

Intersex: beyond binary sex markers

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Jeff Cagandahan was born and raised as female and was diagnosed to have congenital adrenal hyperplasia early in his 20s. When he was growing up, he developed secondary male characteristics.¹ In 2005, the Regional Trial Court of Laguna granted Jeff his petition to change his given name at birth from Jennifer to Jeff and his recorded

sex in legal documents from “female” to “male.” After a Supreme Court ruling in 2008, all his pertinent records, and legal certificates were amended.² Receiving the Supreme Court ruling was the culmination of Jeff’s long process of navigating through available constructs and practical procedures in our legal and medical systems. At the center of these constructs is the notion that there are only two sexes—male and female.

Sex, usually categorized as male or female, refers to the physical and physiological features of a person, including chromosomes, hormone levels and function, gene expression and sexual anatomy.³ Gender, on the other hand, refers to the “socially constructed characteristics of women and men—such as norms, roles and relationships of and between groups of women and men.”⁴ Intersex is a distinct term used to describe an individual having physical characteristics that do not fit the typical constructs of either a male or a female body.⁵ These individuals appear as female or male on the outside with a typical male or female anatomy, respectively, on the inside or are born with genitals that look in between the typical male and female types. There are at least 40 distinct intersex variations, and between 0.5% and 1.7% of the population is born with intersex traits.⁶

Intersex individuals may be subject to discrimination and abuse when known that they are intersex. In many parts of the world, including Australia and Hong Kong, surgeries are performed to “fix” intersex bodies with the belief that these are unhealthy or abnormal.⁷ In many instances, these “sex-normalizing procedures” are performed while an intersex person is considered too young to be part of the decision-making process.⁸ Unfortunately, these procedures may cause pain, incontinence, loss of sexual sensation, permanent infertility, and mental distress, including depression.⁹

In communities where surgery is not

practiced, discrimination comes in other violent forms such as rituals that entail the murder of intersex persons.¹⁰ This is prevalent throughout African countries.¹⁰ In Malindi, Kenya, a 17-year old boy, born with genitalia of both male and female, identified himself as a man despite being raised as a girl. Because of this, a group of men hired by his uncle drugged him and cut off his penis. The boy died of blood loss.¹¹

Countries are slowly implementing reforms and policies against discrimination of intersex individuals.¹² Malta was the first country to legally prohibit painful, high-risk surgeries on intersex children with no proven medical benefits.¹³ The right to physical integrity is a key human right and is associated with the right to freedom from torture and ill-treatment. “Sex-normalizing procedures,” such as clitoral reduction and gonadectomy,¹⁴ violate the physical integrity of intersex individuals. Directly related to the right to physical integrity of an intersex person is the person’s right to health. In the Philippines, anti-discrimination ordinances for LGBT have been implemented in certain cities, but there are no anti-discrimination legislations in the country for intersex.¹⁵

The Universal Declaration of Human Rights, a United Nations (UN) document that states the basic human rights, repeatedly uses “everyone” and “all” in the document to underscore the universality of human rights and their applicability to every human being, regardless of biologic make up, cultural differences, or regional particularities.¹⁶

The human rights situation of intersex persons has been recently emphasized in the Expert Meeting on ending human rights violations against intersex persons last September 16, 2015 at Geneva.¹⁷

From here on, there are still many things that our society can do to uphold the human rights of intersex individuals. Intersex, along with male and female, should be recognized by the state as a sex. Access to reproductive services and special medical programs must be made available to intersex individuals. Efforts to raise the awareness of health care professionals should be made in order to

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improve the capacity of the health care system to address the special needs of intersex patients. Judicial redress must be available for intersex individuals who underwent “sex-normalizing surgeries” without their consent or against their will.

Practitioners involved in non-consensual and unnecessary medical interventions to intersex individuals must be held liable for their actions.

Everyone, sans distinction as to sex, deserves to be free from the travails that

are associated with the rigid notions of male and female characteristics. Allowing intersex individuals to go beyond our current binary sex markers ensures protection and promotion of their basic human rights.

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