



Open Letter to Federal Party Leaders:

If elected, will your party amend Canada's Criminal Code to prohibit medically unnecessary surgeries on Intersex infants and children?

October 10, 2019

The Liberal Party of Canada
The Progressive Conservative Party of Canada
The Green Party of Canada
The New Democratic Party of Canada

Surgeries on intersex children have been condemned by major human rights groups such as the United Nations, Physicians for Human Rights, and Human Rights Watch, as well as every intersex-led organization in the world. Egale is urging the Canadian government to fulfill its treaty body obligations under international law, especially concerning the UN Convention Against Torture.

Approximately **1.7% of the population is born with intersex traits** (UNHCR factsheet). The term intersex refers to a person whose chromosomal, hormonal or anatomical sex characteristics fall outside the conventional classifications of male or female. The designation of "intersex" can be experienced as stigmatizing. This is especially true given the history of medical practitioners imposing it as a diagnosis requiring correction. It happens more often than not that medically unnecessary surgical or pharmaceutical intervention takes place on intersex infants, children and young adults (some people may not be identified as "intersex" until puberty or even later in life).

In Canada, the Criminal Code [s. 268(3)] – the same section that bans Female Genital Mutilation – allows for parents and medical practitioners to undertake non-consensual, cosmetic and function-altering surgeries on intersex infants. These surgeries have proven to result in lifelong physical and psychological pain, amounting to *Torture or Cruel, Inhuman and Degrading Treatment* under the UN Convention Against Torture. The existing law deprives intersex children from criminal protections against pathologization of their bodies, and instead functions to normalize surgical interventions based on assumptions about medically "correct" or "normal" bodies. Between **30-80% of intersex children undergo up to five irreversible surgeries**.

When it comes to legal protections of human rights for intersex people, Canada is falling behind the rest of the world. This is a matter of international human rights law and it is absurd for any government to assume there won't be repercussions for not adhering to international standards.

Countries and governing bodies around the world are taking action:

- In 2017, **The Council of Europe** adopted resolution 2191, *Promoting the human rights of and eliminating discrimination against intersex people*. This resolution prohibits medically unnecessary sex-"normalising" surgery, sterilisation and other treatments practised on intersex children without their informed consent. The resolution also calls for consultation with intersex people and asserts a need for data collection and access to medical records for intersex people.
- In 2015, **Malta** adopted the Gender Identity, Gender Expression and Sex Characteristics Act – the first law to prohibit surgery and treatment on the sex characteristics of minors without their informed consent. It also prohibits discrimination on the basis of sex characteristics



- In 2013, **Australia** adopted the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act – the first law to include intersex status as a stand-alone prohibited ground of discrimination. The Australian Senate has also carried out an official inquiry into the involuntary or coerced sterilization of intersex people.
- In August 2018, the state of **California**, SCR-110 called for the creation of clear policy encouraging the delay of cosmetic procedures until an intersex individual is old enough to make an informed decision.
- **Colombian** constitutional court has restricted the capacity of doctors and parents to allow for non-consensual, cosmetic surgeries on intersex infants. In four separate decisions, the courts have ruled that sex normalizing procedures cannot take place without the informed consent of the child itself.

The way we treat intersex people in Canada is shameful — the surgeries we allow to take place on intersex children are on all counts a violation of basic human rights and considered torture by the United Nations.

Will you, if elected, commit to ensuring that Canada adheres to international standards of human rights by amending the Criminal Code to prohibit non-consensual medically unnecessary surgeries on intersex children? I

Sincerely,

A handwritten signature in black ink that reads "Kennedy". The signature is stylized and includes a large, looped initial.

Helen Kennedy
Executive Director at Egale Canada