

I. Background

1. For decades in the US, infants and children with intersex traits – innate variations in a person’s physical sex characteristics such as chromosomes, genitals, internal reproductive organs, and hormone production and response – have been subjected to non-consensual surgical interventions to forcibly conform their bodies to stereotypes associated with the sex assignment chosen by their parents and doctors, in the absence of an urgent medical justification. These practices, which include non-consensual genital and gonadal surgeries, are referred to collectively as intersex genital mutilation (IGM) and continue today in hospitals around the US.
2. Intersex individuals suffer life-long physical and emotional injury as a result of these non-consensual practices. Non-consensual genital surgeries risk chronic pain, urinary incontinence, and the loss of future sexual sensation and function.¹ Non-consensual gonadectomies can amount to involuntary sterilization. Furthermore, imposing non-consensual surgery to cement a sex *assignment* that may differ from the person’s own gender identity poses a significant risk of causing iatrogenic gender dysphoria: depending on the particular intersex variation, the probability of assigning a sex with which the individual will not identify ranges from 5 percent to *over 60 percent*.² Compounding this harm, non-consensual childhood surgery may limit the individual’s options for gender-affirming procedures later in life, should any be desired. (Even if the individual does identify with their assigned sex, surgeries imposed without their consent may not align with their own priorities for how their body will look, feel, and function.)
3. Many intersex adults in the US struggle to access necessary, consensual healthcare due to discrimination by providers as well as state laws restricting gender-affirming and reproductive healthcare. A recent survey found that during 2024, nearly half of intersex adult respondents had postponed seeking medical care to avoid discrimination, and nearly 25 percent had to travel out of state to access reproductive care.³

II. International Human Rights Framework

4. Non-consensual surgeries on intersex children violate rights recognized under multiple instruments. In the 2019 Background Note on Human Rights Violations Against Intersex People, the Office of the High Commissioner for Human Rights discussed “States’ obligation to eliminate forced, coercive, and unnecessary medical interventions to modify variations of sex characteristics.” The Note observed that such interventions “violate rights to the security of person, right to bodily and mental integrity, freedom from torture and ill-treatment, and freedom from violence,” citing article 3 of the Universal Declaration of Human Rights, article 9 of the International Covenant on Civil and Political Rights, and article 17 of the Convention on the

¹ Human Rights Watch and interACT, “*I Want To Be Like Nature Made Me*”: *Medically Unnecessary Surgeries on Intersex Children in the US* at 58 (2017), available at https://www.hrw.org/sites/default/files/report_pdf/lgbtintersex0717_web_0.pdf. [hereinafter, HRW report (2017)].

² I.A. Hughes et al., *Consensus Statement on Management of Intersex Disorders*, 91 Archives of Disease in Childhood 554 (2006); P.S. Furtado et al., *Gender Dysphoria Associated with Disorders of Sex Development*, Nat. Rev. Urol. (9 October 2012), available at doi:10.1038/nrurol.2012.182.

³ Caleb Smith and Haley Norris, “The LGBTQI+ Community Reported High Rates of Discrimination in 2024,” *Center for American Progress* (March 12, 2025), <https://www.americanprogress.org/article/the-lgbtqi-community-reported-high-rates-of-discrimination-in-2024/>

Rights of Persons with Disabilities.⁴ (Article 5 of the Universal Declaration of Human Rights guarantees that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”⁵)

5. The United Nations Human Rights Committee has deemed the practice of intersex genital mutilation to violate the International Covenant on Civil and Political Rights – specifically Articles 3 (Equal protection of civil and political rights), 7 (Prohibition against torture, cruel, inhuman or degrading treatment or punishment), 9 (Liberty and security of the person), 17 (Privacy), 24 (Non-discrimination on the basis of sex and birth), and 26 (All persons are equal before the law and entitled to equal protection of the law without discrimination).⁶
6. The Yogyakarta Principle on protection from medical abuses (Principle 18) calls on states to “take all necessary legislative, administrative and other measures to ensure that no child’s body is irreversibly altered by medical procedures in an attempt to impose a gender identity without the full, free and informed consent of the child...” and emphasizes that “in all actions concerning children, the best interests of the child shall be a primary consideration.”⁷ The Background Note highlights a point of caution from the Committee on the Rights of the Child that is relevant in this context, namely that “the requirement to give priority to the ‘best interests of the child’ may be open to manipulation ... and interpretations of a child’s best interests cannot be used to justify practices that conflict with human dignity and the right to physical integrity.”⁸
7. Principle 32 of the Yogyakarta Principles Plus 10 additionally establishes that: “Everyone has the right to bodily and mental integrity, autonomy and self-determination irrespective of sexual orientation, gender identity, gender expression or sex characteristics,” and “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.”⁹
8. In 2024, the United Nations Human Rights Council adopted a resolution denouncing “discrimination, violence, and harmful practices” that violate the human rights of intersex people. The resolution specifically expressed the Council’s “grave concern” about the practice of “medically unnecessary or deferrable interventions...with respect to sex characteristics, performed without the full, free and informed consent of the Person,” noting that conducting such surgeries on children does not comply with the Convention on the Rights of the Child. It also “encourages States...to enhance efforts to combat discrimination, violence and harmful practices against persons with innate variations in sex characteristics and address their root causes” in order

⁴ United Nations Office of the High Commissioner for Human Rights, *Background Note on Human Rights Violations Against Intersex People* (October 24, 2019).

⁵ United Nations, Universal Declaration of Human Rights (2015), available at: https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

⁶ Human Rights Committee, *Concluding observations on the sixth periodic report of Australia* 5 (9 November 2017) available at https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/AUS/INT_CCPR_COC_AUS_29445_E.pdf.

⁷ The Yogyakarta Principles on The Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, available at: <http://www.yogyakartaprinciples.org/>.

⁸ United Nations Office of the High Commissioner for Human Rights, *Background Note on Human Rights Violations Against Intersex People* (October 24, 2019).

⁹ The Yogyakarta Principles Plus 10 as adopted on November 10, 2017 (Geneva), available at: https://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf

to achieve “the highest attainable standard of physical and mental health” for intersex people.¹⁰

III. Intersex Issues in the US During the Third Cycle

9. In the Third Cycle of the Universal Periodic Review of the United States, non-consensual medical interventions and other forms of violence and discrimination against intersex individuals were recognized as issues of concern. interACT’s submission detailing the continuation of IGM was reflected in the Summary of Stakeholder Submissions (paragraph 75): “interACT reported that children with intersex traits had been, and continued to be, subjected to unnecessary medical interventions without their consent.”¹¹ interACT’s recommendations during the Third Cycle included:
 - a. That state legislatures pass legislation mandating delay of medical interventions on intersex children too young to participate in the decision, when those procedures both carry a meaningful risk of harm and can be safely deferred.
 - b. That state insurance boards issue regulations that bar insurers from providing reimbursement for all surgical procedures that seek to alter the gonads or genitals of intersex children too young to participate in the decision, when those procedures both carry a meaningful risk of harm and can be safely deferred.
 - c. That state attorneys general investigate the practice of conducting medically unnecessary surgeries on intersex children without the patient’s consent at state hospitals, and enforce applicable state laws (e.g., FGM, sterilization) in such instances.
 - d. That the National Institutes of Health ensure that all NIH-funded research on intersex populations involves input from intersex advocacy groups and is held to ethical and legal standards for use of human research subjects.
10. Additionally, the Compilation on the United States of America prepared by OHCHR included (paragraph 15): “The Working Group on the issue of discrimination against women in law and in practice stated that lesbian, bisexual, transgender and intersex persons faced heightened exposure to hate crimes and physical violence.”¹²
11. The letter for implementation from the High Commissioner for Human Rights to then-Secretary of State Anthony Blinken listed, among other issue areas highlighted as being “in need of particular attention” prior to the next periodic review: “Preventing and combating hate crime and physical violence against lesbian, gay, bisexual, transgender, queer and intersex persons.”
12. Notably, the US had “supported” recommendation 26.147 from France (A/HRC/46/15/Add.1 - Para.6): “Guarantee the protection of lesbian, gay, bisexual, transgender and intersex persons and

¹⁰ Human Rights Council, Fifty-fifth session (March 21, 2024), A/HRC/55/L.9, available at: <https://docs.un.org/en/A/HRC/55/L.9>

¹¹ Summary of Stakeholders’ Submissions to the United States of America: Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/WG.6/36/USA/3 (March 6, 2020), available at: <https://documents.un.org/doc/undoc/gen/g20/062/28/pdf/g2006228.pdf?OpenElement=&emci=a66e44af-cb88-ea11-86e9-00155d03b5dd&emdi=cd55d06e-cc88-ea11-86e9-00155d03b5dd&ceid=7748758>

¹² Compilation on the United States of America: Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/WG.6/36/USA/2 (March 11, 2020), available at: <https://documents.un.org/doc/undoc/gen/g20/065/34/pdf/g2006534.pdf?OpenElement=&emci=a66e44af-cb88-ea11-86e9-00155d03b5dd&emdi=cd55d06e-cc88-ea11-86e9-00155d03b5dd&ceid=7748758>

put an end to the discrimination they suffer.”¹³ Yet, as reflected in *Views expressed by the State under review* (Report of the Human Rights Council, paragraph 824): “Despite the extraordinary progress the country had made securing equal rights for LGBTQI+ individuals, discrimination was rampant in many areas of its society.”¹⁴

IV. Follow-Up to the 2020 Universal Periodic Review

13. Medical providers at prominent US hospitals still openly defend and perform non-consensual surgery on intersex infants and young children as documented in recent medical literature.¹⁵ While several US hospitals have taken steps to restrict non-consensual surgeries on children with intersex variations, these policies frequently leave gaps and loopholes that amount to incomplete protections.
 - a. In July 2020, Lurie Children's Hospital announced a policy that “in intersex individuals,” *except* children with the variation Congenital Adrenal Hyperplasia (CAH), “irreversible genital procedures, particularly clitoroplasty, should not be performed until patients can participate meaningfully in making the decision for themselves, unless medically necessary.”¹⁶ Lurie promised to arrive at a policy decision regarding children with CAH after holding a symposium and producing a white paper (anticipated to take six months), and to pause medically unnecessary surgeries on children with CAH until then. In July 2022, Lurie announced that it would not hold the planned symposium, but would share an update “when a full policy regarding CAH is better defined.”¹⁷ With no public updates since, Lurie’s current practices are unknown.
 - b. Also in 2020, Boston Children’s Hospital announced it would no longer perform clitoral and vaginal surgeries on intersex children too young to consent, but said nothing regarding gonadectomy or “masculinizing” genital surgery on intersex children.¹⁸
 - c. By contrast, the New York City Health and Hospitals system – the largest public healthcare system in the US – adopted a policy in 2021 that reflects a human rights perspective and appears to afford strong protections for intersex bodily autonomy.¹⁹ It states: “All medically unnecessary surgery on Intersex [children] should be delayed until the child is of an age to assent/consent (adolescence). If parents are requesting such surgery, the rights of the child to be protected from harm should take precedence over the demands of parents for intervention. ... Therefore, NYC H+H hospitals should respect

¹³ Report of the Working Group on the Universal Periodic Review: United States of America, A/HRC/46/15 (December 15, 2020), available at: <https://docs.un.org/en/A/HRC/46/15>

¹⁴ Report of the Human Rights Council on its Forty-Sixth Session, A/HRC/46/2 (October 18, 2021), available at: <https://docs.un.org/en/A/HRC/46/2>

¹⁵ Avi Baskin et al, “Post-Operative Complications Following Feminizing Genitoplasty in Moderate to Severe Genital Atypia: Results from a Multicenter, Observational Prospective Cohort Study,” 16 *Journal of Pediatric Urology* (2020); Christopher J. Long et al, “Post-Operative Complications Following Masculinizing Genitoplasty in Moderate to Severe Genital Atypia: Results From a Multicenter, Prospective Cohort Study,” 17 *Journal of Pediatric Urology* 379 (2021); J. Kremen et al, “Exploring Factors Associated with Decisions about Feminizing Genitoplasty in Differences of Sex Development,” 35 *Journal of Pediatric and Adolescent Gynecology* 638 (2022).

¹⁶ Ann & Robert H. Lurie Children's Hospital of Chicago, “Intersex Care at Lurie Children’s and Our Sex Development Clinic” (July 28, 2020), <https://www.luriechildrens.org/en/blog/intersex-care-at-lurie-childrens-and-our-sex-development-clinic/>

¹⁷ Ann & Robert H. Lurie Children's Hospital of Chicago, “CAH Conference Update” (July 27, 2022), <https://www.luriechildrens.org/en/news-stories/cah-conference-update/>.

¹⁸ Nico Lang, “Boston Children’s Hospital Will Stop Performing Some Surgeries on Intersex Youth,” *them.us* (October 21, 2020), <https://www.them.us/story/boston-childrens-hospital-intersex-surgeries>

¹⁹ interACT, *New York City Health and Hospitals Prohibits Intersex Surgery* (July 7, 2021), <https://interactadvocates.org/new-york-city-health-and-hospitals-prohibit-intersex-surgery/>

the child’s increasing decision-making authority and moral understanding and not perform any medically premature procedures.”²⁰

14. In our Third Cycle submission, interACT recommended that state legislatures pass laws to protect intersex infants and children from IGM. Attempts to pass legislation directly regulating IGM have continued to meet familiar barriers: in policy discussions, medical providers who personally perform the surgeries in question are still frequently deferred to as the “experts” on what should be considered best practices, while the experiences of intersex individuals who live with the impacts of such surgeries are accorded less value. Within the US, the most promising effort to date to legislatively ban IGM was SB 225 in California,²¹ which failed to progress after medical associations and providers aggressively lobbied against it.²²
15. Several pieces of state and local legislation have passed that do not regulate IGM directly: New York City;²³ Austin, Texas;²⁴ and New York State²⁵ have authorized public awareness campaigns on the existence of intersex variations and the harms of IGM (none of which have been implemented yet). Medical providers have opposed even these efforts. In fact, a pediatric urologist managed to derail implementation of Austin’s campaign by meeting with Austin Public Health (APH) staff to express opposition after the resolution had already passed.²⁶ The Director of APH stated that the pediatric urologist “offered medical expertise and a professional opinion on the adverse impacts of delayed treatment in complex and severe cases,” noting that “[t]he Societies for Pediatric Urology and American Urological Association ... share the same perspective that early medical interventions such as surgical repairs in young children are an important option for parents.”²⁷ Accordingly, APH determined it had not had sufficient time to “engage key stakeholders,” and implementation was stalled.²⁸
16. Since the last Cycle, not only have barriers to proactive legislative efforts persisted, but hostile state legislation has proliferated – primarily targeting transgender communities, but impacting intersex individuals as well. From sports participation to restroom usage, dozens of laws have been enacted across the US that rely on binary, essentialist notions of “biological sex” to exclude

²⁰ See *id.*

²¹ See interACT, *interACT Launches California’s SB 225 to Delay Clitoroplasty and Other Major Genital Surgeries on Infants* (January 15, 2021), <https://interactadvocates.org/california-sb225/>

²² Evan Symon, “Intersex Surgery Bill Withdrawn from Committee Before Vote due to Lack of Support,” *California Globe* (April 5, 2021), <https://californiaglobe.com/fr/intersex-surgery-bill-withdrawn-from-committee-before-vote-due-to-lack-of-support/>

²³ Local Law No. 60 of 2021, *To amend the administrative code of the city of New York, in relation to requiring the department of health and mental hygiene to conduct a public information and outreach campaign regarding medically unnecessary treatments or interventions on individuals born with intersex traits or variations in sex characteristics* (enacted by the New York City Council on May 23, 2021), <https://intro.nyc/local-laws/2021-60>

²⁴ City of Austin, Office of Mayor Pro Tem Natasha Harper-Madison, “City Council Passes Historic Resolution Affirming Austin’s Commitment to Protecting Intersex Human Rights” (October 21, 2021), <https://mailchi.mp/austintexas.gov/city-council-passes-historic-resolution-affirming-austins-commitment-to-protecting-intersex-human-rights?e=0a5bb73be8>

²⁵ New York State, Governor Kathy Hochul, “Governor Hochul Signs Legislation to Develop an Outreach Program About the Impact of Medical Treatments on Intersex Individuals” (November 8, 2023), <https://www.governor.ny.gov/news/governor-hochul-signs-legislation-develop-outreach-program-about-impact-medical-treatments>

²⁶ See Austin Public Health, Director Adrienne Sturup, *Memorandum: Staff Update Resolution No. 20211021-028 Intersex Children Public Education Campaign* (February 8, 2022), available at: <https://services.austintexas.gov/edims/pio/document.cfm?id=376095>

²⁷ *Id.*

²⁸ *Id.*

transgender and intersex people from single-sex (especially women's) teams and spaces. According to the Trevor Project, 50% of LGBTQ youth who are intersex already report having been discouraged or prevented from using a restroom that aligned with their gender identity;²⁹ any further increase in exclusionary policies that hinge on particular physical characteristics (e.g., anatomy, chromosomes, hormone production) will presumably lead to intersex people experiencing even greater scrutiny and discrimination in public life. Furthermore, such legislation could indirectly promote IGM: Florida's restroom ban, for instance, contains a provision that seems intended to exempt intersex individuals who were specifically subjected to childhood medical interventions.³⁰

17. Most notably, the waves of state laws barring transgender youth from accessing gender-affirming care explicitly exempt the same medical interventions when they are performed on children with intersex variations.³¹ As of October 2022, only three states had passed gender-affirming care bans with such exceptions,³² while in 2023, all 20 states that enacted restrictions on gender-affirming care included an exception for procedures on minors with "disorders of sex development."³³ These provisions shockingly confer states' imprimatur on the practice of IGM for the first time, creating safe harbor for medical providers who subject intersex infants to non-consensual surgery to enforce conformity with a sex assignment (while disallowing consensual and necessary care that affirms a gender that is *different* from an individual's sex assignment). Such laws deprive both trans and intersex youth of their bodily autonomy and self-determination. (The issue of legislative restrictions on gender-affirming care is currently under consideration by the Supreme Court in the case *US v. Skrametti*. interACT has submitted an *amicus curiae* brief detailing how the inclusion of "intersex exceptions" exposes these laws as fundamentally irrational and unconstitutional.³⁴ *The amicus brief is attached as Annex #1.*)
18. In the last several years, the federal government's sentiments and actions regarding intersex rights have swung dramatically between support and hostility. The recent Biden administration undertook unprecedented action to recognize and advance intersex rights at the federal level in the US, including convening the first White House roundtable honoring Intersex Awareness Day in 2021.³⁵ President Biden's intersex-inclusive Pride Month Executive Order in 2022 directed the US Department of Health and Human Services (HHS) to create a report examining promising practices to advance intersex health equity. The report, *which is attached as Annex #2*, recognized the "well-documented medical harms to intersex people across their lifespan resulting from childhood medical interventions performed when the child was too young to participate in

²⁹ The Trevor Project, *The Mental Health and Well-Being of LGBTQ Youth who are Intersex* (December 2021), <https://www.thetrevorproject.org/wp-content/uploads/2021/12/Intersex-Youth-Mental-Health-Report.pdf>

³⁰ Fla. Stat. § 553.865 (the exception technically applies to "an individual who is or has been under treatment by a physician who, in his or her good faith clinical judgment, performs procedures upon or provides therapies to a minor born with a medically verifiable genetic disorder of sexual development.")

³¹ Human Rights Watch, *Mapping the Intersex Exceptions* (Oct. 26, 2022), <https://www.hrw.org/feature/2022/10/26/mapping-the-intersex-exceptions>

³² *Id.*

³³ Brief for *amicus curiae* interACT: Advocates for Intersex Youth in support of Petitioner, *US v. Skrametti* (No. 23-477), available at: <https://interactadvocates.org/wp-content/uploads/2024/09/USA-v-Skrametti-Amicus-Curiae-interACT-Brief-in-Support-of-Petitioner.pdf>

³⁴ *Id.*

³⁵ interACT, *Unprecedented Engagement on Intersex Issues by Biden Administration* (October 27, 2021), <https://interactadvocates.org/unprecedented-engagement-on-intersex-issues-by-biden-administration/>

decision-making,” and linked the ongoing practice of IGM to harmful outcomes and health disparities.³⁶ It called for changes to laws and policies to “promote bodily autonomy and informed consent” by “ensuring all non-emergent care is guided by the express wishes of the intersex individual themselves.”³⁷

19. In 2024, HHS and the Department of Education both released final rules implementing Section 1557 of the Affordable Care Act and Title IX of the Education Amendments that explicitly clarified that these federal statutes’ prohibitions on sex discrimination encompass discrimination that occurs on the basis of “sex characteristics, including intersex traits.”³⁸ The Section 1557 rule reversed the regressive 2020 rule issued by HHS under the first Trump administration, which had purported to restrict the scope of prohibited sex discrimination to deny LGBTQI+ individuals access to these federal protections.
20. On the first day of Donald Trump’s second term, he issued Executive Order 14168, purporting to redefine gender throughout federal law based on an essentialist conceptualization of “biological sex” in which one’s status as male or female depends on the reproductive cells produced “at conception.” This unscientific Order primarily targeted transgender people, but erased the existence and lived realities of people with intersex variations as well.³⁹ Far from seeking to champion intersex health equity, a new HHS Guidance memo, *which is attached as Annex #3*, references “rare disorders of sex development” solely to state that they “do not constitute a third sex because ... the reproductive system of a person with such a disorder does not produce gametes other than eggs or sperm.”⁴⁰
21. Other harmful Executive Orders and agency actions have promptly followed, including restrictions on passports, gender-affirming care, and LGBTQI+ research. The impacts have been immediate: intersex people are already being denied the correct gender marker on their passports, and multiple promising intersex-inclusive NIH research projects have been canceled over recent weeks.

V. Recommendations

22. That the rights of intersex and transgender people to live authentically and participate in society in accordance with their gender identity be recognized and protected by state and federal laws, and that legislation, policies, and proclamations contrary to these rights (e.g., in the domains of healthcare, sport, legal recognition, and such basic activities as restroom usage) be repealed and

³⁶ US Department of Health and Human Services, *Advancing Health Equity for Intersex Individuals* (January 2025), available at: <https://interactadvocates.org/wp-content/uploads/2025/01/intersex-health-equity-report.pdf>

³⁷ *Id.*

³⁸ See interACT, *Federal Healthcare Rule Cements Sex Discrimination Protections to Include Intersex Patients* (April 26, 2024), <https://interactadvocates.org/federal-healthcare-rule-cements-sex-discrimination-protections>; US Department of Education, *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, Federal Register (April 29, 2024), available at: <https://www.federalregister.gov/documents/2024/04/29/2024-07915/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>

³⁹ See interACT, *Trump’s Executive Order Ignores Science to Push Discriminatory Agenda* (January 21, 2025), <https://interactadvocates.org/trumps-executive-order-ignores-science-to-push-discriminatory-agenda/>

⁴⁰ US Department of Health and Human Services, *Defining Sex: Guidance for Federal Agencies, External Partners, and the Public Implementing Executive Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government* (February 19, 2025).

overturned.

23. That the bodily autonomy and self-determination of intersex and transgender individuals be enshrined through laws that:
 - a. preserve access to gender-affirming care, reproductive healthcare, and other necessary care sought by consenting individuals, and
 - b. prohibit surgical interventions on children with variations in their physical sex characteristics unless and until (i) the individual makes a meaningful, informed determination that the intervention is right for them, or (ii) the procedure is urgently necessary for the individual's health such that it cannot be safely deferred.
24. That appropriate government agencies undertake reviews of intersex care practices at hospitals, including reviewing for compliance with applicable civil rights laws.