

# Intersex Genital Mutilations Human Rights Violations Of Children With Variations Of Reproductive Anatomy



NGO Report (for Session)  
to the 6<sup>th</sup> Periodic Report of Belgium on the  
International Covenant on Civil and Political Rights  
(CCPR)

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**This NGO Report online:**

<http://intersex.shadowreport.org/public/2019-CCPR-Belgium-NGO-Intersex-StopIGM.pdf>



NGO Report (for LOIPR) to the 6<sup>th</sup> Periodic Report of Belgium  
International Covenant on Civil and Political Rights (CCPR)

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## Executive Summary

All typical forms of IGM practices are still practised in Belgium today, facilitated and paid for by the State party via the public health system **FOD Volksgezondheid en Sociale Zekerheid / SPF Santé Publique et Sécurité Sociale**. Parents and children are misinformed, kept in the dark, sworn to secrecy, kept isolated and denied appropriate support.

In 2019, **CRC recognised IGM in Belgium as a harmful practice** and called for an **explicit prohibition** (CRC/C/BEL/CO/5-6, paras 25(b)+26(e)). To this day, the **State party fails to act**.

**Belgium** is thus in breach of its **obligations** under CCPR to (a) take effective legislative, administrative, judicial or other measures to **prevent inhuman treatment and involuntary experimentation on intersex children** causing severe mental and physical pain and suffering of the persons concerned, and (b) **ensure equal access to justice and redress**, including fair and adequate **compensation** and as full as possible **rehabilitation** for victims, as stipulated in the Covenant in conjunction with the **General comment No. 20**.

**This Committee has repeatedly recognised IGM practices to constitute a serious violation** of the Covenant in Concluding Observations, invoking **Articles 3, 7, 9, 17, 24 and 26**.

In total, UN treaty bodies **CRC, CAT, CCPR, CEDAW** and **CRPD** have so far issued **42 Concluding Observations** recognising IGM as a **serious violation of non-derogable human rights**, 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 Reproductive 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 **Thematic NGO Report** has been compiled by the intersex NGOs **Intersex Belgium** and **StopIGM.org / Zwischengeschlecht.org**.

It contains **Suggested Recommendations (p. 22)** and a separate private Annexe with **1 Case Study**.

## A. Introduction

### 1. Intersex, IGM and Human Rights in Belgium

IGM practices are known to cause severe, lifelong physical and psychological pain and suffering, and have been repeatedly **recognised by multiple UN treaty bodies**<sup>1</sup> including CCPR as constituting cruel, inhuman or degrading treatment, violence and a harmful practice.

In 2019, CRC (CRC/C/BEL/CO/5-6, paras 25(b)+26(e)) already considered **IGM in Belgium** as a **harmful practice**, and recommended the State party to “[p]rohibit the performance of unnecessary medical or surgical treatment on intersex children” and to “ensure that intersex children and their families have access to adequate counselling and support and to effective remedies, including by lifting the statute of limitations”. However, to this day the **Belgian government fails to act** accordingly.

This Thematic NGO Report demonstrates that the current and ongoing **harmful medical practices on intersex children in Belgium** – advocated, facilitated and **paid for by the State party**, and perpetrated both by public university hospitals and private health-care providers – constitute a **serious breach** of Belgium’s obligations under the Covenant.

### 2. About the Rapporteurs

This **thematic NGO report** has been prepared by the intersex NGO *Intersex Belgium* in collaboration with the international intersex NGO *StopIGM.org / Zwischengeschlecht.org*:

- **Intersex Belgium**, founded in 2017 by Thierry Bosman and Sylviane Lacroix, is a national NGO led by Belgian intersex persons and survivors of IGM practices working to improve the well-being and human rights of intersex persons, including by working with Government agencies. They offer a national collective platform and work to raise awareness of intersex issues, including in regional and international media.
- **StopIGM.org / Zwischengeschlecht.org**, founded in 2007, is an international intersex human rights NGO based in Switzerland. It is led by intersex persons, their partners, families and friends, and works to eliminate IGM practices and other human rights violations perpetrated on intersex people, according to its motto, “*Human Rights for Hermaphrodites, too!*”<sup>2</sup> According to its charter,<sup>3</sup> Zwischengeschlecht.org works to support persons concerned seeking redress and justice. StopIGM.org has been active in Belgium since 2015<sup>4 5 6</sup> and regularly reports to UN treaty bodies.<sup>7</sup>

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1 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>

2 <http://Zwischengeschlecht.org/> English pages: <http://stop.genitalmutilation.org>

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

4 <https://web.archive.org/web/20160708031016/http://www.av.s.be/avsnews/protest-tegen-genitale-verminking>

5 <https://vimeo.com/channels/540542/130524251>

6 <http://stop.genitalmutilation.org/post/Intersex-Prottests-Info-DSDnet-I-DSD-Belgium-June-7-13>

7 <http://intersex.shadowreport.org/>

The Rapporteurs would like to acknowledge the work of pioneering Belgian intersex advocate and IGM survivor **Kris Günther**<sup>8 9 10 11 12 13 14 15 16</sup> (also pictured on the cover photo).

And we would like to acknowledge the recent work of **Londé Ngosso**<sup>17</sup> and the **Inter Section**<sup>18</sup> of **Genres Pluriels**.<sup>19</sup>

### 3. Methodology

This thematic NGO report is an updated and localised synthesis of the **2018 CRC Belgium Intersex Report (for PSWG)**<sup>20</sup> and the **2018 CRC Belgium Intersex Report (for Session)**<sup>21</sup> by the same Rapporteurs, with further, CCPR-specific information taken from the **2019 CCPR Mexico Intersex Report**<sup>22</sup> by partly the same Rapporteurs.

This Report also includes a separate, non-public annexe with **1 anonymised personal testimony of an IGM survivor**, which has been collected with the aid of Intersex Belgium on occasion of the CRC Belgium PSWG NGO Meeting, where it was presented in an abridged form. The identity of the person concerned is known to Intersex Belgium and the Rapporteurs. That this testimony is not included in the public part of the report is due to the fact that many patients, their families, and parents find it hard to speak about what happened to them, and do not wish their story to become public, even anonymously. The testimony, however, shows in an exemplary manner the **severe physical and mental pain and suffering** as a result of IGM practices in Belgium.

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- 8 <https://www.apache.be/fr/2013/07/12/la-difficile-reconnaissance-du-corps-des-personnes-intersexes-en-belgique/>
- 9 <https://web.archive.org/web/20170409231634/http://oii francophonie.org/wp-content/uploads/2014/08/Sexe-ind%C3%A9termin%C3%A9-une-vie-en-qu%C3%AAtedidentit%C3%A9-sudpresse.pdf>
- 10 <http://www.lesoir.be/archive/recup/367612/article/actualite/belgique/2013-11-25/combat-des-intersexes-belges>
- 11 <https://www.interfaceproject.org/transcript-kris-gunther>
- 12 <https://web.archive.org/web/20170409140740/http://oii francophonie.org/wp-content/uploads/2014/09/parisberlin.pdf>
- 13 <https://web.archive.org/web/20170409080201/http://oii francophonie.org/wp-content/uploads/2014/08/moustique-1.pdf>
- 14 <https://vimeo.com/channels/540542/130524251>
- 15 [http://next.liberation.fr/sexe/2015/07/01/sans-contrefaçon-je-suis-fille-et-garçon\\_1341211](http://next.liberation.fr/sexe/2015/07/01/sans-contrefaçon-je-suis-fille-et-garçon_1341211)
- 16 "Le Quotidien" 21.03.2017, p. 3 (in French), [http://kastrationsspital.ch/public/Luxembourg\\_LeQuotidien\\_Intersex\\_21-03-2017.pdf](http://kastrationsspital.ch/public/Luxembourg_LeQuotidien_Intersex_21-03-2017.pdf)
- 17 Founding member of Genres Pluriels, member of the Inter Section at Genres Pluriels, member of the WG Legislation Trans\*/Inter\*, <https://parismatch.be/actualites/societe/43229/briser-le-tabou-sur-les-personnes-intersexuees>
- 18 <https://www.genrespluriels.be/Le-site-web-IdemInfo-be-sous-le-feu-des-critiques-des-associations?lang=fr>
- 19 <https://www.genrespluriels.be/>
- 20 <http://intersex.shadowreport.org/public/2018-CRC-PSWG-Belgium-NGO-Zwischengeschlecht-Intersex-IGM.pdf>
- 21 <http://intersex.shadowreport.org/public/2018-CRC-Belgium-NGO-Zwischengeschlecht-Intersex-IGM.pdf>
- 22 <http://intersex.shadowreport.org/public/2019-CCPR-Mexico-NGO-Intersex-Brujula-StopIGM.pdf>

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

### 1. Precedents: 2019 CRC Concluding Observations, State Report

#### a) 2019: CRC/C/BEL/CO/5-6, paras 25(b)+26(e)

##### *Harmful practices*

25. *The Committee notes with concern that:*

[...]

(b) *Intersex children are subjected to medically unnecessary surgeries and other procedures.*

26. *With reference to joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices (2014) and taking into account target 5.3 of the Sustainable Development Goals, the Committee urges the State party to:*

[...]

(e) *Prohibit the performance of unnecessary medical or surgical treatment on intersex children where those procedures can be safely deferred until children are able to provide their informed consent; ensure that intersex children and their families have access to adequate counselling and support and to effective remedies, including by lifting the statute of limitations.*

#### b) State Report, para 67

In the State report, **intersex is mentioned and IGM alluded to once in para 67** under “a general attitude survey of the population will be conducted on issues relating to lesbian, gay, bisexual, transgender and intersex (LGBTI) persons” and the multiple “Inter-federal Action Plans” to combat homophobic and transphobic discrimination and violence.

Regarding the “**general attitude survey [...] relating to lesbian, gay, bisexual, transgender and intersex (LGBTI) persons**”, and how intersex persons and particularly intersex children at risk of being submitted to IGM practices might benefit from it, no further information is available to the Rapporteurs.

Regarding the “Inter-federal Action Plans”, in spring 2018 a new “**Interfederal Action Plan against discrimination and violence against LGBTI persons 2018-2019**”<sup>23</sup> has been presented by the **State Secretary for Equal Opportunities**. As examined below (see p. 9), this Action Plan claims to address violence against intersex people, however, it exclusively **frames intersex in medical and transgender terms**, and **conveniently ignores IGM** and other harmful practices on intersex people, but instead focuses on **examples of violence which are mostly irrelevant to intersex people** (e.g. “hate speech” and street violence).

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23 [https://fedweb.belgium.be/sites/default/files/Actieplan\\_LGBTI\\_2018-2019\\_NL.pdf](https://fedweb.belgium.be/sites/default/files/Actieplan_LGBTI_2018-2019_NL.pdf)

## 2. Lack of Legal Protection for Intersex Persons, particularly Children

In **Belgium** (CRC/C/BEL/CO/5-6, paras 25(b)+26(e)), same as in the **neighbouring states** of *France* (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), *Germany* (CAT/C/DEU/CO/5, para 20; CRPD/C/DEU/CO/1, p. 6–7, paras 37-38; CEDAW/C/DEU/CO/7-8, paras 23-24) and the *United Kingdom* (CRC/C/GBR/CO/5, paras 46-47; CAT/C/GBR/CO/6, paras 64-65; CRPD/C/GBR/CO/1, paras 10(a)-11(a), 38-41), and in **many more State parties**,<sup>24</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 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, in Belgium all forms of IGM practices remain widespread and ongoing, persistently advocated, prescribed and perpetrated** by state funded University and public Children’s Hospitals, **advocated and paid for by the State** via the public health system **FOD Volksgezondheid en Sociale Zekerheid / SPF Santé Publique et Sécurité Sociale** (Public Administration for Public Health and Social Security).

To this day, the **Belgian government fails to recognise the serious human rights violations and severe suffering caused by IGM practices**, let alone to “*take effective legislative, administrative, judicial or other measures*” to protect intersex children, **in spite of longstanding criticism and appeals** by intersex persons and their organisations,<sup>25</sup> and legal experts,<sup>26</sup> and **in spite of the 2019 CRC Concluding Observations** which recognised IGM in Belgium to constitute a **harmful practice** and explicitly recommended the State party to “*[p]rohibit the performance of unnecessary medical or surgical treatment on intersex children*”, to “*ensure that intersex children and their families have access to adequate counselling and support and to effective remedies, including by lifting the statute of limitations*” (CRC/C/BEL/CO/5-6, paras 25(b)+26(e)).

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24 Currently we count **42 Concluding observations on IGM practices for 24 State parties in Europe, South America, Asia and Oceania**, see <http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

25 See above footnotes 9-19

26 Marie-Laure Tounkara (2015), “Légiférer l’intersexualité en Belgique : un défi pour notre société”, master thesis, Université catholique de Louvain, [https://dial.uclouvain.be/memoire/ucl/en/object/thesis:3412/datastream/PDF\\_02/view](https://dial.uclouvain.be/memoire/ucl/en/object/thesis:3412/datastream/PDF_02/view)



### 3. Insufficient Government Initiatives to Combat IGM Practices

#### a) “Interfederal Action Plan” ignores Violence against Intersex People

In spring 2018, the “**Interfederal Action Plan against discrimination and violence against LGBTI persons 2018-2019**”<sup>27</sup> by appointment of the **State Secretary for Equal Opportunities** claims to address violence against intersex people. However, same as with the closed meetings on “Rights of Intersex Persons” (also convened by the State Secretary for Equal Opportunities, see below), the action plan exclusively **frames intersex in medical and transgender terms**, and **conveniently ignores IGM** and other harmful practices on intersex people, but instead focuses on **examples of violence which are mostly irrelevant to intersex people** (e.g. “*hate speech*” and street violence):

*“There are several reported cases, which are very varied. For example, there may be direct or indirect **discrimination in access to health care**, for example when medical treatment is only available for one or the other gender, despite the presence of incongruous gender characteristics or in the reimbursement of social security for certain expenses. In addition, **discrimination occurs in access to sporting events**, and people with intersex/DSD condition experience **harassment, physical violence and hate speech**. The Flemish study on intersex/DSD showed, among other things, that persons with an intersex/DSD condition, of which this condition is not visible, do not necessarily have to deal with discrimination.”* (p. 14)

Accordingly, also the proposed steps of action **exclusively focus on medicalising intersex children** (e.g. “*The drawing up of a care map of care providers in the intersex/DSD theme in Belgium*”) and **funding opportunities for the usual IGM-friendly researchers** already known from the closed meetings on “Rights of Intersex Persons” (see above), e.g. “*The search for a uniform terminology and definition of persons with intersex/DSD*” and “*Creation of a central information platform on intersex/DSD*” (see p. 21-22).

#### b) Intersex Advocates and Human Rights sidelined by Equal Opportunities Unit

Starting in November 2018, the **Federal Equal Opportunities Unit** (Federal Sector Equal Opportunities at the Department Legislation, Liberties and Fundamental Rights of the **Ministry of Justice**) started to convene a series of **closed meetings on “Rights of Intersex Persons”**, by invitation of the State Secretary for Equal Opportunities, with the first meeting taking place on 19.11.2018.<sup>28</sup>

Contrary to “medical experts”, **no intersex advocates or organisations have participated or have been consulted in advance on the process and methodology of these meetings**.

Also, at the first formal meeting on 19.11.2018, the Federal Equal Opportunities Unit **refused to admit intersex advocates to the meeting**, including Thierry Bosman and Londé Ngosso. Only at the insistence of Londé Ngosso this policy was eventually reversed and some intersex advocates present were allowed to participate. On the other hand, **IGM practitioners** including Martine Cools (Ghent University Hospital) and Claudine Heinrichs (Brussels University Children’s Hospital HUDERF) and **researchers with close ties to IGM clinics and -practitioners** including

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27 [https://fedweb.belgium.be/sites/default/files/Actieplan\\_LGBTI\\_2018-2019\\_NL.pdf](https://fedweb.belgium.be/sites/default/files/Actieplan_LGBTI_2018-2019_NL.pdf)

[https://fedweb.belgium.be/sites/default/files/Plan\\_d\\_action\\_LGBTI\\_2018-2019\\_FR.pdf](https://fedweb.belgium.be/sites/default/files/Plan_d_action_LGBTI_2018-2019_FR.pdf)

28 The following paragraphs are mainly based on information related via email by Londé Ngosso, December 2018

Nina Callens (Center for Sexology and Gender, Ghent University) and Joz Motmans (Transgender Info Point, Ghent University Hospital) were **able to participate without questions**, same as members of intersex-related, **syndrome-specific patient organisations** invited by the IGM practitioners present.

With the **acquiescence of the Federal Equal Opportunities Unit**, the medical and sexological representatives were allowed to **impose an IGM-friendly agenda**, while intersex representatives encountered **difficulties speaking out** at the meeting. **Human rights concerns are *not* part of the agenda**, and *no* human rights experts have been invited to the intersex meetings.

Accordingly, the Federal Equal Opportunities Unit seems to **limit funding opportunities** to the two self-proclaimed **“gender/intersex reference centers”** (Ghent and Brussels), so far having granted a subsidy to the Ghent University (which already received federal and Flemish funding for intersex, see below p. 11-14), and considering further funding to the Brussels University, but not to intersex organisations.

**According to Belgian intersex advocates**, the Federal Equal Opportunities Unit has been **“completely instrumentalised”** by the Ghent University Hospital (Martine Cools) and the Brussels University Children’s Hospital HUDERF (Claudine Heinrichs) and IGM-friendly departments of Ghent University (Nina Callens, Joz Motmans), while **IGM survivors and intersex human rights advocates are marginalised and silenced**.

### **c) Federal and Flemish Studies on Intersex People ignore Human Rights and NGOs**

Arguably as a reaction to the public criticism of IGM practices, **Belgian Government agencies commissioned 2 studies** on the issue of intersex and involuntary procedures:

- (1) Nina Callens (UGent), Chia Longman (UGent) and Joz Motmans (UGent) (2016): “Terminologie en zorg- discours m.b.t. Differences of Sex Development (DSD)/intersekse in België. Onderzoeksrapport in opdracht van het Staatssecretariaat voor Armoedebestrijding, Gelijke Kansen, Personen met een functiebeperking, Grootstedenbeleid en Wetenschapsbeleid” (**Terminology and care discourse on Differences of Sex Development (DSD)/Intersex in Belgium**. Research report commissioned by the State Secretariat for Poverty Reduction, Equal Opportunities, Persons with a job description, Metropolitan Policy and Science Policy)<sup>29</sup>
- (2) Nina Callens (UGent), Chia Longman (UGent) and Joz Motmans (UGent) (2017): “Intersekse/DSD in Vlaanderen. Onderzoeksrapport in opdracht van de Vlaamse Overheid, Agentschap Binnenlands bestuur, Afdeling Gelijke Kansen, Integratie en Inburgering” (**Intersex/DSD in Flanders**. Research report commissioned by the Flemish Government, Agency for Domestic Administration, Equal Opportunities Division, Integration and Inclusion)<sup>30</sup>

Notably, **both studies were written by the same authors**, i.e. mostly the same **researchers with close ties to IGM clinics and -practitioners** also predominant e.g. at the closed meetings on

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29 **This study is not even publicly available**, see <https://biblio.ugent.be/publication/8521155>

30 **This study is not even publicly available**, see <https://biblio.ugent.be/publication/8521160>

However, a 70-page “summary” is publicly available, see

<http://www.gelijkekansen.be/Portals/GelijkeKansen/Documents/Samenvatting%20rapport%20intersekse%20dSD%20Vlaanderen.pdf>

“Rights of Intersex Persons” convened by the Federal Equal Opportunities Unit (see above p. 9-10).

Accordingly, both studies mostly conveniently **ignore human rights frameworks** consistently found applicable for example by UN Treaty bodies and experts, including by this Committee, namely **harmful practices** and **inhuman treatment**. On the rare occasion where they are addressed at all, they are **portrayed as too extreme**:

*“A report by the United Nations, among others, condemned the practices of ‘normalising’ treatment in children and even used the words ‘torture’ and ‘genital mutilation’ to describe it (Méndez, 2013). Although the human rights commissioner of the Council of Europe was more cautious in his use of language ...”* (Federal Study, p. 12)

Correspondingly, intersex human rights NGOs and advocates are portrayed as **“a (small) group of human rights activists standing on the barricades for sexual diversity”** (Flemish Study, p. 8 = p. 10 in PDF) and as **“the (small) group of activists who are currently on the barricades”** (Federal Study, p. 12), unduly focusing on the **“battle with the scalpel”** (Flemish Study, p. 54 = p. 56 in PDF) and engaging in a **“vicious circle of non-collaboration, distrust and non-communication”** (Federal Study, p. 37).

While both studies **also raise important points**, for example doctors’ *“bias to ‘correct’/treat these variations in the first place”* and the still widespread ignorance of *“non-surgical alternatives”* (Flemish Study, p. 54 = p. 56 in PDF), or the fact that *“an atypical genital appearance [rarely] signals a life-threatening condition where the absence of medical treatment will decide on life and death”* (Federal Study, p. 32), **in the end they both merely propose** more *“educational materials to help parents, doctors and individuals to discuss intersex/DSD and options”* (Federal Study, p. 37), and the creation of *“expertise centres [...] able to provide surgical operations”* (Flemish Study, p. 54 = p. 56 in PDF) **instead of effective measures to protect intersex children from harmful practices and genital mutilation.**

#### **d) Flemish Website for Intersex People misrepresents Human Rights and NGOs**

Arguably again as a reaction to the public criticism of IGM practices, **UGhent** with Support of the **Flemish Government** published a homepage on intersex and IGM called **“IDEM – Every body counts”**, <https://www.ideminfo.be/>

Notably, the author of the website is again Nina Callens, one of the **researchers with close ties to IGM clinics and -practitioners** also predominant e.g. at the closed meetings on “Rights of Intersex Persons” convened by the Federal Equal Opportunities Unit, and in the two government-commissioned studies (see above p. 9-11).

Accordingly, while again also raising important and valid points, the website **again ignores and misrepresents crucial human rights frameworks** relating to IGM, namely **harmful practices** and **inhuman treatment**. For example, on a subpage **“human rights”** the website states:<sup>31</sup>

*“Mutilation? Torture?”*

*In the international human rights field, **intersex genital mutilation** [bold in original] is sometimes mentioned, as there are parallels to be drawn with genital mutilation in women, but*

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31 <https://www.ideminfo.be/mensenrechten> → WELKE RECHTEN → Mutilatie? Foltering?

*also in men. These are invasive procedures that are performed primarily to belong to a particular community as a 'complete' man or woman. Individual suffering and health sometimes become secondary.*

*For example, the Special Rapporteur on Torture, and other Cruel, Inhuman and Degrading Treatments or Punishments of the United Nations, in a 2013 report, strongly condemned the 'non-consensual gender allocation, involuntary sterilisation and involuntary sex normalising operations to which children with 'atypical' sexual characteristics are subjected'.*"

However, the website **never explains where exactly** “*in the international human rights field*” intersex genital mutilation is “*sometimes mentioned*” – **let alone referring to CRC art. 24(3), or CAT art. 14, or CCPR art. 7, or CEDAW art. 5, or the numerous Treaty body Concluding Observations** referring to these articles.

What’s more, under “**Human rights principles**”<sup>32</sup> the website repeatedly **refers to the Convention on the Rights of the Child** (under “*1. Right to Protection against Medical Treatment without Authorisation*” and “*2. Right to Protection*”), however, tellingly the **only article referred to** (at the first reference) **is art. 12**, but art. 24(3) “harmful practices” is never mentioned, and **nowhere** the website unambiguously informs that **parents can’t “consent” to non-urgent, irreversible surgeries “on behalf” of their child.**

No wonder has the website already come under **strong criticism from Belgian intersex advocates:**<sup>33</sup>

*“[...] The website ‘IdemInfo.be’ cannot escape relevant and justified criticism from human rights associations, or from groups providing information and support to the persons concerned and/or intersex people.*

*It is particularly regrettable and damaging to note that the website offers content that goes against all international recommendations, discussed at the highest level of the major bodies (Council of Europe, UN, OHCHR, CRC, etc.).*

[...]

- However, the website <https://www.ideminfo.be/zorgbeslissingen> recommends surgical operations (e. g. gonadectomy) without medical necessity and without specifying any informed consent of the persons concerned.

- Further on, the website encourages medical treatments (hormonal or other) when there is no medical necessity in relation to child survival, such as fertility or the absence of uterus or oocytes or depending on the size of the erectile organ.

[...]

- The website <https://www.ideminfo.be/gelijke-kansen> promotes hospitals and associations whose mutilating and pathologizing practice we denounce, without consent!

- The website <https://www.ideminfo.be/anderen-met-gelijkaardige-ervaring> primarily refers to associations based on medical syndromes and puts human rights and support associations last.

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32 <https://www.ideminfo.be/zorgbeslissingen> → Beslissingsprincipes → Mensenrechtenprincipes

33 <https://www.genrespluriels.be/Le-site-web-IdemInfo-be-sous-le-feu-des-critiques-des-associations?lang=fr>

[...]

*When the Flemish Equal Opportunities Unit entrusts this type of mission to a team that promotes medical treatment as a solution to situations considered ‘abnormal’, it does not offer the population a tool adapted to today’s society. [...]*”

Last but not least, Belgian intersex advocates also rightly criticise how the website was set up **allegedly as a contribution to Intersex Awareness Day** – which is celebrated by intersex people around the globe in **remembrance of the very first non-violent intersex protest** outside the annual convention of the American Association of Pediatrics (AAP) in Boston on 26.10.1996, and **not as an excuse to continue promoting IGM practices!**

#### **4. IGM practices in Belgium: Pervasive and unchallenged**

**To this day, in Belgium all forms of IGM practices remain widespread and ongoing, persistently advocated, prescribed and perpetrated** by state funded University and public Children’s Hospitals, **advocated and paid for by the State** via the public health system **FOD Volksgezondheid en Sociale Zekerheid / SPF Santé Publique et Sécurité Sociale** (Public Administration for Public Health and Social Security).

**Currently practiced forms of IGM in Belgium include:**

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

**Castration / “Gonadectomy” / Hysterectomy /  
Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation  
Plus arbitrary imposition of hormones**<sup>34</sup>

As advocated in the 2013 *“ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)”*,<sup>35</sup> co-authored by paediatric surgeon Prof Dr Piet Hoebeke (University Clinic Ghent):

*“Testes are either brought down in boys or removed if dysgenetic with tumour risk or in complete androgen insensitivity syndrome or 5 alpha reductase deficiency. Testicular prostheses can be inserted at puberty at the patient’s request.”*

Similarly, the **“2016 Global Disorders of Sex Development Consensus Statement”**,<sup>36</sup> co-authored by paediatric surgeon Prof Dr Piet Hoebeke (Member of the Global DSD Update Consortium, University Clinic Ghent) and paediatric endocrinologist Martine Cools (University Clinic Ghent) still advocates *“gonadectomy”* – even when admitting *“low”* cancer risk for CAIS (and despite explicitly acknowledging CRC/C/CHE/CO/2-4)<sup>37</sup>.

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

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

35 P. Mouriquand, A. Caldamone, P. Malone, J.D. Frank, P. Hoebeke, “The ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)”, *Journal of Pediatric Urology* vol. 10, no. 1 (2014), p. 8-10, [http://www.jpurology.com/article/S1477-5131\(13\)00313-6/pdf](http://www.jpurology.com/article/S1477-5131(13)00313-6/pdf)

36 Lee et al., “Global Disorders of Sex Development Update since 2006: Perceptions, Approach and Care”, *Horm Res Paediatr* 2016;85:158–180, <https://www.karger.com/Article/Pdf/442975>

37 *ibid*, at 180 (fn 111)

**Table 2.** GCC risk: clinical management

	Male	Female	Unclear gender
Gonadal dysgenesis (45,X/46,XY and 46,XY)	Undescended testes – Orchiopexy with biopsy – Self-examination – Annual ultrasound (post-puberty) Post-pubertal biopsy – Based on ultrasound and results of first biopsy – If CIS becomes GB → gonadectomy <b>Low threshold for gonadectomy</b> if ambiguous genitalia	<b>Bilateral gonadectomy</b> at diagnosis	<b>Low threshold for gonadectomy</b> if ambiguous genitalia  If intact, gonadectomy depends on gender identity
Undervirilization (46,XY: partial AIS, complete AIS, testosterone synthesis disorders)	Undescended testes – Orchiopexy with biopsy – Self-examination – Annual ultrasound (post-puberty)  Post-pubertal biopsy – Bilateral, CIS → gonadectomy/irradiation Repeat biopsy at 10 years of age – Consider <b>gonadectomy</b> to avoid gynecomastia or if on testosterone supplementation	<b>Partial AIS</b> and testosterone synthesis disorders – <b>Prepubertal gonadectomy</b>  <b>Complete AIS – Postpubertal gonadectomy</b> or follow-up – GCC risk low, allow spontaneous puberty	Partial AIS and testosterone synthesis disorders – Bilateral biopsy  – <b>Low threshold for gonadectomy</b> Intensive psychological counseling and follow-up
No data are available on the value of cryopreservation or safety if a precursor lesion for GCC is present.			

**Source:** Lee et al., in: *Horm Res Paediatr* 2016;85:158-180, at 174 (see fn 43)

### b) IGM 2 – “Feminising Procedures”: Clitoris Amputation/“Reduction”, “Vaginoplasty”, “Labiaplasty”, Dilatation<sup>38</sup>

Both the 2016 “*Paediatric Urology*” Guidelines of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU),<sup>39</sup> co-authored by paediatric surgeon Prof Dr Piet Hoebeke (University Clinic Ghent), as well as the current 2017 ESPE/EAU “*Paediatric Urology*” Guidelines<sup>40</sup> co-authored by paediatric surgeon Prof Dr Guy Bogaert (University Clinic Leuven), despite admitting that “*Surgery that alters appearance is not urgent*” and “*Clitoral surgery has been reported to have an adverse outcome on sexual function*”, undeviatingly promote “*cosmetic indications*” as justification for “*Early surgery*” (partial clitoris amputation) on intersex children diagnosed with “*severely enlarged clitorises*”.

Accordingly, a 2016 presentation by 6 paediatric surgeons of the University Clinic Ghent<sup>41</sup> reported, “*Reconstructive surgery for adrenogenital syndrome was performed in 22 patients in a tertiary referral centre over the last 16 years*”, “*Median age at surgery was 3 months [0-190]*”.

### c) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair”<sup>42</sup>

Both the 2016 “*Paediatric Urology*” Guidelines of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU),<sup>43</sup> co-authored by paediatric surgeon Prof Dr Piet Hoebeke (University Clinic Ghent), as well as the current 2017 ESPE/EAU “*Paediatric Urology*” Guidelines<sup>44</sup> co-authored by paediatric surgeon Prof Dr Guy Bogaert

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

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

39 p. 73, <https://uroweb.org/wp-content/uploads/EAU-Guidelines-Paediatric-Urology-2016-1.pdf>

40 3.16.3-3.16.3.1, available at <http://uroweb.org/guideline/paediatric-urology/>

41 Waterloos, M.; Claeys, T.; Spinoit, A-F.; Sempels, M.; Van Laecke, E.; Hoebeke, P. (2016), “V64 Genitoplasty in girls with adrenogenital syndrome: Focus on the reconstruction technique”, *European Urology Supplements*, v.15, no.3; video presentation held at EAU16: 31th annual congress of the European Association of Urology, Munich, [https://www.researchgate.net/publication/297746246\\_V64\\_Genitoplasty\\_in\\_girls\\_with\\_adrenogenital\\_syndrome\\_Focus\\_on\\_the\\_reconstruction\\_technique](https://www.researchgate.net/publication/297746246_V64_Genitoplasty_in_girls_with_adrenogenital_syndrome_Focus_on_the_reconstruction_technique)

42 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>

43 p. 73, <https://uroweb.org/wp-content/uploads/EAU-Guidelines-Paediatric-Urology-2016-1.pdf>

44 3.16.3-3.16.3.1, available at <http://uroweb.org/guideline/paediatric-urology/>

(**University Clinic Leuven**), despite admitting that “*Surgery that alters appearance is not urgent*”, undeviatingly promote, “*The age at surgery for primary hypospadias repair is usually 6-18 (24) months.*”

Accordingly, a 2013 publication by 5 paediatric surgeons of the **Department of Urology, University Clinic Ghent**<sup>45</sup> reported, “*We reviewed 1,061 operations performed at our institution between 1997 and 2010 and registered as hypospadias repair. The operations were performed in 543 patients born between June 1997 and June 2005*”, “*Mean age at first operation was 22.6 months (range 4 to 134)*”.

And paediatric surgeon Prof Dr Anne-Françoise Spinoit (**University Clinic Ghent**) is known to perform televised “*Life Surgery*” at specialised medical “*workshops*”.<sup>46</sup>

#### **d) Intersex Children from Malta and Luxembourg submitted to IGM in Belgium**

According to public statements of Yolanda Wagener, Head of Division of the Ministry of Health of Luxembourg, **intersex children from Luxembourg are sent to Belgium for surgery.**<sup>47</sup> This is also confirmed by a public statement of a parent of a intersex child “Sandro”, who was sent to a “*specialised hospital in Ghent*”,<sup>48</sup> i.e. **UZ [University Hospital] Ghent**,<sup>49</sup> and was consequently submitted to **IGM 1 at the age of 9 months.**

In addition, this practice of sending Luxembourgian intersex children to Belgian contractual hospitals for IGM practices is even institutionalised in the “*Belgian-Luxemburg DSD network and registry*” and the “*BelLux DSD group*” of the former “*BSGPE (Belgian Study Group for Pediatric Endocrinology)*”,<sup>50</sup> in 2014 renamed as “*Belgian Society for Pediatric Endocrinology and Diabetology (BESPEED)*”, self-described as an association of “*8 university clinics and other medical centres in Belgium and Luxembourg*”.<sup>51</sup>

In the meantime, CEDAW has urged **Luxembourg** under **harmful practices** to “*[s]pecifically prohibit*” IGM, “*[a]dopt legal provisions to provide redress*” to IGM survivors and to “*[r]epeal time-limits to claim damage compensation*” for IGM (CEDAW/C/LUX/CO/6-7, paras 27-28, 45(e)+46(e)).

In addition, the Rapporteurs have learned that **also intersex children from Malta** are sent to Belgian paediatric hospitals **for IGM**, again namely to the **UZ [University Hospital] Ghent.**<sup>52</sup>

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45 Spinoit AF, Poelaert F, Groen LA, Van Laecke E, Hoebeke P (2013), “Hypospadias repair at a tertiary care center: long-term followup is mandatory to determine the real complication rate.” *Journal of Urology*, 189(6):2276-81, <https://www.ncbi.nlm.nih.gov/pubmed/23306089>

46 For example, 5-7 July 2017 at Ain Shams Specialized Hospital, Cairo (Egypt), co-organised by the European Association of Urology (EAU), <https://www.hypospadiasworkshop.com/>

47 See “Le Quotidien” 21.03.2017, p. 3 (in French),

[http://kastrationsspital.ch/public/Luxembourg\\_LeQuotidien\\_Intersex\\_21-03-2017.pdf](http://kastrationsspital.ch/public/Luxembourg_LeQuotidien_Intersex_21-03-2017.pdf)

48 Ibid.

49 “A multidisciplinary DSD team exists in Ghent for this problem. The DSD team consists of doctors and medical personnel from different specialties. **The paediatric surgeons perform procedures that are necessary to construct the genitals of these patients**”,

<https://www.uzgent.be/nl/zorgaanbod/mdspecialismen/kindergeneeskunde/kinderurologie/Paginas/Aandoeningen-van-de-geslachtsontwikkeling.aspx>

50 “DSDnet” (2013), Memorandum of Understanding, p. 11,

[http://www.dsdnet.eu/downloads.html?file=files/downloads/BM1303\\_Memorandum\\_of\\_Understanding.pdf](http://www.dsdnet.eu/downloads.html?file=files/downloads/BM1303_Memorandum_of_Understanding.pdf)

51 <https://www.bespeed.org/>

52 Personal communication from Belgian health care professional.

## e) Belgian University Hospitals involved in International IGM Networks

In 2017, the “European Reference Network” was launched to ensure better treatment for patients with rare diseases within the European Union.<sup>53</sup> Unfortunately, **2 of the newly created “ERNs” also specialise in the proliferation and practice of IGM**, namely the “**Network Urogenital Diseases**” a.k.a. “**eUROGEN**” and the “**Network on Endocrine Conditions**” a.k.a. “**Endo-ERN**”.<sup>54</sup> Like with earlier international networks led by IGM perpetrators, e.g. “I-DSD”<sup>55</sup> and “DSDnet”,<sup>56</sup> Belgian Hospitals are again involved.<sup>57</sup>

Belgian “**eUROGEN**” members specialising in IGM practices (e.g. “*Posterior hypospadias*”, “*Reconstruction of non syndromical urogenital malformations*”, “*Complex genital reconstructions (DSDs)*”) include the **University Hospital Ghent** and the **University Hospital Leuven** (both see also PSWG Report, p. 10-12).<sup>58</sup>

Belgian “**Endo-ERN**” members participating in the IGM-related Main Thematic Group “**MTG7: Sex Development & Maturation**” include the **Ghent University Hospital**, the **Brussels University Hospital**, the **Saint-Luc University Clinics** and the **Brussels University Clinics** including the **Queen Fabiola University Children’s Hospital HUDERF** and the **Hôpital Erasme** as the University Hospital of the Université Libre de Bruxelles (ULB).<sup>59</sup>

And in addition to paediatric endocrinology services related to or even constituting IGM, the **Queen Fabiola University Children’s Hospital HUDERF** also offers **IGM surgery** in its paediatric urology department, namely “*paediatric urology surgery*” for “*malformations of [...] the urinary tract and the genital organs of the child*”.<sup>60 61</sup>

## 5. IGM in Belgium as a Violation of the Covenant

This Committee has already **recognised IGM practices as a serious violation of Covenant**,<sup>62</sup> and **arts. 3, 7, 9, 17, 24, 26** as applicable.

### Art. 3: Equal Right of Men and Women

**On the basis of their “indeterminate sex,”** intersex children are singled out for experimental harmful treatments, including surgical “genital corrections” and potentially sterilising procedures, that would be “*considered inhumane*” on “**normal**” children,<sup>63</sup> e.g. “normal” boys and girls, so that, according to a specialised surgeon, “*any cutting, no matter how incompetently executed, is a*

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53 [https://ec.europa.eu/health/sites/health/files/ern/docs/2017\\_brochure\\_en.pdf](https://ec.europa.eu/health/sites/health/files/ern/docs/2017_brochure_en.pdf)

54 See <http://stop.genitalmutilation.org/post/eUROGEN-EU-funded-Intersex-Genital-Mutilators>

55 See Open Letter to “I-DSD 2017”, [http://stop.genitalmutilation.org/public/Open\\_Letter\\_I-DSD\\_Copenhagen\\_2017.pdf](http://stop.genitalmutilation.org/public/Open_Letter_I-DSD_Copenhagen_2017.pdf)

56 See <http://stop.genitalmutilation.org/post/DSDnet-Intersex-Genital-Mutilators-European-Union>

57 The Open Letter to “I-DSD 2017” lists Belgian University Clinics involved in current international IGM projects, see p. 1, [http://stop.genitalmutilation.org/public/Open\\_Letter\\_I-DSD\\_Copenhagen\\_2017.pdf](http://stop.genitalmutilation.org/public/Open_Letter_I-DSD_Copenhagen_2017.pdf)

58 <http://eurogen-ern.eu/healthcare-providers/our-members/>

59 <https://endo-ern.eu/about/reference-centers/>

60 <https://www.huderf.be/fr/med/urolog/index.asp>

61 <https://www.iris-hopitaux.be/fr/notre-offre-de-soins/urologie>

62 See CCPR/C/CHE/CO/4, paras 24-25; CCPR/C/AUS/CO/6, paras 25-26; CCPR/C/DEU/QPR/7, para 13

63 Alice Domurat Dreger (2006), *Intersex and Human Rights: The Long View*, in: Sharon Sytsma (ed.) (2006), *Ethics and Intersex*: 73-86, at 75



kindness.”<sup>64</sup> Generally, medical justifications for IGM are often rooted in **gender-based stereotypes**. Clearly, IGM practices therefore also violate Article 3.

#### **Art. 7: Cruel, Inhuman or Degrading Treatment, and Involuntary Medical or Scientific Experimentation**

Like this Committee, the **Committee against Torture**<sup>65</sup> has repeatedly **considered IGM to constitute inhuman treatment** falling under the non-derogable prohibition of torture (same as FGM and gender-based violence). Intersex advocates consider harmful practices and inhuman treatment as the **most important human rights frameworks** to effectively combat IGM.<sup>66</sup>

Concerning **involuntary medical or scientific experimentation**, as generally there is **no evidence** of any benefit for the children submitted IGM practices, any such treatments are **experimental**. While due to the general avoidance of follow-up by doctors, IGM practices are mostly done as **uncontrolled field experiments** and so in many cases may not be considered as involuntary medical or scientific experimentation in a more strict definition. However, internationally there are **many examples proving also a strict definition to apply**.<sup>67</sup> For decades, intersex children have been regularly described and exploited by scientists as an **“experiment of nature”**.<sup>68 69 70</sup> Often **twins, siblings, mothers or other family members or relatives** of intersex children are used as controls.<sup>71 72</sup> Generally, intersex children, while being

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64 Cheryl Chase (1998), *Surgical Progress Is Not the Answer to Intersexuality*, in: Alice Dreger (ed.) (1999), *Intersex in the Age of Ethics*: 148–159, at 150

65 See CAT/C/DEU/CO/5, para 20; CAT/C/CHE/CO/7, para 20; CAT/C/AUT/CO/6, paras 44-45; CAT/C/CHN-HKG/CO/4-5, paras 28-29; CAT/C/DNK/CO/6-7, paras 42-43; CAT/C/FRA/CO/7, paras 34-35; CAT/C/NLD/CO/7, paras 52-53; CAT/C/GBR/CO/6, paras 64-65

66 Daniela Truffer, Markus Bauer / *Zwischengeschlecht.org*: “Ending the Impunity of the Perpetrators!” Input at “Ending Human Rights Violations Against Intersex Persons.” OHCHR Expert Meeting, Geneva 16–17.09.2015, online: [http://StopIGM.org/public/S3\\_Zwischengeschlecht\\_UN-Expert-Meeting-2015\\_web.pdf](http://StopIGM.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf)

67 See e.g. Case Study No. 1 in 2015 CAT Austria NGO Report (p. 13-15), explaining how **of two intersex cousins, one was castrated at age 5 or 6 and the other only at age 10 “to document the difference”**, <http://intersex.shadowreport.org/public/2015-CAT-Austria-VIMOE-Zwischengeschlecht-Intersex-IGM.pdf>

68 See e.g. Kang H-J, Imperato-McGinley J, Zhu Y-S, Rosenwaks Z. 5alpha-reductase-2 Deficiency’s Effect on Human Fertility. *Fertility and sterility*. 2014;101(2):310-316, at p. 5, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4031759/pdf/nihms578345.pdf>

69 Clarnette, T.D; Sugita, Y.; Hutson, J.M.: Genital anomalies in human and animal models reveal the mechanisms and hormones governing testicular descent, *British Journal of Urology* (1997), 79, 99–112, at 99, <http://onlinelibrary.wiley.com/doi/10.1046/j.1464-410X.1997.25622.x/pdf>

70 U. Kuhnle; W. Kral; *Geschlechtsentwicklung zwischen Genen und Hormonen. Worin liegt der Unterschied zwischen Mädchen und Jungen, Männern und Frauen?*, *Monatsschr Kinderheilkd* 2003 · 151:586–593, at 591, see also: Lang C.; Kuhnle U.: *Intersexuality and Alternative Gender Categories in Non-Western Cultures*, *Horm Res* 2008;69:240–250

71 See e.g. Dittmann, R. W., Kappes, M. H., Kappes, M. E., Borger, D., Stegner, H., Willig, R. H., Wallis, H. (1990). “Congenital adrenal hyperplasia. I: Gender-related behavior and attitudes in female patients and sisters.” *Psychoneuroendocrinology* 15(5-6): 401-420, see also: Ralf W. Dittmann, “Pränatal wirksame Hormone und Verhaltensmerkmale von Patientinnen mit den beiden klassischen Varianten des 21-Hydroxylase-Defektes. Ein Beitrag zur Psychoendokrinologie des Adrenogenitalen Syndroms”, *European University Studies*, Bern: 1989

72 For an example of studies on intersex twins by German gynaecologist Ernst Philipp in collaboration with Swiss endocrinologist Andrea Prader, see Marion Hulverscheidt (2016), *Begriffsdefinitionen “Intersexualität” VII*:

submitted to IGM practices or thereafter, are often used as **subjects in scientific research**, particularly in the field of genetics, also in **Belgium** and internationally with the contribution of **Belgian IGM doctors**.<sup>73 74</sup>

Thus, intersex children surely also fall under “*persons not capable of giving valid consent*” deserving “*special protection in regard to such experiments*” according to **General comment No. 20** (para 7), and involuntary experimental intersex treatments in **Belgium** surely also constitute **involuntary medical or scientific experimentation in breach of article 7**.

What’s more, regarding legislative and other measures, **General comment No. 20** explicitly obliges State parties to

- “*afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.*” (para 2)
- “*inform the Committee of the legislative, administrative, judicial and other measures they take to prevent and punish acts of torture and cruel, inhuman and degrading treatment in any territory under their jurisdiction.*” (para 8)
- “*indicate how their legal system effectively guarantees the immediate termination of all the acts prohibited by article 7 as well as appropriate redress. The right to lodge complaints against maltreatment prohibited by article 7 must be recognized in the domestic law. Complaints must be investigated promptly and impartially by competent authorities so as to make the remedy effective. The reports of States parties should provide specific information on the remedies available to victims of maltreatment and the procedure that complainants must follow, and statistics on the number of complaints and how they have been dealt with.*” (para 14)
- “*guarantee freedom from such acts within their jurisdiction; and to ensure that they do not occur in the future. States may not deprive individuals of the right to an effective remedy, including compensation and such full rehabilitation as may be possible.*” (para 15)

## **Art. 9: Liberty and Security of the Person**

As IGM practices cause known, severe physical and mental **pain and suffering** and are often practices with impunity in **public institutions**, including under **direct tutelage of the State** in

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Eine einheitliche Betrachtung des Zwittertums – der Kieler Gynäkologe Ernst,  
<http://intersex.hypotheses.org/3976>

73 Dorien Baetens, Tülay Güran, Berenice B. Mendonca, Nathalia L. Gomes, Lode De Cauwer, Frank Peelman, Hannah Verdin, Marnik Vuylsteke, Malaïka Van der Linden, Hans Stoop, Leendert H. Looijenga, Karolien De Bosscher, Martine Cools, and Elfride De Baere (2018), Biallelic and monoallelic ESR2 variants associated with 46,XY disorders of sex development, GENETICS in MEDICINE | Volume 20 | Number 7 | July 2018, p. 717-727, <https://www.nature.com/articles/gim2017163.pdf>

74 L Audí, S F Ahmed, N Krone, M Cools, K McElreavey, P M Holterhus, A Greenfield, A Bashamboo, O Hiort, S A Wudy, R McGowan, and the EU COST Action (2018), GENETICS IN ENDOCRINOLOGY: Approaches to molecular genetic diagnosis in the management of differences/disorders of sex development (DSD): position paper of EU COST Action BM 1303 ‘DSDnet’, Eur J Endocrinol. 2018 Oct; 179(4): R197–R206, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6182188/>

case of intersex orphans under guardianship of Social services, where they are often submitted to IGM before they're given up for adoption, this surely also violates article 9.

#### **Art. 17: Arbitrary or Unlawful Interference with Privacy**

While intersex children are regularly **lied to about diagnosis and treatment**, and often even the fact that have an intersex condition is **concealed** from them, on the other hand **doctors regularly share and publish private details** about them in medical publications and text books. Often intersex persons and their parents are also **blackmailed by threatening to expose their intersex status**, if they don't do this or comply with that, notably but not limited to sports. This clearly violates article 17.

#### **Art. 24: Child Protection**

As IGM practices are **mostly performed on very young children**, they surely constitute a violation of the right to protection of the intersex children concerned, and therefore of article 24.

#### **Art. 26: Equal Protection of the Law**

Intersex children have the **same rights to effective protections** from IGM as for examples girls against FGM. However, if there are any legal protections against IGM at all, these are **regularly considerably weaker** than those against FGM or gender-based violence. Concerning gender-based violence, this is also the case in **Belgium**,<sup>75</sup> and clearly not in line with article 26.

### **6. 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".

**Also in Belgium, there are no official statistics on intersex births and on IGM practices available.** When asked about statistics, the Government either **claims there are none available** or simply fails to answer.<sup>76</sup> However, a recent parliamentary inquiry in Luxembourg revealed that there is a "*Belgo-Luxembourg study register for atypical sex development*" initiated by the "Belgian Study Group for Pediatric Endocrinology" (BESPEED, see also p. 15), and the answer detailed that there are 12 patients from Luxembourg enrolled in this study register. However, **how many Belgian intersex children take part remains unknown.**<sup>77</sup>

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75 See GAMS Belgium, INTACT, End FGM European Network (2019), Joint Shadow Report in Istanbul Convention Implementation in Belgium, p. 3-5, [https://www.endfgm.eu/editor/files/2019/03/Joint\\_Shadow\\_Report\\_-\\_BELGIUM\\_1.pdf](https://www.endfgm.eu/editor/files/2019/03/Joint_Shadow_Report_-_BELGIUM_1.pdf)

76 For example, when at the 80<sup>th</sup> CRC Session Belgium was asked about "*statistics available on this matter*", the delegation simply ignored this question, see transcript, <http://stop.genitalmutilation.org/post/CRC80-Belgium-questioned-over-Intersex-Genital-Mutilation>

77 Written question No. 873 "Topic: Atypical sex development" by MP Marc Angel (08.07.2019) and answer by the Minister of health (12.08.2019), <https://chd.lu/wps/portal/public/Accueil/TravailALaChambre/Recherche/RoleDesAffaires?action=doQuestpaDetails&id=17604>

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

Also, in **Belgium** 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>78</sup> So far, in **Belgium** we know of **no case** of a victim of IGM practices succeeding in going to court.

The **Belgian government** fails 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 **fails to initiate impartial investigations**, as well as data collection, monitoring, and disinterested research.<sup>79</sup> In addition, hospitals are often **unwilling to provide full access to patient’s files**.

**This situation is clearly not in line with Belgium’s obligations under the Covenant.**

## 8. Belgian Doctors and Government openly opposing Intersex Human Rights

The persistence of IGM practices in Belgium is a **matter of public record**, same as the **longstanding criticism and appeals by intersex persons and their organisations**,<sup>80</sup> and by **legal experts**.<sup>81</sup>

Also **Belgian paediatric surgeons**, despite **openly admitting to knowledge of relevant criticisms** by human rights and ethics bodies, nonetheless continue to **consciously refuse to consider any human rights concerns**. For example, the 2013 “*ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)*”, co-authored by paediatric surgeon Prof Dr Piet Hoebeke (**University Clinic Ghent**) dismissed both the **2013 Report by the Special Rapporteur on Torture** and the 2012 Recommendations by the Swiss National Advisory Commission on Biomedical Ethics as “*inappropriate and biased statements*” and “*biased and counterproductive reports*” respectively, while insisting on continuing with IGM practices.<sup>82</sup>

And after **CRC started investigating IGM practices** in 2018 and eventually condemning them as a **harmful practice** in 2019, Belgian IGM doctors starting escalating their rhetoric:

**Martine Cools**, Ghent University Hospital, while opposing a legal ban, inadvertently admits that doctors and government representatives **favour IGM practices, because they think it is cheaper than non-surgical alternatives**, in De Standaard (27.10.2018):<sup>83</sup>

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78 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.

79 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>

80 See above footnotes 9-20

81 Marie-Laure Tounkara (2015), “Légiférer l’intersexualité en Belgique : un défi pour notre société”, master thesis, Université catholique de Louvain,

[https://dial.uclouvain.be/memoire/ucl/en/object/thesis:3412/datastream/PDF\\_02/view](https://dial.uclouvain.be/memoire/ucl/en/object/thesis:3412/datastream/PDF_02/view)

82 P. Mouriquand, A. Caldamone, P. Malone, J.D. Frank, P. Hoebeke, “The ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)”, Journal of Pediatric Urology vol. 10, no. 1 (2014), p. 8-10, [http://www.jpurology.com/article/S1477-5131\(13\)00313-6/pdf](http://www.jpurology.com/article/S1477-5131(13)00313-6/pdf)

83 [http://www.standaard.be/cnt/dmf20181026\\_03878530](http://www.standaard.be/cnt/dmf20181026_03878530)

*“Martine Cools, head of paediatric endocrinology at UZ Gent, pleads for caution and postponement where possible, but not for an absolute ban on genital surgery in children. [Note: Intersex advocates never called for “an absolute ban on genital surgery in children”, but merely to ban involuntary, non-urgent procedures.] ‘In the sixties mistakes were made because the medical world did not know what the effect of early intervention was. But today we still do not know sufficiently what the psychological impact is of growing up with a sex that looks different. We should not experiment with a generation of children. **If the government wants less surgery, it must finance the alternative approach.** I can explain in one consultation what is medically the matter, but ten consultations are not enough for a good discussion about the consequences of whether or not to intervene. **Let alone to help parents and children build up enough self-confidence to choose a non-surgical alternative.** Don't forget that there is a lot of social pressure involved. [...]’”*

**Nina Callens and Joz Motmans** (Ghent University and Ghent University Hospital), government appointed intersex researchers with close ties to IGM clinics and -practitioners, similarly oppose legal regulation, but instead **plead to give IGM doctors and IGM-friendly parents a free reign** for as long as anyhow possible, in Charlie Magazine (19.03.2018):<sup>84</sup>

*“Should operations at a young age be banned in Belgium? Researchers Callens and Motmans think that Belgium would do well to give parents better access to doctors with expertise and psychosocial support before legislation prohibiting operations comes into force. Joz Motmans: ‘You have to welcome and guide people so that they can make well-considered **choices about whether or not to operate.**’ But even with good supervision it remains a difficult choice: it may be that your child later accuses you that it was not operated on as a three-year-old, but it may just as well be that your child asks you later why it was operated on without having chosen to do so. **‘I wouldn't know for myself what I would do if I were to face the choice,’ says Motmans.**”*

When asked about CRC's call to prohibit IGM practices by La Libre (27.02.2019),<sup>85</sup> **Martine Cools**, Ghent University Hospital, again pointed out that IGM will continue to be practiced because **hospitals only have an adequate budget for surgery**, but not for psychosocial support.

*“Today, there is no support or assistance such as reimbursements for the psychological assistance that must be provided to them. Only a paediatric consultation is reimbursed up to 36 euros.”*

Further, **Martine Cools** again adamantly opposed legislative regulation of IGM practices, by repeatedly claiming **IGM would help parents developing a better bond** with their child, as well as with the *“child's development”*, and generally would be a **valid and better alternative to selective abortions** of intersex children (which are equally condemned by intersex advocates), as **without IGM parents would be afraid to have an intersex child:**<sup>86</sup>

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84 <https://www.charliemag.be/lijf/intersekse-conditie/>

85 Louise Vanderkelen (2019), “Faut-il interdire les opérations des enfants intersexes?” (*“Should we ban surgeries on intersex children?”*), La Libre, 27.02.2019, <https://www.lalibre.be/debats/ripostes/faut-il-interdire-les-operations-des-enfants-intersexes-5c75706c9978e2710e68a334>

86 Ibid.

*“Prohibiting these surgeries is not a solution. The situation is often more complex. **By forgoing surgery, the child's development and the bond between the child and his or her parents are undermined. Parents would also be at risk of choosing abortion more easily if they are diagnosed prenatally. [...]** Deciding to simply ban these surgeries would therefore not be positive because the problem of intersex is much more complex than just the surgical aspect. It is true that these surgeries are irreversible, but failure to do so **undermines the child's development and the bond** between the child and his or her parents, and this is also irreversible. [...]*

*[Interviewer:] Do you see any other risks in prohibiting these surgeries?*

*Without counselling, **parents of intersex children would certainly be at risk of having abortions more quickly** if they were prenatally diagnosed. **Many parents are afraid of this situation.** They don't know how to react. They need to know that they cannot make a decision about their child's surgery during or just after pregnancy because they are still emotional. If these surgeries are banned, parents may become afraid, and they may have easier access to abortion.”*

Tellingly, on the other hand **IGM doctors are claiming in the media that in Belgium IGM practices have been completely abandoned** for some time now, for example Prof **Claudine Heinrichs**, Queen Fabiola University Children's Hospital (HUDERF) in L'Écho (27.06.2018):<sup>87</sup>

*“The opinion on the surgeries of these children has evolved considerably over time. **Today, any non-urgent intervention with irreversible consequences is avoided.** And we wait for the child to be grown up, even young adults. Here, a very comprehensive long-term management of the patient and his family has been established, with a multidisciplinary team and a transparent and non-binary approach. We explain and re-explain. With the fatigue of childbirth, it is necessary to repeat the explanations to the parents. But the first discussions with them are very important so that they can engage with this child, so that this particularity does not hinder the bond. With the support, **we hope that parents will be more comfortable waiting for surgery.**”*

Such claims beg the question: **If involuntary surgeries have been abandoned already, why are clinicians so adamantly opposing legislation prohibiting them?**

What's more, also **Belgian government bodies refuse to take any appropriate action**, but continue to **ignore the full human rights implications** of IGM, and **allow IGM doctors to continue practicing with impunity.**

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87 Cécile Berthaud (2018), Intersexe & fière de l'être, L'Écho, 27.06.2018, <https://www.lecho.be/culture/general/Intersexe-fiere-de-l-etre/10024828>

## C. Suggested Recommendations

*The Rapporteurs respectfully suggest that, with respect to the treatment of intersex persons in Belgium, the Committee includes the following measures in their recommendations to the Belgian Government (in line with this Committee's previous recommendations on IGM practices).*

### **Intersex genital mutilation**

The Committee is 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, and about reports of intersex persons being denied needed health care, and children prevented from attending school and unable to obtain official papers (arts. 3, 7, 9, 17, 24 and 26).

#### **The State party should:**

- (a) Adopt necessary provisions explicitly prohibiting the performance of unnecessary surgical or other medical treatment on intersex children until they reach an age when they can give their free, prior and informed consent; and provide families of 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 IGM 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;**

#### **D. Annexe 1 – “Case Study” (Private – not included in public report)**

The first-person narrative has been collected with aid of the peer support group Intersex Belgium. The abstract was composed by the Rapporteurs. The identity of the person concerned is known to Intersex Belgium and the Rapporteurs. It is contained in a separate, private annexe.



## E. Annexe 2 – Intersex, IGM and Non-Derogable Human Rights

### 1. Intersex = variations of reproductive anatomy

**Intersex persons**, in the vernacular also known as hermaphrodites, or medically as persons with “Disorders” or “Differences of Sex Development (DSD)”,<sup>88</sup> are people born with **variations of reproductive anatomy**, or “atypical” reproductive organs, including atypical genitals, atypical sex hormone producing organs, atypical response to sex hormones, atypical genetic make-up, atypical secondary sex markers. Many intersex forms are usually detected at **birth** or earlier during **prenatal testing**, others may only become apparent at **puberty** or **later in life**.

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, with **1 to 2 in 1000 newborns** at risk of being submitted to non-consensual “genital correction surgery”.

*For more information and references, see 2014 CRC Switzerland NGO Report, p. 7-12.*<sup>89</sup>

### 2. IGM = Involuntary, unnecessary and harmful interventions

In “**developed countries**” with universal access to paediatric health care **1 to 2 in 1000 newborns** are at risk of being submitted to medical **IGM practices**, i.e. non-consensual, unnecessary, irreversible, cosmetic genital surgeries, and/or other harmful medical treatments that **would not be considered for “normal” children**, practiced without evidence of benefit for the children concerned, but justified by societal and cultural norms and beliefs, and often **directly financed by the state** via the public health system.<sup>90</sup>

In **regions without universal access to paediatric health care**, there are reports of **infanticide**<sup>91</sup> of intersex children, of **abandonment**,<sup>92</sup> of **expulsion**,<sup>93</sup> of **massive bullying** preventing the

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88 The currently still official medical terminology “Disorders of Sex Development” is strongly refused by persons concerned. See 2014 CRC NGO Report, p. 12 “Terminology”.

89 [http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM\\_v2.pdf](http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf)

90 For references and general information, see 2015 CAT NGO Report Austria, p. 30-35,

<http://intersex.shadowreport.org/public/2015-CAT-Austria-VIMOE-Zwischengeschlecht-Intersex-IGM.pdf>

91 For Nepal, see CEDAW/C/NPL/Q/6, para 8(d). See also 2018 CEDAW Joint Intersex NGO Report, p. 13-14, <http://intersex.shadowreport.org/public/2018-CEDAW-Nepal-NGO-Intersex-IGM.pdf>

For example in South Africa, see 2016 CRC South Africa NGO Report, p. 12,

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

For South Africa, see also <https://mg.co.za/article/2018-01-24-00-intersex-babies-killed-at-birth-because-theyre-bad-omens>

For example in Uganda, Kenya, Rwanda, see "Baseline Survey on intersex realities in East Africa – Specific focus on Uganda, Kenya, and Rwanda" by SIPD Uganda, relevant excerpts and source:

<http://stop.genitalmutilation.org/post/Africa-Intersex-Survey-Documents-Intersex-Genital-Mutilation-Infanticide-Abandonment-Expulsion-Uganda-Kenya-Rwanda> ; for Uganda, see also 2015 CRC Briefing, slide 46,

[http://intersex.shadowreport.org/public/Zwischengeschlecht\\_2015-CRC-Briefing\\_Intersex-IGM\\_web.pdf](http://intersex.shadowreport.org/public/Zwischengeschlecht_2015-CRC-Briefing_Intersex-IGM_web.pdf)

For Kenya, see also <http://www.bbc.com/news/world-africa-39780214>

For Mexico, see 2018 CEDAW NGO Joint Statement,

<http://stop.genitalmutilation.org/post/CEDAW70-Mexico-Joint-Intersex-NGO-Statement-05-07-2018>

92 For example in Uganda, Kenya, Rwanda, see "Baseline Survey on intersex realities in East Africa – Specific focus on Uganda, Kenya, and Rwanda" by SIPD Uganda, relevant excerpts and source:

<http://stop.genitalmutilation.org/post/Africa-Intersex-Survey-Documents-Intersex-Genital-Mutilation-Infanticide-Abandonment-Expulsion-Uganda-Kenya-Rwanda>

For example in China, see 2015 Hong Kong, China NGO Report, p. 15,

<http://intersex.shadowreport.org/public/2015-CAT-Hong-Kong-China-NGO-BBKCI-Intersex.pdf>

persons concerned from attending school (recognised by CRC as amounting to a harmful practice),<sup>94</sup> and of **murder**.<sup>95</sup>

Governing State bodies, public and private healthcare providers, national and international medical bodies and individual doctors have traditionally been **framing and “treating”** healthy intersex children as **suffering from a form of disability in the medical definition**, and in need to be **“cured” surgically**, often **with openly racist, eugenic and supremacist implications**.<sup>96 97 98 99</sup>

Both in “developed” and “developing” countries, **harmful stereotypes and prejudice** framing intersex as **“inferior”, “deformed”, “disordered”, “degenerated” or a “bad omen”** remain widespread, and to this day inform the current harmful **western medical practice**, as well as other practices including **infanticide** and **child abandonment**.

**Typical forms of medical 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.

Medical IGM practices are known to cause **lifelong severe physical and mental pain and suffering**,<sup>100</sup> including loss or impairment of sexual sensation, poorer sexual function, painful scarring, painful intercourse, incontinence, problems with passing urine (e.g. due to urethral stenosis after surgery), increased sexual anxieties, problems with desire, less sexual activity, dissatisfaction with functional and aesthetic results, lifelong trauma and mental suffering, elevated rates of self-harming behaviour and suicidal tendencies comparable to those among women who have experienced physical or (child) sexual abuse, impairment or loss of reproductive capabilities, lifelong dependency on daily doses of artificial hormones.

**UN Treaty bodies and other human rights experts have consistently recognised IGM practices as a serious violation of non-derogable human rights.**<sup>101</sup> **UN Treaty bodies have so far issued 42 Concluding Observations condemning IGM practices accordingly.**<sup>102</sup>

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93 For example in Uganda, Kenya, Rwanda, see "Baseline Survey on intersex realities in East Africa – Specific focus on Uganda, Kenya, and Rwanda" by SIPD Uganda, relevant excerpts and source:

<http://stop.genitalmutilation.org/post/Africa-Intersex-Survey-Documents-Intersex-Genital-Mutilation-Infanticide-Abandonment-Expulsion-Uganda-Kenya-Rwanda>

94 For example in Nepal (CRC/C/NPL/CO/3-5, paras 41–42), based on local testimonies, see

<http://stop.genitalmutilation.org/post/Denial-of-Needed-Health-Care-Intersex-in-Nepal-Pt-3>

95 For example in Kenya, see <https://76crimes.com/2015/12/23/intersex-in-kenya-held-captive-beaten-hacked-dead/>

96 2014 CRC NGO Report, p. 52, 69, 84, [http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM\\_v2.pdf](http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf)

97 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>

98 “The Racist Roots of Intersex Genital Mutilations” <http://stop.genitalmutilation.org/post/Racist-Roots-of-Intersex-Genital-Mutilations-IGM>

99 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>

100 See “IGM Practices – Non-Consensual, Unnecessary Medical Interventions”, *ibid.*, p. 38–47

101 **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>

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

### 3. Intersex is NOT THE SAME as LGBT or Transgender

Unfortunately, there are also other, often interrelated **harmful misconceptions and stereotypes 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 is misrepresented as a sexual orientation (like gay or lesbian), and/or as a gender identity, as a subset of transgender, as the same as transsexuality, or as a form of sexual orientation.

The underlying reasons for such harmful misrepresentations include **lack of awareness**, third party groups **instrumentalising intersex as a means to an end**<sup>103 104</sup> 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 or misrepresenting intersex issues**,<sup>105</sup> maintaining that IGM practices 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**.

Also, **human rights experts** are increasingly warning of the **harmful conflation** of intersex and LGBT.<sup>106</sup>

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*”,<sup>107</sup> and again IGM survivors as “*transgender children*”,<sup>108</sup> “*transsexual children who underwent difficult treatments and surgeries*”, and IGM as a form of “*discrimination against transgender and intersex children*”<sup>109</sup> and as “*sex assignment surgery*” while referring to “*access to gender reassignment-related treatments*”.<sup>110</sup>

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*”,<sup>111</sup> “*a special provision on sexual orientation and*

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

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

105 For references, see 2016 CEDAW France NGO Report, p. 45

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

106 For example ACHPR Commissioner Lawrence Murugu Mute (Kenya), see

<http://stop.genitalmutilation.org/post/ACHPR-African-Commissioner-warns-Stop-conflating-intersex-and-LGBT>

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

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

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

110 CAT/C/DNK/QPR/8, para 32

111 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>

*gender identity*”, “*civil registry*” and “*sexual reassignment surgery*”<sup>112</sup>, transgender guidelines<sup>113</sup> or “*Gender Identity*”<sup>114 115</sup> when asked about IGM by e.g. Treaty bodies.

What’s more, **LGBT organisations** (including “LGBTI” organisations without actual intersex representation or advocacy) are using the ubiquitous misrepresentation of intersex = LGBT to **misappropriate intersex funding**, thus **depriving actual intersex organisations** (which mostly have no significant funding, if any) of much needed **resources**<sup>116</sup> and public **representation**.<sup>117</sup>

#### 4. IGM is NOT a “Discrimination” Issue

An interrelated diversionary tactic is the **increasing misrepresentation by State parties of IGM as “discrimination issue”** instead of a serious violation of non-derogable human rights, namely inhuman treatment and a harmful practice, often in combination with the **misrepresentation of intersex human rights defenders as “fringe elements”**, and their legitimate demands and criticism of such downgrading and trivialising of IGM as “*extreme views*”. The first misrepresentation is also evident in the **Belgian State report** (see p. 7) and the second both in the State report and in the **insufficient Government initiatives** (see p. 9-13).

#### 5. IGM is NOT a “Health” Issue

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**<sup>118 119 120</sup> – instead of effective measures to finally end the practice (as repeatedly stipulated also by this Committee). This is also evident in the **Belgian State report** (see p. 7) and in the **insufficient Government initiatives** (see p. 9-13).

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**.<sup>121</sup>

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

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

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

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

116 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>

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

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

119 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](http://stop.genitalmutilation.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf)

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

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

# Intersex Genital Mutilations Human Rights Violations Of Children With Variations Of Reproductive Anatomy



NGO Report (for Session)  
to the 6<sup>th</sup> Periodic Report of Belgium on the  
International Covenant on Civil and Political Rights  
(CCPR)