



The International Justice and Human Rights Clinic's submissions in advance of the consideration of the seventh Periodic Report of Canada, Human Rights Committee, 145th session, March 2026

The Rights of Intersex Children in Canada

February 2026

I. Introduction

This shadow report is submitted for Canada's review before the Human Rights Committee under the International Covenant on Civil and Political Rights (ICCPR) in response to **paragraph 12 on the List of Issues prior to submission of Canada's periodic report**. It identifies several critical areas where the Canadian government is falling short of its obligation to protect the rights of intersex people under **Articles 7, 9, 17, 24 and 26 of the ICCPR**. In particular, the report focuses on the government's failure to prevent medically unnecessary, nonconsensual medical interventions on intersex minors under section 268(3) of Canada's *Criminal Code*, as well as the lack of sufficient remedies for individuals who have already been subjected to such treatment.

Intersex is an umbrella term for variations in sex characteristics that do not fall strictly into binary classifications of male or female.¹ For decades, children with intersex traits in Canada have been subjected to nonconsensual, irreversible, and medically unnecessary interventions aimed at "normalizing" their atypical sex characteristics.² Of particular concern is the ongoing practice of performing sex-"normalizing"

¹ Egale Canada, *Intersex Rights in Canada: Literature Review* (September 2020) [Intersex Rights in Canada], at 5, online: https://indd.adobe.com/view/publication/3677a87d-c144-483d-a0e5-bac1ad7d59a8/kq4j/publication-web-resources/pdf/Intersex_Rights_in_Canada.pdf; contrary to the misconception that being intersex is rare, experts estimate that up to 1.7% of the global population is born with intersex traits (comparable to the number of people born with red hair); see Amnesty International, "It's Intersex Awareness Day – here are 5 myths we need to shatter" (26 October 2018), online: <https://www.amnesty.org/en/latest/news/2018/10/its-intersex-awareness-day-here-are-5-myths-we-need-to-shatter/>.

² Canadian Bar Association, *Brief to the Standing Committee on Health (HESA) re LGBTQI2S Health in Canada* (1 May 2019) (letter to The Honourable Bill Casey, Chair, Standing Committee on Health, House of Commons, Canada) [CBA Brief] at 3, online: <https://www.ourcommons.ca/Content/Committee/421/HESA/Brief/BR10438367/br-external/CanadianBarAssociation-e.pdf>; Egale Canada Human Rights Trust, *Egale's Submission to the UN Committee Against Torture (UN CAT) for Intersex Rights* (22 October 2018) [Egale UN CAT Submission], at para 4, online: Egale Canada <https://egale.ca/awareness/egale-submission-to-the-un-committee-against-torture/>; see also Standing Senate Committee on Human Rights, *Proceedings of the Standing Senate Committee on Human Rights: Issue No 42 – Evidence, 42nd Parliament, 1st Session, 15 May 2019* (15 May 2019), Senate of Canada, Ottawa, online: <https://sencanada.ca/en/Content/Sen/Committee/421/RIDR/42EV-54790-E>.

surgeries and/or hormone therapy on intersex infants and children – a practice sometimes termed “intersex genital mutilation” (IGM).³ Individuals subjected to IGM often suffer significant physical and emotional harm, including chronic pain, loss of fertility and sexual sensation, a lifelong dependence on hormone replacement therapy, a need for further reparative surgeries, as well as depression, anxiety, and trauma.⁴

II. Canada’s Legal Framework Fails to Prevent the Practice of IGM

A. Canada’s Legalization of Medically Unnecessary, Non-consensual Intersex Genital Mutilation Surgeries

In Canada, female genital mutilation is penalized as aggravated assault under section 268 of the *Criminal Code*. Section 268(1) defines aggravated assault as wounding, maiming, disfiguring or endangering the life of a person.⁵ Section 268(3) further clarifies that “wounds” or “maims” include excising, infibulating, or mutilating, in whole or in part, the labia majora, labia minora, or clitoris.⁶

However, section 268(3)(a) provides an exception for medical practitioners who perform a surgical procedure for the purpose of giving a person “normal sexual appearance or function”.⁷ In effect, this exception permits medical practitioners to perform medically unnecessary, sex-“normalizing” surgeries (IGM) on intersex individuals.⁸

In Canada, medical practitioners generally must obtain a patient’s informed consent before initiating treatment.⁹ For minors, the responsibility for providing consent falls to parents or legal guardians.¹⁰ Section 268(4) specifies that “no consent to the excision, infibulation or mutilation, in whole

³ Janik Bastien-Charlebois, *Sanctioned Sex/ualities: The Medical Treatment of Intersex Bodies and Voices* (paper presented at the International Lesbian, Gay, Bisexual, Trans and Intersex Association World Congress, Mexico City, October 2014) [Sanctioned Sexualities], online: https://www.academia.edu/17353174/Bastien_Charlebois_2015_Sanctioned_sex_ualiti_es_The_medical_treatme nt_of_intersex_bodies_and_voices.

⁴ Intersex Rights in Canada, *supra* note 1 at 12-16; Office of the United Nations High Commissioner for Human Rights, *Intersex people* (web page), online: <https://www.ohchr.org/en/sexual-orientation-and-gender-identity/intersex-people>; T Knoppers, A Voutsinas, N Palmour, K Saulnier, M Holmes, M Charron, H Gallois, N Jamali, L Ordal & Y Joly, “‘A Quality of Heart, of Presence, and of Really Caring’: Toward Affirmative Intersex Health Communication in Canada” (2025) 12 *Frontiers in Public Health* 1436354, at 2 online: <https://doi.org/10.3389/fpubh.2024.1436354>.

⁵ *Criminal Code*, RSC 1985, c C-46, s 268(1).

⁶ *Ibid*, s 268(3).

⁷ *Ibid*, s 268(3)(a).

⁸ Eagle UN CAT Submission, *supra* note 2, at para 2.

⁹ See *Fleming v Reid*, 1991 CanLII 2728 (ON CA), online: <https://canlii.ca/t/1p78q> (retrieved on 28 January 2026); see also *Starson v Swayze*, 2003 SCC 32, [2003] 1 SCR 722, at para 7, online: <https://canlii.ca/t/1g6p9> (retrieved 28 January 2026); David C Day, “The Capable Minor’s Healthcare: Who Decides?” (2008) [Capable Minor’s Healthcare], 86:3 *Canadian Bar Review* 379, 2008 CanLII Docs 134, at 393, online: <https://canlii.ca/t/29k9> (retrieved 28 January 2026).

¹⁰ See *Article 12 of the Convention on the Rights of the Child and Children’s Participatory Rights in Canada* (Report, Government of Canada), online: <https://www.justice.gc.ca/eng/rp-pr/other-autre/article12/p3a.html>; *B. (R.) v. Children’s Aid Society of Metropolitan Toronto*, 1995 CanLII 115 (SCC), [1995] 1 SCR 315, at 317, online:

or in part, of the labia majora, labia minora or clitoris of a person is valid, except in the cases described in paragraphs (3)(a) and (b).”¹¹ In other words, no person under the age of 18 can legally consent to female genital mutilation (FGM), nor can any adult offer consent on their behalf.

However, surgeries falling within the exception in section 268(3)(a), including procedures performed to give a person a “normal sexual appearance or function”, remain lawful when performed by medical practitioners.¹² In practice, this permits a parent or guardian to consent to the “normalizing” genital surgery on behalf of their intersex child. This creates a risk that parents may be influenced, or even pressured, by medical language, suggestions, prescriptions, and coercion.¹³ As a result, many of these IGM surgeries reflect the parents’ desire for a child whose body conforms to certain societal expectations, rather than prioritizing the child’s needs or right to bodily autonomy.¹⁴

Concerns regarding parental consent to IGM are compounded by the medical mismanagement of intersex patients. The duty of informed consent requires medical practitioners to disclose any material risks associated with a proposed treatment, as well as any other relevant information, to the patient or their substitute decision-maker.¹⁵ However, the common law doctrine of “therapeutic privilege” enables a physician to withhold or generalize relevant information if the communication would pose a severe threat to the patient’s wellbeing.¹⁶ Scholars and civil society groups have raised concerns that physicians may withhold relevant information from intersex patients and/or their guardians, thereby compromising their ability to make informed medical decisions.¹⁷ In particular, civil society groups note that medical practitioners may elicit parental consent to IGM by “inflating the necessity for medical intervention as required for an infant’s health or the perceived psycho-social implications of living in an intersex body.”¹⁸

The medical management of intersex patients falls short of objective standards of informed consent, as well as the Committee’s established standards. In the Human Rights Committee’s concluding observations on the fourth periodic review of Kenya, the Committee recommended that Kenya should

<https://canlii.ca/t/1frmh> (retrieved 28 January 2026); Kevin W Coughlin, “Medical Decision-Making in Paediatrics: Infancy to Adolescence” (May 2018) 23:2 *Paediatrics & Child Health* 138, online: <https://doi.org/10.1093/pch/pxx127>).

¹¹ *Criminal Code*, RSC 1985, c C-46, s 268(4).

¹² Eagle UN CAT Submission, *supra* note 2.

¹³ Sanctioned Sexualities, *supra* note 3, at 16.

¹⁴ Egale Canada, *OHCHR Intersex Rights Report* (22 January 2025) [Egale OHCHR Intersex Right Report], at 4, online: https://egale.ca/wp-content/uploads/2025/01/OHCHR_IntersexRights_FINAL_20250122.pdf (retrieved 28 January 2026).

¹⁵ See *Reibl v Hughes*, 1980 CanLII 23 (SCC), [1980] 2 SCR 880, at 884, online: <https://canlii.ca/t/1mjvr> (retrieved 28 January 2026); see also Capable Minor’s Healthcare, *supra* note 9, at 393.

¹⁶ For an overview of therapeutic privilege and its origins in Canadian law, see Michael Ralph Hadskis, *A Critique of Canadian Jurisprudence on the Therapeutic Privilege Exception to Informed Consent* (2018) 12:1 *McGill Journal of Law and Health* 1, 2018 CanLII Docs 95, online: <https://canlii.ca/t/29xs> (retrieved 28 January 2026).

¹⁷ Intersex Rights in Canada, *supra* note 1 at 16; Katie Saulnier, C Lucock, R Thompson & E Moreno, “Harnessing Law and Policy for the Protection of Intersex Individuals: Facing up to Lacunae in Canadian Legal Frameworks Against Sex and Gender” (2023) [Harnessing Law and Policy], 15:2 *McGill Journal of Law and Health* 206, at 207, 2023 CanLII Docs 2842, online: <https://canlii.ca/t/7n7x0> (retrieved 1 February 2026).

¹⁸ Intersex Rights in Canada, *supra* note 1, at 16.

“[s]trengthen measures to end the performance of irreversible medical acts, especially surgical operations, on intersex children who are not yet capable of giving their full, free and informed consent, except in cases where such interventions are absolutely necessary for medical reasons.”¹⁹ Similarly, civil society groups and a 2019 report of the House of Commons Standing Committee on Health have called for the postponement of medical interventions on intersex infants and children until they are able to meaningfully participate in the decision, except where immediate medical intervention is required to protect the child’s health.²⁰ Despite these calls, there are still no protections for the bodily integrity of intersex children in Canada.²¹

Nonconsensual cosmetic surgeries on intersex children have long been characterized as a form of cruel, inhuman and degrading treatment contrary to **Article 7** of the *ICCPR*.²² Canada’s continued legalization of IGM also violates **Articles 9 and 17**, as it deprives children of their right to security of the person and protection against arbitrary interference with bodily integrity and privacy.²³ **Article 24** further obliges Canada to ensure that children are afforded special measures of protection appropriate to their status, including the right to bodily autonomy, informed consent, and family support.²⁴ Finally, Section

¹⁹ UN Human Rights Committee, *Concluding observations on the fourth periodic report of Kenya* (11 May 2021), UN Doc CCPR/C/KEN/CO/4, at para 13(e), online: <https://docs.un.org/en/CCPR/C/KEN/CO/4> (retrieved 28 January 2026).

²⁰ House of Commons, Standing Committee on Health, *The Health of LGBTQIA2 Communities in Canada: Report of the Standing Committee on Health (28th Report, 42nd Parliament, 1st Session)* (June 2019), at 45, online: <https://www.ourcommons.ca/Content/Committee/421/HESA/Reports/RP10574595/hesarp28/hesarp28-e.pdf> (retrieved 1 February 2026); CBA Brief, *supra* note 2 at 3; Human Rights Watch & interACT, “I Want to Be Like Nature Made Me”: Medically Unnecessary Surgeries on Intersex Children in the US (25 July 2017) (report), online: Human Rights Watch <https://www.hrw.org/report/2017/07/25/i-want-be-nature-made-me/medically-unnecessary-surgeries-intersex-children-us>; see also Eagle UN CAT Submission, *supra* note 2.

²¹ Edith Paré-Roy, “Investigation: Intersex Youth Under the Knife” (26 October 2021), online: *Les 3 sex* <https://les3sex.com/en/news/2014/investigation-intersex-youth-under-the-knife>.

²² As early as 2013, the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment identified that abuses occur “under the auspices of health-care policies,” which include irreversible sex assignment, involuntary sterilization, and forced genital-normalizing surgeries. The Special Rapporteur emphasized that “medical treatments of an intrusive and irreversible nature, when lacking a therapeutic purpose, may constitute torture or ill-treatment when enforced or administered without the free and informed consent of the person concerned.” See UN Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez* (1 February 2013), UN Doc A/HRC/22/53, online: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf.

²³ As affirmed in the Committee’s General Comment No. 35 (CCPR/C/GC/35), “[t]he right to security of the person protects individuals from intentional infliction of bodily or mental injury.” Also, General Comment No. 28 (CCPR/C/21/Rev.1/Add.10) provides that Article 17 encompasses the right to bodily autonomy. The Committee has also confirmed in *M.G. v. Germany* that subjecting a person to medical treatment without their consent constitutes an interference with their private life. See UN Human Rights Committee, *General comment No. 35 on Article 9, Liberty and security of person*, U.N. Doc. CCPR/C/GC/35 (16 December 2014) at para 9; UN Human Rights Committee, *General Comment No 28: Equality of Rights Between Men and Women (Article 3)*, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (29 Mar 2000), at para 20; and UN Human Rights Committee, *M.G. v. Germany*, Communication No 1482/2006, UN Doc CCPR/C/93/D/1482/2006 (23 July 2008), at para 10.1, online: https://digitallibrary.un.org/record/637407/files/CCPR_C_93_D_1482_2006-EN.pdf.

²⁴ UN Human Rights Committee, *General Comment No 17: Article 24 (Rights of the Child)*, U.N. Doc HRI/GEN/1/Rev.9 (Vol I) at 193 (1989). In particular, the UN Committee on the Rights of the Child has made in its

268(3)(a) of the *Criminal Code* discriminates against intersex children by denying them protection from unnecessary medical interventions, thereby breaching **Article 26**'s guarantee of equality before the law.

Currently, there is no publicly available data on the national prevalence of IGM in Canada. However, available provincial data in Quebec suggests that the practice of IGM persists. According to information from Quebec's Department of Health Insurance, between 2015 and 2021, more than 1300 surgical interventions were performed on children under the age of 14 who presented with a variation of sex development; more than 800 of these surgeries were performed on children under the age of two, for the purpose of "correcting" anatomical features of intersex difference.²⁵

Although the available figures from Quebec do not capture the full national picture, they indicate that genital surgeries on young children remain a persistent practice in at least some provinces. While the delivery of healthcare services in Canada falls largely within provincial jurisdiction,²⁶ amendments to the *Criminal Code* fall squarely within federal responsibility.²⁷ Current provincial medical standards permitting nonconsensual, medically unnecessary surgeries on intersex infants persist in part due to gaps in federal criminal law.²⁸ Amending the exceptions in section 268 of the *Criminal Code* to clarify that medically unnecessary, nonconsensual genital interventions on intersex children are prohibited therefore remains a crucial reform to ensure federal oversight and protect the bodily autonomy of intersex children.

B. Lack of Effective Remedies for Victims

Without amending the *Criminal Code*, which currently creates a legislative gap permitting nonconsensual, medically unnecessary IGM surgeries, intersex individuals subjected to these interventions are effectively left without recourse to seek remedies, as such medical interventions remain lawful in Canada. Although human rights complaints and civil actions for damages are theoretically

concluding observations on the United Kingdom that the State party shall "[e]nsure that no one is subjected to unnecessary medical or surgical treatment during infancy or childhood, guarantee bodily integrity, autonomy and self-determination to children concerned and provide families with intersex children with adequate counselling and support." See UN Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*, CRC/C/GBR/CO/5 (CRC 2016), para 47c.

²⁵ A freedom of information request for similar data out of Ontario was denied as being "not in the public interest." However, according to researchers, we can extrapolate from the Quebec data that more infants across Canada have been subjected to similar interventions; See Morgan Holmes, *Restoring Epistemic Justice to a Dismissed Population: A Qualitative Needs Assessment by and for Intersexualized Adults in Canada* (October 2022) (report) [Restoring Epistemic Justice], at 16-17, online: <https://egale.ca/wp-content/uploads/2022/10/Restoring-Epistemic-Justice-to-a-Dismissed-Population-A-Qualitative-Needs-Assessment-by-and-for-Intersexualized-Adults-in-Canada-3.0.pdf>.

²⁶ Howard Leeson, *Constitutional Jurisdiction Over Health and Health Care Service in Canada* (2002) Government of Canada Discussion Paper, CP32-79/12-2002E, online: <https://publications.gc.ca/collections/Collection/CP32-79-12-2002E.pdf>.

²⁷ *Constitution Act, 1867*, 30 & 31 Victoria, c 3 (UK), s 91(27).

²⁸ Egale Canada Human Rights Trust, '65 Reasons': *The Rights of Intersex People in Canada* (26 February 2019) (report) at para 62, online: <https://egale.ca/wp-content/uploads/2019/10/2-Intersex-Final-65-Reasons.pdf>; The authors recognizes that some intersex traits do pose a genuine risk to the health and/or survival of the infant. In such cases, surgical interventions may be medically necessary.

available, the legal acceptance and normalization of these medical practices make it extremely difficult for affected individuals to establish wrongdoing or obtain effective remedies, contrary to Canada's obligations under **Article 2(3)** of the ICCPR to ensure an effective remedy for Covenant violations.²⁹ Given the ongoing violations of the rights of intersex individuals, Canada must adopt concrete legal and policy measures to prevent nonconsensual and unnecessary medical interventions on intersex minors, ensure effective remedies for affected individuals, and guarantee equal protection under the law.

Recommended Questions to the Committee:

1. What steps will the State party take to prohibit nonconsensual intersex genital mutilation in Canada, including by amending section 268(3) of the *Criminal Code* to ensure that medically unnecessary genital interventions on intersex infants and children, performed without the child's free and informed consent, are treated as aggravated assault?
2. How will the State Party ensure that medical professionals adhere to ethical standards of free and informed consent when treating intersex minors and communicating with their caregivers? Specifically, what measures will Canada implement to prevent medical professionals from overstating or misrepresenting the necessity of interventions on intersex children?
3. What measures are in place to ensure effective remedies are available to intersex individuals who have been subjected to involuntary, medically unnecessary sex-"normalizing" interventions?

Recommendations:

- The State party should amend section 268(3)(a) of the *Criminal Code* to clarify that medically unnecessary genital interventions on intersex infants and children, conducted without the child's free and informed consent, constitute aggravated assault and are therefore criminally prohibited.
- The State party should take steps to ensure that medically unnecessary interventions on intersex children are delayed until the child has the capacity to consent to medical intervention or decide against it.
- The State party must urgently take steps to ensure that medical practitioners comply with the objective standards of free and informed consent when treating and communicating with intersex individuals and their parents/guardians, including safeguards against coercion or undue influence.

²⁹ Caroline Lowry, "Intersex in 2018: Evaluating the Limitations of Informed Consent in Medical Malpractice Claims as a Vehicle for Gender Justice," 52 Colum J L & Soc Probs 321 (2019) at 338-340; Sanctioned Sexualities, *supra* note 3, at 16.

- The Government of Canada should take steps to ensure that individuals subjected to medically unnecessary, involuntary intersex genital mutilation and other sex-“normalizing” medical interventions have access to an effective remedy.

IV. Lack of Intersex Rights Protections and Recognition, and Gaps in Research

In Canada, there is no formal recognition of the rights of intersex people. In 2017, Parliament passed Bill C-16, which amends the *Canadian Human Rights Act* to include “gender identity” and “gender expression” in the list of prohibited grounds of discrimination.³⁰ Likewise, Bill C-16 amends the *Criminal Code* to extend the protection against hate crimes and hate speech on the basis of a person’s gender identity or expression.³¹ Despite these steps, discrimination based on “sex characteristics” is not expressly prohibited under federal law.³² Similarly, while all Canadian provinces and territories have human rights legislation that prohibits discrimination based on gender identity and expression, no provincial jurisdiction explicitly prohibits discrimination based on sex characteristics.³³

The *Canadian Charter of Rights and Freedoms* protects against discrimination on enumerated grounds. While courts have recognized “analogous” grounds such as sexual orientation³⁴ or gender identity³⁵, intersex traits are not explicitly protected.³⁶ As a result, intersex individuals currently lack clear legislative protection against discrimination, leaving their rights dependent on further judicial interpretation. As affirmed in the Committee's General Comment No. 18, **Article 26** of the ICCPR “prohibits any discrimination under the law and guarantees to all persons equal and effective protection against discrimination on any ground.”³⁷ The Committee further clarified that “the application of the principle of non-discrimination contained in Article 26 is not limited to those rights which are provided for in the Covenant.”³⁸ Rather, the requirements of Article 26 extend to the State party’s legislation and the application thereof.³⁹ Canada must therefore ensure that domestic laws provide intersex people with equal protection against discrimination.

³⁰ *An Act to amend the Canadian Human Rights Act and the Criminal Code* (Assented to 19 June 2017), SC 2017, c 13, s 1-2, online: <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-16/royal-assent>.

³¹ *Ibid*, s 3-4.

³² Harnessing Law and Policy, *supra* note 16, at 247.

³³ Egale OHCHR Intersex Right Report, *supra* note 13, at 2.

³⁴ *Egan v. Canada*, [1995] 2 S.C.R. 513 at 528; *Vriend v. Alberta*, [1998] 1 S.C.R. 493, at para 90.

³⁵ *Hansman v. Neufeld*, 2023 SCC 14, at para 88.

³⁶ The authors acknowledge that an application has been filed at the Ontario Superior Court of Justice to challenge the constitutionality of exemptions in the *Criminal Code* that permit ‘normalizing’ aesthetic surgeries on intersex infants and children; see Egale Canada Human Rights Trust, *Egale Canada files an application at the Ontario Superior Court of Justice in a ground-breaking intersex human rights case* (web page), online: <https://egale.ca/egale-in-action/ontario-superior-court-intersex-human-rights/>.

³⁷ UN Human Rights Committee (HRC), *CCPR General Comment No 18: Non-discrimination* (10 November 1989), at para 1, online: <https://www.refworld.org/legal/general/hrc/1989/en/6268>.

³⁸ *Ibid*, at para 12.

³⁹ *Ibid*, at para 12.

The absence of explicit legal recognition also contributes to the limited collection of data on intersex populations, as issues affecting intersex persons remain insufficiently recognized in public health and policy frameworks capable of providing effective remedies and reparations.⁴⁰ Stigma and the historical erasure of intersex variations from medical records create barriers to accurate data collection.⁴¹ Inconsistent terminology used to describe intersex traits, together with research methodologies that rely on binary classifications of sex, further obscure intersex-specific data.⁴² These limitations hinder effective monitoring, accountability, and policy development in relation to the rights of intersex individuals in Canada.⁴³

In 2022, the Government of Canada released the Federal 2SLGBTQI+ Action Plan to advance rights and equality for Two-Spirit, lesbian, gay, bisexual, transgender, queer, intersex, and sexually gender diverse people in Canada.⁴⁴ The action plan included efforts to strengthen 2SLGBTQI+ data and evidence-based policy making.⁴⁵ According to a progress report updated in December 2025, the federal government has finalized a study to assess the feasibility of collecting data on intersex people in Canada.⁴⁶ While this is a welcome development, further sustained action is needed to fill gaps in intersex research and ensure the human rights of intersex people in Canada.

Recommended Question:

4. What steps will the State Party take to formally recognize the rights of intersex individuals in human rights and non-discrimination legislation?
5. What steps will the State Party take to address the gaps and institutional barriers in intersex research, including the collection of large-scale, population-based health data that moves beyond binary sex classifications, and ensure that these data are systematically documented and made accessible to the public?

Recommendation:

⁴⁰ See Intersex Rights in Canada, *supra* note 1 at 7-10; see Restoring Epistemic Justice, *supra* note 25 at 23.

⁴¹ Sanctioned Sexualities, *supra* note 3, at 17-18.

⁴² Intersex Rights in Canada, *supra* note 1, at 8.

⁴³ Sanctioned Sexualities, *supra* note 3, at 17-18.

⁴⁴ Canada, *Seventh periodic report submitted by Canada under article 40 of the International Covenant on Civil and Political Rights, due in 2022* (30 April 2025), UN Doc CCPR/C/CAN/7, online:

https://digitallibrary.un.org/record/4081378/files/CCPR_C_CAN_7-EN.pdf; Government of Canada, *Federal 2SLGBTQI+ Action Plan... Building our future, with pride* [Federal 2SLGBTQI+ Action Plan], (web page), online: <https://www.canada.ca/en/women-gender-equality/free-to-be-me/federal-2slgbtqi-plus-action-plan.html>.

⁴⁵ Federal 2SLGBTQI+ Action Plan, *supra* note 44.

⁴⁶ Government of Canada, *Government of Canada's Progress by Priority Area — Federal 2SLGBTQI+ Action Plan* (web page), online: <https://www.canada.ca/en/women-gender-equality/free-to-be-me/federal-2slgbtqi-plus-action-plan/progress/priority-area.html>.

- The Government of Canada should take steps to ensure that large-scale, population-based health data on intersex individuals, their needs, and their experiences are collected and made accessible to the public. Specifically, the State should prevent erasure of intersex traits in medical documentation and encourage research that moves beyond binary classifications of male and female.
- The Government of Canada should amend human rights legislation to provide explicit protections for intersex individuals. Specifically, the State party should add “sex characteristics” to the protected classes enumerated in human rights and anti-discrimination laws. Likewise, the Government of Canada should encourage provincial governments to amend their respective human rights legislation to include similar protections.

Acknowledgements

Institutional information of the organizations submitting this report

International Justice & Human Rights Clinic Peter A. Allard School of Law, University of British Columbia

The International Justice & Human Rights Clinic (“IJHRC”) is a legal clinic for upper-level law students at the Peter A. Allard School of Law, University of British Columbia, Canada. The clinic addresses pressing human rights and global justice issues through hands-on work on international cases and projects.

Contact information

Vannie Lau

International Justice and Human Rights Clinic

Peter A. Allard School of Law, University of British Columbia

Email: vlau@allard.ubc.ca / ijhrclinic@allard.ubc.ca

Credits and acknowledgements

Samantha Bockhold, clinician at the International Justice & Human Rights Clinic, Peter A. Allard School of Law, University of British Columbia, contributed to the research, drafting, and review of this submission to the UN Human Rights Committee. The submission was reviewed and edited by IJHRC Research Associate Vannie Lau.

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