GLOBAL CONSULTATION ON A COMMON STATISTICAL FRAMEWORK ON GENDER-RELATED KILLINGS OF WOMEN AND GIRLS (FEMICIDE/FEMINICIDE)

Submission by
OII Europe

OII Europe
OII Europe is the European intersex umbrella organisation with intersex-led member organisations in 20 Council of Europe member states. OII Europe advocates for the protection of intersex people’s human rights, raises awareness of intersex issues in society, e.g., through campaigns during Intersex Awareness Weeks, and supports the growth of the European intersex community together with its growing number of member organisations and allies through measures like the annual OII Europe Community Event & Conference.

Since 2012 OII Europe has been regularly consulted on intersex issues by the Office of the United Nations High Commissioner for Human Rights, the Parliamentary Assembly of the Council of Europe, the Bioethics Committee of the Council of Europe, the European Parliament, the European Commission, the European Union Agency for Fundamental Rights, the European Network of Equality Bodies, the European Commission against Racism and Intolerance and national governments. OII Europe is registered as an expert on sexual orientation, gender identity and sex characteristics with the SOGI Unit of the Council of Europe.

The NGO OII Europe was created in 2015, as an extension of a network of the same name set up in 2012, and is based in Berlin.

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Introduction

We applaud the initiative of the UN to develop a common approach on gender-related killings of women and girls (femicide/feminicide) for statistical purposes. This is a very important measure to ensure that data about gender-based violence is better monitored, reported and referenced at the international level and across countries, which will also allow to set up more effective measures to prevent and combat gender-based violence, especially against parts of the population that are particularly vulnerable to this gender-based violence. In this context, however, we must draw your attention to the omission of intersex people.

Available data shows that intersex persons, i.e., intersex women and men and non-binary intersex people, are among the most vulnerable groups of the population in regard to experiencing gender-based violence and domestic violence. In addition to the experiences of gender-based and domestic violence they share with other groups of the population, many intersex individuals experience intersex genital mutilation (IGM), a harmful medical practice that is performed on them as result of their variation of sex characteristics, and which is a gender-based violence specific to intersex people, which, in some regions, can reportedly have fatal effects.

We believe that intersex inclusion in this questionnaire will allow for an even more accurate picture of femicide of women in all their diversity and thereby increase the accuracy of the questionnaire and, subsequently, the statistical data. As a side-effect, intersex inclusion will also draw attention to the still highly unreported violence experienced by intersex individuals.¹

0. Who are intersex people?

Intersex people are born with sex characteristics (sexual anatomy, reproductive organs, hormonal structure and/or levels and/or chromosomal patterns) that do not fit the typical definition of male or female.²

The term “intersex” is an umbrella term for the spectrum of variations of sex characteristics that naturally occur within the human species. The term intersex acknowledges the fact that physically, sex is a spectrum and that people with variations of sex characteristics other than male or female exist. The fact that someone has an intersex body can become apparent at different times in their life: at birth, during childhood, in puberty or even in adulthood. Depending on the specific life circumstances and the degree of taboo in their environment, a person might learn that they have an intersex body at a very early age or later in life. Some intersex people never find out at all.

Up to 1.7% of the global population is intersex, i.e., has a variation of sex characteristics, which equals, of this date, 132 million intersex people globally,³ who are, as a group, highly vulnerable against experiencing violence and domestic violence.

Since 2009, United Nations Treaty Bodies have made 59 calls on Member States to stop human rights violations against intersex people.⁴ 18 of which have been issued by CEDAW.⁵

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1. Missing criteria and categories

Intersex people experience violence on the grounds of their variation of sex characteristics. The questionnaire, unfortunately, does not reflect this. **The following tables are only meant as a visualisation of missing elements, not as recommendations.** Further consultation on a global level is needed to ensure that intersex people from all over the globe and the violence they experience is meaningfully and comprehensively included in this questionnaire, which is highly relevant to intersex people’s lived experiences.

1.2 Victim Disaggregation

The Victim Disaggregation lacks any reference to the ground of sex characteristics. As shown in section 3 of this submission, intersex women and girls, intersex men and boys and non-binary intersex children and adults are highly vulnerable because of their variation of sex characteristics, which does not meet societal and normative expectations.

<table>
<thead>
<tr>
<th>Gender-related criteria</th>
<th>Proposed disaggregating variables and categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Victim had non-conforming sex characteristics</td>
<td>SC - Sex characteristics of the victim</td>
</tr>
<tr>
<td></td>
<td>Variation of sex characteristics</td>
</tr>
</tbody>
</table>

The gender-related criteria “The Victim had a non-conforming gender identity” is

a) missing a reference to male and female intersex people. While this criterion has a focus on gender, it also includes, implicitly, a reference to a person’s sex: Cis-gendered people are usually considered as individuals with a gender identity that matches their normative biological sex characteristics.

b) missing a reference to individuals with a non-binary gender identity, non-intersex people and intersex people alike

<table>
<thead>
<tr>
<th>Gender-related criteria</th>
<th>Proposed disaggregating variables and categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Victim had a non-conforming gender identity</td>
<td>GIV – Gender identity of the victim</td>
</tr>
<tr>
<td></td>
<td>Male Cisgender Male transgender Male intersex</td>
</tr>
</tbody>
</table>
Infanticide of intersex children, including but not limited to intersex girls, in a common practice in some regions of the world. The questionnaire does not reflect this.

<table>
<thead>
<tr>
<th>Gender-related criteria</th>
<th>Proposed disaggregating variables and categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intersex infanticide</td>
<td>AV – Age of Victim</td>
</tr>
<tr>
<td></td>
<td>0-14</td>
</tr>
<tr>
<td></td>
<td>15-29</td>
</tr>
<tr>
<td></td>
<td>30-44</td>
</tr>
<tr>
<td></td>
<td>45-59</td>
</tr>
<tr>
<td></td>
<td>Not know</td>
</tr>
</tbody>
</table>

1.2 Gender-biased Context Disaggregation

Female genital mutilation as well as intersex genital mutilation can lead to an individual’s death, however, while being related in regards to the cultural rational, they differ in that intersex genital mutilation is performed specifically on the bodies of intersex individuals, including intersex women. To ensure that both kinds of genital mutilations are taken into account, genital mutilation-related death should be divided into two categories, female genital mutilation and intersex genital mutilation.

<table>
<thead>
<tr>
<th>Gender-related criteria</th>
<th>Proposed disaggregating variables and categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>Situational Context</td>
<td>Homicide related to Honor-related killing</td>
</tr>
</tbody>
</table>

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https://www.boell.de/sites/default/files/endf_human_rights_between_the_sexes.pdf
2. Violence against intersex people is sex and gender-based violence – international documents

Intersex women and men, intersex boys and girls and non-binary intersex children and adults have been recognized as victims or sex and gender-based violence that they experience as a result of having been born with a variation of sex characteristics.

- The **UN Committee on the Elimination of Discrimination against Women (CEDAW)** has repeatedly expressed strong concern about violence against intersex persons, taking place on a global level, including “medically irreversible sex reassignment surgery on intersex persons, a practice which is defined as non-consensual, unnecessary genital surgery and includes other comparable procedures that violate the physical integrity of such individuals.”

- In 2017 the **Parliamentary Assembly of the Council of Europe (PACE)** passed the first European resolution on intersex, Resolution 2191 (2017). Promoting the human rights of and eliminating discrimination against intersex people, calling for, among other protections and policies, the prohibition of sex-“normalising” surgery and other treatments practised on intersex children without their informed consent in national law among their respective Member States.

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7 CEDAW/C/LUX/CO/6-7 https://intersexrights.org/wp-content/uploads/2020/08/N1807025.pdf, see also these recommendations to EU member states: CEDAW/C/BGR/CO/8, CEDAW/C/AUT/CO/9, CEDAW/C/ITA/CO/7, CEDAW/C/DEU/CO/7-8, CEDAW/C/IRL/CO/6-7, CEDAW/C/NLD/CO/6, CEDAW/C/EST/CO/5-6, CEDAW/C/FRA/CO/7-8, CEDAW/C/SVK/CO/5-6

In 2019, the European Parliament passed a resolution on “The rights of intersex people”, which lays out the need for a clear EU commitment to protect the fundamental rights of intersex people, including protecting them against all forms of violence.

The European Commission, in its Gender Equality Strategy 2020-2025 affirms that policy objectives and key actions to guarantee gender equality must include women and men, girls and boys, in all their diversity. The Strategy clarifies that the expression ‘in all their diversity’ is used to “express that, where women or men are mentioned, these are a heterogeneous category including in relation to their sex, gender identity, gender expression or sex characteristics.”

The European Commission, in its LGBTIQ Equality Strategy 2020-2025 and in its EU strategy on the rights of the child 2021-2024, has affirmed the high vulnerability of intersex children and adults and the need to protect them against violence in all areas.

The European Commission, in its LGBTIQ Equality Strategy 2020-2025 has confirmed that intersex individuals suffer from “harmful practices” such as non-vital surgery and medical intervention on intersex infants and adolescents without their personal and fully informed consent (intersex genital mutilation); this violence is specific to them on the grounds of being born with a variation of sex characteristics and therefore needs to be considered as a form of gender-based violence.

The EU Fundamental Rights Agency 2019 LGBTI II Survey confirmed that intersex people are among the most vulnerable groups within the LGBTI spectrum in regard to experiencing violence, including gender-based and domestic violence.

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10 p. 2
11 p. 2, footnote 9
3. Data on gender-based violence towards intersex

Existing research and reports submitted to OII Europe by intersex individuals and OII Europe member organisations show that intersex persons, including but not limited to intersex girls and women, experience violence on a regular basis, including physical and psychological intimidation, aggression, physical or sexual assault, including rape, all of which carry the risk of having fatal consequences.

While we will focus on the European region, we also would like to draw your attention to the infanticide of intersex babies, that has been reported for several regions of the world.  

3.1 Gender-based violence in public spaces

According to the 2019 EU Fundamental Rights Agency (FRA) LGBTI survey, in the five years before the survey

- 22% of intersex respondents experienced gender-based violence in the form of a physical and/or sexual attack

In the 12 months before the survey,

- 38% of intersex people at least once experienced gender-based violence in the form of violent in-person threats and
- 27% even six or more times.

Across the EU, intersex respondents indicated the highest rate (41%) for often or always avoiding certain locations.

Among intersex youth, in the 12 months before the survey

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https://www.boell.de/sites/default/files/endf_human_rights_between_the_sexes.pdf


18 Ibid.

19 See OII Europe infographic based on the FRA LGBTI Survey Data Explorer available at <https://oiieurope.org/intersex-youth/>
• 14% (aged 15-17) suffered gender-based violence in the form of physical or sexual attacks
  o 79% of them reported physical attack
  o 20% sexual attack or a combination of physical and sexual attack
  o 50% experienced bullying at school/university
  o 39% identified school as the location of the last incident of hate-motivated harassment.

Among all respondents, intersex (42%) and trans (48%) people, experienced the highest rates of harassment and violence in the year before the survey. The negative impact of these incidents on the individual is severe.20

• 59% intersex respondents were afraid to go out or visit places
• 56% had psychological problems (e.g., depression or anxiety)
• 9% needed medical assistance or hospitalization.

3.2 Domestic violence

Reports submitted by intersex people to OII Europe show that physical assault and verbal attacks are common incidents within the family of an intersex person.

The high number of homeless intersex people, the highest among the respondents to the 2019 FRA LGBTI survey, stems to a significant percentage from domestic violence.

According to the FRA 2019 LGBTI II survey21
• 29% of the intersex respondents faced housing difficulties
• close to half of them, 41%, stated family or relationship problems, including domestic violence, as reason for the housing difficulties22

21 See OII Europe infographic based on LGBTI Survey Data Explorer available at <https://oiieurope.org/housing-and-economic-difficulties/>
22 20% had to stay with friend or relatives temporarily, 6% had to stay in emergency or temporary accommodation, 8% had to stay in a place not intended as a permanent home, 5% had to ‘sleep rough’ or sleep in a public space, see OII Europe infographic based on LGBTI Survey Data Explorer available at <https://oiieurope.org/housing-and-economic-difficulties/>
The FRA findings are supported by recent 2021 research focusing particularly on homelessness and its connection to domestic violence. Of the 72 participating organisations, representing 32 countries across Europe, over half (52%) stated that they work specifically with intersex youth. According to this survey the most common reason for homelessness is reported to be identity related family conflict (72%), including young people’s choice to flee from violence in the family home.

3.3 Intersex genital mutilation (IGM) as gender-based violence and its connection to female genital mutilation (FGM)

In 2013, Juan E. Mendés, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, issued a strongly worded statement condemning non-consensual surgical intervention on intersex people as a form of torture.

His report states that “[t]here is an abundance of accounts and testimonies of persons being ... subjected to ... a variety of forced procedures such as sterilization, State-sponsored forcible ... hormone therapy and genital-normalizing surgeries under the guise of so-called ‘reparative therapies’. These procedures are rarely medically necessary, can cause scarring, loss of sexual sensation, pain, incontinence and lifelong depression and have also been criticized as being unscientific, potentially harmful and contributing to stigma”.

The UN Special Rapporteur on torture pointed out that this violence is gender-based as intersex children are often subject to irreversible sex assignment, involuntary sterilizations and/or genital-normalizing surgery, performed without their informed consent or that of their parents “in an attempt to fix their sex” as they fail to conform to socially constructed gender expectations, and that these harmful practices leave intersex children with permanent, irreversible infertility and causes severe mental suffering.

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According to a 2015 survey published by the EU Fundamental Rights Agency, such so-called sex-“normalizing” surgeries on intersex infants and children are carried out in at least 21 of the EU Member States.\(^\text{26}\)

Many of these countries have laws against (unconsented) sterilizations and/or sterilization of minors\(^\text{27}\) and against FGM.\(^\text{28}\) The different treatment of IGM and FGM is even more striking when considering that many intersex individuals who experience IGM are registered as female, and, hence, have their genitalia operated on while legally registered as girls without their wish or consent.

This legal differentiation, though, is largely arbitrary. In 2014, the 24th Conference of Equality and Women Ministers and Senators of the German Länder (GFMK) pointed to the similarities between IGM and FGM and called for implementing a corresponding standard of protection for intersex children. The GFMK pointed out that “family law already prohibits guardians from consenting to the sterilization of a child (§ 1631c BGB)” and that, “in the case of girls, parents cannot give effective consent to the removal or circumcision of the clitoris, as this is punishable as female genital mutilation (§ 226a StGB)”, but that intersex minors were “in fact often denied this protection by carrying out procedures that have a sterilizing effect or that alter the genitals of intersexual minors without their consent and without compelling medical indication”.\(^\text{29}\)

In 2017, the BanFGM Conference on the worldwide ban on female genital mutilation decided to include victims of intersex genital mutilation in their supporting structure through the provision of essential services (medical, psychological and legal).\(^\text{30}\)

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\(^{27}\) The findings of the German Family Ministry, however, showed that the German sterilisation legislation (§ 1631c BGB), is not impervious when it comes to intersex children, as their gonadal hormone producing tissue may not be considered equivalent to testes or ovaries, see also: Bundesministerium für Familie, Senioren, Frauen und Jugend (2016.a): Situation von trans- und intersexuellen Menschen im Fokus. Sachstands­information des BMFSFJ. Begleitmaterial zur Inter­ministeriellen Arbeitsgruppe Inter- & Transsexualität – Band 5. Berlin, p. 19. [https://www.bmfsfj.de/blob/112092/f199e9c4b77f89d0a5aa825228384e08/imag-band-5-situation-von-trans-und-intersexuellen-menschen-data.pdf](https://www.bmfsfj.de/blob/112092/f199e9c4b77f89d0a5aa825228384e08/imag-band-5-situation-von-trans-und-intersexuellen-menschen-data.pdf)


FGM and IGM share many common characteristics and individuals who are subject to FGM or IGM experience gender-based violence:

- **Framed in terms of the need to be accepted socially**; however, for many intersex people, surgeries in their childhood and teenage years did not improve their situation concerning social inclusion or marginalization.

- **Motivated by beliefs about what is considered acceptable sexual behavior**; in the case of intersex people, the ultimate goal of those performing IGM is to allow for penetrative intercourse of the future adult and for an alleged ability to procreate. Neither the impossibility to foresee the future intersex adult’s gender identity, sexual orientation or sexual preference,31 nor the fact that the capacity for penetrative intercourse may be less important for the intersex adult than unharmed genitalia are taken into account.

- **Motivated by the notion that parts that are not considered female (or male) enough should be removed**; in the case of intersex people this includes interventions on infants and children such as clitoris reduction/recession, removing the labia, moving the opening of the urethra to the tip of the penis, to name but a few.

- **Impactful on the person’s life and health**; in the case of intersex people this includes impairment of sexual sensation, poorer sexual function, painful scarring, painful intercourse, increased sexual anxieties, problems with desire, infertility issues and lifelong trauma, including feelings of child abuse and sexual abuse.32

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