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

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

Despite laws formally “prohibiting” IGM in currently 7 autonomous Communities, all typical forms of Intersex Genital Mutilation are still practised alloover Spain, facilitated and paid for by the State party via the public health system, and perpetrated by public University Hospitals and private health-care providers alike. The categorical failure of the current laws to adequately protect intersex children from inhuman treatment becomes even more apparent in comparison with the State party’s vastly superior, current anti-FGM legislation and policies. Spain 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.

For more than 25 years, intersex people have denounced IGM as harmful and traumatising, as western genital mutilation, as child sexual abuse and torture, and called for remedies.

This Thematic NGO Report was prepared by the international intersex NGOs StopIGM.org / Zwischengeschlecht.org and Brújula Intersexual in collaboration with intersex children, adults and parents of intersex children from Spain.

It contains Suggested Questions for the LOIPR (see opposite p. 5).
Suggested Questions for the LOIPR

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

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

• How many non-urgent, irreversible surgical and other procedures have been undertaken on intersex minors? Please provide detailed statistics on sterilising, feminising, and masculinising procedures, disaggregated by age groups and autonomous communities.

• Does the State party plan to stop this practice? If yes, what measures does it plan to implement, and by when?

• Please indicate which criminal or civil remedies are available for intersex people who have undergone involuntary sterilisation or unnecessary and irreversible medical or surgical treatment when they were children, and whether these remedies are subject to any statute of limitations?

• Please indicate which means of rehabilitation are available for intersex people who have undergone involuntary procedures?

• Please indicate which means of psychosocial support, including peer support, are available for intersex children and their families?
A. Introduction

1. Intersex, IGM and Human Rights in Spain

Starting in 2015, so far 7 autonomous Communities in Spain (out of 17) have enacted laws to formally prohibit or at least restrict IGM practices (Madrid, Murcia, Extremadura, Navarra, Balearic Islands, Andalusia, Valencia); however, while 3 of these laws contain (minor) sanctions (Madrid, Murcia, Valencia), none of them sanctions IGM, none of them address obstacles to access to justice, and none of them are enforced. A further Law proposal is currently under way in the autonomous Community of the Canary Islands, but again without any sanctions.

In 2018, CRC (CRC/C/ESP/CO/5-6, para 24) already considered IGM in Spain as a harmful practice, and recommended the State party to “prohibit unnecessary medical or surgical treatment [...] on intersex children”. Thereafter, on the national level a Draft Law was green-lit for discussion in Parliament, but expired due to the change in the legislative period.

This Thematic NGO Report demonstrates that the current and ongoing harmful medical practices on intersex children in Spain – 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 Spain’s obligations under the Covenant and other Conventions.

2. About the Rapporteurs

This thematic NGO report has been prepared by the international intersex NGOs Brújula Intersexual and StopIGM.org / Zwischengeschlecht.org in collaboration with Spanish intersex children, adults and their parents.

- **Brújula Intersexual** (English translation: Intersex Compass) is a Mexican-based NGO founded by Laura Inter in 2013. Its main objectives are to inform, disseminate and make visible everything related to intersex, mainly for Spanish-speaking people. We give priority to the opinion of intersex people over medical opinion. It is also a space that offers help and guidance to Spanish-speaking intersex people and their families, from countries such as Mexico, Spain, Argentina, Chile, among others.¹

- **StopIGM.org / Zwischengeschlecht.org** is an international intersex human rights NGO based in Switzerland, working to end IGM practices and other human rights violations perpetrated on intersex people, according to its motto, “Human Rights for Hermaphrodites, too!” ² According to its charter,³ StopIGM.org works to support persons concerned seeking redress and justice and regularly reports to relevant UN treaty bodies, often in collaboration with local intersex persons and organisations, ⁴ substantially contributing to the so far 42 Treaty body Concluding Observations recognising IGM as a serious human rights violation.⁵

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¹ [https://brujulaintersexual.org/](https://brujulaintersexual.org/)
³ [http://zwischengeschlecht.org/post/Statuten](http://zwischengeschlecht.org/post/Statuten)
⁴ [http://intersex.shadowreport.org](http://intersex.shadowreport.org)
In addition, the Rapporteurs would like to acknowledge the work of Clara Montesdeoca.\(^6\) And we would like to acknowledge the work of Professor of Philosophy of Law Daniel J. García López.\(^8\)

3. **Methodology**

   This thematic NGO report is a localised update to the 2017 CCPR Switzerland NGO Report\(^9\) by partly the same Rapporteurs, and the 2017 CRC Spain NGO Report\(^10\) by the same Rapporteurs.

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\(^7\) [Https://cadenaser.com/emisora/2018/03/09/radio_club_tenerife/1520602935_155303.html](https://cadenaser.com/emisora/2018/03/09/radio_club_tenerife/1520602935_155303.html)

\(^8\) [Https://brujulaintersexual.files.wordpress.com/2017/10/intersex-manifesto-english.pdf](https://brujulaintersexual.files.wordpress.com/2017/10/intersex-manifesto-english.pdf)


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

1. Overview: Lack of Protection for Intersex Persons, Despite CRC Concl Obs

All over Spain, all forms of IGM practices remain widespread and ongoing, persistently advocated, prescribed and perpetrated by state funded University and Public Children’s Clinics, and paid for by the Spanish National Health System (SNS) – as the actors themselves publicly admit, as well as to the psycho-social justification of the surgeries, and to knowledge of the human rights implications:

"Any radical stance is bad, it doesn’t serve to say that we should never operate, nor does it serve to say that we should not change any of the protocols," says the doctor who asserts that in Spain “it has been years since there has been any surgical intervention or open exploration in intersex minors without the informed consent of the parents.” (20 Minutos 11.08.2016)  

"Ablations [of the clitoris] like Olga’s are no longer practiced," the president of the Spanish Society of Pediatric Surgery, Iñaki Eizaguirre, assures EL MUNDO. However, the expert admits that genital standardisation surgeries in children do continue to be performed in hospitals. Surgeries that are not necessary because the child’s health is at risk, but rather “are convenient for coexistence, social-family relations and to avoid problems.” (El Mundo 11.12.2016)

On the side of protections, in Spain (see CRC/C/ESP/CO/5-6, para 24), same as in the neighbouring state of France (CRC/C/FRA/CO/5, paras 47-48; CAT/C/FRA/CO/7, paras 34-35; CEDAW/C/FRA/CO/7-8, paras 18e-f+19e-f), and the fellow European states of Switzerland (CCPR/C/CHE/CO/4, paras 24-25; CRC/C/CHE/CO/2-4, paras 42-43; CAT/C/CHE/CO/7, para 20; CEDAW/C/CHE/CO/4-5, paras 24-25, 38-39), Germany (CAT/C/DEU/CO/5, para 20; CEDAW/C/DEU/CO/7-8, paras 23-24; CRPD/C/DEU/CO/1, paras 37-38), and the United Kingdom of Great Britain and Northern Ireland (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), there are

- no legal or other protections in place on the national level to ensure the prevention of all IGM practices; and no effective legal or other protections in the autonomous communities of Madrid, Murcia, Extremadura, Navarra, Balearic Islands, Andalusia
- no legal or other protections in place on the national level to ensure the accountability of IGM perpetrators; and no effective legal or other protections in the autonomous communities of Madrid and Murcia
- no legal or other measures in place to ensure access to redress and justice for adult survivors of childhood IGM practices
- no legal or other measures in place to ensure data collection and monitoring of IGM practices
- no legal or other measures in place to ensure education and training of medical professionals on the consequences of IGM practices

11  http://www.20minutos.es/noticia/3055849/0/padres-espanoles-cuestionan-cirugia-genital-bebes-intersexuales/
12  http://www.elmundo.es/sociedad/2016/12/11/584b00db22601d53428b4646.html
What’s worse, this situation persists despite that in 2018, CRC (CRC/C/ESP/CO/5-6, para 24) already considered IGM in Spain as a harmful practice, and recommended the State party to “prohibit unnecessary medical or surgical treatment [...] on intersex children”, and to “ensure that intersex children and their families receive adequate counselling and support”.

2. Existing Laws and Legislative Initiatives against IGM

a) Overview

Out of the 17 autonomous Communities in Spain, so far 7 have enacted laws to formally prohibit or at least restrict IGM practices (Madrid, Murcia, Extremadura, Navarra, Balearic Islands, Andalusia, Valencia), however, only 3 of these laws contain (minor) sanctions at all (Madrid, Murcia, Valencia), and none of them contains sanctions for IGM practices, or address obstacles to access to justice, and in fact, concerning IGM none of them are enforced.

Currently, also the autonomous Community of the Canary Islands is considering a Law proposal, but again without any sanctions.

On the national level, last year a Draft Law was filed in the Spanish Lower House gaining Commission support; however, due to the change of the legislative period the proposal expired.

In contrast, existing Spanish legislation against FGM includes prohibition under Criminal Law, comparatively strong sanctions, preventive measures, extraterritorial protections and mandatory notification by professionals.

b) Regional Laws and Initiatives

The Community of Madrid has to be commended for being the first to have enacted legislation aimed at preventing IGM practices. Law 2/2016 of the Community of Madrid\(^\text{13}\) states in art. 4 (3), “ [...] genital surgeries of intersex persons without the informed consent of the person concerned or the need to ensure biological functionality for health reasons, are prohibited in the health services of the Community of Madrid.” Art. 15 titled “Health care for intersex people” further affirms, “1. The public health system in Madrid will ensure the eradication of genital modification practices in newborn babies [...] with the exception of medical criteria based on the protection of the newborn’s health and with legal authorization.”

However, while Madrid’s Law 2/2016 art. 53 “Penalties” has to be lauded to at least include some sanctions for infractions against LGBT persons of up to 45,000 Euros plus possible temporary suspension, it contains no sanctions for IGM (or any other violations against intersex people) at all. Concerning IGM, in practice the Law 2/2016 isn’t enforced (nor its implementation monitored), as also in the Community of Madrid both public and private children’s hospitals openly flaunt the law by continuing to publicly advertise, perform and promote IGM practices (see below p. 12-14) – just the same as in the other autonomous Communities without such a law.

Similarly, the Community of Murcia has to be commended for being the second to have enacted legislation aimed at preventing IGM practices. Law 8/2016 of the Community of Murcia\(^\text{14}\) states in art. 8 (3), “It is forbidden in the sanitary services of the Autonomous Community of the Region of Murcia [...] the genital surgeries of intersex people that do not obey the decision of the affected person or the need to ensure biological functionality for health reasons.” Art. 16 (2)

\(^{13}\) Comunidad de Madrid: Ley 2/2016, 29.03.2016, art. 4, para 3 (prohibition); art. 53 (sanctions), https://www.boe.es/eli/es-md/l/2016/03/29/2/con

\(^{14}\) Comunidad Autónoma de la Región de Murcia: Ley 8/2016, 27.05.2016, art. 8, para 3 (prohibition); art. 52 (sanctions), https://www.boe.es/eli/es-me/l/2016/05/27/8/con
further affirms, “The public health system of the Region of Murcia will ensure the eradication of the practices of sex assignment in newborn babies attending only to surgical criteria and at a time when the real identity of the newborn intersex person is unknown. All this with the exception of medical criteria based on the protection of the health of the newborn person.”

However, while also Murcia’s Law 8/2016 art. 52 “Penalties” has to be lauded to at least include some sanctions for infractions against LGBT persons of up to 45,000 Euros plus possible temporary suspension, it contains no sanctions for IGM (or any other violations against intersex people) at all (art 50). Concerning IGM, in practice the Law 8/2016 isn’t enforced (nor its implementation monitored), as also in the Community of Murcia children’s hospitals openly flaunt the law by continuing to publicly advertise, perform and promote IGM practices (see below p. 12, 13, 15) – just like in the other Communities without such a law.

Also, the Community of Valencia enacted a Law containing a section “People with intersex variations or differences of sex development (DSD)” (arts. 46-50). However, the Law 23/2018 exclusively frames IGM as a “health care” issue (art. 48) under the authority of “reference hospital departments”, i.e. the current perpetrators (art. 49). While the Valencia Law has to be commended for being the only one to contain any sanctions for infractions against intersex people, namely of a fine of up to 6,000 Euros for “using or issuing abusive speech on the grounds of [...] sex development” (art. 60(2a) and 62(1)), a fine of up to 60,000 Euros e.g. for “inciting violence against LGBT persons”, “discrimination [in court] on the grounds of [...] sex development”, “labour discrimination”, “in education, portraying persons as inferior or superior on the grounds of [...] sex development” (art. 60(3) and 62(2)), and a fine up to 120,000 Euros, e.g. for “aggressive or harassing behavior based on a person’s [...] sex development”, and refusal of assistance to victims by a person officially obliged to do so (art. 60(4) and 62(3)), again Law 23/2018 contains no sanctions for IGM at all, and IGM continues with impunity.

In addition, also the autonomous Communities of Extremadura, Navarra and the Balearic Islands enacted laws containing sections that stipulate to “ensure the eradication of the practices” of involuntary, non-urgent genital surgeries and other procedures on intersex children. Further, these laws stipulate to establish health-care guidelines, including to provide intersex persons and their families with “adequate psychological care”. However, these laws don’t include sanctions, and are also not enforced, as all typical forms of IGM practices continue to be practiced in public hospitals with impunity (see below p. 15) – just the same as in the other autonomous Communities without such a law.

Also, the autonomous Community of Andalusia enacted a vaguely formulated Law to “ensure that the practices of genital modification in newborn babies do not attend only to surgical criteria”, with “exception[s]” only allowed in the case of urgent medical necessity. However, also this Law fails to include any sanctions, fails to address obstacles to access to justice, such

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16 Comunidad Autónoma de Extremadura: Ley 12/2015, 08.04.2015, art. 11, para 2, https://www.boe.es/eli/es/ex/l/2015/04/08/12/con
18 Comunidad Autónoma de las Illes Balears: Ley 8/2016, 30.05.2016, art. 23, para 2, https://www.boe.es/eli/es-ib/l/2016/05/30/8/con
19 Extremadura law: art. 11, para 1; Balearic Islands law: art. 23, para 1. The Navarra law: art. 53, instead contains stipulations for guidelines on the “preservations of the gonads” (para 2), to avoid “experimental” and other unnecessary “hormonal treatments” (para 3), “limitation of genital explorations” (para 4), and “respect for privacy” (para 5).
as the limitation period, as well as extraterritorial protections, and is not enforced, as IGM practices continue to be practiced with impunity (see below p. 15).

In May 2019, a Draft Law aimed at preventing IGM practices was presented by the Councillor for Employment, Social Policies and Housing of the autonomous Community of the Canary Islands. Unfortunately, the Draft Law again fails to include any sanctions, and fails to address obstacles to access to justice, such as the limitation period.

c) National Initiative (Expired)

In October 2018, a Draft Law 162/000841 was filed in the Spanish Lower House (Congreso de los Diputados) proposing, in line with the recent CRC recommendations to Spain, to

- “explicitly prohibit unnecessary medical or surgical treatment during childhood to ensure bodily integrity, autonomy and self-determination for affected children”
- “provide families with intersex children with appropriate counselling and support”
- “provide redress to victims of such treatment, including adequate compensation and the fullest possible rehabilitation, and conduct an investigation of incidents of surgical and other medical treatment on intersex children without informed consent”

In December 2018, the Commission on the Rights of Children and Adolescents of the Spanish Lower House (Comisión de Derechos de la Infancia y Adolescencia del Congreso de los Diputados) approved the modified Draft Law 162/003870 for parliamentary discussion. Unfortunately, the modifications watered down the original Draft Law, making it no more in line with the CRC recommendations. For example, the Commission Draft added two sections promoting medical self-regulation as a solution (e.g. “adopt protocols to ensure, to the extent possible, the participation of minors in the decision-making process”). In addition, the Commission discarded all sections concerning access to justice and redress, i.e. the Commission Draft no longer proposed to the Government to adopt a law to “[e]ncourage the adoption of the necessary legislative measures to provide redress to victims of such treatment, including adequate compensation and the fullest possible rehabilitation, and conduct an investigation of incidents”, but now merely proposes to “study the adoption of the necessary legislative measures to provide reparation and support to the victims of such treatment and to carry out an investigation of incidents”. Further, both versions fail to include any sanctions, and fail to address obstacles to access to justice, such as the limitation period, as well as extraterritorial protections.

However, due to a change of the legislative period, the law proposal has expired.

d) Contrast: Existing Spanish Laws against FGM

In contrast, FGM is explicitly forbidden in the Spanish Criminal Code, with sanctions including “imprisonment from six to twelve years” (Organic Act 11/2003, modified article 149.2). Also, extraterritorial protections are established (Organic Act 6/1985, article 23.4, modified by Organic Act 1/2014). Further, Article 158 of the Civil Code, modified by Organic Act 9/2000, allows judges to adopt preventive measures in the case of an imminent risk of genital mutilation.

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21 https://www3.gobiernodecanarias.org/noticias/el-gobierno-elabora-en-tiempo-record-el-anteproyecto-de-ley-de-no-discriminacion-por-razon-de-identidad-de-genero/
As FGM is considered a crime, professionals aware of an actual or impending incident are therefore subject to mandatory notification (article 450 of the Criminal Code; articles 262 + 355 of the Civil Procedure Act; Organic Act 1/1996).

3. Most Common Forms of IGM Practiced in Spain

a) IGM 3 – Sterilising Procedures:
   - Castration / “Gonadectomy” / Hysterectomy / Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation
   - “Two years old, they took my testes.”

The current DSD Guidelines by the “DSD Working Group” of the Spanish Society of Paediatric Endocrinology (SEEP) unchangingly promote “prophylactic gonadectomy” (p. 44–46):

“In Complete Androgen Insensitivity (CAIS) without residual receptor activity, the rate of malignant tumors is low. [...] [T]he general recommendation is prophylactic gonadectomy in late puberty. [...] Having decided to perform a gonadectomy in these patients, the need for hormone replacement treatment should be discussed with the family and patient. In general, the doses of estrogen needed to maintain bone mass and prevent symptoms of estrogen deficiency are higher than those used in menopause, and should be adapted to each patient.”

Also, at the Murcia University Hospital “Virgen de la Arrixaca”, the chief of paediatric surgery Dr Gerardo A. Zambudio publicly advocates surgical excision of abdominal testes on his private homepage “Uropediatrica.com”;


“I'm sure that if they had respected my body as it was, the sensations would be much better.”

The Madrid University Children’s Hospital La Paz’s current “Formative Itinerary Paediatric Surgery” lists under fields under mandatory procedures of which a trained paediatric surgeon must have “at least solid knowledge” (p. 9):

GENITAL PATHOLOGY

75. Intersex states.
76. Hypospadias and epispadias.
77. Female external genital abnormalities. Vaginal agenesis and duplication. Hydro and hematocelps. Fused Labia.

27 For general information, see 2016 CEDAW NGO Report France, p. 47.
29 available at https://www.seep.es/images/site/home/GUIA_MANEJO ADS_DSD_SEEP.PDF
30 http://uropediatrica.com/testes.html
In 2017, the Barcelona University Children’s Hospital Vall d’Hebron in collaboration with the Catalan Health Department and the Institut Català de la Salut co-organised a “masterclass” titled “Pediatric Urogenital Reconstructive Surgery: Disorders of Sex Development DSD XX”, specialising in “feminising” “Surgery in children with atypical genital development (AGD)” and including no less than 3 sessions of “Live surgery”.

An April 2019 presentation by paediatric surgeons and urologists from the Madrid University Children’s Hospital La Paz about “long-term surgical results” of feminising procedures on 33 CAH patients operated on 1977-2012 came to the following

“CONCLUSIONS

Glans reduction in CAH patients cause a decrease in genital sensitivity. The surgical consequences for sexual and social development in this condition should lead us to a multidisciplinary, more conservative management.”

In other words, the surgeons indirectly admit that a “more conservative management” regarding IGM 2 is not the actual status also at the Madrid University Children’s Hospital La Paz – despite that IGM has been formally outlawed in Madrid since 2016 (see p. 9).

Also, the Barcelona Children’s University Hospital Vall d’Hebron which self-describes its department of “Paediatric Urology” as “a pioneer in the treatment of sexual differentiation disorders at the paediatric age”, offers on its homepage “Partial clitoridectomies”, “Sigmoid vaginoplasty”, “Perineal and abdominoperineal vulvovaginoplasty” and “Surgical treatment of sexual differentiation anomalies”.

Also, at the Murcia University Hospital “Virgen de la Arrixaca”, the chief of paediatric surgery Dr Gerardo A. Zambudio publicly advocates “feminising surgical techniques”, namely partial clitoris amputation and “vaginoplasty” on “girls” diagnosed with Congenital Adrenal Hyperplasia (CAH), on his private homepage “Uropediatria.com”.

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

The Madrid University Children’s Hospital La Paz’s current “Formative Itinerary Paediatric Surgery” lists under fields under mandatory procedures of which a trained paediatric surgeon must have “at least solid knowledge” (p. 9):

33 see programme available both at Vall d’Hebron, http://www.aulavhebron.net/aula/documentos/URO.pdf and the Spanish Society for Paediatric Surgery (SECIPE), https://www.secipe.org/coldata/upload/noticias/DSDVHEBRONDEF.pdf
34 30th ESPU, 25.04.2019, Session 9: DSD. Javier SERRADILLA RODRIGUEZ, Alba BUENO JIMÉNEZ (Children’s Hospital La Paz, Paediatric Surgery); Susana RIVAS VILA, María José MARTÍNEZ URRUTIA, Roberto LOBATO, Solon CASTILLO, Virginia AMESTY and Pedro LÓPEZ PEREIRA (Children’s Hospital La Paz, Paediatric Urology): "LONG-TERM SURGICAL RESULTS IN CONGENITAL ADRENAL HYPERPLASIA"
36 http://uropediatria.com/intersexos.html
37 For general information, see 2016 CEDAW NGO Report France, p. 48-49.
GENITAL PATHOLOGY

75. Intersex states.
76. Hypospadias and epispadias.
77. Female external genital abnormalities. Vaginal agenesis and duplication. Hydro and hematocolps. Fused Labia.

Madrid University Children’s Hospital La Paz’s Chief of Paediatric Urology Section, Dr Pedro López Pereira, is also a board member of the European Society for Paediatric Urology (ESPU), whose current 2017 Guidelines “Paediatric Urology” promote “cosmetic indications” as justification for early surgeries: “The age at surgery for primary hypospadias repair is usually 6-18 (24) months.”

The Barcelona Children’s University Hospital Vall d’Hebron self-describes its department of “Paediatric Urology” as “a pioneer in the treatment of sexual differentiation disorders at the paediatric age”, and offers on its homepage “Hypospadias correction techniques: Mathieu, Snodgrass, Onlai, Duckett, oral or bladder mucous in interscrotals. Meatootomy. Nesbitt technique” and “Surgical treatment of sexual differentiation anomalies”.

The 2017 ESPU Annual Meeting (28th Congress of the European Society of Paediatric Urology) was held in Barcelona, where multiple presentations promoted IGM practices, for example in a presentation by 8 paediatric surgeons from the Madrid University Children’s Hospital La Paz reporting “60 patients” with “primary [hypospadias] repair at 36±8 months of age.”

In February 2018 the Madrid University Children’s Hospital Fundación Alcorcón and the Madrid Urological Society co-hosted the “VII International Course of Urethral Reconstructive Surgery”, where multiple presentations promoted IGM 1, including a video-presentation on “surgery of distal hypospadias” moderated by Madrid University Children’s Hospital La Paz’s Chief of Paediatric Urology Section, Dr Pedro López Pereira.

The 2018 ECE Annual Meeting (20th European Congress of Endocrinology) was held in Barcelona, with a “Symposium 30: Disorders of Sexual Development (DSD)” chaired by local paediatric endocrinologist Laura Audi, promoting early “[s]urgical repair” as the rule and the “late surgery and the no surgery alternatives [which] have been recently proposed” as a secondary “choice.”

40 https://www.vallhebron.com/en/specialities/paediatric-urology
41 28th ESPU, 21.04.2017, Session 14: Hypospadias 2. Mariela DORE, Paloma TRIANA, Virgina AMESTY, Vanessa NUNEZ (Children’s Hospital La Paz, Pediatric Surgery); Roberto LOBATO, Susana RIVAS, Pedro LOPEZ PEREIRA and Maria Jose MARTINEZ-URRUTIA (Children’s Hospital La Paz, Pediatric Urology): “THE EFFECT OF PREOPERATIVE HORMONAL STIMULATION ON OPERATIVE OUTCOMES AFTER PROXIMAL HYPOSPADIAS REPAIR”
In 2016–2017, the Málaga Escuela de Urología Pediátrica y Fetal del Colegio de Médicos and the Colegio Oficial de Médicos de la Provincia de Málaga co-organised at least 2 similar courses promoting early hypospadias surgery, one in collaboration with the Universidad Internacional de Andalucía (UNIA) 44 and another at the Clínica Santa Elena (Los Álamos, Torremolinos). 45 And in 2015 a similar course took place at the Complejo Hospitalario Universitario de Albacete. 46

Also, at the Murcia University Hospital “Virgen de la Arrixaca”, the chief of paediatric surgery Dr Gerardo A. Zambudio publicly advocates early, unnecessary “hypospadias repair” explicitly with psychological indications, on his private homepage “Uropediatria.com”. 47

“Classically the surgery was delayed until 3-5 years of age, generally catheters are used for 7 days with the child resting in bed during this time. Currently the age between 6-18 months is recommended because there are psychological advantages, the postoperative management in terms of cures, catheterization bandages etc is simpler at these ages and the surgery can be performed on an outpatient basis: the child can go home the same day of surgery with a catheter to a double diaper.”

Also, the Sevilla University Hospital “Virgen Del Rocío” in Andalusia in its leaflet for parents publicly promotes early “hypospadias repair”, despite admitting the surgery may be “unnecessary” and could be “postponed”, and that there are significant complication rates: 48

“At least 2 out of 10 children have long-term problems that require a new intervention.”

Also, the Badajoz Hospital “Quirónsalud Clideba” in Extremadura offers surgery for “hypospadias” on its homepage under “paediatric surgery”. 49

Also, the “Paediatric Surgery Training Guide” of the Hospital Complex of Navarra obliges resident doctors to practice “hypospadias repair”. 50 (Further, the guide obliges paediatric surgeons “at least have acquired a solid knowledge” also of “Intersex states” and “Abnormalities of the female external genitalia”. 51)

Also, the Balearic Islands University Hospital “Son Espases” offers surgery for “hypospadias” on its homepage under “paediatric surgery”. 52

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44 “1 Experto Universitario en Hipospadias”
https://www.secipe.org/coldata/upload/noticias/ExptpHiposp%20UNIA.pdf
45 “14º Curso Internacional Práctico de Hipospadias de Málaga”,
47 http://uropediatria.com/hipospadias.html#tratamiento
See also, http://uropediatria.com/detalles%20tecnicos.html
49 https://www.quironsalud.es/clideba/es/cartera-servicios/cirugia-pediatrica-4560
50 See p. 9 in document (p. 11 in PDF)
51 Ibid., see p. 8 in document (p. 10 in PDF), No.s 75-77
52 http://www.hospitalsonespases.es/index.php?option=com_k2&view=item&id=1359:circug%c3%adapedi%c3%a1trica&Itemid=294&lang-es
d) IGM 4: Other Unnecessary and Harmful Medical Interventions and Treatments

Other common harmful treatments include (as detailed in the 2014 CRC NGO Report):

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

e) Spanish Public University Hospitals involved in International IGM Networks

In 2017, the “European Reference Network (ERN)” was launched to ensure better treatment for patients with rare diseases within the European Union. 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”

Like with earlier international networks led by IGM perpetrators, e.g. “EuroDSD”/“I-DSD” and “DSDnet”, Spanish University Hospitals are again involved.

4. IGM in Spain as a Violation of the Covenant

This Committee has already recognised IGM practices as a serious violation of Covenant, 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, e.g. “normal” boys and girls, so that, according to a specialised surgeon, “any cutting, no matter how incompetently executed, is a kindness.”

Generally, medical justifications for IGM are often rooted in gender-based stereotypes. Clearly, IGM practices therefore also violate Article 3.

55 See http://stop.genitalmutilation.org/post/eUROGEN-EU-funded-Intersex-Genital-Mutilators
57 See http://stop.genitalmutilation.org/post/DSNet-Intersex-Genital-Mutilators-European-Union
59 See CCPR/C/CHE/CO/4, paras 24-25; CCPR/C/AUS/CO/6, paras 25-26; CCPR/C/DEU/QPR/7, para 13
Art. 7: Cruel, Inhuman or Degrading Treatment, and Involuntary Medical or Scientific Experimentation

Like this Committee, the Committee against Torture 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.

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 (including the wilful destruction of evidence in the form of medical records in Spain, see below), 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. For decades, intersex children have been regularly described and exploited by scientists as an “experiment of nature”. Often twins, siblings, mothers or other family members or relatives of intersex children are used as controls. Generally, intersex children are often used as subjects in scientific research, particularly in the field of genetics, also in Spain.

62 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


64 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


69 For an example of studies on intersex twins by German gynaecologist Ernst Philipp in collaboration with Swiss endocrinologist Andrea Prader, see Marion Hulverscheidt (2016), Begriffsddefinitionen „Intersexualität“ VII: Eine einheitliche Betrachtung des Zwittertums – der Kieler Gynäkologe Ernst, http://intersex.hypotheses.org/3976

70 See for example: Idoia Martinez de LaPiscina (Endocrinology and Diabetes Research Group, BioCruces Health Research Institute, Cruces University Hospital, CIBERDEM, CIBERER, UPV-EHU, Barakaldo, Spain), Carmen de Mingo (Pediatric Endocrinology, La Fe Pediatric University Hospital, Valencia, Spain), Stefan Riedl, Amaia Rodriguez (Pediatric Endocrinology Section, Cruces University Hospital, BioCruces Health
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 Spain and associated research projects with Spanish participation including “EuroDSD”71 and “DSDnet”72, 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 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.

Research Institute, CIBERDEM, CIBERER, UPV/EHU, Barakaldo, Spain), Amit V. Pandey, Mónica Fernández-Cancio (Growth and Development Research, Pediatric Endocrinology Unit, Vall d’Hebron Research Institute (VHRI), CIBERER, Instituto de Salud Carlos III, Barcelona, Spain), Nuria Camats (ibid.), Andrew Sinclair, Luis Castaño (Endocrinology and Diabetes Research Group, BioCruces Health Research Institute, Cruces University Hospital, CIBERDEM, CIBERER, UPV-EHU, Barakaldo, Spain), Laura Audi (Growth and Development Research, Pediatric Endocrinology Unit, Vall d’Hebron Research Institute (VHRI), CIBERER, Instituto de Salud Carlos III, Barcelona, Spain), and Christa E. Flück (2018), GATA4 Variants in Individuals With a 46,XY Disorder of Sex Development (DSD) May or May Not Be Associated With Cardiac Defects Depending on Second Hits in Other DSD Genes, Front Endocrinol (Lausanne). 2018; 9: 142.,

https://europepmc.org/articles/PMC5893726
72 http://www.dsdnet.eu/management-committee.html#Spain
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 they 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. This is also the case in Spain (see above p. 11), and clearly not in line with article 26.

5. Spanish Doctors and Government consciously dismissing Intersex Human Rights
The persistence of IGM practices in Spain is a matter of public record (see above p. 8).

Spanish paediatric surgeons, despite openly admitting to knowledge of relevant criticisms by human rights and ethics bodies, nonetheless continue to consciously refuse to stop advocating, practicing and participating in IGM practices.

Also, Spanish government bodies continue to ignore the full human rights implications of IGM.

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 Spain, there are no statistics on intersex births and on IGM practices available.

7. Obstacles to redress, fair and adequate compensation
Also, in Spain 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.73 So far, in Spain we know of no case of a victim of IGM practices succeeding in going to court.

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

73 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.
Annexe – Background: Intersex, IGM, Harmful Practices and Stereotypes

1. 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.  

In regions without universal access to paediatric health care, there are reports of infanticide of intersex children, of abandonment, of expulsion, of massive bullying preventing the persons concerned from attending school (recognised by CRC as amounting to a harmful practice), and of murder.  

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 suprematist implications.  

77 For South Africa, see also https://mg.co.za/article/2018-01-24-00-intersex-babies-killed-at-birth-because-theyre-bad-omens  
79 For Kenya, see also http://www.bbc.com/news/world-africa-39780214  
80 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  
81 In the WHO “World Atlas of Birth Defects (2nd Edition)”, many intersex diagnoses are listed, including “indeterminate sex” and “hypospadias”:
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**, 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. UN Treaty bodies have so far issued 42 Concluding Observations condemning IGM practices accordingly.

2. **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)”, 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.
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\(^89\) \(^90\) 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,\(^91\) 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.\(^92\)

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”,\(^93\) and again IGM survivors as “transgender children”,\(^94\) “transsexual children who underwent difficult treatments and surgeries”, and IGM as a form of “discrimination against transgender and intersex children” \(^95\) and as “sex assignment surgery” while referring to “access to gender reassignment-related treatments”.\(^96\)

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”,\(^97\) “a special provision on sexual orientation and

\(^92\) For example ACHPR Commissioner Lawrence Murugu Mute (Kenya), see http://stop.genitalmutilation.org/post/ACHPR-African-Commissioner-warns-Stop-conflating-intersex-and-LGBT
\(^96\) CAT/C/DNK/QPR/8, para 32
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 and public representation.103

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, 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”.104

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 human rights violation, and the promotion of “self-regulation” of IGM by the current perpetrators – instead of effective measures to finally end the practice (as repeatedly stipulated also by this Committee).

Even worse, Health ministries construe UN Treaty body Concluding observations falling short of explicitly recommending legislation to criminalise or adequately sanction IGM as an excuse for “self-regulation” promoting state-sponsored IGM practices to continue with impunity.108
Intersex Genital Mutilations
Human Rights Violations Of Children
With Variations Of Reproductive Anatomy

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