

Torture and ill-treatment: considerations on the LGBTI's condition in Italy.

**Submission to the United Nations Committee
Against Torture - 62nd session**

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PER LA LIBERTÀ DI RICERCA SCIENTIFICA



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Intersex people

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Question 5. Please clarify the sort of information do paediatric endocrinologist in Italy offer to parents of intersex children.

Question 6. Please clarify whether the State party consults NGOs led by intersex people.

Recommendation 1. Establishment of independent data collection and monitoring based on an analysis of the incidence of the single intersex/dsd variations.

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Recommendation 1. Providing prison staff with training programmes which include LGBTI issues in a structural way.

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Recommendation 5. A law which imposes the creation, in each Italian prison, of one or more spaces where detainees can spend at least 4 hours per month with their partners without any visual control by prison staff.

Cruel, inhuman or degrading treatment” (CAT art. 2, 12, 14, 16)

Intersex people

According to a recent report by interACT and Human Rights Watch: “Intersex people are not rare, but they are widely misunderstood. Biology classes often oversimplify a fundamental reality. We are taught that sex is dimorphic: simply male or female. But sex, in reality, is a spectrum—with the majority of humans appearing to exist at one end or the other. In fact, as many as 1.7 percent of babies are different from what is typically called a boy or a girl. The chromosomes, gonads, internal or external genitalia in these children—intersex children—differ from social expectations. Around 1 in 2,000 babies is different enough that doctors may recommend surgical intervention to make the body appear more in line with those expectations.

Until the 1960s, when intersex children were born, the people around them—parents and doctors—made their best guess and assigned the child a sex. Parents then reared them per social gender norms. Sometimes the intersex people experienced harassment and discrimination as a result of their atypical traits but many lived well-adjusted lives as adults. During the 1960s, however, and based largely on the unproven recommendations of a single prominent psychologist, medical norms around the world changed dramatically. Doctors began recommending surgical solutions to the supposed “problem” of intersex traits.

Since then, Intersex people are subjected to medical practices that can inflict irreversible physical and psychological harm on them starting in infancy, harms that can last throughout their lives. Many of these procedures are done with the stated aim of making it easier for children to grow up “normal” and integrate more easily into society by helping them conform to a particular sex assignment. The results are often catastrophic, the supposed benefits are largely unproven, and there are generally no urgent health considerations at stake. Procedures that could be delayed until intersex children are old enough to decide whether they want them are instead performed on infants who then have to live with the consequences for a lifetime.

[...] Some intersex traits—such as atypical external genitalia—are apparent at birth. Others—such as gonads or chromosomes that do not match the expectations of the assigned sex—manifest later in life, such as around puberty. Information about intersex traits can be overwhelming. Whether parents are alerted to their child’s intersex traits at birth, puberty, or another point in life, they can struggle with confusing information and advice.

Healthcare providers are an important source of information and comfort amidst such confusion. But in recent decades, many doctors have defaulted to advising early irreversible surgery on intersex children. These operations include clitoral reduction surgeries—procedures that reduce the size of the clitoris for cosmetic reasons. Such surgery carries the risk of pain, nerve damage, and scarring. Other

operations include gonadectomies, or the removal of gonads, which result in the child being forced onto lifelong hormone replacement therapy.

This history of surgery was also a history of shame and stigmatization. In some cases, doctors instructed parents to conceal the diagnosis and treatment from the child, instilling feelings of shame in parents and children both. Many intersex people did not learn about their conditions until they accessed their medical files as adults—sometimes as late as in their 50s.”

Medical protocols around the world have evolved over the past two decades. The use of multi-disciplinary teams to work on cases of “Differences of Sex Development” – or DSD – is increasingly common. Most medical practitioners now acknowledge that parents may legitimately prefer to leave their child’s body intact. However, the field remains fraught with uneven, inadequate, and piecemeal standards of care. While certain surgical interventions on intersex children are undisputedly medically necessary, some surgeons perform risky and medically unnecessary cosmetic surgery on intersex children, often before they are even able to talk.

In a 2013 report, the United Nations special rapporteur on torture noted: “Children who are born with atypical sex characteristics are often subject to irreversible sex assignment, involuntary sterilization, involuntary genital normalizing surgery, performed without their informed consent, or that of their parents, ‘in an attempt to fix their sex,’ leaving them with permanent, irreversible infertility and causing severe mental suffering.”

In 2015, Malta became the first nation to ban non-consensual medically unnecessary surgeries on intersex children.

So far, UN Treaty bodies have issued 24 verdicts condemning IGM against 15 countries in Europe (9 countries), South America(2), Asia (2), Africa (1) and Oceania (1).

UN Reprimands by Treaty Body, Year and Country:

- Committee against Torture (CAT)
“Cruel, inhuman or degrading treatment” (CAT art. 2, 12, 14, 16)
[General comments No. 2 (implementation of art. 2) + No. 3 (implementation of art. 14)]
2011: Germany
2015: Switzerland, Austria, Denmark, Hong Kong
2016: France
- Committee on the Right of the Child (CRC)
"Harmful practice" (CRC art. 24(3) in conjunction with General comment No. 18):
2015: Switzerland, Chile
2016: France, Ireland, UK, Nepal, New Zealand, South Africa
- Committee on the Rights of Persons with Disabilities (CRPD)
"Exploitation, violence and abuse" (CRPD art. 16), "integrity of the person" (art. 17):
2015: Germany
2016: Chile, Italy, Uruguay
2017: UK
- Committee on the Elimination of Discrimination against Women (CEDAW)
“Harmful practice” (CEDAW art. 5 in conjunction with General recommendation No. 31):
2016: France, Switzerland, Netherlands
2017: Germany, Ireland

- Human Rights Committee (HRCttee – CCPR)
 “Cruel, inhuman or degrading treatment”, “harmful practice”,
 “non-consensual medical or scientific experimentation“ (CCPR art. 3, 7, 24, 26)
 2017: Switzerland

Typically, UN treaty bodies oblige complicit State parties to

- take effective legislative, administrative, judicial or other measures to prevent involuntary non-urgent surgery and other treatment on intersex children, and to guarantee bodily integrity, autonomy and self-determination to the children concerned
- adopt legal provisions to ensure access to redress and adequate compensation for victims
- provide families with intersex children with adequate counselling and support

Other international human rights bodies to condemn IGM practices so far include WHO, UNICEF, the UN Special Rapporteur on Torture, the Council of Europe (CoE) and the Inter-American Commission on Human Rights (IACHR).

In 2013, there was a veritable ‘boom’ of cosmetic surgeries on ‘children of “uncertain” sex’, with ‘50 % growth rate’, and ‘during the last five years, over 350 sex change surgeries on children under 6 years’ were carried out at the Hospital San Camillo-Forlanini in Rome alone, but due to budgeting problems no qualified psychosocial support was offered, according to director general Aldo Morrone.

In 2016, the press reported that a 2-year-old baby underwent cosmetic surgery at Policlinico universitario Paolo Giaccone di Palermo¹.

In 2016, the UN Committee on the Rights of Persons with Disabilities (CRPD) reprimanded Italy for IGM practices, denouncing them as a breach of Art. 17 CRPD “Protecting the integrity of the person”. Italy openly admitted to “operations” on intersex children most often “conducted [...] under the age of 10”, though firmly denied “unnecessary mutilations” and “loss of procreation capacity”.

To date, Italy has not taken any measure on the matter. Moreover, there is no specific legislation to regulate the modification of personal data for intersex/dsd individuals whose gender identity may not correspond to their medically assigned sex.

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¹ Atto n. 4-06490, <http://www.senato.it/japp/bgt/showdoc/showText?tipodoc=Sindisp&leg=17&id=991855>

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Conversion therapies

According to scientific literature, treatments aiming at converting someone's sexual orientation or gender identity increase the risks of depression, suicidal instincts, decline of self-confidence and difficulties in the family environment.

On May 17th 1990, the World Health Organization declassified homosexuality as a mental disorder.

Depatologization of homosexuality is largely acquired by mental health practitioners all over the world, and professional and scientific associations have repeatedly clarified the antiscientific aspects and the dangers of conversion therapies.

In 2016, the World Psychiatric Association (WPA) labelled rehabilitation therapies as "non-ethical, ineffective, harmful and antiscientific", supporting their scientific ineffectiveness and underlining the damages brought by these treatments. The WPA, in addition, argues that: "There is no scientific evidence that sexual orientation can be altered. Moreover, so-called homosexual conversion therapies can fuel prejudices and discrimination and are potentially dangerous. It is absolutely unethical to provide any type of intervention that claims to 'cure' what is not a disorder."

In Italy, following the Psychologists' Associations of Lazio, Lombardy and Emilia-Romagna, on August 23rd 2013, the former President of the National Council of Psychologists Giuseppe Luigi Palma said through a press release: "affirming that homosexuality can be cured or that a person's sexual orientation has to be changed is a scientifically groundless information, which supports social prejudices strongly rooted in our society (...). Psychologists, according to the ethical code, cannot offer any 'rehabilitation' of a person's sexual orientation, but have to cooperate with their patients in case of sexual dysfunctions regarding heterosexuals as well as homosexuals".

Journalistic investigations have shown the presence of several sexual orientation centers in Italy².

On May 17th 2016, 18 members of the Italian Senate have signed a bill to ban conversion therapies on minors³.

Recommendation 1. Adopting measures to prevent any psychologist, psychiatrist, psychotherapist, therapist, counselor, social worker or educator from performing sexual orientation conversion therapies on minors.

² <http://espresso.repubblica.it/inchieste/2015/12/07/news/chi-vorrebbe-guarire-gli-omosessuali-1.242068>

³ <http://www.senato.it/service/PDF/PDFServer/BGT/00982593.pdf>

Treatment of persons deprived of their liberty

Given the very serious violation of inmates' human rights proved by repeated rulings of the European Court of Human Rights and many NGOs' reports according to which the overcrowding rate in Italian prisons is 114,16 percent, meaning that there are more than 114 prisoners per 100 beds, against the European average of 99.6 percent and inmate suicides in Italy are 20 times that of the general population, caused mostly by "environmental factors" and "illegal" detention conditions, looking at the condition of LGBTI prisoners, the 'extraordinary Senate Commission on human rights protection' clearly tackles the lack of competence of the prisons staff on issues related to sexual orientation and gender identity and the severe form of discrimination that such prisoners suffer.

In prison, it is often not possible to continue the hormonal therapy or to use cosmetics for trans inmates.

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