Intersex Genital Mutilations

Human Rights Violations Of Children With Variations Of Reproductive Anatomy

NGO Report (for LOIPR)
to the 6th to 7th Report of France on the
Convention on the Rights of the Child (CRC)

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https://intersex.shadowreport.org/public/2020-CRC-France-LOIPR-NGO-Intersex-IGM.pdf

Executive Summary

All typical forms of Intersex Genital Mutilation are still practised in France, facilitated and **paid for by the State party** via the **public health system** (*Sécurité Sociale – Assurance Maladie*). Parents and children are misinformed, kept in the dark, sworn to secrecy, kept isolated and **denied appropriate support.** The Government **refuses** to take action, upholding the **impunity** of IGM practitioners, while IGM survivors are **denied access to justice and redress**.

France is thus in breach of its **obligations** under CRC to **(a)** take effective legislative, administrative, judicial or other measures to **prevent harmful practices on intersex children** causing severe mental and physical pain and suffering of the persons concerned, and **(b) ensure access to redress and justice**, including fair and adequate **compensation** and as full as possible **rehabilitation** for victims, as stipulated in **CRC art. 24 para. 3** in conjunction with the **CRC-CEDAW Joint general comment No. 18/31** "on harmful practices".

This Committee has consistently recognised IGM practices in France to constitute a harmful practice under the Convention in Concluding Observations, same as **CAT** and **CEDAW**.

In total, UN treaty bodies **CRC, CEDAW, CAT, CCPR** and **CRPD** have so far issued **50 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** has been compiled by **GISS | Alter Corpus**, **Vincent Guillot**, **Nadine Coquet**, and **StopIGM.org / Zwischengeschlecht.org**.
It contains **Suggested Questions** (see p. 22).

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Introduction

Intersex, IGM and Human Rights in France

IGM practices in France are known to cause severe, lifelong physical and psychological pain and suffering, and have been repeatedly **recognised by UN treaty bodies**[1] **CRC, CAT and CEDAW** to constitute a **harmful practice** and inhuman treatment.

This NGO Report demonstrates that the ongoing **harmful medical practice on intersex persons in France** – advocated, facilitated and paid for by the State party – **persists unchanged in spite of the Concluding observations by this Committee (paras 47-48)**, as well as of those by **CAT** and **CEDAW**,[2] and constitutes a **serious breach** of France's obligations under the Convention.

About the Rapporteurs

This NGO report has been prepared by the French intersex NGO *GIS | Alter Corpus* and the intersex persons and advocates *Nadine Coquet* and *Vincent Guillot* in collaboration with the international intersex NGO *Zwischengeschlecht.org / StopIGM.org*.

- The French Association **GISS | Alter Corpus**,[3] composed of persons concerned, lawyers and scholars, aims to protect and promote, legally and through their advocacy, the rights of intersexed persons and persons belonging to sex and gender minorities. It is regularly consulted in France and internationally by various human rights and ethics bodies. It participates in the drafting of legal texts for the recognition of the rights of intersex persons.
- **Nadine Coquet** is a French intersex person, survivor of IGM practices, intersex human rights defender and a member of OII Francophonie. Nadine has testified to IGM practices at a hearing of the French Senate.[4]
- **Vincent Guillot** is a French intersex person, survivor of IGM practices and an intersex human rights defender for more than a decade. Vincent is a co-founder of Organisation Intersex International (OII).[5]
- **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!"* [6] According to its charter,[7] StopIGM.org works to support persons concerned seeking redress and justice, and regularly reports to UN treaty bodies, mostly in collaboration with

1 **CAT, CRC, CRPD, SPT, SRT, SRSG VAC, COE, ACHPR, IACHR** (2016), "End violence and harmful medical practices on intersex children and adults, UN and regional experts urge", http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E

2 CAT/C/FRA/CO/7, paras 34-35; CEDAW/C/FRA/CO/7-8, paras 18e-f + 19e-f

3 Groupement d'information et de soutien sur les questions sexuées et sexuelles (Information and support group on gender and sexual issues). https://hal.archives-ouvertes.fr/hal-01627306/document

4 http://www.liberation.fr/debats/2016/05/31/stop-aux-mutilations-des-personnes-intersexuees_1456398

5 http://www.histoiresordinaires.fr/Intersexe-Vincent-Guillot-sort-de-la-nuit_a1330.html http://www.lefigaro.fr/international/2013/11/01/01003-20131101ARTFIG00204-l-allemagne-devient-le-premier-pays-europeen-a-reconnaitre-un-troisieme-sexe.php

6 https://Zwischengeschlecht.org/ English pages: https://StopIGM.org/

7 https://zwischengeschlecht.org/post/Statuten

local intersex advocates and organisations.[8] In 2015 StopIGM.org in collaboration with French intersex advocates Vincent Guillot and Nadine Coquet first reported the on-going practice in France to CRC,[9] CAT[10] and CEDAW.[11] In 2016 in Paris StopIGM.org facilitated non-violent protests and an Open Letter with 239 signatures denouncing French IGM clinics and universities and their complicity in international medical networks promoting and practicing IGM.[12]

Methodology

This thematic NGO report follows up on the **2016 thematic CRC NGO Report for France** by partly the same rapporteurs,[13] and the resulting **2016 Concluding observations for France** by this Committee (paras 47-48).

8 https://intersex.shadowreport.org/
9 https://intersex.shadowreport.org/public/2015-CRC-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf
10 https://intersex.shadowreport.org/public/2016-CAT-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf
11 https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf
12 Open Letter of Concern to 55th ESPE 2016 and French DSD Universities and Clinics by Persons Concerned, Partners, Families, Friends and Allies, September 2016, https://zwischengeschlecht.org/public/Open_Letter_ESPE_2016.pdf
13 https://intersex.shadowreport.org/public/2015-CRC-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf

A. Precedents: Concluding Observations, LOIPR

1. Harmful Practices and CRC-CEDAW Joint General Comment No. 18/31

a) CRC 2016 Concl Obs: CRC/C/FRA/CO/5, paras 47-48

D. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)

[…]

Harmful practices

47. While noting with appreciation the progress made by the State party in eradicating female genital mutilation, the Committee is nevertheless concerned by the many young girls still at risk and the possible resurgence of the phenomenon. The Committee is also concerned that medically unnecessary and irreversible surgery and other treatment are routinely performed on intersex children.

48. ***Recalling the joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, the Committee recommends that the State party gather data with a view to understanding the extent of these harmful practices so that children at risk can be more easily identified and their abuse prevented. It recommends that the State party:***

[…]

(b) ***Develop and implement a rights-based health-care protocol for intersex children, ensuring that children and their parents are appropriately informed of all options; that children are involved, to the greatest extent possible, in decision-making about their treatment and care; and that no child is subjected to unnecessary surgery or treatment.***

b) CEDAW 2016 Concl Obs: CEDAW/C/FRA/CO/7-8, paras 34-35

Stereotypes and harmful practices

18. The Committee welcomes the State party's efforts to combat discriminatory gender stereotypes, including by promoting the sharing of household duties and parenting responsibilities, and to address the stereotyped portrayal of women in the media, including by regulating broadcasting licences and strengthening the role of the Higher Council for the Audiovisual Sector. The Committee also welcomes the legislative and other measures taken to combat harmful practices, including child and forced marriage, female genital mutilation and crimes in the name of so-called honour. The Committee is, however, concerned:

[…]

(f) That medically unnecessary and irreversible surgery and other treatment are routinely performed on intersex children, as noted by the Committee on the Rights of the Child and the Committee against Torture.

19. ***The Committee recommends that the State party:***

[…]

(f) ***Develop and implement a rights-based health-care protocol for intersex children, ensuring that children and their parents are appropriately informed of all options; that children are involved, to the greatest extent possible, in decision-making about medical interventions and that their choices are respected; and that no child is subjected to unnecessary surgery or treatment, as recommended recently by the Committee against Torture (see CAT/C/FRA/CO/7, para. 35) and the Committee on the Rights of the Child (see CRC/C/FRA/CO/5, para. 48).***

2. Cruel, Inhuman or Degrading Treatment (CAT art. 16)

a) CAT 2016 Concl Obs: CAT/C/FRA/CO/7, paras 34-35

Intersex persons

34. The Committee is concerned about reports of unnecessary and sometimes irreversible surgical procedures performed on intersex children without their informed consent or that of their relatives and without their having all possible options always explained to them. It is also concerned that these procedures, which are purported to cause physical and psychological suffering, have not as yet been the object of any inquiry, sanction or reparation. The Committee regrets that no information was provided on specific legislative and administrative measures establishing the status of intersex persons (arts. 2, 12, 14 and 16).

35. ***The Committee recommends that the State party:***

(a) ***Take the necessary legislative, administrative and other measures to guarantee respect for the physical integrity of intersex individuals, so that no one is subjected during childhood to non-urgent medical or surgical procedures intended to establish one's sex;***

(b) ***Ensure that the persons concerned and their parents or close relatives receive impartial counselling services and psychological and social support free of charge;***

(c) ***Ensure that no surgical procedure or medical treatment is carried out without the person's full, free and informed consent and without the person, their parents or close relatives being informed of the available options, including the possibility of deferring any decision on unnecessary treatment until they can decide for themselves;***

(d) ***Arrange for the investigation of cases of surgical or other medical treatment reportedly carried out on intersex individuals without their informed consent and take steps to provide redress, including adequate compensation, to all victims;***

(e) ***Conduct studies into this issue in order to better understand and deal with it.***

b) CAT 2019 LOIPR: CAT/C/FRA/QPR/8, para 21

Article 16

[…]

21. In the light of the Committee's previous concluding observations (para. 35) regarding intersex persons, please indicate:

(a) The measures taken by the State party to ensure that no one is subjected during childhood to non-urgent medical or surgical treatment in order to establish a gender for that person;

(b) The measures taken to ensure that the persons concerned and their parents receive impartial counselling services and psychological and social support free of charge;

(c) The measures taken to ensure that no medical treatment is carried out without a person's full, free and informed consent, and that the person or the parents concerned are informed of the available options, including the possibility of deferring any decision on unnecessary treatment until the person can decide for himself or herself;

(d) The investigations conducted by the State party into cases of surgical or other medical treatment carried out on intersex persons without their free and informed consent; and, where applicable, the steps taken by the State party to provide redress, including adequate compensation, to victims.

B. IGM practices in France: State-sponsored and pervasive

1. IGM in France: Still no protections, Government fails to act

Allover France, all forms of **IGM practices remain widespread and ongoing**, persistently **advocated** by the official **public medical body** *"Haute Autorité de Santé (HAS)"*, including in *"National Guidelines"*, **prescribed and perpetrated** by French public **University or Regional Children's Clinics** (including, but not limited to the 27 government-appointed ***"Reference and Competence Centres for Genital Development DEV-GEN"***),[14] and **paid for** by the **public Health System** (*"Sécurité Sociale – l'Assurance Maladie"*) – as the **actors themselves publicly admit,** as well as to the psycho-social justification of the surgeries, and to knowledge of the human rights criticism:

> *"As a child he was not born with just a variation of normal, he was born with a part of his body that did not work. So it's not...* ***you shouldn't discriminate… same as if he had a serious anomaly... no.*** *We must simply recognize that he was born with chromosomes that did not work, with hormones that did not work and if there is even a medical way to help them with hormones we must do so;* ***if there are surgical means to help this child adapt to society, to social life today, we must not hesitate either."***
>
> **– Alaa El-Ghoneimi, Hôpital Universitaire Robert-Debré, Paris, 11.05.2018**[15]

> *"Let me be honest:* ***the medical profession needs help****. From time to time, as at the moment, we are faced with virulent, even aggressive comments.* ***I hope you [the French Senate] heard the medical profession's message today."***
>
> **– Pierre Mouriquand, Centre Hospitalier Universitaire de Lyon, 25.05.2016**[16]

In contrast, **on the side of protections**, in **France** (CRC/C/FRA/CO/5, paras 47-48; CAT/C/FRA/CO/7, paras 32–33; CEDAW/C/FRA/CO/7-8, paras 17e-f+18e-f) – same as in the neighbouring States of *Belgium* (see CRC/C/BEL/CO/5-6, paras 25(b)+26(e); CCPR/C/BEL/CO/6, paras 21-22), *Switzerland* (see CRC/C/CHE/CO/2-4, paras 42-43; CAT/C/CHE/CO/7, para 20; CEDAW/C/CHE/CO/4-5, paras 38-39), *Italy* (see CRC/C/ITA/CO/5-6, para 23; CRPD/C/ITA/CO/1, paras 45-46), *Spain* (see CRC/C/ESP/CO/5-6, para 24), and the *United Kingdom* (see CRC/C/GBR/CO/5, paras 46-47; CRPD/C/GBR/CO/1, paras 10(a)-11(a), 38-41; CAT/C/GBR/CO/6, paras 64-65), and in many more State parties,[17] there are

- **no legal or other protections** in place to ensure the rights of intersex children to physical and mental integrity, autonomy and self-determination, and **to prevent IGM practices**
- **no measures** in place to ensure **data collection and monitoring** of IGM practices
- **no legal or other measures** in place to ensure the **accountability** of IGM perpetrators
- **no legal or other measures** in place to ensure **access to redress and justice** for adult IGM survivors

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14 https://www.developpement-genital.org

15 Interview in segment "« Intersexualité : première plainte pour mutilation », Le magazine de la Santé, TV France 5, 11.05.2018, see https://sexandlaw.hypotheses.org/388

16 Sénat, Session Ordinaire de 2016-2017, Maryvonne Blondin, Corinne Bouchoux, Rapport d'Information fait au nom de la délégation aux droits des femmes et à l'égalité des chances entre les hommes et les femmes sur les variations du développement sexuel : lever un tabou, lutter contre la stigmatisation et les exclusions, statement of Pierre Mouriquand, p. 194, https://www.senat.fr/rap/r16-441/r16-4411.pdf

17 See https://stopigm.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations

2. IGM in France: Still pervasive, advocated and paid for by State party

All forms of **IGM practices remain widespread and ongoing**, facilitated and **paid for by the State party** via the **public Health System** (*"Sécurité Sociale – l'Assurance Maladie"*) according to the relevant procedures codes classified in the **"CCAM Classification Commune des Actes Médicaux"** and **advocated by the official public medical body "Haute Autorité de Santé (HAS)"**, including in both persisting and new **"National Guidelines"** (*"Protocole National de Diagnostic et de Soins PNDS"*):

- **IGM 3: Sterilising Procedures** plus arbitrary imposition of hormones as advocated by the official public medical body *"Haute Autorité de Santé (HAS)"* in the **new 2018 *"National Androgen Insensitivity Guidelines"*** [18] for *"adolescents"* with Partial Androgen Insensitivity Syndrome (PAIS):

  "Gonadectomy should be performed in the prepubertal period to avoid virilization at puberty. After the gonads have been removed, puberty inducing treatment will then be necessary (see chapter 4.3.2). *The surgical procedures for gonadectomy and vaginoplasty are identical to those for CAIS patients."* (p. 13)

  *"**3.5.2 Tumor risk** [...]*

  The prophylactic removal of gonads *and the age at which it should be performed are currently under debate. The main reasons reported by the* ***patients are the refusal of surgery****, the wish not to have to take substitution treatment but also the psychological impact of the operation.* ***The recommended attitude is to perform prophylactic gonadectomy after puberty,*** *thus allowing optimal spontaneous pubertal development and the possibility of involving the adolescent in the decision.*

  Despite a low risk of tumour transformation, the family may want the procedure to be performed before puberty. *In this case, it is desirable to discuss with the family the value of waiting until puberty and involving the adolescent in the decision. When the gesture is nevertheless envisaged, its realization must be discussed in multidisciplinary team RCP."* (p. 10)

  To this day, IGM 3 procedures are paid for by the **public Health System** (*"Sécurité Sociale – l'Assurance Maladie"*) according to the relevant procedures codes contained in the **"CCAM Classification Commune des Actes Médicaux"**, chapter *"8.3.2.11. Correction des anomalies de position du testicule"*, including **codes *"JHFA003*** - *Orchidectomie pour cryptorchidie abdominale, par laparotomie"* and ***"JHFC001*** - *Orchidectomie pour cryptorchidie abdominale, par coelioscopie"*.[19]

18 Haute Autorité de Santé (HAS) (2017), Protocole National de Diagnostic et de Soins (PNDS). Insensibilités aux androgènes. Centre de référence du développement génital: du fœtus à l'adulte, https://www.has-sante.fr/portail/upload/docs/application/pdf/2018-01/pnds_ais_version_finale.pdf

19 https://www.ameli.fr/accueil-de-la-ccam/trouver-un-acte/consultation-par-chapitre.php?chap=a%3A1%3A%7Bi%3A0%3Bs%3A5%3A%228.3.2%22%3B%7D&add=8.3.2.11#chapitre_8.3.2.11

- **IGM 2: "Feminising" Genital Surgeries**: The *"**National CAH Guidelines**"* [20] promoting early surgery *"in the first months of life"* in order to *"minimis[e] psychological consequences for the child and the parents"*, as documented in our 2015 Thematic NGO report (p. 8, fn. 6),[21] **remain in force unchanged.**

  And the **new 2018 *"National Androgen Insensitivity Guidelines"*** [22] prescribe for *"girls"* with Partial Androgen Insensitivity Syndrome (PAIS):

  *"Where sex selection at birth has been female, **the appropriateness of surgery (clitoris, vulva, vagina)** should be discussed in the [Pluridisciplinary Consultation Meeting] RCP. **It can sometimes [!] be postponed** until the child reaches the age where he or she can participate in questions and decisions concerning his or her body."* (p. 13)

  ***"Post-operative complications of genital surgeries** are frequent: […], **vaginal stenosis** in girls."* (p. 13)

  *"**Clitoral reduction surgery may be considered when clitoral hypertrophy generates aesthetic but also functional discomfort in the event of painful erections. The main risks of this surgery are the loss of sensitivity or on the contrary the occurrence of painful scars. Patients should be well informed of these risks before any procedure."*** **(p. 13)**

  To this day, IGM 2 procedures are paid for by the **public Health System** (*"Sécurité Sociale – l'Assurance Maladie"*) according to the relevant procedures codes contained in the **"CCAM Classification Commune des Actes Médicaux"**, **chapter** *"8.7.1. Correction des ambigüités sexuelles"*, including **codes *"JMEA001*** - *Transposition du clitoris"*, ***"JMMA001*** - *Vestibuloplastie avec enfouissement ou résection du clitoris, pour féminisation"*, ***"JMMA004*** - *Clitoridoplastie de réduction"*, ***"JZMA002*** - *Urétroplastie, vaginoplastie et vestibuloplastie avec enfouissement ou réduction du clitoris, pour féminisation"*, ***"JZMA003*** - *Urétroplastie et vestibuloplastie avec enfouissement ou réduction du clitoris, pour féminisation"*[23], **chapter** *"8.4.4.7. Autres actes thérapeutiques sur le vagin"*, including **code *"JLAD001*** - *Séance de dilatation vaginale par bougies"*[24], as well as additional codes in **chapter** *"8.4.4.5. Correction des malformations congénitales du vagin"*.[25]

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20 Haute Autorité de Santé (HAS) (eds.), Protocole National de Diagnostic et de Soins (PNDS). Hyperplasie congénitale des surrénales par déficit en 21-hydroxylase. Protocole national de diagnostic et de soins pour les maladies rares (p. 50), online: https://www.has-sante.fr/portail/upload/docs/application/pdf/2011-05/ald_hors_liste_-_pnds_sur_lhyperplasie_congenitale_des_surrenales.pdf

21 https://intersex.shadowreport.org/public/2015-CRC-France-Zwischengeschlecht-Intersex-IGM.pdf

22 Haute Autorité de Santé (HAS) (2017), Protocole National de Diagnostic et de Soins (PNDS). Insensibilités aux androgènes. Centre de référence du développement génital: du fœtus à l'adulte, https://www.has-sante.fr/portail/upload/docs/application/pdf/2018-01/pnds_ais_version_finale.pdf

23 https://www.ameli.fr/accueil-de-la-ccam/trouver-un-acte/consultation-par-chapitre.php?chap=a%3A2%3A%7Bi%3A0%3Bs%3A5%3A%228.3.2%22%3Bi%3A1%3Bs%3A3%3A%228.7%22%3B%7D&add=8.7.1#chapitre_8.7.1

24 https://www.ameli.fr/accueil-de-la-ccam/trouver-un-acte/consultation-par-chapitre.php?chap=a%3A4%3A%7Bi%3A0%3Bs%3A3%3A"8.1"%3Bi%3A1%3Bs%3A5%3A"8.3.2"%3Bi%3A2%3Bs%3A5%3A"8.4.4"%3Bi%3A3%3Bs%3A3%3A"8.7"%3B%7D&add=8.4.4.7 - chapitre_8.4.4.7

25 https://www.ameli.fr/accueil-de-la-ccam/trouver-un-acte/consultation-par-chapitre.php?chap=a%3A5%3A%7Bi%3A0%3Bs%3A3%3A%228.1%22%3Bi%3A1%3Bs%3A5%3A%228.2.3%22%3Bi%3A2%3Bs%3A5%3A%228.3.2%22%3Bi%3A3%3Bs%3A5%3A%228.4.4%22%3Bi%3A4%3Bs%3A3%3A%228.7%22%3B%7D&add=8.4.4.5#chapitre_8.4.4.5

- **IGM 1: Masculinising" Genital Surgeries**: The **new 2018 *"National Androgen Insensitivity Guidelines"*** [26] prescribe for *"boys"* with Partial Androgen Insensitivity Syndrome (PAIS):

  "Surgery of patients with PAIS raised in the male sex (correction of hypospadias, testicular lowering) is most often performed in the 2nd year of life. *The surgery is based on the principles of* ***hypospadias surgery****. […] Correction of anomaly(s) of testicular migration, peno-scrotal transposition or correction of the bifid aspect of the scrotum may be necessary.* ***Reduction of gynecomastia is sometimes necessary in the peripubertal period[.]"*** (p. 13)

  "Post-operative complications of genital surgeries are frequent: unsatisfactory cosmetic results, urethral failures *(fistula, dehiscence),* ***urinary difficulties*** *(stenosis, urethrocele),* ***sexual difficulties*** *(persistent curvature of the penis, erectile dysfunction)* ***in boys […]."*** (p. 13)

  To this day, IGM 1 procedures are paid for by the **public Health System** (*"Sécurité Sociale – l'Assurance Maladie"*) according to the relevant procedures codes contained in the **"CCAM Classification Commune des Actes Médicaux"**, chapter *"8.2.4.14. Correction des malformations congénitales de l'urètre"*, including **codes *"JEMA006*** *- Urétroplastie pour hypospadias périnéoscrotal avec redressement du pénis"*, ***"JEMA014*** *- Urétroplastie pour hypospadias balanique ou pénien antérieur, avec reconstruction du prépuce"*, ***"JEMA019*** *- Urétroplastie pour hypospadias pénien postérieur ou moyen avec redressement du pénis"*, ***"JEMA020*** *- Urétroplastie pour hypospadias pénien postérieur ou moyen sans redressement du pénis"*, ***"JEMA021*** *- Urétroplastie pour hypospadias balanique ou pénien antérieur, sans reconstruction du prépuce"*,[27] as well as additional codes in chapter *"8.3.3.9. Correction des malformations du pénis"*.[28]

- **IGM 4: Prenatal "Therapy" with Dexamethasone:**

  "Dr Pierre Mouriquand. *- […] To avoid surgery, when* ***hormonal treatment is prescribed during pregnancy*** *to a woman who has a baby girl with CAH, the virilisation of the child can be significantly reduced. This treatment is very controversial because the* ***side effects can be serious****, not only in the mother - hypertension, stretch marks, diabetes - but also in the child who can present very important cognitive problems. These are the reasons why some countries - Sweden or the United States - have abandoned these hormone treatments.*

  Maryvonne Blondin, co-rapporteur. *- What is the situation in France?*

  Dr Pierre Mouriquand. - We continue to prescribe them." [29]

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26 Haute Autorité de Santé (HAS) (2017), Protocole National de Diagnostic et de Soins (PNDS). Insensibilités aux androgènes. Centre de référence du développement génital: du fœtus à l'adulte, https://www.has-sante.fr/portail/upload/docs/application/pdf/2018-01/pnds_ais_version_finale.pdf

27 https://www.ameli.fr/accueil-de-la-ccam/trouver-un-acte/consultation-par-chapitre.php?chap=a%3A3%3A%7Bi%3A0%3Bs%3A5%3A%228.2.4%22%3Bi%3A1%3Bs%3A5%3A%228.3.2%22%3Bi%3A2%3Bs%3A3%3A%228.7%22%3B%7D&add=8.2.4.14#chapitre_8.2.4.14

28 https://www.ameli.fr/accueil-de-la-ccam/trouver-un-acte/consultation-par-chapitre.php?chap=a%3A3%3A%7Bi%3A0%3Bs%3A5%3A%228.2.4%22%3Bi%3A1%3Bs%3A5%3A%228.3.3%22%3Bi%3A2%3Bs%3A3%3A%228.7%22%3B%7D&add=8.3.3.9#chapitre_8.3.3.9

29 Sénat, Session Ordinaire de 2016-2017, Maryvonne Blondin, Corinne Bouchoux, Rapport d'Information fait au nom de la délégation aux droits des femmes et à l'égalité des chances entre les hommes et les femmes sur les variations du développement sexuel : lever un tabou, lutter contre la stigmatisation et les exclusions, statement of Pierre Mouriquand, p. 188-189, https://www.senat.fr/rap/r16-441/r16-4411.pdf

C. France ignores Concluding Observations on Intersex

1. Legislative and other measures to prevent IGM

Harmful practices

47. […] The Committee is also concerned that medically unnecessary and irreversible surgery and other treatment are routinely performed on intersex children.

48. ***Recalling the joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, the Committee […] recommends that the State party:***

(b) ***[…] ensuring […] that no child is subjected to unnecessary surgery or treatment.***

Unfortunately, the Concluding Observations did not explicitly recommend to criminalise IGM practices. However, the **CRC-CEDAW Joint General Comment/Recommendation No. 18/31 "on harmful practices"** invoked by the Committee explicitly *"call[s] upon States parties to* ***explicitly prohibit by law and adequately sanction or criminalize*** *harmful practices, in accordance with the gravity of the offence and harm caused, provide for means of prevention, protection, recovery,* ***reintegration and redress for victims*** *and* ***combat impunity*** *for harmful practices"* (para 13).[30] In addition, CAT explicitly recommended France to ***"[t]ake the necessary legislative, administrative and other measures to guarantee respect for the physical integrity of intersex individuals"*** (CAT/C/FRA/CO/7, para 35(a)).

a) Official French bodies calling for explicit prohibition of IGM practices

Accordingly, since February 2016 **several French bodies** have **recognised** the ongoing IGM practices on intersex children in France to constitute *"mutilations"*, *"harmful practices"* and *"inhuman and degrading treatment"*, and have **called for legislation** to explicitly prohibit IGM practices.

On 22 May 2018, the **National Consultative Commission on Human Rights CNCDH** *("Commission nationale consultative des droits de l'homme")* stated in its report ***"Taking action against abuse in the health system: a necessity to respect fundamental rights"*** (p. 17):[31]

> ***"The CNCDH also considers that certain treatments inflicted on intersex persons are inhuman and degrading treatment.*** *Indeed, in their national [Androgen Insensitivity] guidelines dated 2018[52], the* ***[Haute Autorité de Santé] HAS takes an ambiguous position on the practice of sexual mutilation surgeries on intersex newborns.*** *These surgeries, performed to bring the appearance of their genitals into line with the sex in which the child will be raised,* ***without medical necessity,*** *have* ***serious lifelong consequences*** *for patients and* ***numerous complications.****[53] Such surgeries are* ***carried out in disregard of the person's consent****, parents being forced to decide immediately, and without taking into account international standards of child protection, respect for the child's physical integrity, and* ***the recommendations of the United Nations (Committee on the Rights of the Child, Committee against Torture, Committee on the Elimination of Discrimination against Women, 2016)*** *and the Assembly of the Council of Europe (resolution 2191, 2017[54])."*

30 See also Annexe 1, p. 24-25

31 Commission nationale consultative des droits de l'homme (CNCDH), "Agir contre les maltraitances dans le système de santé : une nécessité pour respecter les droits fondamentaux", http://www.cncdh.fr/sites/default/files/180522_avis_maltraitances_systeme_de_sante.pdf

On 17 March 2017, **outgoing President François Hollande** who, in a public statement, called for a **prohibition** of genital mutilation of intersex children:[32]

> *"I'm also thinking of the **prohibition of surgical operations that intersex children are submitted to today,** and which around the world are largely **considered as mutilations."***

And in December 2016, the French ***"Interministerial delegation on combatting racism, anti-semitism and anti-LGBT hatred (DILCRAH)"*** had stated, also referring to the CAT, CRC and CEDAW recommendations for France:[33]

> ***"Stopping the surgeries and mutilations of intersex children***
>
> *In 2016, France has been reprimanded three times for this issue by the UN: In January by the Committee on the Rights of the Child, in May by the Committee against Torture, and in July by the Committee on the Elimination of Discrimination against Women. Unless they are not imperative for medical reasons**, these surgeries are mutilations and must stop."***

b) French authorities refusing to act

However, despite of strong statements, nothing has changed in practice. On the contrary, on several occasions the **French authorities have demonstrated their continued and active refusal to comply** with the CRC-CEDAW Joint General Comment/Recommendation No. 18/31 invoked in the Concluding Observations unmistakably stipulating to ***"explicitly prohibit by law and adequately sanction or criminalize"*** IGM practices.

Example 1: In 2018, the **Ministry of Health refused to take measures to enforce the prohibition of IGM practices**, and in 2019 this **refusal was backed by the Council of State (Conseil d'État)**, the Supreme Court for Administrative Justice: Early in 2018, Co-Rapporteur Vincent Guillot wrote to the Minister of Health asking her to **take all necessary measures** to enforce the prohibition of IGM practices, in accordance with the recommendations of the **CRC, CAT and CEDAW Concluding Observations** and the **PACE Resolution 2191 (2017)** of the Parliamentary Assembly of the Council of Europe, and in view of the massive violation of that prohibition by the health establishments placed under the Minister's supervision. However, this letter remained unanswered for two months, which under French law constitutes a **rejection decision.** This rejection decision was **challenged before the Council of State** by the association GISS | Alter Corpus. However, in 2019 the **Council of State rejected the complaint**, ruling that the refusal of the Ministry of Health to take action ***"cannot be regarded as having taken an act that was grievous"***,[34] even though the Ministry clearly has an obligation to prevent human rights violations amounting to harmful practices and inhuman treatment.

Example 2: In September 2016 Vincent Guillot made a request to the **National Healthcare Insurances** (*"Union Nationale des Caisses d'Assurance Maladie, UNCAM"*) and the previous Minister of Health to **stop reimbursement for IGM practices**. The answer claimed that these acts carried out by medical doctors had a **therapeutic character**; the **request for stop of refunding was thus rejected.**

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32 https://stopigm.org/post/France-condemns-mutilations-of-intersex-children-proposes-prohibition

33 Ibid.

34 Conseil d'État, 2 oct. 2018, Groupement d'information et de soutien sur les questions sexuées et sexuelles c. Ministère de la santé, n° 420542, https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000039168436

Example 3: Early 2018, the **VAT office within the Public Finance Directorate** was alerted by telephone of the problems raised by IGM practices, which are currently **considered by the tax authorities as having a therapeutic purpose**, so that they are exempt from VAT, with the office referring to the *"majority opinion of doctors"* and refusing to take action.

Example 4: In 2018, the **"Haute Autorité de Santé (HAS)" refused to withdraw new guidelines advocating IGM**, and in 2019 this **refusal was backed by the Council of State (Conseil d'État)**, the Supreme Court for Administrative Justice: In 2018, the **official public medical body "Haute Autorité de Santé (HAS)"** was alerted by the association GISS of the illegal character of its **new 2018 *"National Androgen Insensitivity Guidelines"*** [35] advocating IGM practices (see above, p. 11-13). However, HAS refused to respond or to withdraw its new guidelines advocating IGM. This refusal was **challenged before the Council of State** by the association GISS | Alter Corpus. However, in 2019 the **Council of State rejected the complaint**, ruling that the refusal of the **"Haute Autorité de Santé (HAS)"** to act ***"does not have the character of an administrative act that is grievous"***,[36] even though intersex children will be submitted to genital mutilation and involuntary sterilising procedures in accordance with the new national guidelines.

Example 5: The 2019 "**Opinion 132**: Ethical Questions raised by the Situation of People with Differences of Sex Development" of the **National Consultative Ethics Committee for health and life sciences CCNE**[37] (*"Comité Consultatif National d'Éthique pour les sciences de la vie et de la santé"*) **completely ignores the CRC, CAT and CEDAW Concluding Observations** for France, as well as the non-derogable right of intersex children to protection from **harmful practices** and inhuman treatment and the need for legislative measures to ensure this protection, **despite** briefly mentioning *"basic rights"* (p. 16) and art. 3.1 CRC (p. 19), and **despite** having been explicitly alerted to this and other Committee's Concluding Observations, including by the **Referral letter of the Ministry of Health and Solidarity** in 2019 (see p. 35, fn 6-7), as well as in a **2016 letter**[38] **and annexe**[39] by Co-Rapporteur Benjamin Moron-Puech and lawyers Mila Petkova and Benjamin Pitcho (as acknowledged by CCNE, see p. 8, fn 3). Accordingly, the Opinion claims IGM to be **strictly a thing of the past** (*"Some previous practices inflicted on people with differences of sex development resulted in sequelae that were irreversible both physically and psychologically,"* p. 16), and a ***"medical practice"*** (e.g. p. 5, 8).

Example 6: In its **2020 State party report under LOIPR (CAT/C/FRA/8)**, the French Government **claims there is no need for legislative action** to prevent IGM practices, *"since **the legislative framework in force is sufficient to prohibit them"*** (para 212) – despite that IGM continues and IGM survivors are denied access to justice (see below, p. 18-19).

35 Haute Autorité de Santé (HAS) (2017), Protocole National de Diagnostic et de Soins (PNDS). Insensibilités aux androgènes. Centre de référence du développement génital: du fœtus à l'adulte, https://www.has-sante.fr/portail/upload/docs/application/pdf/2018-01/pnds_ais_version_finale.pdf

36 Conseil d'État, 2 oct. 2018, Groupement d'information et de soutien sur les questions sexuées et sexuelles c. HAS, n° 422197, https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000039168438

37 https://www.ccne-ethique.fr/sites/default/files/publications/avis_132_en_anglais.pdf

38 http://www.pitcho.fr/site/wp-content/uploads/2016/02/Cliquez-ici-pour-la-Demande-dauto-saisine-du-CCNE.pdf

39 http://www.pitcho.fr/site/wp-content/uploads/2016/02/Cliquez-ici-pour-la-Documentation-produite-en-annexe.pdf

c) Draft Law on Bioethics legalises IGM, increases pressure on parents

The French Parliament (Sénat) is currently discussing a new **Draft Law on Bioethics**[40] (2nd reading). **Article 21bis** of this Draft Law aims to **further invalidate the current ineffective and not enforced legal provisions** which in theory protect intersex children from harmful practices and inhuman treatment[41] by **explicitly legalising IGM practices** based on the **medical opinion** of the *"specialised multidisciplinary teams at the Reference Centres for Rare Diseases of Sex Development"*, i.e. the **current IGM practitioners**, and generally with the **"consent" not of the person concerned** but of the ***"holders of parental authority"***.

This Article 21bis was adopted with the **support of the Ministry of Health**, and against other proposed **amendments**[42] to **prohibit** non-urgent and irreversible surgery to which the child is unable to consent. At hearings,[43] [44] persons concerned, lawyers and legal experts stressed the necessity to implement legislation in conformity with international **human rights standards**, recalling the **CRC, CAT and CEDAW Concluding Observations**. Also, **members of the Senate** recalled the Concluding Observations for France. However, in the end these human rights concerns were simply **ignored**,[45] same as the previous concerns of national human rights institutions, including **CNCDH** and **DILCRAH** (see above, p. 14-15).

While it may appear positive that **on the outside** Article 12bis calls for providing ***"full information and appropriate psychosocial support*** *for the child and his or her family"*, it's important to note that Article 21bis specifies that by *"appropriate"* support it does **not mean independent or peer support**, but **exclusively** support provided by psychiatrists as part of the *"specialised multidisciplinary teams"* at the *"Reference Centres for Rare Diseases of Sex Development"*, who do **not provide impartial counselling**, but whose aim is to **ensure compliance** with IGM practices based on psychosocial indications:

> *"According to François Medjkane and his team, surgery has a real restorative function, a normalisation that can boost parental investment."*[46]

In addition, the Draft Law will **increase the pressure on parents to quickly "consent"** to non-urgent, irreversible procedures based on psychosocial indications: The **time limit for reporting the sex of the child will be reduced to three months**, whereas today the law offers a time limit of one or two years.

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40 http://www.assemblee-nationale.fr/dyn/15/dossiers/bioethique_2

41 See Benjamin Moron-Puech, notes for Senate hearing, p. 6-8, https://f.hypotheses.org/wp-content/blogs.dir/3033/files/2020/01/2019-12-16-Mise-en-forme-notes-audition-au-Se%CC%81nat.pdf

42 See B. Moron-Puech, Intersexe et bioéthique – Examen des amendements déposés en séance relatifs aux mutilations génitales intersexuées, Oct. 2019, https://sexandlaw.hypotheses.org/895

43 Assemblée nationale, Mission d'information de la Conférence des présidents sur la révision de la loi relative à la bioéthique, Compte-rendu de la séance du 28 oct. 2018, http://www.assemblee-nationale.fr/dyn/15/comptes-rendus/bioethique/l15bioethique1819051_compte-rendu

44 See the remarks made in the Senate by B. Moron-Puech, https://sexandlaw.hypotheses.org/files/2020/06/2019.audition-BMP.senat_.pdf

45 See B. Moron-Puech, "Intersexe et bioéthique - les apports du Sénat", 19 Feb. 2020, https://sexandlaw.hypotheses.org/945

46 Paediatric psychiatrist François Medjkane, Reference Centre for Rare Diseases of Sex Development CHU Lille, at the Symposium *"Dialogue sur les Prises en Charge du Développement Sexuel Atypique: une Table Ronde France-Suisse"* at EHESS Paris, 11.07.2016, see Report of the Symposium (long version), p. 11

2. Access to justice, redress and compensation

Harmful practices

47. […] The Committee is also concerned that medically unnecessary and irreversible surgery and other treatment are routinely performed on intersex children.

48. ***Recalling the joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, the Committee […] recommends that the State party:***

(b) ***[…] ensuring […] that no child is subjected to unnecessary surgery or treatment.***

The **CRC-CEDAW Joint General Comment/Recommendation No. 18/31 "on harmful practices"** invoked by the Committee explicitly *"call[s] upon States parties to […] provide for means of prevention, protection, recovery,* ***reintegration and redress for victims*** *and* ***combat impunity*** *for harmful practices"* (para 13).[47] In addition, CAT explicitly recommended France to ***"[a]rrange for the investigation of cases of surgical or other medical treatment reportedly carried out on intersex individuals without their informed consent and take steps to provide redress, including adequate compensation, to all victims"*** (CAT/C/FRA/CO/7, para 35(d)).

To this day, also in **France** the **statutes of limitation** prevent 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, which in combination with severe trauma caused by IGM practices often proves to amount to a severe obstacle,[48] and effectively **prohibit survivors of early childhood IGM practices to call a court**.

This is evidenced by a **final court decision of the Highest Court (*"Court de Cassation"*) dated 6 March 2018,[49] rejecting** the case of an IGM survivor wanting to lodge a complaint on the basis of article 222-10 of the Penal Code (aggravated violence resulting in mutilation or permanent disability) for having been submitted to non-consensual castration and "feminising" genital surgery as a child, with the court referring to **expired statutes of limitation**.[50] This case is now **pending** at the **European Court of Human Rights (ECHR)**.[51]

A **second case of an IGM survivor** born in 1979 who filed a complaint in 2016 before the criminal judge for mutilation intentional violence against a minor under 15 years of age, denouncing 7 non-consensual "masculinsing" genital surgeries between the age of 3 and 8, leaving the claimant with severe pain and suffering:

> *"«I've come to calculate everything I drink because* ***every time I have to go to the bathroom, I feel like I'm peeing razor blades****,» he says.* ***«Sex is the same. I'm enjoying myself while having extreme pain!»"*** [52]

47 See also Annexe 1, p. 24

48 Globally, no survivor of early surgeries **ever** managed to win 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.

49 An anonymised version of this decision is available from the Rapporteurs on request.

50 B. Moron-Puech, "Rejet de l'action d'une personne intersexuée pour violences mutilantes. Une nouvelle 'mutilation juridique' par la Cour de cassation?", La Revue des Juristes de Sciences Po, juin 2018, p. 71-104, https://sexandlaw.hypotheses.org/412/bmp-commentaire-6-mars-2018

51 A. Lorriaux, "L'histoire de M., première personne intersexe au monde à porter plainte pour mutilations", Slate, 10 Apr. 2019, http://www.slate.fr/story/175530/histoire-m-premiere-personne-intersexe-plainte-mutilations

52 Vincent Vantighem (26.11.2017), "Une personne intersexe dépose plainte contre les médecins qui l'ont opérée pour 'devenir' homme", 20minutes, https://www.20minutes.fr/societe/2172971-20171126-personne-intersexe-depose-plainte-contre-medecins-operee-devenir-homme

Since the complaint has been filed in 2016, **a criminal investigation was opened in 2017.** However, to this day, there has been **no decision so far,** with the case ongoing but unknown at which stage. This investigation therefore has only been made public via media interviews with the claimant.[53]

3. Rights-based health-care protocol for intersex children

(b) ***Develop and implement a rights-based health-care protocol for intersex children, ensuring that children and their parents are appropriately informed of all options; that children are involved, to the greatest extent possible, in decision-making about their treatment and care; and that no child is subjected to unnecessary surgery or treatment.***

Since the Concluding Observations 2016, the official public medical body ***"Haute Autorité de Santé (HAS)"*** has introduced a **new 2018 *"National Androgen Insensitivity Guidelines"*** [54] for *"adolescents"* with Partial Androgen Insensitivity Syndrome (PAIS), which in fact prescribes **IGM 3:** Sterilising Procedures, **IGM 2:** "Feminising" Genital Surgeries and **IGM 1:** Masculinising" Genital Surgeries (see above, p. 11-13). When these new guidelines were **challenged**, the **HAS refused to withdraw them**, and in 2019 this **refusal was backed by the Council of State (Conseil d'État)**, the Supreme Court for Administrative Justice (see above, p. 16).

In addition, the HAS ***"National CAH Guidelines"*** [55] also promoting **IGM 2:** "Feminising" Genital Surgeries **remain in force unchanged** (see above, p. 12).

This once more proves that **without** first establishing a **clear legislative framework** explicitly and effectively prohibiting IGM practices (see below, p. 24), **new medical guidelines inevitably tend to reinforce IGM**, as authorities use the absence of a clear prohibition as an **excuse for "self-regulation" promoting state-sponsored IGM practices to continue with impunity** (see also below, p. 29).[56] [57]

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53 Ibid., and: Iris Peron (27.11.2017), "'J'ai été mutilé dans un souci de normalisation', témoigne une personne intersexe", l'Express, https://www.lexpress.fr/actualite/societe/justice/j-ai-ete-mutile-dans-un-souci-de-normalisation-temoigne-une-personne-intersexe_1964084.html,
Allodocteurs.fr, "Intersexualité: une personne dépose plainte pour mutilation", https://www.francetvinfo.fr/sante/affaires/intersexualite-une-personne-depose-plainte-pour-mutilation_2753545.html,
Interview in segment "Intersexualité : première plainte pour mutilation", Le magazine de la Santé, TV France 5, 11.05.2018, see https://sexandlaw.hypotheses.org/388

54 Haute Autorité de Santé (HAS) (2017), Protocole National de Diagnostic et de Soins (PNDS). Insensibilités aux androgènes. Centre de référence du développement génital: du fœtus à l'adulte, https://www.has-sante.fr/portail/upload/docs/application/pdf/2018-01/pnds_ais_version_finale.pdf

55 Haute Autorité de Santé (HAS) (eds.), Protocole National de Diagnostic et de Soins (PNDS). Hyperplasie congénitale des surrénales par déficit en 21-hydroxylase. Protocole national de diagnostic et de soins pour les maladies rares (p. 50), online: https://www.has-sante.fr/portail/upload/docs/application/pdf/2011-05/ald_hors_liste_-_pnds_sur_lhyperplasie_congenitale_des_surrenales.pdf

56 See for example Ministry of Health Chile (2016), https://stopigm.org/post/Circular-7-step-back-for-intersex-human-rights-in-Chile

57 See for example Ministry of Health Austria (2019), see 2019 CRC Intersex NGO Report (for Session), p. 4-5, https://intersex.shadowreport.org/public/2019-CRC-Austria-NGO-Zwischengeschlecht-Intersex-IGM.pdf

4. Data collection

[…] the Committee recommends that the State party gather data with a view to understanding the extent of these harmful practices so that children at risk can be more easily identified and their abuse prevented. […]

To this day, the **French Government refuses to collect and disclose disaggregated data** on intersex persons and IGM practices.

Since the Concluding Observations, in a **2016 Answer to a Parliamentary Question**, the **Health Minister** Laurence Rossignol gave the obviously **false figure** of merely **160 births of intersex children** in France per year, without indicating any figures for IGM practices.

However, **partial data** obtained as part of the research study *"Mutilations génitales intersexuées"* at the University Panthéon-Assas, Paris II[58] via the National Health Data System SNDS (*"Système national des données de santé"*) governed by the Public Health System (*"Assurance maladie"*) reveal that in **2017**, **at least 4678 relevant procedures were performed on intersex children aged 0-12 years** – an increase in procedures compared to previous years.[59] This shockingly high number was also **acknowledged** by the majority of the members of the Senate.[60]

However, this number represents **only a fraction of the total relevant procedures** on intersex children, as some of the most **frequent intersex diagnoses are not included**, namely Congenital Adrenal Hyperplasia (CAH), Androgen Insufficiency Syndrome (AIS) and Mayer-Rokitansky-Küster-Hauser syndrome (MRKH), and apparently procedures performed in the **biggest IGM clinics**, namely the so called *"Reference Centres for Rare Diseases of Sex Development"*, [61] are **not included**.

Nonetheless, the data includes a vide range of relevant IGM procedures, namely **IGM 1: Masculinising" Genital Surgeries** (***"JEMA006*** *- Urétroplastie pour hypospadias périnéoscrotal avec redressement du pénis"*, ***"JEMA019*** *- Urétroplastie pour hypospadias pénien postérieur ou moyen avec redressement du pénis"*, ***"JEMA020*** *- Urétroplastie pour hypospadias pénien postérieur ou moyen sans redressement du pénis"*, as well as additional procedures from CCAM chapter *"8.3.3.9. Correction des malformations du pénis"*), **IGM 2: "Feminising" Procedures** (***"JMEA001*** *- Transposition du clitoris"*, ***"JMMA001*** *- Vestibuloplastie avec enfouissement ou résection du clitoris, pour féminisation"*, ***"JZMA002*** *- Urétroplastie, vaginoplastie et vestibuloplastie avec enfouissement ou réduction du clitoris, pour féminisation"*, ***"JLAD001*** *- Séance de dilatation vaginale par bougies"*) and **IGM 3: Sterilising Procedures** (***"JHFA003*** *- Orchidectomie pour cryptorchidie abdominale, par laparotomie"* and ***"JHFC001*** *- Orchidectomie pour cryptorchidie abdominale, par coelioscopie"*) (see also above, p. 11-13).

Notably, the **vast majority** of these procedures were performed in public University Clinics and **on children under 4 years of age (>86%)**.

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58 https://www.lp3c.fr/projets-finances/

59 See Benjamin Moron-Puech, notes for Senate hearing, p. 9, https://f.hypotheses.org/wp-content/blogs.dir/3033/files/2020/01/2019-12-16-Mise-en-forme-notes-audition-au-Se%CC%81nat.pdf The full data set is available at request from the Rapporteurs.

60 See the explanatory memorandum to amendment 779 tabled by these deputies before the Special Committee responsible for examining the draft law on the bioethics law, http://www.assemblee-nationale.fr/dyn/15/amendements/2658/CSBIOETH/779

61 See Open Letter of Concern to 55th ESPE 2016 and French DSD Universities and Clinics by Persons Concerned, Partners, Families, Friends and Allies, September 2016, p.1, https://zwischengeschlecht.org/public/Open_Letter_ESPE_2016.pdf

D. Conclusion: France is failing its obligations towards intersex people under CRC and CRC/C/FRA/CO/5, paras 47-48

As substantiated above, **all typical forms of Intersex Genital Mutilation are still practised in France**, facilitated and **paid for by the State party** via the **public health system** (*"Sécurité Sociale – Assurance Maladie"*). The Government **refuses** to take action, upholding the **impunity** of IGM practitioners, while IGM survivors are **denied access to justice and redress**.

In particular, France continues to violate its obligation to take **effective legislative, administrative, judicial or other measures** to **prevent harmful practices** and to **ensure access to justice**, redress and rehabilitation for IGM survivors (Art. 24(3) in conjunction with the CRC-CEDAW Joint General Comment No. 18/31).

What's more, newly introduced as well as persisting **health care protocols** (national medical guidelines) **continue to advocate IGM practices**, backed by Government bodies and courts, as the result of the **absence of a clear legislative framework** explicitly and effectively prohibiting IGM practices, as the authorities use this absence as an **excuse for "self-regulation" promoting state-sponsored IGM practices to continue with impunity.**

France is thus **categorically failing to meet its obligations** towards intersex people **resulting from the Concluding Observations of this Committee** (paras 47-48), as well as those from **CAT** (CAT/C/FRA/CO/7, paras 34-35) and **CEDAW** (CEDAW/C/FRA/CO/7-8, paras 18e-f + 19e-f).

E. Suggested Questions for the LOIPR

The Rapporteurs respectfully suggest that in the LOIPR the Committee asks the French State party the following questions with respect to the treatment of intersex children:

Harmful Practices: Intersex Genital Mutilation (art. 24(3))

- **Please provide information on the measures taken to prevent the unnecessary medical or surgical treatment of intersex children and to provide adequate counselling, support and access to effective remedies for victims subjected to such treatment during childhood, including the statute of limitations.**
- **Please provide information on whether unnecessary medical or surgical treatment for intersex children is still covered by the public Health System (Sécurité Sociale – Assurance Maladie).**
- **Please provide data, disaggregated by type of intervention, age at intervention, and hospital, on the number of intersex children subjected to non-urgent and irreversible surgical and other procedures.**

Annexe 1 – IGM Practices in France as a Violation of CRC

1. The Treatment of Intersex Children in France as Harmful Practice and Violence

a) Harmful Practice (art. 24(3) and JGC No. 18) [62]

Article 24 para 3 CRC calls on states to abolish harmful *"traditional practices prejudicial to the health of children"*. While the initial point of reference for the term was the example of Female Genital Mutilation/Cutting (FGM/C), the term consciously wasn't limited to FGM/C, but meant to include all forms of harmful, violent, and/or invasive traditional or customary practices.[63]

This Committee has repeatedly considered IGM as a harmful practice, and the CRC-CEDAW Joint General Comment No. 18/31 on harmful practices as applicable.[64]

Also **CEDAW** has repeatedly considered IGM as a **harmful practice**, and the CRC-CEDAW Joint General Comment/Recommendation No. 18/31 on harmful practices as applicable.[65]

Harmful practices (and inhuman treatment) have been identified by intersex advocates as the **most effective, well established and applicable human rights frameworks** to eliminate IGM practices and to end the impunity of the perpetrators.[66]

The **CRC-CEDAW Joint General Comment/Recommendation No. 18/31 "on harmful practices"** *"call[s] upon States parties to* ***explicitly prohibit by law and adequately sanction or criminalize*** *harmful practices, in accordance with the gravity of the offence and harm caused, provide for means of prevention, protection, recovery,* ***reintegration and redress for victims*** *and* ***combat impunity*** *for harmful practices"* (para 13).

Particularly, the Joint General Comment/Recommendation further underlines the need for a ***"Holistic framework*** *for addressing harmful practices"* (paras 31–36), including ***"legislative, policy and other appropriate measures*** *that must be taken to ensure full compliance with [state parties'] obligations under the Conventions to eliminate harmful practices"* (para 2), as well as

"Data collection and monitoring" (paras 37–39)

"Legislation and its enforcement" (paras 40–55), particularly:

*"**adequate civil and/or administrative legislative provisions"*** (para 55 (d))

*"provisions on **regular evaluation and monitoring**, including in relation to implementation,*

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62 For a more extensive version, see 2017 CRC Spain NGO Report, p. 12-13, https://intersex.shadowreport.org/public/2017-CRC-Spain-NGO-Brujula-Zwischengeschlecht-Intersex-IGM.pdf

63 UNICEF (2007), Implementation Handbook for the Convention on the Rights of the Child, at 371

64 CRC/C/CHE/CO/2-4, paras 42-43; CRC/C/CHL/CO/4-5, paras 48-49; CRC/C/FRA/CO/5, paras 47-48; CRC/C/IRL/CO/3-4, paras 39-40; CRC/C/NPL/CO/3-5, paras 41-42; CRC/C/GBR/CO/5, paras 46-47; CRC/C/NZL/CO/5, paras 25+15; CRC/C/ZAF/CO/2, paras 39-40+23-24; CRC/C/DNK/CO/5, paras 24+12; CRC/C/ESP/CO/5-6, para 24; CRC/C/ARG/CO/5-6, para 26; CRC/C/ITA/CO/5-6, para 23; CRC/C/BEL/CO/5-6, paras 25(b)+26(e); CRC/C/MLT/CO/3-6, paras 28-29; CRC/C/AUS/CO/5-6, paras 25(b)+26(e); CRC/C/PRT/CO/5-6, paras 28(b); CRC/C/AUT/CO/5-6, para 27(a)-(b)

65 CEDAW/C/FRA/CO/7-8, paras 18e-f+19e-f; CEDAW/C/CHE/CO/4-5, paras 24-25, 38-39; CEDAW/C/NLD/CO/6, paras 21-22, 23-24; CEDAW/C/DEU/CO/7-8, paras 23-24; CEDAW/C/IRL/CO/6-7, paras 24-25; CEDAW/C/CHL/CO/7, paras 22-23, 12(d)-13(d), 14(d)-15(d); CEDAW/C/LUX/CO/6-7, paras 27b-c+28b-c; CEDAW/C/MEX/CO/9, para 21-22; CEDAW/C/NZL/CO/8, paras 23(c)-24(c); CEDAW/C/AUS/CO/8, paras 25(c)-26(c); CEDAW/C/LIE/CO/5, paras 35+36(c); CEDAW/C/NPL/CO/6, paras 18(c)-19(c)

66 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: https://StopIGM.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf

enforcement and follow-up" (para 55 (n))

"equal access to justice,** including by **addressing legal and practical barriers to initiating legal proceedings, such as the limitation period,** and that the **perpetrators and those who aid or condone such practices are held accountable" (para 55 (o))

*"equal access to **legal remedies and appropriate reparations** in practice"* (para 55 (q)).

Last but not least, the Joint General Comment explicitly stipulates: *"Where **medical professionals** or government employees or civil servants **are involved or complicit in carrying out harmful practices,** their status and responsibility, including to report, should be seen as an **aggravating circumstance in the determination of criminal sanctions or administrative sanctions such as loss of a professional licence or termination of contract,** which should be preceded by the issuance of warnings. **Systematic training** for relevant professionals is considered to be an effective preventive measure in this regard."* (para 50)

Conclusion, **IGM practices in France** – as well as the **failure of the state party to enact effective legislative, administrative, social and educational measures** to eliminate them and to ensure effective access to remedies and redress for IGM survivors – clearly violate Article 24 CRC, as well as the CRC-CEDAW Joint General Comment No. 18/31 on harmful practices.

b) Violence against Children (art. 19 and GC No. 13) [67]

Similarly, the Committee has also considered IGM practices as violence against children, and Art. 19 and the General Comment No. 13 also offer strong provisions to combat IGM practices.

2. Required Legislative Provisions to Ensure Protection from IGM Practices, Impunity of the Perpetrators (CRC art. 24(3) and JGC No. 18)

Article 24 para. 3 of the Convention in conjunction with the CRC-CEDAW Joint General Comment/Recommendation No. 18/31 "on harmful practices" (2014) underline state parties' obligations to ***"explicitly prohibit by law and adequately sanction or criminalize** harmful practices"* (JGC 18/31, para 13), as well as to ***"adopt or amend legislation** with a view to effectively addressing and eliminating harmful practices"* (JGC 18/31, para 55), and specifically to ensure *"that the **perpetrators and those who aid or condone such practices are held accountable"*** (JGC 18/31, para 55 (o)).

Accordingly, with regards to IGM practices, and referring to Article 24 para 3 and the CRC-CEDAW Joint General Comment/Recommendation No. 18/31, CRC repeatedly recognised the obligation for State parties to ***"[e]nsure that the State party's legislation prohibits all forms of harmful practices [including intersex genital mutilation]"***,[68] as well as to ***"ensure that no-one is subjected to unnecessary medical or surgical treatment during infancy or childhood, guarantee bodily integrity, autonomy and self-determination to children concerned"***,[69] and to *"[u]ndertake investigation 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 adequate compensation"***.[70]

67 For a more extensive version with sources, see 2016 CRC UK Thematic NGO Report, p. 57, https://intersex.shadowreport.org/public/2016-CRC-UK-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

68 CRC/C/ZAF/CO/2, 27 October 2016 paras 39–40

69 CRC/C/CHE/CO/2-4, 26 February 2015, para 43

70 CRC/C/DNK/CO5, 26 October 2017, para 24

3. Obstacles to Redress, Fair and Adequate Compensation, and Rehabilitation (CRC art. 24(3) and JGC No. 18)

Article 24 para. 3 of the Convention in conjunction with the CRC-CEDAW Joint General Comment/Recommendation No. 18/31 "on harmful practices" clearly stipulate the right of victims of IGM practices to ***"equal access to legal remedies and appropriate reparations"*** (JGC 18/31, para 55 (q)), and specifically to ensure that *"children subjected to harmful practices have **equal access to justice,** including by **addressing legal and practical barriers** to initiating legal proceedings, **such as the limitation period"*** (JGC 18/31, para 55 (o)).

However, also in **France** 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 even once they do.[71] So far there was no case where a victim of IGM practices succeeded in getting access to justice and redress at a French court – so far, **all cases were dismissed because of the statutes of limitation.**

71 Globally, no survivor of early surgeries **ever** managed to have their case successfully heard in court. All relevant court cases resulting in damages or settlement (3 in Germany, 1 in the USA) were either about surgery of adults, or initiated by foster parents.

Annexe 2 – Intersex, IGM and Non-Derogable Human Rights

1. 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)"*, [72] 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.[73]

2. 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

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

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

74 For references and general information, see 2015 CAT NGO Report Austria, p. 30-35, https://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, https://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, https://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: https://stopigm.org/post/Africa-Intersex-Survey-Documents-Intersex-Genital-Mutilation-Infanticide-Abandonment-Expulsion-Uganda-Kenya-Rwanda ; for Uganda, see also 2015 CRC Briefing, slide 46, https://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, https://stopigm.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: https://stopigm.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, https://intersex.shadowreport.org/public/2015-CAT-Hong-Kong-China-NGO-BBKCI-Intersex.pdf

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 suprematist implications**.[80 81 82 83]

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 50 Concluding Observations condemning IGM practices accordingly.[86]

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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: https://stopigm.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 https://stopigm.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, https://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":* http://web.archive.org/web/20160305152127/http://prenatal.tv/lecturas/world%20atlas%20of%20birth%20defects.pdf

82 "The Racist Roots of Intersex Genital Mutilations" https://stopigm.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, https://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 https://stopigm.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations

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**[87] [88] 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,[89] 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.[90] [91]

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"*,[92] and again IGM survivors as *"transgender children"*,[93] *"transsexual children who underwent difficult treatments and surgeries"*, and IGM as a form of *"discrimination against transgender and intersex children"* [94] and as *"sex assignment surgery"* while referring to *"access to gender reassignment-related treatments"*.[95]

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"*,[96] *"a special provision on sexual orientation and*

87 CRC67 Denmark, https://stopigm.org/post/CRC67-Intersex-children-used-as-cannon-fodder-LGBT-Denmark

88 CEDAW66 Ukraine, https://stopigm.org/post/Ukraine-Instrumentalising-Intersex-and-IGM-for-LGBT-and-Gender-Politics

89 For references, see 2016 CEDAW France NGO Report, p. 45 https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf

90 For example ACHPR Commissioner Lawrence Murugu Mute, see https://stopigm.org/post/ACHPR-African-Commissioner-warns-Stop-conflating-intersex-and-LGBT

91 2018 Report of the Kenya National Commission on Human Rights (KNCHR), p. 15, https://www.knchr.org/Portals/0/GroupRightsReports/Equal%20In%20Dignity%20and%20Rights_Promoting%20The%20Rights%20Of%20Intersex%20Persons%20In%20Kenya.pdf?ver=2018-06-06-161118-323

92 CAT60 Argentina, https://stopigm.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CATArgentina-UNCAT60

93 CRC77 Spain, https://stopigm.org/post/UN-Press-Release-mentions-genital-mutilation-of-intersex-children

94 CRC76 Denmark, https://stopigm.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CRC-Denmark-UNCRC67

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

96 CRC73 New Zealand, https://stopigm.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"* [97], transgender guidelines[98] or *"Gender Identity"* [99] [100] 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** [101] and public **representation**.[102]

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, often 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"***.

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 violation of non-derogable human rights, and the **promotion of *"self-regulation"* of IGM by the current perpetrators** [103] [104] [105] [106] – instead of effective measures to finally end the practice (as repeatedly stipulated also by this Committee).

Even worse, **Health Ministries** construe UN 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.**[107] [108]

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97 CCPR120 Switzerland, https://stopigm.org/post/Pinkwashing-of-Intersex-Genital-Mutilations-at-the-UN-CCPR120

98 CAT56 Austria, https://stopigm.org/post/Geneva-UN-Committee-against-Torture-questions-Austria-over-Intersex-Genital-Mutilations

99 CAT60 Argentina, https://stopigm.org/post/CAT60-Argentina-to-be-Questioned-on-Intersex-Genital-Mutilation-by-UN-Committee-against-Torture

100 CRPD18 UK, https://stopigm.org/post/UK-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-Persons-with-Disabilities-CRPD

101 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, https://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), https://stopigm.org/post/UK-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-Persons-with-Disabilities-CRPD

102 See e.g. "Instrumentalizing intersex: 'The fact that LGBTs in particular embrace intersex is due to an excess of projection' - Georg Klauda (2002)", https://stopigm.org/post/Instrumentalizing-Intersex-Georg-Klauda-2002

103 For example Amnesty (2017), see https://stopigm.org/post/Amnesty-Report-fails-Intersex-Children-and-IGM-Survivors

104 For example FRA (2015), see Presentation OHCHR Expert Meeting (2015), slide 8, https://stopigm.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf

105 For example CEDAW Italy (2017), see https://stopigm.org/post/Major-Setback-for-Intersex-Human-Rights-at-the-UN

106 For example CEDAW Austria (2019): CEDAW/C/AUT/CO/9, paras 34(h), 35(h)

107 For example Ministry of Health Chile (2016), see https://stopigm.org/post/Circular-7-step-back-for-intersex-human-rights-in-Chile

108 For example Ministry of Health Austria (2019), see 2019 CRC Intersex NGO Report (for Session), p. 4-5, https://intersex.shadowreport.org/public/2019-CRC-Austria-NGO-Zwischengeschlecht-Intersex-IGM.pdf