

Intersex Genital Mutilations

Human Rights Violations Of Persons With Variations Of Sex Anatomy



**NGO Report
to the 2nd Report of Ireland
on the Convention against Torture (CAT)**

Compiled by:

Gavan Coleman (Intersex Person and Advocate, Ireland)

StopIGM.org / Zwischengeschlecht.org (International Intersex Human Rights NGO)

Markus Bauer

Daniela Truffer

Zwischengeschlecht.org

P.O.Box 2122

CH-8031 Zurich

info_at_zwischengeschlecht.org

<http://Zwischengeschlecht.org/>

<http://StopIGM.org/>

June 2017

This NGO Report online:

<http://intersex.shadowreport.org/public/2017-CAT-Ireland-NGO-Zwischengeschlecht-Intersex-IGM.pdf>



Executive Summary

All typical forms of IGM practices are still practised in Ireland today, facilitated and paid for by the State party via the public Irish Health Service Executive (HSE).

Ireland is in breach of its obligations under the Convention against Torture to (a) take effective legislative, administrative, judicial or other measures to prevent involuntary, non-urgent surgery and other medical treatment on intersex persons without the effective, informed consent of those concerned, causing severe mental and physical pain and suffering, and (b) to ensure impartial investigation, access to redress, and the right to fair and adequate compensation and rehabilitation for victims (arts. 2, 12, 14 and 16, General Comments 2 and 3).

This Committee has repeatedly recognised IGM practices to constitute ill-treatment, and called for legislation to (a) end the practice, (b) ensure redress and compensation, and (c) to provide access to free counselling (CAT/C/DEU/CO/5, para 20; CAT/C/CHE/CO/7, para 20; 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; CAT/C/FRA/CO/7, paras 32-33).

In addition, CRC and CEDAW have already considered IGM in Ireland as a harmful practice (CRC/C/IRL/CO/3-4, paras 39-40; CEDAW/C/IRL/CO/6-7, paras 24-25). Also CRPD, CESCR, SR Torture, SR Health, UNHCHR, the Council of Europe (COE), the Inter-American Commission on Human Rights (IACHR), the African Commission on Human and Peoples' Rights (AChPR) and the World Health Organisation (WHO) recognise IGM practices as a serious human rights violation, calling for legislative remedy and access to redress and justice.

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.

This NGO Report is compiled by the international intersex NGO StopIGM.org / Zwischen-geschlecht.org in collaboration with Irish intersex person and advocate Gavan Coleman.

It contains Suggested Recommendations.

NGO Report to the 2nd Report of Ireland on the Convention against Torture (CAT)

Table of Contents

Executive Summary	3
Introduction.....	5
Background and State Report.....	5
About the Rapporteurs	5
Methodology	5
A. Intersex Genital Mutilations in Ireland as a violation of CAT	6
1. IGM Practices: Involuntary, unnecessary medical interventions	6
2. Intersex is NOT THE SAME as LGBT or SOGI.....	7
3. IGM practices in Ireland: Pervasive and unchallenged	8
a) Overview	8
b) IGM 3 – Sterilising Procedures: Castration / “Gonadectomy” / Hysterectomy / Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation Plus arbitrary imposition of hormones	9
c) IGM 2 – “Feminising Procedures”: Clitoris Amputation/“Reduction”, “Vaginoplasty”, “Labioplasty”, Dilation.....	9
d) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair”	10
e) Examples of Irish University Children’s Clinics advocating and perpetrating IGM.....	10
4. The treatment of intersex persons in Ireland as Torture	10
a) Infliction of severe pain or suffering	10
b) Intention	10
c) Purpose of Discrimination	11
d) Involvement of a State Official.....	11
e) Lawful Sanction	11
5. Treatment of Intersex People in Ireland as ill treatment	11
6. Lack of Impartial Investigation, Independent Data Collection and Monitoring.....	11
7. Lack of Legislative Provisions, Impunity of Perpetrators	11
8. Obstacles to redress, fair and adequate compensation	12
B. Conclusion	13
C. Recommendations	14

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 bodies¹ including CAT** as constituting torture or ill-treatment, a harmful practice and violence, however weren't mentioned in the 2nd 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 via the public Irish Health Service Executive (HSE), and already considered in Concluding Observations by **CRC and CEDAW²** – constitutes a serious breach of Ireland's obligations under the Convention.

About the Rapporteurs

This NGO report has been prepared by Irish intersex person and advocate *Gavan Coleman* in collaboration with the international intersex NGO *StopIGM.org / Zwischengeschlecht.org* and in exchange with Irish intersex advocates wishing to remain anonymous.

- **Gavan Coleman** is an Irish intersex person, survivor of IGM practices and intersex human rights defender who has been working to improve the well-being and human rights of intersex persons in Ireland and Europe, and to raise awareness on intersex issues for many years.³
- **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!*”⁴ According to its charter,⁵ StopIGM.org works to support persons concerned seeking redress and justice and regularly reports to UN treaty bodies on IGM practices.⁶

Methodology

This thematic NGO report is a localised and updated **addition to the 2016 thematic CAT NGO Report for France** by partly the same rapporteurs, which also contains the additional **thematic supplements** “*What is Intersex?*” (p. 32–37), “*What are Intersex Genital Mutilations?*” (p. 38–47), “*IGM as a Breach of the Convention against Torture*” (p. 48–57) and “*IGM in Medical Textbooks: History + Current Practice*” (p. 59–69),⁷ and of the **2017 thematic CEDAW NGO Report for Ireland**⁸ by partly the same rapporteurs.

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 CRC/C/IRL/CO/3-4, paras 39-40; CEDAW/C/IRL/CO/6-7, paras 24-25

3 <http://www.intersexionfilm.com/>

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

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

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

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

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

A. Intersex Genital Mutilations in Ireland as a violation of CAT

1. IGM Practices:

Involuntary, unnecessary medical interventions

IGM practices include non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries, and/or other similar medical treatments, including imposition of hormones, performed on children with variations of sex anatomy,⁹ 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”.¹⁰

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**.¹¹

IGM practices are known to cause **lifelong severe physical and mental pain and suffering**,¹² 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.

This Committee has repeatedly recognised IGM practices to constitute a harmful medical practice and ill-treatment under the Convention during previous Sessions (CAT/C/DEU/CO/5, para 20; CAT/C/CHE/CO/7, para 20; 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; CAT/C/FRA/CO/7, paras 32-33), same as many more human rights bodies and experts.¹³

9 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>

10 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>

11 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>

12 See “IGM Practices – Non-Consensual, Unnecessary Medical Interventions ”, 2016 CAT France NGO Report, p. 38-47

13 **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> For further references, see “Bibliography: Intersex & Human Rights Mechanisms”, 2016 CEDAW France NGO Report, p. 24-38, <http://intersex.shadowreport.org/public/2016-CAT-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

To this day, UN treaty bodies issued **23 Concluding Observations on IGM practices**, considering them as ill-treatment (CAT art. 2, 12 and 16), harmful practice (CRC art. 24 para 3 in conjunction with JGR No. 31/18, CEDAW art. 5 (a)), or a violation of physical and mental integrity (CRPD art. 7).¹⁴

2. Intersex is NOT THE SAME as LGBT or SOGI

Unfortunately, there are several **harmful misconceptions about intersex** still prevailing in public, including if intersex is counterfactually described as being the same as or a subset of LGBT or SOGI, e.g. if intersex and/or intersex status are represented as a sexual orientation (like gay or lesbian), and/or as a gender identity, as a subset of transgender, as the same as transsexuality,¹⁵ or as a form of sexual preference.

The underlying reasons for these harmful 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 or misrepresenting intersex issues,¹⁶ 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 or SOGI community, and thus need to be adequately addressed in a separate section as specific intersex issues.

Nonetheless, the **pervasiveness and persistence** of these harmful misconceptions remains, as illustrated for example in two recent UN press releases misrepresenting IGM as “*sex alignment surgeries*” (i.e. voluntary procedures on transsexual or transgender persons), and IGM survivors as “*transsexual children*”,¹⁷ and State parties referring to e.g. transgender guidelines,¹⁸ “*Gender Identity Law*”¹⁹ or “*Civil Status Act*”²⁰ when asked about IGM by Treaty bodies.

14 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; CRPD/C/URY/CO/1, paras 43-44; 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; CEDAW/C/DEU/CO/7-8, paras 23-24; CEDAW/C/IRL/CO/6-7, paras 24-25

15 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

16 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>

17 For relevant excerpts and references, see <http://stop.genitalmutilation.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CATArgentina-UNCAT60>

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

19 CAT 60 Argentina, unofficial transcript see <http://stop.genitalmutilation.org/post/CAT60-Argentina-to-be-Questioned-on-Intersex-Genital-Mutilation-by-UN-Committee-against-Torture>

20 7th and 8th Periodic Report of Germany on CEDAW, para 202, see 2016 CEDAW PSWG NGO Report, p. 2, <http://intersex.shadowreport.org/public/2016-CEDAW-Germany-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

3. IGM practices in Ireland: Pervasive and unchallenged

a) Overview

In **Ireland** (see CRC/C/IRL/CO/3-4, paras 39-40; CEDAW/C/IRL/CO/6-7, paras 24-25), same as in the *United Kingdom* (see CRC/C/GBR/CO/5, paras 45-46), *France* (see CAT/C/FRA/CO/7, paras 32–33; CRC/C/FRA/CO/5, paras 47-48; CEDAW/C/FRA/CO/7-8, paras 17e-f + 18e-f), *Switzerland* (see CAT/C/CHE/CO/7, para 20; CRC/C/CHE/CO/2-4, paras 42-43; CEDAW/C/CHE/CO/4-5, paras 38-39), *Germany* (see CAT/C/DEU/CO/5, para 20; CRPD/C/DEU/CO/1, paras 37-38; CEDAW/C/DEU/CO/7-8, paras 23-24), and in many more State parties,²¹ 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 **2016 CRC Review of Ireland**,²² 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:

«[...] 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. [...]»

During the **2017 CEDAW Review of Ireland**, Department of Health Principal Officer Kieran Smyth again denied the practice, while confirming treatments on intersex children taking place at Our Lady's Children's Hospital (Dublin) “*after a unanimous decision of the consultants and of the parents*”.²³

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):

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

22 CRC 71st 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>; see also

CRC/C/IRL/CO/3-4, paras 39-40

23 CEDAW 66th Session, 15 February 2017, see transcription: <http://stop.genitalmutilation.org/post/CEDAW65-Ireland-to-be-Questioned-by-UN-over-Intersex-Genital-Mutilations>; see CEDAW/C/IRL/CO/6-7, paras 24-25

b) IGM 3 – Sterilising Procedures:

Castration / “Gonadectomy” / Hysterectomy /

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

Plus arbitrary imposition of hormones²⁴

As advocated by the public Irish Health Service Executive (HSE):²⁵

“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. 61.²⁶ Professor Prem Puri works at National Children’s Research Centre, Our Lady’s Children’s Hospital, Crumlin, Dublin.

**c) IGM 2 – “Feminising Procedures”: Clitoris Amputation/“Reduction”,
“Vaginoplasty”, “Labiaplasty”, Dilation²⁷**

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”*²⁸

And according to paediatric endocrinologist Dr Colm Costigan, *“Crumlin Children’s Hospital sees two or three new DSD (disorders of sexual development) cases each year, where baby isn’t immediately identifiable as boy or girl,”* and children with CAH are *“reassessed after a few months to see if surgery’s needed to reduce clitoris size,”* with parents *“usually [being] very*

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

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

25 Health Service Executive, “Androgen insensitivity syndrome”,

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

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

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

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

28 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>

accepting of the decision made in the best interests of the child". "For more complicated rare surgeries, 'we send children abroad,' says Costigan." ²⁹

d) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair”³⁰

As advocated by the National Children’s Hospital Tallaght, Teaching Hospital of Trinity College Dublin:³¹

“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.]

e) 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** ³²
- **Our Lady’s Children’s Hospital, Dublin** ³³
- **Cork University Hospital, Wilton** ³⁴

4. The treatment of intersex persons in Ireland as Torture

a) Infliction of severe pain or suffering

It is well established that IGM practices generally inflicts lifelong, severe pain and suffering, both physical and mental.

b) Intention

It is generally established that surgery on intersex persons is always intentionally performed and no merely the result of negligence, and that it does not detract for the intention if doctors perform surgery for well-meant purposes. The integral use of **cruelty as a mean to obtain formal consent from parents or from intersex persons themselves** for surgeries and other procedures, such as examinations and dilations, is undoubtedly intentional.

29 Irish Examiner, “What happens when a child is born intersex in Ireland?”, 04.11.2016, Cover story, p. 7-9

30 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>

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

32 See footnote 20.

33 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>

34 “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.

c) Purpose of Discrimination

It is generally established that on the bases of their sex characteristics intersex children are subjected to different procedures that would be considered inhumane when applied to children who are not intersex. Even when perpetrators have benign intentions, medical abuses produce and justify a situation of structural discrimination, stigma and violence against intersex people in Ireland.

d) Involvement of a State Official

Most medical institutions involved in treating intersex people in Ireland are public University and children's hospitals, and the involuntary treatments are advocated and paid for by the public Irish Health Service Executive (HSE).

Despite already having been urged twice to prevent the ongoing practice and to protect intersex children in Concluding Observations by CRC and CEDAW,³⁵ the State party keeps failing in exercising due diligence to protect intersex people from torture and ill treatment.

e) Lawful Sanction

Non-consensual unnecessary surgery performed on an intersex child or adult does not constitute a sanction in Ireland.

5. Treatment of Intersex People in Ireland as ill treatment

Even if it would be considered that the treatment of intersex people in Ireland does not constitute torture, it certainly constitutes cruel, inhuman and degrading treatment (Article 16). Ill-treatment is equally prohibited by the Convention in absolute and non-derogable terms. According to the Committee's General Comment, for CIDT also Article 14 applies.

6. Lack of Impartial Investigation, Independent Data Collection and Monitoring

Also in Ireland, there are no statistics on intersex birth and on IGM practices available, let alone impartial investigation of cases.

With no statistics available on intersex births, treatments 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".

7. Lack of Legislative Provisions, Impunity of Perpetrators

Art. 2 of the Convention obliges State parties to "*take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.*" General Comment 2 states, "*The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture,*" and similarly obliges State parties to "*to eliminate any legal or other obstacles that impede the eradication of torture and ill-treatment; and to take positive effective measures to ensure that such conduct and any recurrences thereof are effectively prevented.*"

35 CRC/C/IRL/CO/3-4, paras 39-40; CEDAW/C/IRL/CO/6-7, paras 24-25

Accordingly, with regards to IGM practices, this Committee already explicitly recognised the obligation for State parties to “*Take the necessary legislative, administrative and other measures to guarantee respect for the physical integrity and autonomy of intersex persons and to ensure that no one is subjected during infancy or childhood to non-urgent medical or surgical procedures*”,³⁶ and Ireland has already been urged to act in this matter by CRC and CEDAW. However, the Irish State party still keeps failing in “*take effective legislative, administrative, judicial or other measures*” to protect intersex children (see above 3.a).

8. Obstacles to redress, fair and adequate compensation

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.³⁷ 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 as a form of **torture or ill-treatment**, or as a form of **genital mutilation** or **harmful medical practice** respectively, which would formally prohibit parents from giving “consent” (see above 3.a). 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.

36 CAT/C/CHE/CO/7, para 20; CAT/C/DEU/CO/5, para 20; 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; CAT/C/FRA/CO/7, paras 32-33

37 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.

B. Conclusion: Ireland is Failing its Obligations towards Intersex People under the Convention against Torture

The surgeries and other harmful treatments intersex people endure cause severe physical and mental pain and suffering. Doctors perform the surgery for the discriminatory purpose of making a child fit into societal and cultural norms and beliefs, although there is plenty of evidence on the suffering this causes. The State party is responsible for these violations amounting to torture or at least ill-treatment, committed by publicly funded doctors, clinics, and universities, as well as in private clinics, advocated and paid for by the public Irish Health Service Executive (HSE). Although meanwhile the pervasiveness IGM practices is common knowledge, and the State party has been made aware of the situation and urged to take action by CRC and CEDAW, Ireland nonetheless fails to prevent these grave violations both in public and in private settings, but allows the human rights violations of intersex children, adolescents and adults to continue unhindered.

Thus Ireland is in breach of its obligation to take **effective legislative, administrative, judicial or other measures** to prevent acts of torture (Art. 2 CAT) or other forms of cruel, inhuman or degrading treatment (Art. 16 CAT, General Comment 2).

Also in Ireland, victims of IGM practices encounter **severe obstacles** in the pursuit of their right to an **impartial investigation** (Arts. 12, 13 CAT), and to **redress** and fair and adequate compensation, including the means for as **full rehabilitation** as possible (Art. 14 CAT, General Comment 3).

Also the State party's efforts on **education and information regarding the prohibition against torture in the training of medical personnel** are grossly insufficient with respect to the treatment of intersex people (Art. 10 CAT).

C. 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 to Switzerland, Austria, Denmark and France, and with CRC's and CEDAW's previous recommendation to Ireland):

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 that these procedures have not as yet given rise to any inquiry, sanction or reparation (arts. 2, 12, 14 and 16).

The Committee recommends that the State party:

- (a) Take the necessary legislative, administrative and other measures to guarantee the respect for the physical integrity and autonomy of intersex persons and to ensure that no one is subjected to unnecessary medical or surgical procedures during infancy or childhood, but that all non-urgent medical interventions are postponed until a child is sufficiently mature to participate in decision-making and give full, free and informed consent;**
- (b) Guarantee impartial counselling services and psychosocial support for all intersex children and their parents, so as to inform them of the consequences of non-urgent, unnecessary surgery and other medical treatment and the possibility of postponing any decision on such treatment or surgery until the persons concerned are able to decide for themselves;**
- (c) Undertake investigation of reports of surgical and other medical treatment of intersex people without effective consent and adopt legal provisions in order to provide redress to the victims of such treatment, including adequate compensation.**