



INTERSEX LEGAL MAPPING REPORT

Global Survey on Legal Protections for People
Born with Variations in Sex Characteristics

2023

ilga
world

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INTERSEX LEGAL MAPPING REPORT

**Global Survey on Legal Protections for People
Born with Variations in Sex Characteristics**

**Sex Characteristics Programme
2023**

ilga.org

Intersex Steering Committee Foreword

By Crystal Hendricks,¹

Chair of the ILGA World Intersex Steering Committee

The past fifteen years have seen a rapid increase in legal developments emerging to improve the situation of intersex individuals, while very few studies have investigated the legal situation of intersex people worldwide. I am honoured to introduce the Intersex Legal Mapping Report, a piece of ground-breaking research on the legal protection of intersex people's rights across the globe. We hope that this publication will become a valuable resource for promoting, advancing, and advocating the human rights of intersex people at the national and international levels.

The Report demonstrates the worrisome lack of legal protection of intersex people's rights to bodily integrity, autonomy, and self-determination, as well as the limited number of attempts to protect equal enjoyment of human rights on the ground of sex characteristics. However, this research also illuminates the significant progress of intersex civil society, as most of the developments examined in this Report are a testament to the tireless work of the intersex community and our allies.

Moreover, this document provides a unique perspective on the lessons and challenges in advocating for legal reform faced by intersex individuals and their communities, as it is reflected in the interviews. The Report helps to amplify the voices of intersex advocates who have achieved important milestones for our movement in their respective countries. Moreover, the Report provides a comprehensive overview of intersex human rights developments at the international level that can help guiding future efforts of international advocacy.

We hope that this Report will serve as a tool for identifying better legal practices and areas where laws need to be improved. However, this Report is not the end of a journey, but a starting point for further research and advocacy. It is crucial to continue research and analyse existing legal protections, identify gaps, and advocate for change to ensure that present and future laws provide necessary protection for intersex people to live with care, dignity, and respect.

On behalf of the Intersex Committee of ILGA World, I would like to express our gratitude to the ILGA World's Sex Characteristics Programme, staff members, and external contributors for their hard work and commitment to this project. We want to take this opportunity to extend most profound appreciation and acknowledgement to Dennix, Oscar Fitzpatrick, Eliana Rubashkyn, Ilia Savelev, and Doug A Graffeo for their tireless efforts and dedication towards the development, research, and completion of the first Intersex Legal Mapping Report. Their hard work, commitment, and expertise have been instrumental in creating this ground-breaking and pioneering document. We would like to extend particular thanks to Ilia, for his high-end legal research, building the methodology, and his overall writing of the Report.

¹ **Crystal Hendricks** (she/her) Iranti, Crystal Hendricks is a queer intersex feminist womxn. She is a human rights defender who has been at the forefront of advocating for policy change for intersex people in Africa, particularly South Africa. Crystal is the Intersex Programme Officer at Iranti, a regional organisation based in South Africa, and the acting administrator for Intersex South Africa. Crystal is also a Rainbow Advocacy fellowship scholar. She is the current Chair of the ILGA World Intersex Steering Committee and an Advisory Board member of the Intersex Human Rights Fund. Her desire to see intersex people freely exercising their rights and freedoms drives her to work tirelessly to ensure that intersex issues are the leading edge of policy discussions, and that intersex people are at the helm of driving such conversations.

Finally, we are grateful to intersex organisations and advocates for their insights for the Report, and dedication to the advancement of intersex rights worldwide. As we continue our work to foster legal and political reform to stop intersex people's human rights violations, we hope that this Report will serve as a catalyst for continued progress and change towards a world where intersex people are fully recognised and protected.

Authors' Preface

By Eliana Rubashkyn² and Ilia Savelev³

We are proud to present the Intersex Legal Mapping Report. This publication is produced in our good faith attempt to respond to the gap in knowledge on the legal situation of intersex people worldwide. The Report documents the legal developments aiming to improve the lives of people born with variations in sex characteristics with a thematic focus on intersex people's right to bodily integrity and equal enjoyment of their human rights.

The ambitious purpose of this pioneering legal survey is to serve as a credible resource for understanding, promoting, and advocating the human rights of intersex people at national and international levels. We hope that the Report will help to facilitate the fact-based dialogue among intersex civil society and institutional stakeholders to design laws and shape policies advancing the human rights of intersex people further in accordance with international human rights law obligations and demands of the intersex community.

Although this Report is by no means exhaustive, it highlights the spectacular achievements of the intersex movement, as well as the disturbing gaps in legal protection for intersex people across the globe. However, while the number of countries that adopt or attempt to adopt legal provisions for the benefit of intersex people is growing, there is no significant backtracking in legal protections already provided. Moreover, even imperfect laws raise awareness about the issue, and that might prevent some irreversible harm from happening. These findings, the ever-inspiring enthusiasm of intersex civil society, and the solid favourable trend observed in international human rights law give us hope for an optimistic future of legal protection for intersex people.

Finally, we would like to take this opportunity to acknowledge the hard work and dedication of all intersex individuals, organisations and legal experts, whose contributions were essential for shaping the Report's data and findings. We welcome constructive feedback and suggestions, and will continue our efforts for greater understanding, recognition, and protection of intersex individuals around the world.

² **Eliana (Eli) Rubashkyn** (they/them, she/her, he/him) is an intersex human rights advocate, activist, harm reduction scientist, and educator. They served as a consultant for the Gender Identity & Expression and Sex Characteristics Program at ILGA World, where they worked as an intersex program officer. Eliana graduated from the National University of Colombia and carried out studies in Public Health and Administration at TMU in Taiwan. They began their engagement in intersex activism in Aotearoa New Zealand upon their arrival as a quota refugee from Asia in 2014. Some of their areas of interest include intersex law reform; intersex, non-binary and trans international human rights advocacy; legal gender recognition. Eliana is also a co-founder of Rainbow Path, one of the first rainbow and intersex refugee peer-support associations in the Asia-Pacific.

³ **Ilia Savelev** (they/them, he/him) is a human rights lawyer, activist, and scholar. As a co-director of the Association of Russian Speaking Intersex (ARSI), Ilia navigates human rights advocacy in challenging socio-political environments and provides tailored legal assistance to intersex people and their families. In addition, Ilia has leveraged his extensive legal expertise in collaboration with ILGA World, Civil Rights Defenders, Human Rights First, Equal Rights Trust, and other reputable human rights organisations. Ilia holds an LL.B. in constitutional law and earned two LL.M. degrees in international human rights law from Kazan Federal University and Emory University School of Law as a Fulbright Program alumnus. Ilia's research interests include international human rights law in relation to sexual orientation, gender identity, gender expression, and sex characteristics; bodily integrity; equality and non-discrimination law; anti-gender opposition; vulnerability theory; freedom of information and technology.

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This section consolidates our appreciation of the numerous individuals and organisations that supported, facilitated, contributed, and assisted with the production of the Intersex Legal Mapping Report.

We extend our gratitude to ILGA World, its staff, and junior consultants. We would like to express our appreciation to **Julia Ehrt** and **Gurchaten Sandhu** for their encouragement, guidance, and leadership in developing this project. This Report also benefits significantly from the support and profound belief of the ILGA World Intersex Steering Committee members, especially **Crystal Hendricks**.

We are deeply grateful to **Denn Ix** for their support, ongoing follow-ups, valuable advice, and unparalleled patience in overseeing and coordinating the production of this document, addressing problems, and providing assistance with the logistics of this project. Special appreciation should be extended to **Lucas Ramón Mendos** for his help with the ILGA SOGIESC World Database and ILGA World Monitor, as well as suggestions and guidance in framing the Report's methodology. We also recognise the valuable contribution of **Oscar Noel Fitzpatrick** in delivering additional updates to the data in this document and overseeing its finalisation for publication. Finally, we acknowledge the assistance of the ILGA World operations team for their support with reporting, payments, and contractual facilitations.

We express our deepest appreciation to **Doug A. Graffeo** for their extensive, ongoing assistance in collecting, validating, evaluating, and researching data, and for their support in organising interviews for this Report, minute taking, and liaising with intersex civil society. Their continuous dedication and hard work were essential to producing this publication. In addition, we had great pleasure working with **Prashant Singh** and **Gemma Harte**, who extended a great amount of editorial assistance, and **Lukas Berredo**, who was instrumental in laying out and visualising the print design and art for this Report. Thanks should also go to **Jo C. G. Matos** for their help in organising references.

We are deeply indebted to several experts who reviewed this publication. We are incredibly grateful to **Dr Mitchell Travis**, **Dr Fae Garland**, **Dr Nikoletta Pikramenou**, and **Daron Tan** for their significant contributions, original suggestions, constructive criticism, and helpful advice. Their dedicated attention to detail, invaluable expertise in the field, and thoughtful questions helped significantly to improve the Report. We appreciate the time and effort they invested in providing insightful feedback, as well as their relentless commitment to the review process.

Words cannot express our gratitude to the following individuals who participated in a series of interviews for the Report's production. Their contributions will help readers of this document understand the nuances of the living realities of intersex people beyond the legal provisions. These first-hand accounts of the challenges, loopholes, and strategies used to achieve legal change in their countries provide valuable insights for other intersex civil society organisations working in this field. Their participation in this study helped to provide a wider understanding of the impact and enforcement of some of the legal developments discussed in the Report in practice. We are truly grateful for their willingness to share their knowledge, personal stories, expertise, and experiences advocating for legal change:

- Ana Ma, Colombia
- Clara Montesdeoca, Spain
- Gopi Shankar, India
- James Karanja, Kenya
- Kitty Anderson, Iceland
- Rinio Simeonidou, Greece
- Santiago Mbanda Lima, Portugal
- Tony Briffa, Malta

We would also like to extend our profound appreciation to intersex organisations, intersex activists, and allies of the intersex movement, who provided information and participated in offering feedback relevant to their countries and regions, as well as the submissions received electronically by intersex civil society at the ILGA World Intersex Pre-conference in Los Angeles in May 2022.

We appreciate the time, energy, and expertise of each and every one of these organisations and individuals, and we are deeply grateful for their contributions to this document. Their participation and feedback were vital in improving and verifying the data of this Report by making it more inclusive, accurate, comprehensive, and aligned with the goals and objectives of the intersex community. We are deeply grateful for their dedication and commitment to this project and the advancement of intersex rights worldwide.

Organisations

- Ação pela Identidade
- Associação Brasileira de Intersexos (ABRAI)
- Association of Russian Speaking Intersex (ARSI)
- Bangladesh Intersex Forum
- Beyond the Boundary Knowing and Concerns Intersex
- Brújula Intersexual
- Caminar Intersex
- Campaign for Change
- Gehitu
- InterACT Advocates for Intersex Youth
- Intersekse Vlaanderen
- Intersex Advocate Trust Zimbabwe
- Intersex Aotearoa (New Zealand)
- Intersex Asia
- Intersex Community of Zimbabwe
- Intersex Greece
- Intersex Human Rights Australia
- Intersex Iceland
- Intersex Ireland
- Intersex Nigeria
- Intersex Venezuela
- Intersexioni
- Ivy Foundation
- Keywatch Ghana (Intersex Ghana)
- MULABI - Espacio Latinoamericano de Sexualidades y Derechos
- Organisation Intersex International Europe
- Intersexuales Chile
- Pema Kenya
- Rainbow Identity Organisation
- Secure Mom n Child
- Srishti Madurai
- Tanzania Voice of Humanity
- The Houston Intersex Society
- UN Free & Equal Vietnam
- Upendo Rights Advocacy Initiative Uganda
- Variable Care Society Kenya
- Anonymous organisations from Africa, Asia, and Europe

Individuals

- Ally Grey
- Asmi Ananda Molina
- Chola Mumba
- Clara Barry
- Dan Christian Ghattas
- Esan Regmi
- Emmanuelle Verhagen
- Faith Blessing
- Hiker Chiu
- Irfan
- Irene Kuzemko
- Julian Parra
- Kimberly Zieselman
- Koomah
- Laura Inter
- Mani Mitchell
- Michael Kreuzer
- Morgan Carpenter
- Natasha Jiménez Mata
- Nelly Samuel
- Obioma Chukwuike
- Phong Tran
- Ronie Zuze
- Small Luk
- Shone Adjei
- Sylvan Fraser
- Thais Emilia
- Thandiwe Ngwenya
- Patinube
- Anonymous individual

Finally, this project would not have been possible without the financial support of the **European Union's European Instrument for Democracy and Human Rights (EIDHR)**, **Astraea Lesbian Foundation for Justice**, and the **Swedish International Development Cooperation Agency (SIDA)**. Thank you for your trust and unwavering belief in our work.

Methodology

This section offers an insight into the concepts, structure, scope, and limitations of the Report and clarifies the reasoning behind the way we gather, classify, and present information.

Understanding Intersex

This non-exhaustive educational overview aims to briefly guide the reader through terminology used in this Report to describe and analyse intersex issues in accordance with its scope.⁴

Intersex is an umbrella term describing a wide range of innate variations in bodily sex characteristics. Intersex variations may manifest at different stages of life or remain unknown to or hidden from an individual born with one of these variations.⁵ It has been estimated that up to 1.7 per cent of the human population is born with intersex traits.⁶

Sex characteristics are each person's physical features and traits relating to sex, including chromosomes, gonads, hormones, genitalia, and other sexual and reproductive anatomy, as well as secondary physical features emerging from puberty.⁷

Intersex people are born with sex characteristics that do not fit typical definitions or expectations for male or female bodies. To illustrate, intersex people may have variations in the number of sex chromosomes, a combination of internal and external reproductive organs, levels of sex hormones, and other intersex traits. In contrast, **endosex** people have sex characteristics conforming to expectations for male or female bodies.

Some people born with variations in sex characteristics identify as being "intersex", while others describe themselves as individuals who have an "intersex variation" or "intersex traits". However, some people born with variations in sex characteristics (as well as their families and medical practitioners) may refer to themselves with diagnostic language⁸ for various reasons, especially in a medical context, while others are unaware of alternative terminology.⁹

⁴ We recognise that some people may object to the presented terms based on their individual experiences and identities.

⁵ The Intersex community described some of these distinct intersex variations as 5-Alpha Reductase Deficiency (5-ARD); 17-Beta Hydroxysteroid Dehydrogenase Deficiency (17-Beta); Androgen Insensitivity Syndrome (AIS); Anorchia; Aphallia; Aromatase Deficiency; Aromatase Excess Syndrome (Hyperestrogenism); Bladder Exstrophy; Clitoromegaly; Cloacal Exstrophy; Chimerism; Congenital Adrenal Hyperplasia (CAH); Congenital Chordee; Cryptorchidism; De La Chapelle Syndrome; Epispadias; Estrogen Insensitivity Syndrome (EIS); Follicle-Stimulating Hormone (FSH) Insensitivity; Fraser Syndrome; Genital Hypoplasias; Gonadal Dysgenesis; Hyperandrogenism; Hypogonadism; Hypospadias; Isolated 17,20-Lyase Deficiency (ILD) Jacobs Syndrome; Kallmann Syndrome; Klinefelter Syndrome; Leydig Cell Hypoplasia; Luteinizing Hormone Insensitivity; Mayer-Rokitansky-Küster-Hauser Syndrome (MRKH); Micropenis; Mosaicism (involving sex chromosomes); Müllerian Duct Variations; Ovotestes; Penoscrotal Transposition; Persistent Müllerian Duct Syndrome (PMDS); Progesterin-Induced Virilisation; Polycystic Ovary Syndrome (PCOS); Swyer Syndrome (Complete Gonadal Dysgenesis); Trisomy X (Triple XXX Syndrome); Turner Syndrome (XO Syndrome); Vaginal Atresia; XYYY Syndrome – Note that this list is by no means exhaustive. See InterACT, [Intersex Variations Glossary: People-Centered Definitions of Intersex Traits and Variations in Sex Characteristics](#), 26 October 2022; Tiffany Jones et al., [Intersex: Stories and Statistics from Australia](#) (Cambridge: Open Book Publishers, 2016), 83.

⁶ Melanie Blackless et al., "How Sexually Dimorphic Are We? Review and Synthesis", *American Journal of Human Biology* 12, no. 2 (2000): 151–66.

⁷ Mauro Cabral Grinspan et al., [The Yogyakarta Principles plus 10. Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta](#), 10 November 2017, 6.

⁸ Medical practitioners and institutions often use diagnostic terms such as "intersex condition" or disorders (differences, divergence) of sex development, sometimes abbreviated as DSD, as well as other terms (for example, "ambiguous genitalia" and "congenital or genital malformation"). The intersex community widely rejects these terms as inherently medicalising, pathologizing, stigmatising, and encouraging harmful non-consensual medical interventions aiming to modify intersex persons' sex characteristics. See Jonathan Sholl, "The Muddle of Medicalization: Pathologizing or Medicalizing?" *Theoretical Medicine and Bioethics* 38, no. 4 (2017): 265–78; Alice Dreger, "Twenty Years of Working toward Intersex Rights" in Françoise Baylis and Alice Dreger (eds.), *Bioethics in Action* (Cambridge: Cambridge University Press, 2018).

⁹ Therefore, any legal attempts to protect intersex people should consider and address the issue of cultural awareness and accessibility of protections provided. See Tove Lundberg, Peter Hegarty, and Katrina Roen, "Making Sense of 'Intersex' and 'DSD': How Laypeople Understand and Use Terminology", *Psychology & Sexuality* 9, no. 2 (2018): 161–73.

Discussions on intersex issues regularly involve notions of “sex” and “gender”, which are often conflated and confused, especially in languages that do not distinguish between these two terms.

Sex refers to the classification of individuals based on their sex characteristics.¹⁰ Often this classification happens at birth within categories of “male” and “female” on the basis of external reproductive anatomy, although sometimes other sex characteristics are used (chromosomes, hormonal profiles, gonads, etc.).

Gender refers to attributes, norms, behaviours, roles, relationships, expectations, and opportunities that a given culture or society associates with a person possessing certain biological sex characteristics. As a social construct, gender depends on the context and can change over time. While sex refers to bodily differences between individuals, gender describes socially, culturally, and psychologically constructed expectations for them.¹¹

In the process of socialisation, people develop a gender identity that represents an individual's deep, internal, and individual experience of gender. It is self-defined and may change over time.¹² Moreover, gender identity is independent of sex characteristics: many intersex people have a gender identity corresponding to their sex assigned at birth, while some intersex people do not.

In addition, sex and gender are different from “**sex marker**” or “**gender marker**” — the field in documents referring to the sex or gender identity of a person. Language of sex/gender markers may vary between documents and jurisdictions.¹³ The sex, sex characteristics, and gender identity of a person may or may not correspond to their gender marker. For example, an intersex person may be born with some sex characteristics that are expected to appear mostly in “male” endosex bodies, such as XY chromosomes, but have “female” endosex appearance, “female” marker in their identity documents, and have a gender identity of a “woman”.¹⁴

Many traditional social and legal norms around the world are, explicitly or implicitly, rooted in the idea that there are only two genders corresponding to two distinct and opposite biological sexes of individuals with neatly aligned sex characteristics. As a result, proving this idea false, intersex people are often subjected to pathologisation, stigmatisation, violence, and multiple other human rights violations and abuses.

Intersex people report discrimination in education, sport, employment and services, violence, and expressions motivated by prejudices against intersex traits. In addition to bias related to their sex characteristics and gender, intersex people may experience the effects of stereotypes and prejudices against people of diverse sexual orientation,¹⁵ women, people with disability, and other populations.

However, one of these most disturbing and egregious abuses of intersex people's human rights is the ongoing practice of medical interventions modifying intersex people's sex characteristics performed without their free, prior, personal, and fully informed consent. Such interventions

¹⁰ For the discussion about modern understanding of “sex” see Tereza Hendl and Tamara Kayali Browne, “Ongoing debates and future directions” by in Wendy Rogers et al., *The Routledge Handbook of Feminist Bioethics* (Abingdon: Taylor & Francis, 2022).

¹¹ See generally “[Gender and Health](#)”, World Health Organisation, accessed 25 October 2022; Council of Europe Committee of Ministers, [Convention on Preventing and Combating Violence against Women and Domestic Violence](#), 11 May 2011; “[Concepts and Definitions](#)”, European Institute for Gender Equality, accessed 25 October 2022; “[Sex and Gender](#)”, Council of Europe, accessed 25 October 2022; Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity, [The Law of Inclusion Report of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity](#), Victor Madrigal-Borloz, A/HRC/47/27, 3 June 2021, para 13.

¹² Mauro Cabral Grinspan et al., [The Yogyakarta Principles plus 10. Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta](#), 10 November 2017, 6.

¹³ For example, “M”, “F”, “X”, “other”, “intersex”, “unspecified”, “non-binary”, etc.

¹⁴ For example, among individuals with Swyer variation or Partial and Complete Androgen Insensitivity.

¹⁵ Sexual orientation refers to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender. Like all people, intersex people may have any sexual orientation. See Mauro Cabral Grinspan et al., [The Yogyakarta Principles plus 10. Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta](#), 10 November 2017, 6.

include surgeries altering the appearance, shape, and size of genitalia; procedures modifying or removing elements of reproductive anatomy; hormonal interventions; and other associated practices.¹⁶ Sometimes, these interventions are referred to with the term “intersex genital mutilations” (IGM),¹⁷ which highlights commonalities of justifications and harmful consequences between non-consensual medical interventions on intersex people and “female genital mutilations” (FGM).¹⁸

Medical practitioners perform non-consensual medical interventions on intersex people, often during childhood, for cultural and social reasons, and without any therapeutic necessity. The typical justifications for the interventions are aligning intersex people's physical traits with social expectations for male or female bodies,¹⁹ stereotypes about the future gender and sexuality of intersex people, alleviating parental distress, reducing the risk of stigmatisation of a child, financial and technical considerations, and other non-medical reasons.²⁰ None of these reasons are sufficient to justify a medical intervention without free, prior, personal, and fully informed consent of an intersex individual who has a right to make decisions about their own body.

Another common justification of non-consensual medical interventions on intersex people is health benefit claims, despite the lack of clinical consensus or conclusive medical evidence about the necessity, positive long-term outcomes, and timing of these interventions.²¹

On the contrary, there are numerous testimonies of intersex people about the life-long negative consequences of such interventions, such as chronic pain, scarring, incontinence, loss of sexual sensation and function, loss of fertility, the need for lifelong hormonal therapy, depression, and PTSD.²²

All these abuses jeopardise and prevent intersex people's peaceful enjoyment of their internationally recognised human rights. When States fail to legally prohibit and investigate human rights abuses committed under their jurisdictions by non-state actors and hold them accountable, these States violate human rights guaranteed under international law.²³ This Report explores the legal frameworks that States around the world adopted to provide protection for intersex people's right to bodily integrity and equal enjoyment of their human rights in accordance with the demands of the global intersex community and obligations under international human rights law.

¹⁶ These intervention “may include surgeries, such as labiaplasties, vaginoplasties, clitoral cutting, clitoral “recession” and other forms of clitoral removal, gonadectomies or gonadal “repairs”, hypospadias “repairs”, phalloplasties and other forms of penile augmentation surgeries, other forms of urogenital surgeries, procedures also include prenatal and postnatal hormonal interventions, and associated practices seeking to enforce and normalise gender assignment. Associated practices may include genital dilation, repeated genital examinations, post-surgical sensitivity testing, genetic selection, and medical photography”. Morgan Carpenter, “[Intersex Variations, Human Rights, and the International Classification of Diseases](#)”, *Health and Human Rights* 20, no. 2 (December 2018): 205-214, 208.

¹⁷ See “[Intersex Genital Mutilation](#)”, *Organisation Intersex International Europe*, 4 February 2021.

¹⁸ Female Genital Mutilation (FGM) refers to all procedures that involve partial or total removal of external female genitalia, or other injury to the female organs for non-medical reasons. FGM as a practice is based on normative socio-cultural ideas about women's bodies and gender roles. It is universally recognised as a serious violation of the human rights of women and girls and an extreme form of discrimination. See “[Female Genital Mutilation](#)”, *World Health Organisation*, 21 January 2022.

¹⁹ Medical practitioners may refer to these interventions as “normalisation”, “virilisation”, “feminisation” procedures; sex, gender or genital “correction”, “treatments”, “cosmetic enhancement”, “reconstruction”, “assignment”, “reassignment”, “repair”, “recession”, and use other similar terms. Morgan Carpenter, “[Intersex Variations, Human Rights, and the International Classification of Diseases](#)”, *Health and Human Rights* 20, no. 2 (December 2018): 205-214, 208.

²⁰ Kyle Knight, “[‘I Want to Be Like Nature Made Me’ Medically Unnecessary Surgeries on Intersex Children in the US](#)”, *Human Rights Watch & InterAct*, July 2017; “[Submission to the Australian Human Rights Commission on Protecting the Rights of People Born with Variations in Sex Characteristics in the Context of Medical Interventions](#)”, *Intersex Human Rights Australia*, 30 September 2018.

²¹ A number of medical interventions performed with regard to intersex variation, which may be considered medically necessary is very limited (for example, procedures addressing inability to urinate, fatal salt-loss, extrophic conditions, and high risk of gonadal tumours). See, Kavot Zillén, Jameson Garland, and Santa Slokenberga, “[The Rights of Children in Biomedicine: Challenges Posed by Scientific Advances and Uncertainties](#)”, *Council of Europe Committee on Bioethics*, 16 January 2017, 43.

²² Kyle Knight, “[‘I Want to Be Like Nature Made Me’ Medically Unnecessary Surgeries on Intersex Children in the US](#)”, *Human Rights Watch & InterAct*, July 2017; Moreover, these interventions subject intersex children to the risks associated with anesthesia without therapeutic reasons. See Francisco J Schneuer et al., “The Impact of General Anesthesia on Child Development and School Performance: A Population-Based Study”, *Pediatric Anesthesia* 28, no. 6 (2018): 528–36.

²³ See essay “International Human Rights Law for Intersex People: The Road from Awareness to Accountability”; [Human Rights Violations against Intersex People. A Background Note](#), Office of the United Nations High Commissioner for Human Rights (Geneva: 2019), 12.

General Considerations

Structure

The core of this research is compiled under the “[National Legal Developments](#)” section. It consists of 1) country profiles documenting national laws and other legal developments in accordance with the scope of the Report, complemented with relevant recommendations of United Nations Treaty Bodies; 2) a summary table displaying our assessment of legal protections afforded in each jurisdiction; 3) two maps visualising progress in legal protection of intersex people’s right to bodily integrity and equal enjoyment of human rights in the world. The conclusions from this research are presented in the section “[Main Findings](#)”.

In addition, this publication includes two sections that help our readers to place national legal developments in context. Firstly, although the Report does not aim to reflect the living realities of intersex people on the ground under each jurisdiction, this publication includes a section called “[Intersex Civil Society in Action: Lessons from Advocating for Legal Reform](#)”, which is based on interviews with local intersex activists. In this section, prominent intersex advocates provide unique insights into the practical aspects of advocating for and implementing legal protections in their respective countries.

Secondly, the Report contains the essay, “[Forging Accountability: Evolution of Intersex Human Rights in International Law](#)”, outlining the developments related to intersex issues in international human rights law. This comprehensive overview highlights the victories of the intersex people’s movement at an international level, and allows our readers to understand the national authorities’ failures and successes in compliance with their obligations under international human rights law.

Scope

The principal goal of this Report is to collect information on progressive national legal developments in two main areas: 1) intersex people’s right to bodily integrity and autonomy²⁴ and 2) intersex people’s equal enjoyment of their human rights. To this end, we focus on identifying the relevant legal norms that make explicit or implicit reference to intersex people and their sex characteristics.

Accordingly, this Report constitutes a compilation of references to various legal provisions regulating: 1) restrictions of non-consensual medical interventions modifying sex characteristics of intersex people; 2) liability for discrimination and other offences committed against people born with variations in sex characteristics, and other laws related to intersex people’s equal enjoyment of their human rights (for example, intersex-specific provisions in penitentiary law).

The Report aims to identify the sources of law with binding legal force - primarily legislation. Although the Report offers occasional references to official regulations, resolutions, and draft laws, these sources were not systematically tracked. Moreover, the Report does not aim to include information on governmental policy documents, reports, recommendations, research, events, campaigns, census, consultations, inquiries, funding, and other similar developments.

The Report aims to document legal developments and legal provisions in force as of July 2023. Although our foundational research and interviews were finalised before October 2022, in our best effort we incorporated subsequent developments and updates up to July 2023. Furthermore, some references to the historical legal developments are provided. All national legal developments are presented in reverse chronological order by year unless the linear order better illustrates the

²⁴ We understand the right to bodily integrity as a right to be free from unjustified interference into one’s own body (regardless of individual’s capacity to give consent) and right to bodily autonomy – as a right to exercise informed and independent control over one’s own body, including ability to give effective consent for any interventions. The distinction between the two concepts is insignificant for the purpose of this Report. Therefore, in this publication these terms are used interchangeably.

legal history of the relevant norms. Jurisdictions are listed in alphabetical order and under regional groups in the table according to their constituent ILGA Chapter geographic regions.

Sources and limitations

The core information for the Report was assembled with the help of the **ILGA SOGIESC World Database**²⁵ and **ILGA World Monitor**.²⁶ In addition, the Authors used a wide range of sources, including official governmental websites, publications in media outlets, academic articles, reports of national and international human rights organisations and bodies, and personal engagements with intersex activists in professional networks. Although the Report prioritised providing hyperlinks to a primary governmental source for every entry, it might cite other sources where the official source was unavailable.

We are aware that there are other legal developments containing direct references to intersex people, for example, in such areas as legal gender recognition or registration at birth. However, this Report prioritises bodily integrity and equal enjoyment of human rights as the areas of the intersex community's utmost concern. These categories were chosen as they correlate with the critical demands of the intersex community and serve as optimal criteria befitting the mapping aspect of the Report. The information on additional areas of laws pertaining to intersex issues might be found in other documents produced by ILGA World and other organisations.²⁷

Moreover, the Report does not claim to identify all the laws pertaining to its thematic scope. Given the relative novelty of the term "intersex" in the legal field, and barriers to access and interpretation of legal sources, it is possible that some legal norms referring to intersex people escaped our consideration. Thus, the Report should not be seen as an exhaustive quantitative study but rather as an earnest attempt to consolidate the existing body of knowledge for advocacy and research purposes.

Furthermore, the Report's data shall be interpreted taking into account that an in-depth analysis of the human rights situation for intersex people on the ground is outside of the scope of the present Report. Although the existence of laws aiming to protect the rights of intersex people might demonstrate the progressive political will of legislative authority at a specific moment, it by no means can fully reflect the current living realities of intersex people in a particular country. The enforcement and efficiency of these legal provisions should be examined in further studies.

One additional consideration at the outset is that laws may not always be enough to address intersex people's needs efficiently. In some areas, the most effective protection for intersex people should see law, policy, and medicine working in conjunction and cooperation with intersex persons to support and protect them throughout their lives.²⁸ Nonetheless, the law offers an important symbolical value, highlighting to intersex people, their families, and society that their rights are recognised and valued.²⁹

In our best attempt at translation, we occasionally quote the specific terms that the lawmakers use to construct relevant legal norms. Given the paramount role that language plays in intersex

²⁵ ILGA World SOGIESC Database, is a platform that provides easy access to granular information on the SOGIESC legal framework of 193 UN Member States, 47 non-UN Member jurisdictions and numerous sub-national jurisdictions. It also brings into one platform all the developments on SOGIESC issues from UN Human Rights Mechanisms, including Treaty Bodies, Special Procedures and the Universal Periodic Review.

²⁶ ILGA World Monitor keeps track of events, and information relevant to SOGIESC issues around the globe, as reported by local, regional and international media outlets, civil society organisations, governmental agencies, human rights bodies, academia, and other relevant stakeholders. The monitor allows an easily accessible and an expansive collection of digital content about sexual orientation, gender identity and expression, and sex characteristics. The monitor allows users to quickly scan for relevant developments in areas of particular interest, search for articles pertaining to specific countries, identities or events, or zoom out and view trends from a broader, more holistic perspective.

²⁷ E.g., Zhan Chiam, Sandra Duffy, Matilda González Gil, Lara Goodwin, and Nigel Timothy Mpemba Patel, *Trans Legal Mapping Report 2019: Recognition before the Law* (Geneva: ILGA World, 2020).

²⁸ See Fae Garland and Mitchell Travis, *Intersex Embodiment: Legal Frameworks beyond Identity and Disorder* (Law, Society, Policy) (Bristol: Bristol University Press, 2022).

²⁹ See Fae Garland and Mitchell Travis, "Legislating Intersex Equality: Building the Resilience of Intersex People through Law", *Legal Studies* 38, no. 4 (2018): 587–606.

human rights advocacy, we believe that accurate references to sometimes incorrect, outdated, and triggering language³⁰ used in legal texts can serve as an important analytical tool for reflection and future reforms. Quoting these provisions shall in no way be construed as our approval or recommendation for utilising this language.

Finally, as we strive to expand this body of knowledge over time, we welcome our readers to send us constructive feedback on the data presented in the Report. If you have any suggestions, corrections, or queries with regard to this publication, please contact ILGA World at info@ilga.org.

³⁰ E.g., “intersexuals”, “sexual characteristics”, “intersexuality.”

Measuring and Mapping Legal Protection of Intersex People in the World

Introductory Remarks

One of the significant challenges in analysing and categorising attempts to legally protect intersex people is that there is no consensus around language and terminology that should be used to address the needs of the intersex community. There is a unanimous principal agreement in the global intersex community on its most urgent demands, such as ending harmful and non-consensual interventions on intersex children and effective protection of intersex people from discrimination. However, the complexity of issues and the inherent features of the legal realm, for example, expectations of terminological and procedural precision, make it challenging to translate intersex people's needs into the language of the law. This combination of factors results in the growing diversity of legal provisions and models that pursue the same goals but with varying degrees of success.

However, unlike a descriptive comparative law study, any legal mapping report needs not only to establish limits defining the scope of research but also to suggest specific criteria to assess the data collected. This chapter clarifies our thinking behind measuring the legal provisions related to intersex rights in the Report.

Firstly, we must define the scale of progression and establish extremes. We adopt the traditional approach of ILGA World's reports to evaluate measures aiming to advance the human rights situation of the affected community under the category of "protection". The bottom line for this category is "no protection". In the Report, this term refers to a lack of legislative provisions aiming to address the specific needs of the intersex community and implement relevant international human rights bodies' recommendations in accordance with the thematic scope of the Report. However, defining the other extreme is a more challenging task.

Protection of intersex people's human rights to bodily integrity and autonomy requires a wide variety of strictly legal and broader public policy measures.³¹ Therefore, the mere introduction of a prohibition of non-consensual medical interventions, although crucial, is not enough and does not indicate or define the level of protection of the right to bodily integrity in a linear way.

Similarly, achieving full equality in the enjoyment of all human rights for intersex people requires adopting comprehensive legislation prohibiting discrimination on the ground of sex characteristics in all areas of life, establishing adequate liability for offences and expressions motivated by prejudices against sex characteristics, conducting awareness raising campaigns and relevant training of all relevant professionals, a complete revision of all existing legal provisions to include the needs of intersex people and other measures.

As indicated in the "Main Findings" section, the scope and degree of the existing attempts vary greatly and no jurisdiction in the world provides "full" protection of intersex people's rights yet. Therefore, this Report evaluates the progress in protecting intersex people's rights on a scale from "no protection" to "more protection".

Secondly, we must choose how to categorise the data we gathered through our research and decide which differences among relevant legal provisions constitute a meaningful distinction in the level of protection in a given jurisdiction. Firstly, these criteria and categories should reflect

³¹ To respect, promote, protect and ensure these rights, the authorities should adopt comprehensive legislation that contains specific guarantees of free, prior, personal, and fully informed consent; full disclosure and extension of the medical records retention period, including medical history related to intervention, the content of consent and consultations provided to an intersex person and their family; access to free and quality counselling for an intersex person and their family; obligations to develop the human-rights based standards of care and treatment of intersex patients and educate medical and other professionals on the needs of intersex people; guarantees of effective access to justice and redress for the victims of non-consensual medical interventions, including establishing specific adequate criminal sanctions and increasing relevant statutes of limitations; extraterritorial protection from interventions; law reviewing and enforcement monitoring mechanisms; and other complementary provisions.

the critical demands of the intersex community and be in line with contemporary human rights standards. Secondly, they should be broad enough to comfortably apply them to a variety of legal provisions from different legal systems and traditions.

Before the analysis of specific categories, it can be said that at least two universal criteria play an important role in assessing countries' progress in protecting equality and bodily integrity for intersex people.

The first criterion is a **source of law**. We prioritise jurisdictions that introduced legal protections for intersex people in codified laws. Given their nature, statute laws are more legally secure and allow to provide more explicit and complex protection than judicial decisions, regulations, or official interpretations of the law.³² In addition, the legislative process allows broader participation of intersex civil society in drafting the legal norms. Moreover, the introduction of a law protecting the rights of intersex people has a symbolic meaning, as well as raises public awareness of the legal protections afforded.

The second criterion is **jurisdictional scope**. We prioritise countries with nationwide legal provisions rather than subnational restrictions that effectively allow abuses of intersex people's human rights to happen in other jurisdictions of the same country. The following discussion presents considerations informing our classification and analytical thresholds for each of the two main areas of the Report.

In the following pages, we present analytical categories for the two main focus areas of the Report, as well as our thinking behind them.

Scale I. Prohibition of Medical Interventions Modifying Sex Characteristics of Intersex Minors without their Free, Prior, and Fully Informed Consent

This Report measures the progress of countries in protecting intersex people's right to bodily integrity and autonomy through examination of whether they adopted nationwide legislation containing **prohibition of medical interventions modifying sex characteristics of intersex minors without their free, prior, and fully informed consent**.³³ Based on the criteria thoroughly explained below, we will classify the countries into the following categories:

[Prohibition and Liability]

This category is awarded to the countries that adopted national legislation both prohibiting medical interventions on sex characteristics of intersex minors without their free, prior, and fully informed consent, and establishing specific sanctions for violating the prohibition. As of July 2023, only **Greece** and **Malta** adopted legislation that reached the threshold of this category.

[Prohibition]

This category is granted to the countries that adopted national legislation prohibiting medical interventions on sex characteristics of intersex minors without their free, prior, and fully informed consent without establishing specific criminal sanctions for violating the prohibition. As of July 2023, such legislation was adopted in **Germany, Iceland, Portugal, and Spain**.

³² For examples of backtracking of protections provided, see Chile and USA entries in the National Legal Developments section. Moreover, the scope limitations of judicial decisions and regulations do not allow to provide full and effective protection of the intersex people's rights which require a holistic approach. E.g. "[Statement from Srishti Madurai: Welcoming the Government Order Issued by Tamil Nadu Government Banning the Sex Reassignment Surgeries on Intersex Children](#)", *Srishti Madurai Blog*, 28 August 2019.

³³ In this Report, "medical interventions modifying sex characteristics of intersex minors without their free, prior, and fully informed consent" are sometimes referred to as "non-consensual medical interventions on intersex minors".

[Partial Restrictions]

This category contains countries that have nationwide legal acts (including laws, regulations, high courts' decisions, or mandatory health protocols) in force aiming to restrict medical interventions on the sex characteristics of intersex minors. This category is created for the legal developments representing official attempts to offer protection for intersex minors that do not meet the threshold of other categories because of their substandard guarantees.

[No Restrictions]

This category is inclusive of all other countries.

Rationale

The first urgent and critical demand of the global intersex community is to end the abuses of their human right to bodily integrity, autonomy, and self-determination. Among multiple legal provisions aiming to achieve this end, we prioritised identifying legal barriers that were introduced to prevent these abuses from happening. To describe these barriers in this Report, we use the term “**restrictions**” to reflect the variety of degrees in legal protection ranging from, for example, the necessity to ask for the opinion of a child, to the total prohibition of certain types of medical interventions. Some of these restrictions provide more protection to intersex people's rights to bodily integrity and autonomy as they better reflect the demands of intersex civil society and recommendations of international human rights bodies. Which restrictions can be considered more protective than others?

In their best attempt to protect intersex people's right to bodily integrity and autonomy, the lawmakers must answer a set of typical questions in their specific socio-legal context. Which interventions are the object of the regulation; which of them are restricted and which are allowed? What is considered consent, and how exactly does it become informed? When, how, who can consent, and on which procedures? Who decides the capacity to consent? How are the decisions made, and who has oversight of them? To what extent should perpetrators be sanctioned, and how are the sanctions imposed?

Although we do not aim to answer these questions in this publication, we need to decide which specific features of these restrictions constitute a meaningful difference in the legal protection of intersex people's right to bodily integrity.

Firstly, it is essential to define the object of regulation. Multiple problematic practices can violate the right of intersex people to bodily integrity, ranging from non-consensual surgeries removing healthy organs to invasive genital examinations during regular health checks or unethical body searches. However, speaking of bodily integrity, intersex advocates systematically highlight and prioritise certain types of experiences they undergo in the medical context during their childhood.

This Report utilises the term “**medical interventions**” to refer to these experiences. While expressions like “practices”, “procedures”, “treatments”, and “mutilations” have specific utility in other contexts, we use the term “interventions” in this Report to encompass and highlight the invasive nature of surgeries, hormonal therapy, and any other measures that doctors might subject intersex people to, such as genital dilation. We call these interventions “medical”, meaning that they are prescribed, performed, and legitimised in a medical setting regardless of the actual therapeutic necessity or addressing genuine health-related problems.

What type of medical interventions should be restricted? In answering this question, intersex community, lawmakers, and human rights bodies utilise multiple terms — “forced”, “coercive”, “invasive”, “irreversible”, “deferrable”, “non-emergency”, “non-vital”, “cosmetic”, “medically unnecessary”, “sex-normalising”, “sex-assigning”, “sex-altering”, “harmful”, “experimental”, and the like. The choice of specific criteria to define and separate the condemned medical

interventions, for example, nature, purpose, consequences, consensuality, and deferability of intervention, depends on multiple factors, such as local intersex community recommendations, terminology inherent to a country's legal tradition, or the relevant legal framework. Therefore, preferring one of these models as a methodological category might exclude from the analysis legislation that utilises other models of restrictions. In addition, many of these terms being used in legal norms are subject to interpretation that can lead to loopholes, allow certain types of interventions, and narrow the scope of the restriction in other ways. Therefore, we need to find a term that can serve as an umbrella category, a minimum common denominator, both reflecting critical demands of the intersex community and suitable to encompass provisions in various legal frameworks.

From our analysis, most of the legal acts, recommendations of international human rights bodies, and the demands of the intersex community share the following understanding of what type of interventions should be restricted.

Firstly, intersex advocates call to restrict interventions that **modify sex characteristics** as opposed to any other medical interventions. We adopt the definition of “sex characteristics” set out in Yogyakarta Principles Plus 10 as “each person’s physical features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, hormones, and secondary physical features emerging from puberty”. We do not use terms referring to the purpose of intervention (for example, “aimed to modify”) as the formal justification by doctors for these interventions might conceal their true nature.

Secondly, it is interventions that are performed on **minors**. Minors have reduced legal capacity to give consent and effectively and autonomously defend their rights. Thus, they need special legal protection. In general, the term “minor” refers to “every human being below the age of eighteen years unless, under the law applicable to the child, the majority is attained earlier”, as defined by the Convention on the Rights of the Child.³⁴ However, the general age of consent for medical interventions varies from jurisdiction to jurisdiction.

We are aware that definitions relying on the legal identity of being “intersex” or having “intersex status” are subjected to interpretation and might potentially allow medical authorities to manipulate medical terms to define the protected individuals and avoid legal sanctions. However, in line with the thematic focus of this Report, we research legal norms aimed to prohibit medical interventions on **intersex** people regardless of whether the lawmakers used other appropriate terms to define the protected population (for example, people born with variations in sex characteristics).

Thirdly, given the autonomy of any person to make decisions about their bodies and take responsibility for these decisions, the essential demand of the intersex community is the prohibition of medical interventions that are performed **without consent**. For the purpose of this Report, in the spirit of UNESCO’s Universal Declaration on Bioethics and Human Rights, we understand that proper consent for the intervention should be **free, prior, fully informed, and personal**.³⁵

Consent is **free** when it is given without undue pressure or coercion, which can be ensured by, among other things, available psycho-social support, and confidentiality during the decision-making process. In addition, free consent may be withdrawn by the person concerned at any time and for any reason without disadvantage or prejudice.

Consent can be considered **prior** when it is given for the particular intervention before it is performed. The patient should be provided with sufficient time to allow their effective

³⁴ United Nations General Assembly, [Convention on the Rights of the Child](#), 20 November 1989, Article 1.

³⁵ The United Nations Educational, Scientific and Cultural Organisation, [Universal Declaration on Bioethics and Human Rights](#), 19 October 2005, Article 6; See also European Parliament, [Resolution on the Rights of Intersex People](#), No. 2018/2878 RSP, 14 February 2018, para D.

participation in the decision-making process (including seeking alternative opinions, forming their own, and providing and/or withdrawing consent before the intervention).

Consent can be considered **fully informed** when a patient is provided with high-quality information on the nature of the medical issue to be addressed; purpose, nature and scope of the proposed medical intervention; risks and benefits associated with the intervention; physical, psychological, and social outcomes (both short and long-term) of the intervention or refusing it; alternatives to the proposed intervention and their consequences; lack of data or consensus in the medical community and alternative views related to the medical issue and the intervention; access to peer support resources and communities; and other relevant information (for example, educational materials about sex and gender diversity). This information should be understandable for the patient, considering their age, mental health, and cultural circumstances, and provided in non-biased, plain, non-technical language and in a positive and empathetic manner.

Consent can be called **personal** when it is given by an intersex patient themselves as opposed to the consent given on their behalf by any other person or body (guardians, etc.). However, principles of bioethics allow making decisions on behalf of persons who are incapable of exercising bodily autonomy, and giving proper consent themselves if special measures are taken to protect their rights and interests, with special care for vulnerable groups, such as children.³⁶ In this case, the procedure of deciding on the medical intervention should be performed in accordance with domestic law, aiming exclusively to protect the best interests of the person concerned, and ensure their involvement in the decision-making process and giving consent to the greatest extent possible.

Unfortunately, the medical authorities and parents might creatively avoid these ethical decision-making requirements through interpretative pitfalls and loopholes of the legal acts aiming to protect the rights of intersex children. Therefore, the exact **model of exception from the principle of personal consent** is a significant factor that defines the efficiency of the restriction. The legislative authorities across the globe adopted or proposed to adopt multiple models of these guarantees, ranging from the general concern for the best interests of a child in communities of Spain or mandatory consultation of a geneticist in Kenya, to a thoroughly regulated judicial oversight mechanism in Greece.

Given the global variety of legal systems, the purpose of this Report is neither to prioritise any model of these guarantees nor to define what, how, and to what degree shall be considered “harmful”, “deferable”, or “medically necessary”. However, we understand that lawmakers aiming to protect intersex people from harmful interventions should develop, in close collaboration with local and international intersex communities, and legal experts, a precise language of restriction and guarantees for consent by proxy.³⁷ These guarantees should thoroughly describe exceptions from absolute prohibition, leaving zero legal and practical opportunities for doctors or judges to interpret the law in a way allowing for harmful medical interventions. That might be done, for example, by developing a strict definition of medical necessity³⁸ and the risk of harm to physical health; establishing robust, mandatory, independent oversight mechanisms for any proposed medical intervention on sex characteristics of an intersex minor; explicitly outlawing social, cultural, and cosmetic reasons for these interventions; and listing specific urgent life-preserving medical interventions and conditions of their performance.

³⁶ United Nations Educational, Scientific and Cultural Organisation General Conference, [Universal Declaration on Bioethics and Human Rights](#), 19 October 2005, Articles 5, 7, 8.

³⁷ When a patient is unable to give an informed consent to a proposed medical intervention, the medical provider requests consent to treatment from the patient's legally authorised guardians.

³⁸ For example, The Brussels Collaboration on Bodily Integrity proposed the following definition of medical necessity: an intervention to alter a bodily state is medically necessary when (1) the bodily state poses a serious, time-sensitive threat to the person's well-being, typically due to a functional impairment in an associated somatic process, and (2) the intervention, as performed without delay, is the least harmful feasible means of changing the bodily state to one that alleviates the threat. The Brussels Collaboration on Bodily Integrity, [“Medically Unnecessary Genital Cutting and the Rights of the Child: Moving Toward Consensus”](#), *The American Journal of Bioethics* 19, no. 10 (2019): 17–28.

As explained earlier, no jurisdiction in the world provides holistic legal protection for intersex minors from non-consensual medical interventions on their sex characteristics. Even the best of the current legal acts has some shortcomings compromising their quality, such as limited categories of protected individuals, inferior oversight mechanism of decision-making, the ambiguous language of exceptions from prohibition, narrow statutes of limitations and medical records retention periods, inadequate guarantees of informed consent, lack of sanctions and extraterritorial protection, and other legal defects. It is beyond the scope of the current edition of the Report to provide a granular analysis of all elements of protection in the collected sources. However, there are two factors that play an important role in our evaluation of the restrictions in the area of bodily integrity.

The first factor is the **model of restriction**. In order to be classified under the highest categories of the map, a country should adopt national legislation that, at minimum, **prohibits performing** medical interventions modifying sex characteristics of intersex minors without their free, prior, and fully informed consent. In addition, we consider whether the legislation contains specific **guarantees for consent by proxy**, such as narrowly formulated exceptions from prohibition; a robust, mandatory, independent oversight mechanism of decisions about excepted medical interventions; as well as additional guarantees, such as clearly naming excepted medical interventions and conditions for them.

The second factor is establishing **liability**. Protection of intersex people's right to bodily integrity and autonomy is ineffective if there are no adequate sanctions for violating the restriction in accordance with the human right to access justice and an effective remedy. This is a crucial element adding persuasive power that is necessary to prevent medical practitioners from performing non-consensual medical interventions on intersex minors' sex characteristics. We prioritise legislation that contains adequate and **specific sanctions** for violating the prohibition. General sanctions for the medical malpractice of causing bodily harm provide less protection because they might impose undue and excessive burden of proof on the vulnerable intersex victim of the intervention, as well as have other substantive and procedural complications.

Scale II. Prohibition of Discrimination on the Ground of Sex Characteristics

This Report measures the progress of countries in protecting intersex people's equal enjoyment of human rights through an examination of whether they adopted nationwide legislation containing the **prohibition of discrimination on the ground of sex characteristics**. Based on the criteria thoroughly explained below, we will classify the countries into the following categories:

[Prohibition and Liability]

This category is awarded to countries that adopted national legislation containing **both** the prohibition of discrimination on the ground of sex characteristics as an explicit separate ground and provisions related to liability for offences, inclusive of expressions and criminal acts, committed on the basis of sex characteristics.

[Prohibition]

This category is granted to the countries that passed national legislation containing the prohibition of discrimination on the ground of sex characteristics as an explicit separate ground.

[Unclear Protection]

This category contains countries that have national legislation aimed to prohibit discrimination against intersex people either on the ground other than sex characteristics or by including sex characteristics in the definition of discrimination on the other ground. At a minimum, this legislation or its official interpretation should make an explicit reference that is enough to

distinguish intersex people as the protected population or their physical sex characteristics as a protected ground.

[Limited Protection]

This category includes countries that have nationwide legally binding acts (including laws, regulations, and high courts' decisions) containing specific provisions introduced to improve intersex people's full enjoyment of their human rights, which do not meet thresholds of higher categories. For example, this category will include countries providing intersex people legal protection from discrimination that is significantly limited in protected areas of life or scope or population.

[No Protection]

This category incorporates every other country.

Rationale

Similar to bodily integrity, legal measures aiming to advance equality for intersex people might take various forms ranging from traditional models of liability for violating formal equality of treatment³⁹ to advanced substantive equality measures, such as a legal obligation to respect an intersex person's preferences in criminal procedure and penitentiary law or to conduct awareness raising campaigns. However, the consistent concern of the intersex community is multiple transgressions of state and private actors that often compromise intersex people's equal enjoyment of human rights in all areas of life because of their actual or perceived sex characteristics. Therefore, this Report will measure progress in the area of intersex people's equal enjoyment of their human rights by evaluating legal instruments to prevent, examine, and prosecute abuses of equality, in particular, provisions related to protection from discrimination, as well as liability for certain offences motivated by prejudices against intersex people.

We do not aim to define "discrimination" because intersex-relevant provisions are usually introduced as a part of a broader mechanism of national anti-discrimination law with various supporting substantive and procedural norms complemented by the relevant jurisprudence. For the same reasons, and given this Report's limitations, we do not differentiate between areas of life covered by legislation as long as the intersex-relevant ground is introduced into the general anti-discrimination laws. However, the scope and quality of protection from discrimination for intersex people might be strongly affected by the choice and definition of a ground of protection for the reasons described below.

Similar to the legal models surrounding the prohibition of medical interventions, there is a great variety of legal language used to formulate or expand anti-discrimination protections for intersex people.

A common problematic model of protection offered to intersex people is an expansive interpretation of existing grounds (such as "sex", "gender", "gender identity", "transgender", "genetic characteristics", "health", "disability", or "other status"). All these models are legally insecure as they are contingent on the subjective opinion of the interpretive body or the emergence, development, and success of a specific case in the court.⁴⁰ The interpretation-based protections can be easily rescinded with a change of political or judicial will and other factors. Moreover, the protection based on grounds established to address problems of other vulnerable groups might carry heavy judicial historical backgrounds, such as specific tests for adjudicating

³⁹ For the limitations of anti-discrimination law to address intersex issues, see Fae Garland and Mitchell Travis, "[Legislating Intersex Equality: Building the Resilience of Intersex People through Law](#)", *Legal Studies* 38, no. 4 (2018): 587–606.

⁴⁰ E.g., the United States of America entry in the National Legal Developments section.

these cases, and other methodological limitations that might not fit the needs of intersex people and lead to the dismissal of their case.

Sometimes, legislators introduce a new legal identity for a protected population, for example, being “intersex” or having “intersex status”, without providing an inclusive and accurate definition of these terms. These provisions might compromise the universality of protection because they preserve the power of medical and executive authorities to regulate victims’ access to justice by determining conditions to be considered “intersex” or having “intersex status” in a legal sense. In addition, identity-based models of protection might imply the burden of a victim to prove that they are “intersex” or have “intersex status” for the purpose of the law. Moreover, such protections can exclude intersex people who are unaware that they are intersex and intersex people who use other terms to describe themselves.

This Report adopts the term “**sex characteristics**” as a standard for assessing the legal situation with the protection of intersex people’s equal enjoyment of their human rights. This term has official recognition of the intersex community and is actively used on the international and national levels.⁴¹

Introducing sex characteristics as a separate ground into existing non-discrimination legislation provides intersex people with protection based on a comprehensive legal framework, including jurisprudence and law enforcement mechanisms, as opposed to ad hoc judicial attempts to justify the application of the other grounds to the intersex case. It has a symbolical and educational value because it sends a message about the importance of the distinct needs of intersex people and creates a mandatory and unequivocal methodological category for judges to analyse and address these needs.

Using the widely recognised term “sex characteristics” provides greater universality because it centres on the ground of distinction rather than the victim’s identity. This term makes protection more accessible as many intersex people informed by medical authorities are unfamiliar with the word “intersex”. Moreover, it covers intersex people who do not identify as intersex and intersex people who are unaware of their intersex variation. In addition, this ground provides protection to endosex people who can be perceived as intersex and discriminated against based on their sex characteristics. Finally, it protects the victims from re-traumatisation by proving that they are indeed “intersex” for the purpose of the law.

Therefore, in this Report, we will evaluate countries by analysing whether they adopted nationwide legislation containing the **prohibition of discrimination on the ground of sex characteristics**. In addition, we will take note of legislation aimed to protect intersex people from discrimination on other grounds. Furthermore, there are some other additional instruments that make the country stand out in their commitment to protect the equal enjoyment of human rights for intersex people.

Since discrimination is always an offence but not always a crime, we will consider whether a country adopted **legislation regulating criminal liability for offences motivated by a victim’s sex characteristics**. This legislation can take the form of establishing a stand-alone offence or introducing sex characteristics related motivation as an aggravating circumstance to be considered in the adjudication of punishment.

Another factor that will be taken into our consideration is whether a country passed **legislation prohibiting certain forms of expressions on the ground of sex characteristics**. For the purposes of this Report, we do not differentiate between the plethora of legal terms used to describe the

⁴¹ E.g., Mauro Cabral Grinspan et al., The Yogyakarta Principles plus 10. Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles, 10 November 2017; European Parliament, Resolution on the Rights of Intersex People, No. 2018/2878 RSP, 14 February 2018, para. 10; Parliamentary Assembly of Council of Europe, Promoting the Human Rights of and Eliminating Discrimination against Intersex People, Resolution 2191 (2017), 12 October 2017, para. 7.4.; For further discussion, see Pieter Cannoot and Sarah Ganty, “[Protecting Trans, Non-Binary and Intersex Persons against Discrimination in EU Law](#)”, European Equality Law Review 1, (2022): 37–55.

range of expressions considered harmful (insult, harassment, vilification, advocacy, promotion, incitement of hatred, revulsion, contempt, ridicule, discrimination, violence, segregation, negative stereotyping, stigmatisation, or threat, etc.).

We avoid the terms “hate crimes” and “hate speech” that are often used to describe social phenomena for advocacy purposes as there is a lack of consensual and precise legal definitions of these concepts. In addition, not all forms of “hate speech”, ranging from inappropriate jokes to incitement to violence, are prohibited and should be prohibited by legislation.⁴²

World Maps

This Report offers readers two complementary maps composed to visualise the global situation with regard to legislation aiming to protect intersex people’s right to bodily integrity and equal enjoyment of their human rights. The countries are measured by the following scales:

- **Prohibition of Medical Interventions Modifying Sex Characteristics of Intersex Minors without their Free, Prior, and Fully Informed Consent**
- **Prohibition of Discrimination on the Ground of Sex Characteristics**

The States are painted in colours representing their position on a progressive scale ranging from countries that adopted legislation offering a greater degree of protection, to countries that failed to adopt any legislation specifically aiming to protect the right to bodily integrity and equal enjoyment of their human rights for intersex people. In these maps, each country is painted in one colour, reflecting their highest category on the scale as of July 2023.

Classification of jurisdictions into one or another category reflects the Authors' conclusion on the application of the aforementioned criteria to the data at the moment of writing and can evolve over time. Also, it should be noted that the classification of the countries based on the legislation enacted does not reflect the living realities of intersex people on the ground.

The classification of the country that offers a greater degree of legal protection does not mean that the national legislation effectively protects intersex people’s human rights in practice. Moreover, it does not mean that this legislation should not be revised or may not be improved further. The abuses of intersex people’s human rights might continue to happen even in the countries that have the most progressive legislation at the moment. In addition, the maps do not reflect regressive and harmful developments that might aggravate the human rights situation of the local intersex community.

Furthermore, these maps are not intended to be used for cartographical reference. The shapes and borders of all countries have been simplified to improve the readability of the map. Many small islands, peninsulas, bays, and other geographical features have been deleted or altered to this end. Finally, nothing in the shape or borders of countries on these maps should be read as an indication of ILGA World’s position with regard to the international legal or political status of any territory.

⁴² See Daron Tan, “[Avoiding Overreach: Shaping State Responses to Anti-LGBTI Online Hate Speech in Southeast Asia](#)”, *Opinio Juris*, 18 June 2022; [Responding to Hate Speech against LGBTI People. Policy Brief](#), Article 19, October 2013.; Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, [Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression](#), A/67/357, 7 September 2012; See generally [Towards an Extension of the List of EU Crimes to Hate Speech and Hate Crime](#), *Organisation Intersex International Europe*, 20 April 2021

Intersex Civil Society in Action: Lessons from Advocating for Legal Reform

By Eliana Rubashkyn

This section centres on the experiences of intersex activists and advocates in their efforts to advance legal reform in their respective jurisdictions. Through a series of interviews, we gain insight into the challenges and successes of intersex civil society as they push for greater legal protection of intersex people's human right to bodily integrity and an end to discrimination based on sex characteristics. This chapter intends to serve as a source of inspiration for civil society hoping to advocate for legal reform and achieve justice.

The following interviews provide a nuanced understanding of the complex legal landscape and the ongoing efforts of intersex civil society when strategising legal reform and solutions in diverse and sometimes hostile socio-political contexts. The outstanding legal developments discussed in this section would not be possible without the invaluable contributions of intersex individuals and their communities in the pursuit of justice and the relentless efforts of the global intersex civil society.

Statute laws are not always enough or successful in achieving their intended goals. Intersex activists and advocates interviewed made clear that protecting the bodily integrity of intersex individuals goes beyond enacting legal protections or tailored prohibitions — independent oversight mechanisms and legal accountability are required to ensure that these legal developments offer adequate protection to intersex individuals. Moreover, the testimonies presented below serve as a reminder of the importance of comprehensive evaluation of the adopted laws as well as the necessity of mandatory or legally binding intersex-affirming protocols, medical guidelines, and standards of care to complement progressive legislation.

We chose the presented jurisdictions based on notable legal developments in the area of bodily integrity, as discussed in the Report. Although we aimed to reflect on the experiences of advocating for intersex rights in all the jurisdictions that have enacted legal protections in this area, some countries with important legal developments were not included due to time and other constraints. Finally, it should be noted that some of the responses were corrected or clarified for editorial purposes.

Ana Ma⁴³ – Colombia

Eli Rubashkyn (ER): What is the situation in Colombia regarding the legal protections against the performance of non-consensual harmful medical interventions on intersex minors as established by the Constitutional Court? How do you think these sentences have impacted the performance of these harmful medical interventions on intersex children?

Ana Ma (AM): In judgment T477-1995, it was established in one way or another that “children are not the property of anyone”. This sentence was not intended to defend the rights of intersex people but was the result of a case of a five-year-old non-intersex boy who suffered an accident on his genitals and lost part of his external genitalia. The doctors performed a “sex reassignment” surgery on this minor without receiving the minor’s clear consent. The hospital staff proposed,

⁴³ Ana Ma (she/her), was born in Bogotá, Colombia. She has been working with various vulnerable communities for 19 years; her activism and work with intersex people began in 2018.

promoted, and developed, without consulting the parents or the minor, a series of unnecessary surgeries that, in their opinion, were pertinent. The 1995 judgment established the precedent that the age of consent when children will be able to decide what happens to their body in terms of these medical interventions is five years and older. From this age, the child can consent and should be informed of what will happen and what decisions can be made; follow-up must be done. The parents cannot make these decisions without the opinion of the minor.

The 1999 judgment is directly connected to intersex people, as it dealt with the case of a two-year-old intersex child who underwent normalisation surgery, requested by parents. This judgment established the precedent declaring five years old as the age of consent for minors.

With these developments, it is established that only after a child reaches the age of five, the medical system, with a comprehensive team, must provide full information and explanation to children and parents about all proposed medical treatments. This last sentence of 2008 comes from an action taken by a father, who, due to the prejudice and urgency of assigning sex to his child, pressured doctors to perform surgery. At this point, the doctors who were going to perform a medical intervention were aware of this sentence and refused to do it because the child was already over five years old, an age when children need to be involved in this decision-making.

ER: What are the legal gaps that exist in these sentences? Are there any protocols established to evaluate the necessity and urgency of these medical interventions?

AM: Several evaluations of intersex people in Colombia have shown, for example, that about 36% of people managed under the diagnosis of DSD (difference of sexual development) were subjected to non-consensual surgeries with an average age of five years. This inevitably suggests that a large proportion of these surgeries may not be following what is described in the judgments of the Constitutional Court.⁴⁴

As a movement, we recognise the important work of Brújula Intersexual. One of their blog posts from 2019, features an article co-authored by the lawyer Olga Lucía Camacho. In the article, the Ministry of Health in Colombia is consulted regarding the sentence, and information is requested about the existence of any protocol guiding the medical systems and institutions in relation to dignifying, and adequate management of intersex people in clinical settings. The Ministry of Health responded that there is no protocol despite it being a necessary document to ensure compliance with the previously mentioned court rulings.⁴⁵

According to the Colombian Ministry of Health, there is no extensive registry of intersex people to justify the creation of a protocol. However, they report that from 2009 to January 2019, there were 9,858 people diagnosed with "genetic malformation of the sexual organs". Therefore, regardless of the number outlined in the registry, it is evident that the actual number can be way higher, given that not all intersex variations manifest visibly at birth, but later in life, or on some occasions never. This number also indicates that a significant number of intersex Colombians are highly vulnerable and subject to gross violation of human rights, such as the right to bodily integrity, the right to life, and the prohibition of torture and ill-treatment, especially in medical settings.

The creation of a protocol of care should be considered vital in decision-making as that helps to guide an intersex-affirmative medical support system for our bodily diversity, in a multidisciplinary, non-coercive, and non-pathologizing manner. In addition, it should encourage understanding that

⁴⁴ Nicolas Fernandez et al., [Transdisciplinary management of patients with disorders of sexual development in Colombia. Limitations for timely and comprehensive management](#) Manejo Transdisciplinario de Pacientes Con Desórdenes Del Desarrollo Sexual En Colombia. Limitantes Para Un Manejo Oportuno e Integral, *Urología Colombiana* 26, no. 3 (2017): 164–68.

⁴⁵ Olga Lucia Camacho, "[Small victories: In Colombia We Asked the Ministry of Health about the Intersex Population, and This is the Answer](#)" [Victorias pequeñas: En Colombia le preguntamos al MinSalud sobre población intersex, y esto nos respondió.], *Brújula Intersexual*, 14 January 2019.

decisions must be deferrable, when the person is mature and can understand the consequences of these interventions.

This situation makes it clear that one thing is written in the laws, and another thing how the judgments of the Constitutional Court are implemented. The latter has occurred because the people themselves have made visible their condition and their experience of abuse, but not because the medical staff and others are attentive, willing, and aware of these abuses and how to avoid them. In fact, today, we are witnessing how prenatal screening is being [applied](#) at the national level. This screening seeks to prevent people like me from being allowed to exist.

The Ministry of Health shows no interest in approaching intersex through a human rights-based perspective, as it has not established effective, clear, and affirmative protocols of care for intersex people and their families.

ER: How can we continue legal progress on these issues? Is there any interest in establishing any legislative progress seeking to protect the integrity and bodily autonomy, and self-determination of intersex people in Colombia?

AM: In order to protect the rights of intersex individuals in Colombia, it is crucial to establish punitive measures that prohibit anyone from performing non-consensual, non-vital, or unnecessary treatments or surgeries on an intersex person without their fully informed and freely given consent, including those under the age of five. At the same time, there is an urgent need to establish systems of non-pathological clinical guidelines and protocols that affirmatively treat intersex people, fostering multidisciplinary support and a psychosocial environment that provides affirmative guidance to intersex parents and children. In addition, it should be sought that any decision on non-vital and non-urgent treatments are made with personal consent given freely and informed by the intersex person themselves and is framed with respect for the human rights of the individual affected.

The new form of government that exists today in Colombia has broadened its vision in the various ways of being, and different corporal manifestations, and is more respectful to all these small individualities that exist within society. Therefore, we are in a good situation to prohibit these surgeries and establish a management protocol in consultation with affected people and intersex peer-support organisations. These affirming protocols should be based on human rights and must be legally binding. In the same way, we must also fight to have a comprehensive law and not only a handful of court sentences. A court sentence orders a cease in performing such surgeries, but we have no guidelines, no guidance, no psychosocial support, or a way to support families of intersex children. We have already seen that many legal loopholes continue to be exploited by the medical system, facilitating the perpetuation of these serious human rights violations.

It is also important to adopt a law that establishes a complete prohibition of all interventions performed for purely cosmetic reasons or due to misleading, false, and deceiving medical arguments⁴⁶ without the personal, informed consent of the individual. It is also very important that the Government constitutionally protects all intersex people from all forms of discrimination based on sex characteristics to ensure that intersex people can fully enjoy their right to equality.

ER: How do you think other social justice movements can support the intersex movement in Colombia? What would you say to the people who provide financial assistance for these movements at a local level?

AM: We need other movements to help us raise our voices and help us replicate our real needs, which are not cosmetic, or based on superficial needs, but needs for which our bodies are being attacked and are not being respected. We have been children to whom no-one has given a voice,

⁴⁶ For example, a risk of testicular cancer estimated for intersex people. In contrast, when other risks of cancer, such as breast cancer among endosex women, can be higher or as high, mastectomies to address these heightened risks are not a common practice. See Orr, Celeste E. *Crippling Intersex*. (Vancouver: UBC Press, 2022), 43.

and so here we are; we have a voice, and we need their support; these movements can help us by strengthening our calls.

To the fundraising teams, I would say, recognise us! We are also working for human rights and for respect of our rights. This work is no less than the rest of the struggles for rights and recognition. We are also working for our corporality to be respected and for us to be respected as human beings. It is a job that is not easy to do in the conditions in which we find ourselves. On many occasions, some achievements in advancing our rights are delayed because we are people with many needs. We are working; getting the livelihood for our lives and surviving. We cannot dedicate ourselves fully to this activism because there are effectively not enough resources directed towards our community.

Rinio Simeonidou⁴⁷ - Greece

Eli Rubashkyn (ER): Can you tell us about the development of the law in Greece aiming to protect intersex children and intersex people from harmful medical interventions? How was your organisation involved, and how did the process take place?

Rinio Simeonidou (RS): Our first attempt at such legislation happened before founding Intersex Greece in 2017, during the public discussion for the Legal Gender Recognition Act. As an advisory member of Rainbow School organisation, we publicly addressed the Greek Parliament on intersex children/people's existence and the violations of their human rights, called for the inclusion of intersex people in the education curricula, and asked for an IGM ban. In fact, Article 7 of the Draft Law (4491/2017) of the Legislative Committee of the Ministry of Justice explicitly prohibited non-therapeutic surgeries on intersex infants. However, this article "disappeared" before reaching the vote in Parliament. Law 4491/2017 included only the definition of "sex characteristics" in its preamble, thus leaving intersex people in a legal gap with no meaningful protections.

Our second attempt was in 2018, when Marina Galanou, Head of a prominent Greek Transgender Association who sadly passed in October 2021, and I made a three-hour presentation to the high officers of the Ministry of Health. After our intervention, they were shocked once they heard the overwhelming pain behind the stories of these children and adults. After that interaction, the Government promised a new law. This, however, led to just a draft law that never reached the Parliament.

In 2019, our Parliament shifted to a more right-leaning conservative government (New Democracy). We nearly gave up as we didn't think they would support our efforts to stop IGM. We decided to continue with our advocacy focusing on setting up our organisation and site for public education and teachers' training.

In the summer of 2021, an openly-LGB officer from the Prime Minister's office announced the formation of the National Committee for LGBTIQ+ Equality in line with EU guidelines. They requested submissions by intersex civil society organisations to help in the process of drafting a national strategy with relevance to intersex issues. Intersex Greece submitted a detailed 20+ page report about the intersex human rights violations intersex people face in Greece. We shared some of our more terrifying and sad stories, respecting the privacy of those who were willing to share their pain with the Government anonymously.

Our submission was read by the Minister of Health. We were fortunate because he was aware of intersex issues and cases abroad and agreed to handle this problem in Parliament. From December

⁴⁷ **Rinio Simeonidou** (she/her) is an intersex human rights advocate, activist, and educator from Greece. She got involved with intersex activism after giving birth to an intersex child and refusing medical advice to abort her baby. Rinio works in educational settings and provides advice to parents of intersex children. She is a founding member of "Intersex Greece" and a member of "Rainbow School" for the inclusion of LGBTIQ+ children in education. Rinio raised the issue of intersex human rights violations at the Greek Parliament in 2017 and advocated for the bill that legally banned non-consensual medical interventions modifying sex characteristics of intersex children in Greece in 2022. She is active in peer-support and institutional training on the rights and inclusion of intersex people in parenting, education, health, labour, and citizenship. She holds a B.A. in Studies in European Culture.

2021 to May 2022, we engaged in many discussions with state's lawyers from the Ministry of Health, and we discussed what and how should be included in the law draft, what should not, and how we avoid loopholes. We reached an optimum level of common consensus as we were working on the draft with our legal advisor Dr Nikoletta Pikramenou and Dr Dan Christian Ghattas (Organisation Intersex International Europe).

During the public discussion of the law, we spoke in the Parliament explaining why the IGM ban was crucial for intersex children's rights to bodily integrity, autonomy, and self-determination. In the two weeks before the vote was expected to take place, four articles for the IGM ban were understood as being "too controversial" as they discussed issues of law for medically assisted reproduction. They thought that we were advocating for other things that the supporting political party was not considering, so we started to educate all political parties and their parliament personnel, with resourceful letters, informative emails, and letters of support about the importance of these four articles. We worked on this in collaboration with many people from Organisation Intersex International Europe, InterACT, and Outright International.

At the voting part, the four articles⁴⁸ for the IGM ban passed successfully without any single objection. All four articles passed with consensus from all major political parties of Greece.

One of the notable things about this law was the punishment for practising IGM. We were very surprised how the Government deeply understood the harm, the unnecessary nature of these surgeries, the pain, and the torture that these surgeries cause to intersex people. The fines and penalties proposed are among the toughest in the world in that regard, including prison. We hope this will incentivise medical professionals to stop altogether practising IGM on intersex infants and children in Greece.

ER: Are there plans to develop protocols and standards of care to further guide medical practitioners, parents, and intersex people in ensuring the protection of the bodily integrity and human rights of intersex people in Greece?

RS: Of course, there are urgent plans! It is our next big step. We are hoping to work closely with the Ministry of Health to develop a detailed circular that will go together with the law and will include valuable information. For example, the definition of the term intersex, how the law should be used by all relevant stakeholders, and how to monitor the implementation of the law.

During the law-making process, several medical practitioners contacted us indicating their interest in engaging and adopting human-rights-based approaches to intersex issues. We are now in contact with them. We are also planning to develop educational material, protocols, and standards that will help to guide the medical community. We also hope to create resources that will guide and help parents of intersex children and intersex people.

Furthermore, the National Strategy on LGBTQI+ made it very explicit that intersex people should be protected in medical settings. Therefore, we are optimistic that we will be able to continue to collaborate with the Ministry of Health in constructing legally binding protocols and standards for public and private hospitals to be distributed at the national level.

ER: What else do you think should be done to keep advancing in the protection of the human rights of intersex people in Greece?

RS: The ban on IGM was just a small step towards fully enjoying and protecting the most fundamental human rights of intersex people in Greece. We still have a very long way to go. Intersex people are experiencing severe human rights violations in all spheres of life in Greece. For example, they are discriminated against at school, work, while accessing public services, and in health and medical settings. Healthy and wanted intersex fetuses are terminated in late

⁴⁸ Nikoletta Pikramenou, "[Prohibition of Intersex Genital Mutilation \(IGM\) Procedures on Intersex Children. Articles 17 to 20 in Law 4958/2022](#)", *Intersex Greece*, 25 July 2022.

pregnancies without medical reasons due to solely medical prejudice against intersex people. Intersex babies are being abandoned because of the appearance of their genitals and/or because of the lack of knowledge of doctors and parents. In addition to that, we need to be cautious of those who were publicly supporting IGM, such as the National Baby Centre and EODY (the national health provider).

On the other hand, intersex people are not legally recognised as of today in Greece, and, unless they are “straight” and/or hide their intersex traits, they do not have access to the right to family/marriage and other provisions to ensure their equality before the law. Intersex children’s needs are neither known nor included in the Greek education system, a place where they can be targeted by acts of bullying.

Moreover, in the middle of September 2022, Intersex Greece will present the results of a study that we conducted on hate speech against intersex people in Greece supported by ILGA Europe. The results of this study are quite shocking, intersex people in Greece are victims of hate speech in everyday life, and this is a gross violation of their human rights and their dignity. This results in poor mental health and poor well-being. That is why we are planning to closely monitor the implementation of the law and keep on advocating for intersex people’s rights until equality, autonomy, integrity, and self-determination.

Kitty Anderson⁴⁹ – Iceland

Eli Rubashkyn (ER): Can you describe the background of the recent legislative developments restricting interventions on intersex minors in Iceland, as well as your involvement on these developments?

Kitty Anderson (KA): Our journey began in the fall of 2014. Together with other intersex activists, we initiated advocating to outlaw these harmful interventions on intersex minors in Iceland. For this task, we coordinated several community consultations and meetings with different political parties. We came to an agreement and worked together, aiming to end these unnecessary interventions on intersex minors.

In that year, we actively participated in the drafting of the legislative document seeking to remove gender identity disorder diagnoses as a prerequisite for gender marker change. After that, we devoted our work to advancing an amendment to the Law on Sexual Autonomy with the support of several political parties seeking to uphold the human rights of intersex people. However, we never imagined we were going to face so many challenges.

The process was lengthy, slow, and full of obstacles. During this time, Iceland experienced protests and political uncertainty. Every time we were close to introducing the draft law in Parliament, the governing coalition supporting this bill collapsed, which meant that we had to start repeatedly from scratch. This happened to us in 2016 and 2017. We were very persistent.

Once we got a stable Government at the end of 2017, the draft of the law was reintroduced in the Parliament. This time the committees decided to put this bill together under the considerations of the Ministry of Social Issues and Children. However, after noting that this bill did not progress for over a year, the Prime Minister decided to take this draft bill and place it under her present portfolio.

In 2019, we finally saw progress. In that year, the intersex legislative committee was formed. In that committee, we worked throughout the entire fall on the technicalities of this law. We tried everything to ensure that this law was as comprehensive as possible. We wanted to avoid

⁴⁹ Kitty Anderson (she/her) is an intersex activist from Iceland. She holds the title of the Chairperson of the board for the Icelandic Human Rights Centre. Kitty co-founded Intersex Iceland and served as a steering board member of Organisation Intersex International Europe. Her advocacy and leadership within the intersex movement in Europe has earned her recognition as a prominent voice in the community.

loopholes. We wanted to make sure this law covered every intersex variation. Unfortunately, this was not entirely possible. Some intersex variations were excluded from consideration because doctors were heavily invested in advocating for these exceptions. Eventually, interventions prescribed to “treat” people with micropenis and hypospadias were not prohibited.

We had a similar discussion about the surgeries prescribed for children with Congenital Adrenal Hyperplasia (CAH), such as clitorectomies. However, this time the testimonies of parents of intersex children with CAH and further evidence presented to the committee allowed us to learn that not a single parent consented to perform a surgery or harmful treatment to treat their children with CAH in Iceland in over a decade. This helped the committee realise that the arguments that doctors were elaborating in support of such interventions as “medically necessary” were not true. How can be these unconsented surgeries considered “medically necessary” when several persons born in a period of 10 years were not subjected to any surgery or harm and have healthy and fulfilling lives?

We persisted in trying to continue defending our position regarding surgeries prescribed by the doctors to be “necessary” to “treat” micropenis and hypospadias. However, the pandemic of COVID-19 began, and further information and consultations to provide evidence in opposition to these exceptions were not possible.

ER: Are you aware if these harmful interventions on intersex minors have stopped in Iceland?

KA: As indicated earlier, there are two written exceptions in the legislation now. These exceptions will be reviewed soon in a process that we are hoping should be ending by December of 2023.

Regarding the current status of surgeries that were forbidden in the Law, we can't be 100% sure that nothing harmful is being done to intersex children in Iceland because we live in a country with a very small population. Any statistics, data or other relevant medical statistical information may be easily in breach of privacy laws, as the laws protecting medical records are very strict. However, the indicators that we have received so far point out that the law is being followed when it comes to surgical interventions. One inconvenience we identified with this law is that parents who persist in performing surgeries on their intersex children can easily travel to other Nordic countries such as Sweden with just a national ID and access health services to perform IGM on their children. People are aware of this problem, and future considerations in the review need to forbid surgeries performed extraterritorially.

It is also important to note that doctors are not following the law when it comes to facilitating the connection of parents and intersex children with intersex organisations. They're supposed to do that, and they don't seem to be doing that. We, as civil society organisations, are not able to oversee concrete information from the hospital about the implementation of the law until the review process starts again. However, this being said, different ministries can obtain that information to ensure this law is being followed.

ER: Are you aware of intersex-affirming protocols or standards of care based on human rights drafted with consideration to guide health professionals to look after the actual health needs of intersex people while always protecting their bodily integrity and autonomy?

KA: Basically, no. The doctors were tasked with drafting medical protocols and standards of care with psychologists. This document will be brought before the committee starting this winter of 2022. Usually, Iceland follows Sweden when drafting medical protocols. However, this is evidently not the case this time. We know in Sweden IGM is performed everywhere, so they'll need to work from scratch. We may have to exert political pressure on the Ministry of Health to help write these guidelines.

In the eyes of doctors, in a country with an annual birth rate of 4,600 people, not many intersex people are born every year (even if we're talking about the higher estimates of 1.7%, which we

know isn't exactly the number of intersex people who are likely to be handled by paediatric surgeons).

Even if Iceland produces guidelines, which we are supposed to, they would be very short and concrete. They wouldn't be necessary for a global standard or a guideline model that other countries would refer to.

ER: Are there monitoring systems in hospitals to ensure that this law is being followed in Iceland?

KA: No. We have very, very limited monitoring per se. One of the things on the agenda for the next legislative round is a mandatory registration with the directorates of health. The Directorate of Public Health in Iceland is the body that registers situations of this nature, any medical procedures and how many of them are performed yearly are registered there. That was one of the aspects we had originally hoped to include in the bill. However, it was one of the disruptions that COVID-19 caused when the draft law was in the final steps for consultations.

Gopi Shankar⁵⁰ – India

Eli Rubashkyn (ER): Can you tell us about the legal developments restricting medical interventions on intersex minors in Tamil Nadu? How were you involved in that process?

Gopi Shankar (GS): *Arunkumar and Sreeja v. The Inspector General of Registration and Ors.* (2019) became the path-breaking judgement by the Tamil Nadu High Court for upholding the right of Intersex children to autonomy and bodily integrity. It reaffirms and crystallises the Honourable Supreme Court of India's judgement of *NALSA v. Union of India* (2014) and directs the Tamil Nadu Government to issue a government order in accordance with the report published by the World Health Organisation titled "Sexual Health, Human Rights and the Law" calling for deferring intersex genital mutilation (IGM) until the intersex persons are old enough to make decisions for themselves.

The petition of *Arunkumar and Sreeja v. The Inspector General of Registration* and others sought to quash the order refusing to register the marriage of a male and a trans woman by the Registrar of Marriages. The bench also considered the issue of intersex surgeries and ordered the Tamil Nadu Government to ban forced and unnecessary surgeries on intersex infants and children. This order was a result of the momentum created by the founder of Srishti Madurai, an organisation recognised and acknowledged by the Honourable Justice on record in the judgment. The Honourable Justice also took note of a complaint made by the founder to the National Human Rights Commission (NHRC) and the reply from the Health Ministry. The Madras High Court ruled in favour of banning surgeries, even with parental consent, citing the judgement of *S. Amutha v. C. Manivanna Bhupathy*, which held that parental consent could not be considered as the child's consent. Furthermore, the Supreme Court in *NALSA v. Union of India* (2014) stated that no one should be forced to undergo surgeries to gain legal recognition as one of the binary gender identities (male or female).

We continued assisting the Government of Tamil Nadu in drafting the Governmental Order. Srishti Madurai, in partnership with Intersex Asia, organised a policy briefing meeting in Chennai on July 5, 2019. The meeting culminated in the Order with the consensus of all the stakeholders pertaining to the framework of the Government banning sex-selective operations in the State of Tamil Nadu.

⁵⁰ **Gopi Shankar** (they/them), is the first openly intersex and genderqueer person to act as a statutory authority with the Ministry of Social Justice and Empowerment in India. They founded Srishti Madurai and were a founding member of Intersex Asia. Their work inspired the Madras High Court to protect the rights of intersex children. Gopi also trained the State Council of Educational Research, the Directorate of Medical Education of Government of Tamil Nadu, and part of Delhi Commission for Protection of Child Rights under the Government of National Capital Territory of Delhi.

ER: Can you tell us about Delhi's High Court's involvement in seeking protection for intersex children?

GS: I presented a case via Srishti Madurai as part of a Public Interest Litigation (PIL) in the Delhi High Court, asking to direct the Government of the Northern Capital Territory in Delhi to implement recommendations made by the Delhi Commission for Protection of Child Rights (DCPCR). Among the many recommendations made, a few are worth noting. Participation of intersex persons in the committee should ensure that the community is adequately represented and plays an active role in the decision-making process. The Government of Delhi should ban all medically unnecessary sex-selective surgeries on intersex infants and children with the exception of cases pertaining to life-threatening situations and advise the Government accordingly.

In the case of *Srishti Madurai Educational Research Foundation v. Govt. of NCT of Delhi & Ors.* (decided on July 27, 2022), the Honourable High Court of Delhi has asked the Government of the National Capital Territory of Delhi to take appropriate actions on the recommendations of the DCPCR and report the same to the Court within eight weeks.

ER: What do you think of the Transgender Persons (Protection of Rights) Act, 2019, framing persons born with intersex variations under a gender identity umbrella? Are there any particular cultural and historical contexts linked to the legal understanding of intersex people?

GS: The Transgender Persons (Protection of Rights) Act, 2019, groups intersex and transgender in one category of "transgender", which is a gender identity wherein an individual has an internal experience of gender identity which is different from what they are assigned at birth. Gender is a social construct, whereas being "intersex" is a sex characteristic. It is an anatomical feature or a genetic occurrence that cannot be associated with either the anatomy of a typical male or female. However, an intersex person can be transgender when they decide to change their gender in their lifetime. However, this is not always true because gender and sex are separate. Understanding the difference between the two is important and the Transgender Persons (Protection of Rights) Act, 2019, has a void regarding the same issue. For instance, sex-selective medical interventions on infants or children are a manifestation of discrimination against people with an intersex condition, not against a transgender person, since gender experience is not the same as being born with anatomically different sex characteristics. Therefore, there is no explicit protection accrued to an intersex person's integrity in the Transgender Persons (Protection of Rights) Act, 2019.

ER: What do you think are the legal challenges that intersex people face in India?

GS: The intersex community of India is highly discriminated against. One of the major legal challenges of the intersex community is their right categorisation. Being a person with intersex variation has nothing to do with gender identity. An intersex person or child can be male, female, gender diverse, or transgender. In India, the Transgender Persons (Protection of Rights) Act, 2019, includes intersex persons under the definition of Transgender Persons", which is incorrect.

The other legal challenge that is mainly faced by Intersex infants and children is the right to live with dignity and freedom. These rights are enshrined under the interpretation of Article 21 of the Constitution of India. The performance of IGM violates the inherent right to life. Medical practitioners perform these unnecessary medical interventions to align the intersex new-born genitals with the typical binaries. These surgeries are performed with the mere consent of a parent, sometimes none, and cause a life-long psychological and physiological impact on the lives of intersex children. Until now, only the State of Tamil Nadu in India has imposed a ban on intersex genital mutilation.

Another legal challenge faced by intersex persons is their adoption. There are no specific records or rules for the adoption of an intersex child. Even adoption homes and shelter homes do not have specific care for intersex children. The abandonment of intersex children from the family happens in many cases. Hence, it becomes important that shelter homes, adoption agencies and care homes adapt accordingly to the particular needs of intersex children.

The Government also needs to urgently improve the situation of the shelters where intersex people are left when they are abandoned at the time of birth or later in life, as there are no adequate or safe government-provided shelter homes for intersex people. Hence, these infants and children are compelled to engage in sex work, begging, or illegal activities.

ER: What is the current situation of intersex children in medical settings in India? Are there any health care protocols or guidelines for intersex people in place?

GS: The Ministry of Health and Family Welfare has acknowledged that medical operations, including sex reassignment surgeries, are performed in India. The Ministry has provided the rationale that it is only carried out following a careful evaluation of the patient, gaining approval for the procedure with the use of the proper diagnostic test, and only after taking the patient's or guardian's written agreement. In 2019, Madras High Court, Tamil Nadu, passed an order mandating that the Tamil Nadu Government issue a complete ban on non-consensual and non-necessary sex-selective surgeries on intersex infants and children.

Besides, India is still striving to achieve a nationwide ban on unnecessary medical interventions on intersex infants. There is no protocol or guidelines provided to the medical institutions for adequately attending to the needs of intersex infants or children to date. In 2021, the National Medical Commission ordered that all medical books should be inclusive of the LGBTI+ community and shall remove unscientific and derogatory references regarding the LGBTI+ community. We are intervening in all aspects as necessary to achieve a nationwide ban on unnecessary and unconsented intersex surgeries.

ER: Are you aware of any protocols or other policies to address the situation that intersex children and infants face in medical settings in Tamil Nadu?

GS: Tamil Nadu has been the first state in India to recognise SOGIESC's rights, but these developments are not sufficient. The ruling was pronounced in the case of *Arunkumar and Sreeja v. The Inspector General of Registration and Ors. (2019)*, in which the Court issued the State Government an order to put a complete ban on sex-selective surgeries, except in cases where it is necessary to secure the well-being of the intersex infant or children. The Government shall determine whether a life-threatening circumstance warrants an exception. This will be based on the Director of Medical Education's suggestion, who will assemble a committee constituted of a paediatric surgeon, a urologist, an endocrinologist, a social worker, a psychologist, an intersex activist, and a government representative in the rank of under-secretary to the government or higher. Additionally, the Director of Medical Education of Chennai will be responsible for ensuring that the above exception is not misused in any way. I am not aware of any other protocol or guidelines.

James Karanja⁵¹ – Kenya

Eli Rubashkyn (ER): Can you describe the history behind the recent developments in Kenya aiming to protect intersex children? Can you give us some insight into how you were involved?

James Karanja (JK): There were several events that culminated in the Children's Act of 2022. Some of these events took place in 2007, in the *Muasya vs The Hon. Attorney General* case, where an intersex person was sentenced to a maximum-security prison and faced a lot of discrimination and stigma while in prison for being intersex. Therefore, the court announced the need to ensure that the dignity of this individual was taken care of. Later, this individual was released and the

⁵¹ James Karanja (he/him) is an intersex person, human rights advocate, and an activist from Kenya. He is the co-founder and the current Executive Director of Intersex Persons Society of Kenya (IPSK) and a member of a steering committee and the secretary of the African Intersex Movement (AIM) in Africa. He earned a degree in Political Science and Sociology from a University of Nairobi (UoN).

Government developed the Persons Deprived of Liberty Act No. 23 of 2014, which included a definition of an intersex person.

Around the same period, an intersex child was born at Aga Khan National Hospital, one of the most developed and sophisticated hospitals in the country. Doctors could not determine the exact sex of this child, and therefore denied this child documentation, known as a birth notification. In this case, doctors could not tell whether the baby was a boy or a girl, and the case was subsequently presented at the High Court of Kenya.

During that period, we came on board as intersex activists and submitted our first petition in 2016. Our petition touched on the general issues such as the fact that intersex people are denied access to financial institutions, employment, documentation, education, information, and adequate healthcare, as determined in the Kenyan constitution. The 2016 petition to the Parliament panel had a lot of recommendations for the state, and one of them was that the state had to establish a body that would investigate and manage issues pertaining to intersex people.

After that, there were other legal developments which we tried to work around. One was on assisted reproductive health; a bill that is still in the National Assembly. There was another bill related to reproductive rights, it had components on intersex issues that did not pass. We continued our work on a reproductive health policy that was concluded two months ago. Such health policy covers intersex issues for the first time in Kenyan history, and it is likely to be among the first in the world.

We also tried amending the Birth, Death, and Registration Act 2020, to make sure it was flexible to allow intersex people to change their legal documentation easily. Another important aspect that remained pending was the number and distribution of intersex people in Kenya. Therefore in 2019, Kenya became the first country in Africa, and perhaps in the world, that attempted to count intersex persons in their national census.

In 2017, the Hon Attorney-General constituted a task force to investigate and make recommendations aimed at addressing the situation of intersex persons in Kenya, the number and distribution of intersex persons in the country, and how they are able to access some of the basic services from the state. This task force was housed at the Kenyan National Commission of Human Rights. Its mandate ended in 2019 after delivering a report.

Later that year, the office of the Attorney General decided to form an Intersex Persons Implementation and Coordination Committee (IPICC), which was mandated to coordinate the implementation of the prioritised recommendations of the intersex task force report; assist in the formulation and dissemination (in appropriate languages) of the intersex taskforce report; and to coordinate, build capacity, and facilitate collaborations among various stakeholders and interest groups in both private and public institutions.

Behind the legal framework itself, there are a lot of things that escape the consideration of the Committee. Therefore, there has been a lot of advocacy work by our organisation to ensure complete implementation. The achievements in legal frameworks have largely been attributed to intensive advocacy from us and from the media, which has really helped us to be where we are now.

ER: What is your view on classifying intersex people with the “intersex” marker in their documents, given that from an international perspective, and mainly from the Global North, intersex is not defined as a gender identity? How do you contrast these developments in comparison? Do you think it can be a risk for the child if their intersex identity is reflected on ID documents?

JK: One of the big differences between the Global North (GN) and Global South (GS) is cultural dynamics, and we usually tend to throw these issues out the window when we talk about these issues and try to honour a point of view. In the Kenyan context, we are a very religious country.

Kenyan society is very attached to its culture, and the level of understanding of intersex issues in many countries from the GS is completely different than in the GN. Our issues were centred on the best interest of intersex persons and how they can most easily integrate into society. One of the biggest challenges is sex assignation between males and females, so trying to assign people as intersex may appear as if you're trying to objectify them. However, the biggest challenge was that we would have had no conversation on these issues if we had followed the Global North approach to intersex issues.

When we compare Kenya to other African countries that somewhat follow the GN in their approaches, it is evident that they are still where they were ten years ago; little change has been achieved. We recognise the complexities of our culture. We know that laws aren't always comprehensive and they're always changing, and twenty years down the line, there will be different languages. But our thinking was that if a child can be stigmatised for not knowing who they are s, then let the child know, and from there, we can approach issues associated with stigma and discrimination.

We have a children-centred approach, looking at issues from a child's perspective. To be honest, for a long time, people have not been very aware of intersex issues, and there is conflation with homosexuality. In African society, a child is keenly protected. That is why for example, if you see the conversation around the transgender community in the GN, the conversation about children is explicitly in the public domain. But talking about children from a transgender perspective in Africa or in the GS you'd probably find nothing because it's a very guarded space.

We decided to use this approach, considering that it is at the heart of an African-centred attitudes to child protection. In the GN, laws are more flexible, so you can easily offer a more comprehensive understanding of intersex issues, but in the GS, our laws are very rigid because most of the time, they are drafted from a political perspective and not from a human rights point of view. Every time you want to change a provision or address an issue, it must be looked at from a political lens and what their effect is, focusing on voters and public support. Most of the time we have to use radical approaches to get into these spaces. But our society is willing to listen and act when children are involved.

This is why, most of the time, our conversations are children-centred, because Kenyan society has a soft spot for children. If you look at the GN, intersex issues are only brought up with regard to surgeries, but for us, we're taking all the components of the rights of the child beyond IGM into consideration, such as the right to identification, medical certificates, and other issues.

ER: I would like to understand how the aspect of bodily integrity and autonomy of the intersex person was considered in the Children's Act of 2022, given that it appears the law wants to protect it but makes exceptions allowing doctors to consent to medical procedures.

JK: If we look at the ruling in 2014, when some of these decisions were made, there were no intersex persons to provide adequate information about intersex issues. As we know, laws aren't created in a vacuum, but they are a representation of the reality of a group of people or a society. If we look at what we've done around that, we have participated in the creation of policies that can feed into that law, but also having general conversations with, for example, medical practitioners. We also cascade down to the technicalities of these issues. Since laws operate from above, the most important thing in the day-to-day relationship between doctors and intersex patients is establishing health guidelines. Therefore, together with the Kenyan Medical Practitioners Board, we are working on the creation of guidelines on how to approach the issue of surgeries and bodily integrity, and all the rights and considerations that come with the surgical aspects, such as consent, the right to bodily autonomy, and right to reproductive health.

One example is the recently concluded Reproductive Health Bill to be presented by the Minister of Health, where some of the issues around medical intervention and free and informed consent are considered. This law will be complemented as well by the recently completed National Reproductive Policy of 2022 in getting down to the guidelines, where the Kenyan Medical

Practitioners Board will instruct how to ensure that these issues resting within the acts and laws are considered.

ER: How will informed consent be considered after the Children's Act of 2022? Do you think the Government has the motivation to translate some of the considerations of this Act into intersex-affirming guidelines and protocols?

JK: The National Reproductive Health Policy recently launched by the Ministry of Health indicates that these procedures be deferred to a better time after puberty and after attaining the age of majority. A key aspect of this policy is that it is focused on the best interest of the child. However, it includes the consideration that a parent may also make decisions on behalf of their child.

I tend to think that whatever we have come up with as a country, to be very honest, is not perfect, but it is our journey. We are working towards perfecting the laws. Our fundamental issues have always been for intersex people to access education, healthcare, and the basic services and initiatives provided by the state. For us, what comes first is the ability to access services, and after this, we can sit down and see how we can frame and even reframe our issues depending on what people experience when accessing these services. It takes time, and it requires understanding the context where you are, but it's a journey that we are willing to walk, and we have already started taking small steps.

Sometimes people sitting on the outside will see that we are making mistakes, but these mistakes will always come from the language, the messaging, and how things have been framed. However, the most important thing for us will be access to services and ensuring there is no stigma and discrimination. I wish people would understand that we are coming from different societies, cultures, and regions, and sometimes different things work in different contexts. The fundamental thing is that human rights issues are catered to, and people are respected for who they are.

Tony Briffa⁵² – Malta

Eli Rubashkyn (ER): Can you indicate the background and developments that led to the current legislation protecting intersex people from harmful medical interventions in Malta?

Tony Briffa (TB): The Third International Intersex Forum was conducted in Malta in November/December 2013, and was organised by Ruth Baldacchino and Silvan Agius. As part of the forum, the organisers arranged for the Maltese Minister for Social Dialogue, Consumer Affairs and Civil Liberties, Dr Helena Dalli (now the European Commissioner for Equality), to attend the forum and hear from the forum participants. After hearing from international intersex activists, Minister Dalli was determined to protect the rights of Maltese children with intersex variations. This led to the development of the *Gender Identity, Gender Expression and Sex Characteristics Act** (2015).

ER: In your perception, do you think that harmful interventions against intersex minors are still happening in Malta? Are there any gaps in the law?

TB: I understand some harmful interventions against intersex children are still taking place in Malta, and this is being addressed by a government advisory committee reviewing the

⁵² **Antoinette (Tony) Briffa** (she/they) is a Maltese/Australian intersex queer woman, human rights advocate and educator, former ILGA World Board Member and Intersex Chair, Deputy Chair of Intersex Human Rights Australia, engineer, and mayor. Tony was the first openly intersex person elected to public office in the world when she was elected as a city Councilor in Melbourne in 2008. She has since been re-elected three times, served three terms as Deputy Mayor, and is in her second term as Mayor. Tony started her intersex activism over 25 years ago with the AIS Support Group Australia where she served as President for 10 years. She has presented at many conferences including the International Intersex Forum in Malta, and appeared in numerous television programs, and magazine and newspaper articles discussing intersex human rights and her lived experience. Tony lives with the trauma of inappropriate, harmful, and nonconsensual childhood medical interventions.

implementation of the legislation. This is particularly the case with variations such as severe hypospadias.

ER: Are there any intersex-affirming medical protocols or standards of care, or mechanisms to evaluate medical necessity when interventions are vital?

TB: There is a use of a multidisciplinary team, and the composition, role, authorities, and reporting of this team are currently being reviewed.

ER: What do you think about the permission that the Gender Identity, Gender Expression and Sex Characteristics Act* (2015) has regarding sex assignment treatment based on an agreement between the persons exercising parental authority or the tutor of the intersex minor and a multidisciplinary team?

TB: Rights are rights. They are inherent to all people and can neither be granted by states nor taken away. I believe no one has the right to override the rights of an individual to any interventions that are deferrable and not medically required. This includes the situation where parents and doctors want to conduct hormonal and/or surgical interventions on a child, but that intervention is not medically required and can wait for the child to decide for themselves when they are older. Parents, doctors, and the state shouldn't have the authority over the child to make that decision.

ER: Are you aware of state mechanisms to ensure the protection of intersex minors against harmful practices in medical settings? How Malta, in your view, is currently monitoring compliance by medical practitioners of the Gender Identity, Gender Expression and Sex Characteristics Act* (2015)?

TB: The Maltese Government genuinely wants to protect children born with intersex variations. They have an Intersex Protocol Review Working Group, which I am a member of, and are conducting ongoing work to ensure the effective implementation and ongoing improvement of intersex protections..

Santiago Mbanda Lima⁵³ – Portugal

Eli Rubashkyn (ER): Can you tell us about the development of the law banning non-consensual medical interventions on intersex children, and providing protections on the ground of sex characteristics in Portugal? How was your organisation involved, and how did the process take place?

Santiago Mbanda (SM): I am a co-founder of Ação Pela Identidade, the first NGO in Portugal to advocate for the rights of intersex people. We started our work in 2011, demanding the recognition of intersex people in what was then the LGBT movement, getting the main civil society organisations, as well as the Portuguese Government, to include the "I" in LGBTI. In 2015, in preparation for the legislative elections (to elect a new parliament and define a new government), we started to demand for the first time the recognition of intersex people in the law and a revision of the "gender identity law", which was going to complete five years of execution the following year. One of the first things we did was co-organising a public hearing in the Parliament, in which I came out and became the first intersex person to do so in Portugal.

After that, we managed to secure a compromise with the progressive parties who achieved a parliamentary majority, and then we collaborated with some proximity with the new Government. Although we have always believed that sex characteristics and gender identity should have a

⁵³ **Santiago Mbanda Lima** (he/him) is an Angolan/Portuguese intersex and anti-racism activist. He has openly come out as intersex at a Portuguese Parliament hearing that he co-organised in 2015, becoming the first person to do so in the country. Santiago also co-founded Ação Pela Identidade (API) in 2011, becoming its first president and later-on, executive director. His work for protecting intersex people in Portugal and the world is based on intersectional, bodily diverse, and antiracist perspective.

separate legal framework, Law No. 38/18, which was passed in 2018, sought to provide a joint response. While not perfect, this law meant a major advance for the rights of intersex people, and it managed to overcome resistance from conservative and ultra-conservative forces.

ER: In your view, do you think these surgeries are still happening in Portugal?

SM: One of the big unresolved issues regarding intersex rights in Portugal, if not "the" big issue, is the need to collect concrete and official data on intersex people, namely regarding births. As far as it is possible now, surgeries on babies and infants are not being performed, and there is a growing awareness in the medical community about the self-determination and bodily autonomy of intersex people and why these surgeries are forbidden, but there is still a way to go in that fulfilment. Still, there is a noticeable period before and after; the surgeries that we knew were occurring until 2018 stopped being performed as of 2019, when the National Health authorities published a new strategy for promoting the health of transgender and intersex people, including new guidelines.

ER: Are there any healthcare protocols or standards guiding doctors and parents on human rights-affirming healthcare?

SM: Alongside the new legislation mentioned, a new national strategy for equality and non-discrimination was also launched in 2018, which for the first time, also included combating discrimination on the basis of sex characteristics. The first campaign carried out by the Portuguese Government included my testimony as an intersectional intersex person and was also disseminated in hospitals and health services, in addition to some measures that have raised awareness and promoted consciousness about intersex people. In late 2019, a health strategy for LGBTI people, focusing on transgender and intersex people, was published. Ação Pela Identidade, as well as other civil society organisations, were consulted in its development. Due to the COVID-19 pandemic, it has faced some difficulties in implementation, but new guidelines for clinical practice based on human rights and the bodily autonomy of intersex people were already established.

ER: What else do you think should be done to advance the protection of the human rights of intersex people in Portugal?

SM: As I had already pointed out, official and concrete data on intersex people is fundamental, both at the statistical level, as well as data on births and follow-up in health services. More support is also needed for intersex organisations, not only financially but even so in the acknowledgement that intersex organisations are those led by intersex people - just as LGBTIQ+ organisations are those led by LGBTIQ+ people. Without ensuring better data and the empowerment of intersex people themselves, it will be impossible to effectively improve and advance both legislation and public policy strategies.

Clara Montesdeoca⁵⁴ – Spain

Eli Rubashkyn (ER): Spain has made progress on several fronts, prohibiting genital modification practices in minors in some regions, as well as anti-discrimination measures. How have you, civil society, and allies participated in these developments?

Clara Montesdeoca (CM): As part of Caminar Intersex, in a personal way, and with the important support of my intersex son, we have worked from the beginning on the Canarian law that was passed two years ago, being a model for future laws in our perspective. Previous laws were

⁵⁴ Clara Montesdeoca (she/her) is an activist advocating for the human rights of intersex people and their families. Clara participated at the Universal Periodic Review of Spain in Geneva in 2017. Since 2013, she has been fighting against the extortions and pressure experienced by parents of intersex people by medical practitioners seeking to make medical interventions to their intersex children. In 2019, with the support of Brújula Intersexual, Clara founded Caminar Intersex. She also participated in the creation of a law for social equality and non-discrimination in the Canary Islands in 2019, and helped raise the first intersex flag in Spain that same year.

adopted without working with the intersex community because all intersex groups in Spain appeared after those laws were enacted. We have attended several meetings where we have discussed the Canarian law. Unlike other laws in Spain, we believe it is a law that protects all intersex children, as well as families and intersex people at any time.

The recently proposed 2022 law is not favourable for intersex people in its current terms. This is because this law leaves the door open to whatever the doctors decide. When you read the law, it is clear how the provisions of the law could be evaded, for example, when a doctor convinces the families of intersex people to give them a diagnosis mixed with incomplete information in order to carry out those surgeries. If we leave that door so open, in the end, we have not protected intersex children. Something equally worrying about state law is that families have a year to decide what sex is assigned to the baby, so we believe that it is not right to continue giving the responsibility to families to decide on a person who will have the capacity for self-determination when they see fit. This practice of deciding for intersex minors must end.

ER: Do you think that by urging the assignment of sex to a child within a year, this law would open a door that promotes surgeries? Are there other drawbacks you can identify in that bill?

CM: Exactly. The doctor will find ways to justify these surgeries when they are clearly unnecessary. Something that I think is super important for the law to consider, in addition to legal responsibilities and penalties. On the other hand, if we protect intersex people, unnecessary genital mutilation will end. But what about all these people who have been mutilated? What's going on? Just like transgender people, for example, trans women can access an economic incentive for all the damage they experienced in the Franco era due to discrimination and victimisation. Why can't intersex people who have been mutilated, their lives destroyed, and their right to have their sexuality annulled in dignity, have a right to be compensated for these violations? Especially when it has been a medical malpractice from minute zero; malpractice allowed by the State. Many organisations that promote these laws have not sat down to talk to intersex organisations to discuss their needs.

One of the central problems of this project is that it imposes the need to register sex after one year, something which is supposed to depend on a series of medical examinations, such as a karyotype among other things, and other considerations that are not entirely clear. At that age, there is no role, and you cannot look at genitals because genitals do not imply at all what your feeling is, or what the brain is telling you about who you are. The baby has no way to say or communicate it, and there is no urgency. During COVID-19, due to the health emergency, it was evident how suddenly these genital mutilations stopped being practised when all operating rooms were closed, which shows that there was no such urgency, that intersex children are alive, and none has or developed health problems.

ER: Regarding the prohibition of genital mutilation practices and non-consensual harmful treatments, how are the laws implemented in the different autonomous communities of Spain? Do you know any way to monitor compliance with these laws?

CM: From our point of view, there is no way to monitor compliance. Our organisation has contacted some organisations fighting for the rights of intersex people in Spain, such as Kaleidos and Krisol, and it is evident that there is no way this can be controlled or monitored.

There are autonomous communities with laws that guarantee some rights that are not being fulfilled, and a clear example is Catalonia., which guarantees rights. However, in the Canary Islands, for example, families from here have travelled to perform surgeries on their children in Catalonia because they were not allowed to conduct surgeries on their babies here. They go register in Catalonia and seek to perform these surgeries and non-vital and unnecessary interventions on their children and then return home. These cases are real and are now managed in the Canary Islands. It is clear how this can also happen in other autonomous communities where there are supposedly laws that aim to ensure that these violations stop, but they continue to occur.

ER: Are there affirmative protocols and standards for medical needs? Psychosocial support to them and the family?

CM: In the Canary Islands, there is an action protocol, which includes a multidisciplinary team of doctors, surgeons, and nurses who work in the decision-making process. In the autonomous communities of the Spanish peninsula, the organisations tell us that there are no action protocols. Usually, everything is decided through the paediatric endocrinologists assigned to a patient. In the regions of the peninsula, patients continue to receive pathologizing information from the doctor and the endocrinologist. Likewise, fears are instilled in parents about the subsequent development of a "disease" or a risk of cancer, or a short life expectancy, seeking that the family or the intersex person opt for surgeries and interventions due to misinformation.

The lack of guidelines is evident. For example, my son suffered several adrenal crises thanks to surgeries, because intersex people, especially minors with their intersex variation, experience these crises due to all the stress and trauma induced by the surgeries. As a result of all these unnecessary surgeries, in the case of my son, the doctors had to change the dose of corticosteroids multiple times every time they did surgery on him, leading to my son manifesting harmful adverse effects that put his life at risk.

Forging Accountability: Evolution of Intersex Human Rights in International Law

By Ilia Savelev

Introduction

Over the past 15 years, intersex civil society organisations have achieved spectacular success in increasing the visibility of the human rights needs of intersex people at international venues.⁵⁵ Since 2009, intergovernmental organisations' responses have evolved from indecisive suggestions to inform medical providers on current trends in ethics and therapy on intersex issues, to urgent and confident calls in recent years to legally prohibit and ensure accountability for non-consensual medical interventions on intersex minors.

This essay offers a compilation of references to official documents and acts related to intersex people's right to bodily integrity and equal enjoyment of their human rights that were issued by global and regional intergovernmental organisations and their bodies.⁵⁶ The aim of this non-exhaustive overview is to serve as a resource for strategic reflection on the multiple achievements of the intersex community, as well as a reference point for further research and advocacy.

Many developments presented in this chapter do not constitute primary sources of international law,⁵⁷ but fall under the categories of quasi-legal instruments and "soft" international law – that is, non-legally binding acts. Such instruments play a key role in formulating international human rights standards pertaining to the needs of intersex people as they help to exert political pressure on the governments in the present, but importantly, support the interpretation of the existing sources of international law for legally binding acts and judgments in the future. These instruments become crucial in intersex advocacy because intersex civil society organisations expect the governments to fulfil their **existing** international legally binding obligations to ensure intersex people's effective enjoyment of universal human rights, including even non-derogable rights. Intersex advocates anchor their demands in well-established and universally respected human rights concepts such as the prohibition of torture, freedom from discrimination, rights of the child, right to bodily integrity and autonomy,⁵⁸ and others.

⁵⁵ See "[First ever International Intersex Forum](#)", The International Lesbian, Gay, Bisexual, Transgender, Queer and Intersex (LGBTQI) Youth & Student Organisation, 8 August 2011; "[Second International Intersex Forum Concludes with Seven Demands](#)", Intersex Human Rights Australia, 12 December 2012; "[Malta Declaration](#)", Organisation Intersex International Europe, 1 December 2013; "[Statement of Riga](#)", Organisation Intersex International Europe, 8 October 2014; "[Darlington Statement](#)", Intersex Human Rights Australia, 10 March 2017; "[Statement of the 1st European Intersex Community Event \(Vienna, 30st – 31st of March 2017\)](#)", Organisation Intersex International Europe, 20 April 2017; "[4th International Intersex Forum – Media Statement](#)", Organisation Intersex International Europe, 26 April 2017; "[Public Statement by the African Intersex Movement, 2017](#)", Intersex Day, 15 December 2017; "[Asian Intersex Movement – Public Statement](#)", Intersex Asia, 18 February 2018; "[San José de Costa Rica Statement](#)", Brújula Intersexual, 13 April 2018; "[45th Human Rights Council. Item 8 – General Debate. International Lesbian and Gay Association](#)", The International Lesbian, Gay, Bisexual, Trans and Intersex Association; "[Intersex Joint Civil Society Statement – HRC51](#)", Global Action for Trans Equality, 3 October 2022.

⁵⁶ Therefore, international events and the acts of national expert and human rights institutions, human rights organisations, medical associations and professionals are outside of the scope of this essay.

⁵⁷ See United Nations, [Statute of the International Court of Justice](#), 18 April 1946, Article 38(1).

⁵⁸ We understand the right to bodily integrity as a right to be free from unjustified interference into one's own body (regardless of individual's capacity to give consent) and right to bodily autonomy – as a right to exercise informed and independent control over one's own body, including ability to give effective consent for any interventions. The distinction between the two concepts is insignificant for the purpose of this essay, so they will be used interchangeably.

One of the major guiding documents for illustrating this intersection of international human rights with the needs of intersex people is the Yogyakarta Principles Plus 10.⁵⁹ This document was elaborated by human rights experts to serve as an authoritative statement of international human rights law principles and obligations in application to, among other issues, sex characteristics.⁶⁰

The United Nations

As most of the relevant human rights were established by the international human rights treaties adopted in the framework of **the United Nations**, the organisation provides a powerful platform to advocate for the demands of the global intersex community. The human rights Treaty Bodies became the most proactive part of the United Nations system with regard to intersex issues. The Treaty Bodies approach intersex issues from the respective human rights concepts within their mandate and embed relevant recommendations into their general comments and concluding observations for the countries during the human rights treaties' compliance review.

Multiple egregious cases of abuses of intersex people's human rights often happen during their childhood when intersex individuals are unable to defend their rights effectively and independently. Predictably, the United Nations Committee on the Rights of the Child (CRC) became the most prolific advocate of intersex people among the Treaty Bodies. For example, in 2016, CRC condemned "forced surgeries or treatments on intersex adolescents" and urged States to protect intersex children from all forms of violence, discrimination, or bullying.⁶¹

Even though intersex minors suffer from the abuses of multiple **rights of the child**, such as principles of best interests and evolving capacity of a child,⁶² the right to preserve the child's own identity,⁶³ the right to freely express the views in all matters affecting the child,⁶⁴ and the right to health,⁶⁵ most of the CRC's concluding observations reflect on violations of intersex children's right to be free from all forms of physical or mental violence, injury or abuse,⁶⁶ in particular, through the framework of **harmful practices**.⁶⁷

⁵⁹ Mauro Cabral Grinspan et al., [The Yogyakarta Principles plus 10. Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles](#), 10 November 2017.

⁶⁰ In particular, the right to bodily and mental integrity, the right to truth, the right to legal recognition, the right to the highest attainable standard of health, the right to education, the right to information, the right to found a family, and other human rights.

⁶¹ CRC, [General Comment No. 20 \(2016\) on the Implementation of the Rights of the Child During Adolescence](#), CRC/C/GC/20, 6 December 2016.

⁶² United Nations General Assembly, [Convention on the Rights of the Child](#), 20 November 1989, Article 3; CRC, [General Comment No. 14 \(2013\) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration \(Article 3, Para. 1\)](#), CRC/C/GC/14, 29 May 2013.

⁶³ United Nations General Assembly, [Convention on the Rights of the Child](#), 20 November 1989, Article 8.

⁶⁴ *Ibid.*, Article 12.

⁶⁵ *Ibid.*, Article 24; CRC, [General Comment No. 14 \(2013\) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration \(Article 3, Para. 1\)](#), CRC/C/GC/14, 29 May 2013, para. 77; HRC, [Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health](#), A/HRC/11/12, 31 March 2009; Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, [Report on Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health](#), A/70/213, 30 July 2015, para. 86.

⁶⁶ United Nations General Assembly, [Convention on the Rights of the Child](#), 20 November 1989, Article 19

⁶⁷ CRC, [General Comment No. 13 \(2011\): The Right of the Child to Freedom from All Forms of Violence](#), CRC/C/GC/13, 18 April 2011, para. 29; CEDAW, CRC, [Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women / General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices](#), CEDAW/C/GC/31, CRC/C/GC/18, 14 November 2014.

CRC developed a set of comprehensive recommendations to ensure that intersex children are “not subjected to unnecessary medical or surgical treatment, in line with the rights of the child to bodily integrity, autonomy, and self-determination”.⁶⁸ For that end, CRC urged States, in consultations with the intersex community,⁶⁹ to enact legislation explicitly prohibiting such treatment where those procedures may be safely deferred until intersex children can provide their informed consent.⁷⁰ Moreover, CRC recommended States to develop and implement a children's rights-based healthcare protocol that set the procedures to be followed by health teams in order to ensure that intersex children are involved, to the greatest extent possible, in decision-making about their treatment and care.⁷¹ In the Committee's view, intersex children and their families should be provided with social, medical and psychological services,⁷² and adequate counselling, support, including from peers, reparations and redress.⁷³

To support these guarantees, CRC recommended States to educate and train medical and psychological professionals on sexual diversity, issues of biological and physical diversity, and the consequences of unnecessary surgical and other medical interventions for intersex children.⁷⁴ Moreover, States should promptly investigate incidents of medical interventions on intersex children without their informed consent and adopt legal provisions to ensure victims of such interventions have the right of access to justice and redress, including lifting the relevant statute of limitations⁷⁵ and providing reparation, adequate compensation, rehabilitation,⁷⁶ and indemnity.⁷⁷ Also, States should gather data to understand the extent of instances of unnecessary medical or surgical treatment performed on intersex children, which constitute a harmful practice, so that children at risk can be more easily identified and their abuse prevented.⁷⁸

⁶⁸ CRC, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Chile](#), CRC/C/CHL/CO/6-7, 22 June 2022, para. 22; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Cyprus](#), CRC/C/CYP/CO/5-6, 24 June 2022, para. 25; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Croatia](#), CRC/C/HRV/CO/5-6, 22 June 2022, para. 26; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Czechia](#), CRC/C/CZE/CO/5-6, 22 October 2021, para. 28; CRC, [Concluding Observations on the Fifth Periodic Report of Denmark](#), CRC/C/DNK/CO/5, 26 October 2017, para. 24; CRC, [Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Greece](#), CRC/C/GRC/CO/4-6, 28 June 2022, para. 28; CRC, [Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland](#), CRC/C/IRL/CO/3-4, 1 March 2016, para. 40; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Luxembourg](#), CRC/C/LUX/CO/5-6, 21 June 2021, para. 19; CRC, [Concluding Observations on the Combined Third to Sixth Periodic Reports of Malta](#), CRC/C/MLT/CO/3-6, 26 June 2019, para. 29; CRC, [Concluding Observations on the Third to Fifth Reports of Nepal](#), CRC/C/NPL/CO/3-5, 8 July 2016, para. 42; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Portugal](#), CRC/C/PRT/CO/5-6, 9 December 2019, para. 28; CRC, [Concluding Observations on the Second Periodic Report of South Africa](#), CRC/C/ZAF/CO/2, 27 October 2016, para. 40; CRC, [Concluding Observations on the Combined Second to Fourth Periodic Reports of Switzerland](#), CRC/C/CHE/CO/2-4, 26 February 2015, para. 43; CRC, [Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Tunisia](#), CRC/C/TUN/CO/4-6, 2 September 2021, para. 26; CRC, [Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland](#), CRC/C/GBR/CO/5, 12 July 2016, para. 47; CRC, [Concluding Observations on the Combined Fifth to Seventh Periodic Reports of Zambia](#), CRC/C/ZMB/CO/5-7, 27 June 2022, para. 25; CRC, [Concluding Observations on the Combined Third to Sixth Periodic Reports of North Macedonia](#), CRC/C/MKD/CO/3-6, 20 October 2022, para. 26.

⁶⁹ CRC, [Concluding Observations on the Combined Fifth and Sixth Reports of Canada](#), CRC/C/CAN/CO/5-6, 9 June 2022, para. 29.

⁷⁰ CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Australia](#), CRC/C/AUS/CO/5-6, 1 November 2019, para. 31; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Austria](#), CRC/C/AUT/CO/5-6, 6 March 2020, para. 27; CRC, [Concluding Observations on the Combined Fifth and Sixth Reports of Belgium](#), CRC/C/BEL/CO/5-6, 1 February 2019, para. 26; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Kingdom of the Netherlands](#), CRC/C/NLD/CO/5-6, 9 March 2022, para. 23; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Spain](#), CRC/C/ESP/CO/5-6, 5 March 2018, para. 24; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Switzerland](#), CRC/C/CHE/CO/5-6, 22 October 2021, para. 29.

⁷¹ CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Argentina](#), CRC/C/ARG/CO/5-6, 1 October 2018, para. 26; CRC, [Concluding Observations on the Fifth Periodic Report of Denmark](#), CRC/C/DNK/CO/5, 26 October 2017, para. 24; CRC, [Concluding Observations on the Fifth Periodic Report of France](#), CRC/C/FRA/CO/5, 23 February 2016, para. 48; CRC, [Concluding Observations on the Fourth and Fifth Reports of Chile](#), CRC/C/CHL/CO/4-5, 30 October 2015, para. 49; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Italy](#), CRC/C/ITA/CO/5-6, 28 February 2019, para. 23; CRC, [Concluding Observations on the Fifth Periodic Report of New Zealand](#), CRC/C/NZL/CO/5, 21 October 2016, para. 25.

⁷² CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Cyprus](#), CRC/C/CYP/CO/5-6, 24 June 2022, para. 25; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Czechia](#), CRC/C/CZE/CO/5-6, 22 October 2021, para. 28; CRC, [Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Greece](#), CRC/C/GRC/CO/4-6, 28 June 2022, para. 28; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Iceland](#), CRC/C/ISL/CO/5-6, 23 June 2022, para. 26; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Kingdom of the Netherlands](#), CRC/C/NLD/CO/5-6, 9 March 2022, para. 23; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Portugal](#), CRC/C/PRT/CO/5-6, 9 December 2019, para. 28; CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Switzerland](#), CRC/C/CHE/CO/5-6, 22 October 2021, para. 29; CRC, [Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Tunisia](#), CRC/C/TUN/CO/4-6, 2 September 2021, para. 26; CRC, [Concluding Observations on the Combined Third to Sixth Periodic Reports of North Macedonia](#), CRC/C/MKD/CO/3-6, 20 October 2022, para. 26.

Furthermore, CRC recommended States to study, combat, and eliminate discrimination against children on the basis of actual or perceived sex characteristics.⁷⁹ Finally, CRC urged States to combat stigma and discrimination against intersex children by conducting awareness-raising campaigns⁸⁰ and strengthening preventive activities against discrimination, including, if necessary, taking affirmative action.⁸¹

Given the close interrelation between patriarchy and violations of intersex people's human rights, it is not surprising that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) became the first Treaty Body that issued a specific recommendation on intersex issues and the second most productive advocate of intersex rights among Treaty Bodies. In 2009, in concluding observations for Germany, it recommended the State enter into dialogue with intersex people and non-governmental organisations "to better understand their claims and to take effective action to protect their human rights".⁸² Later, CEDAW approached intersex issues through the gender equality lens, namely, the category of **stereotypes and harmful practices**.

⁷³ CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Cyprus*, CRC/C/CYP/CO/5-6, 24 June 2022, para. 25; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Czechia*, CRC/C/CZE/CO/5-6, 22 October 2021, para. 28; CRC, *Concluding Observations on the Fifth Periodic Report of Denmark*, CRC/C/DNK/CO/5, 26 October 2017, para. 24; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Croatia*, CRC/C/HRV/CO/5-6, 22 June 2022, para. 26; CRC, *Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Greece*, CRC/C/GRC/CO/4-6, 28 June 2022, para. 28; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Iceland*, CRC/C/ISL/CO/5-6, 23 June 2022, para. 26; CRC, *Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland*, CRC/C/IRL/CO/3-4, 1 March 2016, para. 40; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Argentina*, CRC/C/ARG/CO/5-6, 1 October 2018, para. 26; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Australia*, CRC/C/AUS/CO/5-6, 1 November 2019, para. 31; CRC, *Concluding Observations on the Combined Fifth and Sixth Reports of Belgium*, CRC/C/BEL/CO/5-6, 1 February 2019, para. 26; CRC, *Concluding Observations on the Fourth and Fifth Reports of Chile*, CRC/C/CHL/CO/4-5, 30 October 2015, para. 49; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Italy*, CRC/C/ITA/CO/5-6, 28 February 2019, para. 23; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Luxembourg*, CRC/C/LUX/CO/5-6, 21 June 2021, para. 19; CRC, *Concluding Observations on the Combined Third to Sixth Periodic Reports of Malta*, CRC/C/MLT/CO/3-6, 26 June 2019, para. 29; CRC, *Concluding Observations on the Third to Fifth Reports of Nepal*, CRC/C/NPL/CO/3-5, 8 July 2016, para. 42; CRC, *Concluding Observations on the Fifth Periodic Report of New Zealand*, CRC/C/NZL/CO/5, 21 October 2016, para. 25; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Portugal*, CRC/C/PRT/CO/5-6, 9 December 2019, para. 28; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Spain*, CRC/C/ESP/CO/5-6, 5 March 2018, para. 24; CRC, *Concluding Observations on the Combined Second to Fourth Periodic Reports of Switzerland*, CRC/C/CHE/CO/2-4, 26 February 2015, para. 43; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Switzerland*, CRC/C/CHE/CO/5-6, 22 October 2021, para. 29; CRC, *Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Tunisia*, CRC/C/TUN/CO/4-6, 2 September 2021, para. 26; CRC, *Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland*, CRC/C/GBR/CO/5, 12 July 2016, para. 47.

⁷⁴ CRC, *Concluding Observations on the Combined Fifth and Sixth Reports of Canada*, CRC/C/CAN/CO/5-6, 9 June 2022, para. 29; CRC, *Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland*, CRC/C/IRL/CO/3-4, 1 March 2016, para. 40; CRC, *Concluding Observations on the Fifth Periodic Report of Denmark*, CRC/C/DNK/CO/5, 26 October 2017, para. 24; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Italy*, CRC/C/ITA/CO/5-6, 28 February 2019, para. 23; CRC, *Concluding Observations on the Third to Fifth Reports of Nepal*, CRC/C/NPL/CO/3-5, 8 July 2016, para. 42; CRC, *Concluding Observations on the Fifth Periodic Report of New Zealand*, CRC/C/NZL/CO/5, 21 October 2016, para. 25; CRC, *Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland*, CRC/C/GBR/CO/5, 12 July 2016, para. 47.

⁷⁵ CRC, *Concluding Observations on the Combined Fifth and Sixth Reports of Belgium*, CRC/C/BEL/CO/5-6, 1 February 2019, para. 26.

⁷⁶ CRC, *Concluding Observations on the Combined Fifth and Sixth Reports of Canada*, CRC/C/CAN/CO/5-6, 9 June 2022, para. 29; CRC, *Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland*, CRC/C/IRL/CO/3-4, 1 March 2016, para. 40; CRC, *Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Chile*, CRC/C/CHL/CO/6-7, 22 June 2022, para. 22; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Croatia*, CRC/C/HRV/CO/5-6, 22 June 2022, para. 26; CRC, *Concluding Observations on the Fifth Periodic Report of Denmark*, CRC/C/DNK/CO/5, 26 October 2017, para. 24; CRC, *Concluding Observations on the Combined Third to Sixth Periodic Reports of Malta*, CRC/C/MLT/CO/3-6, 26 June 2019, para. 29; CRC, *Concluding Observations on the Third to Fifth Reports of Nepal*, CRC/C/NPL/CO/3-5, 8 July 2016, para. 42; CRC, *Concluding Observations on the Fifth Periodic Report of New Zealand*, CRC/C/NZL/CO/5, 21 October 2016, para. 25; CRC, *Concluding Observations on the Fourth and Fifth Reports of Chile*, CRC/C/CHL/CO/4-5, 30 October 2015, para. 49; CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Kingdom of the Netherlands*, CRC/C/NLD/CO/5-6, 9 March 2022, para. 23; CRC, *Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland*, CRC/C/GBR/CO/5, 12 July 2016, para. 47.

⁷⁷ CRC, *Concluding Observations on the Combined Fifth to Seventh Periodic Reports of Zambia*, CRC/C/ZMB/CO/5-7, 27 June 2022, para. 25.

⁷⁸ CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Austria*, CRC/C/AUT/CO/5-6, 6 March 2020, para. 27; CRC, *Concluding Observations on the Fifth Periodic Report of France*, CRC/C/FRA/CO/5, 6 March 2020, para. 48.

⁷⁹ CRC, *Concluding Observations on the Third to Fifth Periodic Reports of Latvia*, CRC/C/LVA/CO/3-5, 14 March 2016, para. 27(c); CRC, *Concluding Observations on the Fourth and Fifth Reports of Chile*, CRC/C/CHL/CO/4-5, 30 October 2015, para. 25(b).

⁸⁰ CRC, *Concluding Observations on the Third to Fifth Reports of Nepal*, CRC/C/NPL/CO/3-5, 8 July 2016, para. 42; CRC, *Concluding Observations on the Fifth and Sixth Reports of Germany*, CRC/C/DEU/CO/5-6, 13 October 2022, para. 15.

⁸¹ CRC, *Concluding Observations on the Fifth and Sixth Periodic Reports of Italy*, CRC/C/ITA/CO/5-6, 28 February 2019, para. 15.

⁸² CEDAW, *Concluding observations on the Sixth Periodic Report of Germany*, CEDAW/C/DEU/CO/6, 12 February 2009, para. 62.

In several concluding observations, CEDAW recommended States to adopt legislation that explicitly prohibits the performance of “unnecessary surgical or other medical procedures on intersex children before they reach the legal age of consent”.⁸³ To strengthen this prohibition, CEDAW recommended States develop and implement a rights-based healthcare protocol for intersex persons, ensuring guarantees of free, informed, and prior consent, namely, that the intersex minors and their parents are properly informed of all options and intersex minors are involved in decision-making about medical interventions, and their choices are fully considered and respected.⁸⁴

Moreover, CEDAW urged States to inform, educate, and train medical and psychological professionals about the rights of intersex persons, and the harmful impact of interventions on intersex children,⁸⁵ as well as to provide adequate counselling and support for the families of intersex children.⁸⁶ Another important recommendation was to ensure that victims of these interventions are provided with effective access to justice, including victim support (such as legal, social, medical and psychological assistance, and shelters),⁸⁷ amending statutes of limitation on damage compensation claims;⁸⁸ providing redress⁸⁹, and considering establishing a compensation fund for them.⁹⁰ Finally, CEDAW recommended States to adopt specific prohibitions of discrimination on the ground of sex characteristics.⁹¹

⁸³ CEDAW, [Concluding Observations on the Eighth Periodic Report of Australia](#), CEDAW/C/AUS/CO/8, 25 July 2018, para. 26; CEDAW, [Concluding Observations on the Ninth Periodic Report of Austria](#), CEDAW/C/AUT/CO/9, 30 July 2019, para. 35; CEDAW, [Concluding Observations on the Seventh Periodic Report of Chile](#), CEDAW/C/CHL/CO/7, 14 March 2018, para. 23; CEDAW, [Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Germany](#), CEDAW/C/DEU/CO/7-8, 9 March 2017, para. 24; CEDAW, [Concluding Observations on the Fifth Periodic Report of Liechtenstein](#), CEDAW/C/LIE/CO/5/Rev.1, 3 December 2018, para. 36; CEDAW, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Luxembourg](#), CEDAW/C/LUX/CO/6-7, 14 March 2018, para. 28; CEDAW, [Concluding Observations on the Ninth Periodic Report of Mexico](#), CEDAW/C/MEX/CO/9, 25 July 2018, para. 22; CEDAW, [Concluding Observations on the Sixth Periodic Report of Nepal](#), CEDAW/C/NPL/CO/6, 14 November 2018, para. 19; CEDAW, [Concluding Observations on the Eighth Periodic Report of New Zealand](#), CEDAW/C/NZL/CO/8, 25 July 2018, para. 24; CEDAW, [Concluding Observations on the Eighth Periodic Report of the Republic of Korea](#), CEDAW/C/KOR/CO/8, 14 March 2018, para. 41; CEDAW, [Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland](#), CEDAW/C/CHE/CO/4-5, 25 November 2016, para. 25.

⁸⁴ CEDAW, [Concluding Observations on the Ninth Periodic Report of Austria](#), CEDAW/C/AUT/CO/9, 30 July 2019, para. 35; CEDAW, [Concluding Observations on the Eighth Periodic Report of Bulgaria](#), CEDAW/C/BGR/CO/8, 10 March 2020, para. 34; CEDAW, [Concluding Observations on the Combined Seventh and Eighth Periodic Reports of France](#), CEDAW/C/FRA/CO/7-8, 25 July 2016, para. 19; CEDAW, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Ireland](#), CEDAW/C/IRL/CO/6-7, 9 March 2017, para. 25; CEDAW, [Concluding Observations on the Seventh Periodic Report of Italy](#), CEDAW/C/ITA/CO/7, 24 July 2017, para. 42; CEDAW, [Concluding Observations on the Fifth Periodic Report of Liechtenstein](#), CEDAW/C/LIE/CO/5/Rev.1, 3 December 2018, para. 36; CEDAW, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Luxembourg](#), CEDAW/C/LUX/CO/6-7, 14 March 2018, para. 28; CEDAW, [Concluding Observations on the Sixth Periodic Report of the Netherlands](#), CEDAW/C/NLD/CO/6, 24 November 2016, para. 22; CEDAW, [Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland](#), CEDAW/C/CHE/CO/4-5, 25 November 2016, para. 25.

⁸⁵ CEDAW, [Concluding Observations on the Seventh Periodic Report of Chile](#), CEDAW/C/CHL/CO/7, 14 March 2018, para. 23; CEDAW, [Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Germany](#), CEDAW/C/DEU/CO/7-8, 9 March 2017, para. 24; CEDAW, [Concluding Observations on the Sixth Periodic Report of Nepal](#), CEDAW/C/NPL/CO/6, 14 November 2018, para. 19; CEDAW, [Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland](#), CEDAW/C/CHE/CO/4-5, 25 November 2016, para. 25.

⁸⁶ CEDAW, [Concluding Observations on the Eighth Periodic Report of Australia](#), CEDAW/C/AUS/CO/8, 25 July 2018, para. 26; CEDAW, [Concluding Observations on the Seventh Periodic Report of Chile](#), CEDAW/C/CHL/CO/7, 14 March 2018, para. 23; CEDAW, [Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Germany](#), CEDAW/C/DEU/CO/7-8, 9 March 2017, para. 24; CEDAW, [Concluding Observations on the Ninth Periodic Report of Mexico](#), CEDAW/C/MEX/CO/9, 25 July 2018, para. 22; CEDAW, [Concluding Observations on the Eighth Periodic Report of New Zealand](#), CEDAW/C/NZL/CO/8, 25 July 2018, para. 24; CEDAW, [Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland](#), CEDAW/C/CHE/CO/4-5, 25 November 2016, para. 25.

⁸⁷ CEDAW, [Concluding Observations on the Sixth Periodic Report of Nepal](#), CEDAW/C/NPL/CO/6, 14 November 2018, para. 19.

⁸⁸ CEDAW, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Luxembourg](#), CEDAW/C/LUX/CO/6-7, 14 March 2018, para. 46; CEDAW, [Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Germany](#), CEDAW/C/DEU/CO/7-8, 9 March 2017, para. 24.

⁸⁹ CEDAW, [Concluding Observations on the Eighth Periodic Report of Australia](#), CEDAW/C/AUS/CO/8, 25 July 2018, para. 26; CEDAW, [Concluding Observations on the Eighth Periodic Report of New Zealand](#), CEDAW/C/NZL/CO/8, 25 July 2018, para. 24; CEDAW, [Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland](#), CEDAW/C/CHE/CO/4-5, 25 November 2016, para. 25; CEDAW, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Luxembourg](#), CEDAW/C/LUX/CO/6-7, 14 March 2018, para. 28.

⁹⁰ CEDAW, [Concluding Observations on the Seventh Periodic Report of Chile](#), CEDAW/C/CHL/CO/7, 14 March 2018, para. 23; CEDAW, [Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Germany](#), CEDAW/C/DEU/CO/7-8, 9 March 2017, para. 24.

⁹¹ CEDAW, [Concluding Observations on the Eighth Periodic Report of New Zealand](#), CEDAW/C/NZL/CO/8, 25 July 2018, para. 12.

Freedom from torture and cruel, inhuman or degrading treatment⁹² became another important intersex human rights advocacy instrument. Consequently, the United Nations Committee against Torture (CAT) has issued several recommendations for protecting this right. CAT consistently urged States to take the necessary measures to “guarantee the respect for the physical integrity and autonomy of intersex persons” and to ensure that “no one is subjected during infancy or childhood to non-urgent medical or surgical procedures intended to decide the sex of the child”.⁹³ Moreover, CAT recommended States to ensure that “non-urgent, irreversible medical interventions” are postponed until an intersex minor is sufficiently mature to participate in decision-making and able to give full, free, and informed consent.⁹⁴ To facilitate the consent, States should follow “legal and medical standards following the best practices of granting informed consent” and inform intersex people, orally and in writing, about the suggested treatment, its justification, and alternatives.⁹⁵

Furthermore, CAT suggested States provide intersex children and their parents with free psychological and social support, and impartial counselling services to inform them of the consequences of the interventions and “the possibility of postponing any decision on such treatment or surgery until the persons concerned can decide by themselves”.⁹⁶ In addition, States should educate and train medical and psychological professionals on the range of sexual, and related biological and physical, diversity⁹⁷ and conduct studies into this issue in order to better understand and deal with it.⁹⁸ Speaking of access to justice, CAT instructed States to investigate instances of interventions on intersex people without effective consent and ensure that the victims of the interventions concerned are adequately compensated⁹⁹ and provided redress (including means of rehabilitation)¹⁰⁰ for the physical and psychological suffering caused by such practices.¹⁰¹

Relevantly, back in 2013, the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment condemned “intrusive and irreversible treatments, including forced genital-normalizing surgery” without the free and informed consent of the person concerned as a form of torture or ill-treatment and called upon all States to abolish

⁹² United Nations, [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), 10 December 1984, Article 16.

⁹³ CAT, [Concluding Observations on the Sixth Periodic Report of Austria](#), CAT/C/AUT/CO/6, 27 January 2016, para. 45; CAT, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Denmark](#), CAT/C/DNK/CO/6-7, 4 February 2016, para. 43; CAT, [Concluding Observations on the Seventh Periodic Report of France](#), CAT/C/FRA/CO/7, 9 June 2016, para. 35; CAT, [Concluding Observations on the Seventh Periodic Report of the Netherlands](#), CAT/C/NLD/CO/7, 18 December 2018, para. 53; CAT, [Concluding Observations on the Seventh Periodic Report of Switzerland](#), CAT/C/CHE/CO/7, 7 September 2015, para. 20; CAT, [Concluding Observations on the Third Periodic Report of Kenya](#), CAT/C/KEN/CO/3, 30 May 2022, para. 44.

⁹⁴ CAT, [Concluding Observations on the Sixth Periodic Report of Austria](#), CAT/C/AUT/CO/6, 27 January 2016, para. 45; CAT, [Concluding Observations on the Fifth Periodic Report of China with respect to Hong Kong, China](#), CAT/C/CHN-HKG/CO/5, 3 February 2016, para. 30; CAT, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Denmark](#), CAT/C/DNK/CO/6-7, 4 February 2016, para. 43; CAT, [Concluding Observations on the Seventh Periodic Report of the Netherlands](#), CAT/C/NLD/CO/7, 18 December 2018, para. 53.

⁹⁵ CAT, [Concluding Observations on the Fifth Periodic Report of Germany](#), CAT/C/DEU/CO/5, 12 December 2011, para. 20.

⁹⁶ CAT, [Concluding Observations on the Sixth Periodic Report of Austria](#), CAT/C/AUT/CO/6, 27 January 2016, para. 45; CAT, [Concluding Observations on the Fifth Periodic Report of China with respect to Hong Kong, China](#), CAT/C/CHN-HKG/CO/5, 3 February 2016, para. 30; CAT, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Denmark](#), CAT/C/DNK/CO/6-7, 4 February 2016, para. 43; CAT, [Concluding Observations on the Seventh Periodic Report of France](#), CAT/C/FRA/CO/7, 9 June 2016, para. 35; CAT, [Concluding Observations on the Seventh Periodic Report of the Netherlands](#), CAT/C/NLD/CO/7, 18 December 2018, para. 53; CAT, [Concluding Observations on the Seventh Periodic Report of Switzerland](#), CAT/C/CHE/CO/7, 7 September 2015, para. 20; CAT, [Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland](#), CAT/C/GBR/CO/6, 7 June 2019, para. 65; CAT, [Concluding Observations on the Fifth Periodic Report of Germany](#), CAT/C/DEU/CO/5, 12 December 2011, para. 20.

⁹⁷ CAT, [Concluding Observations on the Fifth Periodic Report of Germany](#), CAT/C/DEU/CO/5, 12 December 2011, para. 20.

⁹⁸ CAT, [Concluding Observations on the Seventh Periodic Report of France](#), CAT/C/FRA/CO/7, 9 June 2016, para. 35.

⁹⁹ CAT, [Concluding Observations on the Sixth Periodic Report of Austria](#), CAT/C/AUT/CO/6, 27 January 2016, para. 45; CAT, [Concluding Observations on the Seventh Periodic Report of France](#), CAT/C/FRA/CO/7, 9 June 2016, para. 35; CAT, [Concluding Observations on the Fifth Periodic Report of Germany](#), CAT/C/DEU/CO/5, 12 December 2011, para. 20; CAT, [Concluding Observations on the Seventh Periodic Report of the Netherlands](#), CAT/C/NLD/CO/7, 18 December 2018, para. 53; CAT, [Concluding Observations on the Seventh Periodic Report of Switzerland](#), CAT/C/CHE/CO/7, 7 September 2015, para. 20; CAT, [Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland](#), CAT/C/GBR/CO/6, 7 June 2019, para. 65.

¹⁰⁰ CAT, [Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland](#), CAT/C/GBR/CO/6, 7 June 2019, para. 65.

¹⁰¹ CAT, [Concluding Observations on the Fifth Periodic Report of China with respect to Hong Kong, China](#), CAT/C/CHN-HKG/CO/5, 3 February 2016, para. 30; CAT, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Denmark](#), CAT/C/DNK/CO/6-7, 4 February 2016, para. 43.

laws allowing this practice.¹⁰² In 2016, the Rapporteur stated that in many jurisdictions, intersex children “are often subject to irreversible sex assignment, involuntary sterilisation, and genital normalizing surgery, which are performed without their informed consent or that of their parents, leaving them with permanent, irreversible infertility, causing severe mental suffering and contributing to stigmatisation” and reiterated that these practices “can amount to torture and ill-treatment”.¹⁰³ Similar statements were made by the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health and Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity.¹⁰⁴

In addition, in 2016, the United Nations Committee on the Rights of Persons with Disabilities (CRPD) explicitly listed “treatment performed on intersex children without their informed consent” among forms of violence, exploitation, or abuse that are considered cruel, inhuman, degrading treatment, or punishment, and violate a number of international human rights treaties.¹⁰⁵ However, in most of its concluding observations, the CRPD considered intersex issues through the lens of the **right to physical and mental integrity of the person**.¹⁰⁶

The CRPD has recalled the recommendations of other Treaty Bodies, sometimes explicitly referring to them.¹⁰⁷ Among these are recommendations to adopt legislation to explicitly prohibit the performance of medical interventions on intersex children without their consent;¹⁰⁸ to ensure reporting and data collection on these interventions;¹⁰⁹ to provide their victims with healthcare, psychosocial support, criminal and civil remedies, and holistic redress, including extending the statute of limitations,¹¹⁰ access to recovery services and compensation,¹¹¹ and to make adequate counselling and support available for intersex children and their families.¹¹² Among authentic recommendations, the CRPD urged States to allocate financial resources for organisations of

¹⁰² Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), A/HRC/22/53, 1 February 2013, para. 88.

¹⁰³ Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), A/HRC/31/57, 5 January 2016, para. 50; See also “Discriminated and Made Vulnerable: Young LGBT and Intersex People Need Recognition and Protection of Their Rights”, Office of the United Nations High Commissioner for Human Rights, 13 May 2015.

¹⁰⁴ See United Nations Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, [Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health](#), A/70/213, 30 July 2015, para. 85; United Nations Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity, [Report on the Right to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health of Persons, Communities and Populations Affected by Discrimination and Violence Based on Sexual Orientation and Gender Identity in Relation to the Sustainable Development Goals](#), A/HRC/50/27, 14 June 2022, para. 26.

¹⁰⁵ CRPD, [General comment No. 3 \(2016\) Article 6: Women and Girls with Disabilities](#), CRPD/C/GC/3, 2 September 2016.

¹⁰⁶ United Nations General Assembly, [Convention on the Rights of Persons with Disabilities](#), 13 December 2006, Article 17; See also HRCtee, [General Comment No. 35. Article 9 \(Liberty and Security of Person\)](#), CCPR/C/GC/35, 16 December 2014, paras 3, 9, 56.

¹⁰⁷ See CRPD, [Concluding Observations on the Initial Report of Germany](#), CRPD/C/DEU/CO/1, 13 May 2015, para. 38; CRPD, [Concluding Observations on the Combined Second and Third Periodic Reports of New Zealand](#), CRPD/C/NZL/CO/2-3, 26 September 2022, para. 36.

¹⁰⁸ CRPD, [Concluding Observations on the Combined Second and Third Periodic Reports of Australia](#), CRPD/C/AUS/CO/2-3, 15 October 2019, para. 34; CRPD, [Concluding Observations on the Initial Report of France](#), CRPD/C/FRA/CO/1, 4 October 2021, para. 37; CRPD, [Concluding Observations on the Combined Second and Third Periodic Reports of New Zealand](#), CRPD/C/NZL/CO/2-3, 26 September 2022, para. 36; CRPD, [Concluding Observations on the Initial Report of Switzerland](#), CRPD/C/CHE/CO/1, 25 March 2022, para. 36; CRPD, [Concluding Observations on the Initial Report of Chile](#), CRPD/C/CHL/CO/1, 13 April 2016, para. 42; CRPD, [Concluding Observations on the Initial Report of Morocco](#), CRPD/C/MAR/CO/1, 25 September 2017, para. 37; CRPD, [Concluding Observations on the Initial Report of Uruguay](#), CRPD/C/URY/CO/1, 30 September 2016, para. 44.

¹⁰⁹ CRPD, [Concluding Observations on the Combined Second and Third Periodic Reports of New Zealand](#), CRPD/C/NZL/CO/2-3, 26 September 2022, para. 36.

¹¹⁰ CRPD, [Concluding Observations on the Initial Report of Switzerland](#), CRPD/C/CHE/CO/1, 25 March 2022, para. 36.

¹¹¹ CRPD, [Concluding Observations on the Combined Second and Third Periodic Reports of Australia](#), CRPD/C/AUS/CO/2-3, 15 October 2019, para. 34; CRPD, [Concluding Observations on the Combined Second and Third Periodic Reports of New Zealand](#), CRPD/C/NZL/CO/2-3, 26 September 2022, para. 36.

¹¹² CRPD, [Concluding Observations on the Combined Second and Third Periodic Reports of Australia](#), CRPD/C/AUS/CO/2-3, 15 October 2019, para. 34; CRPD, [Concluding Observations on the Initial Report of Italy](#), CRPD/C/ITA/CO/1, 6 October 2016, para. 46; CRPD, [Concluding Observations on the Initial Report of Switzerland](#), CRPD/C/CHE/CO/1, 25 March 2022, para. 36.

intersex persons with disabilities¹¹³ and involve them in public decision-making processes,¹¹⁴ as well as to adopt measures to prevent stigmatisation and bullying of intersex children.¹¹⁵

The United Nations Committee on Economic, Social, and Cultural Rights (CESCR) has considered intersex issues in the framework of **a right to the highest attainable standard of health**.¹¹⁶ For example, in 2016, the CESCR listed failure to prohibit and take measures to prevent “medically unnecessary, irreversible and involuntary surgery and treatment performed on intersex infants or children” committed by private individuals among violations of the right to sexual and reproductive health.¹¹⁷ Moreover, in its concluding observations, the CESCR recommended States to ensure that “medically unnecessary or non-urgent procedures on the sex characteristics of intersex children are not performed until the children are capable of forming their own views and can give their informed consent”;¹¹⁸ provide intersex people with access to appropriate health services¹¹⁹ and adequate counselling and support, including from peers;¹²⁰ to train healthcare personnel on intersex people’s health needs and human rights;¹²¹ consult intersex persons and organisations in the development of research, legislation and policies concerning their rights;¹²² investigate human rights violations against intersex persons, and improve the definition of intersex persons in legislation.¹²³

Speaking on the right to health, the mandate of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health pioneered in bringing intersex rights to the attention of the United Nations in 2009. Back then, the Rapporteur stated that healthcare providers should be aware of the specific needs of intersex persons and strive to postpone “non-emergency, invasive and irreversible interventions until the child is sufficiently mature to provide informed consent”.¹²⁴ In 2015, the Rapporteur presented a report to the United Nations General Assembly that recommended States ban “unnecessary medical or surgical treatment” on intersex people and, in consultation with intersex civil society, to adopt measures to “overcome discriminatory attitudes and practices through awareness-raising, training for public officials and medical professionals, and the elaboration of ethical and professional standards”.¹²⁵

In 2022, in its most recent report, “Violence and its Impact on the Right to Health”, the Rapporteur explicitly proclaimed that member States “violate the right to health when they fail to take effective steps to prevent third parties from undermining the enjoyment of the right to sexual and

¹¹³ CRPD, *Concluding Observations on the Initial Report of the United Kingdom of Great Britain and Northern Ireland*, CRPD/C/GBR/CO/1, 3 October 2017, para. 11.

¹¹⁴ CRPD, *Concluding Observations on the Initial Report of Estonia*, CRPD/C/EST/CO/1, 5 May 2021, para. 10; CRPD, *Concluding Observations on the Combined Second and Third Periodic Reports of Hungary*, CRPD/C/HUN/CO/2-3, 20 May 2022, para. 9; CRPD, *Combined Second and Third Periodic Reports Submitted by the Republic of Korea under article 35 of the Convention pursuant to the optional reporting procedure, due in 2019*, CRPD/C/KOR/2-3, 11 October 2019, para. 10.

¹¹⁵ CRPD, *Concluding Observations on the Initial Report of India*, CRPD/C/IND/CO/1, 29 October 2019, paras 37, 51.

¹¹⁶ United Nations General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, Article 12; United Nations General Assembly, *Convention on the Rights of the Child*, 20 November 1989, Article 24.

¹¹⁷ CESCR, *General Comment No. 22 (2016) on the Right to Sexual and Reproductive Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)*, E/C.12/GC/22, 2 May 2016, para. 59.

¹¹⁸ CESCR, *Concluding Observations on the Fifth Periodic Report of Belgium*, E/C.12/BEL/CO/5, 26 March 2020, para. 55; CESCR, *Concluding Observations on the Third Periodic Report of Czechia*, E/C.12/CZE/CO/3, 28 March 2022, para. 39; CESCR, *Concluding Observations on Sixth Periodic Report of Denmark*, E/C.12/DNK/CO/6, 12 November 2019, para. 65; CESCR, *Concluding Observations on the Sixth Periodic Report of Germany*, E/C.12/DEU/CO/6, 27 November 2018, para. 25; CESCR, *Concluding Observations on the Sixth Periodic Report of the Netherlands*, E/C.12/NLD/CO/6, 6 July 2017, para. 49.

¹¹⁹ CESCR, *Concluding Observations on the Fourth Periodic Report of Argentina*, E/C.12/ARG/CO/4, 1 November 2018, para. 56.

¹²⁰ CESCR, *Concluding Observations on Sixth Periodic Report of Denmark*, E/C.12/DNK/CO/6, 12 November 2019, para. 65.

¹²¹ CESCR, *Concluding Observations on the Fifth Periodic Report of Belgium*, E/C.12/BEL/CO/5, 26 March 2020, para. 55; CESCR, *Concluding Observations on Sixth Periodic Report of Denmark*, E/C.12/DNK/CO/6, 12 November 2019, para. 65.

¹²² CESCR, *Concluding Observations on the Fifth Periodic Report of Belgium*, E/C.12/BEL/CO/5, 26 March 2020, para. 55; CESCR, *Concluding Observations on Sixth Periodic Report of Denmark*, E/C.12/DNK/CO/6, 12 November 2019, para. 65.

¹²³ CESCR, *Concluding Observations on Sixth Periodic Report of Denmark*, E/C.12/DNK/CO/6, 12 November 2019, para. 65.

¹²⁴ United Nations Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, A/64/272, 10 August 2009, paras 46, 49.

¹²⁵ United Nations Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, A/70/213, 30 July 2015, para. 112(m).

reproductive health, in particular in relation to [...] medically unnecessary, irreversible and involuntary surgery and treatment performed on intersex infants or children”. Moreover, the Rapporteur called to expand the definition of gender-based violence to include violence based on sex characteristics to offer protection inclusive of intersex people. Finally, the Rapporteur reaffirmed that the “ongoing practice of intersex genital mutilation” constitutes a “significant human rights violation and must stop”.¹²⁶

Relevantly, in 2014, the World Health Organisation and a number of the United Nations bodies issued an interagency statement on the issue of involuntary sterilisation. The statement explicitly condemns non-consensual medical interventions on intersex children resulting in the termination of all or some of their reproductive capacity. The statement reiterates recommendations of Treaty Bodies to postpone treatment that results in sterilisation until the person is sufficiently mature to participate in informed decision-making and consent, as well as to provide intersex children and their parents with support, for example, through psychological counselling and peer support or self-help groups.¹²⁷

Finally, the United Nations Human Rights Committee (HRCtee), in its concluding observations, addressed the issue through specific recommendations for **intersex persons**. The Committee urged States to end “irreversible medical treatment” on intersex minors who are not yet able to provide full, free and informed consent “unless such procedures constitute an absolute medical necessity”;¹²⁸ to ensure victims of the interventions have access to effective remedies, access to health records, psychological assistance and reparation, revision of statutes of limitation, and considering the establishment of a compensation fund.¹²⁹

The United Nations Human Rights Council (HRC) and its mechanisms have become another important platform for advocating intersex people’s human rights. Back in 2015, the United Nations High Commissioner for Human Rights addressed the HRC at the 30th session with an opening statement informing the Council that intersex children and adults face human rights abuses such as non-consensual medical interventions and discrimination.¹³⁰ In addition, the Office of the Commissioner issued several comprehensive educational materials on intersex issues.¹³¹

In 2019, the HRC passed a resolution expressing concern that “regulations, rules, and practices that require women and girl athletes with differences of sex development, androgen sensitivity, and levels of testosterone to medically reduce their blood testosterone levels, may contravene international human rights norms and standards”.¹³²

In 2020, following that development, the Commissioner submitted a thorough report on “Intersection of Race and Gender Discrimination in Sport”. Most relevantly, the Commissioner urged sports governing bodies to “review, revise, and revoke eligibility rules and regulations that

¹²⁶ United Nations Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, *Violence and Its Impact on the Right to Health*, A/HRC/50/28, 14 April 2022, paras 20, 27, 59.

¹²⁷ World Health Organisation, *Eliminating Forced, Coercive and Otherwise Involuntary Sterilization: an Interagency Statement*, OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO. (Geneva: WHO Press, 2014)

¹²⁸ HRCtee, *Concluding Observations on the Sixth Periodic Report of Australia*, CCPR/C/AUS/CO/6, 1 December 2017, para. 26; HRCtee, *Concluding Observations on the Sixth Periodic Report of Belgium*, CCPR/C/BEL/CO/6, 6 December 2019, para. 22; HRCtee, *Concluding Observations on the Seventh Periodic Report of Finland*, CCPR/C/FIN/CO/7, 3 May 2021, para. 21; HRCtee, *Concluding Observations on the Fifth Periodic Report of Ireland*, CCPR/C/IRL/CO/5, 27 July 2022, para. 20; HRCtee, *Concluding Observations on the Fourth Periodic Report of Kenya*, CCPR/C/KEN/CO/4, 11 May 2021, para. 13; HRCtee, *Fourth Periodic Report Submitted by Luxembourg under article 40 of the Covenant, due in 2008*, CCPR/C/LUX/4, 17 July 2020, para. 12; HRCtee, *Concluding Observations on the Sixth Periodic Report of Mexico*, CCPR/C/MEX/CO/6, 4 December 2019, para. 13; HRCtee, *Concluding Observations on the Fifth Periodic Report of Portugal*, CCPR/C/PRT/CO/5, 28 April 2020, para. 17; HRCtee, *Third Periodic Report Submitted by Vietnam under article 40 of the Covenant, due in 2004*, CCPR/C/VNM/3, 30 January 2018, para. 16.

¹²⁹ HRCtee, *Concluding Observations on the Seventh Periodic Report of Finland*, CCPR/C/FIN/CO/7, 3 May 2021, para. 21; HRCtee, *Concluding Observations on the Seventh Periodic Report of Germany*, CCPR/C/DEU/CO/7, 30 November 2021, para. 21; HRCtee, *Concluding Observations on the Fourth Periodic Report of Kenya*, CCPR/C/KEN/CO/4, 11 May 2021, para. 13; HRCtee, *Concluding Observations on the Fourth Periodic Report of Switzerland*, CCPR/C/CHE/CO/4, 22 August 2017, para. 25.

¹³⁰ “Opening Statement by UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein at the 30th session of the Human Rights Council”, Office of the United Nations High Commissioner for Human Rights, 14 September 2015.

¹³¹ *Free & Equal Campaign. Fact Sheet: Intersex*, Office of the United Nations High Commissioner for Human Rights, 2015; *Human Rights Violations against Intersex People. A Background Note*, Office of the United Nations High Commissioner for Human Rights (Geneva: 2019 12).

¹³² HRC, *Elimination of Discrimination against Women and Girls in Sport*, A/HRC/RES/40/5, 4 April 2019, para. 1.

have negative effects on athletes' rights, including those addressing athletes with intersex variations". Furthermore, the Commissioner recommended States to "prohibit the enforcement of regulations that pressure athletes to undergo unnecessary medical interventions as a precondition for participating in sport" and to "investigate the alleged enforcement of such regulations". In addition, the Commissioner recommended States to "ensure the inclusion of, and cooperation with organisations led by intersex persons in efforts to include more and a greater diversity of women and girls' sport".¹³³

Furthermore, the HRC provides opportunities for States to engage in the global dialogue on intersex people's human rights among themselves. For example, in 2020, at the 45th session of the United Nations HRC, on behalf of more than thirty States, Austria delivered a Statement on the Follow-up and Implementation of the Vienna Declaration and Programme of Action. States called the Council to address human rights violations against intersex people and their root causes, and urged the governments "as a matter of urgency, to protect the autonomy of intersex adults and children and their rights to health, and to physical and mental integrity so that they live free from violence and harmful practices".¹³⁴ Later, in 2021, at the 48th session of the United Nations HRC, on behalf of a cross-regional group of fifty-three States, Austria delivered the Joint Statement on the Human Rights of Intersex Persons. The statement urged all Member States, in close consultations with those affected, to take measures to combat violence against intersex persons and discrimination based on sex characteristics, and provide victims with access to remedy.¹³⁵

Moreover, intersex issues become increasingly visible in the process of the Universal Periodic Review. Most of the countries' recommendations refer to intersex people, among other groups, to be protected from discrimination, prejudices, hate crimes and hate speech.¹³⁶ However, sometimes countries issue recommendations focused on the specific needs of intersex people.¹³⁷

Finally, the United Nations Human Rights Council established Special Procedures — Special Rapporteurs and Independent Experts, who report and advise on human rights, conduct thematic studies, contribute to the development of international human rights standards, and engage in advocacy and raise public awareness.¹³⁸

For example, in 2021, Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity issued a report calling non-consensual medical interventions on intersex children "a blatant and cruel effect" of binary gender constructions and expectations. In particular, the expert noted that intersex people suffer damage from medical interventions "that aim to hammer them into sex categories that are inadequate for their lived experience" and "to forcibly modify their appearance or physical development to be in line with societal expectations about female and male bodies."¹³⁹

¹³³ United Nations High Commissioner for Human Rights, [Intersection of Race and Gender Discrimination in Sport](#), A/HRC/44/26, 15 June 2020, paras 64, 55, 59(a).

¹³⁴ "Joint Statement by 33+ Countries at the UN Human Rights Council", *Intersex Human Rights Australia*, 2 October 2020.

¹³⁵ "United Nations Human Rights Council 48th Session Joint Statement on the Human Rights of Intersex Persons", *Permanent Mission of Austria to the United Nations*, 4 October 2021.

¹³⁶ For example, in 2022, Cuba recommended Lithuania to "take effective measures to eradicate intolerance towards, and prevailing prejudices and discrimination against, vulnerable groups, including lesbian, gay, bisexual, transgender and intersex persons". Working Group on the Universal Periodic Review, [Report of the Working Group on the Universal Periodic Review. Lithuania](#), A/HRC/50/10, 14 April 2022, para. 138.23.

¹³⁷ For example, in 2022 Iceland recommended Zimbabwe to "protect intersex minors from non-consensual surgeries and violations of bodily integrity". Working Group on the Universal Periodic Review, [Report of the Working Group on the Universal Periodic Review. Zimbabwe](#), A/HRC/50/9, 5 April 2022, para. 140.58.

¹³⁸ Some Special Procedures contributions were discussed above as related to specific human rights.

¹³⁹ Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity, [The Law of Inclusion Report of the Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity. Victor Madrigal-Borloz](#), A/HRC/47/27, 3 June 2021, paras 11, 32, 49.

Regional Human Rights Systems and International Dialogue

Multiple developments advancing the human rights of intersex people happened at the level of regional organisations.

In 2013, the Parliamentary Assembly of the **Council of Europe** issued a resolution that included “early childhood medical interventions in the case of intersex children” among violations of children’s physical integrity that are presented as beneficial to the children themselves “despite clear evidence to the contrary”. Back then, the Assembly recommended member States to undertake further research, ensure that no one is subjected to unnecessary cosmetic treatment, and provide families with intersex children with adequate counselling and support.¹⁴⁰ In 2014, the Council of Europe’s Commissioner for Human Rights reiterated these recommendations and urged governments in Europe to review their legislation and medical practices to “identify gaps in the protection of intersex people and take measures to address the problems”,¹⁴¹ followed by its Report on Human Rights and Intersex People in 2015.¹⁴²

In 2017, the Assembly adopted a resolution ‘Promoting the Human Rights of and Eliminating Discrimination against Intersex People’ No. 2191 (2017). The Assembly urged Council of Europe member States to prohibit medically unnecessary treatments on intersex children without their informed consent and to ensure that any treatment that seeks to modify the sex characteristics of the child is deferred until such time as the child is able to participate in the decision with the exception of cases where the life of the child is at immediate risk. Moreover, the Assembly recommended States to provide intersex people full access to their medical records and to psychosocial support mechanisms and health care by a specialised, multidisciplinary team taking a holistic and patient-centred approach based on guidelines developed together with intersex organisations. Moreover, States should collect data, conduct raising awareness campaigns and provide comprehensive and up-to-date training for the professionals concerned.¹⁴³

Recently, other bodies of the Council of Europe also started to include intersex issues in their work. For example, European Commission against Racism and Intolerance, on several occasions, recommended States to enact legislation prohibiting medical interventions on intersex minors without their free and informed consent and to “establish services with low-threshold access that provide counselling and assistance to intersex children and their parents”.¹⁴⁴ Also, in 2021, the Council of Europe’s Congress of Local and Regional Authorities recommended the local and regional authorities of the Member States to introduce local policy or regional legislation forbidding hate crimes and implement clear codes of conduct that forbid hate speech on the basis of, among other grounds, sex characteristics.¹⁴⁵

In the abovementioned resolution, the Parliamentary Assembly of the Council of Europe explicitly proclaimed that non-consensual medical interventions on intersex children might raise important issues under Articles 3 and 8 of the European Convention on Human Rights.¹⁴⁶

¹⁴⁰ See Parliamentary Assembly of the Council of Europe, *Children’s Right to Physical Integrity*, Resolution No. 1952 (2013), 1 October 2013.

¹⁴¹ See also “*A Boy or a Girl or a Person – Intersex People Lack Recognition in Europe*”, Council of Europe, 9 May 2014.

¹⁴² Council of Europe Commissioner for Human Rights, *Human Rights and Intersex People*, April 2015.

¹⁴³ Parliamentary Assembly of Council of Europe, *Promoting the Human Rights of and Eliminating Discrimination against Intersex People*, Resolution 2191 (2017), 12 October 2017.

¹⁴⁴ European Commission against Racism and Intolerance, *ECRI Report on Germany (Sixth Monitoring Cycle)*, 10 December 2019; European Commission against Racism and Intolerance, *ECRI Report on Switzerland (Sixth Monitoring Cycle)*, 19 March 2020; European Commission against Racism and Intolerance, *ECRI Report on Austria (Sixth Monitoring Cycle)*, 2 June 2020; European Commission against Racism and Intolerance, *ECRI Report on the Slovak Republic (Sixth Monitoring Cycle)*, 8 December 2020.

¹⁴⁵ Council of Europe Congress of Local and Regional Authorities, *Protecting LGBTI People in the Context of Rising Anti-LGBTI Hate Speech and Discrimination: The Role of Local and Regional Authorities*, Resolution No. 470 (2021), 17 June 2021.

¹⁴⁶ *Convention for the Protection of Human Rights and Fundamental Freedoms*, 4 November 1950.

In 2022, the European Court of Human Rights (below - the Court) briefly discussed these issues in the case *M. v. France*.¹⁴⁷ In this case, during childhood, the intersex applicant was subjected to “feminizing” medical interventions without the applicant’s full and informed consent. The applicant claimed that these interventions led to severe psychological and employment problems, disability, and difficulties with social and economic integration. Moreover, for many years afterwards, doctors were concealing the meaning and the purpose of these medical interventions. The national authorities refused to initiate a criminal investigation, referring to the expiration of statutes of limitations. The applicant alleged violations of Articles 3 and 6 of the European Convention on Human Rights (below – ECHR) and lodged the complaint with the Court.

The Court found the application inadmissible on the procedural ground of non-exhaustion of domestic remedies. However, the Court stated that, in principle, a medical procedure carried out in the absence of any therapeutic necessity and without the informed consent of the person concerned can constitute ill-treatment within the meaning of Article 3 of the ECHR. In addition, the Court noted that even if, from the point of view of established principles of medicine, the therapeutic necessity of treatment is convincingly shown, the treatment will interfere with the right to physical integrity in the absence of the patient’s informed consent.

In 2023, the Court issued judgment in case *Semenya v. Switzerland*.¹⁴⁸ This case concerned violations of intersex applicant’s human rights in the area of sport. In 2009, the World Athletics (former International Association of Athletics Federations, IAAF) informed the applicant, a world champion athlete, that in order to continue participation in sports events in her discipline in the future, she should lower her natural level of testosterone. In 2018, following the decision of the Court of Arbitration for Sport (CAS),¹⁴⁹ the World Athletics cancelled the previous¹⁵⁰ and issued new regulations.¹⁵¹ In the same year, the applicant filed a complaint about new regulations in the CAS. In 2019, the CAS dismissed the complaint, considering the discriminatory regulations to be a necessary, reasonable, and proportionate means of preserving “the integrity of female athletics”.¹⁵² The applicant’s attempts to appeal this decision on the national level were unsuccessful.¹⁵³ Following these events, the applicant lodged a complaint to the European Court of Human Rights alleging that Swiss authorities violated Articles 3, 8, 6, 13 and 14 of the European Convention on Human Rights.

Following these events, the applicant lodged a complaint to the European Court of Human Rights alleging that Swiss authorities violated Articles 3, 8, 6, 13, and 14 of the ECHR.

Considering the case, the Court confirmed that sex characteristics can fall within the ambit of protection from discrimination under the grounds of “sex” and “genetic characteristics”. The ground of “sex” permitted the Court to apply the strictest standard of scrutiny, requiring particularly compelling reasons to justify the difference in treatment and leading to a limited margin of appreciation for the State.

Given this standard and the high personal stakes for the applicant, the Court determined that the national Swiss court did not fulfil its obligation to conduct a thorough review of the World Athletics’ regulations in line with the requirements of the ECHR. In particular, the Court found that the national court’s limited oversight failed to adequately address substantial concerns such

¹⁴⁷ ECHR, *M v. France*, Application No. 42821/18, 26 April 2022; See also Organisation Intersex International Europe, European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association, Collectif intersexes et allié-e-s, *M. v. France. Application No. 42821/18. Written Comments*, 2021.

¹⁴⁸ ECHR, *Semenya v. Switzerland*, Application No. 10934/21, 11 July 2023.

¹⁴⁹ Court of Arbitration for Sport, *Dutee Chand v. Athletics Federation of India (AFI) & The International Association of Athletics Federations (IAAF)*, CAS 2014/A/3759, 24 July 2015.

¹⁵⁰ International Association of Athletics Federations, *IAAF Regulations Governing Eligibility of Females with Hyperandrogenism to Compete in Women’s Competition*, 12 April 2011.

¹⁵¹ International Association of Athletics Federations, *Eligibility Regulations for the Female Classification (Athletes with Differences of Sex Development)*, 2019.

¹⁵² Court of Arbitration for Sport, *Mokgadi Caster Semenya & Athletics South Africa v. International Association of Athletics Federations*, CAS 2018/O/5794, CAS 2018/O/5798, 30 April 2019.

¹⁵³ See Federal Supreme Court of Switzerland, *A v. International Association of Athletics Federation & Athletics South Africa and Athletics South Africa v. International Association of Athletics Federation & A.*, 4A_248/2019, 4A_398/2019, 25 August 2020.

as the side effects of hormone treatment, the potential inability of athletes to comply with the regulations, and the absence of scientific evidence convincingly demonstrating a significant athletic advantage of intersex athletes in the specified disciplines. As a result, the Court held that imposing the World Athletics' regulations on the applicant was discriminatory as defined by ECHR.

Furthermore, the Court concluded that the applicant did not receive adequate institutional and procedural safeguards against discrimination in Switzerland. In the Court's view, the national court did not offer an effective remedy under the ECHR, as it did not address the well-founded and credible claims made by the applicant.

In conclusion, the Court ruled, by a majority (4 votes to 3), that there had been a breach of Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to respect for private life) and a breach of Article 13 (right to an effective remedy) in conjunction with Article 8 of the Convention. Regrettably, the Court refused to examine complaints related to other rights.

Finally, in 2021, the Court communicated case *L.B. v. France*. The case concerned an intersex individual who was denied refugee status by the French Office for the Protection of Refugees and Stateless People and subsequently expelled to Morocco. The applicant claimed that such deportation posed a risk of criminal prosecution for perceived homosexuality under Moroccan law and hindered the continuation of the applicant's gender-affirming healthcare procedures started in France. The applicant alleged that the French authorities' decision violates Articles 3 and 8 of the ECHR.¹⁵⁴

Bodies of the **European Union** have also been exploring intersex issues in their work. Back in 2009, the European Union's Agency for Fundamental Rights issued a report that recommended Member States to ensure respect for informed consent "in regard to procedures on intersex children" and medical associations – to inform their members "on current trends in ethics, therapy and care" for intersex persons.¹⁵⁵

Ten years later, in 2019, the European Parliament issued a Resolution on the Rights of Intersex People that acknowledged that intersex people are exposed to multiple instances of violence and discrimination in the European Union, including medically unnecessary treatments carried out on intersex infants without their prior, personal, full, and informed consent. The resolution encourages the Member States to adopt legislation to prohibit "sex-normalising treatments and surgery" as soon as possible, and stresses the need to fully inform intersex children about the consequences of these treatments, provide them with adequate counselling and support, and improve access to medical records. Moreover, the resolution urges the member States to increase funding for intersex civil society organisations and support relevant research. Importantly, in this resolution, the European Parliament "deplores the lack of recognition of sex characteristics as a ground of discrimination across the EU, and therefore highlights the importance of this criterion in order to ensure access to justice for intersex people".¹⁵⁶

Following these developments, the European Parliament began to implement intersex issues in other relevant documents. For example, in 2021, the European Parliament adopted a resolution on sexual and reproductive health and rights that reaffirmed the recommendation to adopt legislation to protect intersex people from "non-vital medical or surgical treatment during infancy or childhood", and called States to provide equal access to sexual and reproductive health and

¹⁵⁴ ECHR, *L.B. v. France*, Application No. 67839/17, 6 April 2021; See also Organisation Intersex International Europe, *Joint Submission to the European Court of Human Rights: L.B. v France*, 2021; For other cases involving intersex applicants, see ECHR, *Klaedon v. Cyprus*, Application No. 72491/12, 22 September 2015; ECHR, *P. v. Ukraine*, Application No. 40296/16, 11 June 2019.

¹⁵⁵ European Union Agency for Fundamental Rights, *Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States: Part II - The Social Situation*, 2009, 19.; Moreover, in 2015 and the European Union's Agency for Fundamental Rights issued another informational material on the situation of human rights of intersex people. See European Union Agency for Fundamental Rights, *The Fundamental Rights Situation of Intersex People*, April 2015.

¹⁵⁶ European Parliament, *Resolution on the Rights of Intersex People*, No. 2018/2878 RSP, 14 February 2018; See also European Parliament, *Resolution on Promoting Gender Equality in Mental Health and Clinical Research*, 2016/2096(INI), 14 February 2017.

rights services for intersex women.¹⁵⁷ In addition, in its LGBTIQ Equality Strategy 2020-2025 and Strategy on the Rights of the Child, the European Commission committed to support Member States to exchange good practices on ending “non-vital surgery and medical intervention on intersex infants and adolescents without their personal and fully informed consent”.¹⁵⁸

Multiple developments relevant to intersex people’s human rights happened in the framework of the **Organisation of American States** (OAS). The OAS General Assembly expressed concern for intersex people’s rights as early as 2012, when it adopted a resolution calling for States to eliminate barriers to access of, among other groups, intersex persons to political participation and in other areas of public life.¹⁵⁹ In 2013, the Assembly added to this demand a separate call to ensure that medical practices on intersex people are consistent with applicable human rights standards.¹⁶⁰ In 2020, the Assembly urged member States to prevent, investigate, and punish acts of violence and discrimination against persons based on their, among other things, “sexual characteristics”.¹⁶¹

In 2013, the Inter-American Commission on Human Rights held a public hearing on the Situation of Human Rights of Intersex Persons in the Americas.¹⁶² In 2014, the Inter-American Commission on Human Rights established a mandate of the Rapporteur on the Rights of Lesbians, Gays, Bisexuals, Trans and Intersex Persons. In 2015, following these developments, the Inter-American Commission on Human Rights issued a report, “Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas”. The Commission recommended States to amend legislation and medical protocols to prohibit medically unnecessary procedures on intersex persons without their free, informed consent. In addition, the Commission urged States to create multidisciplinary groups to provide support and counselling to intersex children and their families, to train medical personnel, and to conduct relevant awareness-raising, sensitisation campaigns and educational campaigns on intersex issues.¹⁶³

In the following years, the Commission issued several press releases reiterating the call to urgently prohibit the interventions, as well as recommending States to adopt other measures, for example, to provide training on intersex needs to officials in health care, the justice system, and other relevant sectors;¹⁶⁴ to adopt comprehensive human-rights based healthcare protocols that prioritise intersex persons’ mental health and address their specific needs of without any form of discrimination, violence, or ill-treatment;¹⁶⁵ to guarantee intersex people access to their medical records on interventions performed without their informed consent, to investigate, sanction, and punish the violations of their rights, and to provide due compensation to intersex persons as part of the right to know the truth and access justice and reparation.¹⁶⁶

Moreover, in 2021, the Commission issued Resolution No. 106/2021 to grant protection measures to the intersex applicant who alleged a serious, urgent risk of suffering irreparable harm

¹⁵⁷ European Parliament, [Resolution on the Situation of Sexual and Reproductive Health and Rights in the EU, in the Frame of Women’s Health](#), (2020/2215(INI)), 24 June 2021, paras 19, 72.

¹⁵⁸ See European Commission, [Union of Equality: LGBTIQ Equality Strategy 2020-2025](#), COM(2020) 698, 12 November 2020; European Commission, [EU Strategy on the Rights of the Child](#), COM(2021) 142, 24 March 2021.

¹⁵⁹ Organisation of American States General Assembly, [Human Rights, Sexual Orientation and Gender Identity and Expression](#), AG/RES. 2721 (XLII-O/12), 4 June 2012.

¹⁶⁰ Organisation of American States General Assembly, [Human Rights, Sexual Orientation and Gender Identity and Expression](#), AG/RES. 2807 (XLIII-O/13), 6 June 2013; See also Organisation of American States General Assembly, [Human Rights, Sexual Orientation and Gender Identity and Expression](#), AG/RES. 2863 (XLIV-O/14), 5 June 2014; Organisation of American States General Assembly, [Promotion and Protection of Human Rights](#), AG/RES. 2961 (L-O/20), 21 October 2020.

¹⁶¹ Organisation of American States General Assembly, [Promotion and Protection of Human Rights](#), AG/RES. 2887 (XLVI-O/16), 14 June 2016, paras 2, 4.

¹⁶² “[March 15, 2013](#)”, OAS OEA Videos (Youtube Channel), 16 March 2013, accessed on 10 December 2022.

¹⁶³ Inter-American Commission on Human Rights, [Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas](#), 2015, 119-120.

¹⁶⁴ “[IACHR Urges States to End Violence and Harmful Practices against Intersex Persons](#)”, Organisation of American States, 22 November 2017.

¹⁶⁵ “[On International Intersex Awareness Day, the IACHR Calls on States to Protect the Right to Health of Intersex Persons](#)”, Organisation of American States, 26 October 2020.

¹⁶⁶ “[IACHR Calls for Making Visible and Combating Discrimination and Violence against Intersex Persons](#)”, Organisation of American States, 26 October 2018; “[IACHR Calls on States to Guarantee the Right to Truth, Justice, and Reparation for Intersex People](#)”, Organisation of American States, 26 October 2021.

to the applicant's rights and health because of a series of obstacles in accessing timely medical treatment.¹⁶⁷

Furthermore, in the **African Union**, the African Commission on Human and Peoples' Rights began to engage in dialogue on intersex issues with civil society and international colleagues.¹⁶⁸ For example, in 2018, members of the Inter-American Commission on Human Rights, the African Commission on Human and Peoples' Rights, and the United Nations human rights experts held a meeting to explore human rights violations faced by, inter alia, intersex persons, and to discuss human rights concerning, among other issues, sex characteristics.¹⁶⁹ In 2022, the Chairperson of the Commission "bemoaned the lack of awareness, misunderstandings, and misconceptions around intersex bodies which often lead to many of the violations against intersex persons" and welcomed a draft of a resolution on intersex persons presented for the Commission at the side event during its 73rd Ordinary Session.¹⁷⁰

Many intersex human rights claims are based on the rights of the child and freedom from torture that belong to the few most widely recognised and respected international human rights in the world. This universality provides an opportunity for the global dialogue between different intergovernmental organisations and human rights systems to articulate the unanimous, undisputed, and incontrovertible nature of intersex civil society demands. As an example, in 2016, several intergovernmental bodies from various human rights protection systems issued a statement for Intersex Awareness Day summarising key recommendations with regard to intersex people. The statement calls governments:

- to urgently prohibit medically unnecessary interventions on intersex children and uphold their autonomy and rights to health, to physical and mental integrity, to live free from violence and harmful practices, and to be free from torture and ill-treatment;
- to provide intersex children and their parents with support and counselling, including from peers, and access to medical services that respond to their specific health needs based on non-discrimination, informed consent and respect for their fundamental rights;
- to integrate these human rights principles into regulatory and professional bodies' standards and protocols;
- to investigate human rights violations against intersex people, hold the perpetrators accountable, and provide intersex victims with redress;
- to raise awareness and combat harmful stereotypes, stigma, and pathologisation;
- to provide relevant training on intersex issues to health professionals and public officials, including legislators, the judiciary, and policy-makers;
- to protect intersex people from discrimination on the ground of sex characteristics in access to health care, education, employment, sports, and in obtaining official documents, as well as special protection when they are deprived of liberty.¹⁷¹

¹⁶⁷ Inter-American Commission on Human Rights, [N.V.E. Regarding Colombia. Precautionary Measure No. 306-21](#), Resolution 106/2021, 24 December 2021.

¹⁶⁸ However, back in 2010, the African Commission on Human and Peoples' Rights included intersex people in a list of vulnerable and disadvantaged groups for the purpose of interpretation of Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights. See African Commission on Human and Peoples' Rights, [Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights](#), November 2010.

¹⁶⁹ "Statement from the Second Trilateral Dialogue Between Inter-American, African and UN Human Rights Experts", Office of the United Nations High Commissioner for Human Rights, 3 April 2018.

¹⁷⁰ See also, Centre for Human Rights University of Pretoria, [Study on the Human Rights Situation of Intersex Persons in Africa](#) (Pretoria: Centre for Human Rights University of Pretoria, 2022), 26

¹⁷¹ "End Violence and Harmful Medical Practices on Intersex Children and Adults, UN and Regional Experts Urge", Office of the United Nations High Commissioner for Human Rights, 24 October 2016.

Conclusions

A hopeful finding emerging from this research is that intersex advocates have achieved unambiguous solid recognition of their international human rights concerns from various intergovernmental organisations and their bodies, as reflected in a growing number of international acts explicitly referring to intersex issues. Moreover, there is an increasingly accepted understanding among international human rights bodies that medical interventions modifying sex characteristics of intersex minors without their free, prior, and fully informed consent violate multiple internationally recognised human rights. However, for various reasons, the unanimous recommendations of international human rights bodies rarely transform into appropriate national legislation on intersex issues. As this Report suggests, only a few States have attempted to prohibit these interventions by law. What can international human rights bodies do to change this situation?

Firstly, there is a definite need to complement descriptions of the problems and solutions by establishing **legally binding** standards for protecting intersex people's rights to hold perpetrators accountable. This need becomes more evident because, in spite of universal recognition of human rights at stake and the emerging consensus of their interpretation favourable to intersex people among international human rights bodies across the globe, the harmful practices on intersex children are still legal and ongoing in most of the world.

As doctors continue to perform non-consensual interventions on intersex children despite declaratory national laws, States enjoy impunity for ignoring non-legally binding recommendations and resolutions. Sometimes, States refer to the intersex community's demands within the discourse of internal healthcare policy, relying on local medical expertise or political attitude against sexual and gender diversity.¹⁷² These avoidance strategies will become less popular with the emergence of legally binding interpretations of obligations enshrined in signed and ratified international human rights treaties.

The relevant international judicial and quasi-judicial bodies should be willing to examine violations brought to their attention by intersex civil society through strategic litigation and hold States accountable for violating existing international human rights norms. The abundant international jurisprudence on the prohibition of torture and cruel, inhuman, or degrading treatment; the right to bodily integrity and autonomy, including cases of forced sterilisation and female genital mutilation or cutting; children and women's rights; and the principle of non-discrimination can support this process.

Secondly, given the diversity of incomplete attempts to protect intersex people at the national level, including regional legislation, international human rights bodies should prioritise recommendations **to adopt legislation to prohibit and criminalise medical interventions modifying sex characteristics of intersex minors without their free, prior, personal, and fully informed consent**. Expressing concerns and calls to "uphold", "ensure", and "improve guarantees" (and other similar terms) might lead to insufficient or even regressive responses such as regulations lacking sanctions, legally binding nature, or having other significant loopholes.

Moreover, the insights gained from this Report highlight the need to develop an authoritative clarification of the minimum requirements for the holistic legislation to protect the rights of intersex people, as well as loopholes to avoid. This standard should be adopted in extensive dialogue with the international intersex community and legal experts and after careful examination of existing attempts to protect intersex people, such as the present Report. Such standards will help lawmakers to navigate the intricacies of medical terminology and arguments compromising the efficiency of protection to be adopted and to establish solid guarantees leaving no room for intersex people's human rights abuses to remain legal.

¹⁷² See Fae Garland, Kay Lalor, and Mitchell Travis, "[Intersex Activism, Medical Power/Knowledge and the Scalar Limitations of the United Nations](#)", *Human Rights Law Review* 22, no. 3 (2022).

Thirdly, international organisations should intensify their **efforts to amplify the visibility of intersex people's needs at all levels**. The intergovernmental organisations and their bodies should continue issuing recommendations to States under treaty compliance review and beyond, embedding intersex issues in all their acts at all levels. To illustrate, the United Nations might adopt comprehensive intersex-specific acts at the highest level, such as resolutions of the General Assembly based on reports of the Secretary-General, and appoint a Special Rapporteur on Intersex People's Rights.¹⁷³ Moreover, intersex-supportive States can collaborate on adopting persuasive international acts, for example, the Declaration on the Elimination of Medical Interventions Modifying Sex Characteristics of Intersex Minors without their Free, Prior, Personal, and Fully Informed Consent.

In the last 15 years, often being unheard at the national level, intersex human rights advocacy has travelled the remarkable road from sporadic mentions in footnotes of international documents to dedicated and unanimous resolutions, and confident and consistent recommendations inspired by the key demands of the intersex community. Continued efforts of intersex human rights advocates and collaboration of international human rights bodies have made it possible to improve the legal situation of intersex people in some jurisdictions across the globe. These developments have prepared a solid ground to advance intersex people's human rights further by increasing the universality of recognition and holding the States that remain oblivious to intersex human rights violations accountable for their inaction.

¹⁷³ For example, with regard to female genital mutilation, see United Nations General Assembly, [*Intensifying Global Efforts for the Elimination of Female Genital Mutilation*](#), A/RES/73/149, 15 January 2019.

Main Findings

As a pioneering attempt to collect legal developments aiming to protect intersex people's right to bodily integrity and autonomy, and improve their equal enjoyment of human rights across the globe, this Report refers to over 160 national legal acts in 34 United Nations Member States, and more than 70 jurisdictions in total. Notwithstanding the Report's limitations, the identified data supports the following findings.

1. There is a striking dearth of legal protection of intersex people's right to bodily integrity and autonomy in the world.

Despite unanimous, systematic, and urgent calls of intersex civil society and international human rights bodies to prohibit medical interventions modifying sex characteristics of intersex minors without their free, prior, and fully informed consent, only six UN Member States - Germany, Greece, Iceland, Malta, Portugal, and Spain - adopted laws containing such prohibition with different degrees of protection. Only two UN Member States - Greece and Malta - introduced specific sanctions for violating the respective prohibition. We identified only six UN Member States that made other legal attempts to restrict these interventions in statutes, case law, regulations, and mandatory health protocols. Some official legal acts calling authorities to pass legislation protecting intersex people's right to bodily integrity emerged in Austria, Belgium, Uruguay, Delhi, Geneva, and Austin City.

181 (94% of) UN Member States did not make any sufficient legal attempt to protect intersex people's right to bodily integrity and autonomy. Moreover, even existing national legal developments suffer from defects that may compromise the efficiency of protection, such as broad and ambiguous exceptions from prohibition; limited protected population; substandard guarantees of informed consent; compromised oversight mechanism for medical decisions; short statutes of limitations and period of medical records retention; lack of specific appropriate sanctions, monitoring mechanisms, and extraterritorial liability; and other legal loopholes.

2. There is an emerging trend towards adopting legal protection from discrimination against intersex people, most notably on the ground of sex characteristics.

Seven UN Member States introduced national legislation prohibiting discrimination on the ground of sex characteristics - Albania, Bosnia & Herzegovina, Denmark, Malta, Portugal, Spain, and Serbia. Eight UN Member States - Australia, Belgium, Finland, India, Montenegro, the Netherlands, and South Africa - adopted legislation aimed to protect intersex people from discrimination on other grounds. Five UN Member States - Denmark, Greece, Iceland, Spain, and Malta - adopted legal provisions on liability for offences committed on the ground of sex characteristics. Seven UN Member States introduced other legal norms aiming to improve intersex people's equal enjoyment of their human rights - Andorra, Chile, Costa Rica, Greece, Iceland, Kenya, and the United States. However, 171 (89% of) UN Member States have not taken any noticeable steps in ensuring equal enjoyment of human rights for intersex people.

3. There is a growing number of national and subnational legal developments aimed to address the needs of the intersex community.

We identified subnational laws and regulations that include provisions concerning intersex people's right to bodily integrity and equal enjoyment of their human rights in Australia, India, Mexico, the Philippines, Spain, the United Kingdom, and the United States. Unfortunately, the finite powers of subnational entities in federal states significantly limit the efficiency of such

protections.¹⁷⁴ Moreover, some of these laws fail to adequately separate the needs of intersex people from the needs of other communities.

Furthermore, multiple draft laws aimed to protect intersex people's rights were considered on national - Argentina, Chile, New Zealand, Philippines, South Africa, Spain, the United States - and sub-national - Australia and the United States - levels. However, we observe a significant struggle in incorporating these initiatives into legislation.

4. There is an ongoing evolution of legal norms aiming to protect intersex people's rights.

These progressive changes in the language of legal protection for intersex people manifest in the improvement of definitions and gradual movement: from the blanket, declaratory, and underdeveloped models or prohibitions of non-consensual medical interventions, to models that are tiered, nuanced, and complemented by specific sanctions; from inferior exceptions for surgeries, such as the manifestation of child's gender identity or general health reasons, to exceptions based on modern principles of bioethics; from limited identity-based grounds of discrimination to the inclusive distinct grounds based on traits. This might indicate the growing influence of intersex civil society recommendations and reflection on the shortcomings of legislation adopted.

¹⁷⁴ For example, subnational entities often cannot adopt effective criminal sanctions for violations of intersex people's human rights because usually criminal legislation is the federal matter. Moreover, one subnational entity cannot protect intersex people from violations of their rights in another, while universality of protection is crucial in the matter of non-consensual medical interventions on intersex children.

National Legal Developments

Country Profiles



Albania

In 2020, Albania adopted Law [No. 124/2020](#) (2020), amending the Law on Protection against Discrimination [No. 10221](#) (2010), to prohibit discrimination on the ground of sex characteristics.

In 2020, the Ministry of Health issued [Medical Protocol for the Evaluation of Children with Atypical Genital Development](#). Although the Protocol articulated some progressive principles, it failed to ban non-consensual medical interventions on intersex minors.¹⁷⁵



Andorra

In 2019, Andorra adopted the Law on Equal Treatment and Non-Discrimination [No. 13/2019](#) (2019). Even though the law does not prohibit discrimination based on sex characteristics, Article 2.3 aims to protect “vulnerable groups”, including intersex people.



Argentina

In 2018, the United Nations Committee on the Rights of the Child recommended Argentina to “develop and implement a rights-based health-care protocol for intersex children, ensuring that no child is subjected to unnecessary surgery or treatment and that children are involved, to the greatest extent possible, in decision-making about their treatment and care” and to provide families of intersex children with “adequate counselling and support”. In addition, the Committee urged Argentina to “ensure full implementation of relevant existing laws prohibiting discrimination, including by strengthening public education campaigns to address negative social attitudes” towards intersex children.¹⁷⁶

In 2018, the United Nations Committee on Economic, Social and Cultural Rights recommended Argentina to “adopt a policy and institutional framework for ensuring that appropriate health services are available to intersex persons”.¹⁷⁷

In 2019, the draft of Law on Comprehensive Protection of Sex Characteristics [No. S-2090/19](#), aiming to protect rights to autonomy, bodily integrity, truth, and freedom from discrimination regardless of sex characteristics, was introduced into the Chamber of Deputies of the Federal Congress. The draft law included certain guarantees for informed consent for “non-therapeutic body modification procedures”,

¹⁷⁵ “Not a Ban. Albania Misses the Chance to Clearly Address Intersex Children’s Health from a Human Rights Perspective”, *Organisation Intersex International Europe*, 16 July 2020.

¹⁷⁶ CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Argentina](#), CRC/C/ARG/CO/5-6, 1 October 2018, paras 26, 14(a)

¹⁷⁷ CESCR, [Concluding Observations on the Fourth Periodic Report of Argentina](#), E/C.12/ARG/CO/4, 1 November 2018, para. 56(g)

access to credible information about past procedures, and other provisions benefitting intersex people. As of July 2023, the draft law has not been adopted.

In 2018, a group of deputies introduced the draft of the Law against Compulsory Sex Assignment: Elimination of the Sex Category in Documents and Protection of Bodily Diversity [No. 7037-D-2018](#) that contains provisions prohibiting “involuntary and/or irreversible medical treatments and procedures that modify a person's sex characteristics for purposes of sex assignment”. As of July 2023, the draft law has not been adopted.



Australia

In 2019, the United Nations Committee on the Rights of the Child recommended Australia to adopt legislation “explicitly prohibiting coerced sterilisation or unnecessary medical or surgical treatment, guaranteeing the bodily integrity and autonomy of intersex children” and to provide their families with “adequate support and counselling”. Furthermore, the Committee urged Australia to “encourage community-based programmes to address violence” against intersex children, to “prioritize mental health service delivery” to intersex children, and to provide support to intersex children who became victims of bullying in schools.¹⁷⁸

In 2019, the United Nations Committee on the Rights of Persons with Disabilities urged Australia to adopt “clear legislative provisions that explicitly prohibit the performance of unnecessary, invasive, and irreversible medical interventions, including surgical, hormonal, or other medical procedures on intersex children before they reach the legal age of consent”. In addition, the Committee recommended Australia to provide “adequate counselling and support for the families of intersex children and redress to intersex persons” who were subjected to abovementioned procedures.¹⁷⁹

In 2018, the United Nations Committee on the Elimination of Discrimination against Women recommended Australia to “adopt clear legislative provisions that explicitly prohibit the performance of unnecessary surgical or other medical procedures on intersex children before they reach the legal age of consent”, to “provide adequate counselling and support for the families of intersex children and provide redress to intersex persons having undergone such medical procedures”.¹⁸⁰

In 2017, the United Nations Human Rights Committee recommended Australia to “move to end irreversible medical treatment, especially surgery, of intersex infants and children, who are not yet able to provide fully informed and free consent, unless such procedures constitute an absolute medical necessity”.¹⁸¹

In 2017, the United Nations Committee on Economic, Social and Cultural Rights expressed concern that “children born with intersex variations are subject to early surgeries and medical interventions before they are able to provide full and informed consent” and recommended Australia to “study and implement the recommendations put forward in the 2013 report of the Senate Community Affairs References

¹⁷⁸ CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Australia](#), CRC/C/AUS/CO/5-6, 1 November 2019, paras 31(b), 30(h), 38(b), 43(e)

¹⁷⁹ CRPD, [Concluding Observations on the Combined Second and Third Periodic Reports of Australia](#), CRPD/C/AUS/CO/2-3, 15 October 2019, para. 34(b)

¹⁸⁰ CEDAW, [Concluding Observations on the Eighth Periodic Report of Australia](#), CEDAW/C/AUS/CO/8, 25 July 2018, para. 26(c)

¹⁸¹ HRCtee, [Concluding Observations on the Sixth Periodic Report of Australia](#), CCPR/C/AUS/CO/6, 1 December 2017, para. 26

Committee entitled ‘[Involuntary or coerced sterilisation of intersex people in Australia](#).’¹⁸²

In 2013, Australia adopted the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 [No. 98](#) (2013), amending Sex Discrimination Act [No. 4](#) (1984) to include multiple provisions for protection against discrimination on the ground of “intersex status”. Section 4 of the Sex Discrimination Act defines “intersex status” as “the status of having physical, hormonal, or genetic features that are: (a) neither wholly female nor wholly male; or (b) a combination of female and male; or (c) neither female nor male”. Even though it was a progressive legal measure at the time of the adoption, it does not provide protection from discrimination based on “sex characteristics” as the current international human rights standard.¹⁸³

Australian Capital Territory

In 2023, Australian Capital Territory adopted the Variations in Sex Characteristics (Restricted Medical Treatment) Bill 2023 [No. A2023-23](#) regulating restricted medical treatments that permanently or temporarily change sex characteristics. The Law contains provisions criminalising the undertaking of the restricted medical treatment not approved by a medical treatment plan; outlines human rights principles and informed consent requirements for making decisions about such treatments; regulates keeping medical records and other issues. In addition, the authorities committed to develop a regulation clarifying the protected variations excluding and other details of the Law. The [draft](#) of the regulation regrettably excludes from protection some variations, such as hypospadias, compromising the universality of protection.

In 2020, the Australian Capital Territory adopted the Justice Legislation Amendment Act 2020 [No. A2020-42](#) (2020), amending Discrimination Act [No. A1991-81](#) (1991) to include sex characteristics among grounds protected from discrimination. The Discrimination Act defines sex characteristics as “a person’s physical features relating to sex” that include “genitalia and other sexual and reproductive parts of the person’s anatomy” and “the person’s chromosomes, hormones and secondary physical features emerging as a result of puberty”.

The Act provides comprehensive protections against discrimination and “vilification” defined as incitement of “hatred toward, revulsion of, serious contempt for, or severe ridicule of a person or group of people” on the ground of sex characteristics. In addition, the Justice Legislation Amendment Act amends Section 750 of Criminal Code [No. A2002-51](#) (2002) that criminalises serious vilification. These amendments substituted provisions introduced by the Discrimination Amendment Act 2016 [No. A2016-49](#) (2016), that utilised a ground of “intersex status”.

New South Wales

In 2018, New South Wales adopted the Crimes Amendment (Publicly Threatening and Inciting Violence) Bill [No.32/2018](#) (2018), amending Crimes Act 1900 [No. 40](#) (1900) to criminalise public threatening or inciting violence towards a person who is “of intersex status”.

In 1996, New South Wales passed the Transgender (Anti-Discrimination and Other Acts Amendment) Act [No. 22](#) (1996), amending Anti-Discrimination Act 1977 [No. 48](#) (1977) that included a person “who, being of indeterminate sex, identifies as a member

¹⁸² CESCR, [Concluding Observations on the Fifth Periodic Report of Australia](#), E/C.12/AUS/CO/5, 11 July 2017, paras 49, 50

¹⁸³ See: Morgan Carpenter, “[Discrimination](#)”, *Intersex Human Rights Australia*, 24 February 2021.

of a particular sex by living as a member of that sex” in the definition of a transgender person for the purposes of the Act.

Queensland

In 2002, Queensland adopted the Discrimination Law Amendment Act [No. 74 of 2002](#) (2002), amending the [Anti-Discrimination Act 1991](#) (1991) that defines a protected ground of “gender identity” as referring to a person “of indeterminate sex” who “seeks to live as a member of a particular sex”.

South Australia

In 2021, South Australia adopted the Sentencing (Hate Crimes) Amendment Act [No. 46 of 2021](#) (2021), amending Section 11(1) of [Sentencing Act 2017](#) (2017) to include hatred or prejudice against the victim’s intersex variation among relevant factors that a court must consider in the adjudication of a sentence for an offence.

In 2016, South Australia passed the Relationships Register Act 2016 [No. 67 of 2016](#) (2017), amending the [Equal Opportunity Act 1984](#) (1984) to add “intersex status” among the grounds protected from discrimination.

In 2016, South Australia adopted the Statutes Amendment (Gender Identity and Equity) Act 2016 [No. 35 of 2016](#) (2016), introducing the federal definition of “intersex status” into the [Acts Interpretation Act 1915](#) (1915) that was repealed by the [Legislation Interpretation Act 2021](#) (2021), inheriting the definition.

Tasmania

In 2019, Tasmania adopted the Justice and Related Legislation (Marriage and Gender Amendments) Bill [No. 47 of 2018](#) (2019), amending Anti-Discrimination Act [No. 46 of 1998](#) (1998) to add “intersex variations of sex characteristics” among the grounds protected from discrimination and inciting “hatred towards, serious contempt for, or severe ridicule”. Australian intersex community criticised these amendments for not using universal terminology.¹⁸⁴

Victoria

In 2021, Victoria adopted the Change or Suppression (Conversion) Practices Prohibition Act [No. 3/2021](#) (2021), amending the Equal Opportunity Act [No. 16/2010](#) (2010) to prohibit discrimination on the ground of sex characteristics that replaced a ground of “indeterminate sex”.

In 2019, Victoria introduced a draft of the [Racial and Religious Tolerance Amendment Bill](#) (2019), amending Racial and Religious Tolerance Act [No. 47/2001](#) (2001) to outlaw incitement of “hatred against, serious contempt for, or revulsion or severe ridicule of” a person on the ground of “sex characteristics”. The motion to amend the Bill was defeated in May 2023.



Austria

In 2020, the United Nations Committee on the Rights of the Child recommended Austria to “prohibit the performance of unnecessary medical or surgical treatment on intersex children where those procedures may be safely deferred until children are

¹⁸⁴ Morgan Carpenter, “[Tasmania: Unfinished Business](#)”, *Intersex Human Rights Australia*, 18 April 2019.

able to provide their informed consent” and to gather data with that regard “so that children at risk can be more easily identified and their abuse prevented”.¹⁸⁵

In 2019, the United Nations Committee on the Elimination of Discrimination against Women recommended Austria to “develop and implement a rights-based health-care protocol for intersex persons, ensuring that children and their parents are appropriately informed of all options, that the children are involved, to the greatest extent possible, in decision-making about medical interventions, that their choices are respected and that no person is subjected to surgery or treatment without their free, informed, and prior consent”.¹⁸⁶

In 2016, the United Nations Committee against Torture recommended Austria to take measures necessary to guarantee that “full, free, and informed consent is ensured in connection with medical and surgical treatments for intersex persons” and “non-urgent, irreversible medical interventions are postponed until a child is sufficiently mature to participate in decision-making and give effective consent”. Furthermore, the Committee urged Austria to “guarantee impartial counselling services for all intersex children and their parents” to inform them about the consequences of the abovementioned treatments and the possibility of postponing them. In addition, the Committee called on Austria to “undertake an investigation of instances of surgical interventions or other medical procedures performed on intersex persons without effective consent” and to ensure that “the persons concerned are adequately compensated”.¹⁸⁷

In 2021, the National Council adopted the Resolution on Protection of Intersex Children and Adolescents from Medically Unnecessary Treatments on their Sex Characteristics [No.183/E](#). The resolution urges the Federal Government to introduce measures to effectively protect intersex minors from “medical interventions that do not avert permanent physical suffering, a threat to life, or the risk of serious damage to health or severe pain”.¹⁸⁸

In 2018, the Constitutional Court of Austria issued a judgment [No. G 77/2018-9](#) concerning non-binary legal sex marker for intersex people. As part of the judicial reasoning, the Court declared that sex-assigning medical interventions on intersex minors should be avoided and “can only be justified in exceptional cases if there is a sufficient medical indication” rather than a family’s fear of stigmatisation.



Belgium

In 2020, the United Nations Committee on Economic, Social and Cultural Rights recommended Belgium to “ensure that, in practice, medically unnecessary or non-urgent procedures on the sex characteristics of intersex children are not performed until the children are capable of forming their own views and can give their informed consent”, “provide greater information on intersexuality and train health-care personnel on the health needs and human rights of intersex persons, including their right to autonomy and physical integrity”, and “ensure that intersex persons and

¹⁸⁵ CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Austria*, CRC/C/AUT/CO/5-6, 6 March 2020, paras 27(a), 27(b)

¹⁸⁶ CEDAW, *Concluding Observations on the Ninth Periodic Report of Austria*, CEDAW/C/AUT/CO/9, 30 July 2019, para. 35(h)

¹⁸⁷ CAT, *Concluding Observations on the Sixth Periodic Report of Austria*, CAT/C/AUT/CO/6, 27 January 2016, para. 45

¹⁸⁸ In addition, in 2019, the Ministry of Health published “[Recommendations on Variants of Sex Development](#)”. Although there are some positive recommendations, for example, concerning psycho-social support for intersex people and their families, the Ministry of Health failed to prohibit non-consensual medical interventions on intersex minors.

organisations continue to be consulted and participate in the development of research, legislation, and policies concerning their rights”.¹⁸⁹

In 2019, the United Nations Human Rights Committee recommended Belgium to take measures “to end the performance of irreversible medical acts, especially surgical operations, on intersex children who are not yet capable of giving their free and informed consent, except in cases where such interventions are absolutely necessary for medical reasons”.¹⁹⁰

In 2019, the United Nations Committee on the Rights of the Child recommended Belgium to “prohibit the performance of unnecessary medical or surgical treatment on intersex children where those procedures may be safely deferred until children are able to provide their informed consent; and ensure that intersex children and their families have access to adequate counselling and support and to effective remedies, including by lifting the relevant statute of limitations”.¹⁹¹

In 2021, the Chamber of Representatives adopted the Resolution to Recognize the Right to Bodily Integrity of Intersex Minors [No. 0043/008](#) (2021). The resolution urges the Government to restrict non-consensual medical interventions on intersex minors except for serious medical necessity; to provide access to information and psycho-social support for intersex people and their families; to raise awareness to destigmatise intersex people; and other progressive measures. The European intersex community welcomed the resolution and offered directions for improvement, including clarifying terminology; providing intersex people with access to medical records, expert sensitive counselling, and redress; establishing legal sanctions for violations.¹⁹²

In 2020, Belgium passed the [Law with Regard to the Prohibition of Discrimination Relating to Paternity or Co-Maternity](#) (2020), amending Article 4 of [Law to Combat Discrimination between Women and Men](#) (2007). The amendment included a distinction based on sex characteristics into the definition of distinction based on sex for the purposes of the law. In addition to discrimination, the law prohibits incitement to discrimination, hatred, violence, and segregation.



Bosnia and Herzegovina

In 2016, Bosnia and Herzegovina adopted the [Law on Amendments and Additions to the Law on the Prohibition of Discrimination](#) (2016) that amends Article 2 of the [Law on Prohibition of Discrimination](#) (2009). The amendment includes sex characteristics to the list of grounds protected from discrimination in all areas of life.



Chile

In 2018, the United Nations Committee on the Elimination of Discrimination against Women recommended Chile to “adopt legislation to explicitly prohibit the performance of unnecessary surgical or other medical treatment on intersex children

¹⁸⁹ CESCR, [Concluding Observations on the Fifth Periodic Report of Belgium](#), E/C.12/BEL/CO/5, 26 March 2020, para. 55

¹⁹⁰ HRCtee, [Concluding Observations on the Sixth Periodic Report of Belgium](#), CCPR/C/BEL/CO/6, 6 December 2019, para. 22

¹⁹¹ CRC, [Concluding Observations on the Combined Fifth and Sixth Reports of Belgium](#), CRC/C/BEL/CO/5-6, 1 February 2019, para. 26(e)

¹⁹² “[Belgian House of Representatives Adopts Resolution on Protecting Intersex Rights](#)”, *Organisation Intersex International Europe*, 3 March 2021; “[Inter* Resolution in the Belgian Federal Parliament](#)”, *Genres Pluriels*, 12 March 2021; In January 2020, the deputies introduced a motion for resolution [No. 0974/001](#) to develop a legal framework to guarantee the protection of the fundamental rights of intersex people, which the Chamber did not consider.

until they reach an age when they are able to give their free, prior, and informed consent, and ensure that medical practitioners are informed about such legislation”, provide victims of such treatment with “effective access to justice”, and families of intersex children with “adequate counselling and support”.¹⁹³

In 2016, the United Nations Committee on the Rights of Persons with Disabilities requested Chile to amend legislation to “require in all cases, without exception, the free and informed consent of persons with disabilities, including those whose legal capacity has been revoked, as an essential prerequisite for any surgery or medical treatment, especially those of an invasive nature and whose effects are irreversible, such as sterilisation and procedures on intersex children”.¹⁹⁴

In 2015, the United Nations Committee on the Rights of the Child recommended Chile to “expedite the development and implementation of a rights-based healthcare protocol for intersex children that sets the procedures and steps to be followed by health teams in order to ensure that no one is subjected to unnecessary surgery or treatment during infancy or childhood”. In addition, the Committee urged Chile to “protect the rights of the children concerned to physical and mental integrity, autonomy, and self-determination”, to provide intersex children and their families with “adequate counselling and support, including from peers”, and to ensure “effective remedy for victims, including redress and compensation”.¹⁹⁵

In 2022, Chile adopted the Law on Guarantees and Comprehensive Protection of the Rights of Children and Adolescents [No. 21,430](#) (2022). Article 8 of the Law prohibits the discrimination against minors on the basis of sex characteristics.

In 2022, Chile received a draft of the Law Amending Law No. 21,120 and Other Regulatory Bodies regarding Recognition and Protection of the Right to Gender Identity [No. 14985-34](#), to prohibit medical, public, or private institutions and personnel from performing “sexual reassignment treatments or medical, surgical, hormonal, pharmacological, or other interventions” that “have as their object or result, the modification of one or more sex characteristics” of a child when these interventions “can be deferred until such time as this person can personally provide full, free, and informed consent”.

The draft stipulates an exception from this rule for the situation when postponing an intervention “involves a mortal risk or a serious and irrecoverable risk” to a patient’s health with explicit mention that this risk does not include “mere mismatch or difference of the sex characteristics of a person with the culturally defined standards for a female or male body” or “social factors”. Furthermore, the draft law declares a “principle of autonomy and bodily diversity” that entitles every person with a right to “maintain or modify their sex characteristics”. In addition, the draft law contains provisions prohibiting discrimination based on sex characteristics and non-consensual disclosure of the medical history of intersex people. As of July 2023, the draft law is awaiting an opinion from the Supreme Court.

In 2021, Chile senators introduced a draft of the Law Amending Various Legal Provisions to Grant Recognition and Protection to Intersex People [No. 14748-17](#). If adopted, the draft law will add provisions on intersex people into the Law Recognizing and Protecting the Right to Gender Identity [No. 21,120](#) (2018) and the Law Establishing Measures against Discrimination [No. 20,609](#) (2012). As of July 2023, the draft law has not been adopted.

¹⁹³ CEDAW, [Concluding Observations on the Seventh Periodic Report of Chile](#), CEDAW/C/CHL/CO/7, 14 March 2018, para. 23

¹⁹⁴ CRPD, [Concluding Observations on the Initial Report of Chile](#), CRPD/C/CHL/CO/1, 13 April 2016, para. 42

¹⁹⁵ CRC, [Concluding Observations on the Fourth and Fifth Reports of Chile](#), CRC/C/CHL/CO/4-5, 30 October 2015, para. 49

In 2015, the Ministry of Health issued a Circular that Instructs on Aspects of Healthcare to Intersex Children [No. 18](#) (2015). The Circular called to stop the “unnecessary ‘normalisation’ treatment of intersex children, including irreversible genital surgeries, until they are old enough to decide about their bodies”. In 2016, Circular No. 18 was replaced by Circular [No. 7](#) (2016), which contains pathologizing language and permits non-consensual medical interventions for certain intersex variations.



Colombia

The Constitutional Court of Colombia has adjudicated several cases on the decision-making process for medical interventions on intersex minors.

In 1999, in case [No. SU-337/99](#) (1999), the Constitutional Court of Colombia held that doctors’ recommendations and the mother’s consent are not enough to authorise surgery on the genitals of an eight-years-old intersex child without the intersex child’s consent. The Court considered the principle of the evolving capacity of a child to define and understand their gender identity and required establishing an interdisciplinary team to assess the child’s capacity to give informed consent for medical intervention. In addition, the Court suggested that if the child is found to be not sufficiently autonomous to make the decision, the medical interventions could be gradually performed, starting with the least invasive.

In the same year, in case [No. T-551/99](#) (1999), the Constitutional Court of Colombia suggested developing specific medical protocols to ensure that parental consent is qualified and persistent. The Court suggested qualifying the consent by providing parents with refined information about the intervention’s limits, risks and benefits, and most importantly, alternatives. In addition, the Court recommended the medical community develop requirements for reiteration of consent to ensure that it is persistent.

In 2008, in case [No. T-912/08](#) (2008), the Constitutional Court of Colombia developed the decision-making rule for “sex assigning” medical interventions performed on a minor aged five years or older. The Court held that in the case of a disagreement between a child and parents on the matter of the surgery, or when there is an objection to the family decision from an interdisciplinary medical team assembled to assess the situation, the medical intervention should be postponed until the child reached the age of 18.

In 2014, in case [No. T-622/14](#), the Constitutional Court of Colombia examined the lawsuit of a woman who was denied the performance of “sex reassignment” surgery on her intersex child. The Court urged the health corporation to “form an interdisciplinary team made up of doctors (surgeons, urologists, endocrinologists, paediatricians, and psychiatrists), psychologists, and social workers, in order to set a diagnosis, assist, guide and advise” the intersex child and his parents. In conclusion, the Court ordered to perform the surgery if an adequately informed decision of a child and his family coincides with the opinion of an interdisciplinary team. Finally, the Court recommended the Ministry of Health and Social Protection to develop mandatory “official clinical practice guidelines and/or protocols for the treatment of people born in an intersex condition”.



Costa Rica

In 2017, Costa Rica issued an executive decree “Political Reform of the Executive Branch to Eradicate Discrimination against the LGBTI Population from its Institutions” [No. 40422](#) (2017), introducing provisions to protect intersex people into executive decree Policy of the Executive Power to Eradicate Discrimination against the Sexually Diverse Population from its Institutions [No. 38999](#) (2015). The amended policy defines “intersex” as: “all those situations in which the individual's sexual anatomy does not physically conform to the culturally defined standards for the male or female body”. In addition, it defines “intersexphobia” as a “type of discrimination, aversion, hatred, or prejudice towards intersex people”. The policy includes intersexphobic non-verbal conduct, public expressions that promote intersexphobia, use of words with intersexphobic connotation, and physical contacts of intersexphobic nature, among behaviours that should be considered as discrimination for “reasons of sexual orientation and gender identity”.



Denmark

In 2019, the United Nations Committee on Economic, Social and Cultural Rights recommended Denmark to “ensure that, in practice, medically unnecessary procedures on the sex characteristics of intersex children are not performed until the children are capable of forming their own views and can give their informed consent”. In addition, the Committee recommended Denmark to train healthcare personnel on the needs and human rights of intersex persons; to provide intersex persons and their families with information materials, adequate counselling, and support; investigate human rights violations against intersex persons; and ensure that intersex people participate in the development of research, legislation, and policies that impact their rights.¹⁹⁶

In 2017, the United Nations Committee on the Rights of the Child recommended Denmark to “ensure that no one is subjected to unnecessary medical or surgical treatment during infancy or childhood”, to “guarantee bodily integrity, autonomy, and self-determination” for intersex children, and provide their families with “adequate counselling and support”. Furthermore, the Committee urged Denmark to “develop and implement a child rights-based health-care protocol for intersex children, setting out the procedures and steps to be followed by health teams”, to “undertake an investigation of incidents of surgical and other medical treatment of intersex children without informed consent”, and to “adopt legal provisions in order to provide redress to the child victims of such treatment, including adequate compensation”. In addition, the Committee urged Denmark to “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”. Finally, the Committee called on Denmark to “adopt specific anti-discrimination legislation explicitly prohibiting discrimination in all areas” and “continue taking awareness-raising measures to combat all forms of discrimination” against intersex children.¹⁹⁷

In 2016, the United Nations Committee against Torture recommended Denmark to ensure that “full, free, and informed consent is respected in connection with medical and surgical treatments for intersex persons, and that non-urgent, irreversible medical interventions are postponed until a child is sufficiently mature to participate in

¹⁹⁶ CESCR, [Concluding Observations on Sixth Periodic Report of Denmark](#), E/C.12/DNK/CO/6, 12 November 2019, paras 65(b)-65(f)

¹⁹⁷ CRC, [Concluding Observations on the Fifth Periodic Report of Denmark](#), CRC/C/DNK/CO/5, 26 October 2017, paras 24, 12(b), 12(c)

decision-making and give full, free, and informed consent". Furthermore, the Committee urged Denmark to "guarantee counselling services for all intersex children and their parents" to inform them about the consequences of the abovementioned treatment, and to provide redress for its victims.¹⁹⁸

In 2021, Denmark adopted [Act No. 2591](#) (2022), amending the Act on Equality of Women and Men [No. 751](#) (2021), the Act on Prohibition of Discrimination in the Labor Market etc. [No. 1001](#) (2017), the Act on the Equal Treatment Board [No. 1230](#) (2016), the Act on Prohibition of Discrimination on the Ground of Race [No. 626](#) (1987), and Criminal Code [No. 1851](#) (2021) to introduce sex characteristics among the relevant provisions prohibiting discrimination, criminalising incitement to hatred, and establishing aggravating circumstances accordingly.



Finland

In 2021, the United Nations Human Rights Committee recommended Finland to "effectively prevent the performance of irreversible medical interventions, especially surgical operations, on intersex children who are not yet capable of giving their full, free, and informed consent, unless such procedures constitute an absolute medical necessity" and to ensure "access to effective remedies for victims of such interventions".¹⁹⁹

In 2014, Finland adopted Law [No. 1329/2014](#) (2015), amending the Law on Equality between Women and Men [No. 609/1986](#) (1986) to include "discrimination based on the fact that a person's physical gender-determining characteristics are not unequivocally female or male" to the definition of discrimination based on gender identity or gender expression.



France

In 2016, the United Nations Committee on the Rights of the Child recommended France to "develop and implement a rights-based healthcare 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".²⁰⁰

In 2016, the United Nations Committee on the Elimination of Discrimination against Women recommended France to "develop and implement a rights-based healthcare 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".²⁰¹

In 2016, the United Nations Committee against Torture recommended France to take measures to "guarantee respect for the physical integrity of intersex individuals, so

¹⁹⁸ CAT, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Denmark](#), CAT/C/DNK/CO/6-7, 4 February 2016, para. 43

¹⁹⁹ HRCtee, [Concluding Observations on the Seventh Periodic Report of Finland](#), CCPR/C/FIN/CO/7, 3 May 2021, para. 21(c)

²⁰⁰ CRC, [Concluding Observations on the Fifth Periodic Report of France](#), CRC/C/FRA/CO/5, 6 March 2020, para. 48(b)

²⁰¹ CEDAW, [Concluding Observations on the Combined Seventh and Eighth Periodic Reports of France](#), CEDAW/C/FRA/CO/7-8, 25 July 2016, para. 19(f)

that no one is subjected during childhood to non-urgent medical or surgical procedures intended to establish one's sex". Furthermore, the Committee urged France to "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". In addition, the Committee called on France to provide intersex persons and their families with "impartial counselling services and psychological and social support free of charge", to investigate cases of interventions carried out on intersex individuals without their informed consent, to take steps to provide redress to all victims of such interventions, and to conduct the relevant studies.²⁰²

In 2021, the United Nations Committee on the Rights of Persons with Disabilities requested France to prohibit "the practice of subjecting intersex persons to medical interventions without their consent".²⁰³

In 2021, France adopted the Law on Bioethics [No. 2021-1017](#) (2021), amending Article L.1132-1 of the [Public Health Code](#) to oblige multidisciplinary teams of specialised centres to consult parents of intersex children about "possible therapeutic proposals, including therapeutic abstention, and their foreseeable consequences" as well as the existence of associations specialised in supporting intersex people. The Law stipulates that the intersex minor's consent "must be systematically sought" if they can express their will and participate in the decision. The law was criticised for pathologizing language and failure to prohibit non-consensual medical interventions on intersex minors.²⁰⁴



Germany

In 2021, the United Nations Human Rights Committee recommended Germany to ensure that "all acts relating to the assignment of a sex to intersex children performed without their free and informed consent are specifically prohibited, except in cases where such interventions are absolutely necessary for medical reasons and the best interests of the child have been duly taken into account". In addition, the Committee recommended Germany to provide victims of such acts with access to their health records and "remedies, including through a revision of the application of statutes of limitation for violations in childhood", and to consider "the establishment of a dedicated compensation fund".²⁰⁵

In 2018, the United Nations Committee on Economic, Social and Cultural Rights recommended Germany to "prohibit medically unnecessary gender confirmation surgery on intersex infants and children, and to provide an enabling environment in which intersex infants and children can develop and in which their preferred gender identity can be respected".²⁰⁶

In 2017, the United Nations Committee on the Elimination of Discrimination against Women recommended Germany to "adopt clear legislative provisions explicitly prohibiting the performance of unnecessary surgical or other medical treatment on intersex children until they reach an age at which they can provide their free, prior, and informed consent; provide the families of intersex children with adequate

²⁰² CAT, [Concluding Observations on the Seventh Periodic Report of France](#), CAT/C/FRA/CO/7, 9 June 2016, para. 35

²⁰³ CRPD, [Concluding Observations on the Initial Report of France](#), CRPD/C/FRA/CO/1, 4 October 2021, para. 37(c)

²⁰⁴ "France Lacks Understanding of Intersex Human Rights Violations", [Organisation Intersex International Europe](#), 9 October 2019.

²⁰⁵ HRCtee, [Concluding Observations on the Seventh Periodic Report of Germany](#), CCPR/C/DEU/CO/7, 30 November 2021, para. 21

²⁰⁶ CESCR, [Concluding Observations on the Sixth Periodic Report of Germany](#), E/C.12/DEU/CO/6, 27 November 2018, para. 25

counselling and support; and ensure that the German Medical Association provides information to medical professionals on the legal prohibition of unnecessary surgical or other medical interventions for intersex children". Furthermore, the Committee recommended Germany to "ensure the effective access to justice, including by amending the statute of limitations, of intersex persons who have undergone unnecessary surgical or other medical treatment without their free, prior and informed consent; and consider the proposal of the German Ethics Council to establish a State compensation fund".²⁰⁷

In 2015, the United Nations Committee on the Rights of Persons with Disabilities requested Germany to take measures to "implement all the recommendations of the Committee against Torture relevant to intersex children".²⁰⁸

In 2011, the United Nations Committee against Torture recommended Germany to "ensure the effective application of legal and medical standards following the best practices of granting informed consent to medical and surgical treatment of intersex people, including full information, orally and in writing, on the suggested treatment, its justification and alternatives". Furthermore, the Committee urged Germany to investigate "incidents of surgical and other medical treatment of intersex people without effective consent", to "adopt legal provisions in order to provide redress to the victims of such treatment, including adequate compensation", to "properly inform patients and their parents of the consequences of unnecessary surgical and other medical interventions for intersex people", and to provide medical and psychological professionals with relevant training.²⁰⁹

In 2021, Germany adopted the [Law on the Protection of Children with Variants of Sex Development](#) (2021). The Law fully prohibits medical interventions that only aim to modify the appearance of intersex minors' sex characteristics. However, the Law allows family courts to approve medical interventions aiming to eliminate a perceived functional disorder if the court finds that it is in the intersex child's best interests. The Law obliges parents to submit to the court an interdisciplinary commission's opinion on the intervention and outlines issues it should address.

The court's approval is not required for performing surgical interventions that are necessary to avert danger to the life or health of the child and cannot be postponed until the court's approval is granted. In addition, the Law extends the period for keeping medical records of any interventions performed on intersex minors. The European intersex community acknowledged the law as a "good first step" towards protecting intersex children in Germany, yet criticised it for problems with terminology, lack of universal protection, and guarantees for informed consent and access to justice.²¹⁰

In 2015, in case [No. 4 O 7000/11](#), the District Court of Nuremberg-Fuerth considered a lawsuit of an intersex person who was subjected to medical intervention without their full informed consent. The court held that the hospital failed to provide the plaintiff with information about their intersex variation and the surgery consequences but dismissed the lawsuit against the surgeon.

²⁰⁷ CEDAW, [Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Germany](#), CEDAW/C/DEU/CO/7-8, 9 March 2017, paras 24(d), 24(e).

²⁰⁸ CRPD, [Concluding Observations on the Initial Report of Germany](#), CRPD/C/DEU/CO/1, 13 May 2015, para. 38(d).

²⁰⁹ CAT, [Concluding Observations on the Fifth Periodic Report of Germany](#), CAT/C/DEU/CO/5, 12 December 2011, para. 20.

²¹⁰ "A Good First Step: Germany Adopts Law Banning IGM. But There is Still Room for Improvement", *Organisation Intersex International Europe*, 30 March 2021; see also "A Rocky Road for Human Rights", *Organisation Intersex International Germany*, 26 March 2021; Limor Meoded Danon, Katinka Schweizer, and Barbara Thies, "Opportunities and Challenges with the German Act for the Protection of Children with Variations of Sex Development", *International Journal of Impotence Research*, 5 October 2022.

In 2008, in case [No. 25 O 179/07](#), the Regional Court of Cologne considered the claim for compensation of an intersex person against a surgeon who - under the guise of eradicating the tumour - removed the plaintiff's ovaries, uterus, and fallopian tubes. The court held that the defendant failed to disclose and explain to the plaintiff the purpose of the surgery and awarded the plaintiff damages of 100,000 euros.



Greece

In 2022, the United Nations Committee on the Rights of the Child recommended Greece to ensure that “no child, including intersex children, is subjected to unnecessary medical or surgical treatment during childhood” and to “provide social, medical, and psychological services, as well as adequate counselling, support, and reparations, to intersex children and their families”.²¹¹

In 2022, Greece adopted the Medically Assisted Reproduction Reforms Act [No. 4958](#) (2022). The act prohibits medical interventions on intersex minors modifying their sex characteristics unless they reach the age of fifteen and give their free and informed consent. In case of nondeferrable interventions on an intersex minor below the age of fifteen, which do not cause future, irreversible, or significant health complications, only a local Magistrate Court may grant permission for the intervention after hearing the opinions of the intersex minor and the Interdisciplinary Committee.

This permission is not required when there is an immediate, absolute, and urgent need for medical intervention to prevent a risk to the minor's life or health, which cannot be postponed until the court's decision is issued. If these requirements are not fulfilled, a doctor performing the surgery faces criminal punishment of fine and imprisonment.²¹²

In 2019, Greece passed Law [No. 4619](#) (2019), amending the Criminal Code and implementing earlier amendments of the Law on Cohabitation Agreement, Exercise of Rights, Criminal and Other Provisions [No. 4356](#) (2015). Article 184.2 of the Criminal Code aggravates punishment for incitement to commit crimes, violence, or discord if the crime was committed on the basis of the victim's sex characteristics. Article 82A adds sex characteristics to the list of aggravating circumstances.

In 2017, Greece adopted Law [No. 4491](#) (2017), amending the Law on the Prosecution of Acts or Actions Aimed at Racial Discrimination [No. 927](#) (1979), to criminalise incitement to discrimination, hatred, or violence against a person or a group of persons identified based on, among other grounds, sex characteristics.

In 2016, Greece enacted Law [No. 4443](#) (2016), which includes sex characteristics among the grounds protected from discrimination in the area of employment.



Iceland

In 2022, the United Nations Committee on the Rights of the Child recommended Iceland to “ensure that the performance of unnecessary medical or surgical treatment on intersex children is safely deferred until children are able to provide their informed

²¹¹ CRC, [Concluding Observations on the Combined Fourth to Sixth Periodic Reports of Greece](#), CRC/C/GRC/CO/4-6, 28 June 2022, para. 28(c)

²¹² See “[Prohibition of Intersex Genital Mutilation \(IGM\) Procedures on Intersex Children](#)”, *Intersex Greece*, 26 July 2022; “[How Activism Led the Way Forward to Protect Intersex Children in Greece](#)”, *ILGA Europe*, 10 November 2022.

consent, in line with the prohibition of such procedures under the Act on Gender Autonomy”, and to “provide reparations for children who received unnecessary treatment”. Furthermore, the Committee urged Iceland to “provide adequate social, medical and psychological services, counselling, and support to intersex children and their families”.²¹³

In 2022, Iceland adopted Law [No.29](#) (2022), amending the General Criminal Law [No. 19](#) (1940). The law included sex characteristics among grounds in relevant provisions criminalising discrimination in the provision of goods or services and public mocking, slander, insulting, or threat, and provisions establishing factors that should be taken into account when determining the penalty.

In 2020, Iceland passed Law [No. 154](#) (2021), amending the Law on Sexual Autonomy [No. 80](#) (2019), to prohibit interventions that permanently change the sex characteristics of a minor aged sixteen years or older without their written and informed consent, and an assessment of their best interests from the Child and Adolescent Psychiatric Department Team on Gender Identity. For intersex minors below the age of sixteen, the law stipulates that irreversible medical interventions aimed to change their sex characteristics permanently should “only be made in accordance with the child’s will and development of gender identity, and always with the child’s best interests in mind”. However, when a minor is “unable to give consent due to their young age or for other reasons”, after extensive consultation with a multidisciplinary team, guardians can consent for such interventions if they are performed for health reasons and not social, psychosocial, and appearance reasons.

In addition, the Law regulates issues of medical records, guarantees of informed consent, and composition of a multidisciplinary team that provides an intersex minor and their family with information, advice, and treatment. The Law also introduced the notion of “atypical sex characteristics” that are defined as sex characteristics that “fall outside traditional definitions of sex characteristics as male or female, e.g., as regards functionality or appearance”. The Law was criticised for making an exception for “health reasons” not limited to urgent medical needs, as well as explicit permission of interventions for certain intersex variations.²¹⁴

In 2018, Iceland enacted the Law on Equal Treatment in the Labour Market [No. 86](#) (2018), that prohibits discrimination in employment based on sex characteristics defined as “chromosomes, gonads, and anatomical characteristics of a person”.



India

In 2019, the United Nations Committee on the Rights of Persons with Disabilities recommended India to “adopt measures to prevent sex-assignment or ‘sex-normalising’ surgery, stigmatisation, and bullying against intersex children, and ensure their right to respect for their physical and mental integrity”. In addition, the Committee urged India to take measures to address “multiple and intersecting discrimination against intersex persons”; to prevent “rejection, stigmatisation, and bullying of children with disabilities, particularly [...] intersex children”; and to protect intersex children from “attacks against their lives and any related harmful practices”.²¹⁵

²¹³ CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Iceland](#), CRC/C/ISL/CO/5-6, 23 June 2022, paras 26(b), 26(c)

²¹⁴ “In the Making: Put an End to IGM”, Organisation Intersex International Europe, 5 May 2022.

²¹⁵ CRPD, [Concluding Observations on the Initial Report of India](#), CRPD/C/IND/CO/1, 29 October 2019, paras 37(c), 19(b), 51(b), 23

In 2019, India adopted Transgender Persons (Protection of Rights) Act [No. 40](#) (2020), prohibiting discrimination against transgender persons that expressly include a “person with intersex variations”, defined as “a person who at birth shows variation in his or her primary sexual characteristics, external genitalia, chromosomes, or hormones from the normative standard of the male or female body”. The act was criticised for failing to recognise and protect intersex people from medical interventions and discrimination on the basis of sex characteristics.²¹⁶

Delhi

In 2022, the Delhi High Court ordered the Delhi Government to ban medical interventions on intersex infants except in life-threatening situations in accordance with the Delhi Commission for Protection of Child Rights [recommendations](#).²¹⁷ As of July 2023, the Delhi Government have not issued a decision on the issue.

Kerala

In 2023, the Kerala High Court instructed the Kerala government to release an order within three months to regulate “sex-selective surgeries” on intersex children. In addition, the High Court required that, before issuing this order, the government should ensure that such surgeries could only be performed if approved as life-saving by a state-level multidisciplinary committee, comprising a paediatric endocrinologist, paediatric surgeon, and child mental health professional. The High Court passed this judgment after deeming the parents’ request for approval to allow genital surgery on their intersex child as unconstitutional.²¹⁸

Tamil Nadu

In 2019, the Madras High Court of India considered the case *Arunkumar and Sreeja v. Inspector General of Registration and Others* [No. 4125](#) (2019), on the validity of an intersex transgender woman’s marriage. In addition to the main resolution on the marriage, the Court instructed the Government of Tamil Nadu “to effectively ban sex reassignment surgeries on intersex infants and children”.²¹⁹ Following the instruction, the Tamil Nadu Government issued Government Order [No. 355](#) (2019). The order defines “intersex” as people who are “born with physical and biological sex characteristics that are more diverse than stereotypical definitions for male or female bodies”. The order prohibits “sex reassignment surgeries on intersex infants and children except in life-threatening situations” which should be decided by an interdisciplinary team.



Israel

In 2017, the Ministry of Health issued Circular [No. 10](#) (2017), which contains some positive provisions for intersex children. In particular, it states that some intersex variations do not necessarily require medical treatment and declares principles of priority of patient needs. However, the Circular was criticised for using pathologizing

²¹⁶ “[Intersex Justice in India: An Unfinished Agenda](#)”, *Intersex Asia*, 22 April 2022.

²¹⁷ “[HC Asks Delhi Govt. to Decide Whether to Ban Sex-Selective Surgeries](#)”, *The Hindu*, 30 July 2022.

²¹⁸ “[Issue Regulations on Sex-Selective Surgeries on Intersex Infants: Kerala HC Asks Govt](#)”, *The Hindu*, 09 August 2023.

²¹⁹ For other cases involving intersex persons, see Jayna Kothari, Krithika Balu and Rohit Sarma, [Beyond the Binary, Advancing Legal Recognition for Intersex People in India. Policy Brief](#), (Bengaluru: Centre for Law and Policy Research and Solidarity Foundation, 2020), 7-8.

terminology and failing to ban non-consensual medical interventions on intersex minors.²²⁰



Kenya

In 2022, the United Nations Committee against Torture recommended Kenya to “strengthen measures to end the performance of irreversible medical acts, especially surgical operations, on intersex children who are not yet capable of giving their full, free, and informed consent, except in cases where such interventions are absolutely necessary for medical reasons”. Furthermore, the Committee urged Kenya to provide victims with “access to effective remedies for victims of such interventions”.²²¹

In 2021, the United Nations Human Rights Committee recommended Kenya to “strengthen measures to end the performance of irreversible medical acts, especially surgical operations, on intersex children who are not yet capable of giving their full, free, and informed consent, except in cases where such interventions are absolutely necessary for medical reasons” and to ensure “access to effective remedies for victims of such interventions”. In addition, the Committee urged Kenya to address discriminatory attitudes and stigma towards intersex persons among the general public “through comprehensive awareness-raising and sensitisation activities”.²²²

In 2022, Kenya adopted Children Act [No.29](#) (2022). The act defines an “intersex child” as a “child with a congenital condition in which the biological sex characteristics cannot be exclusively categorised in the common binary of female or male due to inherent and mixed anatomical, hormonal, gonadal, or chromosomal patterns, which could be apparent prior to, at birth, in childhood, puberty, or adulthood”. Article 21 specifies that “an intersex child shall have the right to be treated with dignity, and to be accorded appropriate medical treatment, special care, education, training, and consideration as a special need category in social protection services”. Article 23 prohibits “organ change or removal in case of an intersex child” if it is performed without the “advice of a medical geneticist”. Article 26 prescribes the accommodation of intersex children deprived of liberty in separate facilities. Article 64 stipulates that “the child protection units” established at every police station should have separate sections for intersex children. Article 95 obliges the Children’s Court to have particular regard for the fact of a child being intersex. Part XII of the Act creates a separate category of “a child in need of care and protection” that includes a child who “has been or is likely to be subjected to ... intersex genital mutilation”, as well as “a child who is intersex and is subjected to, or likely to be subjected, to discriminatory treatment or abuse”.

In 2014, Kenya passed Persons Deprived of Liberty Act [No. 23](#) (2014), which regulates the deprivation of liberty conditions. Article 2 of the act contains a controversial definition of “intersex” as “a person certified by a competent medical practitioner to have both male and female reproductive organs”. Article 10 provides intersex people with the right to choose the sex of a person who would conduct a body search on them. Article 12 specifies that intersex persons deprived of liberty should be held separate from other persons.

In 2007, the High Court of Kenya considered a case *Richard Muasya v. The Hon. Attorney General, et al.* [No. 705](#) (2007), where an imprisoned intersex person filed a

²²⁰ See Limor Meoded Danon, “[Intersex Activists in Israel: Their Achievements and the Obstacles They Face](#)”, *Journal of Bioethical Inquiry* 15, no. 4 (2018): 569–78.

²²¹ CAT, [Concluding Observations on the Third Periodic Report of Kenya](#), CAT/C/KEN/CO/3, 30 May 2022, para. 44(c)

²²² HRCtee, [Concluding Observations on the Fourth Periodic Report of Kenya](#), CCPR/C/KEN/CO/4, 11 May 2021, paras 13(e), 13(b)

petition against prison and registrar authorities. According to the petitioner, they were accommodated with male inmates who verbally, physically, and sexually abused them. The Court held that the petitioner was subjected to inhuman and degrading treatment, awarded damages, and approved the petitioner's "separate and exclusive accommodation" away from male inmates. In addition, the petitioner alleged that they were never recognised under the Law by the registrar authorities because of intersex variation. The High Court did not find evidence that the petitioner sought legal recognition under the Law and rejected the claim in this part, refusing to expand the constitutional protection from discrimination on the basis of sex to intersex people as a third category.



Malta

In 2019, the United Nations Committee on the Rights of the Child recommended Malta to "ensure that intersex children are not subjected to unnecessary medical or surgical procedures during infancy or childhood", to "guarantee the bodily integrity, autonomy, and self-determination of the children concerned", and to "provide families with intersex children with adequate counselling and support". Moreover, the Committee urged Malta to "investigate effectively incidents of surgical and other medical treatment of intersex children without informed consent" and to "provide redress to victims of such treatment, including adequate compensation and rehabilitation".²²³

In 2015, Malta adopted Gender Identity, Gender Expression and Sex Characteristics Act [No. XI](#) (2015). Article 14 of the act makes it unlawful "to conduct any sex assignment treatment and, or surgical intervention on the sex characteristics of a minor which treatment and, or intervention can be deferred until the person to be treated can provide informed consent". In the case of a minor who is unable to provide consent, the intervention can be performed in "exceptional circumstances" after the agreement of persons exercising parental authority and interdisciplinary team.

Article 2 of the Act defines sex characteristics as "chromosomal, gonadal, and anatomical features of a person, which include primary characteristics such as reproductive organs and genitalia and, or in chromosomal structures and hormones; and secondary characteristics such as muscle mass, hair distribution, breasts and, or structure". Article 13 requires public service actors to promote equality of opportunity to all irrespective of sex characteristics and eliminate unlawful sex characteristics discrimination and harassment. Article 19 amends Equality for Men and Women Act [No. I](#) (2003), to include sex characteristics among grounds protected from discrimination. Article 11 regulates punishment for offences motivated by "sex characteristics".

Despite its commendable provisions and ground-breaking nature at the time of the adoption, the intersex community indicated that there are some legal loopholes compromising the efficiency of protection from the non-consensual medical interventions, data collection, monitoring, access to justice, and redress.²²⁴

In 2018, Malta adopted Act [No. XIII](#) (2018), amending Act No. XI, to introduce punishment by imprisonment not exceeding five years or a fine ranging from €5,000

²²³ CRC, [Concluding Observations on the Combined Third to Sixth Periodic Reports of Malta](#), CRC/C/MLT/CO/3-6, 26 June 2019, paras 29(d), 29(e)

²²⁴ Markus Bauer and Daniela Truffer, "Intersex Genital Mutilations Human Rights Violations of Children with Variations of Reproductive Anatomy. NGO Report to the 3rd to 6th Report of Malta on the Convention on the Rights of the Child (CRC)", [StopIGM.org / Zwischengeschlecht.org](#), April 2019.

to €20,000 for performing a medical intervention “driven by social factors without the consent of the minor” and other violations.



Mexico

In 2019, the United Nations Human Rights Committee recommended Mexico “take steps to stop irreversible medical treatments being performed, in particular surgical procedures performed on intersex children who do not yet have the capacity to give fully informed and free consent, except when these procedures are absolutely necessary from the medical point of view”. In addition, the Committee urged Mexico to “redouble its efforts to combat stereotypes and prejudice” against intersex people and “to guarantee that acts of discrimination and violence directed against them are prevented”.²²⁵

In 2018, the United Nations Committee on the Elimination of Discrimination against Women recommended Mexico to “adopt provisions explicitly prohibiting the performance of unnecessary surgical or other medical procedures on intersex children until they reach an age when they can give their free, prior, and informed consent” and “provide families of intersex children with adequate counselling and support”.²²⁶

Mexico City

In 2017, Mexico City adopted the [Political Constitution of Mexico City](#) (2017), that prohibits discrimination based on “sex characteristics”.



Montenegro

In 2017, Montenegro adopted the Law on Amendments to the Law on the Prohibition of Discrimination (2017),²²⁷ amending [Law on Prohibition of Discrimination](#) (2010) to include “intersex characteristics” among protected grounds.



Netherlands

In 2022, the United Nations Committee on the Rights of the Child recommended the Netherlands to “prohibit the performance of unnecessary medical or surgical treatment on intersex children where those procedures may be safely deferred until children are able to provide their informed consent” and to “provide reparations for children who received unnecessary treatment”. Furthermore, the Committee urged the Netherlands to “provide adequate social, medical and psychological services, counselling, and support to intersex children and their families”. In addition, the Committee called on the Netherlands to “develop policies and awareness-raising measures aimed at addressing the root causes of de facto discrimination, with a view

²²⁵ HRCtee, [Concluding Observations on the Sixth Periodic Report of Mexico](#), CCPR/C/MEX/CO/6, 4 December 2019, para. 13

²²⁶ CEDAW, [Concluding Observations on the Ninth Periodic Report of Mexico](#), CEDAW/C/MEX/CO/9, 25 July 2018, para. 22

²²⁷ Zakon o izmjenama i dopunama Zakona o zabrani diskriminacije (“Službeni list Crne Gore”, br. 042/2017 od 30.06.2017)

to eliminating stereotyping of, and prejudice and discrimination against” intersex children.²²⁸

In 2018, the United Nations Committee against Torture recommended the Netherlands to take measures “to guarantee respect for the physical integrity and autonomy of intersex persons and to ensure that no one is subjected during infancy or childhood to non-urgent medical or surgical procedures intended to decide the sex of the child without his or her informed consent”. Furthermore, the Committee urged the Netherlands to guarantee that “full, free, and informed consent is ensured in connection with medical and surgical treatments for intersex persons and that non-urgent, irreversible medical interventions are postponed until a child is sufficiently mature to participate in decision-making and give effective consent”. In addition, the Committee called on the Netherlands to provide intersex children and their parents with “impartial counselling services and psychological and social support”, to investigate instances of non-consensual medical interventions on intersex persons, prosecute perpetrators, and provide their victims with redress.²²⁹

In 2017, the United Nations Committee on Economic, Social and Cultural Rights recommended the Netherlands to “review the practice of early surgery and medical interventions on intersex children, in order to make sure that they are mature enough to be consulted on their preferred treatments on the basis of their informed choices and consent”.²³⁰

In 2016, the United Nations Committee on the Elimination of Discrimination against Women recommended the Netherlands to “develop and implement a rights-based healthcare protocol for intersex children which ensures that children and their parents are properly informed of all options and that children are, to the greatest extent possible, involved in decision-making about medical interventions and that their choices are fully respected”.²³¹

In 2019, the Netherlands adopted the [Act of 30 August 2019 Amending the General Equal Treatment Act to Further Specify the Prohibition to Make Unauthorized Discrimination on the Ground of Sex](#) (2019), amending the [General Equal Treatment Act](#) (1994), to specify that gender discrimination includes discrimination based on “sex characteristics”.



New Zealand

In 2018, the United Nations Committee on the Elimination of Discrimination against Women recommended New Zealand to “adopt clear legislative provisions explicitly prohibiting the performance of unnecessary surgical or other medical treatment on intersex children before they reach the legal age of consent, provide the families of intersex children with adequate counselling and support, and provide redress to intersex persons who have undergone such unnecessary surgical or medical treatment”. In addition, the Committee urged New Zealand to enact specific legal prohibitions of discrimination on the ground of sex characteristics.²³²

²²⁸ CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Kingdom of the Netherlands](#), CRC/C/NLD/CO/5-6, 9 March 2022, paras 23(a), 23(b), 15(g).

²²⁹ CAT, [Concluding Observations on the Seventh Periodic Report of the Netherlands](#), CAT/C/NLD/CO/7, 18 December 2018, para. 53

²³⁰ CESCR, [Concluding Observations on the Sixth Periodic Report of the Netherlands](#), E/C.12/NLD/CO/6, 6 July 2017, para. 49

²³¹ CEDAW, [Concluding Observations on the Sixth Periodic Report of the Netherlands](#), CEDAW/C/NLD/CO/6, 24 November 2016, para. 22(f)

²³² CEDAW, [Concluding Observations on the Eighth Periodic Report of New Zealand](#), CEDAW/C/NZL/CO/8, 25 July 2018, paras 12, 24(c)

In 2023, New Zealand Parliament received a draft of the Human Rights (Prohibition of Discrimination on Grounds of Gender Identity or Expression, and Variations of Sex Characteristics) Amendment Bill No. [275-1](#), amending Human Rights Act No. [82](#) (1993), to introduce “variations of sex characteristics” among grounds protected from discrimination.



Pakistan

In 2020, the United Nations Committee on the Elimination of Discrimination against Women noted with concern “the performance of gender reassignment surgery on intersex persons for the purpose of legal gender recognition and victims’ limited access to justice” in Pakistan. In this regard, the Committee recommended Pakistan to “prevent unnecessary gender reassignment surgery in law and in practice”, “identify and eliminate the barriers preventing victims from gaining access to justice”, and ensure that they “have access to effective reparation, including compensation”.²³³

In 2017, the United Nations Human Rights Committee expressed regret that Pakistan did not provide information “on effective measures to prevent and punish” all forms of discrimination against intersex people.²³⁴

In 2018, Pakistan adopted the Transgender Persons (Protection of Rights) Act [No. XIII](#) (2018). Section 2(n) introduces such categories as “intersex (khusra)” defined as a person “with mixture of male and female genital features or congenital ambiguities” and “eunuch”; a person who is “assigned male at birth but undergoes genital excision or castration”. These legal categories are included in the definition of a “transgender person” protected from discrimination. However, the improper definition of intersex people makes guarantees of this law insufficient.²³⁵



Philippines

In 2022, a draft of Comprehensive Anti-Discrimination Act [No. 2514](#) was introduced into the Philippines Senate. The draft law defines sex characteristics and includes them among the grounds protected from discrimination. As of July 2023, the draft law is pending second reading.

Bataan

In 2021, Bataan adopted an Ordinance Prohibiting Discrimination on the Basis of Sexual Orientation or Gender Identity or Expression (SOGIE) and Providing Penalties Therefore, [No. 16](#) (2021), which includes “intersex” in the definition of sex as a protected ground. In addition, the Ordinance defines “intersex” as “people born with the sex characteristics (including genitals, gonads, and chromosome patterns) that do not fit typical notions of male and female bodies, all of which are natural bodily variations along a spectrum”. Furthermore, the Ordinance prohibits discrimination in

²³³ CEDAW, [Concluding Observations on the Fifth Periodic Report of Pakistan](#), CEDAW/C/PAK/CO/5, 10 March 2020, paras 43(e), 44(e), Note: non-consensual medical interventions on intersex children modifying their sex characteristics are not universally referred as “gender reassignment surgery”.

²³⁴ HRCtee, [Concluding Observations on the Initial Report of Pakistan](#), CCPR/C/PAK/CO/1, 23 August 2017, para. 11

²³⁵ See “Pakistan: Transgender Persons (Protection of Rights) Act, 2018. A Briefing Paper”, *International Commission of Jurists*, March 2020; Kamran Qureshi, “A Critical Analysis of the Transgender (Intersex) Persons Act, 2018, in Pakistan Versus United Nations Recommendations” in Megan Walker, *Interdisciplinary and Global Perspectives on Intersex*, (Palgrave Macmillan, 2022).

the form of “publishing information intended to ‘out’ or reveal the sex” of a person without their consent with malicious or commercial intent.

Cavite

In 2014, Cavite issued an Ordinance Prohibiting Conduct of Discrimination Based on Gender, Physical Disability, Sexual Orientation and Religious Affiliation and Penalizing the Same [No. 054](#) (2014) that defines the protected ground of “gender” as including “sexual characteristics”.

Dinagat Islands

In 2017, Dinagat Islands issued a Provincial Ordinance on Promoting and Protecting the Rights and Dignity of Lesbian, Bisexual, and Transgender Persons and Providing for a Comprehensive Policy against Discrimination on the Basis of Sexual Orientation and Gender Identity and Expression in the Province of Dinagat Islands [No. BBE2-007](#) (2017). The Ordinance defines “sex” as “biological characteristics that define humans as female or male, given that these sets of biological characteristics are not mutually exclusive, as there are individuals who possess both”.



Portugal

In 2020, the United Nations Human Rights Committee recommended Portugal to “strengthen the measures to end the performance of irreversible medical acts, especially surgical operations, on intersex children who are not yet capable of giving their free and informed consent, except in cases where such interventions are absolutely necessary for medical reasons”.²³⁶

In 2019, the United Nations Committee on the Rights of the Child recommended Portugal to “continue to implement measures, including legal and administrative measures, to guarantee that no child, including intersex children, is subjected to unnecessary medical or surgical treatment during infancy or childhood”, and to “provide social, medical and psychological services” and “adequate counselling, support, and reparations to families with intersex children”. In addition, the Committee urged Portugal to raise awareness among the public and civil servants and law enforcement officials to combat stereotyping, prejudice, and discrimination against intersex children.²³⁷

In 2018, Portugal adopted the Law on Right to Self-Determination of Gender Identity and Gender Expression and Protection of Everyone’s Sex Characteristics [No. 38/2018](#) (2018), that introduced the right “to maintain primary and secondary sex characteristics” and formally prohibited discrimination based on “sex characteristics”. In addition, the Law forbids medical interventions on intersex minors modifying their sex characteristics “until their gender identity is manifested” except for situations of “proven risk to their health”. However, the intersex community criticised the Law for not providing adequate guarantees and criminal sanctions for non-consensual medical interventions on intersex minors, as well as other legal loopholes.²³⁸

²³⁶ HRCtee, [Concluding Observations on the Fifth Periodic Report of Portugal](#), CCPR/C/PRT/CO/5, 28 April 2020, para. 17

²³⁷ CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Portugal](#), CRC/C/PRT/CO/5-6, 9 December 2019, paras 28(b), 16

²³⁸ See Markus Bauer and Daniela Truffer, “Intersex Genital Mutilations Human Rights Violations of Children with Variations of Reproductive Anatomy. NGO Report to the 5th to 6th Report of Portugal on the Convention on the Rights of the Child (CRC)”, [StopIGM.org / Zwischengeschlecht.org](#), August 2019.



Serbia

In 2021, Serbia adopted the [Law on Gender Equality](#) (2021) and the [Law on Amendments to the Law on the Prohibition of Discrimination](#) (2021), amending the [Law on the Prohibition of Discrimination](#) (2009), to include sex characteristics among the grounds protected from discrimination.



South Africa

In 2016, the United Nations Committee on the Rights of the Child recommended South Africa to “guarantee the bodily integrity, autonomy, and self-determination of all children, including intersex children, by avoiding unnecessary medical or surgical treatment during infancy and childhood”.²³⁹

In 2018, the National Assembly considered a draft of the Prevention and Combating of Hate Crimes and Hate Speech Bill [No. B9-2018](#). The draft law includes “intersex” as a part of “sex” among the victim’s characteristics that need to motivate an offence to be defined as a hate crime or hate speech. As of July 2023, the draft law has not been adopted.

In 2005, South Africa adopted Judicial Matters Amendment Act [No. 22](#) (2005), amending Promotion of Equality and Prevention of Unfair Discrimination Act [No. 4](#) (2000), to include “intersexed” persons in the definition of “sex” as a protected ground. The Law defines “intersex” as a person with “a congenital sexual differentiation which is atypical”. A similar definition was provided in Alteration of Sex Description and Sex Status Act [No. 49](#) (2003).



Spain

In 2018, the United Nations Committee on the Rights of the Child recommended Spain to “prohibit the performance of unnecessary medical or surgical treatment on intersex children, where those procedures entail a risk of harm and can be safely deferred until the child can actively participate in the decision-making process”. Furthermore, the Committee urged Spain to “ensure that intersex children and their families receive adequate counselling and support”.²⁴⁰

In 2023, Spain adopted the Law for the Real and Effective Equality of Trans People and for the Guarantee of the Rights of LGBTI People [No. 4/2023](#). Article 19 prohibits “all genital modification practices” on persons under the age of twelve unless there are “medical indications” to protect a patient’s health. The Law allows performing these practices for a minor between twelve and sixteen years of age after the minor’s informed consent. In addition, the Law directs the Public Administrations to develop protocols ensuring the participation of minors in the decision-making process, and counselling for intersex minors and their families. In addition, the Law contains provisions on the access of intersex persons to reproductive cell freezing techniques and health personnel training on the needs of intersex people. Finally, the Law

²³⁹ CRC, [Concluding Observations on the Second Periodic Report of South Africa](#), CRC/C/ZAF/CO/2, 27 October 2016, para. 40(d).

²⁴⁰ CRC, [Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Spain](#), CRC/C/ESP/CO/5-6, 5 March 2018, para. 24

establishes comprehensive protection and sanctions for various forms of discrimination and offensive expressions based on sex characteristics.

Some autonomous communities of Spain attempted to provide legal guarantees against non-consensual medical interventions on intersex minors modifying their sex characteristics. All these laws were criticised for lack of sanctions and implementation as public and private hospitals continue to publicly advertise and perform these interventions.²⁴¹

Andalusia

In 2017, Andalusia adopted Law to Guarantee the Rights, Equal Treatment and Non-Discrimination of LGBTI People and Their Families in Andalusia [No. 8/2017](#) (2018). Article 29 directs the Andalusian public health system to ensure that “genital modification practices” on newborn babies meeting only “surgical criteria” are not performed, with the exception of “medical criteria based on the protection of the health of the newborn and with legal authorisation”. In addition, the Act contains multiple provisions on discrimination against “LGTBI people”.

Aragon

In 2018, Aragon adopted Law on Gender Identity and Expression and Social Equality and Non-Discrimination of the Autonomous Community of Aragon [No. 4/2018](#) (2018). Article 15 calls the public health system of Aragon to ensure that “genital modification practices” on newborn babies meeting only “surgical criteria” are not performed with the exception of “medical criteria based on the protection of the health of the newborn and with legal authorisation”. In addition, it regulates issues of hormonal therapy, gonadectomy, and health personnel training. Article 41 instructs the Aragonese Public Administrations to pay special attention to offences committed “due to intersexuality”.

Cantabria

In 2020, Cantabria adopted Law to Guarantee the Rights of Lesbian, Gay, Trans, Transgender, Bisexual and Intersex Persons and Non-Discrimination on the Ground of Sexual Orientation and Gender Identity [No. 8/2020](#) (2020). Article 23 informs that “immediate medical, surgical, or hormonal intervention, aimed at sexual normalisation to adjust to the physical norms of gender binarism, will be avoided whenever possible”. In addition, it instructs to eradicate “genital modification practices” on newborn babies meeting only “surgical criteria” with the exception of “vital risk or for the health of the newborn”.

Castilla La Mancha

In 2022, Castile La Mancha adopted Law on Sexual Diversity and LGBTI Rights in Castilla-La Mancha [No.5/2022](#) (2022). Article 32 urges the health authorities to eradicate “intersex genital mutilation”, defined as “practices of genital modification that are carried out on babies based solely on criteria of genital morphology”. The article prohibits these practices until an intersex person “has reached sufficient maturity to decide in a free and informed manner”, except for the “protection of the comprehensive health of the newborn and with the corresponding legal authorisation”. Article 32 also regulates issues of preservation of gonads, hormonal tests, genital examinations, and training for health personnel.

²⁴¹ Markus Bauer, Daniela Truffer, and Laura Inter, [Intersex Genital Mutilations Human Rights Violations of Children with Variations of Reproductive Anatomy. NGO Report \(for LOIPR\) to the 7th Periodic Report of Spain on the International Covenant on Civil and Political Rights \(CCPR\)](#), [StopIGM.org](#) / [Zwischengeschlecht.org](#), [Brújula Intersexual](#), August 2019; “[Intersex Genital Mutilation: How Spain’s Law is Failing Intersex Children](#)”, [StopIGM.org](#), 13 August 2022.

Catalonia

In 2014, Catalonia adopted Law to Guarantee the Rights of Lesbians, Gays, Bisexuals, Transgenders and Intersex and to Eradicate Homophobia, Biphobia and Transphobia [No. 11/2014](#) (2014), that contains some measures for the benefit of intersex people as a part of LGBTI community.

Community of Madrid

In 2016, the Community of Madrid adopted Law on Gender Identity and Expression and Social Equality and Non-Discrimination of the Community of Madrid [No. 2/2016](#) (2016). Article 15(1) instructs the public health system of Madrid to ensure that “genital modification practices” on newborn babies meeting only “surgical criteria” are not performed, with the exception of “medical criteria based on the protection of the health of the newborn, and with legal authorisation”.

Extremadura

In 2015, Extremadura adopted Law on Social Equality for Lesbians, Gays, Bisexuals, Transsexuals, Transgender and Intersex and on Public Policies against Discrimination Based on Sexual Orientation and Gender Identity in the Autonomous Community of Extremadura [No. 12/2015](#) (2015). Article 11 instructs the public health system of Extremadura to ensure that “genital modification practices” on newborn babies meeting only “surgical criteria” are not performed with the exception of “medical criteria based on the protection of the health of the newborn”.

La Rioja

In 2022, La Rioja adopted Law on Equality, Recognition of Gender Identity and Expression, and the Rights of Trans People and Their Families in the Autonomous Community of La Rioja [No. 2/2022](#) (2022). The law defines “intersexuality” as “people who, at some point in their chromosomal or gonadal development, or their sex characteristics, present a sexual or reproductive anatomy other than those typically defined as male or female”. In addition, the Law provides a definition of “intersexphobia” as “the rejection, repudiation, damage, prejudice, or discrimination towards a person due to their sex characteristics”. Article 22 instructs the La Rioja public health system to ensure that “genital modification practices” on newborn babies meeting only “surgical criteria” are not performed with the exception of “medical criteria based on the protection of the health of the newborn”. In addition, Article 22 regulates issues of preservation of gonads, hormonal tests, and training of health personnel.

Murcia

In 2016, Murcia adopted Law on Social Equality for Lesbians, Gays, Bisexuals, Transsexuals, Transgender and Intersex, and Public Policies against Discrimination Based on Sexual Orientation and Gender Identity in the Autonomous Community of the Region of Murcia [No. 8/2016](#) (2016). Article 16 provides that “a specific action protocol will be established in matters of intersexuality that will include appropriate psychological care and the required sex assignment treatments in attention to the felt gender”. In addition, it instructs the public health system of the Region of Murcia to “ensure that “genital modification practices” on newborn babies meeting only “surgical criteria” are not performed with the exception of “medical criteria based on the protection of the health of the newborn”.

Navarre

In 2017, Navarre adopted Law for the Social Equality of LGBTBI+ People [No. 8/2017](#) (2017). The law defines an intersex person as “a person born with sexual characteristics (including genitalia, gonads, and chromosomal patterns) that do not conform to the typical binary notions of man and woman”. Article 17 instructs the Navarre Health Service-Osasunbidea to ensure that “genital modification practices” on newborn babies meeting only “surgical criteria” are not performed with the exception of “medical criteria based on the protection of the health of the newborn and with legal authorisation”. In addition, Article 17 mentions special training for health personnel and limitations on hormonal experimentation and genital examinations.

The Balearic Islands

In 2016, the Balearic Islands adopted Law to Guarantee the Rights of Lesbians, Gays, Trans, Bisexuals and Intersex and to Eradicate LGBTBI Phobia [No. 8/2016](#) (2016). Article 16 contains a commitment that with regard to healthcare, intersex patients’ position “will be taken into account in the decision-making of the persons, provided that their life is not in danger, or their health conditions are not affected, in accordance with current regulations”. Article 17 seeks to guarantee intersex people’s right to “make use of the spaces assigned to the gender with which they identify” in sex-segregated facilities. Article 23 requires the public health system of the Balearic Islands to ensure that “genital modification practices” on newborn babies meeting only “surgical criteria” are not performed with the exception of “medical criteria based on the protection of the health of the newborn”. In addition, Article 23 provides provisions for the preservation of gonads, hormonal tests, education of health personnel, and ensuring the privacy of a patient’s medical history.

The Canary Islands

In 2021, the Canary Islands adopted Law on Social Equality and Non-Discrimination based on Gender Identity, Gender Expression and Sexual Characteristics [No. 2/2021](#) (2021). The law defines “intersex” as people “who at some point in their chromosomal or gonadal development or their sex characteristics present a sexual or reproductive anatomy other than those typically defined as male or female”. In addition, the Law provides a definition of “intersexphobia” as “the rejection, repudiation, damage, prejudice, or discrimination towards a person due to their sex characteristics”. Article 27 prohibits “genital modification practices” on newborn babies meeting only “surgical criteria” with the exception of “medical criteria based on the protection of the health of the newborn”. In addition, Article 27 contains provisions on the preservation of gonads, hormonal experimentation, genital examinations, and informed consent. Furthermore, the Law provides multiple measures to educate society and professionals on intersex issues, and establishes punishments for various forms of hate speech and discrimination based on sex characteristics.

Valencia

In 2018, Valencia adopted Law on Equality of LGBTBI People [No. 23/2018](#) (2018). Articles 46 and 47 call on Valencia Generalitat to prepare guides, manuals, and information brochures, and implement other measures to support the visibility and social awareness of the existence of intersex people; to guarantee “comprehensive and appropriate psychosocial care for the medical, psychological, legal, social, labour, and cultural needs” of intersex people and their families, and to inform them about their rights and the available resources. Article 48 requires that intersex people are provided with “complete and quality information that must have a clear and accessible explanation of the pros and cons” of the medical interventions related to their intersex variation, and that “the decisions made on behalf of the baby ... should be taken calmly, without pressure, and after a period of reflection, once they have been adequately informed by the specialist”. Article 49 specifies that the integrity of an intersex person

“will prevail over the family, social, and cultural context” and that irreversible interventions such as “genital surgery and gonadectomy” should be postponed until the age of consent with the exception of risk to the health. Article 60 lists punishable offences that include degrading and humiliating expressions, and different forms of discrimination based on “sexual development”, yet does not include any sanctions for the non-consensual medical interventions on intersex minors.



Switzerland

In 2022, the United Nations Committee on the Rights of Persons with Disabilities recommended Switzerland to adopt “clear legislative provisions that explicitly prohibit the performance of unnecessary and irreversible medical interventions, including surgical, hormonal or other medical procedures, on intersex infants and children”. In addition, the Committee urged Switzerland to provide “health care and psychosocial support to intersex persons who have been subjected to intersex genital mutilation” and “adequate counselling and support for families of intersex children”, as well as to “extend the statute of limitations to enable criminal and civil remedies”.²⁴²

In 2021, the United Nations Committee on the Rights of the Child recommended Switzerland to “prohibit the performance of unnecessary medical or surgical treatment on intersex children where those procedures may be safely deferred until children are able to provide their informed consent” and to “provide social, medical, and psychological services, as well as adequate counselling, support, and reparations, to families with intersex children”. In addition, the Committee urged Switzerland to engage intersex organisations “in the formulation, implementation, and monitoring of public policies and programmes concerning their rights”, “develop policies and awareness-raising measures” aimed at eliminating discrimination against intersex children, and to provide support to intersex children who are victims of bullying.²⁴³

In 2017, the United Nations Human Rights Committee recommended Switzerland to ensure that “no child undergoes unnecessary surgery intended to assign sex”, “medical records are accessible and that inquiries are launched in cases where intersex persons are subjected to treatment or surgical procedures without their effective consent”; and provide “victims of needless surgical procedures” with “psychological assistance and reparation, including compensation”.²⁴⁴

In 2016, the United Nations Committee on the Elimination of Discrimination against Women recommended Switzerland to ensure that “no child is subjected to unnecessary medical or surgical treatment during infancy or childhood”; to adopt legislation “to protect the bodily integrity, autonomy, and self-determination of intersex persons” and “to provide redress to intersex persons affected by cases of surgical or other medical treatment without their free, prior, and informed consent by or that of their parents”; to provide families of intersex children with “adequate counselling and support”; and to “educate and train medical professionals on the harmful impact of unnecessary surgical or other medical interventions for intersex children and ensure that the views of intersex persons are fully considered by the interdisciplinary working groups established to review these procedures”.²⁴⁵

²⁴² CRPD, *Concluding Observations on the Initial Report of Switzerland*, CRPD/C/CHE/CO/1, 25 March 2022, para. 36(c)

²⁴³ CRC, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Switzerland*, CRC/C/CHE/CO/5-6, 22 October 2021, paras 29(b), 29(c), 15(a), 18(d), 39(d).

²⁴⁴ HRCtee, *Concluding Observations on the Fourth Periodic Report of Switzerland*, CCPR/C/CHE/CO/4, 22 August 2017, para. 25

²⁴⁵ CEDAW, *Concluding Observations on the Combined Fourth and Fifth Periodic Reports of Switzerland*, CEDAW/C/CHE/CO/4-5, 25 November 2016, paras 25(c), 25(e)

In 2015, the United Nations Committee against Torture recommended Switzerland to take measures to “guarantee respect for the physical integrity and autonomy of intersex persons and to ensure that no one is subjected during infancy or childhood to non-urgent medical or surgical procedures intended to decide the sex of the child”. Furthermore, the Committee urged Switzerland to “guarantee counselling services and free psychosocial support for all persons concerned, and their parents, and inform them that any decision on unnecessary treatment can be put off until the person concerned are able to decide for themselves”. In addition, the Committee called on Switzerland to investigate reports on non-consensual medical treatment and to adopt legal provisions for providing victims of such treatment with redress.²⁴⁶

In 2022, members of the Switzerland Council of States tabled the motion Penal Prohibition of Interventions aimed at Modifying the Biological Sex of Children Born with a Variation of Sex Characteristics (Intersex Children) [No. 22.3355](#), requesting the Council to amend the Penal Code accordingly. The motion was welcomed by the local intersex community.²⁴⁷ Later that year, the Council proposed to reject the motion and forwarded it to the “competent committee for preliminary examination”.

Geneva

In 2019, the Grand Council of Geneva adopted the proposal for a motion To End the Mutilation of Intersex People [No. M2491](#), and motion No More Mutilations Practiced on Intersex People [No. M2541](#), calling to legally prohibit non-consensual medical interventions on intersex minors, providing intersex people with reparations and psychosocial support.²⁴⁸



United Kingdom

In 2019, the United Nations Committee against Torture recommended the UK to ensure that “the parents or guardians of intersex children receive impartial counselling services and psychological and social support, including information on the possibility of deferring any decision on unnecessary treatment until they can be carried out with the full, free, and informed consent of the person concerned”. In addition, the Committee urged the UK to provide intersex persons “who have been subjected to such procedures without their consent and resulting in severe pain and suffering” with redress “including the means for rehabilitation”.²⁴⁹

In 2017, the United Nations Committee on the Rights of Persons with Disabilities recommended the UK to “repeal all types of legislation, regulations, and practices allowing any form of forced intervention or surgery”, to guarantee the right to free, prior, and informed consent, and to provide “supported decision-making mechanisms and strengthened safeguards” with particular attention to intersex persons.²⁵⁰

In 2016, the United Nations Committee on the Rights of the Child recommended the UK to “ensure that no one is subjected to unnecessary medical or surgical treatment during infancy or childhood”, to “guarantee bodily integrity, autonomy, and self-determination to children concerned”, and to provide families of intersex children with “adequate counselling and support”. Furthermore, the Committee urged the UK to

²⁴⁶ CAT, *Concluding Observations on the Seventh Periodic Report of Switzerland*, CAT/C/CHE/CO/7, 7 September 2015, para. 20

²⁴⁷ “[Criminal Prohibition of Interventions Aimed at Modifying the Sexual Characteristics of Children](#)”, *InterAction*, 25 May 2022

²⁴⁸ See “[Press Release of April 23, 2019: Prohibition of Mutilation of Intersex Children](#)”, *InterAction*, 23 April 2019.

²⁴⁹ CAT, *Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland*, CAT/C/GBR/CO/6, 7 June 2019, para. 65

²⁵⁰ CRPD, *Concluding Observations on the Initial Report of the United Kingdom of Great Britain and Northern Ireland*, CRPD/C/GBR/CO/1, 3 October 2017, para. 41

provide redress to the victims of the abovementioned treatment and to educate medical and psychological professionals “on the range of sexual and related biological and physical diversity, and on the consequences of unnecessary interventions for intersex children”. In addition, the Committee called on the UK to ensure that meaningful sexual and reproductive health education, as a part of the mandatory school curriculum, includes age-appropriate information on intersex children.²⁵¹

Jersey

In 2015, Jersey adopted The Discrimination (Sex and Related Characteristics) (Jersey) Regulations [No. R&O.61/2015](#) (2015), amending the Discrimination (Jersey) Law [No. L.10/2013](#) (2013), to include “intersex status” in the definitions of sex as a ground protected from discrimination. The Regulations define “intersex status” as “having physical, chromosomal, hormonal, or genetic features that are neither wholly male nor female; a combination of male or female; or neither male nor female”.

Scotland

In 2021, the Scottish parliament passed the [Hate Crime and Public Order \(Scotland\) Act 2021](#) (2021). The Act includes “variations in sex characteristics” among the characteristics of the victim that need to motivate the act to be qualified as an offence “of stirring up hatred” or “aggravated by prejudice”. Section 11(8) specifies that “variation in sex characteristics” refers to the person who “is born with physical and biological sex characteristics which, taken as a whole, are neither (a) those typically associated with males, nor (b) those typically associated with females”.



United States

While the intersex community is increasingly recognized in federal regulations and legal interpretations regarding non-discrimination, there remains a concerning lack of concrete legislation that would specifically prevent the harm of medically unnecessary and non-consensual surgeries on children with variations in their sex characteristics. Legal tools that should be applied to protect children with intersex variations from such harm, including laws addressing female genital cutting and the sterilisation of minors, have not been enforced when the children being subjected to these prohibited procedures are intersex. Most recently, states across the US have advanced harmful legislation that restricts necessary, gender-affirming care for transgender youth while expressly allowing unnecessary and non-consensual surgeries on intersex children to continue. These laws endanger the bodily autonomy of children with variations in their sex characteristics as well as transgender youth, making the need for clear, enforceable protections at the federal level all the more urgent.

Sylvan Fraser, InterACT: Advocates for Intersex Youth

In 2022, the Department of Education published a notice, “[Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance](#)”, proposing to amend Title 34 of the Code of Federal Regulations to include discrimination based on sex characteristics - defined as “a person’s physiological sex characteristics and other inherently sex-based traits” - in the scope of “sex discrimination”. In addition, the notice provides a definition of “intersex” as “people with variations in physical sex characteristics” that “may involve anatomy,

²⁵¹ CRC, [Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland](#), CRC/C/GBR/CO/5, 12 July 2016, paras 47(c), 47(d), 47(e), 65(b)

hormones, chromosomes, and other traits that differ from expectations generally associated with male and female bodies”.²⁵²

In 2022, the Department of Health and Human Services published a notice, “[Nondiscrimination in Health Programs and Activities](#)”, proposing to clarify that the prohibition of discrimination on the basis of sex in certain health programs and activities under Section 1557 of the [Affordable Care Act](#) (2010) includes “discrimination based on sex characteristics, including intersex traits”. The Department expressed the view that discrimination based on sex characteristics is “inherently sex-based” because intersex traits are “inextricably bound up with” sex and “cannot be stated without reference to sex”.²⁵³

In 2022, the House of Representatives considered a draft of the Act to Impose Sanctions on Foreign Persons Responsible for Violations of Internationally Recognized Human Rights against Lesbian, Gay, Bisexual, Transgender, Queer and Intersex (LGBTQI) Individuals, and for Other Purposes [No. H.R. 3485](#). The draft law contains provisions that would allow the authorities to impose visa restrictions on foreign persons responsible for violations of the human rights of individuals based on, among other grounds, the actual or perceived sex characteristics. However, the Senate Committee on Foreign Relations did not advance the draft law for further proceedings.

In 2021, the Department of Health and Human Services issued a rule, “[Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services](#)” (2021), that specifies that these services “may not discriminate based on sex characteristics”.

In 2021, the House of Representatives approved the draft of the Act to Prohibit Discrimination on the Basis of Sex, Gender Identity, and Sexual Orientation, and for Other Purposes No. [H.R.5](#) that would prohibit discrimination based on “sex characteristics, including intersex traits” as part of the protected ground of “sex”. As of July 2023, the draft law is under consideration by the Senate.

In 2021, the House of Representatives considered a draft law To Amend Part E of Title IV of the Social Security Act to Require States to Prohibit Genital Surgery on Foster Children with Variations in Sex Characteristics who are under Six Years of Age as a Condition of Receiving Grants under such Part. [No. H.R. 5730](#). The draft law aimed to prohibit doctors from performing specified surgeries on a foster intersex child under six years of age. As of July 2023, the draft law has not been adopted.

Courts in the US considered a case related to non-consensual medical intervention that was performed on the sex characteristics of an intersex child in state custody. The child’s adoptive parents brought state and federal claims against the hospitals and physicians who referred the sixteen-month-old intersex child for surgery, those who performed the surgery, and the social services department that permitted the surgery to take place. In the first instance, the federal district court allowed the federal claim to proceed. In 2015, the Fourth Circuit Court of Appeals dismissed the case on the basis of qualified immunity.²⁵⁴ In 2017, adjudicating a separate medical malpractice

²⁵² “[...]Title IX’s prohibition on sex discrimination includes discrimination based on gender identity, intersex traits, and sexual orientation”, [Title IX Legal Manual](#), *The United States Department of Justice*, accessed 16 November 2022.

²⁵³ In 2020, the Center for Medicare and Medicaid Services (CMS) under the US Department of Health and Human Services issued a final rule “[Nondiscrimination in Health and Health Education Programs or Activities, Delegation of Authority](#)” (2020), repealing the definition of “sex” that, according to the previous rule, included “intersex traits or atypical sex characteristics” for the purpose of the prohibition of discrimination in publicly funded healthcare. The new rule does not replace it with a new regulatory definition, instead relying upon the plain meaning of “sex” in the statute. See also “[Federal Government Bans Discrimination Against Intersex People in Health Care](#)”, *InterACT*, 23 May 2016.

²⁵⁴ United States Court of Appeals for the 4th Circuit, [M.C. v. Aronson, et al.](#), 2015.

claim, the state court in South Carolina approved a settlement between institutional defendants and the plaintiffs for \$440,000.²⁵⁵

California

In 2021, the California legislature considered a draft of Act to Add Section 2295 to the Business and Professions Code, Relating to Medical Procedures [No. 225](#) aiming to prohibit doctors from performing specified “sex organ modification procedures” on intersex minors under six (later amended to twelve) years of age unless the procedure is “a surgery required to address an immediate risk of physical harm”.²⁵⁶ Among these exceptions, the draft law listed the surgeries aimed “to remove tissue that poses a heightened clinical risk of malignancy”, “to allow urine to exit the body, to treat urinary incontinence, or to decrease a risk of infection or renal complication”, “to treat complications of a previous surgery”, and any other surgery “to preserve life in the event of a medical emergency”. In addition, the draft law defined an “individual born with variations in their physical sex characteristics” as a person “born with physical traits, including genitals, gonads, hormone function, or chromosomal patterns, that vary from stereotypical notions regarding the development, appearance, or function of sex characteristics, including those variations resulting from androgen insensitivity syndrome and congenital adrenal hyperplasia”. In 2022, the sponsoring senator withdrew the draft law from consideration due to a lack of support.

In 2019, the California legislature considered a draft of Act to Add Section 2295 to the Business and Professions Code, Relating to Sex Characteristics [No. 201](#), aimed to require doctors to postpone genital surgery on an intersex minor until the minor is old enough to provide informed consent. In 2020, California Senate Committee on Business, Professions and Economic Development rejected the draft law.

In 2020, California adopted The Transgender Respect, Agency, and Dignity Act [No. 132](#), amending the California [Penal Code](#) (1872), to require the Department of Corrections and Rehabilitation to privately ask individuals entering into custody whether they identify as intersex and respect their search preferences without discrimination based on “the anatomy, including, but not limited to, the genitalia or other physical characteristics”. The act defines “intersex” as a “broad and inclusive term referring to people whose anatomy, hormones, or chromosomes fall outside the strict male and female binary”.

In 2018, the California legislature passed a non-binding Concurrent Resolution²⁵⁷ Relative to Sex Characteristics [No. 110](#) in support of protecting intersex minors against non-consensual medical interventions modifying their sex characteristics.

Hawaii

In 2020, the Hawaii House of Representatives considered a draft of Act Relating to Health [No. 2113](#) aimed to prohibit non-consensual medical interventions on intersex minors “unless the treatment or intervention is medically necessary”. As of July 2023, the draft law has not been adopted.

²⁵⁵ South Carolina Court of Common Pleas, Richland County, *Pamela and John Mark Crawford v. Medical University of South Carolina and South Carolina Department of Social Services, et al.*, 2017.

²⁵⁶ Evan Symon, “[Intersex Surgery Bill Withdrawn from Committee Before Vote Due to Lack of Support](#)”, *California Globe*, 5 April 2021; Adam Beam, “[California Lawmaker Ends Bill to Limit Intersex Surgeries](#)”, *US News*, 4 January 2022.

²⁵⁷ A concurrent resolution is a “measure introduced in one house that, if approved, must be sent to the other house for approval. The Governor’s signature is not required. These measures usually involve the internal business of the Legislature”. “[Glossary of Terms](#)”, *California State Senate*, accessed on 25 October 2022.

Iowa

In 2022, the Iowa House of Representatives considered a draft of Act Relating to Treatment or Intervention Involving an Intersex Minor [No. 2450](#) to prohibit non-consensual medical interventions on intersex children. In 2021, the Iowa House of Representatives considered a similar draft [No. 662](#). As of July 2023, the draft laws have not been adopted.

Nevada

In 2019, the Nevada Senate considered a draft of Act Relating to Health Care; Establishing Conditions for the Performance on a Child of any Surgical Procedure to Assign Anatomical Sex; Providing for Disciplinary Action against Certain Providers of Health Care for Any Violation of those Conditions; and Providing Other Matters Properly Relating thereto [No. 124](#). The draft law aimed to prohibit surgical procedures “to assign the sex of a child” without assessing whether a child can provide informed consent. As of July 2023, the draft law has not been adopted.

New Jersey

In 2021, New Jersey passed Act Concerning Resident Rights in Long-Term Care Facilities and Supplementing Title 26 of Revised Statutes [No. 2545](#) (2021). The Act defines “intersex” as “a person whose sexual or reproductive anatomy or chromosomal pattern is not consistent with typical definitions of male or female”. The Act forbids long-term care facilities staff to engage in various forms of discrimination based on intersex status and to unlawfully disclose a resident’s intersex status. In addition, the draft law provides guarantees for the bodily privacy of intersex residents during physical examinations and relevant staff training.

In 2021, the New Jersey State Assembly considered a draft of Act Concerning Certain Surgical Procedures and Supplementing Title 26 of the Revised Statutes [No. 5441](#). The draft law aimed to prohibit health care professionals from performing specific surgical procedures on a “person born with variations in their physical sex characteristics” younger than twelve years old unless there is “an immediate risk of physical harm” defined by a list of necessary surgeries. In addition, the draft law, defining “person born with variations in their sex characteristics”, directed the State Board of Medical Examiners to “invoke penalties or take administrative action” against the perpetrator, and extended the statute of limitation for civil action against the health care professional in the Superior Court. As of July 2023, the draft law has not been adopted.

New York

In 2022, the New York State Senate passed a draft of the Act to Amend the Public Health Law, in Relation to Requiring the Department of Health to Conduct a Public Information and Outreach Campaign on Medically Unnecessary Treatments on Persons Born with Intersex Traits or Variations in Sex Characteristics [No. S8278](#). As of July 2023, the draft law is being considered in the New York State Assembly Standing Committee on Ways and Means.

In 2021, the New York City Council adopted Local Law to Amend the Administrative Code of the City of New York, in Relation to Requiring the Department of Health and Mental Hygiene to Conduct a Public Information and Outreach Campaign Regarding Medically Unnecessary Treatments or Interventions on Individuals Born with Intersex Traits or Variations in Sex Characteristics [No. 60](#) (2021), amending Title 17 Chapter 1 of the [Administrative Code of the City of New York](#). Section 17-199.16 of the Code obliges the department to create and distribute educational materials for medical practitioners, and parents and guardians of intersex people. In addition, the

Code defines “intersex traits or variations in sex characteristics” as “the umbrella term for differences in reproductive or sex anatomy that may appear in an individual’s chromosomes, genitals, secondary sex characteristics, or internal organs such as testes or ovaries, and may be identified at birth, or may not be discovered until puberty or later in life”. Moreover, the Code provides a definition of the term “medically unnecessary” as “a treatment or intervention on the sex characteristics ... that may be safely deferred until that individual can provide informed consent”. The Code explicitly states that psychological factors do not constitute medical necessity unless the intersex person identifies these factors as relevant to decision-making.

In 2021, the New York State Senate considered a draft of Act to Amend the Correction Law in Relation to the Housing of Transgender or Intersex inmates [No. S2194](#). The draft law aims to provide a sheriff with a right to assign an intersex inmate to any facility housing unit that, in the sheriff’s opinion, would ensure the inmate’s health and safety. As of July 2023, the draft law has not been adopted.

Maryland

In 2022, the Maryland General Assembly considered a draft of Act Concerning Correctional Facilities – Transgender, Nonbinary, and Intersex Inmates (Transgender Respect, Agency, and Dignity Act) [No. 453](#). The draft law defines “intersex” as a “broad and inclusive term referring to people whose anatomy, hormones, or chromosomes fall outside the strict male and female binary”. The draft law prescribes officers of a correctional facility to ask every incoming inmate whether they identify as intersex and to house every inmate at the facilities for men or women according to the inmate’s preference. As of July 2023, the draft law has not been adopted.

Rhode Island

In 2021, the Rhode Island General Assembly considered a draft of Physical Sex Characteristics Surgery Act [No. S 0593](#), to add Chapter 95 “Protection of Youth with Variations in Physical Sex Characteristics Act” into Title 23 of Rhode Island General Laws. The draft law contains a list of surgeries prohibited to perform on a patient under the age of twelve unless required “to address an immediate risk of physical harm”. As of July 2023, the draft law has not been adopted. Instead, the Health and Human Services Committee recommended to hold the adoption of this law for further study.

Texas

In 2021, Austin City Council passed Resolution [No. 20211021-028](#) (2021). The resolution “formally condemns non-consensual and medically unnecessary surgeries on intersex children” and directs the City Manager “to explore methods to implement a public education campaign to provide accurate, affirming information to the doctors and parents of intersex children about these children’s health, to counter misinformation that can be presented as medical advice”.

In 2020, the Texas House of Representatives considered a draft of Act Relating to Prohibited Nonconsensual Medical Procedures and Treatment on Certain Minors with Intersex Traits [No. 726](#). The draft law defined “medically necessary” treatments as those that are “immediately necessary to treat an injury, illness, disease, or condition affecting a child’s health that, if delayed, would adversely affect the child’s physical health”. The draft law aimed to prohibit physicians from performing medical interventions “related to an intersex trait” on a minor unless the minor provided informed consent. In addition, in 2019 and 2017, Texas legislative authorities considered similar draft laws [No. 2462](#), [No. 1383](#) and [No. 1342](#). As of July 2023, none of these draft laws have been adopted.

Washington

In 2022, Washington adopted Act Relating to Exempting from Public Disclosure Sensitive Records Pertaining to Current and Formerly Incarcerated Individuals' Dignity and Safety; Adding a New Section to Chapter 42.56 RCW; Creating a New Section; and Declaring an Emergency [No. 1956](#) (2022), amending Title 42 Chapter 56 Section 475 of the [Revised Code of Washington](#) to exempt information or records related to incarcerated person's "intersex status" from public inspection and copying.



Uruguay

In 2016, the United Nations Committee on the Rights of Persons with Disabilities recommended Uruguay to amend legislation to require "in all cases, without exception, the free and informed consent of persons with disabilities, including those whose legal capacity has been revoked, as an essential prerequisite for any surgery or medical treatment, especially those of an invasive nature and whose effects are irreversible, such as sterilisation and procedures on intersex children".²⁵⁸

In 2019, following the Law on Violence Against Women [No.19580](#) (2018), prescribing the health authorities to develop a protocol to ban "unnecessary" medical interventions on intersex minors, the Uruguay Government issued Decree [No. 339/019](#) (2019). Article 18 of the Decree explicitly calls the Office of Sexual and Reproductive Health to submit a protocol on medical interventions on intersex minors, taking into account the recommendations of the World Health Organisation and other international human rights organisations.

²⁵⁸ CRPD, [Concluding Observations on the Initial Report of Uruguay](#), CRPD/C/URY/CO/1, 30 September 2016, para. 44

Summary Table

			BODILY INTEGRITY AND AUTONOMY				EQUAL ENJOYMENT OF HUMAN RIGHTS				
			NO RESTRICTIONS	PARTIAL RESTRICTIONS	PROHIBITION	LIABILITY	NO PROTECTION	LIMITED PROTECTION	UNCLEAR PROTECTION	PROHIBITION	LIABILITY
AFRICA			53	1	0	0	52	1	1	0	0
1.	1.	Algeria									
2.	2.	Angola									
3.	3.	Benin									
4.	4.	Botswana									
5.	5.	Burkina Faso									
6.	6.	Burundi									
7.	7.	Cameroon									
8.	8.	Cabo Verde									
9.	9.	Central African Republic									
10.	10.	Chad									
11.	11.	Comoros									
12.	12.	Congo									
13.	13.	Côte d'Ivoire									
14.	14.	DRC									
15.	15.	Djibouti									
16.	16.	Egypt									
17.	17.	Equatorial Guinea									
18.	18.	Eritrea									
19.	19.	Eswatini									
20.	20.	Ethiopia									
21.	21.	Gabon									
22.	22.	Gambia									
23.	23.	Ghana									
24.	24.	Guinea									
25.	25.	Guinea-Bissau									
26.	26.	Kenya		✓				✓			
27.	27.	Lesotho									
28.	28.	Liberia									
29.	29.	Libya									
30.	30.	Madagascar									
31.	31.	Malawi									
32.	32.	Mali									
33.	33.	Mauritania									
34.	34.	Mauritius									
35.	35.	Morocco									
36.	36.	Mozambique									

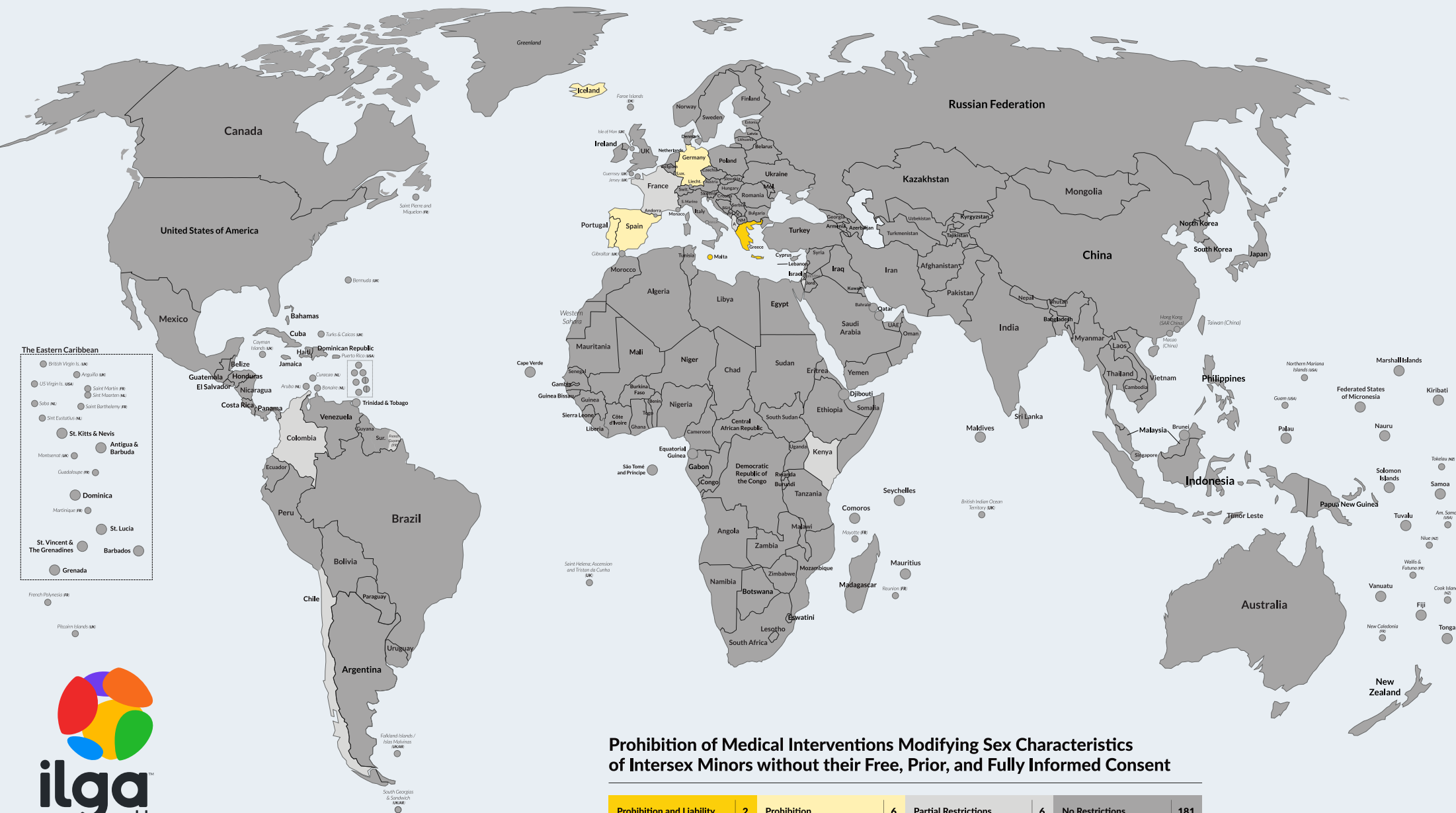
37.	37.	Namibia									
38.	38.	Niger									
39.	39.	Nigeria									
40.	40.	Rwanda									
41.	41.	Sao Tome & Principe									
42.	42.	Senegal									
43.	43.	Seychelles									
44.	44.	Sierra Leone									
45.	45.	Somalia									
46.	46.	South Africa							✓		
47.	47.	South Sudan									
48.	48.	Sudan									
49.	49.	Tanzania									
50.	50.	Togo									
51.	51.	Tunisia									
52.	52.	Uganda									
53.	53.	Zambia									
54.	54.	Zimbabwe									
LATIN AMERICA AND THE CARIBBEAN			31	2	0	0	31	2	0	0	0
55.	1.	Antigua and Barbuda									
56.	2.	Argentina									
57.	3.	Bahamas									
58.	4.	Barbados									
59.	5.	Belize									
60.	6.	Bolivia									
61.	7.	Brazil									
62.	8.	Chile		✓				✓			
63.	9.	Colombia		✓							
64.	10.	Costa Rica						✓			
65.	11.	Cuba									
66.	12.	Dominica									
67.	13.	Dominican Republic									
68.	14.	Ecuador									
69.	15.	El Salvador									
70.	16.	Grenada									
71.	17.	Guatemala									
72.	18.	Guyana									
73.	19.	Haiti									
74.	20.	Honduras									
75.	21.	Jamaica									
76.	22.	Mexico									
77.	23.	Nicaragua									
78.	24.	Panama									
79.	25.	Paraguay									
80.	26.	Peru									
81.	27.	Saint Kitts & Nevis									
82.	28.	Saint Lucia									

83.	29.	Saint Vinc. & the Gren.									
84.	30.	Suriname									
85.	31.	Trinidad and Tobago									
86.	32.	Uruguay									
87.	33.	Venezuela									
NORTH AMERICA			2	0	0	0	1	1	0	0	0
88.	1.	Canada									
89.	2.	United States						✓			
ASIA			41	1	0	0	40	0	2	0	0
90.	1.	Afghanistan									
91.	2.	Bahrain									
92.	3.	Bangladesh									
93.	4.	Bhutan									
94.	5.	Brunei Darussalam									
95.	6.	Cambodia									
96.	7.	China									
97.	8.	East Timor									
98.	9.	India							✓		
99.	10.	Indonesia									
100.	11.	Iraq									
101.	12.	Iran									
102.	13.	Israel		✓							
103.	14.	Japan									
104.	15.	Jordan									
105.	16.	Kazakhstan									
106.	17.	Kuwait									
107.	18.	Kyrgyzstan									
108.	19.	Laos									
109.	20.	Lebanon									
110.	21.	Malaysia									
111.	22.	Maldives									
112.	23.	Mongolia									
113.	24.	Myanmar									
114.	25.	Nepal									
115.	26.	North Korea									
116.	27.	Oman									
117.	28.	Pakistan							✓		
118.	29.	Philippines									
119.	30.	Qatar									
120.	31.	Saudi Arabia									
121.	32.	Singapore									
122.	33.	South Korea									
123.	34.	Sri Lanka									
124.	35.	Syria									
125.	36.	Tajikistan									
126.	37.	Thailand									
127.	38.	Turkmenistan									

128.	39.	Vietnam									
129.	40.	United Arab Emirates									
130.	41.	Uzbekistan									
131.	42.	Yemen									
EUROPE			40	2	6	2	34	3	4	7	5
132.	1.	Albania		✓						✓	
133.	2.	Andorra						✓			
134.	3.	Armenia									
135.	4.	Austria									
136.	5.	Azerbaijan									
137.	6.	Belarus									
138.	7.	Belgium							✓		
139.	8.	Bosnia & Herzegovina								✓	
140.	9.	Bulgaria									
141.	10.	Croatia									
142.	11.	Cyprus									
143.	12.	Czech Republic									
144.	13.	Denmark								✓	✓
145.	14.	Estonia									
146.	15.	Finland							✓		
147.	16.	France		✓							
148.	17.	Georgia									
149.	18.	Germany			✓						
150.	19.	Greece			✓	✓		✓			
151.	20.	Hungary									
152.	21.	Iceland			✓			✓			
153.	22.	Ireland									
154.	23.	Italy									
155.	24.	Latvia									
156.	25.	Liechtenstein									
157.	26.	Lithuania									
158.	27.	Luxembourg									
159.	28.	Malta			✓	✓				✓	✓
160.	29.	Moldova									
161.	30.	Monaco									
162.	31.	Montenegro							✓		
163.	32.	Netherlands							✓		
164.	33.	North Macedonia									
165.	34.	Norway									
166.	35.	Poland									
167.	36.	Portugal			✓					✓	
168.	37.	Romania									
169.	38.	Russia									
170.	39.	San Marino									
171.	40.	Serbia								✓	
172.	41.	Slovakia									
173.	42.	Slovenia									
174.	43.	Spain			✓					✓	✓

175.	44.	Sweden									
176.	45.	Switzerland									
177.	46.	Turkey									
178.	47.	Ukraine									
179.	48.	United Kingdom									
OCEANIA			14	0	0	0	13	0	1	0	0
180.	1.	Australia							✓		
181.	2.	Fiji									
182.	3.	Kiribati									
183.	4.	Marshall Islands									
184.	5.	Micronesia									
185.	6.	Nauru									
186.	7.	New Zealand									
187.	8.	Palau									
188.	9.	Papua New Guinea									
189.	10.	Samoa									
190.	11.	Solomon Islands									
191.	12.	Tonga									
192.	13.	Tuvalu									
193.	14.	Vanuatu									
			181	6	6	2	171	7	8	7	3

LEGAL PROTECTION OF INTERSEX PEOPLE'S BODILY INTEGRITY AND AUTONOMY



Prohibition of Medical Interventions Modifying Sex Characteristics of Intersex Minors without their Free, Prior, and Fully Informed Consent

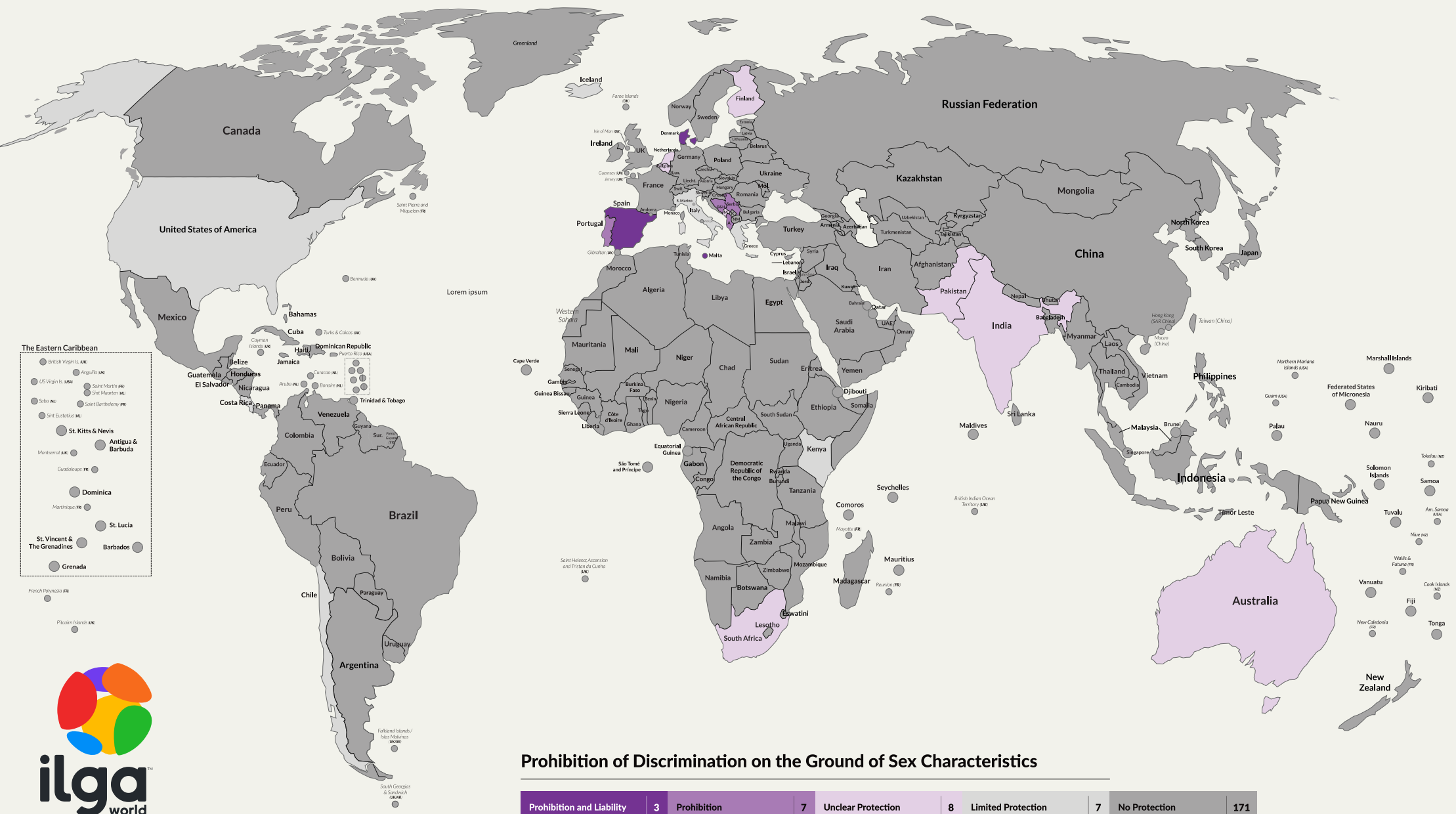
Prohibition and Liability	2	Prohibition	6	Partial Restrictions	6	No Restrictions	181
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LEGAL PROTECTION OF INTERSEX PEOPLE'S EQUAL ENJOYMENT OF HUMAN RIGHTS



- The Eastern Caribbean**
- British Virgin Is. (UK)
 - Anguilla (UK)
 - US Virgin Is. (USA)
 - Saint Martin (FR)
 - Saint Maarten (NL)
 - Saint Pierre and Miquelon (FR)
 - St. Kitts & Nevis
 - Antigua & Barbuda
 - Dominica
 - St. Lucia
 - St. Vincent & The Grenadines
 - Barbados
 - Grenada



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