**SITUATION OF INTERSEX PERSONS IN AOTEAROA/NEW ZEALAND**

**Brief Assessment of the Implementation of the Cycle 2 of the UPR:**

In 2013 the Intersex Trust of Aotearoa New Zealand (ITANZ) participated in the Second Universal Periodic Review of New Zealand. In the 2nd cycle **New Zealand received no recommendations in regards to sexual orientation, gender identity or sex characteristics.** New Zealand acknowledged this in their comments to the Human Rights Council in June 2014[[1]](#footnote-0) and stated that they “..*intend to follow up on these issues separately as part of our commitment to ongoing engagement with civil society on the UPR.”*

**National framework:**

As noted in the SOGISC Coalition fact sheet[[2]](#footnote-1) “anti-discrimination protections in the New Zealand Bill of Rights Act (BORA) 1990 and the Human Rights Act (HRA) 1993 include sexual orientation but make no explicit reference to gender identity, gender expression, or sex characteristics. Complaints of discrimination against trans and intersex people are accepted as sex discrimination complaints.” There is no explicit reference to protection of discrimination in the BORA or HRA based on the **diversity of sex characteristics**.

Since cycle 2 of the UPR New Zealand has received recommendations from the UN Committee on the Rights of the Child[[3]](#footnote-2) and the UN Committee on the Elimination of Discrimination Against Women[[4]](#footnote-3). The UN Committee Against Torture in the list of issues prior to reporting[[5]](#footnote-4) has asked New Zealand to detail premature surgery and medical interventions that intersex children are subjected to.

ITANZ has worked closely with the *New Zealand Human Rights Commission* and *Tiwhanawhana Trust* on the Intersex Round Table Project[[6]](#footnote-5). Alongside our UN advocacy and partnership dialogues with the New Zealand Ministry of Health, the Pediatric Society formed the *Child and Youth Intersex Clinical Reference Group* in 2018. This group is jointly funded through the Ministry of Health and the Pediatric Society of New Zealand for two years.

**The rights most commonly violated:**

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| Right to bodily integrity  | Right to the highest attainable standard of health |
| Right to non discrimination  | Right to effective remedies and redress |

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| **Challenges**  | **Cases, facts, comments, impact**  |
| There are no legal protections against non-consensual surgical intervention on intersex children. | We are concerned that current medical practice for intersex children in Aotearoa/New Zealand continues to include genital surgery and that this practice is not limited to those few instances where surgery is necessary for the preservation of life. We note the Special Rapporteur on Torture’s comments regarding non- consensual medical interventions on intersex children, which were described as resulting in “permanent, irreversible infertility and causing severe mental suffering.”[[7]](#footnote-6) |
| No easy access to reparative surgery. | In Aotearoa/New Zealand intersex children up to the age of 16 can access free surgical interventions under our public health system. After this age surgery is not accessible to intersex people. For intersex people that believe the system assigned them the wrong gender (often in relation to having had 'normalizing' procedures done to them as a children) there is no route for surgical redress. There are very limited funding for genital reconstruction surgeries, unless an intersex person also identifies as transgender.  |
| No protection in law from discrimination based on diversity of sex characteristics. | As previously noted, intersex people are not explicitly protected in the New Zealand Bill of Rights Act 1990 and the Human Rights Act (HRA) 1993. Lack of clarity about the anti-discrimination protections in the HRA places significant barriers for intersex people living in Aotearoa / New Zealand |
| No long term funding beyond 2019 of the Pediatric Society’s Child and Youth Intersex Clinical Reference Group. | We support the mandate of this group but we note the limits it faces in terms of access to long term funding to fully impliment the work plan of this group. We also have concerns that government commitments to addressing concerns of Intersex people in Aotearoa/New Zealand will end when funding for this group ends.  |
| No government funding of intersex support services. | Currently there is no government funding of psychosocial support, peer support or advocacy services for intersex people and their whānau (family). |

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| **RECOMMENDATIONS**  |

* End the practice of non-consensual medical procedures which are not necessary for the preservation of life on intersex children through legislative protections and the implementation of a set of professional standards for the medical profession that affirm the bodily autonomy of intersex children.
* Create access to publicly funded reparative surgery, counselling and support for intersex adults who have had inappropriate surgeries and gender assignments as a child.
* Add “sex characteristics” as a grounds of non discrimination to the New Zealand Human Rights Act during the review of the act in 2019.
* Plan for long term government funding to be made available for the Pediatric Society’s Child and Youth Intersex Clinical Reference Group and social services supporting Intersex people in Aotearoa/New Zealand beginning in Budget 2019.

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| **CONTACT INFORMATION**  |

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1. https://www.hrc.co.nz/files/5314/2406/1357/New-Zealand-Government-Response-to-2014-UPR-recommendations.pdf [↑](#footnote-ref-0)
2. http://insideout.org.nz/upr-submission-from-the-aotearoa-nz-idahobit-day-coalition/ [↑](#footnote-ref-1)
3. http://undocs.org/CRC/C/NZL/CO/5 [↑](#footnote-ref-2)
4. http://undocs.org/CEDAW/C/NZL/CO/8 [↑](#footnote-ref-3)
5. http://undocs.org/CAT/C/NZL/QPR/7 [↑](#footnote-ref-4)
6. https://www.hrc.co.nz/files/9615/2270/4142/HRC\_Intersex\_Roundtable\_2017.pdf [↑](#footnote-ref-5)
7. http://undocs.org/A/HRC/22/53 [↑](#footnote-ref-6)