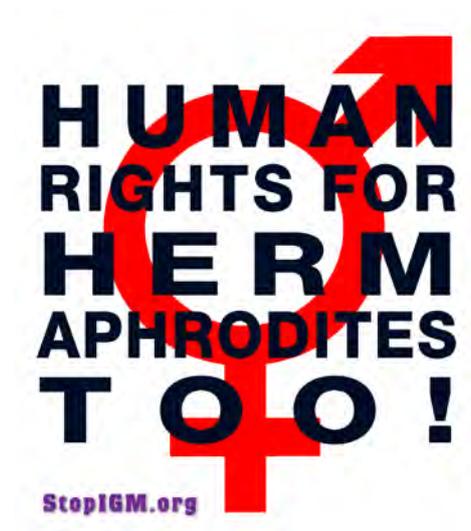


Intersex Genital Mutilations

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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August 2019

This NGO Report online:

<http://intersex.shadowreport.org/public/2019-CCPR-LOIPR-Spain-Intersex-Brujula-StopIGM.pdf>



NGO Report (for LOIPR) to the 7th Periodic Report of Spain
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 all over 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

1 <https://brujulaintersexual.org/>

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

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

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

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

In addition, the Rapporteurs would like to acknowledge the work of Clara Montesdeoca.^{6 7} 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.

6 <http://canarias-semanal.org/art/23764/celebraran-en-tenerife-el-dia-internacional-por-la-visibilidad-intersexual>

7 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>

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

10 <http://intersex.shadowreport.org/public/2017-CRC-Spain-NGO-Brujula-Zwischengeschlecht-Intersex-IGM.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:

*The endocrinologist of Vall'd Hebron, Laura Audí, [...] is opposing legislation [to ban IGM]. “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)*¹¹

*“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)*¹²

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**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**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-mc/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).¹⁵ 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**,¹⁶ **Navarra**¹⁷ and the **Balearic Islands**¹⁸ 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*”.¹⁹ 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**²⁰ 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

15 Comunitat Valenciana: Ley 23/2018, 29.11.2018, arts. 46-50, <https://www.boe.es/buscar/act.php?id=BOE-A-2019-281>

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>

17 Comunidad Foral de Navarra: Ley Foral 8/201, 19.06.2017, art. 17, para 1, <https://www.boe.es/eli/es-nc/lf/2017/06/19/8/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).

20 Junta de Andalucía: Ley 8/2017, 28.12.2018, art. 29, <https://www.boe.es/eli/es-an/l/2017/12/28/8/con>

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**.²¹ 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**²² 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**^{23 24} 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**.²⁵

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.

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/>

22 See p. 19-20, www.congreso.es/public_oficiales/L12/CONG/BOCG/D/BOCG-12-D-445.PDF

23 See p. 38-39, www.congreso.es/public_oficiales/L12/CONG/BOCG/D/BOCG-12-D-468.PDF

24 <https://www.europapress.es/epsocial/igualdad/noticia-congreso-pide-gobierno-prohibicion-expresa-mutilacion-genital-menores-intersexuales-20181121193656.html>

25 http://www.congreso.es/public_oficiales/L12/CONG/BOCG/D/BOCG-12-D-519.PDF

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).²⁶

3. Most Common Forms of IGM Practiced in Spain

a) IGM 3 – Sterilising Procedures:

Castration / “Gonadectomy” / Hysterectomy /

Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation²⁷

“Two years old, they took my testes.”²⁸

The current **DSD Guidelines** by the “*DSD Working Group*” of the **Spanish Society of Paediatric Endocrinology (SEEP)**²⁹ 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 “*Uropediatria.com*”.³⁰ “*An intra-abdominal testicle in a child >10 years old with a normal contralateral testicle should be removed.*”

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

“I’m sure that if they had respected my body as it was, the sensations would be much better.”³¹

The **Madrid University Children’s Hospital La Paz**’s current “*Formative Itinerary Paediatric Surgery*”³² lists under fields under mandatory procedures of which a trained paediatric surgeon must have “*at least solid knowledge*” (p. 9):

GENITAL PATHOLOGY

73. Testicular descent abnormalities. Cryptorchidism. Ectopies. Testicular retention.

74. Acute scrotum. Testicular torsion and hydatid torsion. Orchitis and epididymitis. Ovarian torsion. Ovarian cysts.

75. Intersex states.

76. Hypospadias and epispadias.

77. Female external genital abnormalities. Vaginal agenesis and duplication. Hydro and hematocolps. Fused Labia.

26 <https://uefgm.org/index.php/legislative-framework-es/>

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

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

28 See Case 4, 2017 CRC Spain NGO Report, p. 20-21,

<http://intersex.shadowreport.org/public/2017-CRC-Spain-NGO-Brujula-Zwischengeschlecht-Intersex-IGM.pdf>

29 available at https://www.seep.es/images/site/home/GUIA_MANEJO_ADS_DSD_SEEP.PDF

30 <http://uropediatria.com/testes.html>

31 See Case 2, 2017 CRC Spain NGO Report, p. 18-19,

<http://intersex.shadowreport.org/public/2017-CRC-Spain-NGO-Brujula-Zwischengeschlecht-Intersex-IGM.pdf>

32 <http://www.madrid.org/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobheadername1=Content-disposition&blobheadername2=cadena&blobheadervalue1=filename%3DGIFT+Cirug%C3%ADa+Pedi%C3%A1trica.pdf&blobheadervalue2=language%3Des%26site%3DHospitalLaPaz&blobkey=id&blobtable=MungoBlobs&blobwhere=1352905205919&ssbinary=true>

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”**.³³

An April 2019 presentation by paediatric surgeons and urologists from the **Madrid University Children’s Hospital La Paz**³⁴ 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*”.³⁵

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”.³⁶

c) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair”³⁷

The **Madrid University Children’s Hospital La Paz**’s current “*Formative Itinerary Paediatric Surgery*”³⁸ 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”

35 <https://www.vallhebron.com/en/specialities/paediatric-urology>

36 <http://uropediatria.com/intersexos.html>

37 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>

38 <http://www.madrid.org/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobheadername1=Content-disposition&blobheadername2=cadena&blobheadervalue1=filename%3DGIFT+Cirug%C3%ADa+Pedi%C3%A1trica.pdf&blobheadervalue2=language%3Des%26site%3DHospitalLaPaz&blobkey=id&blobtable=MungoBlobs&blobwhere=1352905205919&ssbinary=true>

GENITAL PATHOLOGY

73. Testicular descent abnormalities. Cryptorchidism. Ectopies. Testicular retention.

74. Acute scrotum. Testicular torsion and hydatid torsion. Orchitis and epididymitis. Ovarian torsion. Ovarian cysts.

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.*”³⁹

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 “**Hipospadias correction techniques: Mathieu, Snodgrass, Onlai, Duckett, oral or bladder mucous in interscrotals. Meatotomy. Nesbitt technique**” and “**Surgical treatment of sexual differentiation anomalies**”.⁴⁰

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**”.⁴¹

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.⁴²

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”.⁴³

39 available at <http://uroweb.org/guideline/paediatric-urology/>

40 <https://www.vallhebron.com/en/specialities/paediatric-urology>

41 28th ESPU, 21.04.2017, Session 14: Hypospadias 2. Mariela DORE, Paloma TRIANA, Virginia AMESTY, Vanessa NÚÑEZ (Children’s Hospital La Paz, Pediatric Surgery); Roberto LOBATO, Susana RIVAS, Pedro LOPEZ PEREIRA and Maria Jose MARTÍNEZ-URRUTIA (Children’s Hospital La Paz, Pediatric Urology): “THE EFFECT OF PREOPERATIVE HORMONAL STIMULATION ON OPERATIVE OUTCOMES AFTER PROXIMAL HYPOSPADIAS REPAIR”

42 See programme, <https://www.bcongresos.com/congresos/gestor/ckfinder/userfiles/files/VII%20Curso%20Cirugia%20Uretra.pdf>

43 ECE 2018, Symposium 30: Disorders of Sexual Development (DSD), presentation by Nicolas Kalfa, “Atypical Genital Development and Hypospadias: a Pediatric Urology perspective from Etiology to Surgery, for abstract see <http://programme.bioscientifica.com/ece2018?q=Symposium+30&view=search>

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

44 “I Experto Universitario en Hipospadias”

<https://www.secipe.org/coldata/upload/noticias/ExptpHiposp%20UNIA.pdf>

45 “14º Curso Internacional Práctico de Hipospadias de Málaga”,

<https://www.secipe.org/coldata/upload/noticias/hipospadiasmalaga2016.pdf>

46 see programme, http://www.chospab.es/cursos_jornadas/2015/hipospadias/intro.htm

47 <http://uropediatria.com/hipospadias.html#tratamiento>

See also, <http://uropediatria.com/detalles%20tecnicos.html>

48 <https://www.hospitaluvrocio.es/wp-content/uploads/2019/06/hipospadias.pdf>

49 <https://www.quironsalud.es/clideba/es/cartera-servicios/cirugia-pediatica-4560>

50 See p. 9 in document (p. 11 in PDF)

<https://www.navarra.es/NR/rdonlyres/FDB796ED-211E-4F85-8FFC-9CA909D287EF/304836/CIRUGIAPEDIATRICACHN.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:cirug%C3%ADa-pedi%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**):⁵³

- **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.⁵⁴ 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**”⁵⁵ Like with earlier international networks led by IGM perpetrators, e.g. “EuroDSD”/“I-DSD”⁵⁶ and “DSDnet”,⁵⁷ **Spanish University Hospitals** are again involved.⁵⁸

4. IGM in Spain as a Violation of the Covenant

This Committee has already **recognised IGM practices as a serious violation of Covenant**,⁵⁹ 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,⁶⁰ e.g. “normal” boys and girls, so that, according to a specialised surgeon, “*any cutting, no matter how incompetently executed, is a kindness.*”⁶¹ Generally, medical justifications for IGM are often rooted in **gender-based stereotypes**. Clearly, IGM practices therefore also violate Article 3.

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

54 https://ec.europa.eu/health/sites/health/files/ern/docs/2017_brochure_en.pdf

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

56 See Open Letter to “I-DSD 2017”,

http://stop.genitalmutilation.org/public/Open_Letter_I-DSD_Copenhagen_2017.pdf

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

58 The Open Letter to “I-DSD 2017” lists Spanish University Clinics involved in current international IGM projects, see p. 2, http://stop.genitalmutilation.org/public/Open_Letter_I-DSD_Copenhagen_2017.pdf

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

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

61 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

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

Like this Committee, the **Committee against Torture**⁶² 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.⁶³

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**.⁶⁴ For decades, intersex children have been regularly described and exploited by scientists as an **“experiment of nature”**.^{65 66 67} Often **twins, siblings, mothers or other family members or relatives** of intersex children are used as controls.^{68 69} Generally, intersex children are often used as **subjects in scientific research**, particularly in the field of genetics, also in **Spain**.⁷⁰

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

63 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

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>

65 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>

66 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>

67 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

68 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

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), *Begriffsdefinitionen „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 (VHIR), 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 (VHIR), 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>

71 <https://web.archive.org/web/20090619221725/http://www.eurodsd.eu/en/scientific-advisory-board.php>

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 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.⁷⁴

In **regions without universal access to paediatric health care**, there are reports of **infanticide**⁷⁵ of intersex children, of **abandonment**,⁷⁶ of **expulsion**,⁷⁷ of **massive bullying** preventing the persons concerned from attending school (recognised by CRC as amounting to a harmful practice),⁷⁸ and of **murder**.⁷⁹

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**.^{80 81 82 83}

74 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>

75 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

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>

76 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>

77 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>

78 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>

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

80 2014 CRC NGO Report, p. 52, 69, 84, http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

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**,⁸⁴ 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.⁸⁵ **UN Treaty bodies have so far issued 42 Concluding Observations condemning IGM practices accordingly.**⁸⁶

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)*”,⁸⁷ 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.*⁸⁸

<http://web.archive.org/web/20160305152127/http://prenatal.tv/lecturas/world%20atlas%20of%20birth%20defects.pdf>

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

83 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>

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

85 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>

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

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

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

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*

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

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

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

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

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

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

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

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

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

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

97 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”⁹⁸, transgender guidelines⁹⁹ or “Gender Identity”^{100 101} 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**¹⁰² 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**^{105 106 107} – 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

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

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

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

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

102 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>

103 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>

104 See e.g. Cheryl Chase (2002), What is the agenda of the intersex patient advocacy movement? Presentation at First World Congress: Hormonal and Genetic Basis of Sexual Differentiation Disorders, p. 2, <http://www.isna.org/agenda>

See also 2019 Swiss CRPD NGO Report, p. 19,

<http://intersex.shadowreport.org/public/2019-CRPD-LOI-Swiss-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

105 For example Amnesty (2017), see

<http://stop.genitalmutilation.org/post/Amnesty-Report-fails-Intersex-Children-and-IGM-Survivors>

106 For example FRA (2015), see Presentation OHCHR Expert Meeting (2015), slide 8,

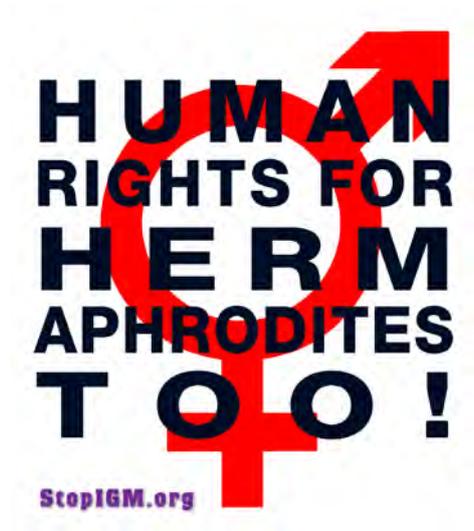
http://stop.genitalmutilation.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf

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

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