

UNIVERSITY OF GALWAY

European Master's Programme in Human Rights and Democratisation  
A.Y. 2022/2023

# Intersex Bodies: the Nuances Between Male and Female

Gender Construction and the Cost of Challenging Sexual Binarism in Italy

Author: Sara Merlaratti

Supervisor: Anna Arstein-Kerslake, Siobhán Mullally

Word Count Declaration: 22.978



## ABSTRACT

How is gender socially constructed? Is it a phenomenon devoid of violence? In a world, like the Western one, where sex is conceived in only two categories, how are people with Intersex characteristics treated? Invisibility, pathologisation and medicalization characterise Italian legislation and the medical practices of medical personnel. Is it legitimate to intervene surgically and/or pharmacologically on the bodies of people who cannot oppose and self-determine themselves?

This work aims to demonstrate that the Intersex population is the victim of several violations of their human rights. Starting from a sociological and anthropological investigation, thanks to the studies of J. Butler, A. Fausto-Sterling, J. Boddy and others, some ways of constructing the concept of gender will be analysed, demonstrating its violent nature. The phenomenon of the so-called 'female genital mutilation', of the clitoridectomies practiced in the Victorian era and the growing trend of genital cosmetic surgeries will be presented as examples. All these practices are infused with socio-cultural dictates about gender, heteronormativity, and sexual binarism. It is a critique of biological determinism and sexual binarism: by legitimising only heterosexuality and the masculine and feminine, this reading of reality disqualifies as unnatural or abject those who do not fit into this classification. Relating to otherness as if it preexisted classification, in many Western countries we still intervene on the bodies of Intersex people with the aim of "normalising" them.

The second part of this research intends to focus on the Italian context, demonstrating that in Italian hospitals they continue to perform unnecessary surgery on intersex newborns, violating several of their human rights. This occurs due to the faultiness of the Italian legislation, the indifference towards foreign legislative developments, a pathologizing "rhetoric of treatment" and the lack of transparency of the medical personnel.

Finally, some legislative solutions will be proposed, some of which have already been adopted by other countries.

## TABLE OF CONTENTS

INTRODUCTION	4
CHAPTER I: EVERY WAY OF GENDER CONSTRUCTION IS VIOLENT: PHILOSOPHICAL AND ANTHROPOLOGICAL CONSIDERATIONS	7
What sex is? What gender is? A critique to the logic of binarisms and to biological determinism	7
Genital modifications: Female Genital Alterations and surgeries on Intersex children, is there really a difference?	10
Gender binarism and heteronormativity: how the West shapes bodies for these principles	15
Victorian Female Genital Modifications	16
The growing trend of Female Genital Cosmetics Surgeries	21
Conclusions	23
CHAPTER II: PATHOLOGISATION AND MEDICALISATION OF INTERSEX BODIES: THE ITALIAN CASE AND A LOOK AT THE INTERNATIONAL SCENE	25
When the body is a social problem: control and 'normalisation' of intersex bodies in the late 19th and 20th century	25
The terminological debate and the incidence of intersex variations	25
Are humans biologically dimorphic?	27
From silence to having a voice: how intersex surgeries went from being recommended to condemned	28
Invisibility and normalisation: the Italian legislation, the lack of transparency of the medical staff and the lack of informed consent	35
Prenatal diagnosis and voluntary termination of pregnancy: is eugenics the dominant paradigm?	43
Being blind to laws and recommendations: the non-application of the Italian Constitution and International Instruments and legislations	44
CONCLUSION	50
BIBLIOGRAPHY	51

## INTRODUCTION

About 2% of the world population has sexual characteristics (chromosomal, hormonal, gonadal, and genital) that cannot be traced back to male/female. However, in the West, the rigidity of sexual binarism does not allow for variations and therefore it is believed that the body of intersex people needs corrections because otherwise, they could not fully live in the social context. With this justification, surgeries are practised in the first months of life, definitely before the interested person can express his consent, aimed at 'normalising' the genitals making them referable to one of the two sexes. The body of intersex people questions the gender binary, demonstrating its non-absoluteness. In societies strongly influenced by this duality, therefore, intersex bodies are not acceptable. Intervening their bodies is justified, if not necessary. By operating pharmacologically and surgically, it is possible to restore the rigid gender binary. These practices constitute a violation of the human rights of intersex people, being harmful practices that undermine physical integrity and self-determination. While awareness and condemnation of these practices have been increasing in recent years, pathologisation and stigmatisation are still not alien to the intersex community. This continues to happen because in many states there are no specific regulations for their protection, registration at birth, and in case they want to change their gender. Furthermore, medical personnel are often not sufficiently aware of these conditions. Moreover, both doctors and parents may be influenced by the widely held belief that the child's best interest coincides with the 'perfection' of the body, and thus with having genitals that fall within established standards.

This research not only supports the illegitimacy of such practices but also wants to challenge the rigid dualism of gender categories, highlighting how much intersex bodies demonstrate their fallacy and represent the nuances present between the two opposites. Furthermore, this research aims to analyse the human rights situation of intersex people in the Italian context, since both current Italian legislation and medical practices pathologise and stigmatise intersex conditions.

If the logic underlying the 'normalisation' of the bodies of intersex people is biological determinism, the principle of sexual binarism is also affirmed in other, equally violent ways. Consequently, before analysing the human rights violations of intersex people, it will be investigated why this happens and other equally violent ways of constructing gender will be presented. Indeed, the so-called female genital mutilations and the cosmetic surgeries practised in the West are also aimed at affirming gender binarism. In all these examples the body must meet aesthetic standards to be considered 'normal' and surgical intervention is considered legitimate for this purpose.

Although some previous studies have tried to shed light on the human rights situation of intersex people in Italy, the correlation between early surgeries, 'female genital mutilation', Victorian clitoridectomies, and female genital cosmetic surgeries (FGCSs) remains largely uninvestigated. This research argues that these practices are all aimed at the construction of gender: they all reaffirm the assumption that there are only two sexes, assume compulsory heterosexuality, emphasise the role of penetration, and are means by which other types of sexuality and pleasure are demonised.

The academic relevance of this research lies in its interdisciplinary approach, combining insights from philosophy, anthropology, and a human rights perspective. An interdisciplinary approach is considered essential for the effectiveness of the fight against violations of the human rights of intersex people since they concern important conceptions of the body, gender, and sexuality. Furthermore, an interdisciplinary approach allows these interventions to be framed within a macro-system of apparently distant practices (semantically, territorially, and temporally) but which in reality share the same function and logic. The hope is that through this awareness governments and supranational organizations will do everything in their power to fight the genital modification of intersex people, as they have been doing over the years e.g. against 'female genital mutilation'.

The reflections of John Money, Judith Butler, Anne Fausto-Sterling, and Elizabeth Grosz have provided an idea of the debate on sex/gender dualism, which has severely affected (and continues to affect) the lives of intersex people. Furthermore, research conducted by anthropologist Janice Boddy has proved invaluable in understanding the practice of non-Western female genital alterations (commonly referred to as 'mutilation'). Thanks to it, indeed, it was possible to highlight the similarities between these practices and both the surgeries on intersex people and the FGCSs. Also, research conducted by Daniela Crocetti, Surya Monro, Valentino Vecchiotti and Tray Yeadon-Lee, Nicole Braida, Marta Prandelli, and Ines Testoni has been invaluable in understanding the difficulties that intersex people unfortunately still have to face in Italy, in shedding light on the lack of knowledge of intersex conditions by the medical staff and on how much the parents themselves are conditioned by the dominant paradigm in consenting to early surgeries.

Someone could object that it is not appropriate to compare phenomena from geographical and cultural eras and areas. However, in this research, the highlighting of the similarities between FGAs, Victorian clitoridectomies, FGCSs, and intersex surgeries has been adopted to denounce how some forms of genital alteration are strongly condemned and fought against, while others are even recommended by Western medical personnel. From this comparison, it is therefore clear that a double standard is applied to Western and non-Western practices.

Furthermore, based on the findings, this research intends to invite supranational bodies to adopt legally binding instruments against early surgeries practised on intersex children as has already been done for other forms of genital alteration. Furthermore, it intends to invite governments, in particular the Italian one, to adopt laws aimed at protecting the intersex community also from a legal point of view in the wake of other countries such as Malta. Ultimately, the hope is that this research will contribute to raising awareness of intersex conditions and inspire awareness campaigns aimed at dismantling the logic of sexual binarism and the pathologization of intersex bodies.

Therefore, following this introduction, chapter I analyses the problematic nature of the dualisms that are used in the West to categorise and understand the world and that affect the lives of intersex people; furthermore, other forms of gender construction (FGAs, Victorian clitoridectomies, and FGCSs) are presented throughout the chapter, equally problematic and violent. The second chapter, on the other hand, deals with the human rights violations of the intersex community. A brief and dashed history of the medicalization of 'atypical' genitalia is reported. The heart of the second chapter, however, is the denunciation of what continues to happen in Italian hospitals to the intersex community and the lack of laws to protect it. Finally, the international recommendations and the legislation of some countries are presented.

## CHAPTER I: EVERY WAY OF GENDER CONSTRUCTION IS VIOLENT: PHILOSOPHICAL AND ANTHROPOLOGICAL CONSIDERATIONS

### What sex is? What gender is? A critique to the logic of binarisms and to biological determinism

Euro-American society often uses dualism to categorise and understand the world. While these oppositional pairs, such as sex/gender, nature/culture, and real/constructed, can be useful, they can also be problematic. Indeed, as biologist and gender studies expert Anne Fausto Sterling, and philosopher Val Plumwood have pointed out, these dualisms do not acknowledge the interdependence of each element in each pair:<sup>1</sup> although the extremes of these dualisms may appear to be separate and absolute entities, in reality, they are deeply intertwined and mutually influenced. Going beyond the absolutism of these dualisms is fundamental in researching intersex people, since their life has been (and is) strongly conditioned by the concepts of sex/gender and male/female. If instead, we were able to understand the interdependence between the concept of sex and gender and to accept the nuances between male and female, the life of intersex people would certainly be easier.

Before debating the consequences of the sex/gender dichotomy on intersex people and investigating other forms of gender construction, it is appropriate to reflect precisely on this dichotomy. In this regard, the reflections of John Money, Judith Butler, Anne Fausto-Sterling and Elizabeth Grosz can provide an idea of the debate that has been taking place on this issue for years and which has not yet ended today.

For decades, there has been much reflection on the relationship between the appearance of the genitals and adherence to behavioural norms attributable to femininity or masculinity. From a dualistic point of view, in 1972 sexologists John Money and Anke Ehrhardt affirmed the distinction between sex and gender, attributing anatomy to the former and the behavioural expression of what we now call 'gender identity' to the latter.<sup>2</sup> John Money has been an influential figure in the life of intersex people, and not only because of this definition: his work has strongly affected the approach to genital anomalies and unfortunately continues to have a weight even today, but this will be discussed later on. In the 1970s Money's sex/gender distinction was also embraced by second-wave feminists. The intent of the feminists, however, was to highlight how gender distinction and the resulting norms are

---

<sup>1</sup> Anne Fausto-Sterling, *Sexing the Body: Gender Politics and the Construction of Sexuality* (Basic Books 2000) 20-21.

<sup>2</sup> *Ibid.*, 3.



the cause of gender inequality that affects the lives of women.<sup>3</sup> Consequently, feminists fell into the trap of those who argued that such gender differences between men and women derive from their sex and that therefore, being natural, there was no reason to contest them.<sup>4</sup> As a result, the logic of biological determinism had not yet been defeated. It consisted precisely in maintaining that 'biology is destiny',<sup>5</sup> and that therefore biological characteristics defined behaviours. Consequently, for example, a person with female genitalia would necessarily have to engage in 'feminine' behaviour. Feminists of the time contested this paradigm, being proponents of the idea that gender was culturally constructed, independent of sex.<sup>6</sup> According to them, gender did not depend on the appearance of the genitals (either masculine or feminine), but on the socio-cultural conditions in which the sexed body lives. As Judith Butler observes in *Gender Trouble*, according to this logic of gender non-dependence on sex, words like 'man' and 'masculine' could also refer to female bodies and vice versa; moreover, even if there were only two sexes (and they aren't) there is no reason to think that genders should be too since the latter being independent of the former.<sup>7</sup> This distinction places sex in the field of biology and gender in the field of culture. However, as previously mentioned, nature and culture are also a dichotomous couple that hides their interdependence. Indeed, trying to define sex from a scientific point of view, we are always influenced by our cultural background: the elements that are chosen and the criteria that are adopted to physically define sex are culturally dictated and are not independent of our beliefs about gender.<sup>8</sup> Based on what sex is defined (and the very fact of wanting to determine it) has much more to do with culture than with biology.<sup>9</sup> In this regard, the words of Anne Fausto Sterling are illuminating: 'The more we look for a simple physical basis for "sex," the more it becomes clear that "sex" is not a pure physical category. What bodily signals and functions we define as male or female are already entangled in our ideas about gender.'<sup>10</sup> Judith Butler has also tried to go beyond the dichotomy. Also starting from the contestation of the immutability of sex, Butler comes to hypothesise that not only is sex culturally constructed but also that it was 'always already gender', completely nullifying any distinction between the two concepts.<sup>11</sup> According to this theory, therefore, there is no pre-discursive sexual body on which the cultural meanings of gender are

---

<sup>3</sup> Ibid., 3-4.

<sup>4</sup> Ibid., 4.

<sup>5</sup> Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (Routledge 2006AD 1999) 9.

<sup>6</sup> Ibidem, 9-10; Anne Fausto-Sterling, *Sexing the Body: Gender Politics and the Construction of Sexuality* (Basic Books 2000) 4.

<sup>7</sup> Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (Routledge 2006AD 1999) 9-10.

<sup>8</sup> Anne Fausto-Sterling, *Sexing the Body: Gender Politics and the Construction of Sexuality* (Basic Books 2000) 3-4-5.

<sup>9</sup> Ibid., 5.

<sup>10</sup> Ibid., 4.

<sup>11</sup> Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (Routledge 2006AD 1999) 10-11.

inscribed. Indeed, it would be precisely the gender to designate the sexes.<sup>12</sup> Consequently, even the presumed 'precedence' of sex over gender would be an artifice of gender.<sup>13</sup> In Butler's view, therefore: 'Gender must also designate the very apparatus of production whereby the sexes themselves are established. As a result, gender is not to culture as sex is to nature; gender is also the discursive/cultural means by which "sexed nature" or "a natural sex" is produced and established as "prediscursive," prior to culture, a politically neutral surface on which culture acts.'<sup>14</sup> The philosopher Elizabeth Grosz thinks differently, according to whom instead some biological processes pre-exist the meanings regarding the development of sexuality.<sup>15</sup> However, she too maintains that this biological basis requires the contribution of cultural meanings, thus rejecting the nature/culture dualism but rather affirming the interdependence of the two elements.<sup>16</sup> Beyond the speculations on the existence or otherwise of pre-existing biological processes, this research considers it important to be aware of the interdependence of nature/culture and sex/gender dualisms. The logic according to which sex and nature are believed to be real, while gender and culture are constructed, has meant that the bodies of intersex people were considered unnatural anomalies and therefore it was justifiable and necessary to intervene surgically. It is evident, however, that the surgeries carried out to indulge nature are instead dictated by our cultural ideas on how a 'natural' body should be. Paradoxically, perhaps it would be more natural to accept different bodies as a manifestation, too, of the multiform nature.

### **Genital modifications: Female Genital Alterations and surgeries on Intersex children, is there really a difference?<sup>17</sup>**

Further proof of how fallacious it is to associate sex with nature and gender with culture is provided by other societies. If in Euro-American society the sex of intersex people is built through surgery and drugs so that unruly bodies are 'normalized', in other societies, equally, bodies need to be modified to construct gender, through the so-called 'female genital mutilation' (FGM). In this research, however, the term 'female genital mutilation' (FGM) will not be used in favour of less stigmatising expressions

---

<sup>12</sup> Ibid., 11.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Anne Fausto-Sterling, *Sexing the Body: Gender Politics and the Construction of Sexuality* (Basic Books 2000) 25.

<sup>16</sup> Ibid.

<sup>17</sup> As agreed with supervisor Arstein-Kerslake Anna this subchapter partially refers to an essay written by Sara Merlaratti in 2023 for the Irish Center for Human Rights - University of Galway.

such as 'female genital alterations' (FGA) and 'female genital surgery'. The decision to adopt less stigmatising language is precisely due to the similarities between non-Western genital alterations and surgeries practised in the West, such as those on intersex people, 'cosmetic female genital surgery' (FGCS), and 19th-century American clitoridectomies. Some might argue that by avoiding the term 'mutilation' this research intends to justify FGAs. On the contrary, this investigation aims to critically analyse all practices of genital alteration equally through a more critical reading of these phenomena, highlighting how they are all aimed at the construction of gender according to binary and heteronormative logic. Although there is no presumption to address the comparison of the various forms of genital alteration exhaustively, the intention is to provide guidelines as free as possible from ethnocentric considerations that brutalise 'other' practices while ignoring what happens in the West. It is a question of the universality of rights, in particular the principle of non-discrimination. While some of these practices may be more detrimental to human rights than others, all of them (including cosmetic genital surgery) are expressions of what sociologist Pierre Bourdieu calls 'symbolic violence': it is a form of power that is insidious. It materialises through the naturalisation of the will and acts because it is not recognised as such (it is thought of as the natural way of understanding things). This difficulty is because violence is not exercised by one actor against another actor but is produced through our naturalised ways of interpreting reality.<sup>18</sup>

Like early surgeries practised on intersex children, FGAs are performed on the bodies of millions of prepubertal girls who are unable to give informed consent and without medical justification.<sup>19</sup> The numbers of FGAs exceed those of intersex surgeries: an estimated 200 million people have undergone FGAs, most of them before the age of 15.<sup>20</sup> It is a documented phenomenon in 30 countries, mainly in Africa, the Middle East, and Asia, but due to migration, it is certainly also present in the West.<sup>21</sup> The international community is alarmed by health risks and it was precisely the health risks and the amount of healthy tissue removed that were the criteria chosen by the World Health Organisation (WHO) when it adopted a classification system for FGAs in 1997.<sup>22</sup> The FGAs were then divided into four categories:

---

<sup>18</sup> Pierre Bourdieu and Loïc JD Wacquant, *An Invitation to Reflexive Sociology* (Univ of Chicago Press 1992).

<sup>19</sup> WHO (World Health Organization), 'Female genital mutilation', <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>, accessed 24 April 2023.

<sup>20</sup> WHO (World Health Organization), 'Prevalence of female genital mutilation', [https://www.who.int/teams/sexual-and-reproductive-health-and-research-\(srh\)/areas-of-work/female-genital-mutilation/prevalence-of-female-genital-mutilation](https://www.who.int/teams/sexual-and-reproductive-health-and-research-(srh)/areas-of-work/female-genital-mutilation/prevalence-of-female-genital-mutilation), accessed 19 April 2023.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

- Type I: also known as "sunna circumcision", it consists of the partial or total removal of the clitoris.<sup>23</sup> This is and is the rarest type;<sup>24</sup>
- Type II: the most widespread genital modification,<sup>25</sup> it implies the partial or total removal of the clitoris and the labia minora.<sup>26</sup>
- Type III: also called “infibulation” and “pharaonic circumcision”, it is the most severe female genital modification, and worldwide it amounts to about 10%.<sup>27</sup> However, as the Public Policy Advisory Network on Female Genital Surgeries in Africa points out, this percentage also includes the surgeries carried out in health facilities and health conditions.<sup>28</sup> It consists of the “narrowing of the vaginal opening with the creation of a covering seal. The seal is formed by cutting and repositioning the labia minora, or labia majora. The covering of the vaginal opening is done with or without removal of the clitoral prepuce/clitoral hood and glans (Type I FGM)”.<sup>29</sup> After keeping the girl's legs bandaged for up to forty days, the result is a smooth surface, with nothing sticking out. A very small opening (about the size of a straw) allows the outflow of blood and urine. Being so narrow that it does not allow penetration, it is necessary to reopen it surgically upon marriage.<sup>30</sup>
- Type IV: this category includes all the other harmful practices carried out on the female genitals for non-medical reasons (such as puncture, piercing, incision, scraping, and cauterization).<sup>31</sup>

To demonstrate that both intersex surgeries and FGAs are ways of gender construction, an outline of research conducted in 1976 by anthropologist Janice Boddy in a small Sudanese village (Hofriyat, a pseudonym) located 200 km from Khartoum will be presented. In Sudan and in the village Boddy

---

<sup>23</sup> Ibid.

<sup>24</sup> Janice Boddy, ‘Violence Embodied?: Circumcision, Gender Politics, and Cultural Aesthetics’ [1998] *Rethinking Violence Against Women* 77, 82.

<sup>25</sup> Ibid., 81.

<sup>26</sup> World Health Organisation, ‘Types of female genital mutilation’, [https://www.who.int/teams/sexual-and-reproductive-health-and-research-\(srh\)/areas-of-work/female-genital-mutilation/types-of-female-genital-mutilation](https://www.who.int/teams/sexual-and-reproductive-health-and-research-(srh)/areas-of-work/female-genital-mutilation/types-of-female-genital-mutilation), accessed 19 April 2023.

<sup>27</sup> Public Policy Advisory Network on Female Genital Surgeries in Africa, ‘Seven Things to Know about Female Genital Surgeries in Africa’ (2012) 42 *Hastings Center Report* 19, 2.

<sup>28</sup> Ibid.

<sup>29</sup> World Health Organisation, ‘Types of female genital mutilation’, [https://www.who.int/teams/sexual-and-reproductive-health-and-research-\(srh\)/areas-of-work/female-genital-mutilation/types-of-female-genital-mutilation](https://www.who.int/teams/sexual-and-reproductive-health-and-research-(srh)/areas-of-work/female-genital-mutilation/types-of-female-genital-mutilation), accessed 19 April 2023.

<sup>30</sup> Janice Boddy, ‘Violence Embodied?: Circumcision, Gender Politics, and Cultural Aesthetics’ [1998] *Rethinking Violence Against Women* 77, 82.

<sup>31</sup> World Health Organisation, ‘Types of female genital mutilation’, [https://www.who.int/teams/sexual-and-reproductive-health-and-research-\(srh\)/areas-of-work/female-genital-mutilation/types-of-female-genital-mutilation](https://www.who.int/teams/sexual-and-reproductive-health-and-research-(srh)/areas-of-work/female-genital-mutilation/types-of-female-genital-mutilation), accessed 19 April 2023.

considered, infibulation (Type III) is the most widely practised form of genital modification,<sup>32</sup> although in recent decades a wider opening is left as only the front part of the labia majora is joined.<sup>33</sup> Aware, however, of the severity of this practice, before going there Boddy started from pre-understandings: like many people unfamiliar with the subject, she thought that FGAs were a form of control of female sexuality imposed by men on women, aimed at maximising the pleasure of the former and creating a patriarchal apparatus characterised by gender inequalities.<sup>34</sup> However, during her stay in the village, Boddy achieved an understanding that led her to rethink everything (which does not mean endorsing). It was surprising to discover that it is not men who impose infibulations, but women themselves, particularly the older ones.<sup>35</sup> Independent FGA researcher Lightfoot-Klein, having worked on the subject for years, writes that FGAs are ‘staunchly defended by women as a rite that is absolutely essential to the physical health and deportment [of ] these girls and to the social standing of the family in the community’.<sup>36</sup> Talking to local women, Boddy understands that this practice is intended to make girls clean (nazeef), smooth (na’im), and pure (tahir),<sup>37</sup> all the more so the term for circumcision at Hofriyat (ṭahūr) means ‘purification’.<sup>38</sup> It is an endogamic context, (i.e. people try to marry relatives or at most neighbours)<sup>39</sup> and being ‘pure’ is an essential condition for marriage.<sup>40</sup> Moreover, it is through marriage and motherhood that women can elevate their social position.<sup>41</sup> Ethnopsychiatrist Michel Erlich explains that the practice of FGAs ‘[...] is embedded in a cultural context that encodes it as a beautifying and enriching phenomenon without which girls do not become women, and will therefore never be able to marry, have some degree of economic security, and lead “full” female lives’.<sup>42</sup> Fertility (and not their sexual attractiveness) is the expression of women's indispensability. Consequently, circumcision emphasises female fertility by

---

<sup>32</sup> Janice Boddy, “Violence Embodied?: Circumcision, Gender Politics, and Cultural Aesthetics” [1998] *Rethinking Violence Against Women* 77, 82.

<sup>33</sup> *Ibid.*

<sup>34</sup> Janice Boddy, “The Normal and the Aberrant in Female Genital Cutting” (2016) 6 *HAU: Journal of Ethnographic Theory* 41, 41.

<sup>35</sup> Janice Boddy, ‘Violence Embodied?: Circumcision, Gender Politics, and Cultural Aesthetics’ [1998] *Rethinking Violence Against Women* 77, 83.

<sup>36</sup> Cited in Fiona Green, ‘From Clitoridectomies to “Designer Vaginas”: The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting’ (2005) 7 *Sexualities, Evolution & Gender* 153, 156.

<sup>37</sup> Janice Boddy, ‘Womb as Oasis: The Symbolic Context of Pharaonic Circumcision in Rural Northern Sudan’ (1982) 9 *American Ethnologist* 682, 687.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*, 682.

<sup>40</sup> *Ibid.*, 687.

<sup>41</sup> *Ibid.*

<sup>42</sup> Cited in Fiona Green, ‘From Clitoridectomies to “Designer Vaginas”: The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting’ (2005) 7 *Sexualities, Evolution & Gender* 153, 156.

de-emphasising their inherent sexuality.<sup>43</sup> Therefore, it is not directly a question of controlling female sexuality, but of constructing femininity itself. However, women in Sudan are often considered 'oversexed'<sup>44</sup> and it is believed locally that due to circumcision (particularly the severing of the clitoris) women are less likely to have extramarital or premarital affairs.<sup>45</sup> Nonetheless, the social production of virginity is a consequence, but not the primary purpose: the woman who has not been excised and infibulated is an open woman. This may seem meaningless, but in Sudanese society and many others, openness is considered a possible channel of contamination by malevolent forces.<sup>46</sup> Equally, bodily fluids are also considered contaminants.<sup>47</sup> Purity, therefore, characterised precisely by the absence of contamination, must be culturally produced through closure.

Another thorny issue is the belief that infibulation maximises male pleasure. However, Boddy disproves this presumption by presenting the behaviour of Hofriyat men. Since many of them frequent brothels where non-infibulated women work and prefer to marry less-excised women, it can be deduced that infibulation does not maximise male pleasure.<sup>48</sup> It is reasonable to assume that difficult and painful penetration is also a source of stress for men and causes them to enjoy sex less. Stress can also increase in the case of a new bride's failure to penetrate since it can seriously affect her husband's reputation.<sup>49</sup> It is also important to emphasise that penetration of an infibulated woman can also be painful for the man, causing penile abrasions,<sup>50</sup> infections, and psychological problems.<sup>51</sup>

A final proof that men are not the initiators of these practices is the fact that many of them decide not to cut their daughters or decide to subject them to 'sunna' circumcision when their families move to Khartoum.<sup>52</sup> Moreover, presumably, those same men also do not want their wives to be re-infibulated after giving birth.<sup>53</sup>

---

<sup>43</sup> Janice Boddy, 'Womb as Oasis: The Symbolic Context of Pharaonic Circumcision in Rural Northern Sudan' (1982) 9 *American Ethnologist* 682, 687.

<sup>44</sup> *Ibid.*, 685.

<sup>45</sup> *Ibid.*, 686.

<sup>46</sup> Janice Boddy, 'Violence Embodied?: Circumcision, Gender Politics, and Cultural Aesthetics' [1998] *Rethinking Violence Against Women* 77, 104.

<sup>47</sup> Ellen Gruenbaum, 'Sexuality Issues in the Movement to Abolish Female Genital Cutting in Sudan' (2006) 20 *Medical Anthropology Quarterly* 121, 126.

<sup>48</sup> Janice Boddy, 'Womb as Oasis: The Symbolic Context of Pharaonic Circumcision in Rural Northern Sudan' (1982) 9 *American Ethnologist* 682, 685.

<sup>49</sup> Janice Boddy, 'Violence Embodied?: Circumcision, Gender Politics, and Cultural Aesthetics' [1998] *Rethinking Violence Against Women* 77, 87.

<sup>50</sup> *Ibid.*

<sup>51</sup> Ellen Gruenbaum, 'Sexuality Issues in the Movement to Abolish Female Genital Cutting in Sudan' (2006) 20 *Medical Anthropology Quarterly* 121, 128.

<sup>52</sup> Janice Boddy, 'The Normal and the Aberrant in Female Genital Cutting' (2016) 6 *HAU: Journal of Ethnographic Theory* 41, 55.

<sup>53</sup> *Ibid.*



Thus, in light of these discoveries and re-evaluations, Boddy understands that FGAs are not directly to do with the control of sexuality (as she thought), but with the social production of gender. Indeed, according to a logic opposite to the Western one, in Sudan it is believed that children are not born differentiated by gender.<sup>54</sup> It is believed that males have elements of femininity and vice versa and that differentiation, therefore, must be produced ritually and culturally.<sup>55</sup> Common to many cultures, for example, is the belief that the clitoris is 'male' and that therefore removing it prevents the girl from developing typically male behavioural traits.<sup>56</sup> Indeed, Lightgoot-Klein even reported on the widespread belief in Sudan that the clitoris, if not cleaved, would grow to compete in length with the male penis.<sup>57</sup> Creating and enhancing differentiation is, therefore, necessary to become adults and get married, especially in a context characterised by a rigid polarisation and complementarity of the sexes.<sup>58</sup> Gender binarism is produced by making women and men look less like each other physically, sexually, and socially. Janice Boddy's words accurately describe this process:

‘While the female reproductive organs are covered, that of the male is uncovered, or as one Sudanese author states, ‘unveiled’ [...]. Circumcision, then, accomplishes the social definition of a child’s sex [...] by removing physical characteristics deemed appropriate to his or her opposite: the clitoris and other external genitalia, in the case of females, the prepuce of the penis, in the case of males.’<sup>59</sup>

Just as the parents of intersex children decide to sign the consent to the normalisation operations in the name of the 'best interest' of the children, so too do the parents who want to submit their children to the FGAs do so for the same reason. Sudanese parents are aware of the consequences of genital alterations, but FGAs continue to be practised because in those contexts they fall under the definition of well-being. Moreover, the social production of gender is not the only result of FGAs: as previously mentioned, the genitals obtained also fit into aesthetic canons related to being clean, smooth, closed, and pure. The similarity with the interventions practised on intersex children, aimed at conforming the appearance of their genitals to how they are expected, is therefore evident. Indeed, as Janice Boddy

---

<sup>54</sup> Janice Boddy, ‘Womb as Oasis: The Symbolic Context of Pharaonic Circumcision in Rural Northern Sudan’ (1982) 9 *American Ethnologist* 682, 688.

<sup>55</sup> Ibid.

<sup>56</sup> Fiona Green, ‘From Clitoridectomies to “Designer Vaginas”: The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting’ (2005) 7 *Sexualities, Evolution & Gender* 153, 157.

<sup>57</sup> Hanny Lightfoot-Klein cited in Fiona Green, ‘From Clitoridectomies to “Designer Vaginas”: The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting’ (2005) 7 *Sexualities, Evolution & Gender* 153, 157.

<sup>58</sup> Ibid, 687.

<sup>59</sup> Ibid, 687-688.

reminds us, 'aesthetic conventions are never neutral, they are political. They also are strongly normalising'.<sup>60</sup>

### **Gender binarism and heteronormativity: how the West shapes bodies for these principles**

'Traditional' FGAs are probably the most famous example of genital modification and are strongly criticised and opposed by the international community. However, by analysing the similarities between 'traditional' FGAs and those practised in the West, it becomes evident how hypocritical the Western narrative of FGA is: other people's behaviour can easily be called 'wrong', much more difficult to critically analyse one's own. Throughout history, genital modification has not been a foreign practice to the West either. A closer look reveals that FGAs are not only practised by certain cultural or religious groups<sup>61</sup> but are also widespread in the West under other forms and with similar reasons. Surgeries on intersex children, clitoridectomies practised in the 19th century, male circumcision, and female genital cosmetic surgeries are all practices related to gender construction, reaffirm the assumption that there are only two sexes, assume compulsory heterosexuality, emphasise the role of penetration, and are means by which other types of sexuality and pleasure are demonised. While interventions on intersex bodies will be the subject of the next chapter, this section aims to demonstrate this claim through a critical analysis of genital surgery in the West.

#### Victorian Female Genital Modifications

Thanks to Herodotus, we know that circumcision has probably been practised for thousands of years, having documented its existence in Egypt during the fifth century BCE.<sup>62</sup> Thanks to a Greek papyrus preserved in the British Museum, we also know that the practice of genital modification was not abandoned, as it is dated 163 BCE.<sup>63</sup> Finally, in ancient times even Christianity was not immune to the practice of FGA, as it is also documented in some ancient writings as a method of controlling

---

<sup>60</sup> Janice Boddy, 'The Normal and the Aberrant in Female Genital Cutting' (2016) 6 HAU: Journal of Ethnographic Theory 41, 49.

<sup>61</sup> Fiona Green, 'From Clitoridectomies to "Designer Vaginas": The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 Sexualities, Evolution & Gender 153, 159.

<sup>62</sup> Ibid., 160.

<sup>63</sup> Ibid.



female sexuality.<sup>64</sup> Interestingly, the motivation of the early Christians remained essentially unchanged through the centuries: from the second century, clitoridectomy was considered a cure for lesbianism, from the tenth century for masturbation, and from the seventeenth century for nymphomania and hypertrophic genitals.<sup>65</sup> However, it was probably from the Victorian era (1839-1901) onwards that clitoridectomy took hold seriously as a medical practice inscribed in the fight against 'widespread general sexual immorality'.<sup>66</sup> At that time, the importance of the clitoris in female pleasure was already realised: it was considered the female counterpart of the penis,<sup>67</sup> and physicians were aware of how innervated the clitoris is and of its erectile capacity.<sup>68</sup> In Victorian times, the only female orgasm considered possible was the clitoral one, thus considering this small organ the source of sexual arousal and female pleasure.<sup>69</sup> However, at that time there was only one 'healthy' and 'normal' way to channel the sexual instinct: penetrative sex for procreative purposes with one's husband.<sup>70</sup> Moreover, the middle class feared that the growing working class and new immigrants would corrupt customs and 'degrade the race'.<sup>71</sup> Consequently, fulfilling one's role as a mother was considered a duty not only to the individual but also to society. Women, especially middle-class women, were considered fragile and delicate and therefore needed certain precautions to be protected and to be good wives and mothers.<sup>72</sup> The most fragile part of a woman's body was her reproductive system, which could be affected by numerous diseases and also affect a woman's mental health.<sup>73</sup> Indeed, it was thought that masturbation caused a series of disorders such as insomnia, exhaustion, epilepsy, leucorrhoea, uterine haemorrhage, and convulsions and that in the most serious cases, it could even cause death.<sup>74</sup> The founder of modern endocrinology, Charles Brown-Séquard, claimed

---

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid., 160-161.

<sup>67</sup> Sarah W Rodriguez, 'Rethinking the History of Female Circumcision and Clitoridectomy: American Medicine and Female Sexuality in the Late Nineteenth Century' (2008) 63 *Journal of the History of Medicine and Allied Sciences* 323, 328.

<sup>68</sup> Ibid., 329-330.

<sup>69</sup> Ibid., 328-330.

<sup>70</sup> Ibid., 326.

<sup>71</sup> Fiona Green, 'From Clitoridectomies to "Designer Vaginas": The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 *Sexualities, Evolution & Gender* 153, 161.

<sup>72</sup> Ibid., 160-161.

<sup>73</sup> Ibid.

<sup>74</sup> Sarah W Rodriguez, 'Rethinking the History of Female Circumcision and Clitoridectomy: American Medicine and Female Sexuality in the Late Nineteenth Century' (2008) 63 *Journal of the History of Medicine and Allied Sciences* 323, 331-332.; John Studd, 'A Comparison of 19th Century and Current Attitudes to Female Sexuality' (2007) 23 *Gynecological Endocrinology* 673, 674.; Fiona Green, 'From Clitoridectomies to "Designer Vaginas": The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 *Sexualities, Evolution & Gender* 153, 161.

that masturbation could even cause blindness.<sup>75</sup> Essentially, as scholar Sarah Rodriguez has observed, 'Sexual behavior like masturbation was problematic because it routed sex away from procreation and instead spent sexual energy recklessly.'<sup>76</sup> Considering all these elements, the physicians of the time considered it logical that if a woman led an abnormal sexual life (masturbating or not wanting to have sex with her husband) or if she had one of those diseases caused by masturbation, it was necessary to intervene surgically on that very organ that they considered the source of the female sexual instinct: the clitoris.<sup>77</sup> Interestingly, the clitoris could be both the source of a healthy sex life and the cause of abnormal and unhealthy behaviours. Mr. Isaac Baker Brown, regarded in the West as the 'inventor of medical clitoridectomy',<sup>78</sup> believed that removing the clitoris could free women from the plagues of masturbation and nymphomania, as well as its consequences, including epilepsy, heavy and painful periods, depression and various mental disorders such as hysteria and dementia.<sup>79</sup> Baker Brown had set up his private clinic (the London Surgical Home) designed to perform clitoridectomies.<sup>80</sup> He became one of the leading exponents of this practice, becoming a well-known figure in both England and the USA.<sup>81</sup> Although in 1887 Baker Brown and his practices were criticised by some peers and he was expelled from the British medical establishment,<sup>82</sup> the *British Medical Journal* continued to spread the idea that masturbation could be the cause of diseases.<sup>83</sup> It is therefore not surprising that clitoridectomies became a common practice not only in Great Britain but also in Europe and the United States.<sup>84</sup> Although clitoridectomy became popular starting in the 1860s thanks to Baker-Brown from London and Brown-Séquard from Paris, some female genital treatments were practised even

---

<sup>75</sup> John Studd, 'A Comparison of 19th Century and Current Attitudes to Female Sexuality' (2007) 23 *Gynecological Endocrinology* 673, 674.

<sup>76</sup> Sarah W Rodriguez, 'Rethinking the History of Female Circumcision and Clitoridectomy: American Medicine and Female Sexuality in the Late Nineteenth Century' (2008) 63 *Journal of the History of Medicine and Allied Sciences* 323, 331-332.

<sup>77</sup> Sarah W Rodriguez, 'Rethinking the History of Female Circumcision and Clitoridectomy: American Medicine and Female Sexuality in the Late Nineteenth Century' (2008) 63 *Journal of the History of Medicine and Allied Sciences* 323, 326.; John Studd, 'A Comparison of 19th Century and Current Attitudes to Female Sexuality' (2007) 23 *Gynecological Endocrinology* 673, 674.

<sup>78</sup> Fiona Green, 'From Clitoridectomies to "Designer Vaginas": The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 *Sexualities, Evolution & Gender* 153, 160.

<sup>79</sup> John Studd, 'A Comparison of 19th Century and Current Attitudes to Female Sexuality' (2007) 23 *Gynecological Endocrinology* 673, 674.

<sup>80</sup> Fiona Green, 'From Clitoridectomies to "Designer Vaginas": The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 *Sexualities, Evolution & Gender* 153, 160.

<sup>81</sup> *Ibid.*

<sup>82</sup> *Ibid.*, 163.

<sup>83</sup> Helen E. O'Connell, Britt Haller, Venetia Hoe, 'Moving from Critical Clitoridectomy' (2020) 60 *Australian and New Zealand Journal of Obstetrics and Gynaecology* 637, 637.

<sup>84</sup> *Ibid.*; John Studd, 'A Comparison of 19th Century and Current Attitudes to Female Sexuality' (2007) 23 *Gynecological Endocrinology* 673, 673-675.

earlier:<sup>85</sup> The scholar John Studd reports that 'Initially, leaches were applied to the vulva and anus, the clitoris was cauterized, and the first known therapeutic function of X-rays was to irradiate and destroy the clitoris in these women.'<sup>86</sup> Over the years essentially four practices emerged: the removal of smegma, the separation of the adhesions, circumcision, and clitoridectomy.<sup>87</sup> The first three were practised when the problem of masturbation or lack of sexual appetite was attributed to a fixable condition of the clitoris.<sup>88</sup> Clitoridectomy, on the other hand, was reserved for the most serious cases, in which it was suspected that the woman's health was at serious risk due to masturbation.<sup>89</sup> The removal of the smegma was the practice considered the least invasive and consisted of the removal of secretions produced from the glans of the foreskin and the labia minora.<sup>90</sup> It was believed that smegma caused irritation, which led the woman to manipulate the clitoris to soothe the irritation and thus favour the onset of masturbation.<sup>91</sup> This theory, which was part of a broader theory called 'reflex neurosis', therefore assumed that masturbation was a physiological response to irritation and not a voluntary act performed by women.<sup>92</sup> Indeed, at the time, women were not considered sexual beings without their husbands, and consequently, another explanation for masturbation that did not involve volition had to be found.<sup>93</sup> In patients with an adherent foreskin, however, cleaning the smegma was not enough. By bending down the clitoris, the foreskin could imprison the smegma and therefore a more radical operation was required to solve the problem.<sup>94</sup> The doctors, therefore, proceeded with the separation of these adhesions. The last attempt before resorting to clitoridectomy was circumcision, i.e. removal of the clitoral foreskin.<sup>95</sup> As Rodriguez reports, it was by no means a painless operation: 'Dr. Eugene Bernardy described the removal of the hood as a simple operation that "is very painful" and "demands the use of cocaine" but that did not take long to perform. With the removal of the hood, these women experienced the pleasure of sexual intercourse.'<sup>96</sup> This technique was resorted to when the production of smegma was frequent and therefore its removal by the doctor

---

<sup>85</sup> John Studd, 'A Comparison of 19th Century and Current Attitudes to Female Sexuality' (2007) 23 *Gynecological Endocrinology* 673, 674.

<sup>86</sup> *Ibid.*

<sup>87</sup> Sarah W Rodriguez, 'Rethinking the History of Female Circumcision and Clitoridectomy: American Medicine and Female Sexuality in the Late Nineteenth Century' (2008) 63 *Journal of the History of Medicine and Allied Sciences* 323.

<sup>88</sup> *Ibid.*, 333.

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*, 326.

<sup>91</sup> *Ibid.*, 334.

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*, 332, 334.

<sup>94</sup> *Ibid.*, 335.

<sup>95</sup> *Ibid.*, 337.

<sup>96</sup> *Ibid.*, 346.

could be complicated.<sup>97</sup> Finally, the removal of the entire organ was reserved for the most severe cases, in which the sexual instinct was profoundly altered.<sup>98</sup> Those suffering from nymphomania, therefore, were subjected to clitoridectomy. The Baker-Brown technique consisted of excising the clitoris using scissors and then covering the wound with lint. For pain, he administered opium via the rectum.<sup>99</sup> Alternatively, as reported in the *British Medical Journal*, Baker-Brown used hooked forceps and cauterised not only the clitoris but also the labia and vulva.<sup>100</sup>

Therefore, it is evident that the clitoris was still considered the basis of possible sexual disorders. What drove a woman to masturbate were still physical conditions, and in turn, irritation and constant sexual arousal were believed to stretch and thicken the clitoris.<sup>101</sup> In reality, those women probably exhibited intersex characteristics, but at the time what would later be called 'hermaphroditism' was not attributed to a natural condition but to continuous stimulation.<sup>102</sup> Although indirectly, therefore, clitoridectomies and all the other practices listed above can also in many cases be traced back to the long history of human rights violations of intersex people.

At the end of the 19th century, doctors realised that the cause of a woman's masturbation was psychological and not physiological, related to the clitoris.<sup>103</sup> Nonetheless, they considered it a symptom of a psychological disorder.<sup>104</sup> While this insight promoted the decline of female genital interventions, it also led to women who masturbated being considered mentally ill. The two theories, the physiological and the psychological, co-existed during the late nineteenth and into the early twentieth centuries.<sup>105</sup>

It is difficult to establish the number of these procedures, but the debate within the medical societies and medical journals of the time in both England and the United States was lively.<sup>106</sup> This points to the hypothesis that they were not procedures practised by some extravagant physician, but were

---

<sup>97</sup> Ibid., 336

<sup>98</sup> Ibid., 337.

<sup>99</sup> Fiona Green, 'From Clitoridectomies to "Designer Vaginas": The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 *Sexualities, Evolution & Gender* 153-162.

<sup>100</sup> Ibid.

<sup>101</sup> Sarah W Rodriguez, 'Rethinking the History of Female Circumcision and Clitoridectomy: American Medicine and Female Sexuality in the Late Nineteenth Century' (2008) 63 *Journal of the History of Medicine and Allied Sciences* 323, 331.

<sup>102</sup> Ibid., 328.

<sup>103</sup> Ibid., 333, 340.

<sup>104</sup> Ibid., 340.

<sup>105</sup> Ibid., 340-341.

<sup>106</sup> Fiona Green, 'From Clitoridectomies to "Designer Vaginas": The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 *Sexualities, Evolution & Gender* 153, 162.

instead well-known and practised. The scholar Isabella Gunning reports that the surgeries practised by Baker Brown alone numbered several hundred if not several thousand.<sup>107</sup>

In North America, clitoridectomies continued to be practised until the 1940s and 1950s against nymphomania, masturbation, and certain psychological disorders. The belief that clitoridectomy could also be useful against lesbianism also persisted.<sup>108</sup> Finally, although larger-than-average clitorises were also corrected in the past, in the 20th century surgeries on these bodies were no longer performed to soothe irritation, but rather to 'normalise' them.<sup>109</sup> Indeed, from the mid-twentieth century onwards, surgeries to 'correct' the bodies we now call intersex became the 'worthy' successors of Victorian clitoridectomies. Ensuring gender dimorphism and heteronormativity was fast becoming a priority.

For about a century, the bodies of hundreds of women have been modified to realign their sexual instinct, redirecting it towards the only possible direction: heterosexual sex for procreative purposes with their husbands. Knowing well the sensitivity of the clitoris and its characteristics, physicians considered it the cause of 'abnormal' sexual behaviour. The clitorises they labelled 'unhealthy' were promptly fixed to make women's bodies and behaviours better suited to their husbands. They didn't hesitate to modify the clitoris or even eliminate it to ensure compulsory heterosexuality. The desires and needs of women mattered little if they did not adapt to those of men.

### The growing trend of Female Genital Cosmetics Surgeries

A much more recent legacy of Victorian clitoridectomies is the Female Genital Cosmetics Surgeries (FGCS). Like surgeries performed on intersex people, FGCSs are not dictated by medical needs, but rather aesthetic ones. Practised mainly in the West, it is difficult to establish the exact number because most are performed in the private sector.<sup>110</sup> There is no doubt, however, that it is a rapidly growing phenomenon in the West.

Women who undergo them can choose from a wide range of types, the most popular of which are labiaplasty, vaginoplasty, hymenoplasty, and vaginal tightening. Of them all, the most popular is

---

<sup>107</sup> Ibid.

<sup>108</sup> Ibid., 163.

<sup>109</sup> Ibid., 163-164.

<sup>110</sup> Janice Boddy, 'The Normal and the Aberrant in Female Genital Cutting' (2016) 6 HAU: Journal of Ethnographic Theory 41, 45.

probably labiaplasty, so much so that American Dr. Gray Alter reports that 90% of patients, for example, have requested a labiaplasty for cosmetic reasons.<sup>111</sup>

The aesthetic standards of female genitalia are a complicated issue, also steeped in racism and constantly evolving: over time, larger-than-average vulvas have aroused curiosity and horror. In colonial times, the genitals of Khoisan women (generally more pronounced) were studied by naturalists of the time and their observations contributed to the construction of racist rhetoric.<sup>112</sup> The story of Saartjie 'Sarah' Baartman (nicknamed the 'Hottentot Venus' at the time), is sad evidence not only of Western interest in larger female genitalia but also of how this interest could affect the lives of these women. Still today, in the West, these aesthetic standards are becoming increasingly narrow: in 2000, labia that protruded 4 cm from the base was defined as 'hypertrophic'; in the following years, this measurement has decreased more and more, to 2 cm, and thus stipulates that the labia minora should not protrude from the labia majora.<sup>113</sup>

This change in aesthetic standards and the growing insecurity of young girls could be due to the now common trend of genital hair removal and the rapid spread of pornography.<sup>114</sup> Without hair, the external genitalia are more easily observed and girls have begun to compare theirs to those of porn actresses. Furthermore, pornographic material is also shaping the expectations of young boys concerning female genitalia, thinking that those offered online represent normality. Instead, genitals are characterised by a multiplicity of different forms, but the 'standard' vulvas proposed by pornography have also been digitally or surgically altered.<sup>115</sup> As a result, therefore, women doubt the appearance of their genitals by comparing them with those proposed by the media and they feel the pressure to meet the male expectations. As in the case of FGAs, Victorian clitoridectomies, and intersex surgeries, FGCSs are also due to the social definition of a standard and its naturalisation. Bodies that do not conform to the established norm are stigmatised and require 'correction'. Indeed, as scholar Sara Rodrigues states about FGCSs, 'the disciplinary power of anatomo-politics renders the

---

<sup>111</sup> Fiona Green, 'From Clitoridectomies to 'Designer Vaginas': The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 *Sexualities, Evolution & Gender* 153, 172-173.

<sup>112</sup> Janice Boddy, 'Re-Thinking the Zero Tolerance Approach to FGM/c: The Debate around Female Genital Cosmetic Surgery' (2020) 12 *Current Sexual Health Reports* 302, 309.

<sup>113</sup> Janice Boddy, 'Re-Thinking the Zero Tolerance Approach to FGM/c: The Debate around Female Genital Cosmetic Surgery' (2020) 12 *Current Sexual Health Reports* 302, 307.

<sup>114</sup> Janice Boddy, 'The Normal and the Aberrant in Female Genital Cutting' (2016) 6 *HAU: Journal of Ethnographic Theory* 41, 43.; Janice Boddy, 'Re-Thinking the Zero Tolerance Approach to FGM/c: The Debate around Female Genital Cosmetic Surgery' (2020) 12 *Current Sexual Health Reports* 302, 308.; Fiona Green, 'From Clitoridectomies to 'Designer Vaginas': The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 *Sexualities, Evolution & Gender* 153, 174.

<sup>115</sup> Janice Boddy, 'Re-Thinking the Zero Tolerance Approach to FGM/c: The Debate around Female Genital Cosmetic Surgery' (2020) 12 *Current Sexual Health Reports* 302, 308.



individual body docile by inviting women to engage in self-surveillance and self-diagnose any aesthetic and/or functional abnormalities of their vulvas and vaginas, respectively'.<sup>116</sup>

The fact that FGCSs are practised in healthcare facilities does not make them unrelated to possible health risks, which are the same as those of 'traditional' FGA: 'painful intercourse, loss of sensitivity, scarring and excessive bleeding, and haemorrhage [...]. Lingering pain from nerve damage, urinary tract infections, and sterility'.<sup>117</sup> The incidence is also not very low: it is estimated that between 4% and 18% of patients may suffer from at least one of these complications.<sup>118</sup> However, although FGCSs fall under the WHO definition of 'FGM',<sup>119</sup> FGCS are not afforded the same indignation and desire for eradication as 'traditional' FGAs. It is not even the age of the patients that differentiates 'traditional' practices from Western ones: social pressure pushes many adolescents to doubt their genitals and FGCSs are also practised on teenage girls (or even as young as ten).<sup>120</sup> Since 2019, however, the Aesthetic Society (formerly called The American Society for Aesthetic Plastic Surgery) has raised the minimum age to 17.<sup>121</sup> Furthermore, intersex interventions occur not long after birth, long before the child can make decisions for himself and his body.

Not even FGCSs' aesthetic canons seem to be different from Sudanese FGAs, as noted by Janice Boddy: for both, the genital area must be 'smooth and clean, lacked protrusions, had everything hidden and neatly tucked away'.<sup>122</sup> Both Western women and Sudanese women use whitening products and treatments: as a remnant of the colonial era, Sudanese women also consider 'whiteness' an important aesthetic canon, associating it with purity; on the other hand, Western FGCS patients seek genitals as different as possible from those of the Hottentot Venus, and indeed the advertisements of the clinics portray almost exclusively white women.<sup>123</sup> Furthermore, the scholar Lenore Manderson has observed that at the Melbourne main women's hospital, Anglo-Australian women can have their genitalia modified (even receive a hymenoplasty) 'for psychological (and social) rather than physiological

---

<sup>116</sup> Sara Rodrigues, 'From Vaginal Exception to Exceptional Vagina: The Biopolitics of Female Genital Cosmetic Surgery' (2012) 15 *Sexualities* 778, 786.

<sup>117</sup> Fiona Green, 'From Clitoridectomies to 'Designer Vaginas': The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 *Sexualities, Evolution & Gender* 153, 175.

<sup>118</sup> Janice Boddy, 'Re-Thinking the Zero Tolerance Approach to FGM/c: The Debate around Female Genital Cosmetic Surgery' (2020) 12 *Current Sexual Health Reports* 302, 309.

<sup>119</sup> 'Female genital mutilation (FGM) comprises all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons. The practice has no health benefits for girls and women and cause severe bleeding and problems urinating, and later cysts, infections, as well as complications in childbirth and increased risk of newborn deaths.' WHO (World Health Organization), 'Female genital mutilation', <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>, accessed 20 June 2023.

<sup>120</sup> Janice Boddy, 'Re-Thinking the Zero Tolerance Approach to FGM/c: The Debate around Female Genital Cosmetic Surgery' (2020) 12 *Current Sexual Health Reports* 302, 305.

<sup>121</sup> *Ibid.*

<sup>122</sup> *Ibid.*

<sup>123</sup> Lenore Manderson, 'Local Rites and Body Politics' (2004) 6 *International Feminist Journal of Politics* 285, 308-309.

reasons'<sup>124</sup> and that after giving birth midwives do not say no to the request to receive an extra stitch or two for the husbands.<sup>125</sup> However, in the same hospital, immigrant women who ask to be re-infibulated (so that the appearance of their genitals will return to what they should have been according to their aesthetic standards and because of the loss of tone) are denied the request.<sup>126</sup>

### Conclusions

Therefore, it is evident that despite the numerous similarities between Western and non-Western practices a double standard is applied. These are very similar operations and are dictated by substantially the same aesthetic canons. Aesthetic and social canons are the engine that pushes women and their families to undergo genital modifications. It would therefore be legitimate to ask why FGCSs are not criminalised while 'traditional' FGAs are. After all, all of these practices are infused with socio-cultural dictates about gender, heteronormativity, and sexual binarism. Not even age is a valid distinction, since until a few years ago in America girls younger than 17 could also undergo FGCS. Finally, there is often a tendency to consider Western women with free will and non-Western women as victims of their socio-cultural context, but this is a victim rhetoric that ignores the similarities and pressures present ubiquitously.

The intent of this chapter is not to justify or condemn some forms of genital modification rather than others, but rather to show how these practices, in their similarity, are all modes of gender construction. And building gender often involves violence.

---

<sup>124</sup> Ibid., 294.

<sup>125</sup> Ibid., 294, 297.

<sup>126</sup> Ibid.



## CHAPTER II: PATHOLOGISATION AND MEDICALISATION OF INTERSEX BODIES: THE ITALIAN CASE AND A LOOK AT THE INTERNATIONAL SCENE

### **When the body is a social problem: control and 'normalisation' of intersex bodies in the late 19th and 20th century**

In the previous chapter, an attempt was made to prove not only that every mode of gender construction is violent, but also the fallacy of dichotomies. Starting from the common belief that sex belongs to the domain of nature and gender to that of culture, it was instead shown how nature and culture, sex, and gender are not absolute and independent categories, but rather profoundly interconnected and subject to change. It was observed how the Western idea that the 'natural' aspect of sex is the form that genitals have at birth is not ubiquitously shared. Indeed, in both Western and non-Western contexts, it is considered necessary to culturally intervene on bodies for the 'natural' aspect of sex to be affirmed. Traditional FGA and FGCS are some examples of this. The most exemplary, however, is probably that of pharmacological and/or surgical interventions on the bodies of intersex people. Intersex bodies are living proof that biological reality does not end in the male/female and cannot be limited by sex/gender binarism. Indeed, by 'intersex' we mean those people with atypical chromosomal, gonadal, and anatomical sexual characteristics. 'Atypical' because the male/female dichotomy is one of the most naturalised and has only begun to be questioned in recent years.

#### The terminological debate and the incidence of intersex variations

In this research, the term "intersex" is used to designate those who in the past were called 'hermaphrodites'. It was precisely this term that was chosen because it is one that many activists and intersex associations, academics, and medical professionals consider to be the least stigmatising of those proposed to date.<sup>127</sup> The term originated in the late 19th century to refer to both hermaphrodite and homosexual persons.<sup>128</sup> Until then, indeed, intersex people were called 'hermaphrodites', a term that is now considered derogatory and therefore its use has decreased dramatically. Today, 'intersex'

---

<sup>127</sup> Ibid.

<sup>128</sup> Georgiann Davis and Sharon Preves, 'Pensare l'intersessualità: 25 anni di attivismo, mobilitazione e cambiamento' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 45, 47.

and 'intersexuality' are much preferred expressions, so much so that behind the letter "i" of the acronym LGBTQIA+ is "intersex". However, during the 2005 Consensus Conference held in Chicago, the term Disturbs of Sexual Development (DSD) was proposed and since then many (especially in the medical field) have opted for it. This terminology makes it clear that intersexuality is a condition independent of sexual orientation and gender identity.<sup>129</sup> However, it also runs the risk of stigmatising and pathologising a condition that in most cases does not cause health damage.<sup>130</sup> Moreover, some research has shown that some doctors using the DSD terminology have reclaimed medical authority over intersex bodies, which was called into question in the 1990s and 2000s. In this situation, since it is considered a 'disorder', some doctors continue to practise 'normalisation' surgeries, justifying them on medical grounds.<sup>131</sup> If there is a will to continue using the acronym 'DSD' one solution could be the one proposed by scholar Michela Balocchi: she rarely uses the acronym 'DSD', however, meaning 'differences (or variations) of sexual development', preferring therefore a less stigmatising term of 'disorders'.<sup>132</sup> On the other hand, she also pointed out how the term 'intersex' can be useful in de-constructing sex/gender binarism and highlighting socio-cultural constructions.<sup>133</sup> In light of all these considerations, this research adopts the terminology intersex/intersexuality, in the hope however of not offending those who do not identify with it.

### Are humans biologically dimorphic?

Although the world is perceived as rigidly dimorphic, in reality, human biology and aetiology are more multifaceted than they appear. Many even complex animals and plants have no sex at all and some have more than two sexes.<sup>134</sup> Various types of fish can change sex several times during their lifetime. Regarding humans, Anne Fausto Sterling stated in an interview that: 'sex is neither a continuum nor is it strictly dimorphic',<sup>135</sup> meaning by continuum the complete absence of bimodality

---

<sup>129</sup> Michela Balocchi, 'The medicalization of intersexuality and the sex/gender binary system: a look on the Italian case' (2014) 6 Les Online 65, 66.

<sup>130</sup> Ibid.

<sup>131</sup> Georgiann Davis and Sharon Preves, 'Pensare l'intersessualità: 25 anni di attivismo, mobilitazione e cambiamento' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 45, 64.

<sup>132</sup> Michela Balocchi, 'The medicalization of intersexuality and the sex/gender binary system: a look on the Italian case' (2014) 6 Les Online 65, 66.

<sup>133</sup> Ibid., 66-67.

<sup>134</sup> John Dupré, 'Gender and the End of Biological Determinism' in Jude Browne (Ed.), *Why Gender?* (Cambridge University Press 2021), 3.

<sup>135</sup> Anne Fausto-Sterling, 'On the Critiques of the Concept of Sex: An Interview with Anne Fausto-Sterling' (2016) 27 differences 189, 189.

and thus a continuous gradation, and by dimorphism the absolute lack of overlap in reproductive anatomy.<sup>136</sup> The existence of persons with intersex characteristics is by no means negligible, not even numerically. Although it is difficult to determine the exact percentage of intersexual birthrates due to the invisibility surrounding them, we can rely on the research conducted by gender studies expert Anne Fausto-Sterling and some Brown University undergraduates. They found that people with chromosomal, gonadal, hormonal, and genital exceptions to sexual binarism account for about 1.7% of the population.<sup>137</sup> Additionally, scholar Melanie Blackless also included cases of mild hypospadias and late-onset congenital adrenal hyperplasia in the count, raising the percentage to 2%.<sup>138</sup> Moreover, in most cases, the intersex condition is not visible and only one out of every 2000 births is at risk of undergoing surgery.<sup>139</sup> However, different populations have much higher rates of intersexuality than others.<sup>140</sup> It is therefore clear that humans are not dimorphic in an absolute sense, but that they are nearly dimorphic. However, it is important to remember that the concept of intersex is a socio-cultural interpretation of physiological aspects, and therefore subject to change depending on location and historical context. Consequently, it is reasonable to think that as time goes on, the concept of intersexuality itself may evolve and change, even and especially as it relates to the concept of gender in a general context of the erosion of the dividing lines between the sexes.

From silence to having a voice: how intersex surgeries went from being recommended to condemned

The history of violence against people with intersex characteristics has ancient origins. Dionysius of Halicarnassus reports that Romulus (the first king of Rome) had passed a law allowing 'malformed' or 'monster' babies to be killed so as not to 'contaminate' the rest of the population. Since intersex babies in Rome were considered in that way, they were therefore thrown into the river Tiber out of sight of the population.<sup>141</sup>

---

<sup>136</sup> Anne Fausto-Sterling, 'On the Critiques of the Concept of Sex: An Interview with Anne Fausto-Sterling' (2016) 27 *differences* 189, 191.

<sup>137</sup> Anne Fausto-Sterling, 'The Five Sexes, Revisited' (2000) 40 *The Sciences* 18, 19.

<sup>138</sup> Michela Balocchi, 'Un apparente paradosso. Le pratiche mediche di gestione dell'intersessualità in Italia' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 109, 117.

<sup>139</sup> Georgiann Davis and Sharon Preves, 'Pensare l'intersessualità: 25 anni di attivismo, mobilitazione e cambiamento' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 45, 46.

<sup>140</sup> Anne Fausto-Sterling, 'The Five Sexes, Revisited' (2000) 40 *The Sciences* 18, 19.

<sup>141</sup> Daniel J García López, 'Senza diritti. La nuda vita intersex e lo stato di eccezione' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 181, 182-183.

In later centuries, intersex people were often burnt at the stake or forced to live as one of the two socially accepted sexes.<sup>142</sup> Death sentences decreased from 1614 onwards when the physician Jean Riolan stated that hermaphrodites did not deserve death, but that it would be sufficient to identify and standardise them.<sup>143</sup> It was therefore necessary to identify their 'true sex' and check that they behaved accordingly. Sociologist Michel Foucault observed how the Age of Enlightenment moved from the death penalty to monitoring.<sup>144</sup> At that time, people were beginning to obtain legal guarantees and therefore torture or death penalties could no longer be carried out as easily as in the past. Punishment became more sophisticated and less expensive, no longer administered by judges but by doctors. Hermaphrodites were spared their lives but at the cost of always living under strict medical supervision and with the stigma of monstrosity.<sup>145</sup> Between the end of the 18th and the beginning of the 19th century, all the medical advances of the time were put at the service of the State and its new biopolitical system.<sup>146</sup> In this system, citizens' bodies were studied and controlled, and of course, gender and sexuality were not excluded either. The protection of state welfare became central and a new dichotomy, that of normality and pathology, began to spread.<sup>147</sup> Therefore, hermaphrodites were then classified as pathological because by existing they undermined binarism, heteronormativity and heterosexuality.<sup>148</sup> At that moment, society became, in Foucault's own words, a 'society of normalisation'.<sup>149</sup>

As mentioned above, most intersex variations are not visible, and especially in those cases where the chromosomes did not match the gonads or the external genitalia, nothing could be noticed. Therefore, before medicine made such progress that it was considered necessary to intervene on intersex bodies, most of them led normal lives without being noticed.<sup>150</sup> Today, however, medical technologies such as imaging and chromosome diagnosis are available. Thanks to these instruments, doctors can also diagnose intersex traits such as androgen insensitivity syndrome (AIS).<sup>151</sup> Often, however, the

---

<sup>142</sup> Ibid., 183.

<sup>143</sup> Ibid., 185.

<sup>144</sup> Ibid., 185-186.; Anne Fausto-Sterling, *Sexing the Body: Gender Politics and the Construction of Sexuality* (Basic Books 2000), 7-8.

<sup>145</sup> Daniel J García López, 'Senza diritti. La nuda vita intersex e lo stato di eccezione' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 181, 186.

<sup>146</sup> Ibid., 187.

<sup>147</sup> Ibid., 187-188.

<sup>148</sup> Ibid., 188.

<sup>149</sup> Anne Fausto-Sterling, *Sexing the Body: Gender Politics and the Construction of Sexuality* (Basic Books 2000), 8.

<sup>150</sup> '# What's The History behind the Intersex Rights Movement?' (*Intersex Society of North America*) <<https://isna.org/faq/history/>> accessed 26 June 2023.

<sup>151</sup> Georgiann Davis and Sharon Preves, 'Pensare l'intersessualità: 25 anni di attivismo, mobilitazione e cambiamento' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 45, 48.

diagnosis marks the beginning of a medical journey that is as unpleasant as it is unnecessary. Scholar-activist Georgiann Davis, who has female features, writes that she discovered she was born with AIS, therefore having male chromosomes (XY) and internal testicles, but also with a vagina and no uterus.<sup>152</sup> When she was a child, her parents agreed to subject Georgiann to a gonadectomy because doctors had told them that the testicles had to be removed to reduce the risk of cancer, but this theory lacks empirical evidence.<sup>153</sup> Georgiann, therefore, describes her past and present experiences with health personnel as 'unnecessarily frustrating and humiliating'.<sup>154</sup> Today Georgiann is dependent on hormone replacement therapy because those testicles that were removed produced almost all the sex hormones. Her body, although different from the majority, was perfectly healthy and functioning and consequently did not require any surgery.<sup>155</sup> Since Georgiann exhibited feminine features, it is evident that the doctors subjected her to gonadectomy to ensure that a girl did not have testicles.<sup>156</sup>

At the end of the 19th century, feminist movements were emerging, and the visibility of homosexuals was growing. Wanting to preserve the rigid system of separation of the sexes, some doctors therefore devised a system that did not contemplate so-called 'hermaphrodites', but rather traced everyone back to either male or female.<sup>157</sup> This system was based on the gonads and was designed so that 'true hermaphrodites' were very difficult to find. Those with both ovarian and testicular tissue were referred to by this terminology. Those with non-standard genitalia and one of the two gonads were called male or female pseudo-hermaphrodites. However, they were assigned one of the two sexes and were socially obliged to behave as such. Nevertheless, it was common that as they grew up their assigned sex did not coincide with their gender identity. It was during this period that the differentiation between gender roles and biological sex was born.

In the early 20th century, doctors began to specialise in performing surgeries that could match the assigned sex with the genitals.<sup>158</sup> Ambiguities in fact represented a social problem that undermined sexual binarism. The turning point was the establishment of a medical team specialising in the treatment of intersex people at Johns Hopkins University in the 1950s. Psychologist John Money headed the medical team, within which psychiatrists Joan G. Hampson and John L. Hampson were

---

<sup>152</sup> Ibid., 46.

<sup>153</sup> Ibid.

<sup>154</sup> Ibid.

<sup>155</sup> Ibid, 52.

<sup>156</sup> Ibid.

<sup>157</sup> '# What's The History behind the Intersex Rights Movement?' (*Intersex Society of North America*) <<https://isna.org/faq/history/>> accessed 26 June 2023.

<sup>158</sup> Ibid.

also influential figures.<sup>159</sup> John Money conceived the 'Optimal Gender of Rearing' (OGR) model, based on the idea that intersex traits should be eliminated in the first months of life so that intersex children would be aligned as closely as possible with one of the sexes and thus be able to lead 'healthy' lives. Money and the medical team established the 'true sex' of the infant and fixed it surgically and pharmacologically irreversibly by 18 months after birth.<sup>160</sup> He indeed argued that gender identity can be moulded within 18 months of birth, regardless of biology.<sup>161</sup> Then as now, surgically reconstructing a penis was much more difficult than a vulva, and so many children were assigned the female sex for purely practical reasons.<sup>162</sup> For the assignment to be successful, parents were strongly encouraged to raise the child according to surgically assigned gender so that he or she would also assume characterising behavioural traits.<sup>163</sup> As Anne Fausto-Sterling wrote in *The Five Sexes, Revisited*, while explaining the situation to parents, 'Treatment teams were never to use such words as "intersex" or "hermaphrodite"; instead, they were to tell parents that nature intended the baby to be the boy or the girl that the physicians had determined it was. Through surgery, the physicians were merely completing nature's intentions.'<sup>164</sup>

Not only were intersex patients not old enough to be able to decide whether or not to undergo surgeries, but even these were not motivated by real medical concerns.<sup>165</sup> Moreover, parents were not well informed before giving consent either.<sup>166</sup>

The success of these surgeries could only be measured when those children became adults: the criteria were the assumption of the assigned gender role and having heterosexual relationships.<sup>167</sup> The latter element was considered of great value at a time when homosexuals were trying to emerge from invisibility. John Money was particularly proud of the success of one of his gender assignments, so much so that he considered it exemplary of the effectiveness of his theories. This was the case of

---

<sup>159</sup> Anne Fausto-Sterling, 'The Five Sexes, Revisited' (2000) 40 *The Sciences* 18, 20.

<sup>160</sup> Daniel J García López, 'Senza diritti. La nuda vita intersex e lo stato di eccezione' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 181, 191.

<sup>161</sup> Anne Fausto-Sterling, 'The Five Sexes, Revisited' (2000) 40 *The Sciences* 18, 20.; Claudia Astorino, 'Why I'm Disturbed by Screening for Intersex Traits in Utero' (*Rewire News Group*, 11 March 2015) <https://rewirenewsgroup.com/2015/03/11/im-disturbed-screening-intersex-traits-uterio/> accessed 22 May 2023.

<sup>162</sup> '# What's The History behind the Intersex Rights Movement?' (*Intersex Society of North America*) <<https://isna.org/faq/history/>> accessed 26 June 2023.

<sup>163</sup> Anne Fausto-Sterling, 'The Five Sexes, Revisited' (2000) 40 *The Sciences* 18, 20.; Claudia Astorino, 'Why I'm Disturbed by Screening for Intersex Traits in Utero' (*Rewire News Group*, 11 March 2015) <https://rewirenewsgroup.com/2015/03/11/im-disturbed-screening-intersex-traits-uterio/> accessed 22 May 2023.

<sup>164</sup> Anne Fausto-Sterling, 'The Five Sexes, Revisited' (2000) 40 *The Sciences* 18, 20.

<sup>165</sup> Claudia Astorino, 'Why I'm Disturbed by Screening for Intersex Traits in Utero' (*Rewire News Group*, 11 March 2015) <https://rewirenewsgroup.com/2015/03/11/im-disturbed-screening-intersex-traits-uterio/> accessed 22 May 2023.

<sup>166</sup> '# What's The History behind the Intersex Rights Movement?' (*Intersex Society of North America*) <<https://isna.org/faq/history/>> accessed 26 June 2023.

<sup>167</sup> *Ibid.*



David Reimer, who had undergone circumcision at an early age together with his twin brother. Unfortunately, however, David's surgery did not go as planned and he lost his penis. It was therefore by no means a case of intersexuality, but Money nevertheless suggested to the family that they raise John (the pseudonym used) as a girl (Joan ) and surgically transform him into 'her'.<sup>168</sup> The success of this assignment was immediately claimed by Money, but years later it was discovered that in adulthood David Reimer did not recognise himself as female and that he was taking masculinising drugs and had married a woman. Nevertheless, the story of this much-publicised successful assignment ended with David Reimer committing suicide in his 30s.<sup>169</sup> Since this came to light, many intersex people who had undergone reassignment surgery began to make their voices heard denouncing what had happened to them. It is possible to locate in this context the birth of intersex activism and the rethinking of these procedures by medical professionals.<sup>170</sup> In the 1980s and 1990s, people with intersex traits began to organise against 'normalisation' surgeries and the very idea behind them: that there are only two sexes. They started protesting at medical conferences and publicly recounting their traumatic experiences.<sup>171</sup>

Of key importance was Anne Fausto-Sterling's publication of the article *The Five Sexes in The Sciences* in 1993.<sup>172</sup> In this article, the biologist and gender studies expert wrote about the intersex condition and how Western society has denied the plurality of sexed bodies over time. Arguing that the principle of sexual binarism is not reflected in reality, the author presented the existence of at least five sexes, and her words resonated enormously. At the time, Fausto-Sterling still used the terms 'hermaphrodites' and 'pseudo-hermaphrodites', but the mere fact of writing in these terms about intersexuality (albeit in sarcastic and provocative tones) was revolutionary. Years later, the psychologist Suzanne J. went further, stating that Fausto-Sterling's reading attributed too much importance to genitalia, since in everyday life gender is represented, and therefore it is not necessary to perform a genital inspection to determine it. The continued emphasis on genitalia continues to affect the lives of intersex and transgender people in which biological genitalia and gender identity do not correspond. Today, the two scholars agree on the need to recognise the variety of sexual

---

<sup>168</sup> Anne Fausto-Sterling, 'The Five Sexes, Revisited' (2000) 40 *The Sciences* 18, 20.

<sup>169</sup> Claudia Astorino, 'Why I'm Disturbed by Screening for Intersex Traits in Utero' (*Rewire News Group*, 11 March 2015) <https://rewirenewsgroup.com/2015/03/11/im-disturbed-screening-intersex-traits-uterol/> accessed 22 May 2023.

<sup>170</sup> Anne Fausto-Sterling, 'The Five Sexes, Revisited' (2000) 40 *The Sciences* 18, 21.

<sup>171</sup> Georgiann Davis and Sharon Preves, 'Pensare l'intersessualità: 25 anni di attivismo, mobilitazione e cambiamento' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 45, 51.

<sup>172</sup> '# What's The History behind the Intersex Rights Movement?' (*Intersex Society of North America*) <<https://isna.org/faq/history/>> accessed 26 June 2023.

development and to abandon, rather than increase, categories.<sup>173</sup> Moreover, in 2000 Fausto-Sterling took up Kessler's critique by writing an updated version of that famous article, entitled *The Five Sexes, Revisited*.

Anne-Fausto Sterling's article was also a stimulus to Bo Laurent, who under the pseudonym Cheryl Chase wrote a letter in response to *The Science* announcing the foundation of the Intersex Society of North America (ISNA).<sup>174</sup> She intended to denounce the sex-reassignment surgeries that she underwent and that very often impair intersex people's sexual function and psychological health.<sup>175</sup> ISNA's mailbox immediately received letters from intersex people from all over the world and initially served as a support group.<sup>176</sup> However, it quickly became an advocacy group, giving rise to a full-fledged intersex movement.<sup>177</sup> Although initially most medical professionals continued to recognize the legitimacy of surgeries,<sup>178</sup> over time stories like that of David Reimer threw Money's model into crisis and many doctors rethought this standard and began to investigate the level of patient satisfaction.<sup>179</sup> According to research conducted by scholar Sharon Preves in 2003, indeed, approximately 25% of those interviewed had a gender identity that did not coincide with the sex that had been surgically assigned to them.<sup>180</sup> The medical debate that had arisen, however, was not yet aimed at eliminating sex reassignment surgeries, but only at discussing whether they should continue to be practised in the first months of life or if instead, they should be postponed.<sup>181</sup> However, a breakthrough was made in 2000 when the North America Task Force on Intersex was formed to figure out the best way forward.<sup>182</sup> In addition, the National Institute of Health (NIH) began funding research on the topic of intersex at the same time.<sup>183</sup>

At this point, ISNA's activism went from being a protest alongside the LGBTQ+ community, to being collaborative with doctors gaining even more credibility.

---

<sup>173</sup> Georgiann Davis and Sharon Preves, 'Pensare l'intersessualità: 25 anni di attivismo, mobilitazione e cambiamento' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 45, 53.

<sup>174</sup> Ibid.; '# What's The History behind the Intersex Rights Movement?' (*Intersex Society of North America*) <<https://isna.org/faq/history/>> accessed 26 June 2023.

<sup>175</sup> Ibid.

<sup>176</sup> Ibid.

<sup>177</sup> '# What's The History behind the Intersex Rights Movement?' (*Intersex Society of North America*) <<https://isna.org/faq/history/>> accessed 26 June 2023.

<sup>178</sup> Ibid.

<sup>179</sup> Georgiann Davis and Sharon Preves, 'Pensare l'intersessualità: 25 anni di attivismo, mobilitazione e cambiamento' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 45, 58.

<sup>180</sup> Ibid.

<sup>181</sup> Ibid.

<sup>182</sup> Ibid.

<sup>183</sup> Ibid.



As mentioned earlier, the International Consensus Conference on Intersex was held in 2005 in Chicago and was attended by more than fifty experts from around the world, including Cheryl Chase and another activist.<sup>184</sup> The result was the first consensus statement on the medical management of intersex conditions (Consensus statement on management of intersex disorders), which recommended avoiding unnecessary surgeries, especially those conducted without real medical need but only to bring the genitals up to standard.<sup>185</sup> However, precisely, these recommendations were not binding so doctors could decide whether to adopt them or not. Furthermore, the Consensus Statement also recommended intersex patients should be followed by a multidisciplinary team of experts, among which psychologists were given an important role in deciding if and when to perform surgical operations and in supporting patients and families.<sup>186</sup> Finally, the last recommendation concerned the adoption of the wording Disorder of Sex Development (DSD) in place of intersex/intersexuality.<sup>187</sup> As previously mentioned this proposal has been contested and adopted mainly by medical personnel. ISNA ceased its activity in 2008, but on the other hand, many other associations were born to support intersex communities all over the world.<sup>188</sup> However, it is undeniable that the work of ISNA has contributed enormously to bringing intersex people out of invisibility and questioning sex-reassignment surgeries. Today, thanks mainly to social media, it is much easier for intersex people to communicate with people who share the same condition, get support, and give voice to intersex activism reaching many more people.

Despite the progress made since the 1980s and 1990s, the Optimal Gender of Rearing model is still partially implemented in Western hospitals and therefore intersex babies and children are still subjected to 'normalisation' interventions.<sup>189</sup> Daniel J. García López reports that the presence of intersex characteristics is qualified as an urgency, and consequently in civil law states such as Spain and Italy informed consent is not compulsory, excessive information is considered counterproductive and there is no conscientious objection, so even medical personnel who believe that sex-reassignment surgeries violate human rights cannot avoid taking part in them.<sup>190</sup>

---

<sup>184</sup> Ibid., 60.

<sup>185</sup> Ibid.

<sup>186</sup> 'Consensus Statement on Management of Intersex Disorders' (*Portale di Informazione Antidiscriminazioni LGBT*) <<http://www.portalenazionalelgbt.it/bancadeidati/schede/consensus-statement-on-management-of-intersex-disorders-1.html>> accessed 28 June 2023.

<sup>187</sup> Georgiann Davis and Sharon Preves, 'Pensare l'intersessualità: 25 anni di attivismo, mobilitazione e cambiamento' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 45, 61.

<sup>188</sup> Georgiann Davis and Sharon Preves, 'Pensare l'intersessualità: 25 anni di attivismo, mobilitazione e cambiamento' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 45.

<sup>189</sup> Daniel J García López, 'Senza diritti. La nuda vita intersex e lo stato di eccezione' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 181, 191.

<sup>190</sup> Ibid., 192-193.

This happens less frequently than in the past thanks to intersex activism which over the years has highlighted how unethical those surgeries are and violate the human rights of intersex people. The theme of intersexuality is certainly not yet one of the most debated, but it is more so than ever as it is part of the social, sexual, and gender revolution of recent years. It is therefore important to keep attention high and to continue to denounce violations of the human rights of intersex people even today because although practised to a lesser extent than in the past, they continue to affect the lives of so many people around the world and are no longer acceptable.

### **Invisibility and normalisation: the Italian legislation, the lack of transparency of the medical staff and the lack of informed consent**

When a newborn has intersex characteristics, immediate and long-term interests are taken into consideration to maximise well-being and minimise the complications of the child who cannot yet decide for himself. This approach is called 'best interest'.<sup>191</sup> However, 'best interests' can take on different meanings, even divergent ones. It is generally considered in the best interest of the child to have surgery to solve physiological problems (for example, creating an opening to allow the person to urinate).<sup>192</sup> The debate arises about 'normalisation' surgeries. On the one hand, intersex activists and many adults who have been subjected to them claim that these cosmetic surgeries cause various physical and psychological problems and can also affect sexual pleasure and the ability to reach orgasm.<sup>193</sup> Another important aspect to consider is that the gender identity of the intersex person may not coincide with the assigned genital appearance, causing significant damage. On the other hand, some argue that the child who has not undergone a normalisation surgery could be the object of ridicule or even be the victim of bullying and marginalisation by his schoolmates because of atypical genitalia.<sup>194</sup> Situations of this type and the like could affect the psychological well-being of the intersex person, and therefore there continue to be supporters of normalisation interventions. The best interest model is therefore being questioned, and scholar Alexander A. Kon argues that it would be appropriate to replace it with what he calls the 'right of the child to an open future'. It consists of careful weighing between the short and long-term risks and benefits, leaning towards the option that

---

<sup>191</sup> Alexander A Kon 'I processi decisionali relativi ai neonati intersex: alcune considerazioni etiche', in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 75.

<sup>192</sup> *Ibid.*, 76.

<sup>193</sup> *Ibid.*, 77.

<sup>194</sup> *Ibid.*, 78.

increases the openness of the child's future.<sup>195</sup> This research argues that what would most benefit the intersex community would be the normalisation of intersexuality in today's society. Instead of leaving it up to legislators, doctors, or parents to decide whether or not to undertake surgeries on intersex babies, it would be more appropriate to implement educational initiatives to ensure that intersex people are accepted according to their diversity.

The Italian context is one in which much work still needs to be done in this respect and in protecting the rights of intersex people in general. Binary logic permeates both the entire legal system and the Italian language, according to which every word must be either male or female. Likewise, every person who is born must be classified into one of the two sexes.<sup>196</sup> Medical personnel determine sex based on the appearance of the external genitalia and record it on the birth certificate.<sup>197</sup> To be 'male', the newborn must have a penis of a prescribed size. Indeed, if the penis size is smaller than the prescribed minimum, the infant is registered as female, without taking into account other factors such as chromosomes or gonads.<sup>198</sup> Even in these cases, the child must be registered according to the binary view. In addition, in Italy, the names of persons are also either male or female, and therefore the name chosen must correspond to the assigned sex.<sup>199</sup> This situation causes intersex people to be placed in an inferior position because their body does not reflect the standard. It follows that there is the idea that their bodies must be modified to fit the sexual binary and mandatory heteronormativity.<sup>200</sup> Furthermore, normalisation interventions are still practised in many Italian hospitals.<sup>201</sup> As with the clitoridectomies practised in the nineteenth century, the rationale behind surgeries in Italy is to ensure that the intersex person can have heterosexual intercourse: clitorises must not be too large and female fertility must be kept intact, and penises must be of dimensions suitable for penetration.<sup>202</sup>

The main reason given by the medical professionals is the concern mentioned above, namely that non-conforming genitals may provoke a 'psycho-social' crisis on intersex children and their parents,<sup>203</sup> who it is believed may struggle to bond with their child.<sup>204</sup> There is no supported evidence to prove

---

<sup>195</sup> Ibid., 81.

<sup>196</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 105-106.

<sup>197</sup> Ibid., 110.

<sup>198</sup> Ibid.

<sup>199</sup> Ibid.

<sup>200</sup> Ibid., 107.

<sup>201</sup> Ibid.

<sup>202</sup> Ibid.

<sup>203</sup> Michela Balocchi, 'The medicalization of intersexuality and the sex/gender binary system: a look on the Italian case' (2014) *6 Les Online* 65, 70.

<sup>204</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 108.

that not practising surgeries could cause psychological trauma in the child.<sup>205</sup> On the contrary, the numerous testimonies of intersex people who have been subjected to early surgeries prove how these have affected their physical and mental health. Due to the stigma of intersex conditions, even today Italian hospitals do not keep records of surgeries and long-term effects.<sup>206</sup> In the past, the records were simply not kept, but since they started writing the records they are not available anyway.<sup>207</sup> Recent research has highlighted several problems in the care of intersex people in Italy (but also in Switzerland and the UK):

'These included fragmented care; poor medical records; a lack of care protocols; no mandate to refer patients to specialists; no mention of VSC (variations of sex characteristics - ed.) in general medical teaching or texts; a lack of long-term health research or 'patient' directed research; a lack of funding, training, data, and personnel for care; a lack of psychological support (despite the mandate for multi-disciplinary teams including a psychologist); an absence of specialised equipment; and the need for relevant health screening (e.g. cardiac health; bone density; cancer screening).'<sup>208</sup>

Furthermore, in 2020 the scholars Marta Prandelli and Ines Testoni in 2020 have conducted research interviewing 4 general practitioners, 23 paediatricians, and 18 psychologists in Italy.<sup>209</sup> From these interviews, a lack of knowledge of intersex conditions emerged, as some preconceptions and related judgments on sexuality, gender identity, and sexual orientation. The term 'hermaphroditism', outdated and derogatory, was often used by the doctors interviewed<sup>210</sup> and most of them were in favour of early surgeries considering it necessary to bring the intersex body back to the sexual binary for the welfare of the child and the parents.<sup>211</sup> General practitioners play a very important role in the Italian healthcare system: they are intermediaries between patients (and their families) and specialists. The fact that they were the most concerned about genital appearance<sup>212</sup> raises numerous concerns for the human rights of intersex children, as doctors often influence parents to consent to early surgeries.<sup>213</sup> Indeed, the issue of consent is equally problematic: since intersex infants cannot express their consent, the

---

<sup>205</sup> Ibid., 107.

<sup>206</sup> Ibid., 109.

<sup>207</sup> Ibid.

<sup>208</sup> Daniela Crocetti, Surya Monro, Valentino Vecchiotti and Tray Yeadon-Lee, 'Towards an Agency-Based Model of Intersex, Variations of Sex Characteristics (VSC) and DSD/DSD Health' (2020) 23 Culture, Health & Sexuality 500, 505.

<sup>209</sup> Marta Prandelli and Ines Testoni, 'Inside the Doctor's Office. Talking about Intersex with Italian Health Professionals' (2020) 23 Culture, Health & Sexuality 484, 488.

<sup>210</sup> Ibid., 489.

<sup>211</sup> Ibid., 491.

<sup>212</sup> Ibid., 495.

<sup>213</sup> Ibid., 485.

decision whether or not to perform early surgery on their child rests with the parents. In Italy consent from both parents is required to perform sex reassignment surgeries on intersex children.<sup>214</sup> However, the information provided by doctors may be incomplete and/or expressed through pathologising language, and as a result, most parents still consent. On the other hand, the research conducted by Monro, Crocetti, and Yeadon-Lee in 2019 highlighted that in Italy parents are the first to put pressure on doctors, accepting their child's intersex condition less than in Switzerland and the UK.<sup>215</sup> Indeed, parents too may be influenced by the widely held belief that the child's best interest coincides with the 'perfection' of the body, and thus with having genitals that fall within established standards.<sup>216</sup> Moreover, as scholar Anna Lorenzetti has observed, if an intersex person develops a gender identity that does not correspond to their surgically assigned sex, they may feel resentment towards their parents who consented to early surgery, weakening family ties.<sup>217</sup> This research argues that parental consent is therefore not sufficient to justify practices that violate the human rights of intersex children. In this regard, it is also worth reflecting on the similarities between cosmetic surgeries practised on intersex children and 'female genital mutilation', and the application of a double standard: while the former are widely practised and recommended by medical professionals in the West, the latter are strongly condemned.

Reading an information leaflet on CAH (Congenital Adrenal Hyperplasia, Intersex Condition) drawn up by a parents' association with the support of the San Raffaele Hospital (one of the main Italian private hospitals) and some medical societies,<sup>218</sup> it is clear that in Italy early surgeries are not only advised informally but also publicly.<sup>219</sup> This brochure promotes early surgeries as necessary to decrease the size of the clitoris and change the appearance of the vagina, as pharmacological therapy is not effective in this respect. Moreover, just as John Money did in the 1950s, it states that normalising surgeries should be done in the first months of life so that the child does not retain memories of the original genitalia. Finally, the brochure mentions that during puberty further surgeries could be

---

<sup>214</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 111.

<sup>215</sup> Surya Monro, Daniela Crocetti & Tray Yeadon-Lee, 'Intersex/Variations of Sex Characteristics and DSD Citizenship in the UK, Italy and Switzerland' (2019) 23 *Citizenship Studies* 780.; Michela Balocchi, 'The medicalization of intersexuality and the sex/gender binary system: a look on the Italian case' (2014) 6 *Les Online* 65, 71.

<sup>216</sup> Anna Lorenzetti, 'I profili giuridici dell'intersessualità' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 159, 166-167.

<sup>217</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 111.

<sup>218</sup> Italian Society of Pediatrics (SIP), Italian Society of Preventive and Sociale Pediatrics (SIPPS), Italian Society of Pediatrics, Endocrinology and Diabetology (SIEDP); Italian Society of Adolescence Medicine (SIMA).

<sup>219</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 108.; I.S.C Associazione Iperplasia Surrenale Congenita <<https://airisc.org/per-i-piu-giovani.html>> accessed 2 July 2023.

practised as 'revision'. The previously mentioned aims are clearly stated here: 'To correct the anatomical alteration (aesthetic aspect) and to allow normal and satisfactory sexual intercourse as an adult (functional aspect)'.<sup>220</sup> As also underlined by the scholar Anna Lorenzetti, these surgeries do not change the intersexual condition nor improve the health conditions but only modify the appearance of the genitals.<sup>221</sup> Paradoxically, hospitals such as the San Raffaele and medical societies promote surgical interventions that often lead to numerous problems for patients: infections, genital pain, proneness, scarring, and difficulty experiencing orgasm.<sup>222</sup> Furthermore, as also admitted by the aforementioned brochure, it may be necessary to carry out other surgeries and medical checks in the course of life, as well as taking hormones which often affect the emotional state. Finally, it should not be overlooked that the assigned sex may not correspond to gender identity.

Scholar Nicole Braidà conducted research in 2011 in Italy and interviewed some intersex people. She reports that most of the respondents, including those who had undergone early surgery, became aware of their condition in late puberty or adulthood.<sup>223</sup> This is because in most cases intersexuality is not visible from the outside, but also to the stigma that leads parents to keep the diagnosis hidden from their children.<sup>224</sup> In other cases, the whole family discovered it in late puberty and in one case the doctors disclosed aspects of the diagnosis in stages and failed to mention the infertility.<sup>225</sup>

After years of activism, and after some international instruments have been drawn up to protect the intersex community, it is difficult to understand and accept how early genital cosmetic surgeries can still be promoted, practised and/or kept secret in the Italian context. They continue to happen due to a concurrence of various factors, among which the one that should be immediately remedied is the legislative gap. First of all, the Italian legal system does not recognise intersexuality as a ground for discrimination and does not provide a legal framework that protects intersex people.<sup>226</sup> Currently, the only steps forward in this direction are a legislative proposal so that early surgeries are practised only in the event of serious risks to the child's health or to save his life.<sup>227</sup> It would involve making an amendment to the law on the modification of sex reassignment (Law No. 164 of 1992). Furthermore,

---

<sup>220</sup> I.S.C Associazione Iperplasia Surrenale Congenita <<https://airisc.org/per-i-piu-giovani.html>> accessed 2 July 2023. Translation and italics mine.

<sup>221</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 108.

<sup>222</sup> *Ibid.*

<sup>223</sup> Nicole Braidà, 'La medicalizzazione delle differenze sessuali in Italia' in in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 87, 96.

<sup>224</sup> *Ibid.*, 96-97.

<sup>225</sup> *Ibid.*, 99-100.

<sup>226</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 105, 109.

<sup>227</sup> *Ibid.*, 109.



based on the best interests model, the National Committee of Bioethics in 2010 released the Guidelines for the treatment of children affected by the Disturb of Sex Difference, which encourages non-urgent surgeries to be postponed.<sup>228</sup> However, the document also states:

‘The planning of medical-surgical interventions on the body must have as objective not only the modification of the somatic structure according to the "biological normalisation", but the help the person to set the conditions so that he can realise himself in the best possible way in the physical and mental harmony. Such interventions are not only lawful, but also dutiful if they represent the only reasonable and practicable way to go to guarantee - as far as possible - the person the future conditions to reach a harmonious identification, including among them also the exercise of future sexual activity.

The co-presence of discordant sexual elements, if it does not conform to the project of being a man or a woman, makes it licit to remove what prevents the at least partial realisation of this harmony.’<sup>229</sup>

The document drawn up by the National Bioethics Committee, therefore, although stating that these interventions should be postponed as much as possible, deems them necessary, promoting the naturalness of the sex/gender dichotomy. As scholar Michela Balocchi has observed, also in this document intersex bodies are first pathologised and medicalised regardless of their actual state of health.<sup>230</sup>

Considering the postponement of the intervention in the best interests of the child was also the vision of the parents of an intersex child, the protagonist of the most famous of the very few Italian judicial cases on the subject.<sup>231</sup> Although the parents wanted to delay the medically unnecessary cosmetic genital surgeries, the judge decided otherwise, considering that in the best interest of the child, it was instead necessary to subject him to one of them. A guardian (in Italian, a special curator) was appointed to decide which type of surgery to practise.<sup>232</sup> Just as it is necessary to question the legitimacy of parents being able to decide whether or not to practise 'normalisation' surgeries on their children's bodies, in the same way, it is necessary to question whether judges should also have this

---

<sup>228</sup> Comitato Nazionale per la Bioetica, ‘I Disturbi Della Differenziazione Sessuale Nei Minori: Aspetti Bioetici’ (*Comitato Nazionale per la Bioetica*, 25 February 2010) <<https://bioetica.governo.it/it/pareri/pareri-e-risposte/i-disturbi-della-differenziazione-sessuale-nei-minori-aspetti-bioetici/>> accessed 3 July 2023.

<sup>229</sup> Ibid. Translation mine.

<sup>230</sup> Michela Balocchi, ‘Un apparente paradosso. Le pratiche mediche di gestione dell’intersessualità in Italia’ in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 109, 126.

<sup>231</sup> Trib. min. Potenza, 29.7.1993, in *Riv. it. med. leg.*, 1996, 299, and in *Dir. fam. e pers.*, 1993, 1199.; Anna Lorenzetti, ‘Intersex in Italy: At the Source of the Complexity?’ (2022) *The Age of Human Rights Journal* 105, 109.

<sup>232</sup> ‘Legal Name and Sex Change Procedure’ (*Istituto Superiore di Sanità*, 16 March 2023) <<https://www.iss.it/en/-/infointersex-percorso-di-modifica-anagrafica>> accessed 3 July 2023.

power: they too may lack the necessary medical knowledge and be influenced by the dominant binary paradigm and the pathologisation of intersex bodies.

Interventionist positions are also carried forward by some doctors of the San Camillo hospital in Rome, who, referring to patients with masculinized external genitalia and absent vagina, have proposed an approach they define as 'hybrid', according to which clitoroplasty and labiaplasty should be performed early and vaginoplasty should be delayed.<sup>233</sup>

In May 2015, also the medical team working in the Italian Region of Piedmont proposed to the Regional administration a new guideline for the management of intersexuality.<sup>234</sup> This draft (later not approved) of the Diagnostic Therapeutic Plan provides for both 'feminising' and 'masculinising' surgeries (as also defined in the document). It states that these interventions should even be performed within six months of the intersex child's life.<sup>235</sup> In the case of feminising surgeries, the document states that during puberty an evaluation of the vaginal introitus through an examination under general anaesthesia may be necessary.<sup>236</sup> The possibility of having to practise other surgeries is admitted, such as having to create a plastic vaginal canal in 86% of cases.<sup>237</sup> Similarly, for 'masculinising' interventions, the draft of the Diagnostic Therapeutic Plan envisaged the correction of hypospadias, the most commonly practised surgery on intersex people.<sup>238</sup> People who have it have the urethral meatus located anywhere between the glans penis and the perineum and it does not cause health problems.<sup>239</sup> However, for a man it is considered necessary to urinate while sitting and this is the reason behind the surgical corrections of this condition. The Piedmontese guidelines admit that the relocation of the urethral meatus can compromise the functionality of the sphincters, but still consider them necessary for aesthetic and functional reasons.<sup>240</sup> By 'functional' reasons we therefore mean being able to urinate standing up, since, as Michela Balocchi has observed, men in the West are subject to cultural pressure according to which males cannot urinate standing up (like women).<sup>241</sup> Although the correction of hypospadias is not motivated by real medical needs, in Italy the Ministry of Health

---

<sup>233</sup> Michela Balocchi, 'Un apparente paradosso. Le pratiche mediche di gestione dell'intersessualità in Italia' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 109, 131.

<sup>234</sup> Ibid., 132.; Michela Balocchi, 'An Apparent Paradox: The Bio-Medicalisation of Intersex Variations in Italy', in Megan Walker *Interdisciplinary and global perspectives on intersex* (Palgrave Macmillan 2022) 109, 155, 164-165.

<sup>235</sup> Ibid.

<sup>236</sup> Michela Balocchi, 'Un apparente paradosso. Le pratiche mediche di gestione dell'intersessualità in Italia' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 109, 132.

<sup>237</sup> Ibid.

<sup>238</sup> Ibid., 133.

<sup>239</sup> Ibid.

<sup>240</sup> Ibid.

<sup>241</sup> Ibid.



itself deemed it appropriate to intervene surgically to correct it.<sup>242</sup> The draft of the Piedmontese Diagnostic Therapeutic Plan at the theoretical level included references to the human rights of intersex persons, such as the preservation of bodily integrity and the principle of self-determination.<sup>243</sup> However, as reported earlier, the proposed interventionist protocols consisted of the opposite. It is therefore evident that the possibility of accepting the existence of other genders was not contemplated, as can also be seen in the paragraph on psychosexual development and gender definition. The text states that psychosexual development and gender definition comprise three components: 'gender identity', understood in binary terms; 'gender role', i.e. sexually dimorphic psychological characteristics (examples such as clothing and preferences in play activities are also given); and 'sexual orientation', understood as heterosexual, homosexual or bisexual.<sup>244</sup> What emerges unequivocally is the outdated and narrow view of these three components: people who do not recognize themselves in the male/female dichotomy are not taken into consideration; moreover, in recent years, both academic and civic activism has pointed out that 'gender roles' and gender expression are not only not sex-specific, but are culturally dictated and naturalised in societies; finally, sexual orientation in many cases cannot be pigeonholed, especially if the 'boxes' are so few.<sup>245</sup>

Not only does the interventionist approach violate the bodily integrity of the child and impede self-determination, but by irreparably changing the body it risks condemning the intersex person to having genitals that do not reflect the gender identity. Furthermore, if intersex people want to amend their birth certificate, in Italy it is not easy at all. There is no specific law to protect intersex people who want to change their sex designation. The only way is to rely on the laws regulating transsexuality although the problem is different:<sup>246</sup> intersex people only ask that their documents reflect their gender identity regardless of the sex chosen by the surgeons. However, in Italy, the laws that regulate transsexuality envisage a long, complicated, uncertain, and costly process that not everyone can

---

<sup>242</sup> Ibid., 134.; Michela Balocchi, 'An Apparent Paradox: The Bio-Medicalisation of Intersex Variations in Italy', in Megan Walker *Interdisciplinary and global perspectives on intersex* (Palgrave Macmillan 2022) 155, 166.; Ministero della Salute, 'Promozione e Tutela Della Salute Del Bambino e Dell'adolescente: Criteri Di Appropriatezza Clinica, Tecnologica e Strutturale' (*Quaderni del Ministero della salute*, 23 August 2012) <<http://www.quadernidellasalute.it/portale/quaderni/dettaglioQuaderni.jsp?id=2573>> accessed 4 July 2023, 153.

<sup>243</sup> Michela Balocchi, 'Un apparente paradosso. Le pratiche mediche di gestione dell'intersessualità in Italia' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 109, 136.

<sup>244</sup> Ibid., 137.

<sup>245</sup> Indeed, more and more people, for example, recognize themselves as pansexual or asexual and these two categories are probably missing from the document because in Italy it is still difficult to untie the concept of sexual orientation from the type of genitals and from gender identity and expression. as well as the idea that one may not be sexually attracted to someone.

<sup>246</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 110.; Anna Lorenzetti, 'I profili giuridici dell'intersessualità' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 159, 162.

face.<sup>247</sup> It currently provides for a double judicial process and although the law does not require sex reassignment surgery and sterilisation,<sup>248</sup> case law testifies that judges tend not to consent to the amendment of the sex and name on the documents if the patient has not been subjected to sterilisation.<sup>249</sup>

The general situation suggests that Italy has no intention of discussing and combating human rights violations of intersex people, neither through the fight against normalisation surgeries nor through educational programs for medical professionals and the population.

Prenatal diagnosis and voluntary termination of pregnancy: is eugenics the dominant paradigm?

It is also necessary to underline another consequence of the legislative and educational negligence that distinguishes the Italian context, in which the pathologisation and medicalisation of intersex bodies are motivated by the idea that the bodies of intersex people need corrections because otherwise they could not fully live in the social context, even constituting a psycho-social emergency. Since a life with atypical genitalia is not considered worth living, when prenatal diagnosis shows that the foetus has intersex characteristics, doctors generally advise parents to terminate the pregnancy.<sup>250</sup> Pregnancy termination can even reach 88% in fetuses diagnosed with a 47,XX variation ('sindrome' di Klinefelter).<sup>251</sup> Even if medical practitioners do not explicitly advise terminating the pregnancy, even the mere use of pathologizing language makes parents lean towards that choice.<sup>252</sup> Correctly informing parents should instead be the task of the medical staff. As scholar Claudia Astorino has highlighted, 'Parents feel the pressure to make the best decisions to protect their child and offer them a safe, "normal" life. Parents may feel that without medical intervention, they can't give this kind of life to a child. Maybe some feel like it's too big a risk to bring them into the world at all.'<sup>253</sup> This

---

<sup>247</sup> Ibid.

<sup>248</sup> Article 3, former law 164/1982, now, article 31, Legislative decree 150/2011.

<sup>249</sup> Court of Appeal Bologna, 22.2.2013; Tribunal of Rome, 8.7.2014, n. 34.525; Tribunal of Vercelli, 12.12.2014, n. 159; Tribunal Catanzaro, 30.4.2014. *Contra* see Tribunal of Rovereto, 3.5.2013; Court of Cassation no. 15138/2015.; Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 110.

<sup>250</sup> Michela Balocchi, 'Un apparente paradosso. Le pratiche mediche di gestione dell'intersessualità in Italia' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 109, 142.

<sup>251</sup> Ibid.; Michela Balocchi, 'Dignità Delle Persone E Autodeterminazione: Oltre I Confini Del Binario Di Sesso/Genere' (*intersexioni.it*, 14 September 2015) <https://www.intersexioni.it/dignita-delle-persone-e-autodeterminazione-oltre-i-confini-del-binarismo-di-sessogenere/> accessed 17 May 2023.

<sup>252</sup> Claudia Astorino, 'Why I'm Disturbed by Screening for Intersex Traits in Utero' (*Rewire News Group*, 11 March 2015) <https://rewirenewsgroup.com/2015/03/11/im-disturbed-screening-intersex-traits-uterus/> accessed 22 May 2023.

<sup>253</sup> Ibid.

research is absolutely in favour of the right to choose, but also intends to highlight the fact that Western society is trying to erase intersex people, both before through abortions and after birth through 'normalisation' surgeries. In this regard, scholar Katelyn D. Dykerman and many activists argue that any unnecessary intervention on the bodies of intersex people is an act of eugenics.<sup>254</sup>

### **Being blind to laws and recommendations: the non-application of the Italian Constitution and International Instruments and legislations**

Theoretically, in Italy, intersex people could see their human rights protected thanks solely to constitutional norms. Indeed, the Italian constitution guarantees inviolable rights to all citizens (Article 2) and affirms that the State has to promote equality (based on civil rights) and protect them from discrimination.<sup>255</sup> Intersexuality is not expressly mentioned, but it can be traced back to both the 'personal conditions' and the notion of 'sex' mentioned in Article 3 among the forbidden grounds of discrimination.<sup>256</sup> Furthermore, in addition to the two key articles of the Italian Constitution mentioned above, article 32 also constitutes a very relevant provision: it states that the State 'protects health as a fundamental right of the individual [...]' and that 'No one can be obliged to a certain medical treatment except by law. The law cannot under any circumstances violate the limits imposed by respect for the human person.'<sup>257</sup> Since the early surgeries practised on intersex children constitute violations of their human rights, the words of the scholar Anna Lorenzetti perfectly describe the paradox: she states that the constitutional protection of the health of the person '[...] should not admit a subduing of individual well-being to abstract canons of normality. On the contrary, the priority in the (always possible) therapeutic choice should be the integrity of the body and the non-impairment of the social and relational life of the person concerned, current and future, in the name of pursuing

---

<sup>254</sup> Michela Balocchi, 'Un apparente paradosso. Le pratiche mediche di gestione dell'intersessualità in Italia' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 109, 144.; Katelyn D Dykerman, 'Eugenics and Intersex: The Consequences of Defining "Normal" Bodies' (*Medicine and the Body*, 3 March 2015) <http://notchesblog.com/2015/03/03/eugenics-and-intersex-a-historical-perspective-on-a-contemporary-problem/> accessed 23 May 2023.

<sup>255</sup> Costituzione Della Repubblica Italiana 1947.

<sup>256</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 117.

<sup>257</sup> Costituzione Della Repubblica Italiana 1947. Translation mine. Original: 'La Repubblica tutela la salute come fondamentale diritto dell'individuo e interesse della collettività, e garantisce cure gratuite agli indigenti. Nessuno può essere obbligato a un determinato trattamento sanitario se non per disposizione di legge. La legge non può in nessun caso violare i limiti imposti dal rispetto della persona umana.'

abstract reference models.<sup>258</sup> Anna Lorenzetti also raises the question of whether it is constitutionally legitimate for the correspondence between sexual characteristics and assignment of personal gender to prevail 'over the interest of the person involved, to the point of permitting invasive and irreversible interventions.'<sup>259</sup>

While in Italy the institutions and the health system continue to ignore the requests of the activists, the international guidelines, and the constitutional principles that would protect intersex people, abroad in recent years there have been numerous official positions taken by international institutions against non-medically necessary cosmetic surgeries on intersex bodies. The best interests of the child are primarily protected by the Convention on the Rights of the Child adopted by the General Assembly of the United Nations in November 1989, therefore medically unnecessary surgeries should not be performed. Furthermore, General Comment No. 13 of the UN Committee on children's right to freedom from all forms of violence stresses how this type of surgery undermines the physical integrity of children.<sup>260</sup> This position has also been adopted by the Fundamental Rights Agency (FRA 2015).<sup>261</sup> Moreover, in February 2013 Special Rapporteur Juan E. Méndez published the Special Report on Torture for the United Nations Human Rights Council (UNHCR). Through it, the Special Rapporteur recommended that Member States avoid surgical interventions and pharmacological treatments that are not medically necessary but aimed at the 'normalisation' of intersex children.<sup>262</sup> 2013 was an important year for the intersex community, as in June the Foreign Affairs Council of the European Union also adopted guidelines for the protection of sex/gender minorities and for the first time also

---

<sup>258</sup> Anna Lorenzetti, 'I profili giuridici dell'intersessualità' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 159, 173-174.; Translation mine. Original: [la tutela costituzionale della salute della persona] 'non dovrebbe ammettere un asservimento del benessere individuale ad astratti canoni di normalità. Al contrario, prioritaria nella (comunque sempre eventuale) scelta terapeutica dovrebbe essere l'integrità del corpo e la non compromissione della vita sociale e relazionale della persona interessata, attuale e futura, in nome del perseguimento di astratti modelli di riferimento.'

<sup>259</sup> Ibid., 174.; Translation mine. Original: '[...] occorre riflettere se la corrispondenza, ex se, certa e univoca fra caratteri sessuali e assegnazione del sesso anagrafico sia configurabile come valore dotato di copertura costituzionale e prevalente, sempre e comunque, sull'interesse della persona coinvolta, al punto da ammettere interventi invasivi e irreparabili.'

<sup>260</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 116.

<sup>261</sup> European Union Agency for Fundamental Rights, 'The Fundamental Rights Situation of Intersex People' (*European Union Agency for Fundamental Rights*, 2015) <<https://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people>> accessed 5 July 2023; Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 116.

<sup>262</sup> United Nations Human Rights Council 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez' (2013) <[https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53\\_English.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf)> accessed 5 July 2023.

included intersex people;<sup>263</sup> furthermore, in December Resolution 1952 was adopted by the Parliamentary Assembly of the Council of Europe, affirming that intersex children have the right to bodily integrity and self-determination.<sup>264</sup> A few months later, in February 2014, the European Parliament called on member states to research the human rights situation of intersex people to fill the current gap.<sup>265</sup> Moreover, in the same year, both CRC and CEDAW recognised unnecessary practices as genital mutilations and harmful practices.<sup>266</sup>

In 2014 the WHO and other UN entities signed the *Interagency Statement Eliminating forced, coercive and otherwise involuntary sterilization*<sup>267</sup> and in 2015 the *Joint UN statement on Ending violence and discrimination against lesbian, gay, bisexual, transgender and intersex people*.<sup>268</sup> The latter document states that members of the LGBTI+ community may face abuse in medical settings, among which 'unnecessary surgery and treatment on intersex children without their consent' are explicitly mentioned.<sup>269</sup> Moreover, the statement admits that unfortunately in many countries these violations often go unreported and are not properly investigated and prosecuted. The result, therefore, is a response defined as 'inadequate', which results in a lack of justice and remedies for the victims.<sup>270</sup> In the same year, the Committee on the Rights of the Child declared itself 'deeply concerned' about 'Cases of medically unnecessary surgical and other procedures on intersex children, without their informed consent, which often entail irreversible consequences and can cause severe physical and psychological

---

<sup>263</sup> Foreign Affairs Council of the European Union, 'Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons' (2013) <[https://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/137584.pdf](https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/137584.pdf)> accessed 5 July 2023.

<sup>264</sup> Parliamentary Assembly 'Children's right to physical integrity' (2013) <<http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20174>> accessed 5 July 2023.

<sup>265</sup> European Parliament (*EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity*, 2014) <<https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2013%2F2183%28INI%29>> accessed 6 July 2023.

<sup>266</sup> Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) (CRC); Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) (CEDAW); Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, 'Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices' (*OHCHR*, 14 November 2019) <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?SymbolNo=CEDAW/C/GC/31/CRC/C/GC/18](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?SymbolNo=CEDAW/C/GC/31/CRC/C/GC/18)> accessed 6 July 2023.

<sup>267</sup> OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO (*Eliminating forced, coercive and otherwise involuntary sterilization*, 2014) <[https://apps.who.int/iris/bitstream/handle/10665/112848/9789241507325\\_eng.pdf?sequence=1](https://apps.who.int/iris/bitstream/handle/10665/112848/9789241507325_eng.pdf?sequence=1)> accessed 6 July 2023.

<sup>268</sup> ILO, OHCHR, UNAIDS Secretariat, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP and WHO, 'Joint UN statement on ending violence and discrimination against lesbian, gay, bisexual, transgender and Intersex people' (2015) <<https://www.unwomen.org/en/news/stories/2015/10/lgbt-joint-statement>> accessed 6 July 2023.

<sup>269</sup> Ibid.

<sup>270</sup> Ibid.

suffering, and the lack of redress and compensation in such cases.<sup>271</sup> Furthermore, also in 2015, the Committee against Torture recognised unnecessary surgeries as constituting ‘Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’, and recommended Switzerland to ‘Take the necessary legislative, administrative and other measures to guarantee respect for the physical integrity and autonomy of intersex persons and to ensure that no one is subjected during infancy or childhood to non - urgent medical or surgical procedures intended to decide the sex of the child’.<sup>272</sup>

Over the years, the UN Treaty bodies have drawn up an ever-growing number of recommendations condemning medically unnecessary surgery and procedures on intersex children. Wednesday 26 October 2016 on Intersex Awareness Day the UN, COE, ACHPR, and IACHR in a Joint Statement declared: ‘States must, as a matter of urgency, prohibit medically unnecessary surgery and procedures on intersex children. They must uphold the autonomy of intersex adults and children and their rights to health, to physical and mental integrity, to live free from violence and harmful practices and to be free from torture and ill-treatment. Intersex children and their parents should be provided with support and counselling, including from peers. [...]’<sup>273</sup> Similar recommendations were also made subsequently: in 2017 the Human Rights Committee recognised the surgeries on intersex infants as non-consensual medical or scientific experimentation in violation of art. 7 of the International Covenant on Civil and Political Rights (ICCPR) and recommended doing everything possible to protect intersex people;<sup>274</sup> moreover, in the same year, the Inter-American Commission on Human Rights (IACHR) press release (No. 189/17) recommended that States protect intersex children's bodily integrity and prohibit unnecessary procedures.<sup>275</sup> Finally, a 2017 European Parliament resolution compared intersex surgeries to ‘female genital mutilation’ and asked member states to ‘prevent, ban and prosecute female genital mutilation and genital mutilation affecting intersex persons, and to

---

<sup>271</sup> Committee on the Rights of the Child, ‘Concluding observations on the combined second to fourth periodic reports of Switzerland CRC/C/CHE/CO/2-4’ (2015) <<https://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ISR-CO-2-4.pdf>>

<sup>272</sup> Committee against Torture ‘Concluding observations on the seventh periodic report of Switzerland CAT/C/CHE/CO/7’ (2015) <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FCHE%2FCO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FCHE%2FCO%2F7&Lang=en)> para 20 accessed 6 July 2023.

For subsequent Concluding Observations regarding Intersex surgeries see: ‘50 Un Reprimands for Intersex Genital Mutilation – and Counting ...’ (*StopIGM.org*, 21 March 2021) <<https://stopigm.org/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations/>> accessed 6 July 2023.

<sup>273</sup> ‘Intersex Awareness Day – Wednesday 26 October’ (*OHCHR*, 24 October 2016) <<https://www.ohchr.org/en/2016/10/intersex-awareness-day-wednesday-26-october>> accessed 6 July 2023.

<sup>274</sup> Markus Bauer, Daniela Truffer and Daniela Crocetti, ‘Intersex Human Rights’ (2019) 24 *The International Journal of Human Rights* 724, 729.

<sup>275</sup> ‘IACHR Urges States to End Violence and Harmful Practices Against Intersex Persons’ (*oas.org*, 22 November 2017) <[https://www.oas.org/en/iachr/media\\_center/PReleases/2017/189.asp](https://www.oas.org/en/iachr/media_center/PReleases/2017/189.asp)> accessed 6 July 2023.



provide mental health support, in conjunction with physical care, to victims and to those individuals likely to be targeted'.<sup>276</sup>

In recent years, Italy has been ignoring even the recommendations made to other countries: the Committee on the Elimination of Discrimination against Women, in its Concluding Observations between 2017 to the present (July 14, 2023), expressed concern about the 'invasive and irreversible medical interventions to assign a sex' to which intersex children are subjected in Ireland (2017)<sup>277</sup>, Germany (2017)<sup>278</sup>, Chile (2018)<sup>279</sup>, Luxembourg (2018)<sup>280</sup>, Mexico (2018)<sup>281</sup>, New Zealand (2018)<sup>282</sup>, Australia (2018)<sup>283</sup>, Nepal (2018)<sup>284</sup>, Liechtenstein (2018)<sup>285</sup>, Austria (2019)<sup>286</sup>, Pakistan

---

<sup>276</sup> —, 'European Parliament Resolution of 14 February 2017 on Promoting Gender Equality in Mental Health and Clinical Research (2016/2096(INI))' (*europarl.europa.eu*, 14 February 2017) <[https://www.europarl.europa.eu/doceo/document/TA-8-2017-0028\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2017-0028_EN.html)> accessed 6 July 2023.

<sup>277</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the combined sixth and seventh periodic reports of Ireland' (Tbinternet.ohchr.org, 3 March 2017) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FIRL%2FCO%2F6-7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FIRL%2FCO%2F6-7&Lang=en) accessed 14 July 2023.

<sup>278</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the combined seventh and eighth periodic reports of Germany' (Tbinternet.ohchr.org, 3 March 2017) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FDEU%2FO%2F7-8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FDEU%2FO%2F7-8&Lang=en) accessed 14 July 2023.

<sup>279</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the seventh periodic report of Chile' (Tbinternet.ohchr.org, 12 March 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCHL%2FO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCHL%2FO%2F7&Lang=en) accessed 14 July 2023.

<sup>280</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the combined sixth and seventh periodic reports of Luxembourg' (Tbinternet.ohchr.org, 12 March 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FLUX%2FCO%2F6-7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FLUX%2FCO%2F6-7&Lang=en) accessed 14 July 2023.

<sup>281</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Ninth Periodic Report of Mexico' (Tbinternet.ohchr.org, 25 July 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMEX%2FO%2F9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMEX%2FO%2F9&Lang=en) accessed 14 July 2023.

<sup>282</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eight Periodic Report of New Zealand' (Tbinternet.ohchr.org, 25 July 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FNZL%2FO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FNZL%2FO%2F8&Lang=en) accessed 14 July 2023.

<sup>283</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eight Periodic Report of Australia' (Tbinternet.ohchr.org, 25 July 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUS%2FO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUS%2FO%2F8&Lang=en) accessed 14 July 2023.

<sup>284</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Sixth Periodic Report of Nepal' (Tbinternet.ohchr.org, 14 November 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FNPL%2FO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FNPL%2FO%2F6&Lang=en) accessed 14 July 2023.

<sup>285</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Fifth Periodic Report of Liechtenstein' (Tbinternet.ohchr.org, 3 December 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FLIE%2FCO%2F5%2FRev.1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FLIE%2FCO%2F5%2FRev.1&Lang=en) accessed 14 July 2023.

<sup>286</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Ninth Periodic Report of Austria' (Tbinternet.ohchr.org, 30 July 2019) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUT%2FO%2F9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUT%2FO%2F9&Lang=en) accessed 14 July 2023.



(2020)<sup>287</sup>, Bulgaria (2020)<sup>288</sup>, Belgium (2022)<sup>289</sup>, Finland (2022)<sup>290</sup>, Switzerland (2022)<sup>291</sup>, Costa Rica (2023)<sup>292</sup>. Similarly, the Committee is concerned about the discrimination lesbian, bisexual, transgender, and intersex women are facing in Slovakia<sup>293</sup>, Mongolia (especially by medical

---

<sup>287</sup> Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Fifth Periodic Report of Pakistan’ (Tbinternet.ohchr.org, 10 March 2020) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAK%2FCO%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAK%2FCO%2F5&Lang=en) accessed 14 July 2023.

<sup>288</sup> Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eighth Periodic Report of Bulgaria’ (Tbinternet.ohchr.org, 10 March 2020) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBGR%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBGR%2FCO%2F8&Lang=en) accessed 14 July 2023.

<sup>289</sup> Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eighth Periodic Report of Belgium’ (Tbinternet.ohchr.org, 1 November 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBEL%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBEL%2FCO%2F8&Lang=en); accessed 14 July 2023.

<sup>290</sup> The Committee noted with concern that Finland lacks a law criminalizing FGM and the persistence of ‘normalization’ surgeries on intersex children. In this regard, however, it welcomed the establishment of a working group aimed at guiding medical practitioners in counseling parents with intersex children.; Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eighth Periodic Report of Finland’ (Tbinternet.ohchr.org, 1 November 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FFIN%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FFIN%2FCO%2F8&Lang=en) accessed 14 July 2023.

<sup>291</sup> Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the sixth periodic report of Switzerland’ (Tbinternet.ohchr.org, 1 November 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCHE%2FCO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCHE%2FCO%2F6&Lang=en) accessed 14 July 2023.

<sup>292</sup> Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the eighth periodic report of Costa Rica’ (Tbinternet.ohchr.org, 2 March 2023) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCRI%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCRI%2FCO%2F8&Lang=en) accessed 14 July 2023.

<sup>293</sup> Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the seventh periodic report of Slovakia’ (Tbinternet.ohchr.org, 31 May 2023) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSVK%2FCO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSVK%2FCO%2F7&Lang=en) accessed 14 July 2023.

personnel)<sup>294</sup>, Panama<sup>295</sup>, Indonesia<sup>296</sup>, Russian Federation<sup>297</sup>, Bulgaria<sup>298</sup>, Zimbabwe<sup>299</sup>, Guyana<sup>300</sup>, Angola<sup>301</sup>, Mauritius<sup>302</sup>, Bahamas<sup>303</sup>, Suriname<sup>304</sup>, Malaysia<sup>305</sup>, Republic of Korea<sup>306</sup>, Singapore<sup>307</sup>.

<sup>294</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the tenth periodic report of Mongolia' (Tbinternet.ohchr.org, 12 July 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMNG%2FO%2F10&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMNG%2FO%2F10&Lang=en) accessed 14 July 2023.

<sup>295</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the eighth periodic report of Panama' (Tbinternet.ohchr.org, 1 March 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAN%2FO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAN%2FO%2F8&Lang=en) accessed 14 July 2023.

<sup>296</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the eighth periodic report of Indonesia' (Tbinternet.ohchr.org, 24 November 2021) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FIDN%2FO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FIDN%2FO%2F8&Lang=en) accessed 14 July 2023.

<sup>297</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the ninth periodic report of Russian Federation' (Tbinternet.ohchr.org, 30 November 2021) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FRUS%2FO%2F9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FRUS%2FO%2F9&Lang=en) accessed 14 July 2023.

<sup>298</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eighth Periodic Report of Bulgaria' (Tbinternet.ohchr.org, 10 March 2020) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBGR%2FO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBGR%2FO%2F8&Lang=en) accessed 14 July 2023.

<sup>299</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Sixth Periodic Report of Zimbabwe' (Tbinternet.ohchr.org, 10 March 2020) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FZWE%2FO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FZWE%2FO%2F6&Lang=en) accessed 14 July 2023.

<sup>300</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Ninth Periodic Report of Guyana' (Tbinternet.ohchr.org, 30 July 2019) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FGUY%2FO%2F9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FGUY%2FO%2F9&Lang=en) accessed 14 July 2023.

<sup>301</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Seventh Periodic Report of Angola' (Tbinternet.ohchr.org, 14 March 2019) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAGO%2FO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAGO%2FO%2F7&Lang=en) accessed 14 July 2023.

<sup>302</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Eighth Periodic Report of Mauritius' (Tbinternet.ohchr.org, 14 November 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMUS%2FO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMUS%2FO%2F8&Lang=en) accessed 14 July 2023.

<sup>303</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Sixth Periodic Report of Bahamas' (Tbinternet.ohchr.org, 14 November 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBHS%2FO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBHS%2FO%2F6&Lang=en) accessed 14 July 2023.

<sup>304</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the combined fourth to sixth periodic reports of Suriname' (Tbinternet.ohchr.org, 12 March 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSUR%2FO%2F4-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSUR%2FO%2F4-6&Lang=en) accessed 14 July 2023.

<sup>305</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the combined third to fifth periodic reports of Malaysia' (Tbinternet.ohchr.org, 12 March 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMYS%2FO%2F3-5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMYS%2FO%2F3-5&Lang=en) accessed 14 July 2023.

<sup>306</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the eighth periodic report of the Republic of Korea' (Tbinternet.ohchr.org, 12 March 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FKOR%2FO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FKOR%2FO%2F8&Lang=en) accessed 14 July 2023.

<sup>307</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the fifth periodic report of Singapore' (Tbinternet.ohchr.org, 12 November 2017)

Italy itself was the subject of the CEDAW Committee's concerns in the *Concluding observations on the seventh periodic report of Italy* due to the lack of protection of the LGBTQIA+ community from discrimination and medically unnecessary interventions on intersex children. On the latter issue, the Committee recommended Italy to: 'Develop and implement a rights-based health-care protocol for intersex children, ensuring that children and their parents are appropriately informed of all options, that the children are involved, to the greatest extent possible, in decision-making about medical interventions and that their choices are respected and that no child is subjected to unnecessary surgery or treatment.'<sup>308</sup> Therefore, it would be appropriate for the state to make an effort to protect all its citizens.

On the other hand, in 2023 the CEDAW Committee was pleased with Spain's adoption of Law No. 4/2023 'for real and effective equality for transgender persons and guaranteeing the rights of lesbian, gay, bisexual, transgender and intersex persons, in February 2023', 'addressing the issue of gender self-identification.' However, the Committee also expressed concern about its effective implementation.<sup>309</sup> In addition, in its Concluding Observations, the Committee included Portuguese Law No. 38/2018, on the Rights of Lesbian, Gay, Bisexual, Transgender and Intersex People, of August 2018, as one of the 'positive aspects'.<sup>310</sup> Denmark was also hailed for its 2018 action plan to promote the safety, well-being and equal opportunities of lesbian, gay, bisexual, transgender and intersex people.<sup>311</sup> The Pakistani Act No. XIII of 2018 was also welcomed by the Committee, as it 'recognizes the right of persons to choose their gender identity and prohibits discrimination against and harassment of transgender and intersex persons'.<sup>312</sup> Moreover, the Committee welcomed the 2013

---

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSGP%2FCO%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSGP%2FCO%2F5&Lang=en) accessed 14 July 2023.

<sup>308</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the seventh periodic report of Italy' (Tbinternet.ohchr.org, 24 July 2017) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FITA%2FCO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FITA%2FCO%2F7&Lang=en) accessed 14 July 2023.

<sup>309</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the ninth periodic report of Spain' (Tbinternet.ohchr.org, 31 May 2023) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FESP%2FCO%2F9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FESP%2FCO%2F9&Lang=en) accessed 14 July 2023.

<sup>310</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the tenth periodic report of Portugal' (Tbinternet.ohchr.org, 12 July 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPRP%2FCO%2F10&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPRP%2FCO%2F10&Lang=en) accessed 14 July 2023.

<sup>311</sup> Committee on the Elimination of Discrimination against Women, 'Concluding observations on the ninth periodic report of Denmark' (Tbinternet.ohchr.org, 9 March 2021) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/061/72/PDF/N2106172.pdf?OpenElement> accessed 14 July 2023.

<sup>312</sup> Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Fifth Periodic Report of Pakistan' (Tbinternet.ohchr.org, 10 March 2020) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAK%2FCO%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAK%2FCO%2F5&Lang=en) accessed 14 July 2023.

amendments to the Sex Discrimination Act 1984, therefore prohibiting discrimination on grounds of sexual orientation, gender identity and intersex traits.<sup>313</sup>

Between 2017 to the present, recommendations to ban early surgeries on intersex children and to implement anti-discrimination measures were also made by the Committee on the Rights of the Child in its Concluding Observations. In addition to those, however, the CRC also made other pointers. For example, in its most recent Concluding Observation, addressed to the UK (2023), it recommended the state to recognise the right to identity ‘of lesbian, gay, bisexual, transgender and intersex children and put in place measures to ensure that all adolescents can enjoy their freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy’.<sup>314</sup> In the ones addressed to Ireland (2023)<sup>315</sup>, Netherlands (2022)<sup>316</sup>, Switzerland (2021)<sup>317</sup>, and Tunisia (2021)<sup>318</sup> the recommendation is to provide support for intersex children and their families with social, medical and psychological services. As stated earlier, training medical personnel in the multiplicity of sexual diversity (biological and psychological) is crucial to combat early surgeries. In this regard, in the CRC

---

<sup>313</sup> Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eight Periodic Report of Australia’ (Tbinternet.ohchr.org, 25 July 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUS%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUS%2FCO%2F8&Lang=en) accessed 14 July 2023.

<sup>314</sup> Committee on the Rights of the Child, ‘Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the United Kingdom of Great Britain and Northern Ireland’ (Tbinternet.ohchr.org, 22 June 2023) &lt;[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGBR%2CO%2F6-7&Lang=en&gt;](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGBR%2CO%2F6-7&Lang=en&gt;) accessed 14 July 2023.

<sup>315</sup> Committee on the Rights of the Child, ‘Concluding observations on the combined fifth and sixth periodic reports of Ireland’ (Tbinternet.ohchr.org, 28 February 2023) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FIRL%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FIRL%2FCO%2F5-6&Lang=en) accessed 14 July 2023.

<sup>316</sup> Committee on the Rights of the Child, ‘Concluding observations on the combined fifth and sixth periodic reports of the Kingdom of the Netherlands’ (Tbinternet.ohchr.org, 9 March 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FNLD%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FNLD%2FCO%2F5-6&Lang=en) accessed 14 July 2023.

<sup>317</sup> Committee on the Rights of the Child, ‘Concluding observations on the combined fifth and sixth periodic reports of Switzerland’ (Tbinternet.ohchr.org, 22 October 2021) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCHE%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCHE%2FCO%2F5-6&Lang=en) accessed 14 July 2023.

<sup>318</sup> Committee on the Rights of the Child, ‘Concluding observations on the combined fourth to sixth periodic reports of Tunisia’ (Tbinternet.ohchr.org, 2 September 2021) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FTUN%2FCO%2F4-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FTUN%2FCO%2F4-6&Lang=en) accessed 14 July 2023.

Concluding Observations addressed to Canada (2022)<sup>319</sup>, Italy (2019)<sup>320</sup>, and Denmark (2017)<sup>321</sup>, the State is urged to implement this aspect.

Lastly, 2023 opened with a very important event for the intersex community: in the framework of Iceland's Presidency of the Committee of Ministers of the Council of Europe in January was held *Advancing the Human Rights of Intersex People*, a conference aimed at raising awareness about the situation of intersex people in Europe, share the latest protection instruments. The key objective, however, was to launch the work on a new Committee of Ministers Recommendation on equality of rights of intersex people to be prepared by 2025.<sup>322</sup> This conference is an important step forward because it helped draw international attention to the rights of intersex people and will hopefully entice states to implement their own policies and legislation.

While most of these statements and recommendations are not legally binding, it is important to remember that some human rights are not derogable. Therefore, intersex people should enjoy the protection of Article 7 of the International Covenant on Civil and Political Rights (protection from non-consensual medical or scientific experimentation and inhuman treatment), of the Committee Against Torture General Comment no. 2 (para 18) (protection from genital mutilation and gender-based violence), and the Convention against Torture or Cruel, Inhuman or Degrading Treatment in its entirety.<sup>323</sup> Indeed, they cannot be derogated and have been recognized as applicable to unnecessary intervention on intersex bodies by the relevant UN Treaty bodies.

Moreover, it is also important to recognise the power of soft laws because, even if they are not legally binding, they have led States to legislate hard laws domestically and have also contributed to raising public awareness. In the wake of the soft laws, indeed, Malta adopted the Gender Identity, Gender Expression and Sex Characteristics (GIGESC) Act in 2015. This is the first European law aimed at prohibiting any intervention on the genitals of a minor which could not be postponed until the patient

---

<sup>319</sup> Committee on the Rights of the Child, 'Concluding observations on the combined fifth and sixth periodic reports of Canada' (Tbinternet.ohchr.org, 23 June 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCAN%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCAN%2FCO%2F5-6&Lang=en) accessed 14 July 2023.

<sup>320</sup> Committee on the Rights of the Child, 'Concluding observations on the combined fifth and sixth periodic reports of Italy' (Tbinternet.ohchr.org, 1 February 2019) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FITA%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FITA%2FCO%2F5-6&Lang=en) accessed 14 July 2023.

<sup>321</sup> Committee on the Rights of the Child, 'Concluding observations on the fifth periodic reports of Denmark' (Tbinternet.ohchr.org, 26 October 2017) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FDNK%2FCO%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FDNK%2FCO%2F5&Lang=en) accessed 14 July 2023.

<sup>322</sup> Council of Europe, 'Human Rights of Intersex People: Work Launched on New Council of Europe Recommendation - Portal - Www.Coe.Int' (Council of Europe, 26 January 2023) &lt;<https://www.coe.int/en/web/portal/-/human-rights-of-intersex-people-work-launched-on-new-council-of-europe-recommendation>&gt; accessed 14 July 2023.

<sup>323</sup> Markus Bauer, Daniela Truffer and Daniela Crocetti, 'Intersex Human Rights' (2019) 24 *The International Journal of Human Rights* 724, 730-731.



can give their informed consent.<sup>324</sup> Any medical intervention dictated by social conditioning carried out without the consent of the minor is considered a violation of the law. However, the intervention can be carried out if the minor provides her consent through her parents or her legal guardian.<sup>325</sup> As a consequence, also the entry of a sex marker on the birth certificate can be postponed.<sup>326</sup> Indeed, the X sex-marker does not indicate a 'third' gender, but the non-declaration of it.<sup>327</sup> The GIGESC Act is a significant step forward and the hope is that more and more states will follow the Maltese example to protect the integrity of bodies and the right to self-determination of intersex people.

Another approach consists in introducing a third gender in birth certificates. This is the solution adopted by some states such as Germany and Australia:<sup>328</sup> since 2013 in Germany it is possible to indicate 'sex uncertain', while in Australia there is the option 'non specific'.<sup>329</sup> However, this solution has been strongly criticised because it risks stigmatising intersex people, considering them 'other' compared to the 'norm', i.e. M and F.<sup>330</sup>

As regards the possibility for intersex people to change the indication of gender on documents, it is possible to do so (through different modalities) in some EU Member States, such as Denmark, France, and the Netherlands, without having to go through the procedure request for transgender people.<sup>331</sup> Since in Italy it consists of a long, complicated, expensive, and unnecessary process, it would be appropriate for Italy too to work in this direction.

---

<sup>324</sup> The only precedent is the Colombian Constitution which, albeit in a decidedly less stringent way, had recognized the bodily integrity of intersex children, allowing parents to opt for surgeries only after proven informed consent. Michela Balocchi, 'Un apparente paradosso. Le pratiche mediche di gestione dell'intersessualità in Italia' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 109, 152-153.

<sup>325</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 114.

<sup>326</sup> European Union Agency for Fundamental Rights, 'The Fundamental Rights Situation of Intersex People' (*European Union Agency for Fundamental Rights*, 2015) <<https://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people>> accessed 5 July 2023.

<sup>327</sup> Lena Holzer, 'Non-Binary Gender Registration Models in Europe' (*ILGA-Europe*, September 2018) <<https://ilga-europe.org/files/uploads/2022/04/non-binary-gender-registration-models-europe.pdf>> accessed .6 July 2023.

<sup>328</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 114.; European Union Agency for Fundamental Rights, 'The Fundamental Rights Situation of Intersex People' (*European Union Agency for Fundamental Rights*, 2015) <<https://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people>> accessed 5 July 2023.

<sup>329</sup> Anna Lorenzetti, 'I profili giuridici dell'intersessualità' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 159, 159.

<sup>330</sup> Anna Lorenzetti, 'Intersex in Italy: At the Source of the Complexity?' (2022) *The Age of Human Rights Journal* 105, 114.

<sup>331</sup> European Union Agency for Fundamental Rights, 'The Fundamental Rights Situation of Intersex People' (*European Union Agency for Fundamental Rights*, 2015) <<https://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people>> accessed 5 July 2023.

## CONCLUSION

The bodies of intersex people have been and continue to be a terrain of cultural negotiation: just by existing, they challenge the rigid sexual binarism that characterises Western society, demonstrating its fallacy. However, instead of embracing the non-absoluteness of this binarism, for centuries the solution has been to erase the evidence of it, seeking to 'normalise' the bodies of intersex people. This is a mode of gender construction since by eliminating 'anomalies' the binary logic is reaffirmed. To do this, intersex people have been pathologised and their bodies modified, becoming victims of countless violations of their human rights.

This research investigated why instead of embracing the multiformity of human nature, Western society has placed the principle of sexual binarism above the well-being of thousands of people. In addition, other equally violent ways of constructing gender were presented: the 'traditional' FGAs, the Victorian clitoridectomies, and the genital cosmetic surgeries practised in the West. From the comparison of these practices, it emerged that the common goal is that the body must meet aesthetic standards to be considered 'normal', hence surgical intervention is considered necessary. It was concluded that they are all practices that reaffirm sexual binarism and assume compulsory heterosexuality and the necessity of penetration in intercourse, consequently excluding other types of sexuality and pleasure.

Since in Western societies it is considered necessary to culturally intervene on intersex bodies for the 'natural' (whatever it means) aspect of sex to be affirmed, the problem of pharmacological and/or surgical interventions on the bodies of intersex people was addressed in more detail. From the history of these practices and from the analysis of what happens in Italian healthcare facilities, it has become clear that the fight for the protection of the human rights of intersex people still has a long way to go. Indeed, although many medical practitioners continue to maintain that early surgeries are in the best interests of the child, the international community has repeatedly spoken out against them.

This research demonstrated that nonconsensual and medically unnecessary interventions on intersex people fall within the definition of 'harmful practices'. So indeed, they have also been defined in several CEDAW and CRC Concluding Observations. Furthermore, numerous intersex advocates claimed that early surgeries constitute a form of torture since they violate bodily integrity and involve sterilisation.<sup>332</sup> The Right to Physical and Psychological Integrity is addressed by the Charter of

---

<sup>332</sup> Bauer M, Truffer D and Crocetti D, 'Intersex Human Rights' (2019) 24 *The International Journal of Human Rights* 724, 732.



Fundamental Rights of the European Union Article 3<sup>333</sup> and by the ECHR Article 8,<sup>334</sup> which declared that States must undertake to protect an individual's right to bodily integrity. Furthermore, in 2013 the Parliamentary Assembly of the COE in Resolution 1952 on the right of children to physical integrity from harmful practices, expressly requested the Member States to investigate the impact of non-medically justified operations and interventions and to take measures.<sup>335</sup> Moreover, the paper of the European Union Agency for Fundamental Rights (FRA) *The fundamental rights situation of intersex people* also reiterated that intersex people should enjoy the protection offered by the Charter of Fundamental Rights of the European Union in articles 1, 3, 7, 9, 21, 24.<sup>336</sup>

Since intersex surgeries are generally practised in the first months of life, they also constitute violence against children, so much so that the CRC addresses many issues that affect the health of intersex children: in article 24(1) we read that the 'States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.[...]'; consequently, the States Parties are required to take measures to abolish traditional practices that affect the health of children (art. 24(3)).<sup>337</sup> Furthermore, like all other children, intersex children should also enjoy the following CRC principles: Non-Discrimination (art 2); Best Interest of the Child (art 3); Children's Right to Life and Maximum Survival and Development (art 6); Preservation of Identity (art 8); Respect for the Views of the Child (art 12); Child's Right to Privacy (art. 16); Child's Right to Protection from All Forms of Violence (art 19); Rights of Children with Disabilities (art 23); Right to Health (Article 24); Protection from All Forms of Sexual Exploitation of Children (art 34); Protection from Other Forms of Exploitation (art 36); and Protection from Torture or other cruel, inhuman or degrading treatment or punishment (art 37).<sup>338</sup> Unfortunately, however, since intersex conditions are often pathologised, people with these characteristics are victims of discrimination. It has been observed that Italy does not have an anti-discrimination law, and indeed, only Malta to date has included sexual characteristics as a protected category, identifying unnecessary medical interventions as a form of childhood discrimination. The Yogyakarta Principles Plus 10 (2017) include sexual characteristics among the grounds of

---

<sup>333</sup> Charter of Fundamental Rights of the European Union (EU Charter) art 3.

<sup>334</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR) art 8.

<sup>335</sup> Council of Europe, 'Children's right to physical integrity' Parliamentary Assembly Res 1952 (2013).

<sup>336</sup> European Union Agency for Fundamental Rights, 'The Fundamental Rights Situation of Intersex People' (*European Union Agency for Fundamental Rights*, 2015) <<https://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people>> accessed 5 July 2023.

<sup>337</sup> Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) (CRC).

<sup>338</sup> *Ibid.*

discrimination, but unfortunately, they are not legally binding.<sup>339</sup> It's a real shame for the intersex community, also because article 32 seems to have been specially designed for them: 'Everyone has the right to be free from torture and cruel, inhuman and degrading treatment or punishment on the basis of sexual orientation, gender identity, gender expression and sex characteristics. No one shall be subjected to invasive or irreversible medical procedures that modify sex characteristics without their free, prior and informed consent, unless necessary to avoid serious, urgent and irreparable harm to the concerned person'.<sup>340</sup>

Since John Money began experimenting with his Optimal Gender of Rearing' (OGR) model, knowledge has increased: today we know that not only gender identity cannot be moulded in the first 18 months of life, but also that early surgeries are not in the child's best interest. The time of medical experiments on intersex bodies should therefore be over, yet it has been observed that they continue to be perpetrated. Possibly undergoing standardisation interventions should be a choice made in adulthood, as ICCPR article 7 provides ('In particular, no one shall be subjected without his free consent to medical or scientific experimentation').<sup>341</sup> Consent should be a fundamental requirement, also because intersex surgeries often involve sterilisation of the patient, which is why they have also been criticised by the Interagency Statement Eliminating forced, coercive and otherwise involuntary sterilisation by WHO and six UN bodies (2014)<sup>342</sup> and by the CESCR General comment No. 22 (2016).<sup>343</sup>

On the other hand, this research also addressed the problem of selective abortions: since some intersex variations are visible through prenatal diagnosis, many choose to abort the foetus that presents them, despite the 2015 Council of Europe Issue Paper on Human Rights and intersex people<sup>344</sup> out against this practice as discriminatory.

---

<sup>339</sup> International Commission of Jurists (ICJ), 'The Yogyakarta Principles Plus 10 - Additional Principles and State Obligation on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles' (Yogyakartaprinciples.org, 10 November 2017) &lt;http://yogyakartaprinciples.org/principles-en/yp10/&gt; accessed 10 July 2023.

<sup>340</sup> Ibid.

<sup>341</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art.7.

<sup>342</sup> OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, 'Eliminating Forced, Coercive and Otherwise Involuntary Sterilization' (World Health Organization, 2014) &lt;https://www.who.int/publications-detail-redirect/9789241507325&gt; accessed 12 July 2023.

<sup>343</sup> UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 22 (2016) on the Right to Sexual and Reproductive Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)' (OHCHR, 2 May 2016) &lt;https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-22-2016-right-sexual-and&gt; accessed 12 July 2023.

<sup>344</sup> Council of Europe Commissioner for Human Rights, 'Human Rights and Intersex People' (2015) <https://rm.coe.int/16806da5d4> accessed 12 July 2023.

Finally, it is worth mentioning what intersex people face if the sex surgically assigned to them at an early age does not reflect their gender identity. Indeed, irreparably changing the body the surgeries risk condemning intersex people to a very difficult situation to manage. It has been observed that in Italy at the time of birth children must be registered according to the binary view and that even the names chosen must correspond to the assigned sex. Consequently, if the registered sex does not correspond to the gender identity (and it often happens) intersex Italian citizens must rely on the law that regulates transsexuality to be able to change their registered sex. This is a very important legislative gap. Furthermore, it is also practically impossible for the intersex community to access justice for surgeries practised without their consent, due to invisibility and the difficulty in accessing records. Again, numerous recommendations have been made, both by the CAT and by the WHO<sup>345</sup> and in the CEDAW and CRC Joint General Recommendation 31/18.<sup>346</sup>

Therefore, the phenomenon of genital alterations is not only to some societies and foreign to others: for apparently different reasons, bodies seem to require improvement to reflect the culturally established standards. While practices such as the so-called 'female genital mutilation' have sparked public and institutional outrage, other forms of disciplining bodies are still not sufficiently opposed. The surgeries on intersex infants are an example of this since they can no longer be justified in any respect. They constitute a violation of many human rights of intersex children and adults, since not only are they not medically necessary, but they are also detrimental to their physical integrity. Furthermore, the rationale of sexual binarism and heteronormativity that has motivated them for decades must be dismantled, since intersex people demonstrate its fallacy and that it also affects the lives of transsexual, non-binary, and non-heterosexual people.

Thanks to the attention that the LGBT+ movement has been receiving in recent years, the hope is that in the most immediate future also intersex people will be able to enjoy national laws and international hard laws that protect them, hoping that this research has also contributed to the change.

---

<sup>345</sup> Bauer M, Truffer D and Crocetti D, 'Intersex Human Rights' (2019) 24 *The International Journal of Human Rights* 724, 734.

<sup>346</sup> Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, 'Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices' (OHCHR, 14 November 2019) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?SymbolNo=CEDAW/C/GC/31/CRC/C/GC/18](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?SymbolNo=CEDAW/C/GC/31/CRC/C/GC/18).

## BIBLIOGRAPHY

### Primary sources

——, ‘European Parliament Resolution of 14 February 2017 on Promoting Gender Equality in Mental Health and Clinical Research (2016/2096(INI))’ (europarl.europa.eu, 14 February 2017) <[https://www.europarl.europa.eu/doceo/document/TA-8-2017-0028\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2017-0028_EN.html)> accessed 6 July 2023.

Charter of Fundamental Rights of the European Union (EU Charter)

Committee against Torture, ‘Concluding observations on the seventh periodic report of Switzerland CAT/C/CHE/CO/7’ (2015) <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FCHE%2FCO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FCHE%2FCO%2F7&Lang=en)> para 20 accessed 6 July 2023.

Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, ‘Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on Harmful Practices’ (OHCHR, 14 November 2019) <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?SymbolNo=CEDAW/C/GC/31/CRC/C/GC/18](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?SymbolNo=CEDAW/C/GC/31/CRC/C/GC/18)>

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the tenth periodic report of Mongolia’ (Tbinternet.ohchr.org, 12 July 2022) <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMNG%2FCO%2F10&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMNG%2FCO%2F10&Lang=en)> accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the eighth periodic report of Panama’ (Tbinternet.ohchr.org, 1 March 2022) <[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAN%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAN%2FCO%2F8&Lang=en)> accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eighth Periodic Report of Bulgaria’ (Tbinternet.ohchr.org, 10 March 2020) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBGR%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBGR%2FCO%2F8&Lang=en) accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eighth Periodic Report of Belgium’ (Tbinternet.ohchr.org, 1 November 2022) &lt;[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBEL%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBEL%2FCO%2F8&Lang=en)&gt; accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eight Periodic Report of Australia’ (Tbinternet.ohchr.org, 25 July 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUS%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUS%2FCO%2F8&Lang=en) accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the combined sixth and seventh periodic reports of Luxembourg’ (Tbinternet.ohchr.org, 12 March 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2F%20LUX%2FCO%2F6-7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2F%20LUX%2FCO%2F6-7&Lang=en) accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Ninth Periodic Report of Mexico’ (Tbinternet.ohchr.org, 25 July 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMEX%2FCO%2F9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMEX%2FCO%2F9&Lang=en) accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eight Periodic Report of New Zealand’ (Tbinternet.ohchr.org, 25 July 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FNZL%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FNZL%2FCO%2F8&Lang=en) accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Sixth Periodic Report of Nepal’ (Tbinternet.ohchr.org, 14 November 2018)

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FNPL%2FCO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FNPL%2FCO%2F6&Lang=en) accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Fifth Periodic Report of Liechtenstein (Tbinternet.ohchr.org, 3 December 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FLIE%2FCO%2F5%2FRev.1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FLIE%2FCO%2F5%2FRev.1&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Ninth Periodic Report of Austria (Tbinternet.ohchr.org, 30 July 2019) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUT%2FCO%2F9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUT%2FCO%2F9&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Fifth Periodic Report of Pakistan (Tbinternet.ohchr.org, 10 March 2020) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAK%2FCO%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAK%2FCO%2F5&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the combined sixth and seventh periodic reports of Ireland’ (Tbinternet.ohchr.org, 3 March 2017) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FIRL%2FCO%2F6-7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FIRL%2FCO%2F6-7&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the combined seventh and eighth periodic reports of Germany’ (Tbinternet.ohchr.org, 3 March 2017) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FDEU%2FCO%2F7-8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FDEU%2FCO%2F7-8&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the seventh periodic report of Chile’ (Tbinternet.ohchr.org, 12 March 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCHL%2FCO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCHL%2FCO%2F7&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eighth Periodic Report of Finland’ (Tbinternet.ohchr.org, 1 November 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FFIN%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FFIN%2FCO%2F8&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the sixth periodic report of Switzerland’ (Tbinternet.ohchr.org, 1 November 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCHE%2FCO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCHE%2FCO%2F6&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the eighth periodic report of Costa Rica’ (Tbinternet.ohchr.org, 2 March 2023) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCRI%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCRI%2FCO%2F8&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the seventh periodic report of Slovakia’ (Tbinternet.ohchr.org, 31 May 2023) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSVK%2FCO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSVK%2FCO%2F7&Lang=en) accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eighth Periodic Report of Bulgaria’ (Tbinternet.ohchr.org, 10 March 2020) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBGR%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBGR%2FCO%2F8&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Sixth Periodic Report of Zimbabwe’ (Tbinternet.ohchr.org, 10 March 2020) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FZWE%2FCO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FZWE%2FCO%2F6&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Ninth Periodic Report of Guyana’ (Tbinternet.ohchr.org, 30 July 2019)



[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FGUY%2FCO%2F9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FGUY%2FCO%2F9&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Seventh Periodic Report of Angola’ (Tbinternet.ohchr.org, 14 March 2019)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAGO%2FCO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAGO%2FCO%2F7&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eighth Periodic Report of Mauritius’ (Tbinternet.ohchr.org, 14 November 2018)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMUS%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMUS%2FCO%2F8&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Sixth Periodic Report of Bahamas’ (Tbinternet.ohchr.org, 14 November 2018)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBHS%2FCO%2F6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FBHS%2FCO%2F6&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the combined fourth to sixth periodic reports of Suriname’ (Tbinternet.ohchr.org, 12 March 2018)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSUR%2FCO%2F4-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSUR%2FCO%2F4-6&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the combined third to fifth periodic reports of Malaysia’ (Tbinternet.ohchr.org, 12 March 2018)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMYS%2FCO%2F3-5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FMYS%2FCO%2F3-5&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the eighth periodic report of the Republic of Korea’ (Tbinternet.ohchr.org, 12 March 2018)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FKOR%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FKOR%2FCO%2F8&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the fifth periodic report of Singapore’ (Tbinternet.ohchr.org, 12 November 2017) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSGP%2FCO%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSGP%2FCO%2F5&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the seventh periodic report of Italy’ (Tbinternet.ohchr.org, 24 July 2017) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FITA%2FCO%2F7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FITA%2FCO%2F7&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the ninth periodic report of Spain’ (Tbinternet.ohchr.org, 31 May 2023) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FESP%2FCO%2F9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FESP%2FCO%2F9&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the tenth periodic report of Portugal’ (Tbinternet.ohchr.org, 12 July 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPRT%2FCO%2F10&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPRT%2FCO%2F10&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding observations on the ninth periodic report of Denmark’ (Tbinternet.ohchr.org, 9 March 2021) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/061/72/PDF/N2106172.pdf?OpenElement> accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Fifth Periodic Report of Pakistan’ (Tbinternet.ohchr.org, 10 March 2020) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAK%2FCO%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FPAK%2FCO%2F5&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, ‘Concluding Observations on the Eight Periodic Report of Australia’ (Tbinternet.ohchr.org, 25 July 2018) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUS%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FAUS%2FCO%2F8&Lang=en) accessed 14 July 2023.

Committee on the Elimination of Discrimination against Women, Concluding observations on the eighth periodic report of Indonesia' (Tbinternet.ohchr.org 24 November 2021) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FIDN%2FCO%2F8&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FIDN%2FCO%2F8&Lang=en) accessed 14 July 2023

Committee on the Elimination of Discrimination against Women, Concluding observations on the ninth periodic report of Russian Federation (Tbinternet.ohchr.org 30 November 2021) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FRUS%2FCO%2F9&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FRUS%2FCO%2F9&Lang=en) accessed 14 July 2023

Committee on the Rights of the Child, 'Concluding observations on the combined second to fourth periodic reports of Switzerland CRC/C/CHE/CO/2-4' (2015) <https://www2.ohchr.org/english/bodies/crc/docs/co/CRC-C-ISR-CO-2-4.pdf>

Committee on the Rights of the Child, 'Concluding Observations on the Combined Sixth and Seventh Periodic Reports of the United Kingdom of Great Britain and Northern Ireland' (Tbinternet.ohchr.org, 22 June 2023) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGBR%2FCO%2F6-7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGBR%2FCO%2F6-7&Lang=en); accessed 14 July 2023.

Committee on the Rights of the Child, 'Concluding observations on the combined fifth and sixth periodic reports of Ireland' (Tbinternet.ohchr.org, 28 February 2023) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FIRL%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FIRL%2FCO%2F5-6&Lang=en) accessed 14 July 2023.

Committee on the Rights of the Child, 'Concluding observations on the combined fifth and sixth periodic reports of the Kingdom of the Netherlands' (Tbinternet.ohchr.org, 9 March 2022) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FNLD%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FNLD%2FCO%2F5-6&Lang=en) accessed 14 July 2023.

Committee on the Rights of the Child, 'Concluding observations on the combined fifth and sixth periodic reports of Switzerland' (Tbinternet.ohchr.org, 22 October 2021)

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCHE%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCHE%2FCO%2F5-6&Lang=en) accessed 14 July 2023.

Committee on the Rights of the Child, ‘Concluding observations on the combined fourth to sixth periodic reports of Tunisia’ (Tbinternet.ohchr.org, 2 September 2021)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FTUN%2FCO%2F4-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FTUN%2FCO%2F4-6&Lang=en) accessed 14 July 2023

Committee on the Rights of the Child, ‘Concluding observations on the combined fifth and sixth periodic reports of Canada’ (Tbinternet.ohchr.org, 23 June 2022)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCAN%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FCAN%2FCO%2F5-6&Lang=en) accessed 14 July 2023.

Committee on the Rights of the Child, ‘Concluding observations on the combined fifth and sixth periodic reports of Italy’ (Tbinternet.ohchr.org, 1 February 2019)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FITA%2FCO%2F5-6&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FITA%2FCO%2F5-6&Lang=en) accessed 14 July 2023.

Committee on the Rights of the Child, ‘Concluding observations on the fifth periodic reports of Denmark’ (Tbinternet.ohchr.org, 26 October 2017)  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FDNK%2FCO%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FDNK%2FCO%2F5&Lang=en) accessed 14 July 2023.

Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR)

Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) (CEDAW)

Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) (CRC)

Costituzione Della Repubblica Italiana 1947

Council of Europe Commissioner for Human Rights, ‘Human Rights and Intersex People’ (2015)  
<https://rm.coe.int/16806da5d4>

Council of Europe, ‘Children’s right to physical integrity’ Parliamentary Assembly Res 1952 (2013)  
Council of Europe, ‘Human Rights of Intersex People: Work Launched on New Council of Europe  
Recommendation - Portal - Www.Coe.Int’ (Council of Europe, 26 January 2023)  
&lt;<https://www.coe.int/en/web/portal/-/human-rights-of-intersex-people-work-launched-on-new-council-of-europe-recommendation>&gt; accessed 14 July 2023.

European Parliament, ‘EU Roadmap against homophobia and discrimination on grounds of sexual  
orientation and gender identity’ (2014)  
<<https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2013%2F2183%28INI%29>> accessed 6 July 2023

Foreign Affairs Council of the European Union, ‘Guidelines to Promote and Protect the Enjoyment  
of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons’ (2013)  
<[https://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/137584.pdf](https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/137584.pdf)>  
accessed 5 July 2023

Gender Identity, Gender Expression and Sex Characteristics (2015) (GIGESC)

ILO, OHCHR, UNAIDS Secretariat, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN  
Women, WFP and WHO, ‘Joint UN statement on ending violence and discrimination against lesbian,  
gay, bisexual, transgender and Intersex people’ (2015)  
<<https://www.unwomen.org/en/news/stories/2015/10/lgbt-joint-statement>> accessed 6 July 2023

International Commission of Jurists (ICJ), ‘The Yogyakarta Principles Plus 10 - Additional Principles  
and State Obligation on the Application of International Human Rights Law in Relation to Sexual  
Orientation, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles’  
([Yogyakartaprinciples.org](http://yogyakartaprinciples.org), 10 November 2017) &lt;<http://yogyakartaprinciples.org/principles-en/yp10/>&gt; accessed 10 July 2023

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR)

OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, ‘Eliminating Forced, Coercive and Otherwise Involuntary Sterilization’ (World Health Organization, 2014) &lt;<https://www.who.int/publications-detail-redirect/9789241507325>&gt; accessed 12 July 2023

Parliamentary Assembly ‘Children’s right to physical integrity’ (2013) <<http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20174>> accessed 5 July 2023

UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 22 (2016) on the Right to Sexual and Reproductive Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)’ (OHCHR, 2 May 2016) &lt;<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-22-2016-right-sexual-and>&gt; accessed 12 July 2023

United Nations Human Rights Council ‘Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez’ (2013) <[https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53\\_English.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf)> accessed 5 July 2023

### Secondary sources

Ainsworth C, ‘Sex Redefined: The Idea of 2 Sexes Is Overly Simplistic’ (*Scientific American*, 22 October 2018) <https://www.scientificamerican.com/article/sex-redefined-the-idea-of-2-sexes-is-overly-simplistic1/> accessed 20 May 2023

Astorino C, ‘Why I’m Disturbed by Screening for Intersex Traits in Utero’ (*Rewire News Group*, 11 March 2015) <https://rewirenewsgroup.com/2015/03/11/im-disturbed-screening-intersex-traits-utero/> accessed 22 May 2023

Balocchi M, 'An Apparent Paradox: The Bio-Medicalisation of Intersex Variations in Italy', in Megan Walker *Interdisciplinary and global perspectives on intersex* (Palgrave Macmillan 2022), 155

Balocchi M, 'Dignità Delle Persone E Autodeterminazione: Oltre I Confini Del Binario Di Sesso/Genere' (*intersexioni.it*, 14 September 2015) <https://www.intersexioni.it/dignita-delle-persone-e-autodeterminazione-oltre-i-confini-del-binarismo-di-sessogenere/> accessed 17 May 2023

Balocchi M, 'Un apparente paradosso. Le pratiche mediche di gestione dell'intersessualità in Italia' in in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 109

Balocchi M and Bernini L, *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019)

Balocchi M, 'LaFalla Del Cassero' (*La Perdurante Invisibilizzazione Dell'Intersesso*, 8 November 2020) <https://lafalla.cassero.it/la-perdurante-invisibilizzazione-dellintersesso/> accessed 17 May 2023

Balocchi M, 'The medicalization of intersexuality and the sex/gender binary system: a look on the Italian case' (2014) 6 *Les Online* 65

Bauer M, Truffer D and Crocetti D, 'Intersex Human Rights' (2019) 24 *The International Journal of Human Rights* 724

Blackless M and others, 'How Sexually Dimorphic Are We? Review and Synthesis' (2000) 12 *American Journal of Human Biology* 151

Boddy J, 'Re-Thinking the Zero Tolerance Approach to FGM/c: The Debate around Female Genital Cosmetic Surgery' (2020) 12 *Current Sexual Health Reports* 302

Boddy J, 'The Normal and the Aberrant in Female Genital Cutting' (2016) 6 *HAU: Journal of Ethnographic Theory* 41

Boddy J, 'Violence Embodied?: Circumcision, Gender Politics, and Cultural Aesthetics' [1998] *Rethinking Violence Against Women* 77



Boddy J, 'Womb as Oasis: The Symbolic Context of Pharaonic Circumcision in Rural Northern Sudan' (1982) 9 *American Ethnologist* 682

Bourdieu P and Wacquant L, *An Invitation to Reflexive Sociology* (Univ of Chicago Press 1992)

Braida N, 'La medicalizzazione delle differenze sessuali in Italia' in in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 87

Butler J, *Bodies That Matter: On the Discursive Limits of 'Sex'* (Routledge 2011)

Butler J, *Gender Trouble: Feminism and the Subversion of Identity* (Routledge 2006AD 1999)

Charlier P and Deo S, 'Paul Broca's Clitoridectomy as a Cure for "Nymphomania": A Pseudo-Medical Mutilation' (2019) 29 *Torture Journal* 110

Comitato Nazionale per la Bioetica, 'I Disturbi Della Differenziazione Sessuale Nei Minori: Aspetti Bioetici' (*Comitato Nazionale per la Bioetica*, 25 February 2010) <<https://bioetica.governo.it/it/pareri/pareri-e-risposte/i-disturbi-della-differenziazione-sessuale-nei-minori-aspetti-bioetici/>> accessed 3 July 2023

Conroy RM, 'Female Genital Mutilation: Whose Problem, Whose Solution?' (2006) 333 *BMJ* 106

Crocetti D, Monro S, Vecchietti V and Yeadon-Lee T, 'Towards an Agency-Based Model of Intersex, Variations of Sex Characteristics (VSC) and DSD/DSD Health' (2020) 23 *Culture, Health & Sexuality* 500

Davis G and Preves S, 'Pensare l'intersessualità: 25 anni di attivismo, mobilitazione e cambiamento' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 45

Dykerman KD, 'Eugenics and Intersex: The Consequences of Defining "Normal" Bodies' (*Medicine and the Body*, 3 March 2015) <http://notchesblog.com/2015/03/03/eugenics-and-intersex-a-historical-perspective-on-a-contemporary-problem/> accessed 23 May 2023

Dupré J, 'Gender and the End of Biological Determinism' in Browne J (Ed.), *Why Gender?* (Cambridge University Press 2021)

European Union Agency for Fundamental Rights, 'The Fundamental Rights Situation of Intersex People' (*European Union Agency for Fundamental Rights*, 2015) <https://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people> accessed 5 July 2023

Fausto-Sterling A, 'On the Critiques of the Concept of Sex: An Interview with Anne Fausto-Sterling' (2016) 27 *differences* 189

Fausto-Sterling A, *Sexing the Body: Gender Politics and the Construction of Sexuality* (Basic Books 2000)

Fausto-Sterling A, 'The Five Sexes' (1993) 33 *The Sciences* 20

Fausto-Sterling A, 'The Five Sexes, Revisited' (2000) 40 *The Sciences* 18

Fusaschi M, 'Correction: Gendered Genital Modifications in Critical Anthropology: From Discourses on FGM/C to New Technologies in the Sex/Gender System' (2023) 35 *International Journal of Impotence Research* 78

García López Daniel J, 'Senza diritti. La nuda vita intersex e lo stato di eccezione' in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 181

Green F, 'From Clitoridectomies to "Designer Vaginas": The Medical Construction of Heteronormative Female Bodies and Sexuality through Female Genital Cutting' (2005) 7 *Sexualities, Evolution & Gender* 153

Gruenbaum E, 'Sexuality Issues in the Movement to Abolish Female Genital Cutting in Sudan' (2006) 20 *Medical Anthropology Quarterly* 121

Hawkesworth M, 'Confounding Gender' (1997) 22 *Signs: Journal of Women in Culture and Society* 649

Holzer L, 'Non-Binary Gender Registration Models in Europe' ( *ILGA-Europe*, September 2018) <<https://ilga-europe.org/files/uploads/2022/04/non-binary-gender-registration-models-europe.pdf>> accessed 6 July 2023

Johnsdotter S and Essén B, 'Genitals and Ethnicity: The Politics of Genital Modifications' (2010) 18 *Reproductive Health Matters* 29

Kehrer I, 'Cuts into Children's Future: a Comparative Analysis between FGM, Male Circumcision and Intersex Genital Surgeries' (2019) 3 *Peace Human Rights Governance* 333

'IACHR Urges States to End Violence and Harmful Practices Against Intersex Persons' (oas.org, 22 November 2017) <[https://www.oas.org/en/iachr/media\\_center/PReleases/2017/189.asp](https://www.oas.org/en/iachr/media_center/PReleases/2017/189.asp)> accessed 6 July 2023

'Intersex Awareness Day – Wednesday 26 October' (OHCHR, 24 October 2016) <<https://www.ohchr.org/en/2016/10/intersex-awareness-day-wednesday-26-october>> accessed 6 July 2023

I.S.C Associazione Iperplasia Surrenale Congenita 'I.S.C opuscolo informativo' <<https://airisc.org/per-i-piu-giovani.html>> accessed 2 July 2023

'Legal Name and Sex Change Procedure' (*Istituto Superiore di Sanità*, 16 March 2023) <<https://www.iss.it/en/-/infointersex-percorso-di-modifica-anagrafica>> accessed 3 July 2023

Kessler SJ, 'The Medical Construction of Gender: Case Management of Intersexed Infants' (1990) 16 *Signs: Journal of Women in Culture and Society* 3

Kon AA ‘I processi decisionali relativi ai neonati intersex: alcune considerazioni etiche’, in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 75

Lorenzetti A, ‘Intersex in Italy: At the Source of the Complexity?’ (2022) *The Age of Human Rights Journal* 105

Lorenzetti A, ‘I profili giuridici dell’intersessualità’ in Michela Balocchi and Lorenzo Bernini (eds), *Intersex: Antologia Multidisciplinare* (Edizioni ETS 2019) 159

Manderson L, ‘Local Rites and Body Politics’ (2004) 6 *International Feminist Journal of Politics* 285

Diana Tietjens Meyers, ‘Feminism and Women’s Autonomy: The Challenge of Female Genital Cutting’ (2000) 31 *Metaphilosophy* 469

Miller EM and Yang Costello C, ‘The Limits of Biological Determinism’ (2001) 66 *American Sociological Review* 592

Ministero della Salute, ‘Promozione e Tutela Della Salute Del Bambino e Dell’adolescente: Criteri Di Appropriatazza Clinica, Tecnologica e Strutturale ’ (*Quaderni del Ministero della salute*, 23 August 2012) <<http://www.quadernidellasalute.it/portale/quaderni/dettaglioQuaderni.jsp?id=2573>> accessed 4 July 2023.

Monro S, Carpenter M, Crocetti D, Davis G, Garland F, Griffiths D, Hegarty P, Travis M, Grinspan MC and Aggleton P, ‘Intersex: cultural and social perspectives’ (2021) 23 *Culture, Health & Sexuality* 431

Monro S, Crocetti D and Yeadon-Lee T, ‘Intersex/Variations of Sex Characteristics and DSD Citizenship in the UK, Italy and Switzerland’ (2019) 23 *Citizenship Studies* 780

O’Connell HE, Haller B and Hoe V, ‘Moving from Critical Clitoridectomy’ (2020) 60 *Australian and New Zealand Journal of Obstetrics and Gynaecology* 637

‘Intersex Awareness Day – Wednesday 26 October’ (*OHCHR*, 24 October 2016)  
<<https://www.ohchr.org/en/2016/10/intersex-awareness-day-wednesday-26-october>>

Pedwell C, ‘Theorizing “African” Female Genital Cutting and “Western” Body Modifications: A Critique of the Continuum and Analogue Approaches’ (2007) 86 *Feminist Review* 45

Prandelli M and Testoni I, ‘Inside the Doctor’s Office. Talking about Intersex with Italian Health Professionals’ (2020) 23 *Culture, Health & Sexuality* 484

Public Policy Advisory Network on Female Genital Surgeries in Africa, ‘Seven Things to Know about Female Genital Surgeries in Africa’ (2012) 42 *Hastings Center Report* 19

Rodrigues S, ‘From Vaginal Exception to Exceptional Vagina: The Biopolitics of Female Genital Cosmetic Surgery’ (2012) 15 *Sexualities* 778

Rodriguez SW, ‘Rethinking the History of Female Circumcision and Clitoridectomy: American Medicine and Female Sexuality in the Late Nineteenth Century’ (2008) 63 *Journal of the History of Medicine and Allied Sciences* 323

‘50 Un Reprimands for Intersex Genital Mutilation – and Counting ...’ (*StopIGM.org*, 21 March 2021)  
<<https://stopigm.org/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations/>>

Studd J, ‘A Comparison of 19th Century and Current Attitudes to Female Sexuality’ (2007) 23 *Gynecological Endocrinology* 673

Studd J and Schwenkhagen A, ‘The Historical Response to Female Sexuality’ (2009) 63 *Maturitas* 107

‘50 Un Reprimands for Intersex Genital Mutilation – and Counting ...’ (*StopIGM.org*, 21 March 2021) <<https://stopigm.org/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations/>>  
accessed 6 July 2023

‘# What’s The History behind the Intersex Rights Movement?’ (*Intersex Society of North America*)  
<<https://isna.org/faq/history/>> accessed 26 June 2023

WHO (World Health Organization), ‘Female genital mutilation’, <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>, accessed 24 April 2023

WHO (World Health Organization), ‘Types of female genital mutilation’, [https://www.who.int/teams/sexual-and-reproductive-health-and-research-\(srh\)/areas-of-work/female-genital-mutilation/types-of-female-genital-mutilation](https://www.who.int/teams/sexual-and-reproductive-health-and-research-(srh)/areas-of-work/female-genital-mutilation/types-of-female-genital-mutilation), accessed 19 April 2023

Zar R, ‘Labiaplasty: What’s a ‘normal’ vagina’ (2013) <<https://www.refinery29.com/en-us/2013/10/55377/labiaplasty>> accessed 18 April 2023