

# **Intersex Genital Mutilations**

## **Human Rights Violations Of Children**

### **With Variations Of Sex Anatomy**



**HUMAN  
RIGHTS FOR  
HERM  
APHRODITES  
TOO !**

**NGO Report  
to the 6th and 7th Report of Ireland  
on the Convention on the Elimination of  
All Forms of Discrimination against Women (CEDAW)**

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## Executive Summary

**Ireland is in breach of its obligations** under the Convention on the Elimination of All Forms of Discrimination against Women to **(a) take effective legislative, administrative, judicial or other measures to prevent involuntary, non-urgent surgery and other medical treatment of intersex persons based on prejudice, and (b) to ensure access to redress, and the right to fair and adequate compensation and rehabilitation for victims** (Arts. 1, 5 and 12, General Recommendations No. 19 and 31).

**This Committee has repeatedly recognised IGM practices to constitute a harmful practice** under the Convention in 2016 Concluding Observations (CEDAW/C/CHE/CO/4-5 paras 38-39; CEDAW/C/FRA/CO/7-8, paras 17e-f+18e-f; CEDAW/C/NLD/CO/6 paras 21-22, 23-24).

In addition, **CRC** has already considered IGM in **Ireland** as a **harmful practice** (CRC/C/IRL/CO/3-4, paras 39-40), plus in 7 more countries, and **CAT** also consistently considers IGM as constituting at least **ill-treatment**. In total, UN treaty bodies **CEDAW, CRC, CAT and CRPD** have so far issued **20 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 Rapporteur on Torture (**SRT**), the UN Special Rapporteur on Health (**SRH**), the UN High Commissioner for Human Rights (**UNHCHR**), the World Health Organisation (**WHO**) and the Council of Europe (**COE**) recognise IGM practices as a serious human rights violation.

**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 treatments** that would not be considered for “normal” children, without evidence of benefit for the children concerned, but justified by societal and cultural norms and beliefs. **Typical forms** of IGM include “masculinising” and “feminising”, “corrective” genital surgery, sterilising procedures, imposition of hormones, forced genital exams, vaginal dilations, medical display, 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, less sexual activity, dissatisfaction with functional and aesthetic results.

**Since 1950, IGM has been practised systematically** and on an industrial scale in the “developed world”, and **all typical IGM forms are still practised in Ireland today**. Parents and children are misinformed, kept in the dark, sworn to secrecy, kept isolated and denied appropriate support.

This **NGO Report** is compiled by the international intersex NGO **StopIGM.org / Zwischen-geschlecht.org**. It contains **Concluding Recommendations**.

**NGO Report to the 6th and 7th Report of Ireland on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

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## Introduction

### Background and State Report

IGM practices are known to cause severe, lifelong physical and psychological pain and suffering, and have been repeatedly **recognised by multiple UN treaty bodies including CEDAW** as constituting a harmful practice, violence and torture or ill-treatment, however weren't mentioned in the combined 6<sup>th</sup> and 7<sup>th</sup> Irish State Report. This NGO Report demonstrates that the current **harmful medical practice on intersex persons in Ireland** – advocated, facilitated and paid for by the State party – constitutes a serious breach of Ireland's obligations under the Convention.

### About the Rapporteurs

This NGO report has been prepared by the Swiss-based international intersex NGO *StopIGM.org* / *Zwischengeschlecht.org* in exchange with Irish intersex advocates wishing to remain anonymous.

- **StopIGM.org / Zwischengeschlecht.org** is an international intersex human rights NGO 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!*"<sup>1</sup> According to its charter,<sup>2</sup> StopIGM.org works to support persons concerned seeking redress and justice and regularly reports to UN treaty bodies on IGM practices.

### Methodology

This thematic NGO report is an updated, abridged and localised version of the **2016 thematic CEDAW NGO Report for France**<sup>3</sup> and of the **2015 thematic CRC NGO Report for Ireland**<sup>4</sup> by partly the same rapporteurs.

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

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

3 <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

4 <http://intersex.shadowreport.org/public/2015-CRC-Ireland-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

## A. Intersex Genital Mutilations in Ireland as a violation of CEDAW

### 1. IGM Practices:

#### Involuntary, unnecessary medical interventions based on prejudice

**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,<sup>5</sup> 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, “*simply because their bodies did not fit social norms*”.<sup>6</sup>

**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, human experimentation, selective (late term) abortions and denial of needed health care, causing lifelong severe physical and mental **pain and suffering**.<sup>7</sup>

In a response to international IGM doctors advocating involuntary non-urgent surgeries on intersex children in a 2016 medical publication,<sup>8</sup> two bioethicists underlined the **prejudice** informing the current medical practice:

*“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.”*<sup>9</sup>

### 2. Intersex is NOT THE SAME as LGBT

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, e.g. if intersex and/or intersex status are represented as a sexual orientation (like gay or lesbian), and/or as a gender identity, as a subset of transgender, as the same as transsexuality,<sup>10</sup> or as a form of sexual preference.

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5 See “What is Intersex?”, 2016 CEDAW NGO Report France, p. 39-44.

<http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

6 For references, see “What are Intersex Genital Mutilations (IGM)?”, 2016 CEDAW NGO Report France, p. 45.

<http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

7 See “Most Frequent Surgical and Other Harmful Medical Interventions”, 2016 CEDAW NGO Report France, p. 47-50. <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

8 Pierre Mouriouand 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/)

9 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/)

10 E.g. the **Swiss Federal Government** in 2011 in answers to parliamentary questions consistently described intersex as “*True and Untrue Transsexualism*”, e.g. 11.3286, [http://www.parlament.ch/d/suche/seiten/geschaefte.aspx?gesch\\_id=20113286](http://www.parlament.ch/d/suche/seiten/geschaefte.aspx?gesch_id=20113286)

The underlying reasons for such misconceptions include **lack of awareness**, third party groups **instrumentalising** intersex as a means to an end for their own agenda, and State parties **trying to deflect** from criticism of involuntary intersex treatments.

**Intersex persons and their organisations have spoken out clearly against instrumentalising intersex issues,**<sup>11</sup> maintaining that Intersex Genital Mutilations present a distinct and unique issue constituting **significant human rights violations**, which are different from those faced by the LGBT community, and thus need to be **adequately addressed in a separate section as specific intersex issues.**

### **3. IGM practices in Ireland: Pervasive and unchallenged**

In **Ireland** (see CRC/C/IRL/CO/3-4, paras 39-40), same as in the *United Kingdom* (see CRC/C/GBR/CO/5 paras 45-46), *France* (see CEDAW/C/FRA/CO/7-8, paras 17e-f + 18e-f; CRC/C/FRA/CO/5, paras 47-48; CAT/C/FRA/CO/7, paras 32–33), *Switzerland* (see CEDAW/C/CHE/CO/4-5 paras 38-39; CRC/C/CHE/CO/2-4 paras 42-43; CAT/C/CHE/CO/7 para 20), *Germany* (see CAT/C/DEU/CO/5; para 20; CRPD/C/DEU/CO/1, paras 37-38), and in many more State parties,<sup>12</sup> there are

- **no legal or other protections** in place to ensure the rights of intersex children to physical and mental integrity, autonomy and self-determination, and **to prevent** non-consensual, medically unnecessary, irreversible surgery and other harmful treatments a.k.a. **IGM practices**
- **no measures** in place to ensure **data collection and monitoring** of IGM practices
- **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

To this day, the **Irish government** simply refuses to recognise the human rights violations and suffering caused by IGM practices, let alone to “*take effective legislative, administrative, judicial or other measures*” to protect intersex children.

During the recent CRC Review of Ireland,<sup>13</sup> Head of Delegation Minister Dr. James Reilly (then Minister for Children and Youth Affairs, former Minister for Health, former president of the Irish Medical Organisation, medical doctor) denied yet inadvertently admitted the ongoing practice in Ireland:

*«[...] it's a clinical decision to intervene [...]. I think if you relate to the consent of the child you'll obviously have to be talking about older children. And to my knowledge these operations do not take place later in life [...] that's my experience in practice. [...] So, very often we are talking about very young babies here, very very young children, who have a serious anatomical, physiological difficulty to be sorted out, and that's the basis on which these procedures might be carried out. [...]*»

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11 For references, see 2016 CEDAW NGO Report France, p. 40, fn 49.

<http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

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

13 CRC 71<sup>st</sup> Session, 14 January 2016, see transcription: <http://stop.genitalmutilation.org/post/Geneva-Ireland-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-the-Child>

To this day, in Ireland **all forms of IGM practices remain widespread and ongoing**, persistently **advocated, prescribed and perpetrated** by state funded University and public Children's Hospitals, and **advocated and paid for** by the public Irish Health Service Executive (HSE):

**a) IGM 3 – Sterilising Procedures:**

**Castration / “Gonadectomy” / Hysterectomy /  
Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation  
Plus arbitrary imposition of hormones**<sup>14</sup>

As advocated by the public Irish Health Service Executive (HSE):<sup>15</sup>

**“Removal of the testes**

*“Women who have CAIS are **recommended to have their internal testes removed**, as they can become cancerous. Cancer develops in around 9% of women with CAIS, though hardly ever before puberty.*

*“The operation to remove the testes (an orchidectomy) used to be carried out at an early age but **many [note: not all]** experts now recommend leaving the operation until the girl has finished puberty. This is because the testes can help convert androgen to oestrogen, so the girl can develop a normal female body without the need for hormone treatments.*

*“Boys with PAIS can have operations to move their testes into their scrotum (orchiopexy) and to straighten their penis so they can urinate standing up (hypospadias repair).”*

**“Hormone therapy**

*“Women with CAIS who have gone through puberty and **had their testes removed** will need to **take a supplement of the hormone oestrogen** to prevent them getting menopausal symptoms and developing weak bones (osteoporosis).”*

See also **pictorial example of gonadectomy** taken from: P. Puri [Dublin] and M. Höllwarth (eds.), *Pediatric Surgery: Diagnosis and Management*, Berlin Heidelberg 2009, documented in 2016 CEDAW NGO Report France, p. 61.<sup>16</sup> Professor Prem Puri works at National Children's Research Centre, Our Lady's Children's Hospital, Crumlin, Dublin.

**b) IGM 2 – “Feminising Procedures”: Clitoris Amputation/“Reduction”,  
“Vaginoplasty”, “Labioplasty”, Dilation**<sup>17</sup>

According to Professor Hillary Hoey, current Director of Professional Competence at the Royal College of Physicians of Ireland, former Chair of Paediatrics at the National Children's Hospital, former Dean of the Faculty of Paediatrics at Royal College of Physicians of Ireland, former Chair of the European Society for Paediatric Endocrinology (ESPE),

**“feminising surgeries [are] done in Ireland by two specialised paediatric surgeons”**<sup>18</sup>

14 For general information, see 2016 CEDAW NGO Report France, p. 47.

<http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

15 Health Service Executive, “Androgen insensitivity syndrome”,

<http://www.hse.ie/portal/eng/health/az/A/Androgen-insensitivity-syndrome/>

16 <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

17 For general information, see 2016 CEDAW NGO Report France, p. 48.

<http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

18 Informal dialogue between ESPE Representatives and the Rapporteurs, Dublin, 19.09.2014, see:

<http://stop.genitalmutilation.org/post/Ending-IGM-Dialogue-with-ESPE-Representatives-Dublin-19-09-2014>



### c) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair”<sup>19</sup>

As advocated by the National Children’s Hospital Tallaght, Teaching Hospital of Trinity College Dublin:<sup>20</sup>

#### “What is Hypospadias?”

“A condition that a boy is born with which affects the appearance and function of the penis.

#### “How can it be treated?”

“An operation is required to help improve the appearance and function of the penis. Usually one but sometimes two operations are required. You can discuss surgery options with your child’s surgeon.” [Foregoing surgery and lack of medical necessity aren’t mentioned at all.]

### d) Examples of Irish University Children’s Clinics advocating and perpetrating IGM

Currently, arguably all major Irish public University Children’s Clinics employ doctors advocating, prescribing and performing IGM practices, e.g.

- Tallaght Hospital, Dublin <sup>21</sup>
- Our Lady’s Children’s Hospital, Dublin <sup>22</sup>
- Cork University Hospital, Wilton <sup>23</sup>

## 4. IGM in Ireland as a harmful practice and gender based violence

### a) Article 5 in conjunction with General recommendation No. 31

Article 5 (a) of the Convention stipulates “To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”.

**This Committee has repeatedly recognised IGM practices to constitute a harmful practice** under the Convention during previous Sessions (CEDAW/C/FRA/CO/7-8, paras 17e-f+18e-f; CEDAW/C/CHE/CO/4-5 paras 38-39; CEDAW/C/NLD/CO/6 paras 21-22, 23-24).

In addition, the Committee on the Rights of the Child (CRC) has already recognised IGM practices in **Ireland** to constitute a **harmful practice** in CRC/C/IRL/CO/3-4, paras 39-40, as well as in other countries, referring to the CEDAW-CRC Joint general comment No. 31/18 on harmful practices (2014), in CRC/C/CHE/CO/2-4, paras 42-43; CRC/C/CHL/CO/4-5 paras 48-49;

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19 For general information, see 2016 CEDAW NGO Report France, p. 48-49.

<http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

20 Tallaght Hospital, “Patient Information Leaflet: Care of your child following ‘Hypospadias Repair’”, online: <http://www.tallaghthospital.ie/ImageLibrary/Just-for-Kids-Image/-Hypospadias.pdf>

21 See footnote 20.

22 See pictorial example of gonadectomy taken from: P. Puri [National Children’s Research Centre, Our Lady’s Children’s Hospital, Crumlin, Dublin] and M. Höllwarth (eds.), *Pediatric Surgery: Diagnosis and Management*, Berlin Heidelberg 2009, documented in 2016 CEDAW NGO Report France, p. 61: <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

23 “We identified all patients who underwent MAGPI repair by a single surgeon over an 8-year period. [...] We identified 48 patients, with a median age of 19 months (8 months–13 years).”

M. A. Abdelrahman, K. M. O’Connor, E. A. Kiely, “MAGPI hypospadias repair: factors that determine outcome”, *Irish Journal of Medical Science*, December 2013, Volume 182, Issue 4, pp 585-588.

CRC/C/FRA/CO/5 paras 47-48; CRC/C/GBR/CO/5 paras 45-46; CRC/C/ZAF/CO/2 paras 37-38.

JGR No. 31/18 clearly stipulates the right of victims of IGM practices to “*equal access to legal remedies and appropriate reparations*” (para 55 (q)), and specifically to ensure that “*children subjected to harmful practices have equal access to justice, including by addressing legal and practical barriers to initiating legal proceedings, such as the **limitation period***” (para 55 (o)).

Also the Committee against Torture (CAT) consistently recognises IGM practices to constitute at least **ill-treatment**, urging States “*to undertake legislative, administrative and other necessary measures to ensure the bodily integrity of intersex people*”, and “*to investigate cases of medical or surgical treatments of intersex persons without their informed consent, and to undertake legislative measures to ensure redress for victims, including adequate compensation*”, for example in CAT/C/DEU/CO/5 para 20; CAT/C/CHE/CO/7 para 20; CAT/C/DNK/6-7 paras 42-43; CAT/C/CHN-HKG/CO/4-5 paras 28-29; CAT/C/FRA/CO/7 paras 32-33.

To this day, UN treaty bodies issued **20 Concluding Observations on IGM practices**, considering them as harmful practice (CRC art. 24 para 3 in conjunction with JGR No. 31/18, CEDAW art. 5 (a)), ill-treatment (CAT art. 2, 12 and 16), or a violation of physical and mental integrity (CRPD art. 7).<sup>24</sup>

Clearly, due to their nature, **IGM practices in Ireland also fall within the scope of article 5 (a) CEDAW and JGR No. 31/18.**

#### **b) Article 1 in conjunction with General recommendation No. 19**

In addition, due to their nature, IGM practices clearly also constitute a form of **gender-based violence**, and thus also article 1 of the convention in conjunction with the Committee’s **General recommendation No. 19** applies, which further underline the right to life (para 7 (a)) and the right to protection from ill-treatment (CIDT) (para 7 (b)). In CEDAW/C/NLD/CO/6 paras 22-23 this Committee considered art. 1 and GR 19 as applicable for intersex women.

Regarding ill-treatment (GR 19 para 7 (b)), since 2011 the Committee against Torture (CAT) has repeatedly examined IGM practices, and consistently considered them as constituting **at least ill-treatment**.<sup>25</sup>

Thus, also art. 1 CEDAW in conjunction with GR 19 apply.

#### **c) Article 12 in conjunction with General recommendation No. 19**

States parties are required by article 12 to take measures to ensure equal access to health care, and GR 19 particularly underlines the right to the highest standard attainable of physical and mental health (para 7 (g)).

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24 CAT/C/DEU/CO/5, para 20; CRC/C/CHE/CO/2-4, paras 42-43; CRPD/C/DEU/CO/1, paras 37-38; CAT/C/CHE/CO/7, para 20, CRC/C/CHL/CO/4-5, paras 48-49; CAT/C/AUT/CO/6, paras 44-45; CAT/C/DNK/CO/6-7, paras 42-43; CAT/C/CHN-HKG/CO/4-5, paras 28-29; CRC/C/IRL/CO/3-4, paras 39-40; CRC/C/FRA/CO/5, paras 47-48; CAT/C/FRA/CO/7, paras 32-33; CRPD/C/CHL/CO/1 paras 41-42; CRC/C/GBR/CO/5, paras 45-46; CRC/C/NPL/CO/3-5 p. 10-11, paras 41-42, CEDAW/C/FRA/CO/7-8, paras 17e-f+18e-f; CRPD/C/ITA/CO/1, paras 45-46; CRC/C/ZAF/CO/2 paras 37-38; CRC/C/NZL/CO/5 paras 25 + 15; CEDAW/C/CHE/CO/4-5 paras 38-39; CEDAW/C/NLD/CO/6 paras 21-22, 23-24.

25 CAT/C/FRA/CO/7, paras 32-33; CAT/C/CHE/CO/7, para 20; CAT/C/DEU/CO/5; para 20; CAT/C/AUT/CO/6, paras 44-45; CAT/C/CHN-HKG/CO/5, paras 28-29; CAT/C/DNK/CO/6-7, paras 42-43

IGM practices per se are detrimental to the health of survivors. Additionally, one specific form of IGM practices is denial of needed health care (see p. 50).

In addition, the **Special Rapporteur on Health** has identified intersex children as a “*vulnerable group*” and IGM practices as a “*painful and high-risk procedure with no proven medical benefits*”,<sup>26</sup> and IGM 2 “*clitoral reduction*” as constituting “*a form of female genital mutilation*”.<sup>27</sup>

Thus, also art. 12 CEDAW in conjunction with GR 19 applies.

## 5. Lack of Independent Data Collection and Monitoring

With no statistics available on intersex births, let alone surgeries and costs, and **perpetrators, governments and health departments colluding to keep it that way as long as anyhow possible**, persons concerned as well as civil society **lack possibilities to effectively highlight and monitor** the ongoing mutilations. What’s more, after realising how intersex genital surgeries are increasingly in the focus of public scrutiny and debate, perpetrators of IGM practices respond by suppressing complication rates, as well as refusing to talk to journalists “on record”.<sup>28</sup>

Also in **Ireland**, there are **no statistics on intersex birth and on IGM practices available**.

However, the Joint general recommendation No. 31 CEDAW / Joint general comment No. 18 CRC “on harmful practices” (2014) clearly **stipulates comprehensive data collection and monitoring** (paras 37-39).

## 6. Lack of legislative provisions, impunity of the perpetrators

Article 5 (a) of the Convention in conjunction with the Joint general recommendation No. 31 CEDAW / Joint general comment No. 18 CRC “on harmful practices” (2014) underline state parties’ obligations to “*explicitly prohibit by law and adequately sanction or criminalize harmful practices*” (JGR 31/18, para 13), as well as to “*adopt or amend legislation with a view to effectively addressing and eliminating harmful practices*” (JGR 31/18, para 55), and specifically to ensure “*that the perpetrators and those who aid or condone such practices are held accountable*” (JGR 31/18, para 55 (o)).

Also the Committee’s **General recommendation No. 19** obliges State parties, inter alia, to “*take appropriate and effective measures to overcome all forms of gender-based violence*”(para 24 (a)), to “*encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence*” (para 24 (c)), to provide “*Effective complaints procedures and remedies, including compensation*” (para 24 (I)), “*take all legal and other measures that are necessary to provide effective protection of women against gender-based violence*” (para 24 (t)).

Accordingly, with regards to IGM practices, **this Committee** as well as the **Committee on the Rights of the Child (CRC)**, referring to Article 24 para 3 CRC and the Joint general recommendation No. 31 CEDAW / Joint general comment No. 18 CRC, already explicitly recognised the obligation for State parties to “*Ensure that [...] no child is subjected to*

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26 A/64/472, para 49 incl. fn 67

27 A/HRC/32/33, para 56

28 Personal communication by journalist SRF (Swiss National Radio and TV), 2013

*unnecessary medical or surgical treatment during infancy or childhood; adopt legislation to protect the bodily integrity, autonomy and self-determination of intersex persons and provide families with intersex children with adequate counselling and support”, as well as to “Adopt legal provisions in order to provide redress to intersex persons affected by cases of surgical or other medical treatment without free, prior and informed consent by the intersex person or his/her parents under the guidance of the court”.*<sup>29</sup>

Also in **Ireland** there are still **no legal or other protections** in place to ensure the protection of intersex children from IGM practices, nor to ensure the **accountability of perpetrators** and accessories.

What’s worse, this comes **after the State party had already been reprimanded by CRC** for IGM practices.

## **7. Obstacles to redress, fair and adequate compensation**

Article 5 (a) of the Convention in conjunction with the CRC/CEDAW Joint General Comment No. 18/31 “on harmful practices” clearly stipulates the right of victims of IGM practices to **“equal access to legal remedies and appropriate reparations”**, and specifically to ensure that **“children subjected to harmful practices have equal access to justice, including by addressing legal and practical barriers to initiating legal proceedings, such as the limitation period”**.

However, also in **Ireland** the **statutes of limitation** prohibit 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, and **severe trauma** caused by IGM Practices often prohibits them to act in time once they do.<sup>30</sup> So far there was no case of a victim of IGM practices succeeding in going to court.

The **Irish government** so far refuses to ensure that non-consensual unnecessary IGM surgeries on minors are recognised as a form of **genital mutilation**, which would formally prohibit parents from giving “consent”. In addition, the state party **refuses to initiate impartial investigations**, as well as data collection, monitoring, and disinterested research.<sup>31</sup> In addition, hospitals are often **unwilling to provide full access to patient’s files**.

This situation is clearly not in line with **Ireland’s** obligations under the Convention.

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29 CEDAW/C/CHE/CO/4-5, para 25.

30 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.

31 For more on this topic see 2016 CEDAW NGO Report France, p. 55:

<http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

## **B. Recommendations**

*The Rapporteurs respectfully suggest that, with respect to the treatment of intersex persons in Ireland, the Committee includes the following measures in their recommendations to the Irish Government (in line with this Committee's previous recommendations on intersex to France, Switzerland and the Netherlands, and with CRC's previous recommendation to Ireland):*

### **Harmful practices: Intersex persons**

The Committee remains seriously concerned about cases of medically unnecessary and irreversible surgery and other treatment of intersex children and adults without their informed consent, which can cause severe suffering, and the lack of redress and compensation in such cases.

**In the light of its joint general comment No. 31 (2014) and No. 18 of the Committee on the Rights of the Child on harmful practices, the Committee recommends that the State party:**

- (a) Ensure that no-one is subjected to unnecessary medical or surgical treatment during infancy or childhood, adopt legislation with a view to guarantee bodily integrity, autonomy and self-determination to persons concerned, and provide families with intersex children with adequate counselling and support;**
- (b) Undertake investigation of incidents of surgical and other medical treatment of intersex persons without informed consent and adopt legal provisions in order to provide redress to the victims of such treatment, including adequate compensation;**
- (c) Systematically collect disaggregated data on harmful practices in the State party and make information on the ways to combat these practices widely available;**
- (d) Educate and train medical professionals on the harmful impact of unnecessary surgical or other medical interventions for intersex children, and ensure that the views of intersex persons are fully considered by the interdisciplinary working groups established to review these procedures.**