

Progress: A first look at the Ministry of Health Protocol for the provision of healthcare services for the LGBTTTI community (with a focus on the intersex-related parts).

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On June 24, 2017, the head of the Ministry of Health of Mexico, José Narro Robles, M.D., presented the document entitled: [Protocolo para el acceso sin discriminación a la prestación de servicios de atención médica de las personas lésbico, gay, bisexual, transexual, travesti, transgénero e intersexual y Guías de atención específicas.](#) (Spanish for *Protocol for non-discriminatory access to the provision of healthcare services for Lesbian, Gay, Bisexual, Transsexual, Transvestite, Transgender and Intersex people and Specific Care Guidelines.*) This work is the result of an intense collaboration between authorities of the ministry, academics, medical specialists, activists of the communities that make up the LGBTI community and human rights experts.

During the presentation, the minister stressed that "only with institutions aligned to the unavoidable respect for human rights, healthcare free of discrimination can be guaranteed." He also appealed to the staff of the National Health System (that is, all health and social security institutes, federal and state, which together provide medical coverage to most of the Mexican population) to "know and operationalize these guidelines and comply with the provisions of Article 4. of the Constitution of the United Mexican States, which mandates that everyone has the right to health protection, and *it is the responsibility of the federal and state authorities to set mechanisms to guarantee access to health free of discrimination or exclusion, in accordance with the **specific needs** of each population group.* " (*The emphasis is mine*)

From this space, we celebrate the progress of the Mexican State in recognizing the particular problem faced by intersex people who are intervened by medical services. This understanding starts from the definition of the term "sex" provided in the Protocol, since it goes beyond typical binary definitions, takes up the social factors involved in the understanding and classification of sex, but also comprises **the diversity of biological factors** that define the body of Intersex people at birth. Within the definition, the following fragment stands out, which cites the text of Julie A. Greenberg, *Intersexuality and the Law. Why Sex Matters* (2012):

Intersex people evidence that, **biologically**, there are not only two options for the various factors [that contribute to the determination of a person's sex]. There are people, for example, with a different chromosomal sex. [...] ***Intersex people demonstrate the limitations of***

creating these categories: genitals can say little of a person's sex.
(Emphasis mine)

The protocol is based on a set of guiding principles, which must serve as a criterion of medical practice, and which are fundamental to the exercise of an observant practice of human rights. From our perspective, there are three principles in this list that stand out: **autonomy** ("conviction for respect of the individual's ability to act freely and make decisions according to his convictions and beliefs"); **beneficence** ("respect for their fundamental rights"); and **non-maleficence** ("imperative to do no harm", known in the medical-legal language as *primum non nocere*).

The next address of the protocol to the problems faced by intersex people comes in the section about care of children and adolescents. The term *variations in sex differentiation* (a term that has been coined by the Ministry to refer to variations of sexual characteristics at birth, which gives rise to a non-pathological interpretation, and which in itself constitutes one of the main merits of the document) is introduced. It acknowledges that children and adolescents are "individuals in the process of development" and that, because of their characteristics, "may require specific attention". This attention, however, does not seek to normalize the body of the individual. In fact, the protocol establishes that the function of the multidisciplinary team is to advise during the process of sex assignment, without forcing the acceptance of any treatment or surgical procedure; rather, the objective of this counseling is to guarantee the right to the (legal) personality of the newborn ("their right must be guaranteed ... by assigning the gender for their legal registration").

The main feature in the subject of care for intersex people is found in the Specific Care Guideline, entitled *Guía de recomendaciones para la Atención de Intersexualidad y Variación en la Diferenciación Sexual* (Spanish for Recommendations Guide for Care of Intersex and Variations in Sex Differentiation), pages 36-42. **It is an innovative guide, which, to be understood, must be read within the local (and regional) context.** The Mexican reality, immersed in a historical conservatism that comes from convictions and dogmas based on the Christian faith (especially in the Catholic Church), is packed of stereotyped notions on what defines an individual as a man or woman (making no room for anything in the middle), as well as the social role that is expected of the sexed individual, and what his/her essence and actions express of him/herself, but also of his/her parents and immediate family. In this demanding context, it is understandable that, in order to respond to the emergency that our intersexed bodies represent to society, Mexican medical practice has implemented the protocol of care originated in the US for more than half a century. This practice allowed, in the eyes of the parents of intersex people, the assimilation of the individual

to society. The problem with this approach is that it ignores the individual's self-interest, sacrificing the possibilities of his/her body to the pressure of social structures, intolerant to any difference in sex configuration, structures that are based on fears, anxieties and fantasies. However, for some years to date, members of the Mexican medical community have begun to raise a reasonable doubt about the pertinence of continuing the practice inherited by their predecessors. For example, in 2009 a physician from one of the most renowned high-specialty hospitals in Mexico City, home to one of the major intersex intervention clinics, was questioned about whether such interventions were necessary. His response was that it was difficult to stop doing them, because "the cultural level [in the country] is very narrow: we are either 'A' or 'B'" (Rea Tizcareño. [Intersexuales: la notable excepción a la regla](#), *La Jornada*, May 7, 2009). This reflects an understanding of the difficulties of the Mexican context, but it also suggests that many physicians in position of taking action are no longer convinced that the current approach is adequate, that is: **a person's sex characteristics don't need any medical intervention**. Change has to take place at the social level.

The *Recommendations Guide...* acknowledges the questioning of the current medical approach and procedures implemented since the 1950s: "These medical interventions, which are regularly oriented towards the use of genital surgery in children, are currently questioned and have come to be categorized as ways of medical abuse", which is a clear reference to the Yogyakarta Principles of 2008 and the [joint document of UN agencies on the elimination of forced sterilization, coordinated by WHO in 2014](#). In another paragraph, and referring to [the second hearing of the IACHR of March 20, 2017](#), it states: "The configurations and forms of intersex bodies previously considered malformations can now be assimilated as **possible expressions of the variability inherent in human life**" (*emphasis mine*). In this sense, the Guide recognizes that "human rights recommendations [...] that have been set out in recent years" must be also integrated to the discussion.

Maybe the main merit of this Guide is its acknowledgement in the necessity of medical practice to reflect on itself from the lens that represent the strong judgment of current procedures, judgment that relies in the testimonies of intersex people who have risen their voices to claim their human rights and those of future generations.

In this sense, there are key values of clinical action urgent to be brought into daily practice. This guide brings hope to the possibility. First, it recognizes the need to provide **full information** to parents and individual, and the importance of open and complete communication to mitigate parental uncertainty. This brings us to another point: **consent**. Consent is no longer solely in the hands of parents. The

recommendation is now *to delay any procedure until the very individual is able to decide* (an example of this is the indication of stopping vaginoplasty in girls until "maturity and awareness necessary to request and consent to permanent modification procedures" are available). This translates into a **recognition of bodily autonomy and self-determination**. By involving the individual (child or adolescent) in the discussion about the pertinence of the procedures, and the times in which they got to be carried out, the way is paved for mitigating secrecy and stigma to a minimum, in favor of psychological development with less prejudice. The need to break with stigma demands the inclusion of peer support groups (this in order to provide a sense of belonging), and the accompaniment to parents to reduce the degree of anxiety and give way to their concerns, from a positive attitude towards bodily diversity. Only in this way can we in addition guarantee **respect to the physical integrity**. The guide goes further: each case is particular, and as such, admits that it is impossible "to unify processes that are in themselves different." For this reason, while there's a stress on safeguarding the rights to bodily autonomy and making decisions before "decisions involving irreversible changes", surgical procedures are restricted to cases of newborns where "life or functionality of people is at risk". This covers conditions encompassed under the broad definition of intersexuality, such as bladder exstrophy, where intervention might be justified.

For all the above, the mere publication of the *Guide...* represents an honest and promising effort. The fact that the Ministry of Health decided to assume a new paradigm, oriented to accept that reality is diverse and not restrictive, lays the grounds for a work that implies the sensitization and training of providers of health services; but it also demands that all of us, parents, educators and civil society in general, get to build spaces more open and tolerant, that promote the possibility of a fulfilling life.

Change will be gradual. Setbacks are to be expected. Resistance to change has been the constant of any social process. But we are on a path where there is no going back. This Protocol and the Care Guide represent clear, concrete hopes that it is possible to dialogue and build with the medical community in favor of a better future for others, for all. We can not correct the mistakes of the past, but here's a chance to work for a fairer present for everyone.

[*Press release from the Mexican Ministry of Health \(in Spanish\).*](#)

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