

Resolution on the Promotion and Protection of the Rights of Intersex Persons in Africa -
ACHPR/Res.552 (LXXIV) 2023

**The African Commission on Human and Peoples' Rights (the Commission), meeting at its
74th Ordinary Session, held virtually from 21 February to 07 March 2023:**

Recalling its mandate to promote and protect human and peoples' rights in Africa under Article 45 of the African Charter on Human and Peoples' Rights (the African Charter);

Recalling also that Article 2 of the African Charter prohibits any form of discrimination against any person on the basis of race, ethnicity, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status

Noting that Article 3 of the African Charter grants equal protection of the law to all, and that Article 5 guarantees to all the recognition of legal personality and the prohibition of torture and cruel, inhuman and degrading treatment;

Noting also that Article 16 of the African Charter guarantees everyone the right to the enjoyment of the highest attainable standard of physical and mental health, and that Article 9 of the African Charter guarantees everyone the right of access to information, including medical records and histories;

Considering that Article 5 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and Article 21 of the African Charter on the Rights and Welfare of the Child prohibit harmful social and cultural practices;

Recognizing that intersex persons, who are born naturally with a chromosomal abnormality and reproductive or sexual anatomy that does not appear to fit the typical definitions of female or male, exist in all African societies;

Recognizing that intersexuality is an inherent handicap at birth and that it should not be considered a taboo in all African societies;

Recognizing also that non-consensual and unnecessary surgical and other genital normalization procedures performed on intersex persons, in a medical or other setting, may cause them lifelong physical and psychological suffering, permanent sterility, incontinence, and loss of sexual pleasure;

Further recognizing that the above-mentioned non-consensual and unnecessary surgical and other genital normalization procedures have irreversible consequences similar to genital mutilation and can be considered as such;

Concerned about human rights violations against intersex persons which include, but are not limited to, rejection in society; infanticide and abandonment of children; lack of proper legal recognition and administrative processes that prevent intersex persons from acquiring or altering identity documents; unfair discrimination in schools, health facilities, competitive sports, work; access to public services; and detention;

Further concerned about the invisibility and lack of awareness and sensitivity to the plight and situation of intersex persons in African communities;

Recalling that States Parties to the African Charter have the obligation to recognize the rights, duties and freedoms guaranteed by the African Charter by adopting legislative or other measures to implement them;

Noting that most States Parties do not have appropriate legislative, policy or other measures to guarantee the protection of the rights of intersex persons;

The Commission calls on States Parties to:

1. Promote and protect the rights of intersex persons on the continent;
2. Stop non-consensual genital normalization practices on intersex persons, such as surgical, hormonal and sterilization procedures that alter the sexual characteristics of intersex persons and ensure respect for their rights to make their own decisions regarding their bodily integrity, physical autonomy and self-determination;
3. Ensure that any action concerning an intersex minor is carried out with the permission of the parents and after medical analysis, taking strict account of the best interests of the child;
4. End human rights violations against intersex persons, such as infanticide and abandonment of intersex children;
5. Prohibit discrimination based on intersex traits and characteristics or intersex status, including in education, health, employment, competitive sports, and access to public services, and address such discrimination through appropriate anti-discrimination initiatives;
6. Ensure that intersex human rights defenders work in an environment free from stigmatization, retaliation, or criminal prosecution because of their human rights activism;
7. Incorporate intersex education into prenatal counselling and support services, and provide training for health care personnel focused on the health needs and human rights of intersex persons, as well

as the appropriate counselling and care to be given to intersex parents and children, respecting the autonomy, psychological integrity and sexual characteristics of the intersex person;

8. Enact enabling legislation and institutionalize administrative processes that allow intersex persons to change the gender designation on their birth certificates and other official documents, based on decision taken through medical intervention;

9. Ensure intersex people's right to full information, including access to their own medical records and history;

10. Ensure that human rights violations against intersex people are investigated, perpetrators are prosecuted, and victims have access to effective remedies, including redress and compensation;

11. Raise awareness of intersex issues and the rights of intersex persons in society; and

12. Ensure that members of the judiciary, immigration officials, law enforcement officers, health, education and other officials and personnel are sensitized to the respect and equal treatment of intersex persons.

Done virtually, on 7 March 2023