

Intersex Genital Mutilations
Human Rights Violations Of Children
With Variations Of Sex Anatomy



**HUMAN
RIGHTS FOR
HERM
APHRODITES
TOO!**

NGO Report (for LOIPR)
to the 7th Periodic Report of Germany on the
International Covenant on Civil and Political Rights
(CCPR)

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Executive Summary

All typical forms of IGM are still practised in Germany about 1,700 times annually, facilitated and **paid for by the State party** via the **public health system**. Parents and children are misinformed, kept in the dark, sworn to secrecy, kept isolated and **denied appropriate support**.

Germany is in **breach of its obligations** under the Covenant to (a) **take effective legislative, administrative, judicial or other measures to prevent involuntary, non-urgent genital surgery and other harmful medical treatment of intersex children**, (b) **to ensure access to justice, redress, compensation and rehabilitation for victims**, and c) **to provide families with intersex children with adequate psychosocial and peer support** (art. 2, 3, 7, 24, 26).

CAT, CRPD and CEDAW have already considered **IGM in Germany** as constituting at least **ill-treatment** (CAT/C/DEU/CO/5; para 20), **violation of the integrity of the person** (CRPD/C/DEU/CO/1, paras 37-38) and a **harmful practice** (CEDAW/C/DEU/CO/7-8, paras 23-24). Nonetheless, to this day the **German Government fails to act**.

This Committee has already recognised IGM practices to constitute a **serious violation of non-derogable human rights**, and articles 3, 7, 24 and 26 as applicable in 2017 Concluding Observations (CCPR/C/CHE/CO/4, paras 24-25; CCPR/C/AUS/CO/6, paras 25-26).

In total, UN treaty bodies **CRC, CAT, CRPD, CEDAW** and **HRCttee** have so far issued **31 Concluding Observations on IGM**, typically obliging State parties to **enact legislation** to (a) end the practice and (b) ensure redress and compensation, plus (c) access to free counselling. Also the UN Special Rapporteurs on Torture (**SRT**) and on Health (**SRH**), the UN High Commissioner for Human Rights (**UNHCHR**), the World Health Organisation (**WHO**), the Inter-American Commission on Human Rights (**IACHR**), the African Commission on Human and Peoples' Rights (**ACHPR**) and the Council of Europe (**COE**) recognise IGM as a **serious violation of non-derogable human rights**.

Intersex people are born with **Variations of Sex Anatomy**, including atypical genitals, atypical sex hormone producing organs, atypical response to sex hormones, atypical genetic make-up, atypical secondary sex markers. While intersex people may face several problems, in the “developed world” the most pressing are the ongoing **Intersex Genital Mutilations**, which present a distinct and unique issue constituting significant human rights violations.

IGM practices include **non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries, and/or other harmful medical procedures** that would not be considered for “normal” children, without evidence of benefit for the children concerned. **Typical forms of IGM** include “masculinising” and “feminising”, “corrective” genital surgery, sterilising procedures, imposition of hormones, forced genital exams, vaginal dilations, medical display, involuntary human experimentation and denial of needed health care.

IGM practices cause known **lifelong severe physical and mental pain and suffering**, including loss or impairment of sexual sensation, painful scarring, painful intercourse, incontinence, urethral strictures, impairment or loss of reproductive capabilities, lifelong dependency of artificial hormones, significantly elevated rates of self-harming behaviour and suicidal tendencies, lifelong mental suffering and trauma, increased sexual anxieties, and less sexual activity.

This **NGO Report** has been compiled by **StopIGM.org**, an international intersex NGO with a German constituency. It contains **Suggested Questions for the LOIPR** (see next page).

Suggested Questions for the List of Issues

The Rapporteurs respectfully suggest that in the LOIPR the Committee asks the German Government the following questions with respect to the civil rights of intersex people:

Intersex genital mutilation (arts. 2, 3, 7, 24, 26)

- **Since 2014, how many non-urgent, irreversible surgical and other procedures have been undertaken on intersex minors? Please provide detailed statistics on sterilising, feminising, and masculinising procedures, disaggregated by age groups and region (Länder).**
- **Does the State party plan to stop this practice? If yes, what measures does it plan to implement, and by when?**
- **Please indicate which criminal or civil remedies are available for intersex people who have undergone involuntary sterilisation or unnecessary and irreversible medical or surgical treatment when they were children, and whether these remedies are subject to any statute of limitations?**
- **Please indicate which means of rehabilitation are available for intersex people who have undergone involuntary procedures?**
- **Please indicate which means of psychosocial support, including peer support, are available for intersex children and their families?**

Introduction

1. Intersex, IGM and Human Rights in Germany

Germany has recently been reviewed by CAT (2011), CRPD (2015) and CEDAW (2017), which recognised IGM in Germany as constituting **ill-treatment or torture**, a **violation of integrity** and a **harmful practice** respectively, same as **multiple UN treaty bodies including CCPR** regularly denouncing IGM as a **serious violation of non-derogable human rights**. Nonetheless, **Germany continues to deny** having any “*information on cases of medical or surgical treatment where the intersex person has not effectively given their consent*” (CEDAW/C/DEU/Q/7-8, para 31), and **refuses to undertake effective measures**, including legislation, to protect intersex children from the daily mutilations. This NGO Report demonstrates that the current **harmful medical practice on intersex persons in Germany** – advocated, facilitated and **paid for by the State party** – constitutes a **serious breach** of Germany’s obligations under the Covenant.

2. About the Rapporteurs

This NGO report has been prepared by the international intersex NGO *StopIGM.org / Zwischengeschlecht.org*:

- **StopIGM.org / Zwischengeschlecht.org** is an international intersex human rights NGO with a German constituency based in Switzerland, working to end IGM practices and other human rights violations perpetrated on intersex people, according to its motto, “*Human Rights for Hermaphrodites, too!*”¹ According to its charter,² StopIGM.org works to support persons concerned seeking redress and justice and regularly reports to UN treaty bodies.

StopIGM.org has been active in Germany since 2007, supporting intersex persons suing IGM perpetrators, publicly confronting individual perpetrators and hospitals, documenting the ongoing practice, has collaborated with members of parliament on parliamentary questions on the federal and on the Länder level, and testified before the German National Ethics Council, calling for effective remedies to end the practice.

In personal capacity co-founder Daniela Truffer is also a member of the German intersex self-help group XY-Women, serving as a first contactor for 7 years, and of the German Association of Intersex People, serving as chair when it first submitted a thematic report to a UN Treaty body, leading to the first ever recommendations on intersex in 2009.

3. Methodology

This thematic NGO report is an updated, abridged and localised version of the **2015 CRPD Germany NGO Report**³ and the **2017 CEDAW Germany NGO Report**⁴ by the same rapporteurs. It complements our **2017 CCPR Switzerland NGO Report**.⁵

1 <http://Zwischengeschlecht.org/> English pages: <http://StopIGM.org/>

2 <http://zwischengeschlecht.org/post/Statuten>

3 http://intersex.shadowreport.org/public/2015-CRPD-LoI-Germany_NGO-Report_Zwischengeschlecht_Intersex-IGM.pdf

4 <http://intersex.shadowreport.org/public/2017-CEDAW-Germany-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

5 <http://intersex.shadowreport.org/public/2017-CCPR-Swiss-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

A. Intersex, IGM and Human Rights: Harmful Misrepresentations

1. IGM Practices: Involuntary, unnecessary, harmful medical interventions

IGM practices include **non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries**, and/or other similar medical treatments, including imposition of hormones, performed on **children with variations of sex anatomy**,⁶ without evidence of benefit for the children concerned, but justified by “*psychosocial indications [...] shaped by the clinician’s own values*”, the latter informed by **societal and cultural norms and beliefs**, enabling clinicians to withhold crucial information from both patients and parents, and to submit healthy intersex children to risky and harmful invasive procedures that would not be considered for “normal” children.⁷

Typical forms of IGM include “feminising” or “masculinising”, “corrective” genital surgery, sterilising procedures, imposition of hormones (including prenatal “therapy”), forced genital exams, vaginal dilations, medical display, **involuntary human experimentation**, selective (late term) abortions and denial of needed health care, causing lifelong severe physical and mental **pain and suffering**.⁸

Individual doctors, national and international medical bodies, public and private healthcare providers have traditionally been **framing and “treating” intersex variations as a form of illness or disability** in need to be “cured” surgically, often **with racist, eugenic and supremacist undertones**,^{9 10 11 12} describing intersex people as “*inferior*”, “*abnormal*”, “*deformed*”.

In a response to international **IGM doctors advocating** involuntary non-urgent surgeries on intersex children in a 2016 medical publication,¹³ two bioethicists underlined the **prejudice** informing the current medical practice (our emphasis):

*“The implicit logic of [the doctors’] paper reflects what bioethicist George Annas has called a ‘monster ethics’ [6], which can be summed up this way: babies with atypical sex are not yet fully human, and so not entitled to human rights. Surgeons make them human by making them recognizably male or female, and only then may they be regarded as entitled to the sexual and medical rights and protections guaranteed to everyone else by current ethical guidelines and laws.”*¹⁴

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- 6 See “What is Intersex?”, 2015 CRC Ireland NGO Report, p. 23–25, <http://intersex.shadowreport.org/public/2015-CRC-Ireland-NGO-Zwischengeschlecht-Intersex-IGM.pdf>
 - 7 For references, see “What are Intersex Genital Mutilations (IGM)?”, 2015 CRC Ireland Report, p. 29
 - 8 See “IGM Practices – Non-Consensual, Unnecessary Interventions”, 2015 CRC Ireland NGO Report, p. 29–34
 - 9 2014 CRC NGO Report, p. 52, 69, 84, http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf
 - 10 In the WHO “World Atlas of Birth Defects (2nd Edition)”, many intersex diagnoses are listed, including “*indeterminate sex*” and “*hypospadias*”: <http://web.archive.org/web/20160305152127/http://prenatal.tv/lecturas/world%20atlas%20of%20birth%20defects.pdf>
 - 11 “The Racist Roots of Intersex Genital Mutilations” <http://stop.genitalmutilation.org/post/Racist-Roots-of-Intersex-Genital-Mutilations-IGM>
 - 12 See “**Intersex, IGM and Prejudice**”, in: 2018 CRPD New Zealand NGO Report, Annexe 1, p. 15-19, <http://intersex.shadowreport.org/public/2018-CRPD-New-Zealand-LOIPR-NGO-Intersex-StopIGM.pdf>
For **500 years of “scientific” prejudice** in a nutshell, see 2016 CEDAW France NGO Report, p. 7, <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>
 - 13 Pierre Mouriquand et al, “Surgery in disorders of sex development (DSD) with a gender issue: If (why), when, and how?”, *Journal of Pediatric Urology* (2016), [http://www.jpurology.com/article/S1477-5131\(16\)30012-2/](http://www.jpurology.com/article/S1477-5131(16)30012-2/)
 - 14 Ellen Feder and Alice Dreger, “**Still ignoring human rights in intersex care**”, *Journal of Pediatric Urology* (2016), [http://www.jpurology.com/article/S1477-5131\(16\)30099-7/](http://www.jpurology.com/article/S1477-5131(16)30099-7/)

UN Treaty bodies, including this Committee, and other human rights experts have consistently recognised IGM practices as a **serious breach of international law**,¹⁵ and Treaty Bodies so far have issued **31 Concluding Observations** condemning IGM practices as a **serious violation of non-derogable human rights**.¹⁶

2. Intersex is NOT THE SAME as LGBT or SOGI

Unfortunately, there are several **harmful misconceptions about intersex** still prevailing in public, notably if intersex is **counterfactually described as** being the same as or a subset of LGBT or SOGI, e.g. if intersex and/or intersex status are represented as a **sexual orientation** (like gay or lesbian), and/or as a **gender identity**, and/or as a subset of **transgender**, or as the same as **transsexuality**.

The underlying reasons for such harmful misconceptions include a) **lack of awareness**, b) third party groups **instrumentalising intersex as a means to an end**^{17 18} for their own agenda, and c) **State parties trying to deflect** from criticism of involuntary intersex (see below).

Intersex persons and their organisations have spoken out clearly against instrumentalising or misrepresenting intersex issues,¹⁹ maintaining that IGM practices present a **distinct and unique issue** constituting significant human rights violations, which are different from those faced by the LGBT or SOGI community, and thus need to be **adequately addressed in a separate section as specific intersex issues**.

Also **human rights experts** are warning of the **harmful conflation** of intersex and LGBT.²⁰

Particularly **State parties** are **constantly misrepresenting intersex and IGM as sexual orientation or gender identity issues** in an attempt to **deflect from criticism** of the serious human rights violations resulting from IGM practices, instead referring to e.g. “*gender reassignment surgery*” (i.e. voluntary procedures on transsexual or transgender persons) and “*gender assignment surgery for children*”,²¹ “*a special provision on sexual orientation and gender identity*”, “*civil registry*” and “*sexual reassignment surgery*”²², transgender guidelines²³ or “*Gender Identity*”^{24 25} **when asked about IGM** by e.g. Treaty bodies.

15 CAT, CRC, CRPD, SPT, SRT, SRSG VAC, COE, ACHPR, IACHR (2016), “End violence and harmful medical practices on intersex children and adults, UN and regional experts urge”,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E>

16 <http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

17 CRC67 Denmark, <http://stop.genitalmutilation.org/post/CRC67-Intersex-children-used-as-cannon-fodder-LGBT-Denmark>

18 CEDAW66 Ukraine, <http://stop.genitalmutilation.org/post/Ukraine-Instrumentalising-Intersex-and-IGM-for-LGBT-and-Gender-Politics>

19 For references, see 2016 CEDAW France NGO Report, p. 45. <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

20 For example ACHPR Commissioner Lawrence Murugu Mute (Kenya), see <http://stop.genitalmutilation.org/post/ACHPR-African-Commissioner-warns-Stop-conflating-intersex-and-LGBT>

21 CRC73 New Zealand, <http://stop.genitalmutilation.org/post/NZ-to-be-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-the-Child>

22 CCPR120 Switzerland, <http://stop.genitalmutilation.org/post/Pinkwashing-of-Intersex-Genital-Mutilations-at-the-UN-CCPR120>

23 CAT56 Austria, <http://stop.genitalmutilation.org/post/Geneva-UN-Committee-against-Torture-questions-Austria-over-Intersex-Genital-Mutilations>

24 CAT60 Argentina, <http://stop.genitalmutilation.org/post/CAT60-Argentina-to-be-Questioned-on-Intersex-Genital-Mutilation-by-UN-Committee-against-Torture>

Regrettably, **these harmful misrepresentations seem to be on the rise also at the UN**, for example in recent **UN press releases** and **Summary records** misrepresenting IGM as “*sex alignment surgeries*” (i.e. voluntary procedures on transsexual or transgender persons), IGM survivors as “*transsexual children*”, and intersex NGOs as “*a group of lesbians, gays, bisexuals, transgender and intersex victims of discrimination*”,²⁶ and again IGM survivors as “*transgender children*”,²⁷ “*transsexual children who underwent difficult treatments and surgeries*”, and IGM as a form of “*discrimination against transgender and intersex children*”²⁸.

What’s more, **LGBT organisations** (including “LGBTI” organisations **without actual intersex representation or advocacy**) are using the ubiquitous misrepresentation of intersex = LGBT not only to “**speak for intersex people**” in public and at the UN, but also to **misappropriate public intersex funding**, thus **depriving actual intersex organisations** (which mostly have no significant funding, if any) of much needed **resources**²⁹ and public **representation**.³⁰

3. Misrepresenting Genital Mutilation as “Health Care”

An interrelated, alarming new trend is the **increasing misrepresentation of IGM as “health-care issue”** instead of a serious violation of non-derogable human rights, and the **promotion of “self-regulation” of IGM by the current perpetrators**^{31 32 33} – instead of effective measures to finally end the practice (as stipulated also by this Committee).

Even worse, **Health ministries** construe UN Treaty body Concluding observations falling short of explicitly recommending legislation to criminalise or adequately sanction IGM as an **excuse for “self-regulation” promoting state-sponsored IGM practices to continue with impunity**.³⁴

25 CRPD18 UK, <http://stop.genitalmutilation.org/post/UK-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-Persons-with-Disabilities-CRPD>

26 CAT60 Argentina, <http://stop.genitalmutilation.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CATArgentina-UNCAT60>

27 CRC77 Spain, <http://stop.genitalmutilation.org/post/UN-Press-Release-mentions-genital-mutilation-of-intersex-children>

28 CRC76 Denmark, <http://stop.genitalmutilation.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CRC-Denmark-UNCRC67>

29 For example in Scotland (UK), LGBT organisations have so far collected at least **£ 135,000.–** public intersex funding, while actual intersex organisations received ZERO public funding, see 2017 CRPD UK NGO Report, p. 14, <http://intersex.shadowreport.org/public/2017-CRPD-UK-NGO-Coalition-Intersex-IGM.pdf>
Typically, during the interactive dialogue with CRPD, the UK delegation nonetheless tried to sell this glaring misappropriation as “supporting intersex people”, but fortunately got called out on this by the Committee, see transcript (Session 2, 10:53h + 11:47h), <http://stop.genitalmutilation.org/post/UK-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-Persons-with-Disabilities-CRPD>

30 See e.g. “Instrumentalizing intersex: ‘The fact that LGBTs in particular embrace intersex is due to an excess of projection’ - Georg Klaua (2002)”, <http://stop.genitalmutilation.org/post/Instrumentalizing-Intersex-Georg-Klaua-2002>

31 For example Amnesty (2017), see <http://stop.genitalmutilation.org/post/Amnesty-Report-fails-Intersex-Children-and-IGM-Survivors>

32 For example FRA (2015), see Presentation OHCHR Expert Meeting (2015), slide 8, http://stop.genitalmutilation.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf

33 For example CEDAW Italy (2017), see <http://stop.genitalmutilation.org/post/Major-Setback-for-Intersex-Human-Rights-at-the-UN>

34 See for example Ministry of Health Chile (2016), <http://stop.genitalmutilation.org/post/Circular-7-step-back-for-intersex-human-rights-in-Chile>

B. IGM in Germany: State-sponsored and pervasive, Gov fails to act

1. IGM practices in Germany: Pervasive and unchecked (art. 3, 7, 24)

In **Germany** (see CAT/C/DEU/CO/5; para 20; CRPD/C/DEU/CO/1, paras 37-38; CEDAW/C/DEU/CO/7-8, paras 23-24), **same as in the neighbouring states** of *Switzerland* (see CCPR/C/CHE/CO/4, paras 24-25; CRC/C/CHE/CO/2-4, paras 42-43; CAT/C/CHE/CO/7, para 20; CEDAW/C/CHE/CO/4-5, paras 38-39), *France* (see CRC/C/FRA/CO/5, paras 47-48; CAT/C/FRA/CO/7, paras 32–33; CEDAW/C/FRA/CO/7-8, paras 17e-f + 18e-f), *Austria* (see CAT/C/AUT/CO/6, paras 44-45), **and in many more State parties**,³⁵ there are

- **no legal or other effective protections** in place to ensure the rights of intersex children to physical and mental integrity, autonomy and self-determination, and **to prevent IGM**
- **no measures** in place to ensure **systematic data collection and monitoring** of IGM
- **no legal or other measures** in place to ensure the **accountability** of IGM perpetrators
- **no legal or other measures** in place to ensure **access to redress and justice** for adult IGM survivors (see also below p. 15-17)

To this day, the **German government** undeviatingly **refuses** to “*take effective legislative, administrative, judicial or other measures*” to protect intersex children, but instead since 1996³⁶ continues with a **perpetual cycle of denial and endless discussions, roundtables, and yet more “careful examination” without any consequences ever.**

What’s worse, this comes **after the State party had already been reprimanded** by CAT in **2011**, by CRPD in **2015** and by CEDAW in **2017** for IGM practices, with all Committees calling for **legislative measures** including to ensure access to redress, and to provide **adequate support.**

So far, as vaguely admitted by the “Inter-Ministerial Working Group (IMAG)” (“*the total number of procedures seems not to have changed significantly*”),³⁷ in Germany all forms of **IGM practices remain widespread and ongoing**, persistently **advocated, prescribed and perpetrated** by state funded University and Regional Children’s Clinics, and **paid for** by the German Public Health Insurances, as corroborated by two 2016 studies using **partial data from the “Diagnosis Related Groups (DRG)”** of intersex surgeries in German hospitals financed by the Public Health System, reporting **on average 1,700 IGM procedures every year!** At the same time, access to **adequate psychosocial counselling and peer support is sorely lacking.**

Study 1: Ulrike Klöppel: Zur Aktualität kosmetischer Operationen „uneindeutiger“ Genitalien im Kindesalter. ZtG Texte 42: https://www.gender.hu-berlin.de/de/publikationen/gender-bulletins/bulletin-texte/texte-42/kloepfel-2016_zur-aktualitaet-kosmetischer-genitaloperationen

Study 2: Anike Krämer (M.A.), Prof. Dr. Katja Sabisch, Dr. med. Jörg Woweries: Varianten der Geschlechtsentwicklung – die Vielfalt der Natur. Kinder- und Jugendarzt. 47. Jg. (2016) Nr. 5/16: <http://www.vlsp.de/files/pdf/kraemer2016.pdf>

35 See <http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

36 See 2016 CRPD Germany NGO Report, p. 18-20, <http://intersex.shadowreport.org/public/2015-CRPD-LoI-Germany-NGO-Report-Zwischengeschlecht-Intersex-IGM.pdf>

37 BMFSFJ (ed.): „Situation von trans- und intersexuellen Menschen im Fokus“. Sachstandsinformation, p. 18: <https://www.bmfsfj.de/blob/112092/46d6be33eb8f2b5d2ee81488da03029c/situation-von-tans--und-intersexuellen-menschen-im-fokus-data.pdf>

Both studies, which were commissioned by the Federal Government, **provide NO disaggregated regional data** on procedures in individual Länder or clinics, citing “*privacy concerns*”.

Similarly in 2014, the **State Government of Bavaria**³⁸ **censored the actual data** in the public hansard of an answer to a relevant parliamentary question on IGM statistics, claiming “*data on above mentioned surgical interventions are business and trade secrets of the [mostly state controlled] clinics,*” and therefore “*secret*” and “*not allowed to be published according to art. 30 VwVfG,*” further referring to “*data protection.*”

After 2014, no more data at all was published by the Federal Government so far – despite that **since at least 1996**³⁹ the German government has been regularly called upon to **collect and disclose statistics** on IGM practices. And **CAT, CRPD and CEDAW** have urged Germany to “*investigate cases*” and “*[s]ystematically collect disaggregated data*”.

a) IGM 3 – Sterilising Procedures:

Castration / “Gonadectomy” / Hysterectomy /

Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation⁴⁰

Study 1⁴¹ documents ongoing gonadectomies on children 0-9 and 10-19 years with a limited selection of “intersex diagnoses” 2005-14, averaging at **almost 4 procedures annually**. On intersex persons raised as **girls**, gonadectomies were more frequent (58:25). In girls and boys **Q99.1 “46, XX true hermaphrodite”** was the most frequent diagnosis.

Tab. 18

Gonadektomien (5-652 & 5-653)											
Intersex, weiblich registriert, 0-9 Jahre											
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2005-14
gesamt	2,5	0	4,5	3	0	0	0	1	0	2	19
Intersex, weiblich registriert, 10-19 Jahre											
gesamt	2,5	6,5	4	8	0	2,5	2,5	3,5	5,5	3	38

Figure 1: Intersex Gonadectomies on Females by Age Group, p. 52(48)

38 17/3884 [leaked uncensored version of answer to original question no. 3, p. 1 – in the official answer, the relevant original question no. 3 was secretly omitted, see p. 2]

http://blog.zwischengeschlecht.info/public/Bayern_2014_Anfrage_17-3884_Intersex_IGM_Zensur_web.pdf

39 2015 CRPD NGO Report for Germany (p. 17), http://intersex.shadowreport.org/public/2015-CRPD-LoI-Germany_NGO-Report_Zwischengeschlecht_Intersex-IGM.pdf

40 For general information, see 2016 CRC NGO Report UK, p. 43-44, 63:

http://intersex.shadowreport.org/public/2016-CRC-UK-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

41 Ulrike Klöppel: Zur Aktualität kosmetischer Operationen „uneindeutiger“ Genitalien im Kindesalter. ZtG Texte 42: <https://www.gender.hu-berlin.de/de/publikationen/gender-bulletins/bulletin-texte/texte-42/kloepfel-2016-zur-aktualitaet-kosmetischer-genitaloperationen>

b) IGM 2 – “Feminising Procedures”: Clitoris Amputation/“Reduction”, “Vaginoplasty”, “Labioplasty”, Dilatation⁴²

According to **Study 1**, “feminizing surgeries” on intersex children 0-9 years were **rising**, with the **five-year-average increasing from 70 to 79 procedures per year**:

Tab. 12

Feminisierende Operationen													
Q52, weiblich registriert, 0-9 Jahre													
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	MW/2005-7	MW/2012-14	%
5-705	2,5	7,0	5,0	6,0	7,5	6,5	3,0	7,5	7,0	4,5	4,8	6,3	31,03
5-706	1,5	7,5	4,0	4,5	1,5	4,0	7,5	3,0	4,0	4,5	4,3	3,8	-11,54
5-713	1,5	1,5	4,5	3,0	1,5	7,0	7,5	4,5	13,0	4,5	2,5	7,3	193,33
5-716	9,0	19,5	8,5	9,0	8,0	8,0	19,0	10,5	12,0	10,0	12,3	10,8	-12,16
5-718	42,5	48,5	48,0	41,0	44,0	34,0	40,0	52,5	46,0	54,0	46,3	50,8	9,71
Fem OPS	57,0	84,0	70,0	63,5	62,5	59,5	77,0	78,0	82,0	77,5	70,3	79,2	12,56

Figure 2: “Feminising” IGM Surgeries on children 0-9 years, p. 42(38)

Study 1 documents **164 cases of “clitoral surgery”** on intersex children 0-9 years. After 2008, when for the first – and still last – time an IGM surgeon was sentenced in the last instance to pay damages for a non-consensual procedure on an adult person, “clitoral surgery” decreased in the five-year-average from 20 to 11 procedures per year ...

Tab. 16

Operationen an der Klitoris (5-713)													
VG, weiblich registriert, 0-9 Jahre													
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	MW/2005-7	MW/2012-14	%
AGS	18	15,5	10,5	15	13	7	10,5	4,5	3	4,5	14,7	4,0	-72,73
Inter (ohne AGS)	4,5	0	5	3	1	0	0	0	0	1	3,2	0,3	-89,47
Q52	1,5	1,5	4,5	3	1,5	7	7,5	4,5	13	4,5	2,5	7,3	193,33
gesamt	24	17	20	21	15,5	14	18	9	16	10	20,3	11,7	-42,62

Figure 3: “Clitoral Surgery” on intersex children 0-9 years, p. 48(44)

42 For general information, see 2016 CRC NGO Report UK, p. 44-45, 62:

http://intersex.shadowreport.org/public/2016-CRC-UK-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

... however with the notable exception of the **age group < 1 year**, where the numbers not only stayed steady ...

Diagramm 6

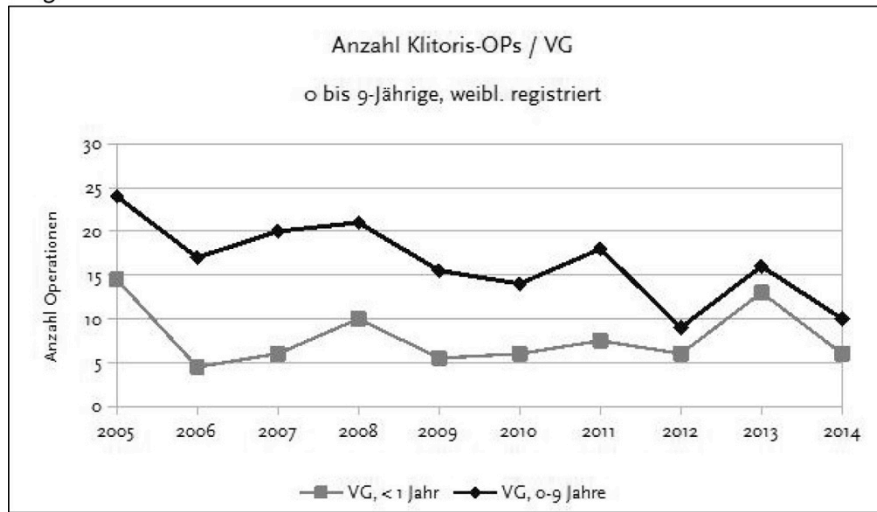


Figure 4: "Clitoral Surgery" 0-9 years vs. <1 year, p. 49(45)

... but after 2011, after the questionable "Opinion on the Situation of Intersex People" of the German National Ethics Council, **procedures on <1 year olds became most frequent in young children**, surpassing procedures on girls 1-5 years according to **Study 2**, additionally suggesting rising numbers in early school age, allegedly with the "consent" of the children concerned:

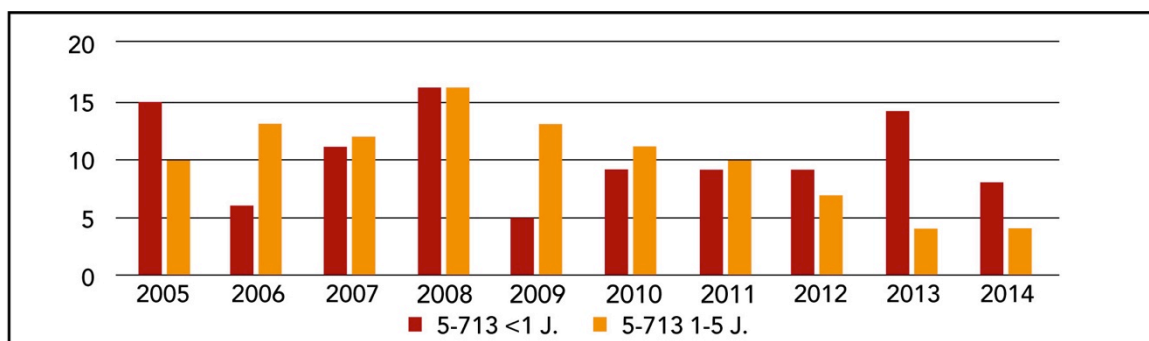


Abb. 2: DRG 5-713 Operation an der Klitoris

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Figure 5: "Clitoral Surgery" 1-5 years vs. <1 year, p. 320

c) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair”⁴³

According to **Study 2, Q54 “Hypospadias”** remains the most frequent IGM practice by far, with **over 1’400 procedures every year** on children 0-9, even when discarding procedures of the “*First degree (Q54.0)*” and counting only the second and third degree (Q54.1-3). In addition, Q55 “*Other congenital malformations of male genital organs*” shows the biggest increase in procedures. In average, there are **1600 masculinising procedures annually**:

Tab. 20

Maskulinisierende Operationen													
VG, männlich registriert, 0-9 Jahre													
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	MW 2005-7	MW 2012-14	%
E29.1	0	0	0	0	0	0	0	0	0	0	0,0	0,0	#
E34.5	0	1	2	0	1	0	0	0	0	2	1,0	0,7	-33,33
Q56.0	1,5	0	0	0	0	0	0	0	0	0	0,5	0,0	-100
Q56.1	4	0	3,5	1	2,5	0	0	1	0	5	2,5	2,0	-20
Q56.2	0	0	1	0	0	1	0	0	0	0	0,3	0,0	-100
Q56.3	0	0	0	0	0	0	0	0	0	0	0,0	0,0	#
Q56.4	0	0	3	0	0	3	0	0	0	0	1,0	0,0	-100
Q99.0	0	0	3	0	0	0	0	0	0	0	1,0	0,0	-100
Q99.1	0	0	0	0	0	0	0	0	0	0	0,0	0,0	#
Inter (ohne AGS)	5,5	1	12,5	1	3,5	4	0	1	0	7	6,3	2,7	- 57,89
Q53.2	6	9,5	10	7,5	10,5	4,5	13,5	13,5	6	4,5	8,5	8,0	-5,88
Q54	1402,5	1475	1507	1626	1484	1394,5	1429	1359,5	1460,5	1476	1461,5	1432,0	-2,02
Q55	121	101,5	151	144,5	148	174	204,5	175,5	162,5	183,5	124,5	173,8	39,63
gesamt	1535	1587	1680,5	1779	1646	1577	1647	1549,5	1629	1672,5	1600,8	1617,0	1,01

Figure 6: “Masculinising” IGM Surgeries on children 0-9 years, p. 55(51)

d) Prenatal “Therapy”⁴⁴

Also prenatal “Therapy” with Dexamethasone is still advocated and practiced in Germany, for example in the official guideline “AWMF 174/013”⁴⁵ “*S1-Leitlinie – Stellungnahme zur pränatalen Therapie des Adrenogenitalen Syndroms mit 21-Hydroxylase-Defekt (AGS) in Deutschland*”, despite openly admitting that the “therapy” is “*no evidence based protocol*” (p. 3) and “*experimental*” (p. 6).

43 For general information, see 2016 CRC NGO Report UK, p. 45, 61.

http://intersex.shadowreport.org/public/2016-CRC-UK-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

44 For general information, see 2014 CRC NGO Report Switzerland, p.75-76.

http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

45 http://www.awmf.org/uploads/tx_szleitlinien/174-

[013l_S1 Adrenogenitales Syndrom mit 21 Hydroxylase Defekt AGS 2015-verlaengert.pdf](http://www.awmf.org/uploads/tx_szleitlinien/174-013l_S1_Adrenogenitales_Syndrom_mit_21_Hydroxylase_Defekt_AGS_2015-verlaengert.pdf)

e) IGM 4 – Other Unnecessary and Harmful Interventions and Treatments

Other frequent harmful treatments include (as detailed in the **2014 CRC NGO Report**):⁴⁶

- **Involuntary Medical and Scientific Human Experimentation** (p. 74)
- **Forced Excessive Genital Exams, Medical Display, (Genital) Photography** (p. 73)
- **Misinformation and Directive Counselling for Parents** (p. 70)
- **Systematic Lies and Imposition of “Code of Silence” on Children** (p. 72)
- **Imposition of Hormones** (p. 73)
- **Forced Mastectomy** (p. 70)
- **Denial of Needed Health Care** (p. 75)
- **Selective (Late Term) Abortion** (p. 76)
- **Preimplantation Genetic Diagnosis (PGD) to Eliminate Intersex Fetuses** (p. 76)

2. Lack of Legislative Provisions, Impunity of the Perpetrators (art. 2, 26)

As documented in the **2015 thematic CRPD NGO Report for Germany** (p. 18-19)⁴⁷ since 1996 the German government has been regularly called upon to undertake legislation to stop IGM practices, including by its own Conference of Ministers for Women’s Issues and Equality (GFMK). Also CAT, CRPD and CEDAW have urged Germany to “[a]dopt *clear legislative provisions explicitly prohibiting the performance of unnecessary surgical or other medical treatment on intersex children until they reach an age when they can provide their free, prior and informed consent.*

Nonetheless, to this day the **German government** undeviatingly **refuses** to “*take effective legislative, administrative, judicial or other measures*” to protect intersex children, but, as once more documented in the Reply to the List of Issues, instead continues with a perpetual cycle of denial and **endless discussions, roundtables, and yet more studies without consequences.**

Tellingly, the **Department of Justice (BMJV)** argues at the same time on the one hand legislation against IGM practice would be unnecessary, claiming **IGM would already fall under the prohibition** according to § 226a StGB (Female Genital Mutilation), §§ 223 ff. StGB (bodily harm) and to some extent § 1631c BGB (prohibition of sterilisation), and on the other hand, **legal prohibition would be harmful**, “*not in the best interest of the child*” and “*not helpful*” for “*parents in a difficult psychological decision situation*”, as “*counselling seems more necessary than prohibitions*”.⁴⁸

46 http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

47 http://intersex.shadowreport.org/public/2015-CRPD-LoI-Germany_NGO-Report_Zwischengeschlecht_Intersex-IGM.pdf

48 BMFSFJ (ed.): „Situation von trans- und intersexuellen Menschen im Fokus“. Sachstandsinformation, p. 20-22: <https://www.bmfsfj.de/blob/112092/46d6be33eb8f2b5d2ee81488da03029c/situation-von-tans--und-intersexuellen-menschen-im-fokus-data.pdf>

3. Lack of Access to Justice, Redress and Compensation (art. 2, 26)

The **statutes of limitation** prevent survivors of early childhood IGM practices to call a court because persons concerned often do not find out about their medical history until much later in life, which in combination with severe trauma caused by IGM practices often proves to amount to a severe obstacle.⁴⁹

As documented in the **2015 thematic CRPD NGO Report for Germany** (p. 20-22)⁵⁰ the lack of access to redress and justice for survivors of IGM practices is **well known and near total**:

a) Criminal Law

No survivor of IGM practices ever succeeded in filing criminal charges.⁵¹

In case of average early surgeries “*in the first two years of life*”, all statutes of limitations have long passed before survivors come of age.

To this day, persons concerned and their organisations in vain **call for a legal review of the statutes of limitations in cases of IGM practices**, referring to current and recent legal reviews regarding **adjournment or suspension of the statutes of limitation** in cases of child sexual abuse (§§ 176 ff. StGB), and female genital mutilation (§ 226a StGB).

In 2014, also the **24th Conference of Ministers for Women’s Issues and Equality (GFMK)** explicitly called for a “*legal ban of medically unnecessary surgical and pharmacological [...] interventions on intersex minors*,” explicitly referring to **the need of intersex children for similar protection against sterilisation (§ 1631c BGB) and female genital mutilation (§ 226a StGB)** that other children and girls already enjoy.⁵²

b) Civil Law

No survivor of childhood IGM practices ever succeeded in filing civil charges.

Only 3 survivors of IGM practices so far succeeded in filing civil charges – all of them only for surgeries they were submitted to as **adults of 18 years** or older. The first case in Cologne 2007-2009 resulted in a surgeon being sentenced to pay 100’000 Euros damages.^{53 54} Two more cases filed 2011 in Nuremberg⁵⁵ and 2012 in Munich⁵⁶ are currently (slowly) under way, with the Nuremberg case currently **in the second instance (OLG) without anything happening for more than 2 years**,⁵⁷ after a first verdict sentencing the Erlangen University Clinic to pay damages.⁵⁸

49 Globally, no survivor of early surgeries **ever** managed to have their case heard in court. All relevant court cases (3 in Germany, 1 in the USA) were either about surgery of adults, or initiated by foster parents.

50 2015 CRPD Germany NGO Report, <http://intersex.shadowreport.org/public/2015-CRPD-LoI-Germany-NGO-Report-Zwischengeschlecht-Intersex-IGM.pdf>

51 E.g. Staatsanwaltschaft Hamburg, Az. 7200 Js 63/10 and LKA Hamburg, Az. LKA 533a/1K/0203909/200

52 2015 CRPD Germany NGO Report, p. 52-54

https://www.gleichstellungsministerkonferenz.de/documents/beschluesse_23_gfmk_05092013_2_1510227451.pdf

53 OLG Köln 03.09.2008, Az. 5 U 51/08

http://www.justiz.nrw.de/nrwe/olgs/koeln/j2008/5_U_51_08beschluss20080903.html

54 LG Köln 12.08.2009, Az. 25 O 179/07

http://www.justiz.nrw.de/nrwe/lgs/koeln/lg_koeln/j2009/25_O_179_07schlussurteil20090812.html

55 LG Nürnberg-Fürth, Az. 4 O 7000/11. 1st day in court was 26.02.2015.

56 LG München, Az. 9 O 27981/12.

57 OLG Nürnberg, Az. 5 U 53/16.

All other survivors of IGM practices attempting to sue so far were prevented by the statutes of limitations.

Already in 2009 during an intersex hearing of the **State Parliament of Hamburg**, specialised local lawyer Dr. Oliver Tolmein stated: *“Interestingly, a great many [intersex] persons come to our lawyer’s office wanting to sue their doctors for damages [however, so far all were prevented by the statutes of limitations]”*.⁵⁹

c) Victim’s Compensation Law (Opferentschädigungsgesetz, OEG)

The Victims Compensation Law (OEG) was introduced with the **stated intent** *“to create a financial compensation in cases of the state failing its mission to prevent crimes”*.⁶⁰

So far, no survivor of IGM practices succeeded in winning any compensation,⁶¹ with the courts consistently denying compensation to IGM victims, including by explicitly stating that for the plaintiff to be eligible for compensation, *“there would have to be laws [against IGM] in place. However, there aren’t.”*⁶² Another case, originally initiated in 2009 (!), has currently been resting in the second instance (Social Court Hamburg) for 32 months without any development.⁶³

4. State Party: Endless “Discussions” without Consequences

At least since 1996⁶⁴ the German government has been regularly called upon to systematically collect statistics, as well as to undertake legislation to guarantee access to redress, including by its own **Conference of Ministers for Women’s Issues and Equality (GFMK)**. Also **CAT, CRPD** and **CEDAW** have urged Germany inter alia to *“adopt legal provisions in order to provide redress to the victims of such treatment”*, to *“[s]ystematically collect disaggregated data”* and to *“provide families with intersex children with adequate counselling and support”*.

Nonetheless, to this day the **“new” German Coalition government** undeviatingly **refuses** to do so, but instead continues with **endless “discussions” and “careful examination” without any actual consequences ever – same as the last Government**, the one before, and so on and on

58 Sentence LG Nürnberg-Fürth, 17.12.2015, Az. 4 O 7000/11.

59 Wortprotokoll, at 11 http://kastrationsspital.ch/public/19_10_HH_Wortpr_Intersex.pdf

60 Franziska Brachthäuser, Theresa Richarz (2014): Zwischen Norm und Geschlecht – Erste Entwürfe möglicher nationaler Entschädigungs- und Schadensersatzansprüche intersexueller Menschen gegen die Bundesrepublik Deutschland, Humboldt Law Clinic Menschenrechte (HLCMR) Working Paper Nr. 5, at 22–24 (= 19–21 according to pagination) http://hlcmr.de/wp-content/uploads/2015/01/Working_Paper_Nr.5.pdf

61 For 4 cases, see 2015 CRPD Germany NGO Report, p. 21-22, http://intersex.shadowreport.org/public/2015-CRPD-LoI-Germany_NGO-Report_Zwischengeschlecht_Intersex-IGM.pdf

62 Ibid., see Case 2, SG Bayreuth, 01.08.2012, Az. S 4 VG 5/11 (unpublished); see also relevant quote in Nürnberger Nachrichten (04.11.2013)

<https://web.archive.org/web/20131114044728/http://www.nordbayern.de/nuernberger-nachrichten/region-bayern/schmerzliche-suche-nach-dem-eigenen-geschlecht-1.3257295>

63 Ibid., see Case 4, SG Hamburg, Az. S 12 VE 46/14.

64 See 2015 CRPD Germany NGO Report (p. 20-22), http://intersex.shadowreport.org/public/2015-CRPD-LoI-Germany_NGO-Report_Zwischengeschlecht_Intersex-IGM.pdf