



The right to redress and reparations.

Denmark has twice received recommendations from UN bodies (CAT/C/DNK/CO/6-7, CRC/C/DNK/CO/5) calling on Denmark, to provide adequate redress for the physical and psychological suffering caused by IGM and so called Normalizing practices performed on intersex individuals without their prior full free and informed consent.

Statutes of limitation in place, actively block access to redress for victims of IGM

Statutes of limitation of max. 5 years for filing a complaint, and max. 10 years to seek redress and reparation, along with the “Specialist rule” and the “Reasonableness Rule” actively block intersex peoples access to seek and obtain reparation and redress.

The Law

In 2018 Denmark adopted Act No. 140 of 28/02/2018, amending the Penal Code, the Act on the Limitation of Claims, the Act on Liability for Damages, and the Act on Compensation from the State to Victims of Crimes.

The act abolished limitation periods for the criminal liability of offenders in cases of sexual abuse of children, and for claims for compensation against administrative authorities for failures, in cases of abuse of children.

The victims of IGM and normalizing interventions are comparable to the child victims of sexual abuse, as the crimes are similar in nature. The victims are young children in a situation of powerlessness, as they are under the complete control of their parents and medical personnel and have no means of resistance, They have been subjected to abuse, They have repeatedly experienced having their physical integrity, bodily autonomy, and self-determination violated, and had their sexual anatomy imposed upon, without their consent, causing them severe pain and discomfort, which resulting in irreversible physical consequences and lifelong trauma.

And finally, due to the nature of some treatment regimes, such as vaginal dilation both as independent treatment, and as aftercare after vaginoplasty.

Dilation, is an often painful or uncomfortable process, designed to widen and deepen a vagina, deemed too narrow or shallow for penetrative sex, this is done by inserting dildo-like objects in increasing length and circumference, into the vagina, to stretch the vaginal tissue. Children and young victims who have repeatedly been penetrated without their consent reported experiencing this procedure as sexual abuse.

Key Challenges and impact:

Most surgeries and medical procedures take place in early childhood, which means that by the time the victim is old, or mature enough, to realize the full extent of harmful consequences, they have endured as victims of intersex genital mutilation (IGM), the statutes of limitation have long expired, impeding their ability to seek and obtain redress.

Certain complications arise or are only perceived as problematic long after the surgery or treatment has been carried out. For example, the lack of, or limited sensation in the genitalia will only fully be experienced as a problem, in connection with their sexual debut.

Some intersex individuals are so traumatized by treatments, surgeries, and/or aftercare, including dilation, that they, due to the risk of re-traumatization, for psychological reasons delay filing a complaint, and thereby implicitly lose the opportunity

Many surgeries and treatments that have been performed on intersex children have been kept secret, and many only find out as adults, what happened to them as infants.

It can be difficult for the individual to access their medical records, as these are often either 'lost' or recorded in the mother's records, thereby preventing the individual from accessing them, which can prolong and complicate the complaint process.

Recommendations:

1. Repeal the limitation periods, as was done in Act No. 140 of 28/02/2018, and remove the Specialist Rule and the Reasonableness Rule, in cases that involve treatments and surgeries on intersex people, including but not limited to: Surgeries on the sexual anatomy, including Hypospadias repairs and Gonadectomies, hormonal treatments and conversion therapy, carried out, without the individual's prior full free and informed consent
2. Simplify the complaint process, including for access to seek compensation, for intersex victims of all forms of treatments and surgeries as mentioned in recommendation 1.
3. Undertake an investigation into the number of intersex victims and the scope of the damages created in the past, and inform victims of their right to seek justice, redress and reparation.
4. Ensure that redress also comprises a public apology, which provides adequate acknowledgement of the suffering and injustice caused to intersex people.