

Intersex Genital Mutilation in New Zealand – Summary of NGO Report: Domestic and Extraterritorial Violations of Art. 5(a) and JGR No. 31

References for all findings can be found in the thematic NGO report on the pages indicated:

<http://intersex.shadowreport.org/public/2018-CEDAW-New-Zealand-NGO-Intersex-StopIGM.pdf>

This Committee has consistently recognised IGM to constitute a harmful practice under the Convention in Concluding Observations, referring to art. 5 and the CEDAW-CRC Joint General Recommendation No. 31/18 on harmful practices (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).

In 2016, CRC has already recognised IGM in New Zealand as a harmful practice (CRC/C/NZL/CO/5, para 25). Currently, also **CAT** (CAT/C/NZL/QPR/7, para 32) and **CRPD** (CRPD/C/NZL/QPR/2-3, para 16) are **investigating IGM** in New Zealand.

Nonetheless, to this day the **New Zealand Government fails to act:**

In New Zealand’s own children’s hospitals, all common forms of intersex genital mutilation (IGM) have been documented (p. 11-14), including “feminising surgery”, namely partial clitoris amputation, “vaginoplasty”, “labioplasty”, and forced vaginal dilation, as well as “masculinising surgery”, sterilising procedures, constant genital exams and photography, **facilitated and paid for by the State party** via the public health care system, advocated, prescribed and perpetrated by doctors in **public University and Regional Children’s Clinics**, working under the authority of **District Health Boards (DHB)** and the **Medical Council of New Zealand**.

In addition, the State party has also been found committing ongoing **extraterritorial violations connected to IGM (p. 11-13)**, by **sending intersex children overseas to Australia for IGM surgery**, for example to the Royal Children’s Hospital Melbourne (RCH), all covered under the **New Zealand Special High Cost Treatment Pool** scheme.

The **State party itself has admitted to extraterritorial violations** particularly in the case of **“feminising surgery” including partial clitoris amputation (p. 13)**, as well as to ongoing such practices **within New Zealand’s own borders**, in written additional information to CRC (see INT/CRC/AIS/NZL/25497, p. 1, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/NZL/INT_CRC_AIS_NZL_25497_E.pdf). While the State party claims to have stopped sending intersex children to Australia for IGM (but to continue the practice only within its own borders), to this day the High Cost Treatment Pool offers to cover for “feminising” IGM surgery overseas, and the Royal Children’s Hospital Melbourne (RCH) self-describes as “*provid[ing] tertiary and quaternary level paediatric urology services for patients from [...] New Zealand*” (p. 11).

IGM practices cause known **lifelong severe physical and mental pain and suffering which has been documented also in New Zealand** for example by the New Zealand Human Rights Commission (NZHRC) since 2010 (p. 17-18), 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, lifelong mental suffering and trauma.

Adult survivors of IGM find it **impossible to get access to justice and reparations** due to the **statutes of limitations**, as well as to **rehabilitation**, and they experience **difficulties in accessing their medical records and accurate information** about procedures performed on them during infancy and childhood (p. 16).

Despite that the **State party has admittedly been made aware of the serious human rights violations constituted by IGM (p. 17-18)**, in particular by **persons concerned, CRC** and the New Zealand Human Rights Commission (NZHRC), the **Government fails to act accordingly**.

To this day, **on the side of protections for intersex children**, in New Zealand there are

- **no effective legal or other protections** in place to ensure the rights of intersex children to physical and mental integrity, and in particular **to prevent IGM practices**
- **no measures** in place to ensure **data collection and monitoring** of intersex and IGM, neither within New Zealand nor off-shore
- **no legal or other measures** in place to ensure the **accountability** of IGM perpetrators, neither within New Zealand nor off-shore
- **no legal or other measures** in place to ensure **access to redress and justice** for adult IGM survivors

Conclusion:

Instead of fulfilling its obligations under CEDAW, the New Zealand Government continues to **allow IGM practices to continue with impunity, both domestic and abroad**, as well as to **misrepresent IGM as a “health care issue”** allegedly best left to **“self-regulation” by the perpetrators** (p. 8-9).

New Zealand is thus a **striking example of extraterritorial violations** connected with IGM practices (already highlighted by CRC).

Nonetheless, to this day, the **New Zealand government is consciously and deliberately dismissing the serious human rights violations** and severe lifelong suffering caused by IGM, let alone to **“take effective legislative, administrative, judicial or other measures”** to **(a) prevent IGM and other harmful practices on intersex children** based on stereotypes and prejudice, and **(b) to ensure access to redress**, and the right to fair and adequate **compensation** and **rehabilitation** for victims, and **(c) to guarantee access to adequate counselling and support**.

Therefore, **New Zealand is in violation of its obligations under the Convention, namely art. 5(a) and the CEDAW-CRC Joint General Recommendation No. 31/18 on harmful practices**.

We therefore respectfully ask the Task Force to raise IGM and extraterritorial violations with New Zealand, referring to art. 5(a) and the CEDAW-CRC Joint General Recommendation on harmful practices.