

Intersex Genital Mutilations Human Rights Violations Of Children With Variations Of Sex Anatomy



NGO Report (for PSWG)
to the 5th and 6th Report of Italy on the
Convention on the Rights of the Child (CRC)

Compiled by:

Claudia Balsamo (Intersex Person and Advocate, Member Self-Help Group AISIA, Italy)

StopIGM.org / Zwischengeschlecht.org (International Intersex Human Rights NGO)

Markus Bauer
Daniela Truffer

Zwischengeschlecht.org
P.O.Box 2122
CH-8031 Zurich

info_at_zwischengeschlecht.org
<http://Zwischengeschlecht.org/>
<http://StopIGM.org/>

Additional Research: Michela Balocchi, Daniela Crocetti

Endorsed by:

Intersexioni <http://www.intersexioni.it/>

Intersex Esiste <http://www.intersexesiste.com/>

March 2018

This NGO Report online:

<http://intersex.shadowreport.org/public/2018-CRC-PSWG-Italy-NGO-Zwischengeschlecht-Intersex-IGM.pdf>



Executive Summary

All typical forms of IGM practices are still practised in Italy today, facilitated and paid for by the State party via the National Health Service (Servizio Sanitario Nazionale, SSN), and are encouraged by Italian Law and Courts. Parents and children are misinformed, kept in the dark, sworn to secrecy, kept isolated and denied appropriate support.

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

This Committee has consistently recognised IGM practices to constitute a harmful practice under the Convention in Concluding Observations. In addition, **CRPD** has already considered IGM practices in **Italy** as a serious human rights violation. Also **CEDAW** criticised IGM in Italy.

Also **CAT**, **CRPD**, the **HRCttee**, the UN Special Rapporteur on Torture (**SRT**), the UN High Commissioner for Human Rights (**UNHCHR**), the World Health Organisation (**WHO**), the Inter-American Commission on Human Rights (**IACHR**), the African Commission on Human and Peoples’ Rights (**ACHPR**), the Council of Europe (**COE**) and others have **consistently recognised** IGM as a breach of international law and have called for **legislation** to **(a)** end the practice, **(b)** ensure redress and compensation, and **(c)** to provide access to free counselling.

Intersex people are born with **Variations of Sex Anatomy**, including atypical genitals, atypical sex hormone producing organs, atypical response to sex hormones, atypical genetic make-up, atypical secondary sex markers. While intersex people may face several problems, in the “developed world” the most pressing are the ongoing **Intersex Genital Mutilations**, which present a distinct and unique issue constituting significant human rights violations.

IGM practices include **non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries, and/or other harmful medical procedures based on prejudice** that would not be considered for “normal” children, without evidence of benefit for the children concerned. **Typical forms** of IGM include “masculinising” and “feminising”, “corrective” genital surgery, sterilising procedures, imposition of hormones, forced genital exams, vaginal dilations, medical display, human experimentation and denial of needed health care.

IGM Practices cause known **lifelong severe physical and mental pain and suffering**, including loss or impairment of sexual sensation, painful scarring, painful intercourse, incontinence, urethral strictures, impairment or loss of reproductive capabilities, lifelong dependency of artificial hormones, significantly elevated rates of self-harming behaviour and suicidal tendencies, lifelong mental suffering and trauma, increased sexual anxieties, less sexual activity, dissatisfaction with functional and aesthetic results.

For 25 years, intersex people have publicly denounced IGM as **harmful** and **traumatising**, as a form of **genital mutilation** and **child sexual abuse**, as **torture or ill-treatment**, and called for legislation to prevent it and to ensure remedies.

This **Thematic NGO Report** has been compiled by Italian Intersex advocate **Claudia Balsamo** in collaboration with the international intersex NGO **StopIGM.org**, and is endorsed by Italian advocacy groups **Intersexioni** and **Intersex Esiste**. It contains **Suggested Questions for the LOI**.

**NGO Report (for PSWG)
to the 5th and 6th Report of Italy
on the Convention on the Rights of the Child (CRC)**

Table of Contents

IGM Practices in Italy

Executive Summary	3
Introduction	5
1. Italy: Intersex Human Rights and State Report	5
2. About the Rapporteurs	5
3. Methodology	6
A. Background: Intersex, IGM and Harmful Misrepresentations.....	7
1. IGM Practices: Involuntary, unnecessary medical interventions	7
2. Intersex is NOT THE SAME as LGBT or SOGI.....	8
3. Misrepresenting Genital Mutilation as “Health Care”	9
B. IGM in Italy: State-sponsored and pervasive, Gov fails to act	10
1. IGM practices in Italy: Pervasive and unchallenged	10
2. The Treatment of Intersex Children in Italy as a Harmful Practice and Violence	11
a) Harmful Practice (art. 24(3) and JGC No. 18)	11
b) Violence against Children (art. 19 and GC No. 13)	11
3. Italian Case Law promoting IGM by punishing its prevention	11
4. Italian Doctors and Government consciously dismissing Intersex Human Rights.....	12
5. Lack of Independent Data Collection and Monitoring	13
6. Obstacles to redress, fair and adequate compensation.....	13
C. Suggested Questions for the LOI	14

Introduction

1. Italy: Intersex Human Rights and State Report

IGM practices are known to cause severe, lifelong physical and psychological pain and suffering, and have been repeatedly **recognised by multiple UN treaty bodies¹ including CRC** as constituting a harmful practice, violence and torture or ill-treatment, however **weren't mentioned in the 5th and 6th Italian State Report (2017)**, despite that in 2016 Italy was **already reprimanded for IGM by CRPD**. This NGO Report demonstrates that the current **harmful medical practice on intersex persons in Italy** – advocated, facilitated and paid for by the State party, and encouraged by Italian Courts – constitutes a serious breach of Italy's obligations under the Convention.

2. About the Rapporteurs

This NGO report has been prepared by Italian intersex person and advocate *Claudia Balsamo* in collaboration with the international intersex NGO *StopIGM.org / Zwischengeschlecht.org*:

- **Claudia Balsamo** is an Italian intersex person and advocate familiar with IGM Practices who has been working to improve the well-being and human rights of intersex people in Italy and Europe, and to raise awareness on intersex issues.^{2 3 4} In 2006 she participated in the first meeting of people with AIS on Lake Como and participated in the formation of the self-help group *AISIA* (Associazione Italiana Sindrome di Insensibilità agli Androgeni),⁵ and served as *AISIA*'s vice president until 2013. In 2015 Claudia Balsamo co-founded the advocacy group *Intersex Esiste*, and presented at the Notes on Rights and Freedom sponsored by the President of the Council of Ministers of Italy.⁶
- **StopIGM.org / Zwischengeschlecht.org**, founded in 2007, is an international intersex human rights NGO based in Switzerland. It is led by intersex persons, their partners, families and friends, and works to eliminate IGM practices and other human rights violations perpetrated on intersex people, according to its motto, "*Human Rights for Hermaphrodites, too!*"⁷ According to its charter,⁸ *Zwischengeschlecht.org* works to support persons concerned seeking redress and justice. *StopIGM.org* has been active in Italy since 2013^{9 10 11 12 13} and regularly reports to UN treaty bodies.¹⁴

1 **CAT, CRC, CRPD, SPT, SRT, SRSG VAC, COE, ACHPR, IACHR** (2016), "End violence and harmful medical practices on intersex children and adults, UN and regional experts urge",

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20739&LangID=E>

2 <https://www.interfaceproject.org/claudia-balsamo/> transcript: <https://www.interfaceproject.org/transcript-claudia-balsamo/>

3 <http://www.altrapsicologia.it/wp-content/uploads/2016/04/InterSex-Padova.pdf>

4 <http://www.comunicattive.org/intersex-esiste-nasce-un-approccio-colorato/>

5 <http://www.aisia.org>

6 http://www.unar.it/unar/portal/wp-content/uploads/2015/02/Programma_notedirittieliberta_febbraio2015.pdf

7 <http://Zwischengeschlecht.org/> English pages: <http://StopIGM.org/>

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

9 http://zwischengeschlecht.org/public/Open_Letter_9th-Joint-Meeting_2013.pdf

10 <http://espresso.repubblica.it/attualita/cronaca/2013/09/19/news/noi-intersex-chiediamo-rispetto-1.134087>

11 <http://www.altrapsicologia.it/wp-content/uploads/2016/04/InterSex-Padova.pdf>

12 <http://www.certidiritti.org/x-congresso/>

This report is **endorsed** by Italian advocacy organisations **Intersexioni**¹⁵ and **Intersex Esiste**.¹⁶

In addition, the Rapporteurs would like to acknowledge the work of the self-help groups **AISIA** (Associazione Italiana Sindrome di Insensibilità agli Androgeni),¹⁷ **Nascere Klinefelter**¹⁸ and **Associazione ANIMrkhs**,¹⁹ intersex advocates **Alessandro Comeni**²⁰ and **Sabina Zagari**²¹, and researchers **Michela Balocchi**²² and **Daniela Crocetti**²³.

3. Methodology

This thematic NGO report is an updated, abridged and adapted version of the **2017 thematic CEDAW NGO Report for Italy**²⁴ by the same rapporteurs.

13 http://www.npwj.org/sites/default/files/ressources/EN_BanFGMProgram_asdelivered_0.pdf

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

15 <http://www.intersexioni.it/>

16 <http://www.intersexesiste.com/>

17 <http://www.aisia.org>

18 <http://www.nascereklinefelter.it/>

19 <http://www.animrkhs-onlus.org/>

20 <http://www.intersexioni.it/intervista-ad-alessandro-comeni/>

<http://www.pagina99.it/2016/11/05/storia-alessandro-comeni-interessuale-intersex-no-gender/>

21 <http://www.barinedita.it/storie-e-curiosita/n2865---intersex---nascere-sia-maschi-che-femmine--%C2%ABcostretti-a-mutilazioni-genitali%C2%BB>

<http://intersexday.org/en/discussion-evening-varese-italy/>

22 <http://www.intersexioni.it/social-mutilations-scalpel-increasingly-popular-to-homologate-atypicalities/>

23 Crocetti, Daniela (2011), *Medicalizing gender: from intersex to DSD, from the laboratory to patient groups*, [Dissertation thesis], Alma Mater Studiorum Università di Bologna. Dottorato di ricerca in Science, technology, and humanities, 23 Ciclo, http://amsdottorato.unibo.it/3282/1/Crocetti_Daniela_tesi.pdf

Crocetti D, 2013 *L'Invisibile Intersex: Storie di Corpi Medicalizzati* [Invisible Intersex: Histories of Medicalized Bodies], Pisa: Edizioni ETS, pp. 192, <http://www.edizioniets.com/scheda.asp?n=9788846737328>

24 <http://intersex.shadowreport.org/public/2017-CEDAW-Italy-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

A. Background: Intersex, IGM and Harmful Misrepresentations

1. IGM Practices: Involuntary, unnecessary medical interventions

IGM practices include **non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries**, and/or other similar medical treatments, including imposition of hormones, performed on **children with variations of sex anatomy**,²⁵ without evidence of benefit for the children concerned, but justified by “*psychosocial indications [...] shaped by the clinician’s own values*”, the latter informed by **societal and cultural norms and beliefs**, enabling clinicians to withhold crucial information from both patients and parents, and to submit healthy intersex children to risky and harmful invasive procedures that would not be considered for “normal” children, “*simply because their bodies did not fit social norms*”.²⁶

Typical forms of IGM include “feminising” or “masculinising”, “corrective” genital surgery, sterilising procedures, imposition of hormones (including prenatal “therapy”), forced genital exams, vaginal dilations, medical display, human experimentation, selective (late term) abortions and denial of needed health care, causing lifelong severe physical and mental **pain and suffering**.²⁷

Individual doctors, national and international medical bodies, public and private healthcare providers have traditionally been **framing and “treating” intersex variations as a form of illness or disability** in need to be “cured” surgically, often **with racist, eugenic and supremacist undertones**,^{28 29 30 31} describing intersex people as “*inferior*”, “*abnormal*”, “*deformed*”.

In a response to international IGM doctors advocating involuntary non-urgent surgeries on intersex children in a 2016 medical publication,³² two bioethicists underlined the **prejudice** informing the current medical practice (our emphasis):

*“The implicit logic of [the doctors’] paper reflects what bioethicist George Annas has called a ‘monster ethics’ [6], which can be summed up this way: **babies with atypical sex are not yet fully human, and so not entitled to human rights. Surgeons make them human by making them recognizably***

25 See “What is Intersex?”, 2015 CRC Ireland NGO Report, p. 23–25, <http://intersex.shadowreport.org/public/2015-CRC-Ireland-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

26 For references, see “What are Intersex Genital Mutilations (IGM)?”, 2015 CRC Ireland Report, p. 29

27 See “IGM Practices – Non-Consensual, Unnecessary Medical Interventions”, 2015 CRC Ireland NGO Report, p. 29–34; see also “**IGM Practices in Italy: Most Common Forms**”, in: 2017 CEDAW Italy NGO Report, Annexe 2, p. 23-28, <http://intersex.shadowreport.org/public/2017-CEDAW-Italy-NGO-Zwischengeschlecht-Intersex-IGM.pdf>; see also **Italian Case Studies**, in: 2017 CEDAW Italy NGO Report, Annexe 1, p. 17-22

28 2014 CRC NGO Report, p. 52, 69, 84, http://intersex.shadowreport.org/public/2014-CRC-Swiss-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

29 In the WHO “World Atlas of Birth Defects (2nd Edition)”, many intersex diagnoses are listed, including “*indeterminate sex*” and “*hypospadias*”:
<http://web.archive.org/web/20160305152127/http://prenatal.tv/lecturas/world%20atlas%20of%20birth%20defects.pdf>

30 “The Racist Roots of Intersex Genital Mutilations” <http://stop.genitalmutilation.org/post/Racist-Roots-of-Intersex-Genital-Mutilations-IGM>

31 See “**Intersex, IGM and Prejudice**”, in: 2018 CRPD New Zealand NGO Report, Annexe 1, p. 15-19, <http://intersex.shadowreport.org/public/2018-CRPD-New-Zealand-LOIPR-NGO-Intersex-StopIGM.pdf>
For **500 years of “scientific” prejudice** in a nutshell, see 2016 CEDAW France NGO Report, p. 7, <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

32 Pierre Mouriquand et al, “Surgery in disorders of sex development (DSD) with a gender issue: If (why), when, and how?”, Journal of Pediatric Urology (2016), [http://www.jpurology.com/article/S1477-5131\(16\)30012-2/](http://www.jpurology.com/article/S1477-5131(16)30012-2/)

*male or female, and only then may they be regarded as entitled to the sexual and medical rights and protections guaranteed to everyone else by current ethical guidelines and laws.”*³³

UN Treaty bodies and other human rights experts have consistently recognized IGM practices as a serious breach of international law.³⁴ **UN Treaty bodies have issued 29 Concluding Observations condemning IGM practices.**³⁵

2. Intersex is NOT THE SAME as LGBT or SOGI

Unfortunately, there are also other, often interrelated **harmful misconceptions about intersex** still prevailing in public, notably if intersex is counterfactually described as being the same as or a subset of LGBT or SOGI, e.g. if intersex and/or intersex status are represented as a sexual orientation (like gay or lesbian), and/or as a gender identity, as a subset of transgender, as the same as transsexuality, or as a form of sexual orientation.

The underlying reasons for such harmful misconceptions include **lack of awareness**, third party groups **instrumentalising intersex as a means to an end**^{36 37} for their own agenda, and State parties **trying to deflect** from criticism of involuntary intersex treatments.

Intersex persons and their organisations have spoken out clearly against instrumentalising or misrepresenting intersex issues,³⁸ maintaining that IGM practices present a **distinct and unique issue** constituting significant human rights violations, which are different from those faced by the LGBT or SOGI community, and thus need to be **adequately addressed in a separate section as specific intersex issues.**

Also **human rights experts** are increasingly warning of the **harmful conflation** of intersex and LGBT.³⁹

Regrettably, **these harmful misrepresentations seem to be on the rise also at the UN**, for example in recent **UN press releases** and **Summary records** misrepresenting IGM as “*sex alignment surgeries*” (i.e. voluntary procedures on transsexual or transgender persons), IGM survivors as “*transsexual children*”, and intersex NGOs as “*a group of lesbians, gays, bisexuals, transgender and intersex victims of discrimination*”,⁴⁰ and again IGM survivors as “*transgender children*”,⁴¹ “*transsexual children who underwent difficult treatments and surgeries*”, and IGM

33 Ellen Feder and Alice Dreger, “**Still ignoring human rights in intersex care**”, *Journal of Pediatric Urology* (2016), [http://www.jpurology.com/article/S1477-5131\(16\)30099-7/](http://www.jpurology.com/article/S1477-5131(16)30099-7/)

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

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

36 CRC67 Denmark, <http://stop.genitalmutilation.org/post/CRC67-Intersex-children-used-as-cannon-fodder-LGBT-Denmark>

37 CEDAW66 Ukraine, <http://stop.genitalmutilation.org/post/Ukraine-Instrumentalising-Intersex-and-IGM-for-LGBT-and-Gender-Politics>

38 For references, see 2016 CEDAW France NGO Report, p. 45. <http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

39 For example ACHPR Commissioner Lawrence Murugu Mute (Kenya), see <http://stop.genitalmutilation.org/post/ACHPR-African-Commissioner-warns-Stop-conflating-intersex-and-LGBT>

40 CAT60 Argentina, <http://stop.genitalmutilation.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CATArgentina-UNCAT60>

41 CRC77 Spain, <http://stop.genitalmutilation.org/post/UN-Press-Release-mentions-genital-mutilation-of-intersex-children>

as a form of “*discrimination against transgender and intersex children*”⁴².

Particularly **State parties** are constantly **misrepresenting intersex and IGM as sexual orientation or gender identity issues** in an attempt to **deflect from criticism** of the serious human rights violations resulting from IGM practices, instead referring to e.g. “*gender reassignment surgery*” (i.e. voluntary procedures on transsexual or transgender persons) and “*gender assignment surgery for children*”,⁴³ “*a special provision on sexual orientation and gender identity*”, “*civil registry*” and “*sexual reassignment surgery*”⁴⁴, transgender guidelines⁴⁵ or “*Gender Identity*”^{46 47} when asked about IGM by e.g. Treaty bodies.

What’s more, **LGBT organisations** (including “LGBTI” organisations without actual intersex representation or advocacy) are using the ubiquitous misrepresentation of intersex = LGBT to **misappropriate intersex funding**, thus depriving actual intersex organisations (which mostly have no significant funding, if any) of much needed resources.⁴⁸

3. Misrepresenting Genital Mutilation as “Health Care”

An interrelated, alarming new trend is the **increasing misrepresentation of IGM as “health-care issue”** instead of a serious human rights violation, and the **promotion of “self-regulation” of IGM by the current perpetrators**^{49 50 51} – instead of effective measures to finally end the practice (as repeatedly stipulated also by this Committee).

Even worse, **Health ministries** construe UN Treaty body Concluding observations falling short of explicitly recommending legislation to criminalise or adequately sanction IGM as an **excuse for “self-regulation” promoting state-sponsored IGM practices to continue with impunity.**⁵²

42 CRC76 Denmark, <http://stop.genitalmutilation.org/post/UN-Press-Release-calls-IGM-survivors-transsexual-children-CRC-Denmark-UNCRC67>

43 CRC73 New Zealand, <http://stop.genitalmutilation.org/post/NZ-to-be-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-the-Child>

44 CCPR120 Switzerland, <http://stop.genitalmutilation.org/post/Pinkwashing-of-Intersex-Genital-Mutilations-at-the-UN-CCPR120>

45 CAT56 Austria, <http://stop.genitalmutilation.org/post/Geneva-UN-Committee-against-Torture-questions-Austria-over-Intersex-Genital-Mutilations>

46 CAT60 Argentina, <http://stop.genitalmutilation.org/post/CAT60-Argentina-to-be-Questioned-on-Intersex-Genital-Mutilation-by-UN-Committee-against-Torture>

47 CRPD18 UK, <http://stop.genitalmutilation.org/post/UK-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-Persons-with-Disabilities-CRPD>

48 For example in Scotland (UK), LGBT organisations have so far collected at least **£ 135,000.–** public intersex funding, while actual intersex organisations received ZERO public funding, see 2017 CRPD UK NGO Report, p. 14, <http://intersex.shadowreport.org/public/2017-CRPD-UK-NGO-Coalition-Intersex-IGM.pdf>

Typically, during the interactive dialogue with CRPD, the UK delegation nonetheless tried to sell this glaring misappropriation as “supporting intersex people”, but fortunately got called out on this by the Committee, see transcript (Session 2, 10:53h + 11:47h), <http://stop.genitalmutilation.org/post/UK-Questioned-over-Intersex-Genital-Mutilations-by-UN-Committee-on-the-Rights-of-Persons-with-Disabilities-CRPD>

49 For example Amnesty (2017), see <http://stop.genitalmutilation.org/post/Amnesty-Report-fails-Intersex-Children-and-IGM-Survivors>

50 For example FRA (2015), see Presentation OHCHR Expert Meeting (2015), slide 8,

http://stop.genitalmutilation.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf

51 For example CEDAW Italy (2017), see <http://stop.genitalmutilation.org/post/Major-Setback-for-Intersex-Human-Rights-at-the-UN>

52 See for example Ministry of Health Chile (2016), <http://stop.genitalmutilation.org/post/Circular-7-step-back-for-intersex-human-rights-in-Chile>

B. IGM in Italy: State-sponsored and pervasive, Gov fails to act

1. IGM practices in Italy: Pervasive and unchallenged

In **Italy** (see CRPD/C/ITA/CO/1 paras 45-46), same as in the **neighbouring states** of *France* (CRC/C/FRA/CO/5, paras 47-48; CAT/C/FRA/CO/7, paras 32–33; CEDAW/C/FRA/CO/7-8, paras 17e-f + 18e-f), *Switzerland* (CRC/C/CHE/CO/2-4 paras 42-43; CAT/C/CHE/CO/7 para 20; CEDAW/C/CHE/CO/4-5 paras 38-39) and *Austria* (CAT/C/AUT/CO/6, paras 44-45), and in **many more State parties**,⁵³ there are

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

To this day, the **Italian government** simply refuses to recognise the human rights violations and suffering caused by IGM practices, let alone to “*take effective legislative, administrative, judicial or other measures*” to protect intersex children, in spite of longstanding criticism and appeals, including by CRPD in 2016, intersex persons and their organisations, experts and Italy’s own National Bioethics Committee (Comitato Nazionale per la Bioetica, CNB) (see below p. 12).

To this day, in Italy all forms of IGM practices remain widespread and ongoing, persistently **advocated, prescribed and perpetrated** by state funded University and public Children’s Hospitals, **advocated and paid for by the State** via the **Italian National Health Service** (Servizio Sanitario Nazionale, SSN), with public clinics publicly boasting in the media: “*Boom in Surgeries on Babies with ‘Indeterminate’ Sex, in Rome 50% Increase during the Last 5 Years, 25% Increase on National Level*”.⁵⁴

Currently practiced forms of IGM in Italy include

- **IGM 3 – Sterilising Procedures:** Castration / “Gonadectomy” / Hysterectomy / Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation / Imposition of Hormones⁵⁵
- **IGM 2 – “Feminising Procedures”:** Clitoris Amputation/“Reduction”, “Vaginoplasty”, “Labioplasty”, Dilation⁵⁶

53 Currently we count **29 Concluding observations on IGM practices for 18 State parties in Europe, South America, Asia and Oceania**, see <http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

54 according to Aldo Morrone, Director General of the Ospedale San Camillo-Forlanini di Roma, quoted in: “Boom di bimbi con sesso ‘incerto’, a Roma un aumento del 50 per cento”, see leggo.it 20.06.2013, http://web.archive.org/web/20140307005840/http://www.leggo.it/NEWS/ITALIA/boom_di_bimbi_con_sesso_quot_incerto_quot_a_roma_aumentano_del_50_per_centto/notizie/294638.shtml

55 See **2017 CEDAW Italy NGO Report**, p. 23 and Cases No.s 1-4 (p. 17-22), <http://intersex.shadowreport.org/public/2017-CEDAW-Italy-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

56 Ibid. p. 24 and Case No. 1 (p. 17-19)

- **IGM 1 – “Masculinising Surgery”:** Hypospadias “Repair”⁵⁷
- **Prenatal “Therapy”**⁵⁸
- **Other Unnecessary and Harmful Medical Interventions and Treatments**⁵⁹

2. The Treatment of Intersex Children in Italy as a Harmful Practice and Violence

a) Harmful Practice (art. 24(3) and JGC No. 18)⁶⁰

Article 24 para 3 CRC calls on states to abolish harmful “traditional practices prejudicial to the health of children”. While the initial point of reference for the term was the example of Female Genital Mutilation/Cutting (FGM/C), the term consciously wasn’t limited to FGM/C, but meant to include all forms of harmful, violent, and/or invasive traditional or customary practices.⁶¹

The Committee has repeatedly considered IGM as a harmful practice, and the CRC/CEDAW Joint General Comment No. 18/31 on harmful practices as applicable.⁶²

Harmful practices (and inhuman treatment) have been identified by intersex advocates as the **most effective, well established and applicable human rights frameworks** to eliminate IGM practices and to end the impunity of the perpetrators.⁶³

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

b) Violence against Children (art. 19 and GC No. 13)⁶⁴

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

3. Italian Case Law promoting IGM by punishing its prevention

Italian law, while not explicitly requiring “correction” of atypical genitalia via cosmetic surgery, does not prohibit but **definitely encourages it:**

So far there are **two publicly reported cases of Italian lower courts’ jurisprudence** explicitly

57 Ibid. p. 26

58 Ibid. p. 27

59 Ibid. p. 27

60 For a more extensive version, see 2017 CRC Spain NGO Report, p. 12-13,

<http://intersex.shadowreport.org/public/2017-CRC-Spain-NGO-Brujula-Zwischengeschlecht-Intersex-IGM.pdf>

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

62 CRC/C/CHE/CO/2-4, paras 42-43; CRC/C/IRL/CO/3-4, paras 39-40; CRC/C/FRA/CO/5, paras 47-48; CRC/C/CHL/CO/4-5, paras 48-49; CRC/C/GBR/CO/5, paras 45-46; CRC/C/NPL/CO/3-5, paras 41-42; CRC/C/ZAF/CO/2, paras 39-40; CRC/C/NZL/CO/5, paras 25 + 15; CRC/C/DNK/CO/5, para 24; CRC/C/ESP/CO/5-6, para 24

63 Daniela Truffer, Markus Bauer / Zwischengeschlecht.org: “Ending the Impunity of the Perpetrators!” Input for Session 3: “Human Rights Standards and Intersex People – Progress and Challenges - Part 2” at “Ending Human Rights Violations Against Intersex Persons.” OHCHR Expert Meeting, Geneva 16-17.09.2015, online: http://StopIGM.org/public/S3_Zwischengeschlecht_UN-Expert-Meeting-2015_web.pdf

64 For a more extensive version, see 2016 CRC UK Thematic NGO Report, p. 57,

http://intersex.shadowreport.org/public/2016-CRC-UK-NGO-Zwischengeschlecht-Intersex-IGM_v2.pdf

promoting IGM by **punishing parents and doctors refusing IGM.**⁶⁵

- In 1993, when the parents of an intersex baby refused to immediately comply to recommendations by medical staff to “consent” to IGM 2 (“feminising surgery) for their intersex baby, a Lower Court (Tribunale) in Potenza **partially took away their parental responsibility** by appointing a legal guardian who was vested with the authority to make a decision to consent to the unnecessary surgical treatment. (Trib. Potenza, 29 July 1993)
- In 2012, doctors who did not immediately recommend and perform IGM 2 (“feminising surgery) on a “virilised” intersex newborn, but only performed “corrective” vaginoplasty at two years after diagnosing the child as a “biologically female” baby with Congenital Adrenal Hyperplasia (CAH), were in consequence sued by the parents and sentenced by a Lower Court (Tribunale) in Bari to **pay compensation for non-pecuniary damages** under Tort Law. (Trib. Bari, sez. III, 25 June 2012, n. 2295, in *dejure.it.*)

4. Italian Doctors and Government consciously dismissing Intersex Human Rights

The persistence of IGM practices in Italian public clinics is a **matter of public record**, with clinics boasting in the media about *“Boom in Surgeries on Babies with ‘Indeterminate’ Sex, in Rome 50% Increase during the Last 5 Years, 25% Increase on National Level”*,⁶⁶ or about the *“exceptional success”* of **removing the uterus and vagina of a two years hold intersex child** plus performing a *“reconstruction of the penis and the urethra [at the request of the parents]”* at the Department for Mother and Child of the **Policlinico Universitario Paolo Giaccone di Palermo.**⁶⁷

Also the **criticism of persons concerned and their organisations** of IGM practices is **publicly known**, and also in **government bodies** including the **Italian Senate.**⁶⁸

Already in 2010 the **Italian National Committee of Bioethics** (Comitato Nazionale per la Bioetica, CNB) questioned *“unnecessary mutilations”* on intersex children.⁶⁹

In 2012 also the **Ministry of Health** admitted to the **controversy regarding involuntary intersex surgery.**⁷⁰

In 2012 AISIA published an **Italian translation of the “DSD Guidelines”** written by a consortium of clinicians, adults intersex persons, family members and parents of intersex children, published by the Intersex Society of North America, calling for *“delaying elective*

65 Stefano Osella, “‘Harmonic Bodies’: Intersex Persons, Corrective Treatments and Gender Violence in Italian Law. A Research Proposal”, in: Anna Lorenzetti, Maria Federica Moscati (eds.), *LGBTI Persons and Access to Justice*, London: 2015, p. 171-195, here: p. 181-184

66 according to Aldo Morrone, Director General of the Ospedale San Camillo-Forlanini di Roma, quoted in: “Boom di bimbi con sesso ‘incerto’, a Roma un aumento del 50 per cento”, *leggo.it* 20.06.2013, http://web.archive.org/web/20140307005840/http://www.leggo.it/NEWS/ITALIA/boom_di_bimbi_con_sesso_quot_incerto_quot_a_roma_aumentano_del_50_per_cent/notizie/294638.shtml

67 “Nasce femmina, ma è maschio: operato per cambiare sesso bimbo di 2 anni”, *Palermo Today* 27.09.2016, <http://www.palermotoday.it/cronaca/policlinico-cambio-sesso-bambino-2-anni.html>

68 For sources, see **2017 CEDAW Italy NGO Report**, p. 13-14, fn. 55-64, <http://intersex.shadowreport.org/public/2017-CEDAW-Italy-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

69 *Ibid.* p. 14, fn. 65

70 *Ibid.* p. 14, fn. 66

surgeries until the patients themselves can participate in decision-making [...] Healthy, functioning gonadal tissue should remain in place unless the patient, fully advised of risks and options, requests it be removed.” (p. 31-32) In the AISIA edition **46 Italian doctors, psychologists and healthcare professionals signed a pledge stating, “As a professional, but above all as a person, I share the principles of this manual.”** (p. 4-5)⁷¹

Nonetheless, government bodies refuse to take any action, but continue to ignore intersex human rights, and doctors continue practicing IGM claiming they would simply follow the “Italian law” (p. 24).

What’s worse, this comes after the **Italian State party has already been reprimanded by CRPD** for IGM practices, urging Italy to

*“ensure that no one is subjected to scientific undocumented medical or surgical treatment during infancy or childhood, guarantee bodily integrity, autonomy and self-determination to the children concerned, and provide families with intersex children with adequate counselling and support.”*⁷²

5. Lack of Independent Data Collection and Monitoring

With no statistics available on intersex births, let alone surgeries and costs, and **perpetrators, governments and health departments colluding to keep it that way as long as anyhow possible**, persons concerned as well as civil society **lack possibilities to effectively highlight and monitor** the ongoing mutilations. What’s more, after realising how intersex genital surgeries are increasingly in the focus of public scrutiny and debate, perpetrators of IGM practices respond by suppressing complication rates, as well as refusing to talk to journalists “on record”.

Also in Italy, there are no statistics on intersex birth and on IGM practices available.

6. Obstacles to redress, fair and adequate compensation

Also in **Italy** the **statutes of limitation** prohibit survivors of early childhood IGM practices to call a court, because persons concerned often **do not find out** about their medical history until much later in life, and **severe trauma** caused by IGM Practices often prohibits them to act in time once they do.⁷³ So far, in Italy there was **no case** of a victim of IGM practices succeeding in going to court.⁷⁴

The **Italian government** so far refuses to ensure that non-consensual unnecessary IGM surgeries on minors are recognised as a form of **genital mutilation**, which would formally prohibit parents from giving “consent”. In addition, the state party **refuses to initiate impartial investigations**, as well as data collection, monitoring, and disinterested research.⁷⁵ In addition, hospitals are often **unwilling to provide full access to patient’s files**.

This situation is clearly not in line with **Italy’s** obligations under the Convention.

71 http://www.aisia.org/document/nov_2012/pdf/9.pdf

72 CRPD/C/ITA/CO/1, paras 45-46

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

74 See **2017 CEDAW Italy NGO Report**, Cases No.s 3-4 (p. 20-22),
<http://intersex.shadowreport.org/public/2017-CEDAW-Italy-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

75 For more on this topic see 2016 CEDAW NGO Report France, p. 55:
<http://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

C. Suggested Questions for the LOI

The Rapporteurs respectfully suggest that in the LOI the Committee asks the Italian Government the following questions with respect to the treatment of intersex children:

Harmful practices: Intersex Genital Mutilation

- **How many non-urgent, irreversible surgical and other procedures have been undertaken on intersex children before an age at which they are able to provide informed consent? Please provide detailed statistics on sterilising, feminising, masculinising procedures and imposition of hormones, including prenatal procedures.**
- **Does the State party plan to stop this practice? If yes, what measures does it plan to implement?**
- **Please indicate which criminal or civil remedies are available for intersex people who have undergone involuntary sterilisation or unnecessary and irreversible medical or surgical treatment when they were children and whether these remedies are subject to any statute of limitations?**