Destination

EQUALITY

summer 2014

INTERSEX
This edition of Destination->Equality is a concrete proof of an ongoing learning process within ILGA-Europe. To be honest, when we became an LGBT“I” organisation six years, our collective knowledge on the issues faced by intersex people was very limited. Not to mention that we all felt a severe lack of legitimacy in talking about the rights of intersex people. What did we know about the demands of intersex people after all, since so few of us had engaged with intersex activists until then? Hence, we – the staff, the board, the members – embarked on a journey to listen, to learn and to engage. We have clearly not reached our final destination, but as an organisation, we have come a long way.

I no longer count the number of times when I have to explain what the “I” stands for in “LGBTI”. I take this as a sign of the tremendous work that needs to be done to give visibility and to educate about the rights and needs of intersex people. And intersex people themselves need to be at the core of this work. No one is better placed to explain the rights violations, the stigmatization and the pain then those who have experienced it. Nor is anyone better placed to know the ways to put an end to these situations. This is why I, like everyone in ILGA-Europe, is committed to support the emerging intersex movement in building its capacity and to stand with intersex activists to amplify their voices wherever it is needed.

And so, I am proud to present this edition dedicated to the rights of intersex people, which not only presents ILGA-Europe’s work on the issues, but more importantly introduces the work of intersex activists. Our sincere thanks to Morgan Carpenter, Dan Ghattas and Del LaGrace Volcano for contributing so successfully to shedding light the issues faced by intersex people, on existing good practices and ongoing legal and political battles, as well as for inspiring us with creative ways to advocate for rights. Lastly, we are grateful for the contribution from Nils Muižnieks, Commissioner for Human Rights, who is showing such great leadership in putting the rights of intersex people firmly on the human rights agenda.

Sophie Aujean, Senior Policy and Programmes Officer, explains how ILGA-Europe’s work on intersex issues has evolved, the importance of the three intersex forums in this context and what is on the agenda of ILGA-Europe in the coming years.

Following the decision taken at the 2008 Vienna Conference to include ‘intersex’ in ILGA World’s name and mandate, ILGA-Europe initiated a long thinking process about the best way to bring added-value to the growing intersex movement. It was very clear for ILGA-Europe at the time that our priority needed to focus on increasing our internal knowledge about issues faced by intersex people, examining our legitimacy to work on intersex issues, on ensuring that intersex organisations had a voice within ILGA-Europe and on supporting their capacity-building.

When we prepared the strategic plan for the period 2011-2013, the issue of intersex rights gained prominence amongst our member organisations, including intersex groups who expressed an interest in ILGA-Europe integrating intersex issues within its work. A specific objective on “consolidating ILGA-Europe’s capacity to advance the rights of intersex people” was therefore included in the final strategic plan. The first concrete action that followed was a training seminar for the staff and board of ILGA World and ILGA-Europe in Brussels in September 2011. The training was followed by the first international intersex forum, an event which kick started ILGA-Europe’s work on intersex issues.

THE INTERNATIONAL INTERSEX MOVEMENT FINDS ITS VOICE

The idea behind the intersex forum was to create an opportunity for intersex activists to come together and identify possible areas of joint work. The aim was also to reflect and take into account the diversity of the intersex movement. In order to meet the diverse needs of intersex activists, various types of sessions were held during the three forums; space was created for sharing of personal experiences of trauma, for discussions on advocacy strategies and on the formulation of political demands. While ILGA World and ILGA-Europe provided financial support for the forums, intersex activists were increasingly given ownership for the direction and the organisation of the events.
because we felt that our expertise on intersex issues was still not named explicitly under our advocacy goals, it is only vision and mission: “sex (intersex)”. And while intersex issues are formulation, to include a new ground of discrimination in our the first time, ILGA-Europe also chose, although imperfect in its set as one of its  strategic objectives to “consolidating ILGA- advocate for the rights of intersex people. This will continue to be our priorities over the next few years, i.e. to contribute to empowering intersex people and activists in finding their own voices and to over the next few years, i.e. to contribute to empowering intersex people on the other hand. A group of activists met and discussed possible recommendations regarding identification documents and legal gender recognition. A significant outcome of the 3rd intersex forum was the recommendations adopted by participants on a wide range of issues of concerns for intersex people. The adoption of these recommendations was not only a very positive step in terms of movement building, it has also become a reference document for the many LGBTI activists eager to support intersex activists and to promote the rights of intersex people.

WHAT IS ON ILGA-EUROPE’S INTERSEX AGENDA?

Over the past five years, ILGA-Europe has thus focused on providing support to an emerging intersex movement while enhancing its own capacity and legitimacy to advocate for the rights of intersex people. This will continue to be our priorities over the next few years, i.e. to contribute to empowering intersex people and activists in finding their own voices and to build our knowledge of intersex issues and our legitimacy to advocate for the rights of intersex people.

In ILGA-Europe’s new Strategic Plan (2014-2018), the organisation set as one of its strategic objectives to “consolidating ILGA- Europe’s capacity to advance the rights of intersex people”. For the first time, ILGA-Europe also chose, although imperfect in its formulation, to include a new ground of discrimination in our vision and mission: “sex (intersex)”. And while intersex issues are not named explicitly under our advocacy goals, it is only because we felt that our expertise on intersex issues was still incomplete and with the view of revising this at the review of our strategic plan in two years’ time.

In more concrete terms, this is what ILGA-Europe is currently doing on the rights of intersex people:

>>Jointly advocating for the rights of intersex people
ILGA-Europe is progressively mainstreaming intersex issues within its different working areas. We are identifying the situations where intersex people are specifically at risk of human rights violations or the opportunities for further advocacy strategies, and finding ways to engage with policy-makers together with intersex activists

The most obvious area where intersex issues must be raised is health. In this context, first contacts have been taken with the European Commission’s Directorate General for Health and Consumers to raise awareness on violations of the right to health faced by intersex people across Europe. When it comes to the area of education, it is critical to highlight the impact of gender stereotypes on incidents of school bullying that intersex young people may be confronted with.

Initiatives in the field of children’s rights may also provide great advocacy opportunities. For instance, ILGA-Europe has supported the successful work led by intersex activists aiming at amending a resolution by the Parliamentary Assembly of the Council of Europe on children’s right to physical integrity.

ILGA-Europe, in some cases in cooperation with the LGBT Intergroup of the European Parliament, is organising meetings between intersex activists from OII Europe (Organisation International Intersex Europe) and policy makers at EU level, in the areas of non-discrimination and health. Other areas could be picked out, such as education, research and hate crime.

We are also exploring the possibilities of leverage offered by EU mechanisms (legislation, soft law, programmes, funding, etc.). For instance, we have recently jointly contributed with OII Europe to a submission from an intersex people’s rights perspective on the implementation of the EU Directive on gender equality in access to goods and services.

Together with intersex activists, we are also raising the awareness on intersex issues of our partners from other NGOs based in Brussels.

>>Enhancing the capacity of intersex activists
In relation to capacity-building, ILGA-Europe plans to continue to provide support to intersex activists based on the needs to be defined by European intersex activists, whether it is strategic advocacy planning, organisational learning and/or familiarisation with the European institutions (EU and the Council of Europe).

We have been extremely proud to be able to support the intersex movement over the last few years and would like to thank intersex activists for their trust and wonderful contribution to this process.
The ‘I’ in LGBTI is still a relatively unknown territory for most activists, human rights defenders, policy makers and practitioners. To get a full picture and understanding of the issues faced by intersex people, it is vital to get familiar to the basic concepts. We have joined forces with Morgan Carpenter from OII Australia to map out an overview of basics on intersex.

**WHAT IS INTERSEX?**
Intersex is a term that relates to a range of physical traits or variations that lie between stereotypical ideals of male and female. Intersex people are born with physical, hormonal or genetic features that are neither wholly female nor wholly male; or a combination of female and male; or neither female nor male. Many forms of intersex exist; it is a spectrum or umbrella term, rather than a single category.

**WHEN DO INTERSEX INDIVIDUALS FIND OUT THAT THEY ARE INTERSEX?**
An intersex individual is born intersex. Some common intersex variations are diagnosed prenatally via pre-natal genetic screening. Intersex differences may be visibly apparent at birth. Some intersex traits become apparent at puberty, or when trying to conceive, or through random chance. Other instances may only be discovered during an autopsy.

**HOW MANY INTERSEX PEOPLE ARE THERE?**
The lowest popular statistic is around 1 in 2,000 people (0.05% of births) but a more likely figure is closer to 1.7%. This makes intersex differences about as common as red hair. This means that in Europe, of 742.5 million people (2013) there could be between 371,250 to 12,622,500 intersex people.

**ARE INTERSEX INDIVIDUALS HERMAPHRODITES?**
Biologically, no. Hermaphrodites (such as snails) possess fully functioning sets of both “male” and “female” sex organs. This is impossible in mammals. Linguistically, the word originates in the Greek myth of Hermaphroditus who was both male and female, having elements of both sexes. In the recent past, some intersex diagnoses were termed “pseudo-hermaphrodites” or “true-hermaphrodites”. While some intersex people use the term, others find it stigmatising due to that medical history. If you are in doubt about using the term – don’t. The word *intersex* is more widely understood and not stigmatising.

**DO INTERSEX INDIVIDUALS IDENTIFY AS ‘IN BETWEEN’ THE BINARY GENDERS?**
Intersex is not about gender identity. Intersex people have just as broad a range of gender identities as non-intersex people. Some intersex people are men, some are women, and some have other identities.

**ARE INTERSEX INDIVIDUALS SICK?**
Intersex people, like all people, have health issues. In a few diagnoses, immediate medical attention is needed from birth, but being intersex is not a health issue in itself. Natural intersex bodies are most often healthy. Intersex people frequently need hormone replacement, including as a result of medical intervention.

**WHY ARE INTERSEX INDIVIDUALS SUBJECTED TO MEDICAL INTERVENTION?**
Medical intervention attempts to make intersex individuals’ bodies conform to ideals of male or female. Current medical protocols are based on the ideas that infant genital surgery will “minimise family concern and distress” and “mitigate the risks of stigmatisation and
Surgical interventions intrinsically focus on appearance, and not sensation or sexual function. Childhood cosmetic genital surgeries are also problematic as children cannot consent to them. Adolescents, and even adults, have also reported feeling pressured by doctors and family to conform to societal norms. Some doctors still believe that disclosure of a person’s intersex status would be too alarming. Very many intersex people suffer the physical and emotional effects of surgery, and related shame and secrecy. At a fundamental level, homophobia, intolerance and ancient superstitions underpin contemporary mistreatment of intersex people.

WHAT IS DSD? IS THIS THE SAME AS INTERSEX?
In 2006, the medical community replaced the term intersex with “Disorders of Sex Development” or DSD. The collective term DSD reinforces the idea that intersex traits are individual medical conditions or disorders that need to be fixed. Stigmatising language leads to poor mental health, marginalisation, and exclusion from human rights and social institutions. Today, some intersex people use the label – especially those who were taught DSD by their parents or doctors since the term’s inception. Intersex people are free to use any label, and the term intersex remains widespread today. The term intersex promotes equality and human rights for people born with atypical sex characteristics.

ARE INTERSEX PEOPLE TRANS?
A minority of intersex people change gender, and some of them may self-identify as transgender, but almost all intersex people have had medical treatment to confirm their sex. Often that intervention was something they had no choice about. Many will not fully identify with their assigned gender. This is part of the intersex experience, but it doesn’t make intersex people trans.

IS GENDER IDENTITY, AS A PROTECTED GROUND IN THE AREA OF ANTIDISCRIMINATION LEGISLATION, COVERING INTERSEX PEOPLE?
This is unlikely: it’s not about gender identity. Australia introduced a new ground called “Intersex status” in 2013 [see on page 6]; the Council of Europe Commissioner for Human Rights recently described this as a “powerful tool” to foster equality [see on page 7]. Intersex may be covered by “sex” in some countries. Intersex activists have recommended ILGA-Europe and other organisations to work on issues faced by intersex people using the ground of sex, but also to include intersex, to avoid hierarchy between grounds, and increase the visibility of intersex.

ARE INTERSEX PEOPLE GAY, LESBIAN, OR QUEER?
It depends on the individual, how they define their gender and identity, how they present, and who they form relationships with. Every intersex person is different. Like all people, some intersex individuals are LGB or queer, and some are heterosexual. However, LGBTI activism has fought for the rights of people who fall outside of expected binary sex and gender norms. Intersex is part of LGBTI because of intersex status and a shared experience of homophobia, not because of sexual orientation or gender identity.

Reports to read:
- Thematic report on Discrimination against trans and intersex people on the grounds of sex, gender identity and gender expression by European Network of Legal Experts in the non-discrimination field, written by Silvan Agius & Christa Tobler, supervised by Migration Policy Group, 2012

Books to read:
- Fixing Sex: Intersex, Medical Authority, and Lived Experience by Katrina Karkazis, 2008
- Golden Boy: A Novel by Abigail Tarttelin, 2013

Films to watch:
- Intersexion, 2012
- Orchids: My Intersex Adventure, 2011
- XXXY, 2000

Find more information and links to national organisations working on intersex issues in Europe on the website of OII Europe – Organisation International Intersex Europe: www.oiiorg

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In the past year, Australia added “intersex status” to anti-discrimination law, improved medical access, established guidelines for gender recognition, and published a Parliamentary report on the forced sterilisation.

**ANTI-DISCRIMINATION LEGISLATION**

Inclusive legislation took effect in August 2013. Initially plans were to include intersex in a definition of gender identity, and only protect people with male or female identities. Fears of a third sex, and issues around toilets, were behind this, even though we don’t regard intersex as an arbitrary third sex, and disability legislation already provides for accessible toilets. After much dialogue, the law authentically recognises “intersex status” as biological, distinct from sex, gender identity and sexual orientation. It offers genuine, useful protection.

It contains exemptions. As intersex is biological, the government believes there are no grounds for religious exemptions, which sometimes apply to LGBT people. Gender identity protection does not require recognition of non-binary identities. On the other hand it’s not ok to be refused a service.

On foot of this, the government committed to removing sex or gender from descriptions of medical procedures, ensuring our health system is open to all with relevant need. It’s a good start, even though our Pharmaceutical Benefits Scheme still has gender-specific language.

**X SEX MARKER**

Passports with an X sex marker have been around for a decade. Travelling to Europe is straightforward, but passport holders can’t fly to the US, nor even book a meeting with their consulate. New guidelines clarify that the federal government prefers to collect data on gender. They enable all adults to identify gender as F, M or X. They even recognise that people who otherwise prefer an X can obtain a passport with an M or F, enabling travel that is otherwise impossible.

**NEXT: ENDING FORCED MEDICAL INTERVENTION**

Victoria, a State, has public guidelines on medical intervention. This is commendable, as protocols elsewhere are not subject to scrutiny, but psychosocial rationales include “reduced opportunities for marriage”, reduced “capacity to earn an income, risk of social isolation”. These are unacceptable; they compare to rationales for female genital mutilation.

In 2013, a Senate Committee reported on the “Involuntary of coerced sterilisation of intersex people in Australia” saying:

“As OII commented, normalisation surgery is more than physical reconstruction. The surgery is intended to deconstruct an intersex physiology and, in turn, construct an identity that conforms with stereotypical male and female gender categories”.

Surgeries happen even while a major clinician group acknowledges “particular concern” regarding post-surgical sexual function and sensation.

The report describes preconceptions of “normality” leading to intervention as raising “disturbing questions”. Therapeutic sterilisations also take place due to risk of cancer, but the Committee was disturbed by the ability to use this to avoid scrutiny.

This must change. Intersex people need bodily autonomy.

**INTERSEX HUMAN RIGHTS IN EUROPE:**

**Dr. Dan Christian Ghattas** from OII Europe is presenting an overview of the advocacy work that has been carried out so far on a European level.

Intersex people have only been advocating for their rights since the 1990s. Now we can witness the increasing strength of the intersex movement, advocating successfully today for the rights of all intersex people at national as well as European level. And indeed, the awareness of policy makers and stakeholders is growing:

In 2012, the Swiss National Advisory Commission on Biomedical Ethics acknowledged the suffering of intersex persons and called for an end to forced normalising surgery.

The 2013, the Parliamentary Assembly of the Council of Europe (PACE) report on Children’s right to physical integrity emphasises that intersex is not a medical but a social issue and that intersex children, their parents and families need counselling and support that is not only provided by medical professionals but by intersex advocates themselves.

Also in 2013 Norway adopted a comprehensive legislation prohibiting discrimination and harassment covering intersex people.

In 2014, the Finish Parliament has required the Government to explicitly include protection for trans people and intersex
Nils Muižnieks, Council of Europe Commissioner for Human Rights, is explaining why the rights of intersex people should be put more firmly on the human rights agenda of national governments.

Intersex people encounter serious barriers to the enjoyment of their human rights as they cannot be easily identified as male or female at birth. Parents of intersex babies are often ill-informed and medical professionals can be quick to propose “corrective” surgery and treatment aiming to “normalise” the sex of the child. Such treatment can result in irreversible sex assignment and sterilisation performed without the fully informed consent of the parents or, even more importantly, the intersex persons themselves.

The early “normalising” treatments do not respect intersex individuals’ rights to self-determination and physical integrity. When operations are not necessary on medical grounds, they should only take place at an age when intersex persons can give their consent. Adequate counselling and support to intersex children, their parents and families is necessary, also from intersex advocates.

Another hurdle for intersex people is the legal recognition of their sex on birth certificates and other official documents. In fact, a person without a clearly identifiable sex can fall into a limbo of unrecognised personal status without official documentation. Intersex individuals should be granted full legal recognition from birth and amendments to their sex or gender classification should be facilitated to reflect their individual choices later on.

We need more information about discrimination intersex persons continue to experience as adults. The protection offered by equal treatment legislation should be extended to cover intersex status as well. In addition, governments should review current legislation and medical practices to identify gaps in the protection of intersex people and take measures to address the problems. The enjoyment of human rights cannot depend on the sex of the person.

Moving Forward – Slowly But Steady

people in the Gender Equality Act. The reform of the law is currently under way.

Lastly, it was encouraging to see the Council of Europe’s Commissioner for Human Rights, Nils Muižnieks, sending a strong signal to the Member States [see article above].

However, good will is not enough and well intentioned legislation may have counter-productive effects: the 2013 German reform of the gender marker law is quite ambivalent. This law and its implementation guidelines force parents to leave the sex marker on the birth certificate blank if the newborn is medically diagnosed as intersex. There is no regulation so far about the civil rights of a person with a blank sex marker, e.g. in the area of marriage and civil partnership. A blank sex marker will out a child as intersex and may lead to even raising pressure on the parents to normalise the child.

The German law raises interesting questions about the European anti-discrimination and equality directives: they have never been interpreted as covering a sex outside the male/female sex binary option. Are people with a blank sex marker covered under that legislation?

Any new legislation at national or European levels should be inspired from the human rights based demands of the intersex community formulated at the 3rd International Intersex Forum [as described in the article on page X] in 2013. Those demands raise the right questions and give the right answers: To respect, protect and promote the human rights of intersex people in all areas of life.
I have an ongoing project entitled VISIBLY INTERSEX which features intersex activists from around the world. Although I started this project in 1996 it wasn’t until 2011 that I found more than a scattered few intersex individuals who were willing to be out, proud and visible. While I am convinced that visibility is important I’m not sure that simply creating portraits of intersex individuals goes far enough. What do you see when you look at the portraits of my intersex friends and comrades? People who pretty much look like everyone else. One particular individual, Mauro Cabral [see cover photo], chose to go a bit further, to show his scars and write a short polemic about the way his identity, which is both intersex AND trans has been constructed.

In many, if not most ways my art IS my activism. My own gender non-conforming intersex body is the primary source material for my latest body of work, INTER*ME. This work is a radical departure from how I have worked previously, in super saturated colour and with the subject looking back at the viewer in a way that precludes objectification or pity. INTER*ME is an exploration of an aging hermaphroditic body that resists the compulsion to create an image that conforms to contemporary standards of beauty or the homonormative urge to make a ‘positive image’. At the same time I find these images compelling, even though looking at (and making them) requires me to step outside my ego, to let go of my need to look any certain way and accept my sagging skin and baggy buttocks. This work forces me to acknowledge that the youth and beauty I never knew I possessed has left the building, once and for all.

For more than 30 years Del LaGrace Volcano has been creating visual and textual art, photographic monographs, performances, lectures, texts and exhibitions featuring gender non-conforming bodies, sexualities and identities. Volcano’s primary strategy of resistance is a commitment to increasing intersex visibility, as well as issues surrounding all of us who cannot or will not submit to heteronormative gender norms.

BoDieS tHat QueeR

* are bodies we fear to have and to hold to watch become old.
As we wrinkle and flake we must cut forebode bodies that queer are bodies that break.
But break though we might queer bodies are strong. Like everyone else we want to belong.

* But belong to what? (I hear your brain scream.)
What kind of queer fits into a home?
Bodies that queer are do-it-ally strange (But that doesn’t mean we’re never the same.)
Queer bodies are bodies that refuse to restrain or restrain our pleasures, our fuck ups, our pain.

HERM bodies are measured, prodded and poked. We’re out of and sold as a cultural joke.
Queer bodies are bodies that queer belong to families that hate us or just who we fool wrong.
Queer bodies are bodies that refuse to restrain our pleasures, our fuck ups, our pain.

Queer bodies are hot. We will always exist.
Queer bodies are bodies that queer. We do it in spite of, because of our fear.
Queer bodies are bodies that queer. We must not forsake. Queer bodies, OUR bodies, are the bodies we make.

RESISTANCE IS FERTILE!