



GATE shares today, 24 March 2020, this **Briefing** to commemorate the *International Day for the Right to Truth Concerning Gross Human Rights Violations and for the Dignity of Victims*. By sharing it we seek to contribute to the immense global effort carried out by intersex activists and our allies to advance the right to truth for all.

This Briefing introduces some key concepts, facts and recommendations. It is a *work in progress* and, as such, your comments, suggestions and contributions are more than welcome.

## **INTERSEX PEOPLE AND RIGHT TO TRUTH**

*“The implementation of the right to the truth can only be effectively achieved when victims of human rights violations are able to assert their rights and starts the process of dealing with their past”.<sup>1</sup>*

### **1.**

**The International Day for the Right to Truth Concerning Gross Human Rights Violations and for the Dignity of Victims** is observed each year on March 24. It was instituted by the United Nations in 2010 to commemorate the assassination of Archbishop Oscar Arnulfo Romero from El Salvador, who was killed in 1980 after denouncing human rights violations in the country. Its observation reiterates [the rights of individuals, families and societies to know](#) what happened to “victims of summary executions, enforced disappearance, missing persons, abducted children and torture”, including the specific circumstances of those events, who were involved in them, and the reasons for them.

In 2011, the United Nations established the **Mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence**. Since May 2018, Mr. Fabián Salvioli (Argentina) holds the Mandate, succeeding Mr. Pablo de Grieff (Colombia).

Historically, the right to truth has been associated with **transitional justice**, including those measures implemented to redress human rights abuses. Measures have included truth commissions, reparations programs, institutional reforms, and prosecutions. They are enacted for political transitions, from dictatorships or other autocratic regimes or armed conflicts to democracies. The right to truth is rooted in both human rights law and humanitarian law, but also in human rights movements. It not only includes state actors, but processes “from below”, defined by “the actions of community, civil society and other non-state actors in their opposition

---

<sup>1</sup> Report of the Office of the UN High Commissioner for Human Rights on the Right to Truth, [A/HRC/12/19](#), 21 August 2009, p. 3.

to powerful hegemonic, political, social or economic forces”<sup>2</sup>. The same logic can be applied to the Right to Truth as **reclaimed by groups structurally marginalized, excluded and/or oppressed within otherwise mature democratic regimes**, including, for example, indigenous people, Black and other racialized people, people living with disabilities, survivors of psycho-medical violence **and LGBTI people**, just to name a few. It not only concerns the transition between conflict to peace, but also social and institutional transformation.

In 2017, [the Yogyakarta Principles Plus Ten](#) introduced **Principle 37 on the Right to Truth**. It affirms that

“Every victim of a human rights violation on the basis of sexual orientation, gender identity gender expression or sex characteristics has the right to know the truth about the facts, circumstances and reasons why the violation occurred. The right to truth includes effective, independent and impartial investigation to establish the facts, and includes all forms of reparation recognized by international law. The right to truth is not subject to status of limitations and its application must bear in mind its dual nature as an individual right and the right of the society at large to know the truth about past events”.

Principle 37 also includes several **State obligations**, such as: providing redress to victims; ensuring effective access to remedies, support and treatment; and protecting access to medical records. It calls for knowledge of the truth, preservation of evidence, access to archives, dissemination of facts, commemoration of victims, and establishment of processes to uncover the truth and provide truth-seeking mechanisms to benefit "families, communities and societies at large".

## 2.

Intersex people are born with physical sex characteristics (such as sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns) that do not fit typical definitions for male or female bodies.<sup>3</sup> Over the last eighty years, and in many countries around the world, **intersex people have been subjected to so-called ‘normalizing’ interventions**, including surgical and mechanical procedures, and hormonal and other chemical treatments. **These interventions are not medically necessary**; their main goal is to modify intersex bodies to fit gender and sexual stereotypes. As most of them are routinely performed *in utero*, during infancy and childhood, **‘normalizing’ interventions take place without intersex persons’ informed consent**. They include pre-natal treatment, clitoridectomies, vaginoplasties and other genitoplasties, gonadectomies, hypospadias ‘repairs’ and dilations, among other procedures.

---

<sup>2</sup> McEvoy, K & McGregor, L. eds. (2008) *Transitional Justice from Below. Grassroots Activism and the Struggle for Change*. Oxford and Portland: Hart Publishing, p. 6.

<sup>3</sup> Office of the High Commissioner for Human Rights (2019) [Background Note on Human Rights Violations Against Intersex People](#), p. 6. As expressed by the same document “intersex people use different terms to describe themselves, their bodies, sex characteristics”, including intersex, persons with an intersex variation or trait, or born with a variation of sex characteristics, or an intersex condition, or differences of sex development. “It is important to always respect people’s choice of terms to refer to themselves”.

As extensively reported, intersex people endure the **lifelong consequences of these interventions**, including insensitivity, sterilization, chronic pain, metabolic imbalances, and depression. Intersex people also face different, but related, challenges in our full enjoyment of the right to truth.

### 3.

‘Normalizing’ interventions take place early in life; additionally, many of those interventions take place under sedation and/or general anesthesia, and **it is impossible for intersex people to remember them accurately or to remember them at all**. In some cases, access to personal memories is further challenged by the traumatic impact produced by the procedures themselves. Therefore, **many intersex people depend on the willingness of individuals** (e.g. family members, doctors) **or institutions** (e.g. hospitals, public registry offices) **to tell them the truth** about how decisions about their bodies were made, by whom and why.<sup>4</sup> **Getting access to that information has proven to be extremely difficult or, in some cases, impossible for many intersex people** due to the combination of the following key factors:

- **Secrecy** has been historically prescribed as a necessary component of ‘normalizing’ interventions. As a result, many intersex people have had the truth kept from us about the bodies we were born with and about the procedures and treatments that modified them. Secrecy has not only affected intersex people, but also our parents and extended family. After keeping secrets for years and even decades, intersex people’s parents are often afraid of telling the truth about what happened. In many cases, intersex people are forced to choose between confronting our families or renouncing our right to truth.
- **Medical records** are frequently destroyed after a certain period of time (e.g. 10 years), and many intersex people cannot access them when we start seeking the truth. In some cases, **medical records** have been falsified; for example, many intersex people have discovered that our removed ‘hernias’ were, in fact, their gonads.
- **Legal records** reflecting intersex people’s status at birth (e.g. sex assignment) are frequently inaccessible, incomplete or inaccurate (e.g. original birth certificates are often destroyed when a person’s sex has been reassigned in infancy).

---

<sup>4</sup> Carpenter, M. (2018) Intersex Variations, Human Rights, and the International Classification of Diseases. *Health and Human Rights*, Dec 20(2): 205-214.

## 4.

Intersex people not only face challenges when seeking the truth about our own lives, but **also when telling the truth**. As intersex bodies are **still considered to belong to medicine** (or “medicalized”) **and to be intrinsically defined by a pathology** (or “pathologized”), intersex people’s right to truth is also challenged by additional factors:

- **Testimonies** provided by intersex people on ‘normalizing’ interventions and their consequences are very often ignored, dismissed or rejected, as they challenge medical expertise. In the same sense, **evidence** contradicting that knowledge is routinely disregarded. Intersex people’s expertise on intersex issues, and intersex people ourselves, are overwhelmingly disqualified as misguided, traumatized and resentful.
- **Medicine is normatively perceived as intrinsically oriented by human rights standards** and the idea of human rights violations taking place in medical settings is often considered to be ridiculous, false or related to a truly exceptional event.
- **‘Normalizing’ interventions appear to be justified by scientific rationality**. Therefore, while genital mutilation is condemned as a harmful practice based on traditional beliefs, ‘normalizing’ interventions against intersex people are rendered as ‘medical’ practices based on medical science, and intersex people denouncing them are frequently framed as ‘irrational’.
- **Accepting the reality of human rights violations against intersex people challenges deeply ingrained individual, social and institutional principles and values**, and offers an otherwise unacceptable individual, social and institutional reflection. As a consequence, when telling the truth about our experiences, many intersex people face incredulity, indifference and/or rejection.

## 5.

The right to truth does not seem to be a priority for intersex people when compared, for example, with the rights to bodily integrity and to be free from torture. However, **it is not only a key component of intersex people’s human rights, but a vital requirement to fulfill other human rights**.

Intersex people need to know what happened to us to be able to:

- Know ourselves.
- Take informed decisions about our health.
- Access proper rehabilitation programs.
- Demand individual, social and institutional accountability.
- Reclaim justice.
- Access adequate reparations.

- Use our experience to improve medical and legal protocols.
- Support other people facing the same challenges.
- Open possibilities for healing.
- Do our best to ensure non-repetition.

Furthermore, intersex people's right to truth is intrinsically related to the rights of all persons and institutions to know the truth about their own past and present, and to change their future; thus they are essential to State's duties to address the root causes of human rights violations.

## 6.

There are many ways that individuals and organizations can contribute to making the right to truth a reality for intersex people. Some suggestions include:

- **Joining the intersex movement's demand on banning all procedures and treatments** aimed at modifying intersex people's bodies without proven medical necessity and without the intersex person's informed consent.
- **Contributing to open, engaging and otherwise supportive truth-seeking mechanisms** (e.g. Truth Commissions, Official Hearings) focused on investigating human rights violations against intersex people. **Encouraging** personal, social and institutional **accountability**.
- **Contributing to reforming classifications and protocols** that currently medicalize and pathologize intersex people, to make them fully compatible with human rights standards.
- **Ensuring long-term conservation of and access** to personal medical and legal records under strict privacy and confidentiality.
- **Collecting, analyzing and making available disaggregated data** on intersex issues.
- **Providing support to intersex people** in our processes of reconstructing their own stories.
- **Supporting intersex-led initiatives** by providing financial and technical support, and by joining intersex celebrations and commemorations.
- **Listening to intersex people** and what they have to tell about our bodies, experiences and lives.
- **Encouraging and supporting truth-telling processes** involving intersex people and their families.
- **Telling the truth** about human rights violations against intersex people, and contributing to personal, social and institutional processes toward acknowledging, promoting and protecting the right to truth for all.

## **About GATE and Intersex Issues**

GATE is an international organization working on gender identity, gender expression and sex characteristics. Our leadership, including executive direction and Board, includes intersex people. GATE is strongly committed to supporting intersex-led advocacy and expert work, to increase available resources to sustain intersex organizing and to defend intersex people's human rights worldwide.

