

Transsexuals' Right to Health? A Cuban Case Study

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Abstract

In 2008, Cuba's minister of public health signed Resolution 126, an act that assured complete coverage for Cubans seeking sexual reassignment surgeries (also known as gender confirmation surgeries), the first of any country in Latin America to do so. Ten years later, Cuba is celebrated as having one of the most open and inclusive LGBTQ public health and education programs in the Americas. As illustrated throughout this article, the Cuban state approaches sexuality and sexual identity not as rights-based issues but rather as health-based challenges. Through the case study of Cuba's understanding of transsexuals' right to health, we argue that Cuba has provided an example of how the right to health for all moves toward breaking down the barriers of stigma by improving health outcomes for those with transsexual health needs.

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Introduction

In 2008, Cuba's minister of public health, José Ramón Balaguer Cabrera, signed Resolution 126, an act that assured complete coverage for Cubans seeking sexual reassignment surgery, also known as gender confirmation surgery. Ten years later, Cuba is celebrated as having one of the most open and inclusive LGBTQ—known in Cuba as sexual diversity—public health and education programs in the Americas. This is important for two reasons. First, the resolution guaranteed publicly funded sexual reassignment surgery and complete medical care to all trans Cuban citizens under the National Public Health System, the first of any country in Latin America to do so. Second, Cuba has a history of anti-gay policies that systematically discriminated against and criminalized sexual diversity. Why would a country with a proven track record of discrimination become a leader in the Americas for gender and sexual diversity rights? This is because, as we argue here, the Cuban state does not view gender and sexuality as rights-based issues. It approaches them as health-based challenges. For what some may see as a small distinction in terminology, Cuba's "health-based approach" to sexuality and sexual diversity more broadly is in fact noteworthy in terms of both the approach and the outcomes. Cuba's public insurance for sexual reassignment surgery is the result of a broader social commitment to health as an intrinsic right and health care as an integral aspect of this right. Such a commitment to a rights-based approach to health is, as we argue, powerful enough to overrule historically entrenched discrimination within society.

It is worth noting that, as a result of Cuba's complex history regarding sexual diversity rights, some insightful studies have sought to illuminate the island's discriminatory past and the significant changes that have followed, particularly in post-1959 Cuba. Most notably, these include the works of Emilio Bejel, which explores the incorporation of sexual diversity into Cuba's national identity, and the work of Noelle M. Stout, which analyzes "queer intimacy" in post-Soviet Cuba. Similarly, Marvin Leiner's work explores sexual politics, focusing primarily on homosexual men, while Lois M. Smith

and Alfred Padula's study assesses the role of women in the evolution of sexuality and sexual diversity in revolutionary Cuba. However the topic of transsexuals is vastly under-researched. This article thus offers an assessment of transsexuals in Cuba, focusing specifically on their right to health.

The health-based approach

Globally, while impressive gains have been won by sexual diversity activists striving for equal recognition of identity and same-sex civil unions under the law, struggles to achieve equity are ongoing. Rights-based activism, which is the pursuit of civil equity under the law through both official and unofficial channels, tends to be a work in progress. Movements often achieve a set of rights through political compromise, tireless activism, and changing political demeanors on certain issues. As a result, it can take generations for equity to emerge within society, leaving the marginalized without access to the rights that future generations may one day enjoy. Even civil rights activists in the United States faced this challenge in winning small, incremental victories rather than broad, sweeping changes. First Nations communities in Canada continue to struggle for equity after generations of activism, advocacy, and civil disobedience.

But what if a country lacks civil society mechanisms for such protest and challenges to authority? In most cases, authoritarian governments are quick to quell dissent, persecute disruptors, and reinforce their own authority. Some observers view Cuba as a place where the government uses a heavy hand in the lives of individuals, often quashing civil disobedience. Others focus on how, despite allowing for political civil liberties, the Cuban government has had a longstanding history of collaborating directly with communities to identify needs and challenges, engaging in both a top-down and bottom-up approach. This invites some reflection on epistemic and political freedoms. Susan Babbitt notes that the nature of ideas—for example, the idea of including "others" within a rights discourse—requires more than reason; it requires moral and social action. She argues that beliefs about people who hold a

normative place within society, and those who are viewed as outsiders, can be “deep-seated and insensitive to evidence.” Furthermore, ideas for societal change and deeper inclusion can come from within rather than being imposed. In this sense, Cuba has a unique history of epistemic freedoms stretching back to the 19th century and even reflected in the 1895 independence declaration titled the Manifesto of Montecristi, which prioritizes “the nature of ideas.” In this sense, the pursuit of rights can be understood as a process of engagement rather than a gift from government.

We raise this point as Cuba’s sexual diversity community demanded equity and acceptance from the Cuban government through the epistemic freedom of social activism as well as political engagement through the National Center for Sexual Education (known by its Spanish acronym, CENESEX). In response, policy changes within the National Assembly, several government ministries, and popular organizations have been ongoing—each focusing on health as the main determining factor.

Resolution 126 notes that, in accordance with the National Assembly’s Law No. 41 of 1983, titled “Of Public Health,” which states that the Ministry of Public Health “guarantees the right of the population to have their health protected,” comprehensive health care in Cuba should extend to transsexual persons. How did trans identity come to be approached as a health issue rather than one of equity? Cuba’s socialist government prides itself on its ability to ensure social equity for all Cubans, so why not approach the needs of sexually diverse persons as an extension of such equity?

The significance of this resolution is noteworthy, as the minister himself was known as a staunch and dogmatic revolutionary, and throughout the earlier decades of the Revolution was a vociferous opponent of sexual diversity rights. In effect, a man who had earlier opposed all forms of sexual diversity signed a resolution providing comprehensive medical care for transsexuals. Indeed, particularly in the 1960s, the revolutionary narrative emphasized the creation of a “new man,” a common discourse in many socialist countries in the 20th century. The “new man” was characterized by strength, integ-

riety, and morality, and strongly rejected any form of sexual diversity. Homosexuality was thus seen as misguided and criminal and was understood as something that could be corrected through deeper, albeit forced, commitments to revolutionary practices of work, duty, and service. How did the Cuban government change from openly targeting sexually diverse persons to supporting complete medical coverage for sexual reassignment surgery?

The right to health

The use of human rights language in Cuba is touchy at best. Government ministries shy away from the use of “human rights,” and occasionally the Cuban Communist Party outright scorns the terminology, citing US imperialism as the real crime against humanity. That said, Cuba comfortably embraces the concept of the right to health for all, a policy adopted from the 1978 International Conference on Primary Health Care. In Cuba, health is perceived as an intrinsic right, meaning that it is inherently tied to the essence of one’s being. From there, health care is an integral right of all Cubans, meaning that the state has a direct role in ensuring that individuals’ intrinsic right to health is maintained and protected. For health care to be an integral right, society must guarantee that all citizens receive care in a way that is inclusive and that leads to the achievement of the intrinsic right.

While most countries might hesitate to describe health as an intrinsic right and prefer to characterize health care as more of an instrumental service, Cuba’s Constitution is explicit in stating that health care is provided for the benefit of both individuals and the broader population. However, up until 2008, sexual reassignment surgery was not explicitly included in the National Public Health System. Beyond the harm caused to Cubans seeking this therapy and care, a broader epistemological fracture emerges: if Cuba systematically denies a health procedure on the grounds of sexuality, then the health care system is no longer fully integral. It then becomes instrumental, which could open the door for other denials of coverage for services that are viewed as unrelated to health and are seen

merely as lifestyle choices. This becomes a challenge in Cuba, where the very concept of health is viewed broadly, and upstream determinants are taken seriously. To deny sexual reassignment surgery while expanding coverage for other forms of health care presents an uneasy moral dichotomy.

Cuba's ultimate decision to include sexual reassignment surgery under an integral right approach extends from a deep tradition of best practices in public health and health provision. In many areas of Cuba's health care system, from prenatal care to vaccination, Cuba follows international standards of care and service provision. This is to say that many of the foundations of Cuba's health care system, from the establishment of community-level polyclinics to the incorporation of universal health care, are designed based on international standards and protocols of best practices. For sexual reassignment surgery and other sexual health protocols in Cuba, many of the designs and recommendations are adapted from broader literatures. In sum, the value of such surgery in Cuba is less about a truly revolutionary breakthrough and more about a professional recognition of best practices in maintaining an integral health care system.

From camps to communities

Under Fidel Castro's leadership, homosexuality in particular was viewed as anathema to revolutionary values. Re-education programs—including internment at work camps with the aim of teaching effeminate males to be more “masculine”—were commonplace. For example, between 1965 and 1968, the Military Units to Aid Production camps housed thousands of perceived homosexual men, among other groups, in an effort to re-educate them to follow revolutionary norms. Programs also existed for effeminate boys, who were sent to specialized boarding schools that sought to teach them to be more manly by encouraging them to play with guns, play sports, and spend more time with men. Sexual education, too, focused on the importance of heteronormativity. In 1969, for example, the deputy minister of education, Abel Prieto Morales, wrote an article in the popular *Bohemia* magazine

that explained in detail why sexual diversity was unacceptable and must be considered an illness. This view is not surprising, as it was orthodoxy in Western medicine at the time; nonetheless, it is illustrative of Cuba's notably discriminatory history. From the onset, the government looked at sexual diversity through a medicalized lens.

A major shift from medicalizing sexual diversity toward a health-based approach came in 1972 with the establishment of the National Group for Work on Sexual Education (known by its Spanish acronym, GNTES). Directed by Vilma Espín, a guerrilla fighter during the Cuban rebellion (1953–1958), political leader in post-1959 Cuba, and wife of former president Raúl Castro, GNTES would become a driving force behind transsexuals' health rights. The other key GNTES figure was Celestino Álvarez Lajonchere, a respected obstetrician and gynecologist in Cuba. The group's main objective was to research sexual education and to develop a national program in order to improve health care indicators associated with reproductive health and sexuality. Amid this dark period of conformity, GNTES gradually began broadening its research interests to include sexually diverse groups. It conducted research on other countries' sexual education programs and published several widely read popular-science books, which included information on sexual diversity. In addition, it carried out research projects aimed at gaining a better understanding of how to improve Cuba's national sexual education program, as well as how to include themes of sexual diversity in the education system.

Of particular importance, in 1979, under the auspices of the Ministry of Public Health (MIN-SAP), GNTES established the Multidisciplinary Commission for Attention to Transsexuals. The commission's aim was to provide the necessary care for transsexual citizens, including medical and social services. As described by Mariela Castro Espín, this commission comprised “specialists in the care of transsexual persons, and ... adopted internationally approved diagnostic and therapeutic procedures, which were incorporated as services offered free of charge by the [National Public Health System], along with courses to train sex therapists.”

In this way, MINSAP transitioned from viewing sexual diversity as a medical issue that required cure through socialist doctrine to seeing it as an identity that presented unique health and public health needs.

While the commission's work initially focused on health-related support (such as therapy and the provision of hormones), as research on the needs of the transsexual community increased, it evolved to incorporate additional services; this occurred around the same time that other areas of the health system were adopting international best practices. In addition, the commission considered social assistance to be an integral component of health care for transsexual individuals and the trans community more broadly. Such assistance consisted mainly of counseling services involving patients, family members, and friends; recommendations on procedures to change names on official documents; and support groups where participants could feel comfortable asking questions that ranged from clothes to relationships.

The first sexual reassignment surgery in Cuba occurred in 1988. Although the operation (male to female) was considered successful and was reported in the national press, it was not celebrated by the general population. Indeed, the news was "met with widespread rejection as a result of enduring transphobia." There was considerable discrimination against Cuba's trans community at the time, as many felt that costly and advanced medical resources were being wasted on individuals' "lifestyle choices." In addition, it is also worth noting that as a result of the HIV/AIDS crisis of the late 1980s and early 1990s, discrimination against sexual diversity resurged, as it was believed that these groups were largely responsible for infecting others.

Despite the success of the initial operation, sexual reassignment surgeries were suspended for almost 20 years. Although some observers have argued that this decision was grounded in transphobia, there is little evidence to suggest so. In the 1990s, amid the catastrophic economic crisis of the Special Period (beginning officially in 1990 with a proclamation by then president Fidel Castro, the Special Period refers to the economic crisis

following the significant deterioration of Soviet Union-Cuba trade relations in the late 1980s and the implosion of the Soviet Union in 1991), the lack of medical knowledge and equipment were the primary reasons for discontinuing the procedures. In addition to involving the first sexual reassignment surgery, 1988 was also an important year, as it was when MINSAP determined that the efforts of GN-TES in sexual education needed to be increased. The following year, the small research group was reestablished as the National Center for Sexual Education, an official center of MINSAP.

The establishment of this national center led to two major shifts. First, Mariela Castro Espín—daughter of Vilma Espín and Raúl Castro—joined the center in the early 1990s and became its director in the early 2000s. She took an interest in improving health outcomes for the trans community, which became central to the center's aims. Second, the center determined in 2004 that the Multidisciplinary Commission for Attention to Transsexuals required a broader mandate, which resulted in the creation of the National Commission for the Comprehensive Care of Transsexuals.

Building on some 20 years of research on transgender health and on technological advancements in sexual reassignment surgery, the new commission specifically sought to assist Cuba's trans community in improving overall health and achieving the "highest level of dignity." Each of the commission's central goals focused on the provision of health care. For example, one goal was to provide the necessary specialized medical care for the health of all trans Cubans. Another goal sought to design a protocol for diagnosis and comprehensive treatment that complied with international standards and the standards of Cuba's National Public Health System. Other areas of focus included increased multidisciplinary research on transsexuality, the development of educational programs to increase respect for sexual diversity, and the implementation of training and awareness-building programs regarding trans persons. Significantly, the national commission was supported by the Cuban Communist Party and the National Assembly.

Resolution 126 and sexual reassignment surgery

On June 4, 2008, MINSAP issued Resolution 126. Consisting of 11 articles aimed at resolving the ongoing health issues faced by Cuba's trans community, the resolution cites preexisting legislation that protects the right to health of all Cuban citizens. It notes that "the National Commission for the Comprehensive Care of Transsexuals will be the primary institution within the National Public Health System authorized to provide medical treatments, including reassignment surgery." It goes on to state that this commission will work "within the pre-existing structures and operations established within the General Hospital Regulations." Specifically, article 5 explains that it is the responsibility of the national commission to provide comprehensive health care to "all transsexual citizens." This includes diagnosis, psychological and psychiatric care, the provision of necessary medications, therapy, and reassignment surgery. It is also worth noting that one of the articles contains a glossary that defines various terms associated with health care for transsexual and transgender persons.

With regard to the numbers of those treated, by the end of 2008, the National Commission for the Comprehensive Care of Transsexuals had reportedly received 92 applications for assistance and care. As described by the commission, of those applications, 27 corresponded to transsexual individuals; 2 corresponded to "transvestites"; 2 corresponded to effeminate homosexual men; 8 corresponded to individuals who had left Cuba (4 of whom had previously received diagnoses, while the others had left before one could be made); and 57 corresponded to individuals in the process of diagnosis. Of those individuals who were diagnosed, 24 were officially in the "process of changing" (living as the gender with which they identified) from a man to a woman; 2 were in the official process of changing from a woman to a man; and 1 had completed male-to-female sexual reassignment surgery. By 2011, the commission had received 120 applications for treatment, and over a dozen successful sexual reassignment surgeries had been performed.

In addition to MINSAP, other important

ministries have been involved in improving the health and well-being of the trans community, including the Ministry of Justice and the Ministry of the Interior. For example, the Ministry of Justice played a particularly important role in changing legislation concerning identity cards and official photos. For example, article 31 of the Law on the Registry of Civil Status (passed in 1985) required a person's gender on official documents to reflect their sexual organs. As a result of the efforts of the National Center for Sexual Education and the Ministry of Justice, this provision was amended to allow changes to personal information, such as gender markers on national identification cards. Other means of support for trans Cubans have also continued to deepen. Of particular note, in 2013 the National Center for Sexual Education founded the Transgender Network (also known as Trans Cuba), a network of trans persons and supporters. The primary aims of the Transgender Network are health promotion, support, and consciousness raising. The network includes some 700 participants who work mainly in five of Cuba's fifteen provinces. In addition, since 2014 the National Program for Sexual Education and Sexual Health has been taught in all schools and includes information on Cuba's trans community in an effort to normalize sexual diversity. In effect, the health-based approach embraced by MINSAP in the early 1980s and reinvigorated in the 2000s is having a carry-over effect to normalizing trans health in other areas of Cuban society, from justice to education.

Conclusion

In 1993, a transsexual man known as JR sent a letter to the minister of public health, who at the time was Julio Teja Pérez. In it, he wrote of his struggles, explaining:

You cannot know what I suffer day after day because of my situation. I am now 44 years old. I often think that if I were to have a heart attack and they were to take me to the hospital and discover what sex I am, they would make fun of me and talk about me. I am Cuban and my need for an operation is not some passing whim, but rather is based on human

need. Only by having this operation will I be able to be a true person.

It would be another 15 years before MINSAP would issue Resolution 126 providing for sexual reassignment surgery and related medical care. Acknowledging the discrimination in Cuba during the 1990s, the official line is that the 20-year hiatus on such surgery was the result of a lack of resources and technology. Nonetheless, what is clear is that the health-based approach to trans health of the early 1980s received a second wind thanks to the National Center for Sexual Education in normalizing the needs of the trans community as health-related needs. Cuba is well equipped to respond to the dynamic health needs of individuals, and by placing trans health in this context, it created the opportunity to significantly advance trans health rights. The Cuban case provides a telling story of a unique road toward trans health rights.

The question remains as to how imitable the Cuban experience is. Can other health systems in the Americas benefit from approaching transsexuality as a health issue? Are the outcomes in terms of quality of life and acceptance truly better in Cuba than in other nations of similar socioeconomic stature? Is there potential to approach other social challenges, ones often grounded in rights-based advocacy, through a health-based approach? With regard to these questions, Cuba has provided an example of how the right to health for all moves toward breaking down the barriers of stigma.

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