

## Understanding Intersex and Transgender Communities

Intersex and transgender people have a shared interest in autonomy -- and may have distinct legal needs while facing overlapping barriers to appropriate care. While intersex individuals are forced to undergo medically unnecessary surgeries in infancy, transgender individuals are often denied desired medical treatment in adolescence and beyond. Transgender people may conversely be unable to access gender-congruent documentation without undergoing surgeries that are, in some cases, unwanted. Both communities grapple with a loss of decision-making authority over their own bodies. By better understanding the similarities and differences between these two groups, both movements can implement better policy and educate the public about the shared structural barriers facing both communities.

### Clarifying Terminology:

The two terms are often confused: while a person who is **transgender** has a gender that is different from the one traditionally associated with the sex they were assigned at birth, a person who is **intersex** was born with a variation in their sexual or reproductive anatomy such that their body does not fit typical definitions of male or female.

- Both intersex and transgender people can identify as men, women, gender-fluid, non-binary, or in a multitude of different ways.
- While transgender people may identify differently from how they were assigned, their visible sex characteristics at birth typically conform to a binary understanding of sexual and reproductive anatomy.
- Intersex people are generally assigned male or female despite their anatomical atypicality, but may later identify differently and correspondingly identify as transgender.
- A person cannot transition to “become” intersex because having an intersex condition is defined as a variation in reproductive anatomy present at birth.

This document uses “intersex” to mean those who are at risk for non-consensual surgery in infancy on the basis of medically observable intersex traits (sometimes called Differences of Sex Development).

### Consent and Autonomy:

In the United States, intersex children often suffer non-consensual surgery on their genitals and reproductive organs to make their body look more typical, even though these surgeries damage sexual function and fertility. International human rights entities have called for an end to these surgeries, including the World Health Organization, Amnesty International, and the United Nations. American physicians recognized the harm of these surgeries as early as 1998, when the Gay and Lesbian Medical Association issued a resolution noting the physical and psychological damage of early genital surgery and calling for physicians to adequately inform parents of the negative outcomes and the opportunity to delay or reject surgery altogether.<sup>1</sup> Pediatric endocrinologists at leading hospitals have consistently outlined the need for transparency when guiding parents’ medical decision-making for their intersex children.

One noted physician, Dr. Jorge Daaboul, speaking of the previous medical treatment of intersex children, admitted: “Many of my colleagues do not believe we have been deceptive [about the impact of early genital surgeries], and they would resent my saying we have been deceptive . . . But we have been deceptive.”<sup>2</sup> He later articulated: “I hope we can make amends to the [intersex] individuals we have harmed over the years, and I think our profession should do that in a formal way.”<sup>3</sup>

<sup>1</sup> GLMA Resolution 105-98-101, available at <http://www.ifge.org/news/1998/march/nws3218b.htm>.

<sup>2</sup> Interview in Louise Kiernan, *In Intersex Cases, Gender is a Complex Question*, CHI. TRIB., June 20, 1999, at 1.

<sup>3</sup> Jorge Daaboul, interview in Videotape: XXXY (Laleh Soomekh & Porter Gale 2000), available at <http://www.planetout.com/popcornq/db/getfilm.html?63816>.

While intersex children are forced to undergo surgery without their informed consent, before they can decide for themselves what surgeries, if any, are appropriate, transgender people are often denied life-saving medical treatment in the form of gender-affirming surgeries and hormone therapy despite not only informed consent but their strong desire for these treatments. Sometimes, on the other hand, transgender adults are required to undergo surgeries to conform their bodies to typical notions of male and female in order to obtain accurate identification and other documents, despite that these surgeries are unwanted in some cases.

While it may seem like transgender and intersex communities are at odds on the pros and cons of surgery, in reality this is not the case. Our communities are united by the principles of *consent* and *autonomy*. In addition, both transgender and intersex activists want our communities to be able to access care that is *medically necessary*—that a person needs to live a healthy, fulfilling life.

	Common transgender experience	Common intersex experience
Consent	When a transgender person seeks out a specific hormonal or surgical treatment or to live as a gender other than that which they were assigned, they <b>consent</b> to this medical care.	When an intersex child's parents or doctors decide a child's body should conform to typical notions of male or female, and the child is forced to undergo normalizing surgery without their own input, the child <b>does not consent</b> to the surgical alteration of their body.
Autonomy	Transgender people have the right to <b>autonomy</b> , which includes asserting and expressing their gender. They should be able to access the resources (including all forms of medical care) that they feel are necessary and appropriate to their individual process of transition. No one should force or pressure a transgender person to undergo procedures, such as hormonal treatment or surgery, that they do not wish for themselves.	Intersex children have the right to <b>autonomy</b> , which means the right to grow up and decide for themselves whether they want any procedures, such as hormonal treatment or surgery, performed on their bodies. No one, including the intersex child's parents or doctors, should be allowed to make that decision for them because they may choose an intervention that the intersex person would not wish for themselves. Preserving the intersex child's autonomy means avoiding making personal, irreversible decisions so that when the child is older, they can express their gender and change (or decide not to change) their body in just the ways they want.
Medical Necessity	For a transgender person, medical treatment related to their transition (such as hormones or surgery) is sometimes medically necessary. Not all transgender people want transition-related medical treatment, and if an individual does not want medical treatment, it is not necessary for that person. However, when a transgender person requests hormonal or surgical treatment from a doctor because treatment will alleviate their gender dysphoria, that treatment is <b>medically necessary</b> for them. Scientific studies have shown that providing transition-related treatment has health benefits for transgender people, and that denying such care causes harm.	For an intersex person, medical treatment related to their hormones, genitals, or reproductive organs is medically necessary <i>either when</i> (1) there will be adverse physical health effects on the intersex person if the procedure is not carried out, e.g., if a child born with no urinary opening needs one constructed so that urine can leave the body, or (2) an intersex person is able to provide informed consent and requests the treatment in order to alleviate gender dysphoria or feel more at home in their body. It is <b>not medically necessary</b> to perform genital or gonadal surgery on an intersex child without their consent when the goal is to make their body look more typically male or female and/or to make their medical providers or parents feel more comfortable. <b>No scientific studies have shown benefit to intersex people from medically unnecessary surgery, but such surgeries are known to cause harm.</b>