follows: God made two classes of people that have complementary genitals, and are enabled and appointed by God to reproduce.³⁴ Human people are either men or women, which has drastic consequences for intersex people on at least four levels.

The consequence of *sexual ethics* is that they can only live their identity as a man or woman within a heterosexual relationship. The *liturgical* consequence for "brothers and sisters" is the "erasure of those who are outside the sex/ gender binary"³⁵ because every form of liturgical language conveys (implicit) normative expectations. *Legally*, they are disregarded in terms of the possibility of marriage, ordination, and joining an order.³⁶ The Catholic Church's canon law is unaware of intersex. The consequence of *medical ethics*, which is the most traumatising for those affected, is the recommendation for paternalistic surgical intervention during early childhood, to conform to a binary, phenotypic pattern.³⁷

The ethical tension lies in the fact that all persons, who cannot be integrated into the binary system – whether based on religious or non-religious anthropology – are made invisible, as there is no place for

³² On the history of the impact of Genesis 1:27f cf. C. Tietz, Ebenbildlichkeit. Vom androgynen Menschen zum zweigeschlechtlichen Gott, in: M. Morgenstern et. al. (ed.), Männlich und weiblich schuf Er sie, Göttingen 2011, 119-138.

³³ The biblical quotation is based on the 'English Standard Version'.

³⁴ Cf. S. Budwey, Religion and Intersex. Perspectives from Science, Law, Culture, and Theology, London/New York 2023, 127-129, 134. DOI: 10.4324/9780429019760.

³⁵ Ibid., 168.

³⁶ Cf. B. Laukemper-Isermann, Transsexualität und Intersexualität in Bezug auf die kirchlichen Ehenichtigkeitsverfahren, in: DPM 30 (2023), 131-141. DOI: 10.22602/IQ.9783745888447; C. Klüner, Die Führung der Pfarrbücher vor den Herausforderungen des 21. Jahrhunderts am Beispiel des Taufbuches, Essen 2020, 113-116. DOI: 10.30965/2589045X-1870218. Additionally, the author expresses his gratitude to Dr. Christoph Koller for his particularly helpful advice on canon law.

³⁷ Cf. M. Lawler/T. Salzman, Sex, Gender, and Intersex. Anthropological, Medical, and Ethical Critiques and Proposals, in: Theology & Sexuality 25 (2019), 205-226, 217-221. DOI: 10.1080/13558358.2020.1722563.

them beyond the two categories. This pertains not only to a more or less significant physical characteristic, but also to their core identity as gendered beings. However, according to social philosopher Axel Honneth, invisibility stands for the violation of claims to recognition.³⁸ Numerous tragic reports from people with intersex characteristics exemplify how this disregard often makes self-acceptance and self-respect impossible.

Intersex people have been and are considered a threat and a danger to the binary order, as shown by Norbert Finzsch's astute analysis in the eighth chapter of his *"Kulturgeschichte der Monstrositäten"*³⁹ (Cultural History of Monstrosities). This is a pathologisation as a deviation from the medical order, a stigmatisation as a deviation from the moral order, and a demonisation as a deviation from the religious order.⁴⁰ To this day, at least in some evangelical Christian circles, intersex people are believed to be the manifestations of illness (pathology), depravity (stigma), and evil (demons) that entered the world with the sin of man.⁴¹ The practices based on the binary model

³⁸ Cf. A. Honneth, *Unsichtbarkeit. Stationen einer Theorie der Intersubjektivität*, Frankfurt 2021, 10-15. Stephanie Budwey in turn formulates the ethical demand: „there is the need for Christianity to articulate the reality that intersex people exist“ (S. Budwey, *Religion and Intersex. Perspectives from Science, Law, Culture, and Theology*, London/New York 2023, 139. DOI: 10.4324/9780429019760).

³⁹ N. Finzsch, *Abjekte Körper. Zur Kulturgeschichte der Monstrositäten*, Bielefeld 2024, 447-529. DOI: 10.1515/9783839474488.

⁴⁰ Cf. K. Mairinger-Immisch, *Mehrdeutige Körper. Über die Anerkennung intergeschlechtlicher Menschen in Theologie und Kirche*, Bielefeld 2024, 49. DOI: 10.14361/9783839466520-021.

⁴¹ „From a theological standpoint we can understand these conditions [intersex; B.S.] as results of the fallen condition of our world, including the natural world. [...] All distortions in the world are to be judged against the divine creational givens. In a fallen world there will be chaos and confusion that extends even to human sexuality. But the normative structure toward which God calls humanity is not the fallenness of nature; it is, rather, God's created designs. Sexual anomalies and abnormalities certainly call us to understanding and compassion for those who experience such distortions, just as any physiological or emotional ailment calls for a similar response. With today's medical advances, many of these distortions can in part be rectified in the direction of divine givens.“ (D. Hollinger, *The Meaning of Sex. Christian Ethics and the Moral Life*, Grand Rapids 2009, 84). Sometimes, persons with intersex characteristics are even denied baptism, cf. S. Cornwall, Introduction, in: S. Cornwall (ed.), *Intersex, Theology, and the Bible. Troubling Bodies in Church, Text, and Society*, London 2015, 1-26, 9f. DOI: 10.1057/9781137349019.0003 or denied their veritable humanity cf. S. Budwey, *Religion and Intersex. Perspectives from Science, Law, Culture, and Theology*, London/New York 2023, 133. DOI: 10.4324/9780429019760. A critical analysis on this logic is offered by Megan DeFranza, *Sex Difference in*

often represent serious forms of disregard and violations of the psychological and physical integrity of those affected.

4. The Bipolar Model and its Theologically Ethical Consequences

The second section outlined how the human sciences advocate for a bipolar organisational model. In addition to this and particularly significant for Christian anthropologies, Gen1:27f does not necessarily have to be interpreted as binary. It is important to emphasise how the accurate use of adjectives "male and female He created them" differs from the common but inaccurate use of nouns "as man and woman He created them". According to the exegetes Irmtraud Fischer and Katharina Pyschny, male and female articulate a bipolar spectrum. In the stylistic figure of merism, totality is expressed by naming the two poles. The differences and the relationism of humans as sexual beings are acknowledged, without "exclusively restricting sexuality to reproduction, i.e. procreation"⁴². Also, in his great "*Anthropology in the Old Testament*" Bernd Janowski emphasises relationalism as the core moment of the narration of creation, as opposed to reproductive complementarianism.⁴³

The belief in humanity as created in the image of God applies to all people, independent of their sex, gender identity, or fertility. This notion is an anchor point in Christian anthropology. Thus, a space is unveiled to intersex people that acknowledges them as being equally part of the class of all human beings and respects their gender identity in the bipolar spectrum. Additionally, passages such as Jesus' appreciation of the eunuchs (Matthew 19:12) and the story "Christ is preached to an Ethiopian eunuch" (Acts 8:26-40) from the New Testament, can be claimed by intersex people.⁴⁴ Graphic 3 depicts the bipolar model of *two types* of gender within *one class* of humanity:

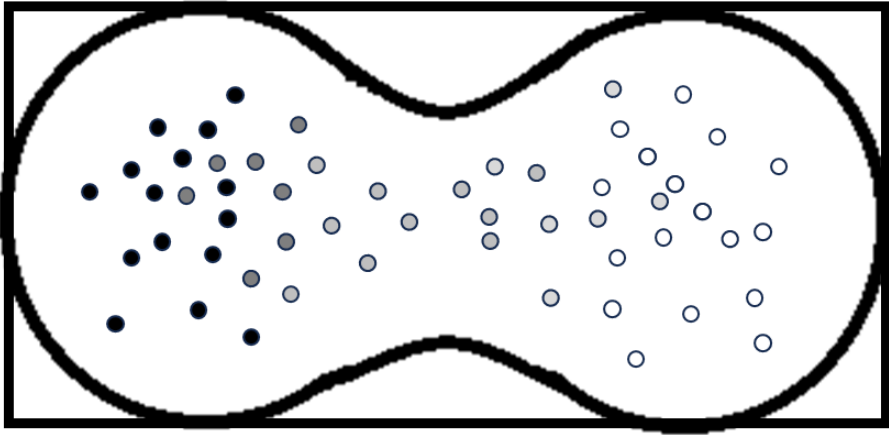
Christian Theology. Male, Female and Intersex in the Image of God, Grand Rapids/Cambridge 2015, 153-183.

⁴² M. Sievers/K. Pyschny, Geschlechtlichkeit und Sexualität im Alten Testament und im Koran, in: Paragrana 31 (2022), 1-24, 5. Own. trans. DOI: 10.1515/para-2022-0002; cf. I. Fischer, Liebe, Laster, Lust und Leiden. Sexualität im Alten Testament, Stuttgart 2021, 46-48. DOI: 10.17433/978-3-17-037027-2.

⁴³ Cf. B. Janowski, Anthropologie des Alten Testaments Grundfragen – Kontexte – Themenfelder, Tübingen 2023. DOI: 10.1628/978-3-16-162801-6.

⁴⁴ Cf. P.-B. Smit, Der „Kämmerer aus Mohrenland“ oder der äthiopische Eunuch? In: J. Koll et.al. (ed.), Diverse Identität. Interdisziplinäre Annäherungen an das Phänomen Intersexualität, Hannover 2018, 47-54. Thomas Söding, biblical scholar, comes to the conclusion: „The bible does not set a black-and-white arrangement that would disallow any gender diversity.“ (T. Söding, Geschlechtlichkeit und

Anthropological-organizational model:



Therefore, a new direction for theological ethics is revealed. This can be specified by the three existential forms of relationships (relationship to oneself, relationship to others, relationship to God), as well as concretised within the contexts of medical ethics and ethics of relationships.

On a fundamental level of one's relationship with oneself, intersex people should be encouraged to learn to perceive, accept, respect, and love their sex and gender identity, because every positive expression of self-love is conveyed physically. Within the Christian tradition, the problematisation of self-love can be identified as one of the reasons, resulting in intersex people being deprived of a positive and thus physical relationship with themselves. In contrast, they must be allowed and enabled to decide for themselves how their bodies should be treated, understood, and valued, as emphasised by the encyclical "*Dignitas infinita*". This suggests that intersex people should be recognised and made visible as such.

On the level of *relationship to others*, the needs of the marginalised, shunned, and vulnerable must be met, and the rights of individuals must be prioritised over supposed physical unambiguity according to the fundamental belief in Christian charity. This must be accompanied by a necessary and enhanced tolerance of ambiguity that allows for

Gottesebenenbildlichkeit, in: K. Hilpert/J. Sautermeister (ed.), *Kirchliche Sexualmoral vor dem Abgrund? Theologische Perspektiven zum Synodalen Weg*, Freiburg 2023, 60-74, 68. Own trans. DOI: 10.5771/9783451829789.

indistinct, ambiguous bodies.⁴⁵ By accepting the "other", "stranger", and "unbecoming" of one's world view, the precept of charity becomes manifest. All forms of pathologisation, stigmatisation, and demonisation are to be overcome as such. Intersex people should instead be provided with professional support services that take their specific vulnerabilities into account and offer support for their challenging work on identity.

In the context of one's relationship with God, intersex people must be able to experience their faith communities as inclusive spaces that welcome them in terms of liturgy, law, and spirituality, as well as the conveyed image of God. An important aspect here is the extent to which the images of the God they believe in and His creation are sensitive to ambivalence, or whether the amorphous gender categories that are applied to the image of God exclude intersex people.⁴⁶ Some people with intersex characteristics can then be empowered to understand and accept their lives as "a specific gift" or as "part of God's plan", as the theological ethicist Susannah Cornwall identified through qualitative research interviews.⁴⁷ It is precisely those people, who are segregated and excluded by human categorisations, to whom God offers his closeness and support.

In the field of *ethics of relationships*, a shift from sexual ethics to relationship ethics is crucial.⁴⁸ The latter integrates sexual acts into the objective of a good partnership: "An important dimension of the human sexual person is the person's integrated relationship to self

⁴⁵ Cf. C. Krannich, *Geschlecht als Gabe und Aufgabe. Intersexualität aus theologischer Perspektive*, Gießen 2016, 42-54. DOI: 10.30820/9783837968002; K. Mairinger-Immisch, *Mehrdeutige Körper. Über die Anerkennung intergeschlechtlicher Menschen in Theologie und Kirche*, Bielefeld 2024, 255-259. DOI: 10.14361/9783839466520-021.

⁴⁶ Cf. *ibid.*, 174-184; S. Budwey, *Religion and Intersex. Perspectives from Science, Law, Culture, and Theology*, London/New York 2023, 140-142. DOI: 10.4324/9780429019760. "Real human diversity better images God's infinity than any constructed and unreal human uniformity" (M. Lawler/T. Salzman, *Sex, gender, and intersex: anthropological, medical, and ethical critiques and proposals*, in: *Theology & Sexuality* 25 (2019), 205-226, 209. DOI: 10.1080/13558358.2020.1722563).

⁴⁷ Cf. S. Cornwall, *Laws "Needfull in Later to Be Abrogated". Intersex and the Sources of Christian Theology*, in: S. Cornwall (ed.), *Intersex, Theology, and the Bible. Troubling Bodies in Church, Text, and Society*, London 2015, 147-166, 159f. DOI: 10.1057/9781137349019_7.

⁴⁸ Cf. K. Hilpert, *Ehe Partnerschaft Sexualität. Von der Sexualmoral zur Beziehungsethik*, Darmstadt 2015.

and, to be moral, a sexual act must be integrated with the whole self.”⁴⁹ Affection, solidarity, fidelity, parental responsibility, and pleasure are the goods of a relationship.⁵⁰ People with intersex characteristics are no exception. The bipolar ethics of relationships is open to intersex people, by encouraging, supporting, and promoting their identity within a couple's partnership, without relativising the significance of procreation or turning it into a normative absolute.

In the field of medical ethics, it is important to challenge the automatic classification of pathologisation and the associated practice of performing operations during early childhood. Those affected must be able to make their own decisions, meaning their right to an open future must be protected as much as possible. Physical integrity, fertility, sexuality, and unrestricted personal development, rather than anatomical differences, are the key considerations goods.⁵¹ Milton Diamond, several countries now take this into account legally by implementing strict criteria for operations on intersex children.⁵²

Overall, theological ethics, which aligns with the Second Vatican Council, understands itself formally as freedom and materially as love,⁵³ and facilitates alternative options for the lives of intersex people within the framework of a bipolar gender order. In doing so, they are fundamentally strengthened and respected in their self-determination and love for themselves as intersex persons.

⁴⁹ T. Salzman/M. Lawler, *Reconstructing Complementarity as a Foundational Catholic Sexual Ethical Principle*, in: S. Goertz (ed.), “Who Am I to Judge?” Homosexuality and the Catholic Church, Berlin/Boston 2022, 213-231, 223. DOI: 10.1515/9783110705188-008.

⁵⁰ Cf. S. Ernst, *Korrekturbedarf gegenüber der Tradition. Zur notwendigen Weiterentwicklung der lehramtlichen Sexual- und Beziehungsethik*, in: K. Hilpert/J. Sautermeister (ed.), *Kirchliche Sexualmoral vor dem Abgrund? Theologische Perspektiven zum Synodalen Weg*, Freiburg 2023, 135-156, 146. DOI: 10.5771/9783451829789; E. Schockenhoff, *Die Kunst zu Lieben. Unterwegs zu einer neuen Sexualethik*, Freiburg 2021, 307-312.

⁵¹ Cf. Deutscher Ethikrat, *Intersexuality. Opinion*, Berlin 2013, 114.

⁵² Cf. Gesetz zum Schutz von Kindern mit Varianten der Geschlechtsentwicklung vom 12.05.2021, in: BGBl. 2021 I Nr. 24; Code de la santé publique Art. L1132-1, L2131-6; Corte Constitucional, Sentencia SU-337/99 der Corte Constitucional (1999), online resource: <https://www.corteconstitucional.gov.co/relatoria/1999/su337-99>. Last accessed: June 03, 2025; Tamil Nadu Government Order (GO) No. 355, Health and Family Welfare (B1) Department (06.10.2022), online resource: <https://tnhsp.org/tnhsrp/images/files/go/G.O.No-355.PDF>. Last accessed: June 03, 2025; Verfassungsgerichtshof, *Entsch. G 77/2018-9 v. 15.06.2018*.

⁵³ Cf. B. Schmidt, *Gottes Offenbarung und menschliches Handeln. Zur ethischen Tragweite eines theologischen Paradigmenwechsels*, Fribourg/Würzburg 2017, 390.

Methodically, what becomes evident is the mutual, conditional relationship between theological, anthropological and ethical reflections. The anthropological organisational models as interpretations must, in turn, satisfy the ethical criterion of enabling the "flourishing of life". The exclusion of intersex people from the binary model reveals a significant methodological deficit within theological ethical discourse. To rephrase positively: Christian "*ordo amoris*" and a bipolar order structure mutually reinforce each other in their persuasive power and create an inclusive space of appreciation for intersex people.