

# Harmful Practice and Violence against Intersex Children and Adolescents in Nepal



Photo: 1st Intersex National Workshop in Nepal, 2016

## Submission to the Special Rapporteur on Violence against Women, its Causes and Consequences (2018)

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## A. About the Rapporteurs

**Esan Regmi** and **Parsu Ram Rai** are local intersex human rights advocates and supporters associated with Blue Diamond Society (BDS) who in 2016 organised the 1st National Intersex Workshop in Nepal,<sup>1</sup> and collected, translated and published testimonies in “Stories of Intersex People from Nepal”.<sup>2</sup> Also in 2016 and together with StopIGM.org they submitted evidence of harmful practices on intersex children in Nepal to CRC,<sup>3</sup> resulting in the first Concluding Observations<sup>4</sup> on intersex for Nepal, under harmful practices. In 2018, again together with StopIGM.org, they reported on intersex to CEDAW,<sup>5</sup> resulting in a question on intersex in the LOI under harmful practices.<sup>6</sup> The CEDAW review of Nepal will take during the 71st session on 23 October 2018. So far no answers to the LOI were published.

**StopIGM.org**, founded in 2007, is an international intersex human rights NGO based in Switzerland, led by intersex persons, their partners, families and friends.<sup>7</sup> According to its charter,<sup>8</sup> StopIGM.org works to raise awareness, to end human rights violations perpetrated on intersex people, and to support persons concerned seeking redress and justice. StopIGM.org regularly reports on human rights violations in different countries to relevant UN treaty bodies, often in collaboration with local intersex persons and organisations,<sup>9</sup> substantially contributing to the so far 36 Treaty body Concluding Observations recognising IGM as a serious human rights violation.<sup>10</sup>

## B. Violence against Intersex People in Nepal

**Intersex people belong to the most marginalised communities in Nepal.** They’re marginalised also within the LGBTI community.<sup>11</sup> In the public and in government bodies the **near total lack of awareness** of intersex as a natural variation persists, leading to **severe stigma and discrimination**. Intersex people are **generally misrepresented** as transgender [chhakka, hijara]. The societal ignorance and stereotypes are compounded by **religious prejudice** framing intersex as a result of karmic debt caused by sins in a previous life, and as a **bad omen**.

**CRC and CEDAW already addressed harmful practices on intersex children in Nepal.**

In addition to addressing **specific practices on intersex children** (see below 1. b)+d)), **CRC** recently reiterated regarding harmful practices in general:

*38. In the light of joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on*

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1 <https://medium.com/being-lgbti-in-asia/the-dawn-of-a-national-intersex-movement-the-first-national-intersex-workshop-in-nepal-621e8d7a826e>

2 <http://intersex.shadowreport.org/public/2016-Intersex-Stories-in-Nepal.pdf>

3 <http://intersex.shadowreport.org/post/2016/05/15/2016-CRC-Nepal-Intersex-NGO-Report-Stories>

4 CRC/C/NPL/CO/3-5, paras 41-42

5 <http://intersex.shadowreport.org/post/2018/03/20/2018-CEDAW-Nepal-LOI-Intersex-NGO-Reports>

6 CEDAW/C/NPL/Q/6, para 8(d)

7 English pages: <http://stop.genitalmutilation.org/>

8 <http://Zwischengeschlecht.org/post/Statuten>

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

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

11 At a panel discussion during the 1<sup>st</sup> National Intersex Workshop, “Basudev Bajgain of the National Human Rights Commission of Nepal spoke about how the intersex community [...] are facing discrimination even within the LGBTI community. [...]”, see <http://stop.genitalmutilation.org/post/Intersex-Genital-Mutilations-in-Nepal-Pt-1>

*the Rights of the Child on harmful practices, the Committee reiterates its previous recommendations (see CRC/C/15/Add.261, para. 68) and urges the State party to take all necessary measures to eradicate all traditional practices harmful to the physical and psychological well-being of children, by strengthening awareness-raising programmes and adopting and implementing legislation explicitly prohibiting such practices. It further recommends that, in so doing, the State party prioritize girls, particularly girls with disabilities, girls living in rural areas and Dalit girls.*<sup>12</sup>

CEDAW is currently investigating harmful practices on intersex children in Nepal as a part of the upcoming review (71st Session), and already included harmful practices on intersex children in the LOI (see below 1. a)-d)). However, so far no answers to the LOI were published by the Government.

The **1st National Intersex Workshop** in Nepal<sup>13</sup> and the intersex submissions to **CRC**<sup>14</sup> and **CEDAW**<sup>15</sup> documented the following **violations against intersex people** in Nepal:

## **1. Harmful Practices and Violence (CEDAW Art. 5)**

### **a) Infanticide and Child Abandonment**

There are reports of infanticide and abandonment of intersex children in rural regions, however, documentation is lacking. Infanticide and abandonment of intersex children was included in the 2018 CEDAW LOI for Nepal under harmful practices,<sup>16</sup> however, so far no answers to the LOI were published by the Government.

### **b) Intersex Genital Mutilation in Children's Clinics**

**Intersex genital mutilation** remains a **growing practice** in Nepal, with all common forms including partial clitoris amputation and imposition of hormones practiced at public and private hospitals, for example at

- Kanti Government Children's Hospital (Kathmandu),
- Bir Hospital (Kathmandu, National Academy of Medical Sciences),
- Om hospital (Kathmandu),
- Dhulikhel hospital (Dhulikhel, Kathmandu University teaching hospital),
- BP Smriti Hospital (Basundhara) and
- BP Korala Institute of Health Sciences (Dharan).<sup>17</sup>

Intersex children are also **sent to India** for IGM,<sup>18</sup> highlighting the need for protection from extraterritorial violations.<sup>19</sup>

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12 CRC/C/NPL/CO/3-5, para 38

13 <http://stop.genitalmutilation.org/post/Intersex-Genital-Mutilations-in-Nepal-Pt-1>

14 <http://intersex.shadowreport.org/post/2016/05/15/2016-CRC-Nepal-Intersex-NGO-Report-Stories>

15 <http://intersex.shadowreport.org/post/2018/03/20/2018-CEDAW-Nepal-LOI-Intersex-NGO-Reports>

16 CEDAW/C/NPL/Q/6, para 8(d)

17 Research by Esan Regmi and Parsu Ram Rai, based on interviews with persons concerned, their parents and in hospitals. For evidence from medical publications, see <http://stop.genitalmutilation.org/post/Intersex-Genital-Mutilations-in-Nepali-Hospitals-Pt-2>

18 *ibid.*

19 Extraterritorial violations involving IGM being criticised by CEDAW, see CEDAW/C/LIE/CO/5, paras 35+36(c)

In 2016, **CRC** explicitly criticised

*(c) Cases of medically unnecessary surgeries and other procedures on intersex children before they are able to provide their informed consent, which often entail irreversible consequences and can cause severe physical and psychological suffering, and the lack of redress and compensation in such cases.*<sup>20</sup>

and recommended that Nepal

*(c) Ensure that no child is subjected to unnecessary medical or surgical treatment; guarantee bodily integrity, autonomy and self-determination to the children concerned; and provide families with intersex children with adequate counselling and support;*

*(d) Undertake investigations of incidents of surgical and other medical treatment of intersex children without informed consent and adopt legal provisions in order to provide redress to the victims of such treatment, including reparation and/or adequate compensation;*

*(e) Educate and train medical and psychological professionals on the range of sexual, and related biological and physical, diversity and on the consequences of unnecessary surgical and other medical interventions for intersex children.*<sup>21</sup>

“*[F]orced genital mutilation of intersex persons*” was also included in the 2018 **CEDAW** LOI for Nepal under harmful practices.<sup>22</sup>

However, to this day the **government fails to act**.

### **c) Forced Marriage**

There are reports of **expulsion of adolescents from their families** and of **forced marriage** to avoid conspicuousness, often in combination with pressure to previously being submitted to IGM.<sup>23</sup>

The 2018 **CEDAW** LOI for Nepal included “*forced marriage*” of intersex persons under harmful practices.<sup>24</sup>

However, to this day the **government fails to act**.

### **d) Stigmatisation, Massive Bullying and Abuse**

There are reports of **massive bullying** preventing intersex children from attending school,<sup>25</sup> and generally of severe **ostracism, stigmatisation, discrimination and abuse**.<sup>26</sup>

In 2016, **CRC** explicitly criticised

*(a) Lack of awareness of issues related to intersex children in Nepal and the high levels of stigma and discrimination faced by intersex children;*<sup>27</sup>

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20 CRC/C/NPL/CO/3-5, paras 41(c)

21 CRC/C/NPL/CO/3-5, paras 42(c)-(e)

22 CEDAW/C/NPL/Q/6, para 8(d)

23 Research by Esan Regmi and Parsu Ram Rai, based on interviews with persons concerned.

24 CEDAW/C/NPL/Q/6, para 8(d)

25 <http://stop.genitalmutilation.org/post/Stigma-and-Bullying-Intersex-in-Nepal-Pt-4>

26 Research by Esan Regmi and Parsu Ram Rai, based on interviews with persons concerned, and documented in “Stories of Intersex People from Nepal” and submissions to CRC and CEDAW.

27 CRC/C/NPL/CO/3-5, paras 41(a)

and recommended that Nepal

*(a) Conduct awareness-raising campaigns to combat stigmatization of and discrimination against intersex children;*<sup>28</sup>

“[A]buse” of intersex persons was also included in the 2018 CEDAW LOI for Nepal under harmful practices.<sup>29</sup>

However, to this day the **government fails to act**.

## 2. Barriers in Obtaining Official Documents (CEDAW Art. 2)

Intersex adolescents are often **unable to obtain or change official documents** according to their gender identity based on sexual orientation.<sup>30</sup>

In 2016, CRC explicitly criticised

*(b) Challenges faced by intersex children in accessing identity documents that correspond with the sex/gender identity of their choosing;*<sup>31</sup>

and recommended that Nepal

*(b) Ensure that intersex children have access to identity documents that correspond with the sex/gender identity of their choosing;*<sup>32</sup>

“[D]iscrimination” of intersex persons was also included in the 2018 CEDAW LOI for Nepal under harmful practices.<sup>33</sup>

However, to this day the **government fails to act**.

## 3. Lack of Access to Needed Health Care (CEDAW Art. 12)

For intersex children from less affluent families, **lack of access to needed health care** can be a serious problem, often **compounding** bullying, ostracism, stigmatisation, discrimination and abuse.<sup>34</sup> However, to this day the **government fails to act**.

## C. Suggested Actions

The Rapporteurs would like to kindly ask the Special Rapporteur to meet with intersex civil society, and to raise harmful practice and violence against intersex people during her visit in Nepal.

### 1. Meeting with Intersex Civil Society in Nepal

The Rapporteurs would like to kindly ask the Special Rapporteur to meet with intersex civil society during her visit in Nepal, to provide **testimony and information**. Also if more written information or sources are needed, please let us know.

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28 CRC/C/NPL/CO/3-5, paras 42(a)

29 CEDAW/C/NPL/Q/6, para 8(d)

30 Research by Esan Regmi and Parsu Ram Rai, based on interviews with persons concerned, and documented in “Stories of Intersex People from Nepal” and submissions to CRC and CEDAW.

31 CRC/C/NPL/CO/3-5, paras 41(b)

32 CRC/C/NPL/CO/3-5, paras 42(b)

33 CEDAW/C/NPL/Q/6, para 8(d)

34 Research by Esan Regmi and Parsu Ram Rai, based on interviews with persons concerned, and documented in “Stories of Intersex People from Nepal” and submissions to CRC and CEDAW.

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

## 2. Raising Harmful Practices and Violence against Intersex People

Intersex people belong to the most marginalised communities in Nepal, and the **near total lack of awareness** of intersex as a *natural variation* (and not a curse or karmic debt) and the **general misrepresentation** of intersex as transgender (chhakka, hijara) both by government bodies and in the the public act as **additional barriers for intersex human rights activists** to effectively expose and fight harmful practices, violence, bullying, ostracism, stigmatisation, discrimination and abuse. The Rapporteurs kindly ask the Special Rapporteur **to raise harmful practice and violence against intersex people with Government representatives and other stakeholders** during her visit.