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The Rights of Intersex People in Russia

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NGO submission for the 70th session of the Committee Against Torture

List of Issues prior to Reporting for the Russian Federation

Joint NGO submission by:

Intersex Russia/OII Russia
NNID Foundation - Netherlands organisation for sex diversity

25 January 2021

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Executive Summary

Non-consensual unnecessary 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. Neighbouring countries, such as Ukraine, Kazakhstan, Kyrgyzstan, Uzbekistan, also regularly refer intersex children to Russia for these procedures. The State has issued statements in support of these practices. 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 children in Russia seek protection under Articles [Art. 1, 2, 10, 11, 12, 14, and 16 of the Convention Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Suggested Questions

Intersex Russia/Oii Russia and NNID request the Committee to consider these issues for the compilation of the List of Issues Prior to Reporting and suggest the following questions for the Committee to request the government of the Russian Federation to provide information on:

What medical treatments are provided to intersex children and clarify whether their free, prior and fully informed consent is ensured?

What measures are taken to ensure private data of intersex people is not revealed by law enforcement?

How does the Russian Federation plan to ensure that intersex people have access to correct identity documents and medical care?

Introduction

This NGO report is a joint submission by Intersex Russia/OII Russia, and NNID Foundation to highlight key issues faced by intersex people in Russia. This submission does not provide information regarding all existing issues. Nonetheless, Intersex Russia and NNID would greatly appreciate the consideration of the presented issues by the Committee Against Torture for the List of Issues Prior to Reporting (LOIPR). The paragraphs give contextual information on topics that specifically affect intersex children, and suggestions for questions that can be used to prepare the LOIPR. Appendix 1 contains background information on intersex and harmful practices.

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. NNID Foundation is an intersex-led human rights organization working for the equality, rights, and visibility of intersex people, and is based in the Netherlands.

Intersex people in Russia

Intersex refers to the experiences of people born with a body that does not meet the normative definition of male and female.

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.

Non-consensual unnecessary medical interventions on intersex children [Art. 2, 10, 12, 14, and 16]

Inhuman treatment for intersex children includes non-necessary 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. For more general background on intersex and harmful practices, see appendix 1.

Non-necessary 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 It is indicated that they perform more surgeries on boys than on girls. The

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-operaciya-v-peterburge-bespolyy-malysh-stal-devochkoy-1527076/>. Бесполой младенец из Петербурга станет девочкой (A sexless baby from St. Petersburg will become a girl) MKRU. 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.

surgeon stated: 'Our task was to shrink the corpora cavernosa of the so-called phallus, reduce the size of the clitoral head (clitoroplasty), shape the labia (labiaplasty) and create the missing part of the vagina (vaginoplasty). In this case, it is important to use your own tissues - they carry important functions, including sensitive ones. The main challenge was to create the missing segment of the vagina from local tissues. The fact is that normally the urethra opens above the vagina. But in this situation, the urethra opens much higher and inside - into the vaginal cavity. It was necessary to separate the urinary and reproductive systems, bring them outwards so that it looked natural. It was not clear before the operation if we will be able to do this and shape the vagina within the framework of one surgical intervention.'⁵ Which indicates that these interventions are not only invasive, but also experimental in nature.

The genitals of a two-year old were 'normalised' 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 articles 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'⁶. 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 chosen⁷. 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 received⁸.

Neighbouring countries, such as Ukraine, Kazakhstan, Kyrgyzstan, and Uzbekistan, regularly refer to Russia for these procedures⁹. Experience from outside Russia is sought at times to increase the types of techniques that can be performed. 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 articles¹⁰. The government has expressed support for these medical interventions. The Russian Ministry of Health posted a positive article on their website¹¹. 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'¹².

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

⁵ Как в детской больнице Петербурга сделали из мальчика девочку (How a boy was turned into a girl at the St. Petersburg Children's Hospital). Doctor Piter 22 March 2019. <https://doctorpiter.ru/articles/21586/>

⁶ Хирурги сменили пол двухлетнему ребенку в Ростове (Surgeons changed the sex of a two-year-old child in Rostov). Life. 28 November 2011.

⁷ 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>

⁸ «Вернуть отрезанное нельзя»: омский хирург рассказал, как корректируют пол у детей [https \("It is impossible to attach back what was cut off": the Omsk surgeon told how the children's sex is corrected\)](https://ngs55.ru/text/health/2020/06/05/69297427/) NGS55. 5 June 2020. <https://ngs55.ru/text/health/2020/06/05/69297427/>

⁹ Врач рассказал об операции по восстановлению половых органов у девочки в Петербурге. (The doctor spoke about the operation to restore the genitals of a girl in St. Petersburg). TOPSPB. St Petersburg TV Channel. 22 March 2019.

<https://topspb.tv/news/2019/03/22/vrach-rasskazal-ob-operacii-po-vosstanovleniyu-polovyh-organov-u-devochki-v-peterburge/>

¹⁰ 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/koimi/mutaciya_italyanskiy_hirurg_priehal_v_komi_udalit_devochke_muzhskoy_organ
Хирург из Италии проводит уникальные операции в Сыктывкаре (A surgeon from Italy conducts unique operations in Syktivkar) Riafan. 16 May 2017. <https://riafan.ru/768323-hirurg-iz-italii-provodit-unikalnye-operacii-v-syktivkare>. Хирург из Италии провел в Сыктывкаре уникальную операцию (A surgeon from Italy performed a unique operation in Syktivkar) Komi Inform 16 May 2019. <https://komiinform.ru/news/147763>

¹¹ 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

¹² 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>.

future gender identity of intersex children. Recent European research has shown that five per cent of all intersex children change their assigned gender, including those with forms of intersex that are often not recognised at birth. In about 80% of those cases, the shift occurs before puberty.

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 20¹³ about full informed consent being a mandatory requirement for any medical intervention. Article 54¹⁴ 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 procedure¹⁵. These interventions are common and governmental protection is needed.

Suggested question: What medical treatments are provided to intersex children and clarify whether their free, prior and fully informed consent is ensured?

Custody and interrogation [Art. 1, 10 & 11]

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 genitals¹⁶. Once released a person who claimed to be a police officer, came to her home and pressured the owner of the home to evict her. Once released a person who claimed to be a police officer, came to her home and pressured the owner of the home to evict her. Her private information, including the fact that she is intersex, was leaked¹⁷. 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 intersex¹⁸. In both cases the sharing of private information led to difficult and dangerous situations in their surroundings, one lost her job¹⁹, the other indicated she would need to leave the area for her safety.²⁰ These actions are legally prohibited by Russian law.²¹

Suggested question: What measures are taken to ensure private data of intersex people is not revealed by law enforcement?

¹³ 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_121895/0b1cadf39ebef0f1fed2ef0b8ebab5973197d7f1/

¹⁴ 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.

¹⁵ Strudwick P. This Woman Only Discovered She Was Intersex After Watching A Viral Video About It. Buzzfeed 1 January 2019.

¹⁶ 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-pervomayskoj-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>.

¹⁷ Задержанная на Первомайской «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>

¹⁸ 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>.

¹⁹ "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>.

²⁰ "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>.

²¹ Criminal Code of the Russian Federation. Article 137 - Violation of the inviolability of private life.

Identity documents and healthcare [Art. 2 & 16]

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 bills²² 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 issues²³.

Suggested question: How does the Russian Federation plan to ensure that intersex people have access to correct identity documents and medical care?

²² No. 989011-7 (Article 2, paragraphs 2 and 8)

²³ 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>).

Appendix 1: Intersex and Harmful Practices

In 2013, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment called on states to repeal any law allowing intrusive and irreversible treatments, including forced genital-normalizing surgery, involuntary sterilization, “reparative therapies” or “conversion therapies”, when enforced or administered without the free and informed consent of the person concerned. He also called on states to outlaw forced or coerced sterilization in all circumstances.²⁴

The UN Human Rights Office Background Note on Human Rights Violations against Intersex People states: ‘In recent years, awareness of intersex people, and recognition of the specific human rights abuses that they face, has grown, thanks to the work of intersex human rights defenders. These include risks of forced and coercive medical interventions, harmful practices and other forms of stigmatization due to their physical traits. To date, only a handful of countries have implemented measures to prevent and address such abuses, and the effectiveness of existing measures remains to be fully documented.’²⁵

Intersex children are at risk of medically unnecessary, intrusive and irreversible surgery, hormone treatments, other “normalizing” treatments and “normalizing” psychotherapy, without the free and fully informed consent of the child. These interventions may even start before their birth, with experimental medical treatment for which only very limited information is available about the results, while there even are proven negative long-term health consequences.²⁶

Medical and surgical treatment of intersex children is based on ‘*predict and control*’: when an intersex child is born, health professionals try to predict the future gender of the child and control the outcome of this prediction by means of medically unnecessary, intrusive and irreversible treatments, that can be safely deferred until a later age where these children can provide personal, prior, free, and fully informed consent.²⁷

The ‘*predict and control*’ method is a violation of the right of self-determination, bodily integrity, and the right to the highest attainable standard of physical and mental health. These rights are not guaranteed for intersex children, because they are victims of unnecessary, unproven and unscientific medical treatments.

Furthermore, a lack of support for intersex people combined with non-necessary, intrusive, involuntary, and irreversible treatments on intersex children can have a severe impact: 45 percent of adult intersex people experience mental health problems, almost 20 percent have suicidal thoughts and almost 7 percent have tried to commit suicide²⁸ – in general, intersex people suffer from physical and mental health issues throughout their lives.²⁹

²⁴ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Medez, Human Rights Council, 1 February 2013 (A/HRC/22/53).

²⁵ UN Human Rights Office. Background Note on Human Rights Violations against Intersex People. 25 October 2019.

²⁶ **Dreger A, Feder EK, Tamar-Mattis A.** Prenatal dexamethasone for congenital adrenal hyperplasia. *Journal of bioethical inquiry*. 2012;9(3):277-294.

Wallenstein L, Zimmermann M, Sandberg MT, Gezelius A, Nordenström A, Tatja J, et al. Sex-dimorphic effects of prenatal treatment with dexamethasone. *Journal of Clinical Endocrinology & Metabolism*. 2016; 101(10) 3838-3846.

²⁷ **Wolffenbuttel KP.** Disorders of sex development: méér dan alleen een andere naam. *Tijdschrift voor Urologie*. 2015;5(1):8-12.

Wolffenbuttel K, Crouch NS. Timing of feminising surgery in disorders of sex development. *Understanding Differences and Disorders of Sex Development (DSD)*. 27: Karger Publishers; 2014. p. 210-221.

²⁸ **De Vries ALC, Roehle R, Marshall L, Frisén L, van de Grift TC, Kreukels BPC, et al.** Mental Health of a Large Group of Adults With Disorders of Sex Development in Six European Countries. *Psychosomatic Medicine*. 2019;81(7):629-640. DOI: 10.1097/psy.0000000000000718

²⁹ **Falhammar H, Claahsen-van der Grinten HL, Reisch N, Slowikowska-Hilczek J, Nordenstrom A, Roehle R, et al.** Health status in 1040 adults with disorders of sex development (DSD): a European multicenter study. *Endocrine Connections*. 2018. (<https://doi.org/10.1530/ec-18-0031>).