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The Rights of Intersex Women and Girls in Russia



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Russian Federation

NGO submission by:

Intersex Russia/OII Russia

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Executive Summary

Non-consensual non-vital medical interventions to adjust the sex characteristics of intersex children are prevalent in Russia, while these interventions can be safely deferred until a later age where these children can provide personal, prior, free, and fully informed consent. Doctors indicate that they do not disclose the truth to intersex children and their parents about the children's bodies or the interventions they received. Interrogation can result in police brutality intersex people can find themselves in dangerous situations due to their private information being disclosed. As a result, many intersex people try to remain invisible out of fear of social stigma, pathologization and discrimination.

Therefore, intersex people in Russia seek protection under the Articles 1, 2, 3, 10, 11 and 15 of the Convention and the General Recommendations No. 19; No. 24; No. 31; No. 36.

Introduction

This NGO report is a submission by Intersex Russia/OII Russia to highlight key issues faced by intersex people in Russia.

Intersex Russia was established in March 2017 with the mission to provide an accurate and positive representation of the intersex community in Russia, to raise awareness about the existence of intersex people and the issues that the intersex community faces, advocate for intersex human rights, and provide support to intersex people across the country.

Intersex in Russia

Intersex refers to the experiences of people born with sex characteristics that do not meet the societal standards and definitions of male and female bodies.

In Russia, intersex people are experiencing violations of their fundamental human rights, including the right to full informed consent, physical integrity, bodily autonomy and self-determination. Selective abortions of fetuses with some intersex variations are allowed up to 22 weeks and are routinely performed. This is ten weeks more than the cut-off date for non-intersex fetuses¹. Some intersex variations are officially considered a disability². This supports the pathologization of intersex people, limits their chances of finding a job, chances of being adopted and their access to adopting themselves in the future. On the other hand, it is useful for some intersex people since it allows them to get disability benefits.

As a result, many intersex people try to remain invisible out of fear of social stigma, pathologization and discrimination. Therefore, intersex girls and women in Russia seek protection under the Articles 1, 2, 3, 10, 11 and 15 of the Convention on the Elimination of All Forms of Discrimination against Women, and also the General Recommendations No. 19 Art. 7, 11; No. 24 Art. 15, 22; No. 31 Art. 15, 16, 19; No. 36, Art. 40, 45, 46.

Non-consensual non-vital medical interventions on intersex children

Inhuman treatment for intersex children includes non-vital medical interventions, and intrusive and irreversible treatments, that can safely be deferred until a later age when these children can provide personal, prior, free, and fully informed consent.

Non-vital medical interventions, including surgery, hormone treatment, and psychological treatment to 'strengthen' the assigned sex are common. Additionally, it is remarkably common for these practices to be covered by the media. A Urologist/andrologist from St. Petersburg indicated in an interview that he performs about 250 surgeries on intersex children's genitals each year. He considers 8-18 months the optimal age for surgery. Decisions regarding gender are often made based on chromosomal sex. He states: 'If it turns out that a boy has been born, we not only "make" the penis and urethra, but also shape the scrotum' and 'When it becomes clear that this is a girl, we do the so-called feminizing genitoplasty, clitoroplasty, labiaplasty, vaginoplasty'.³ This doctor performed surgery on an 8-month-old in March 2019 in St-Petersburg, which received much positive attention from national media. Most media attention goes to surgery where children's genitalia are altered to fit the female norm, as genital surgeries to achieve an appearance that fits the male norm are more common.⁴

¹ Приложение к приказу Министерства здравоохранения и социального развития РФ от 3 декабря 2007 г. N 736 Перечень медицинских показаний для искусственного прерывания беременности (Appendix to the order of the Ministry of Health and Social Development of the Russian Federation of December 3, 2007 N 736: List of medical indications for artificial termination of pregnancy). <https://base.garant.ru/12158174/53f89421bbdaf741eb2d1ecc4ddb4c33/>

² Приказ Министерства труда и социальной защиты РФ от 27 августа 2019 г. N 585н "О классификациях и критериях, используемых при осуществлении медико-социальной экспертизы граждан федеральными государственными учреждениями медико-социальной экспертизы" (Order of the Ministry of Labor and Social Protection of the Russian Federation of August 27, 2019 N 585n "On the classifications and criteria used in the implementation of medical and social examination of citizens by federal state institutions of medical and social examination") <https://base.garant.ru/73021006/>.

³ Петербургский андролог рассказал, когда нужно оперировать ребенка, чтобы он не стеснялся своего тела (Petersburg andrologist told when to operate on a child so that he is not ashamed of his body). Doctor Piter. 13 December 2018. <https://doctorpiter.ru/articles/21001/>.

⁴ See for instance: **Бойцова М.** Петербургские врачи провели сложнейшую операцию бесполому ребенку (St. Petersburg doctors performed the most complicated operation on an asexual child). Spbdnevnik. 22 March 2019. <https://spbdnevnik.ru/news/2019-03-22/peterburgskie-vrachi-proveli-slozhneyshuyu-operatsiyu-bespolomu-rebenku>.

Бобрович А. Уникальная операция в Петербурге: Бесполой малыш стал девочкой (A unique operation in St. Petersburg: a sexless baby became a girl). Metro News. 22 March 2019. <https://www.metronews.ru/novosti/peterbourg/reviews/unikalnaya->

The genitals of a two-year old were 'normalized' in Rostov-on-Don, which was also covered by the media. The mother was offered to abandon her child after birth but refused and raised the child as a boy. After the surgery, the article states: '[She] doesn't understand why she needs to let her hair grow and wear such uncomfortable dresses. Sitting on the floor among the scattered brand-new dolls, the baby habitually reaches for the cars'⁵. A second article indicates that the surgery was traumatic as the area is sensitive, that the child will require life-long medical checkups, and hormone treatment. The parents indicate that they are worried their child will one day learn of the operation and wonder if the right gender was chosen⁶. Another surgeon confirmed in June 2020 that these practices have not changed. He described that he often performs these surgeries, and that he regularly does not disclose to the intersex children or their parents the truth about the children's bodies or the intervention they received⁷.

In 2017 an Italian urologist attended a conference in the Komi Republic where over 50 doctors watched him perform eight surgeries via video broadcast on intersex children between eight months and five years old. Images of the surgery were included in the news articles⁸. The government has expressed support for these medical interventions. The Russian Ministry of Health posted a positive article on their website⁹. The Komi Health Minister explicitly stated his approval about the Italian doctor's visit and the surgeries the surgeon performed: 'This operation is very important for the entire Komi Republic. Its performance speaks, first of all, of the high level of pediatric surgery in the region. And as leaders in terms of obtaining unique experience, we must correspond to this level'¹⁰.

Potential complications of these interventions are: loss of sensation, problems with urination, pain, infertility, scarring, the need for lifelong hormonal replacement therapy, psychological traumas and lifelong mental suffering. Also, sometimes people are forced into a gender identity they don't identify with. Naturally, at these ages children cannot provide consent for these unnecessary interventions. No certainty be given on future gender identity of intersex children. Recent European research has shown that five percent of all intersex children change their assigned gender, including those with forms of

operaciya-v-peterburge-bespolyy-malysh-stal-devochkoy-1527076/. Бесполоый младенец из Петербурга станет девочкой (A sexless baby from St. Petersburg will become a girl) MKRU St. Petersburg. 22 March 2019. <https://spb.mk.ru/social/2019/03/22/bespolyy-mladenec-iz-peterburga-stanet-devochkoy.html>.

В Санкт-Петербурге провели уникальную операцию по смене пола 8-месячному младенцу (In St. Petersburg, a unique sex change operation was performed on an 8-month-old baby). 78 News. 22 March 2019. <https://78news.ru/obsshestvo/medicina/v-sankt-peterburge-proveli-unikalnuyu-operacziyu-po-smene-pola-8-mesyachnomu-mladenczu.html>. В больнице Марии Магдалины бесполому ребенку возвращают половые органы. (Sexless child gets his genitals back at Mary Magdalene Hospital) Piter. 22 March 2019.

⁵ Хирурги сменили пол двухлетнему ребенку в Ростове (Surgeons changed the sex of a two-year-old child in Rostov). Life. 28 November 2011.

⁶ Ростовскому «мальчику-девочке» сделали операцию по смене пола. Ребенок стал девочкой (Rostov "boy-girl" underwent a sex change operation. The child became a girl). Общая Газета. 29 November 2011. <https://og.ru/news/2011/11/29/57873>

⁷ «Вернуть отрезанное нельзя»: омский хирург рассказал, как корректируют пол у детей <https://ngs55.ru/text/health/2020/06/05/69297427/> ("It is impossible to attach back what was cut off": the Omsk surgeon told how the childrens sex is corrected) NGS55. 5 June 2020.

⁸ Мутация. Итальянский хирург приехал в Коми удалить девочке мужской орган (Mutation. Italian surgeon arrived in Komi to remove male organ of girl). Perm AIF 23 May 2017.

https://perm.aif.ru/коми/мутация_итальянский_хирург_приехал_в_коми_удалит_девочке_мужской_орган

Хирург из Италии проводит уникальные операции в Сыктывкаре (A surgeon from Italy conducts unique operations in Syktyvkar) Riafan. 16 May 2017. <https://riafan.ru/768323-hirurg-iz-italii-provodit-unikalnye-operacii-v-syktyvkare>. Хирург из Италии провел в Сыктывкаре уникальную операцию (A surgeon from Italy performed a unique operation in Syktyvkar) Komi Inform 16 May 2019. <https://komiinform.ru/news/147763>

⁹ Первая в России операция по технологии хирурга с мировым именем Роберто де Кастро проведена в Коми (The first operation in Russia using the technology of a world-renowned surgeon Roberto de Castro was carried out in Komi). Ministry of Health Russian Federation. 17 May 2017. https://minzdrav.gov.ru/regional_news/5459-pervaya-v-rossii-operatsiya-po-tehnologii-hirurga-s-mirovym-imenem-roberto-de-kastro-provedena-v-komi

¹⁰ Дмитрий Березин: "Операция доктора Роберто де Кастро имеет большое значение для Коми" (Dmitry Berezin: "Operation of Dr. Roberto de Castro is of great importance for Komi"). Komi Inform. 17 May 2017. <https://komiinform.ru/news/147789>.

intersex that are often not recognized at birth. In about 80% of those cases, the shift occurs before puberty.

These practices fall under the description of discrimination against women in the field of healthcare as is described by Article 12 of the Convention. It is also further elaborated in General Recommendation No. 19 Article 7(b, g) which clearly states the right not to be subject to inhumane treatment and the right to the highest standard attainable of physical and mental health. These practices are also not in compliance with the General Recommendation No. 24 Article 31, which describes that acceptable services are only those that are delivered in a way that ensures that a woman gives her full informed consent, that respect her dignity, guarantees her confidentiality and are sensitive to her needs and perspectives.

These interventions should be prohibited under Russian law N 323-FZ "On the bases of protection of public health in the Russian Federation" which specifically says in the article 20¹¹ about full informed consent being a mandatory requirement for any medical intervention. Article 54¹² of that law states that children have to provide full informed consent from the age of 15, but there are instances of this law being violated. For instance, surgery was performed a 15-year old girl without her consent, nor having received correct information about the procedure¹³. These interventions are common and governmental protection is needed.

Non-vital medical treatments to change sex characteristics of intersex girls and women that can be safely deferred which are performed before until they are at an age when autonomous, prior, free and fully informed consent can be given fall under harmful practices as described in General Recommendation No. 31. It is grounded in discrimination based on, among other things, sex, gender and age, as described in General Recommendation No. 31 Article 15. The effects of non-vital "normalizing" surgeries and interventions on intersex children are comparable to the effects of female genital mutilation (FGM) described in the General Recommendation No. 31 Article 19.

Custody, interrogation and release of private info of intersex women

Being detained can result in hazardous situations for intersex people. An intersex woman was arrested when she supported her friend - a journalist – who was filming at a demonstration. She was not participating in the demonstration herself. However, she was detained. During interrogation, she was mocked, sworn at, and intimidated. The police threatened that they would disseminate her information so that locals would kill her, or that the police would kill her themselves and "blame the Wahhabis (muslims)". She was forced to undress, examined and questioned about her genitals¹⁴. Once released a person who claimed to be a police officer, came to her home and pressured the owner of the home to

¹¹ Федеральный закон от 21.11.2011 N 323-ФЗ (ред. от 22.12.2020) "Об основах охраны здоровья граждан в Российской Федерации" (с изм. и доп., вступ. в силу с 01.01.2021). Federal Law of 21.11.2011 N 323-FZ (as revised on 22.12.2020) "On the basics of health protection of citizens in the Russian Federation" (as amended and supplemented, entered into force on 01.01.2021). http://www.consultant.ru/document/cons_doc_LAW_121895/0b1cadf39eb0f1fed2ef0b8ebab5973197d7f1/

¹² Федеральный закон от 21.11.2011 N 323-ФЗ (ред. от 22.12.2020) "Об основах охраны здоровья граждан в Российской Федерации" (с изм. и доп., вступ. в силу с 01.01.2021) (Federal Law of 21.11.2011 N 323-FZ (as revised on 22.12.2020) "On the basics of health protection of citizens in the Russian Federation" (as amended and supplemented, entered into force on 01.01.2021)).

http://www.consultant.ru/document/cons_doc_LAW_121895/a8398529a12cd9bf03edcf0f783bbf7c58d5c7cd/#dst101166.

¹³ **Strudwick P.** This Woman Only Discovered She Was Intersex After Watching A Viral Video About It. Buzzfeed 1 January 2019. <https://www.buzzfeed.com/patrickstrudwick/this-woman-only-discovered-she-was-intersex-after-watching?origin=thum>

¹⁴ Задержанная на первомайской «Монстрации» в Махачкале рассказала об угрозах убийством в ОВД (Detained at the May Day "Monstration" in Makhachkala told about death threats in the police department) OVDinfo. 4 May 2019.

<https://ovdinfo.org/express-news/2019/05/04/zaderzhannaya-na-pervomayskoy-monstracii-v-mahachkale-rasskazala-ob-ugrozah>.

"Заставили грудь показать". Трансгендер и полиция Махачкалы ("They made the chest show." Transgender and Makhachkala police). Svoboda. 8 May 2019. <https://www.svoboda.org/a/29928528.html>.

evict her. Her private information, including the fact that she is intersex, was leaked¹⁵. In the case of another intersex woman, who was accused of stealing a phone, the police released a video - supposedly to find other potential victims - revealing that she is intersex¹⁶. In both cases the sharing of private information led to difficult and dangerous situations in their surroundings, one lost her job¹⁷, the other indicated she would need to leave the area for her safety.¹⁸ These actions are legally prohibited by Russian law.¹⁹

Identity documents and healthcare

Intersex people (as well as transgender people) are at risk of torture during interrogations due to problems with identity documents. It is challenging to obtain identity documents with a correct gender identity marker. One option (before reaching the age of 18) is a civil registration administrative procedure for intersex children and parents to adjust the gender registration with documents and declarations from doctors. Alternatively, intersex people need to be diagnosed as transgender to be able to obtain documents in adulthood, while they may have lived in that gender since they were infants (see above). If a gender marker has been legally altered, this data remains available, increasing the chance of causing problems. On 14 July 2020 draft bills²⁰ were submitted to the Russian Federation Duma that would make it impossible for gender markers to be altered, also for intersex children. The draft is still being debated.

Gender identity markers can also restrict access to appropriate healthcare, as hospitals adhere to a strict binary sex division in hospitals. A Russian man tried for five years to get the medical help he needed after finding out he was born with a uterus and ovaries, but was refused access to a gynaecologist. It was suggested he would change his gender marker to gain access, which would likely result in many other issues²¹.

In some cases, the very existence of intersex people and intersex athletes is being questioned. Vitaly Milonov, a Russian politician and a Member of the State Duma since 2016, has spoken on an online show that intersex people don't exist and those who say so are "crazy idiots".²² This lack of recognition makes it even harder to fight for their rights and speak up against human rights violations.

¹⁵ Задержанная на махачкалинской «Монстрации» рассказала, что ее выселяют из дома после визита человека, представившегося участковым (Detained at the Makhachkala "Monstration" said that she was being evicted from her home after the visit of a man who introduced himself as a district police officer) Zonamedia. 5 May 2019. <https://zona.media/news/2019/05/05/lola>

¹⁶ СМИ: Гермафродит в Иркутске обвиняет полицейских в разглашении своей тайны (Media: Hermaphrodite in Irkutsk accuses police of divulging her secret). TKGorod. 15 November 2018. <http://tkgorod.ru/news/16771>.

¹⁷ "Сломали жизнь". Женщина-гермафродит из Иркутска обвинила полицейских в огласке ее персональных данных ("They broke life." A hermaphrodite woman from Irkutsk accused police of disclosing her personal data). &KA. 14 November 2018. <https://7ka.tv/news/73164>.

¹⁸ "Заставили грудь показать". Трансгендер и полиция Махачкалы ("They made the chest show." Transgender and Makhachkala police). Svoboda. 8 May 2019. <https://www.svoboda.org/a/29928528.html>.

¹⁹ Criminal Code of the Russian Federation. Article 137 - Violation of the inviolability of private life.

²⁰ No. 989011-7 (Article 2, paragraphs 2 and 8)

²¹ Andrey Sokolov. Россиянин-гермафродит рассказал о неудачных попытках попасть к гинекологу (Russian hermaphrodite spoke about unsuccessful attempts to get to the gynecologist) Lenta, 5 August 2020.

https://lenta.ru/news/2020/08/05/ne_prinimaem/ (see also Ren TV: <https://ren.tv/player/video/embed/732155#autoplay=1>).

²² RT, Баронова и Милонов поспорили о существовании людей, пол которых определили врачи (Baronova and Milonov argued about the existence of people whose sex was determined by doctors) <https://russian.rt.com/russia/news/890617-baronova-i-milonov>

Suggested Recommendations and Question

The NGO's respectfully request the Committee on the Elimination of Discrimination Against Women to make the following recommendations to the Russian Federation:

1. Ban non-consensual non-vital medical interventions on intersex bodies, made on cosmetic, social, psychosocial, cultural grounds which can be deferred until the person is old enough to provide prior, full, free and informed consent.
2. To ensure that all human rights violations against intersex people are investigated, all the alleged perpetrators prosecuted, and victims should have access to effective remedies, including redress and compensation.
3. Ensure that intersex people always receive full information about their bodies and diagnoses and that prior, ongoing, full, free and informed consent is given by them for all interventions they are receiving. Any treatment performed without the intersex person's free, personal and fully informed consent, unless vital and life-saving, should be made unlawful.
4. Install constitutional protection, anti-discrimination and hate crime and hate speech legislation on the grounds of sex characteristics.
5. Russian Ministry of Health to be obliged to keep specific official statistics of the number intersex people they are treating and interventions they're performing on them.
6. To ensure that gender markers can be changed through a simple administrative procedure at the person's request, no matter if they're intersex or not.
7. To expedite the development and implementation of human rights-based healthcare protocol, created in cooperation with intersex organisations and activists, created for intersex children and adults that sets the procedures and steps to be followed by health teams in order to ensure that no one is subjected to unnecessary non-vital surgery or treatment.
8. To provide intersex children and their families with adequate counselling and support, including from peers.

We suggest to request the government of the Russian Federation to provide information on:

1. What measures are taking to ensure that no one is subjected to non-consensual non-vital medical interventions, made on cosmetic, social, psychosocial, cultural grounds, which can be safely deferred until the person is old enough to provide full, free and informed consent?
2. What measures are taken to ensure that human rights violations against intersex people are investigated, all the alleged perpetrators prosecuted, and victims have access to redress and compensation?
3. What measures are taken to ensure private data of intersex people is not revealed by law enforcement?
4. How does the Russian Federation plan to ensure that intersex people have access to correct identity documents?