



Shadow Report

To the 6th National Report of the Federal Republic of Germany On the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

compiled by:

**Intersexuelle Menschen e. V. / XY-Frauen
Association of Intersexed People / XY Women**

Lucie G.Veith
Neu Wulmstorf
lucie_at_intersexuelle-menschen.net

Sarah Luzia Hassel-Reusing
Wuppertal
chatling_at_gmx.de

Claudia J. Kreuzer
Trier
wedernoch_at_aol.com

<http://intersex.shadowreport.org>

Foreword / Executive Summary

On the basis of the beliefs and experiences of the authors, this shadow report is devoted to revealing the denied human rights of intersexual persons as they are standardized in the UN Convention on the Eliminate all forms of Discrimination Against Women (CEDAW), and respectively, in conjunction with Article 3 CEDAW, as well as other UN human rights treaties.

According to the legal point of view of by the authors of this report, CEDAW embraces the protection against discrimination, of all persons who are physically and clearly not belonging to a male gender. Only through this expansive comprehension can it be assured that this protection will be fulfilled for people who have been falsely assigned to a male or female gender. According to the views and experiences of the authors the implementation of an effective protection of persons who have been defined as intersexual or “DSD” (Disorder of Sexual Development) is not given through medical science.

Within intersexual people both, female and male physical characteristics can be found. But next to the variety of their sex chromosomes and/or genitalia, in the majority of cases, no further pathological criteria exist. Despite, in Germany as well as in numerous other countries, intersexual persons are target of irreversible medication and surgery from early childhood on. Consequently, these medical interferences result in life-long obligatory medical treatment.

In the majority of cases, intersexual children will be medically treated in order to visually and mentally adjust them to what is perceived as being “female” in the respective cultural contexts. This is done although a medical indication as well as a quality control is completely absent. There are also cases however in which medical scientists try to adjust intersexual persons to a male gender. This then includes the wrongful extraction of completely intact female genitals and sexual organs, with brutal consequences concerning the possibility of motherhood, selfperception and body image, as well as sexual self determination.

It is a fact that these persons are forced into a gender whereby they loose their natural, individual development potential. The necessity of medical interferences is justified through social aspects, for instance, the concern that the intersexual child without clearly defined sexual characteristics could become a victim of sexual discrimination.

Official estimates classify approximately 80,000 - 120,000 people who live in Germany today, with a medical classification of being “intersexual” (“DSD”, Disorder of Sexual Development).

CEDAW prohibits every form of discrimination on the basis of gender: *“the term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex”* (Article 1). This poses the duty onto the member states *“to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise”* (Article 2). Thereby, CEDAW already calls for the contracting state: *“to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”*. From the perspective of intersexual persons, this modification to eliminate sexual stereotypes as well as the construction of a binary order in which only women and man exist, is essential for the life and survival of intersexual persons.

The aim of this shadow report is to clarify the physical, psychological and social situation of intersexual people in Germany, with the goal of a full-fledged realization and implementation

of the human rights of all intersexual persons. Germany, as a contracting party to CEDAW, may no longer ignore the massive infringements and violations of human rights of intersexed people. Germany is obliged to undertake “*all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women*” (Article 2) in order to make sure that women can execute their rights and freedoms.

In its sixth state report to CEDAW the German German Government gives no attention to the concerns of intersexual persons. Therefore, with the shadow report the authors express their hope that CEDAW confronts the German government face to face with the issue, and encourages that they will care for the full implementation of the human rights of intersexual persons (in alliance with Art. 3 CEDAW as well as other human rights norms and treaties of the United Nations).

The intersexual women provide their own shadow report because of the very specific forms of violence and discriminations they are exposed to. Nevertheless, in the preparation process of German shadow reports to CEDAW, the intersexual women were linked to and part of the NGO platform who compiled the main alternative report to CEDAW (the German Women`s Council).

Intersexuality touches on a multitude of universal human and women`s rights. This report concentrates on depicting human rights violations on the basis of lacking implementation of Articles 1-5 (*underlying principles of the CEDAW Convention: Equality, Non-Discrimination and State Obligation*), Article 10 (*Education*), Article 12 (*Health*) und Article 16 (*Marriage and Family*).

All human rights are universal, interdependent and interrelated. Following Article 28 of the Universal Declaration of Human Rights (UDHR), “*every human being is entitled to a social and international order in which the rights and freedoms can be fully realized*”. Also CEDAW stressed in the Preamble, “*...that all human beings are born free and equal in dignity and rights... without distinction of any kind, including distinction based on sex*”. This gives a reason to hope for a recognition of intersexual people who need help and support for the respect, the protection and fulfillment of their rights.

Given the sense of universal and interdependent human rights, the concerns of intersexual people will need to be communicated to other UN treaty bodies [particularly to the Human Rights Committee, the Committee on Economical, Social and Cultural Rights, to the Children`s Rights Committee (CRC) and the Committee Against Torture (CAT)] as well as to the Special Rapporteurs for the protection against torture and violence against women and children.

Questions to the German Government

1. What will the German Government undertake to ensure that the dignity and right to a life free of discrimination (Article 1 in connection with Article 3 CEDAW) also becomes possible for intersexual people?
2. When will the German Government acknowledge the reports of NGOs, representatives of self-help groups and existing research results concerning the living condition of intersexual women / people, and take up a dialog with the affected persons, their associations and self-help groups?
3. In what sort of time frame will the German Government undertake steps to make sure the medical standards of treatment for intersexually born persons are congruent with the requirements of the ratified UN contracts?
4. When will the medical professional societies be asked by the German Government to introduce standards of treatment free of discrimination under active inclusion and participation of the affected persons?
5. When and how will the German Government ensure, that intersexual people are requested to make a decision on which sex / gender they belong to, no sooner than when they themselves are fully able to make this decision?
6. What will the German Government undertake to make sure that in the future no irreversible medical interventions at intersexual people occur without their own *informed decision* ?
7. When and how will the German Government introduce a human rights based treatment of intersexual persons and guarantee it permanently, so that no more discrimination occurs from laws and orders?
8. When will the German Government introduce the concept of the sexual variations in their legislation and ordinances?
9. Which laws will the German Government update, acknowledging the existence of intersexual persons and when?
10. When will the German Government acknowledge the victims of irreversible surgery and medical experiments and grant them legal advice, legal security and an integration within the social order?
11. Will the German Government promote binding laws, free of discrimination, which guarantee the intersexually born the same access to medical achievements as all people?
12. What will the German Government do during the next four years for the construction of specified competence centers and for the education of trained professional staff for the treatment of intersexual people?
13. What will the German Government undertake during the next four years to educate consultation teams with the participation of intersexual people?
14. How will the Government legally regulate the limitation of claims for compensation for damages due to the withholding of medical documents and information?

15. How will the German Government make sure that intersexual persons are admitted an observer status with all scientific studies concerning their minority?
16. Will the German Government during the next four years promote or support a truth commission which contributes to the public awareness and which regulates the compensation (according to Canadian model) of intersexual people injured by medical treatment or non-treatment?
17. In which way and when will the German Government compensate the disadvantages which intersexual people have suffered by the treatments?
18. When will the German Government define which physical and psychological damages due to the false treatment of intersexual people correspond to the degree of impediment / decrease of the capacity to work ?
19. When will the German Government remove the existing discriminations of intersexual persons in civil status law and marriage law?
20. When will the German Government put on new research projects (as e.g., the research group Hamburg) or continue investigating the situation of intersexual adults extensively, and when will these results show clear effects for intersexual persons?