



Intersex Trust Aotearoa New Zealand

Huihuitia o tatou ritenga; whakanuia o tatou rereketanga
gather up what we share in common; celebrate where we differ from each other

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1. ITANZ is a New Zealand registered charitable trust that provides information, education and training for organisations and professionals who provide services to intersex people and their whānau (family).
2. This submission has been prepared on behalf of ITANZ by our Human Rights Intern Aych McArdle in collaboration with our co-chairperson Mani Bruce Mitchell.
3. We submit the following information in preparation for the Universal Periodic Review of New Zealand.
4. We wish to draw attention to the committee that the term "Intersex and DSD" is a Western centric way of looking at sex characteristics and gender identity. Here in Aotearoa, New Zealand we have an indigenous Māori construction of these identities, Takatāpui¹, as well as indigenous knowledge from our Pacific neighbors and other migrant communities. We acknowledge all of these culturally diverse understandings of bodies and identities in Aotearoa, New Zealand.
5. In 2013 ITANZ participated in the Second Universal Periodic Review of New Zealand. We were a co-author of the report by the Sexual Orientation, Gender Identity and Intersex (SOGII) UPR Coalition. In this cycle New Zealand received no recommendations in regards to sexual orientation, gender identity or sex characteristics. Our government acknowledged this in their comments to the Human Rights Council in June 2014²:

"The New Zealand Government is aware that some issues raised by the Human Rights Commission and NGOs in their UPR submissions were not reflected in the interactive dialogue and Working Group recommendations, for example issues around legal abortion and the rights relating to sexual orientation, gender identity and intersex people. We intend to follow up on

¹ Kerekere, Elizabeth (2015) Takatāpui: Part of the Whānau. Auckland: Tiwhanawhana Trust and Mental Health Foundation.

²<https://www.hrc.co.nz/files/5314/2406/1357/New-Zealand-Government-Response-to-2014-UPR-recommendations.pdf>

these issues separately as part of our commitment to ongoing engagement with civil society on the UPR.”

6. In 2016 ITANZ reported to the UN Committee on the Rights of the Child under New Zealand’s fifth periodic review. We support the recommendations made by the committee in their concluding observations³. The committee identified four recommendations for New Zealand in regards to harmful practices experienced by intersex children:

(25)(b) Develop and implement a child rights-based health-care protocol for intersex children, setting the procedures and steps to be followed by health teams, ensuring that no one is subjected to unnecessary medical or surgical treatment during infancy or childhood, guaranteeing the rights of children to bodily integrity, autonomy and self-determination and provide families with intersex children with adequate counselling and support;

(25)(c) Promptly investigate incidents of surgical and other medical treatment of intersex children without informed consent and adopt legal provisions to provide redress to victims of such treatment, including adequate compensation;

(25)(d) Educate and train medical and psychological professionals on the range of biological and physical sexual diversity and on the consequences of unnecessary surgical and other medical interventions on intersex children;

(25)(e) Extend free access to surgical interventions and medical treatment related to their intersex condition to intersex children between the age of 16 and 18.

7. In 2017 ITANZ reported to the UN Committee Against Torture ahead of New Zealand’s seventh periodic review. In the list of issues prior to reporting⁴, the committee made the following request to our government:

³United Nations, Committee on the Rights of the Child, Concluding observations on the fifth periodic report of New Zealand, CRC/C/NZL/CO/5 (21 October 2016), available from undocs.org/CRC/C/NZL/CO/5.

⁴ United Nations, Committee Against Torture, List of issues prior to submission of the seventh periodic report of New Zealand, CAT/C/NZL/QPR/7 (9 June 2017), available from undocs.org/CAT/C/NZL/QPR/7

“Please comment on reports of premature surgery and other medical treatment to which intersex children are subjected (see the submissions of Intersex Trust Aotearoa New Zealand, and StopIGM.org and Zwischengeschlecht.org to the Committee against Torture in 2017). Please indicate the number of intersex children who have undergone sex assignment surgery during the reporting period.”

Current situation

8. ITANZ has worked closely over the last several years with the New Zealand Human Rights Commission and Tiwhanawhana Trust on the Intersex Round Table Project. Alongside our UN advocacy and partnership dialogues with the New Zealand Ministry of Health, in 2018 the Pediatric Society formed the Child and Youth Intersex Clinical Reference Group. The mandate of this group which is jointly funded through the Ministry of Health and the Pediatric Society of New Zealand for two years is to:
 - a. Promote nationally coordinated intersex health services.
 - b. Develop an infrastructure that supports quality services, safety, equity of health service provision and best value of resources.
 - c. Develop a system for the monitoring and auditing of services to inform continuous quality improvement to include best practice recommendations.
 - d. Identify and liaise with national and international bodies with relevance to intersex services.
 - e. Establish a plan that best supports a workforce education and development programme.
 - f. Support and address some of the intersex recommendations to Government from the United Nations Committee on the Rights of the Child (2016).

9. We support the mandate of this group but we note the limits this faces in terms of access to resources, length of mandate and legislative impact. We also note that the mandate of the group does not cover implementing all of the recommendations to the government from the United Nations Committee on the Rights of the Child (2016). We seek a plan of action from the New Zealand government on how it plans to address the issues not already covered in the scope of the Clinical Reference Group.

10. Intersex people in Aotearoa, New Zealand still face significant discrimination in medical, legal and social spheres. We hope that one day Aotearoa, New Zealand will be a safe place for intersex people but we need urgent action. With this in mind we have prepared the following list of recommendations for our government to address the human rights of intersex people living in Aotearoa, New Zealand:

List of urgent recommended actions:

- Immediately stop all non consensual procedures which are not necessary for the preservation of life on intersex children.
- Develop an action plan with key stakeholders on an all-of-life approach to healthcare for intersex people.
- Long term government funding be made available for psychosocial support, peer support and advocacy services for intersex people and their whānau (family).
- Add variations of sex characteristics as a grounds of non discrimination to the New Zealand Human Rights Act.
- Create access to publicly funded reparative surgery for intersex adults who have had inappropriate surgeries and gender assignments as a child.
- Create a pathway for the provision for compensation for people harmed by historic non consensual 'normalizing' surgery and hormone usage.
- Long term government funding be made available for the Pediatric Society's Child and Youth Intersex Clinical Reference Group.

11. We also recommend that the New Zealand Government consider endorsing the 2017 Darlington Statement⁵, a joint consensus statement by Australian and Aotearoa/New Zealand intersex organisations and independent advocates. It sets out the priorities and calls by the intersex human rights movement in our countries.

We welcome the opportunity to provide additional information the committee may require on any of the issues highlighted in this submission.

Ngā mihi,

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Aych McArdle, Human Rights Intern, ITANZ.

⁵ <https://ihra.org.au/darlington-statement/>