

# Intersex Genital Mutilation Human Rights Violations Of Children With Variations Of Reproductive Anatomy



NGO Report (for Session)  
to the 7<sup>th</sup> Report of Chile on the  
International Covenant on Civil and Political Rights  
(CCPR)

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**February 2024**

**This NGO Report online:**

<http://intersex.shadowreport.org/public/2024-CCPR-Chile-NGO-Intersex-StopIGM.pdf>



## Executive Summary

Despite official denials, and the Ministry of Health currently **again instructing doctors to defer unnecessary surgery on intersex children**, in Chile **all typical forms of IGM practices persist with impunity, facilitated and paid for by the State party** via the public health care system, including the Ministry of Health and the Fondo Nacional de Salud (FONASA).

Thus, **Chile fails to take appropriate action** to effectively protect intersex children from inhuman treatment, in spite of **repeated Concluding Observations** by **CRC** (CRC/C/CHL/CO/4-5, paras 48–49; CRC/C/CHL/CO/6-7, para 22), **CEDAW** (CEDAW/C/CHL/CO/7, paras 22-23) and **CRPD** (CRPD/C/CHL/CO/1, paras 41-42), and **increasing public criticism**.

**This Committee has consistently recognised IGM practices to constitute inhuman treatment** in Concluding Observations, invoking **Articles 2, 3, 7, 9, 17, 24 and 26**.

**Chile** is thus in breach of its **obligations** under the Covenant to **(a)** take effective legislative, administrative, judicial or other measures to **prevent inhuman treatment and involuntary experimentation on intersex children** causing severe mental and physical pain and suffering of the persons concerned, and **(b)** **ensure equal access to justice and redress**, including fair and adequate **compensation** and as full as possible **rehabilitation** for victims, as stipulated in the CCPR in conjunction with the **General comment No. 20**.

In total, UN treaty bodies **CRC, CEDAW, CAT, CCPR** and **CRPD** have so far issued **88 Concluding Observations** recognising **IGM** as a **serious violation of non-derogable human rights**, typically obliging State parties to **enact legislation** to **(a)** end the practice and **(b)** ensure redress and compensation, plus **(c)** access to free counselling. Also, the UN Special Rapporteurs on Torture (**SRT**) and on Health (**SRH**), the UN High Commissioner for Human Rights (**UNHCHR**), the World Health Organisation (**WHO**), the Inter-American Commission on Human Rights (**IACHR**), the African Commission on Human and Peoples' Rights (**ACHPR**) and the Council of Europe (**COE**) recognise **IGM** as a **serious violation of non-derogable rights**.

**Intersex people** are born with **Variations of Sex Anatomy**, including atypical genitals, atypical sex hormone producing organs, atypical response to sex hormones, atypical genetic make-up, atypical secondary sex markers. While intersex people may face several problems, in the “developed world” the most pressing are the ongoing **Intersex Genital Mutilations**, which present a distinct and unique issue constituting significant human rights violations.

**IGM practices** include **non-consensual, medically unnecessary, irreversible, cosmetic genital surgeries, and/or other harmful medical procedures** that would not be considered for “normal” children, without evidence of benefit for the children concerned. **Typical forms of IGM** include “masculinising” and “feminising”, “corrective” genital surgery, sterilising procedures, imposition of hormones, forced genital exams, vaginal dilations, medical display, involuntary human experimentation and denial of needed health care.

**IGM practices** cause known **lifelong severe physical and mental pain and suffering**, including loss or impairment of sexual sensation, painful scarring, painful intercourse, incontinence, urethral strictures, impairment or loss of reproductive capabilities, lifelong dependency of artificial hormones, significantly elevated rates of self-harming behaviour and suicidal tendencies, lifelong mental suffering and trauma, increased sexual anxieties, and less sexual activity.

This **Thematic NGO Report** was compiled by the intersex NGO **StopIGM.org**. It contains **Suggested Recommendations (p. 23)**.

**NGO Report to the 7<sup>th</sup> Report of Chile (for Session)  
International Covenant on Civil and Political Rights (CCPR)**

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## Introduction

### Intersex, IGM and Human Rights in Chile

The State party has to be commended for recently having issued a new **Circular No. 15 (2023)** by the Ministry of Health, which nullifies the previous Circulars concerning intersex children, and **again instructs doctors to defer** unnecessary surgery. However, so far, Chilean **doctors ignore** the new Circular, which as a mere regulation contains **no adequate sanctions** against perpetrators and therefore **can't be enforced**.

**Chile thus fails to take appropriate action** to protect intersex children from **inhuman treatment**, and to implement the repeated relevant **Concluding Observations** by **CRC** (CRC/C/CHL/CO/4-5, paras 48-49; CRC/C/CHL/CO/6-7, para 22), **CEDAW** (CEDAW/C/CHL/CO/7, paras 22-23) and **CRPD** (CRPD/C/CHL/CO/1, paras 41-42).

As this NGO Report demonstrates, **in Chile all forms of IGM continue to be practiced with impunity**, advocated, facilitated and paid for by the State party via the public health care system – despite **increasing public criticism** by local persons concerned, legal experts and human rights bodies, and **official denials** by the State party.

Further, **victims of IGM practices** continue to face **obstacles to access to justice, redress, compensation**, and as **full rehabilitation** as possible, namely the **statutes of limitation**.

### About the Rapporteurs

This **thematic NGO report** has been prepared by the international intersex NGO *StopIGM.org / Zwischengeschlecht.org*:

- **StopIGM.org / Zwischengeschlecht.org**, founded in 2007, is an international intersex human rights NGO based in Switzerland, working to end IGM practices and other human rights violations perpetrated on intersex people, according to its motto, “*Human Rights for Hermaphrodites, too!*”<sup>1</sup> According to its charter,<sup>2</sup> StopIGM.org works to support persons concerned seeking redress and justice and regularly reports to relevant UN treaty bodies, often in collaboration with local intersex persons and organisations,<sup>3</sup> substantially contributing to the so far 88 Treaty body Concluding Observations recognising IGM as a serious human rights violation.<sup>4</sup> StopIGM.org has followed and reported on the situation in Chile since 2015,<sup>5</sup> and, in collaboration with Brújula Intersexual, has submitted NGO Reports to CAT in 2018<sup>6</sup> and to CRC in 2019,<sup>7</sup> as well as another Report to CRC in 2021<sup>8</sup>.

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1 <https://Zwischengeschlecht.org/> English homepage: <https://StopIGM.org>

2 <https://zwischen-geschlecht.org/post/Statuten>

3 <https://intersex.shadowreport.org>

4 <https://stopigm.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

5 <https://stopigm.org/un-committee-on-the-rights-of-the-child-questions-chile-over-intersex-genital-mutilations/>

<https://stopigm.org/un-cprd-reprimands-chile-for-intersex-genital-mutilations/>

<https://stopigm.org/inter-american-commission-on-human-rights-condemns-intersex-genital-mutilations/>

6 <https://intersex.shadowreport.org/public/2018-CAT-Chile-NGO-Intersex-Brujula-StopIGM.pdf>

7 <https://intersex.shadowreport.org/public/2019-CRC-LOIPR-Chile-NGO-Intersex-Brujula-StopIGM.pdf>

8 <http://intersex.shadowreport.org/public/2021-CRC-Chile-NGO-Intersex-StopIGM.pdf>

The Rapporteurs would like to **acknowledge** the work of the local intersex NGO **Intersexuales Chile**<sup>9</sup> (formerly Brújula Intersexual Chile) to raise awareness of intersex human rights in Chile.<sup>10 11 12 13 14 15</sup> We would like to acknowledge the work of international intersex NGO **Brújula Intersexual**.<sup>16</sup> We would like to acknowledge the work of **Intersex Pacífico Sur**.<sup>17</sup> And we would like to acknowledge the work of **Camilo Godoy**.<sup>18 19 20 21</sup>

## Methodology

This thematic NGO report is an updated version of the **2021 thematic CRC NGO Report for Session**.<sup>22</sup> Translations from Spanish texts are automatic translations revised by the Rapporteurs.

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9 <https://www.facebook.com/intersexchilenos>

10 <https://brujulaintersexual.org/2020/08/19/comunicado-intersexuales-chile-canal13/>

11 <http://www.invertidoediciones.cl/2021/04/14/dioses-sobre-nuestros-cuerpos-experiencia-intersexual-en-chile/>  
(see also below, p. 16)

12 <https://brujulaintersexual.org/2020/10/05/vivencia-intersexual-entrevista-intersexuales-chile/>

13 “Do you know what it is? IGM Intersex Genital Mutilation”,

<https://www.facebook.com/intersexchilenos/posts/2957565441166594>

14 “For *Intersexualeschile* this is an extremely important moment as a group [to participate in this course organised by the Medical College of Chile] because we are getting closer and closer that doctors and future doctors know that they should not be part of or complicit in surgeries on intersex babies that are only done as we know for aesthetic reasons and not for any health purposes.”,

<https://www.facebook.com/intersexchilenos/posts/2933769156879556>

15 <https://brujulaintersexual.org/2021/08/26/intersexualeschile-convencion-constitucional/>

16 <https://brujulaintersexual.org/?s=chile>

17 <https://www.facebook.com/IntersexChile/photos/a.116820686326885/149218726420414>

18 Open Letter to the President of the Republic, <https://intersexday.org/en/chile-letter-2015/>

19 Centro de Derechos Humanos, Facultad de Derecho, Universidad Diego Portales (Tomás Vial Solar, editor general), Informe anual sobre Derechos Humanos en Chile 2016, chapter on intersex: Camilo Godoy, Derechos Humanos de las Personas Intersex en Chile (p. 321-355),

[https://derechoshumanos.udp.cl/cms/wp-content/uploads/2020/12/Godoy\\_ddhhpersonasintersex-1.pdf](https://derechoshumanos.udp.cl/cms/wp-content/uploads/2020/12/Godoy_ddhhpersonasintersex-1.pdf)

20 Godoy, Camilo (2015). Análisis del tratamiento de la intersexualidad a la luz del derecho internacional de los derechos humanos y su realidad en Chile, <http://bibliotecadigital.indh.cl/handle/123456789/1022>

21 Instituto Nacional de Derechos Humanos (INDH), Informe Anual Situación de los Derechos Humanos en Chile 2017, chapter 3 on intersex, [https://www.indh.cl/bb/wp-content/uploads/2017/12/01\\_Informe-Anual-2017.pdf](https://www.indh.cl/bb/wp-content/uploads/2017/12/01_Informe-Anual-2017.pdf)

22 <http://intersex.shadowreport.org/public/2021-CRC-Chile-NGO-Intersex-StopIGM.pdf>

## **A. Precedents: Concluding Observations, Gov Regulations on IGM, LOIPR and State Report**

### **1. Previous Concluding Observations, Gov Regulations on IGM**

#### **a) CRC 2015: Harmful Practices (CRC/C/CHL/CO/4-5, paras 48-49)**

*E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39) [...]*

##### ***Harmful practices***

48. *While noting the proposed development of a protocol on the health care of intersex babies and children, the Committee is seriously concerned about cases of medically unnecessary and irreversible surgery and other treatment on intersex children, without their informed consent, which can cause severe suffering, and the lack of redress and compensation in such cases.*

49. *In the light of its general comment No. 18 (2014) on harmful practices, adopted jointly with the Committee on the Elimination of Discrimination against Women, the Committee recommends that the State party expedite the development and implementation of a rights-based health-care protocol for intersex children that sets the procedures and steps to be followed by health teams in order to ensure that no one is subjected to unnecessary surgery or treatment during infancy or childhood, protect the rights of the children concerned to physical and mental integrity, autonomy and self-determination, provide intersex children and their families with adequate counselling and support, including from peers, and ensure effective remedy for victims, including redress and compensation.*

#### **b) CRPD 2016: Integrity of the Person (CRPD/C/CHL/CO/1, paras 41-42)**

##### ***Protecting the integrity of the person (art. 17)***

41. *The Committee is concerned by the fact that sterilizations continue to be performed in the State party on persons with disabilities, especially women and girls, without their free and informed consent and at the mere request of their families or guardians, and by evidence that the procedure is commonly performed on persons with psychosocial disabilities admitted to psychiatric centres.*

42. *The Committee requests the State party to amend Act No. 20.584 and Decree No. 570 to require in all cases, without exception, the free and informed consent of persons with disabilities, including those whose legal capacity has been revoked, as an essential prerequisite for any surgery or medical treatment, especially those of an invasive nature and whose effects are irreversible, such as sterilization and procedures on intersex children.*

**c) CEDAW 2018: Harmful Practices (CEDAW/C/CHL/CO/7, paras 22-23)**

***Harmful practices***

22. *The Committee is concerned about:*

(a) *The lack of clear legislation prohibiting the performance of unnecessary medical procedures on intersex infants and children until they reach an age when they are able to give their free, prior and informed consent;*

(b) *The lack of support and effective remedies for intersex persons who have undergone medically unnecessary surgical procedures at a very early age, often with irreversible consequences and resulting in long-term physical and psychological suffering.*

23. *In the light of joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee of the Rights of the Child (2014) on harmful practices, the Committee recommends that the State party:*

(a) *Adopt legislation to explicitly prohibit the performance of unnecessary surgical or other medical treatment on intersex children until they reach an age when they are able to give their free, prior and informed consent, ensure that medical practitioners are informed about such legislation and provide families with intersex children with adequate counselling and support;*

(b) *Ensure that intersex persons who have undergone unnecessary surgical or other medical treatment without their free, prior and informed consent have effective access to justice and consider establishing a State compensation fund for them.*

**d) CRC 2022: Harmful Practices (CRC/C/CHL/CO/6-7, para 22)**

***Harmful practices***

22. *While noting steps taken regarding the eradication of harmful treatment of intersex children, the Committee recommends that the State party:*

(a) *Ensure that intersex children are not subjected to unnecessary medical or surgical treatment, in line with the rights of the child to bodily integrity, autonomy and self-determination;*

(b) *Investigate incidents of surgical and other medical treatment of intersex children without informed consent and provide redress to victims of such treatment, including appropriate compensation.*



## 2. Government Regulations on IGM

### a) Ministry of Health: Circular No. 18 (2015):

#### Instruction to stop unnecessary genital surgery

Referring to the 2015 Concluding Observations by CRC (CRC/C/CHL/CO/4-5, see above), in December 2015 the **Chilean Ministry of Health** issued the “**Circular No. 18 (2015)**”, which explicitly stated: “*We instruct the stopping of unnecessary “normalization” treatment of intersex children, including irreversible genital surgeries, until they are old enough to decide about their bodies.*”<sup>23</sup> However, Chilean IGM doctors ignored “Circular No. 18” (see 2019 CRC NGO Report for LOIPR, p. 10, 12-15).<sup>24</sup>

### b) Ministry of Health: Circular No. 7 (2016):

#### Retracting Circular No. 18 (2015), re-prescribing IGM

After **massive pressure by Chilean IGM doctors and some parents**<sup>25</sup> determined to continue with involuntary, non-urgent surgery and other procedures on intersex children, in August 2016 the Ministry of Health in fact replaced “Circular No. 18 (2015)” by a **newer “Circular No. 7 (2016)”**,<sup>26</sup> which not only retracts the reservations of the former “Circular No. 18”, but actually **re-prescribes the full range of involuntary, non-urgent genital surgery, sterilising procedures and other harmful treatments on intersex children**<sup>27</sup> (see 2019 CRC NGO Report for LOIPR, p. 12-15).<sup>28</sup>

### c) Ministry of Health: Circular No. 15 (2023):

#### Renewed instruction to stop unnecessary genital surgery

Referring to the 2022 Concluding Observations by CRC (CRC/C/CHL/CO/6-7, see above), in November 2023 the **Chilean Ministry of Health** issued the “**Circular No. 15 (2023)**”,<sup>29</sup> which explicitly stated: “*The performance of surgery, procedures or medical treatments whose sole purpose is modification to meet social and/or aesthetic expectations is prohibited without the*

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23 Ministry of Health (2015), Circular No. 18: Instructions on aspects of health care to intersex children, p. 1, <https://brujulaintersexual.files.wordpress.com/2017/07/circular-18-english.pdf>

For a scan of the Spanish original, see

[https://stopigm.org/public/Chile\\_Circular-No-18\\_22-12-2015\\_Instruye-Ninos-y-Ninas-Intersex\\_OCR\\_web.pdf](https://stopigm.org/public/Chile_Circular-No-18_22-12-2015_Instruye-Ninos-y-Ninas-Intersex_OCR_web.pdf)

24 <http://intersex.shadowreport.org/public/2019-CRC-LOIPR-Chile-NGO-Intersex-Brujula-StopIGM.pdf>

25 “*The adoption of the new circular is explained because a group of doctors dedicated to the treatment of the so called “disorders of sex development” (DSD) objected to the adoption of Circular 18 arguing that it used the wrong language and because it interfered with the practice of irreversible genital surgeries.*

*The main support to this group of doctors came from a group of parents of girls with congenital adrenal hyperplasia (CAH), who told the Ministry that their daughters didn’t have gender ambiguity and that if they not intervened early, they could have physical and psychological problems.*”

Instituto Nacional de Derechos Humanos (INDH), Annual report on the human rights situation in Chile 2017 (“Informe anual sobre la situación de derechos humanos en Chile 2017”), p. 74,

[https://www.indh.cl/bb/wp-content/uploads/2017/12/01\\_Informe-Anual-2017.pdf](https://www.indh.cl/bb/wp-content/uploads/2017/12/01_Informe-Anual-2017.pdf)

26 Ministry of Health (2016), Circular No. 7: Complement to Circular No. 18 that instructs on certain aspects of the treatment of intersex children, <https://brujulaintersexual.files.wordpress.com/2017/07/circular-7-chile-ministry-of-health.pdf>

For a scan of the Spanish original, see <https://brujulaintersexual.files.wordpress.com/2017/06/circular-7.pdf>

27 For an detailed analysis of how Circular No. 7 re-instates and justifies IGM practices, see: Laura Inter and Hana Aoi (2017), Circular 7, 2016: A step back in the fight for the human rights of intersex people in Chile, <https://brujulaintersexual.files.wordpress.com/2017/07/circular-7-english.pdf>

28 <http://intersex.shadowreport.org/public/2019-CRC-LOIPR-Chile-NGO-Intersex-Brujula-StopIGM.pdf>

29 Ministry of Health (2023): Circular No. 15 “Instructions to health teams to take all necessary measures to ensure the best interests of children and adolescents with variations in sex characteristics”,

<https://diprece.minsal.cl/wp-content/uploads/2023/11/Circular-15-Instruye-a-equipos-de-salud-a-adoptar-todas-las-medidas-necesarias-para-asegurar-el-interes-superior-de-ninos-ninas-y-adolescentes-con-variaciones-de-las-caracteristicas-sexuales.pdf>

*consent of the NNA (child or adolescent).*” However, Chilean IGM doctors **ignore** “Circular No. 15 (2023)” (see below, p. 14).

### **3. Current 7<sup>th</sup> CCPR Cycle: LOIPR and State Report**

#### **a) CCPR LOIPR: CCPR/C/CHL/QPR/7, para 13**

##### ***Children with variations of sex characteristics (intersex) (arts. 7, 17, 24 and 26)***

*13. Please report on the measures adopted to prohibit the performance of irreversible surgery or other unnecessary medical procedures on intersex newborns and children in both public and private health centres until they have reached an age at which they are able to give their free, prior and informed consent. Please comment on reports that, in some cases, the Civil Registry has refused to register newborn babies whose sex was classified as “undefined” by medical staff.*

#### **b) State Report: CCPR/C/CHL/7, paras 71+72**

##### ***F. Children with variations of sex characteristics (intersex) (arts. 7, 17, 24 and 26)***

*71. Ministry of Health Circular No. 18 of 22 December 2015 addresses certain aspects of health care for intersex boys and girls, stipulating that “unnecessary procedures to ‘normalize’ intersex boys and girls, including irreversible genital surgeries, should be ceased until the children are old enough to make their own decisions about their bodies.”*

*72. An option is available on the record of birth to indicate that the sex of the child is “indeterminate”. According to the Civil Registry and Identity Service, there is no record of any registration being refused with respect to newborns whose record of birth indicates that their sex is indeterminate.*

## B. IGM in Chile: State-sponsored and pervasive, Gov fails to act

### 1. Overview: Lack of protection for intersex persons, violations state-sponsored

In **Chile** (see CRC/C/CHL/CO/4-5, paras 48-49; CRPD/C/CHL/CO/1, paras 41-42; CEDAW/C/CHL/CO/7, paras 22-23, 12(d)-13(d), 14(d)-15(d); CRC/C/CHL/CO/6-7, para 22), same as in the **Latin American states** of *Mexico* (CCPR/C/MEX/CO/6, paras 12-13; CEDAW/C/MEX/CO/9, para 21-22), *Uruguay* (CRPD/C/URY/CO, para 44) and *Argentina* (CRC/C/ARG/CO/5-6, para 26), and in **many more State parties**,<sup>30</sup> inhuman treatment of intersex children in health care settings continues.

On the side of **violations**, **all typical forms of IGM are still practised in Chile today**, facilitated and **paid for by the State party** via the **public health care system**, including the **Ministry of Health** and the **Fondo Nacional de Salud (FONASA)**.

On the side of **protections**, there are still

- **no effective legal or other protections** in place to **prevent IGM practices**
- **no measures** in place to ensure **data collection and monitoring** of IGM practices
- **no effective measures** in place to ensure intersex persons' **access to their medical records**, and to accurate **information about procedures** performed on them during infancy and childhood
- **no legal or other measures** in place to ensure the **accountability** of IGM perpetrators
- **no legal or other measures** in place to ensure **access to redress and justice** for adult IGM survivors

This is also confirmed by reports of Government institutions, for example a 2021 publication of the **Library of the National Congress of Chile (BCN)**: *"In Chile there is no legislation regulating medical interventions on intersex persons."*<sup>31</sup>

### 2. Increasing public criticism of intersex genital mutilation (IGM) in Chile

There has been an **increase in public criticism** of the ongoing IGM practices and the lack of action by the State party, notably by the local intersex NGO **Intersexuales Chile**, consistently calling for an end to unnecessary genital surgery and other treatment,<sup>32</sup> notably by **demanding an explicit "prohibition"**<sup>33 34</sup> of **"intersex genital mutilation (IGM)"**.<sup>35 36 37</sup>

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30 Currently we count **88 Concluding observations on IGM practices for 24 State parties in Europe, South America, Asia and Oceania**, see

<http://stop.genitalmutilation.org/post/IAD-2016-Soon-20-UN-Reprimands-for-Intersex-Genital-Mutilations>

31 Matías Meza-Lopehandía G. (2021), "Regulación de intervenciones médicas sobre niñas y niños intersex: Argentina, México y Uruguay", Biblioteca del Congreso Nacional de Chile / BCN, p. 1, [https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/31995/1/BCN2021m\\_Regulacion\\_intervenciones\\_intersexo.pdf](https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/31995/1/BCN2021m_Regulacion_intervenciones_intersexo.pdf)

32 <https://web.archive.org/web/20230412204139/https://intersexualeschile.cl/quienes-somos/>

33 Patinube de Intersexuales Chile (2021), "Dioses sobre nuestros cuerpos: experiencia intersexual en Chile" ("Gods over our bodies: intersex experience in Chile"), Invertido Ediciones, 15.04.2021,

<http://www.invertidoediciones.cl/2021/04/14/dioses-sobre-nuestros-cuerpos-experiencia-intersexual-en-chile/>

34 Intersexuales Chile (2021), Statement at Hearing of 24.08.2021, Convención Constitucional, Comisión de Derechos Humanos, Subcomisión de Marco General de Derechos Humanos, Ambientales y de la Naturaleza, at 10:09, <https://www.youtube.com/watch?v=732VtWvYfjI>

35 "Do you know what it is? IGM Intersex Genital Mutilation", <https://www.facebook.com/intersexchilenos/posts/2957565441166594>

36 Intersexuales Chile (2021), Statement at Hearing of 24.08.2021, Convención Constitucional, Comisión de

***“Human rights violations against intersex people in Chile exist, and we don’t know how long they will last; we don’t know if one day they will stop mutilating bodies in hospitals, if doctors will stop feeling like gods over our bodies. What we can do is to help the Chilean population to learn about us, to let them know that we exist and that we suffer a great deal of abuse, without anyone looking out for our welfare. Those who should protect us from the first day of life abandon us: the government and the Ministry of Health.”***

***“It is the obligation of the government, of the Ombudsman for Children, of human rights in Chile, to protect the lives of intersex children, to prohibit unnecessary surgeries and hormone treatments on their bodies.”***<sup>38</sup>

***“A few months ago, it was said that in Africa in one country female genital mutilation had been abolished and that this was a great achievement. However, intersex genital mutilation continues, so while we are delighted that in Africa in some places the cutting of girls has ended, here in Chile it is still happening and it is also terrible because apart from the fact that there are many surgeries, the future consequences are terrible, since we have a lot of pain, urinary infection, and having a sexual relationship is going to be almost impossible and very complicated.”***<sup>39</sup>

Also, a **2020 Thesis**<sup>40</sup> from the **Faculty of Law of the University of Chile**, after discussing the “abrupt change” of “Circular No. 7 (2016)” retracting the previous “Circular No. 18 (2015)”, and actually re-prescribing the full range of IGM practices (p. 55), concludes:

***“Consequently, it is necessary for Chile to go a step further”*** by introducing a “legislative amendment”, namely ***“The explicit prohibition of any surgery or hormonal treatment that affects the sexual characteristics of a minor that is motivated by purely aesthetic or psychosocial purposes, with the exception of those that address a concrete danger to the patient's health, also establishing a sanction for those who violate it and mechanisms of reparation for the victims.”*** (p. 79)

Further, the still current **“Manual of Paediatric Surgery from A to Z”** of the **Chilean Society of Paediatric Surgery (“Sociedad Chilena Cirugía Pediátrica SChCP”)**,<sup>41</sup> despite continuing to

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Derechos Humanos, Subcomisión de Marco General de Derechos Humanos, Ambientales y de la Naturaleza, at 17:16, <https://www.youtube.com/watch?v=732VtWvYfjI>

37 Intersexuales Chile et al. (2020), Statement on on Canal 13 report, 19.08.2021,

<https://brujulaintersexual.org/2020/08/19/comunicado-intersexuales-chile-canal13/>

38 Patinube de Intersexuales Chile (2021), “Dioses sobre nuestros cuerpos: experiencia intersexual en Chile” (“Gods over our bodies: intersex experience in Chile”), Invertido Ediciones, 15.04.2021,

<http://www.invertidoediciones.cl/2021/04/14/dioses-sobre-nuestros-cuerpos-experiencia-intersexual-en-chile/>

39 Intersexuales Chile (2021), Statement at Hearing of 24.08.2021, Convención Constitucional, Comisión de Derechos Humanos, Subcomisión de Marco General de Derechos Humanos, Ambientales y de la Naturaleza, at 17:06, <https://www.youtube.com/watch?v=732VtWvYfjI>

40 Miguel Ángel Grez Catalán (2020), “LAS PERSONAS INTERSEXUALES FRENTE AL DERECHO: ESTUDIO EXPLORATORIO DE TRES PROBLEMAS JURÍDICOS.” (“Intersex people and the law: An exploratory study of three legal problems”), Thesis, Universidad de Chile, Facultad de Derecho, Depto. de Derecho Público, <http://repositorio.uchile.cl/bitstream/handle/2250/173871/Las-personas-intersexuales-frente-al-derecho-estudio-exploratorio-de-tres-problemas-jur%C3%ADdicos.pdf>

**Note:** The Maltese and Portuguese intersex Laws, which the Thesis praises as “examples to follow”, evidently fail to effectively protect intersex children from IGM (CRC/C/CO/MLT/3-6, paras 28-29; CRC/C/PRT/CO/5-6, para 28(b); CCPR/C/PRT/CO/5, paras 16-17).

41 Sociedad Chilena Cirugía Pediátrica SChCP (2019), “Manual de Cirugía Pediátrica de la A a la Z”, p. 372, <https://schcp.cl/wp-content/uploads/2023/03/Manual-de-Cirugia-Pediatica-de-la-A-a-la-Z-SChCP-2019.pdf>

proscribe IGM practices (see below, p. 16-21), at least vaguely **anticipates a possible future** where at least **some intersex children may be allowed to grow up intact**:

*“Another challenge that is likely to be seen more frequently is the presentation of adolescent patients with DSD without genital surgeries during childhood. **The trend towards minimal intervention or avoidance of non-functional (also called ‘normalising’) interventions is gaining increasing momentum internationally.** The sense of **human rights violations** felt by some of the children who underwent non-reversible surgeries in childhood [...] raises the need to reconsider the need for early surgery [...].*

*[...] Today, **many times adults come in** who were diagnosed 20 or 30 years ago and are **dissatisfied with the treatment they received** at that time. This reality requires more and more study and research on the subject.”*

### **3. Chile’s commitment to “protect intersex children from violence and harmful practices”, “investigate abuses”, “ensure accountability” and “access to remedy”**

#### **a) UNHRC45 Statement, 01.10.2020**

On occasion of the **45<sup>th</sup> Session of the Human Rights Council** the **State party** supported a public statement calling to **“protect [...] intersex adults and children [...] so that they live free from violence and harmful practices. Governments should investigate human rights violations and abuses against intersex people, ensure accountability, [...] and provide victims with access to remedy.”**<sup>42</sup>

#### **b) UNHRC48 Statement, 04.10.2021**

On occasion of the **48<sup>th</sup> Session of the Human Rights Council** the **State party** supported a public follow-up statement reiterating the call to end harmful practices and ensure access to justice:

*“Intersex persons also need to be protected from **violence** and States must **ensure accountability** for these acts. [...]*

*Furthermore, there is also a need to take measures to protect the **autonomy** of intersex children and adults and their rights to health and to **physical and mental integrity** so that they live **free from violence and harmful practices**. Medically unnecessary surgeries, hormonal treatments and other invasive or irreversible non-vital medical procedures without their free, prior, full and informed consent are **harmful to the full enjoyment of the human rights** of intersex persons.*

*We call on all member states to take measures to combat violence and discrimination against intersex persons, develop policies in close consultations with those affected, **ensure accountability**, reverse discriminatory laws and **provide victims with access to remedy.**”*<sup>43</sup>

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42 Statement supported by Chile (and 34 other States) during the 45<sup>th</sup> Session of the Human Rights Council on 1 October 2020, <https://www.dfat.gov.au/international-relations/themes/human-rights/hrc-statements/45th-session-human-rights-council/joint-statement-led-austria-rights-intersex-persons>

43 Statement supported by Chile (and 52 other States) during the 48<sup>th</sup> Session of the Human Rights Council on 4 October 2021, <https://www.bmeia.gv.at/oev-genf/speeches/alle/2021/10/united-nations-human-rights-council-48th-session-joint-statement-on-the-human-rights-of-intersex-persons/>

## 4. Insufficient regulatory and legislative initiatives

### a) Circular No. 15 (2023) aimed at protecting intersex children

After having issued “**Circular No. 18 (2015)**” instructing doctors to stop unnecessary treatment on intersex children, the Chilean Ministry of Health soon replaced it by a newer “**Circular No. 7 (2016)**”, which in fact re-prescribed the full range of IGM practices (see above, p. 9).

In November 2023, the **Chilean Ministry of Health** issued the “**Circular No. 15 (2023)**”,<sup>44</sup> which, referring to the 2022 Concluding Observations by CRC (CRC/C/CHL/CO/6-7, see above, p. 8), commendably again instructed doctors to stop: “*The performance of surgery, procedures or medical treatments whose sole purpose is modification to meet social and/or aesthetic expectations is prohibited without the consent of the NNA (child or adolescent).*”

Circular No. 15 (2023) has to be further commended for explicitly referring to the severe physical and mental **pain and suffering** caused by IGM practices, namely “*severe pain, loss or impairment of sexual sensation, painful scarring, dyspareunia, incontinence, urethral stricture, impairment or loss of reproductive capacity, chronic dependence on artificial hormones, emotional distress, trauma, anxiety and suicidal risk, as well as being a violation of human rights.*”

Also, the **web article** about the presentation of the Circular 15 (2023) on the Ministry of Health homepage has to be commended for specifying that it’s about preventing “*the mutilation of babies.*”<sup>45</sup>

**Chilean intersex advocates**<sup>46</sup> and media<sup>47 48 49 50</sup> have **welcomed** the new Circular, which has been drafted **in consultation** with civil society organisations including **Intersexuales Chile**.<sup>51</sup>

However, so far, **Chilean IGM doctors ignore** Circular No. 15 (2023) (see below, p. 16-21).

What’s worse, concerning **implementation** and **enforcement**, as a mere regulation the current Circular can not only be easily overturned again in the future, but already today contains **no adequate sanctions** against perpetrators – as Chilean doctors **publicly admit**:<sup>52</sup>

*“The application of this document is mandatory. If it is not applied, says the doctor, two things can happen. ‘On the one hand, child protection resources are activated for the non-violation of the rights of the child, and on the other hand, there are administrative health processes, but this is very variable, it is not like a legal criminal sanction, but it would be applied at the health level,’ he says.”*

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44 Ministry of Health (2023): Circular No. 15 “Instructions to health teams to take all necessary measures to ensure the best interests of children and adolescents with variations in sex characteristics”, <https://diprece.minsal.cl/wp-content/uploads/2023/11/Circular-15-Instruye-a-equipos-de-salud-a-adoptar-todas-las-medidas-necesarias-para-asegurar-el-interes-superior-de-ninos-ninas-y-adolescentes-con-variaciones-de-las-caracteristicas-sexuales.pdf>

45 <https://www.minsal.cl/ministerio-de-salud-presenta-circular-que-protege-a-ninas-y-ninos-intersexuales/>

46 <https://www.facebook.com/intersexchilenos/posts/pfbid02FFaoGKqiEnWGvHzwtXR7H5n19kXkxSaiUhpPw9tD7567hR9AzsHHhDa4b7dXs6l>

47 <https://www.romantica.cl/noticias/2023/11/29/circular-del-minsal-prohibe-cirugias-a-ninas-ninos-y-adolescentes-intersex.html>

48 <https://www.movilh.cl/hito-chile-vuelve-a-prohibir-las-cirugias-a-ninos-ninas-y-adolescentes-intersex/>

49 <https://www.elmostrador.cl/braga/2023/11/28/chile-prohibe-cirugias-a-ninos-y-ninas-intersex-un-avance-historico-en-derechos-humanos/>

50 <https://www.latercera.com/paula/nacer-intersexual-en-chile-fin-a-las-cirugias/>

51 <https://www.minsal.cl/ministerio-de-salud-presenta-circular-que-protege-a-ninas-y-ninos-intersexuales/>

52 Ibid.

## b) Draft Law No. 14985-34 aimed at prohibiting IGM practices

In May 2022, the Chilean Parliament adopted a **Draft Law No. 14985-34**<sup>53</sup> “*Amending Law No. 21,120 and Other Regulatory Bodies regarding Recognition and Protection of the Right to Gender Identity*”, aiming at introducing a **Civil Law ban of IGM practices** by inter alia adding a new Article 5 bis to the Gender Identity Law as follows:

*“Article 5 bis. PROHIBITION OF NON-CONSENSUAL SURGICAL INTERVENTIONS ON INTERSEX NEWBORNS. All public or private medical institutions and personnel are prohibited from carrying out sexual reassignment treatments or medical, surgical, hormonal, pharmacological or other interventions that have as their object or result, the modification of one or more sexual characteristics of a child or newborn, when these can be deferred until such time as the person can personally give full, free and informed consent; unless this delay implies a mortal risk or a serious and irrecoverable risk to their health. In no case shall the mere mismatch or difference of a person’s sexual characteristics with the culturally defined standards for a female or male body be considered a mortal risk or a serious or irrecoverable risk to health. Furthermore, any medical intervention driven by social factors is prohibited unless the child personally gives full, free and informed consent.”*

However, so far, the **Draft Law didn’t proceed** and is still waiting for an opinion from the Supreme Court.

What’s worse, since the Draft Law proposes only a Civil Law ban (and **not a Penal Law prohibition**), even if it would get enacted eventually, it would **fail to introduce adequate sanctions**, let alone **effectively address obstacles to access to justice**, namely the statutes of limitations.

In **stark contrast**, the same Draft Law explicitly calls for a Penal Law prohibition of “*conversion therapy*”, explicitly classifying such “*therapies*” as “*violence*” and “*cruel, inhuman or degrading treatment*”.

## 5. IGM practices persist

Despite above mentioned commitments and insufficient efforts (see p. 13-15), **to this day, in Chile all forms of IGM practices remain widespread and ongoing**, promoted, facilitated and **paid for by the State party** via the **public health system**, and perpetrated by **Chilean Children’s Clinics**.

In addition, also in 2024 **Chilean medical bodies continue to endorse** international medical guidelines prescribing all forms of IGM practices (see below).

**Currently practiced forms of IGM in Chile include:**

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53 <https://www.camara.cl/verDoc.aspx?prmTipo=SIAL&prmID=67707&formato=pdf>

**a) IGM 3 – Sterilising Procedures:  
Castration / “Gonadectomy” / Hysterectomy /  
Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation  
and Arbitrary Imposition of Hormones<sup>54</sup>**

The **Chilean Society of Urology** (“**Sociedad Chilena de Urología SCHU**”) endorses the current **2023 Guidelines of the European Association of Urology (EAU)**,<sup>55</sup> which include the current **ESPU/EAU “Paediatric Urology” Guidelines 2023**<sup>56</sup> of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU) which stress:<sup>57</sup>

*“The issue of whether gonads should be removed and the timing of such surgery remains controversial and has been altogether questioned in some forms of DSD. Patients with, for example, CAIS benefit from the presence of testicles and the resultant aromatisation of the naturally occurring testosterone to oestrogens. The risk of malignant gonadal transformation in this subcategory is low (1.5%) with cases of malignancy first appearing after the second decade of life, thus allowing for the safe deferral of **gonadectomy** until **after puberty**.”*

Further, regarding “*whether and when to pursue gonadal or genital surgery*”,<sup>58</sup> the Guidelines refer to the “**ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)**”,<sup>59</sup> which advocates “gonadectomies”:

*“**Testes are either brought down in boys or removed** if dysgenetic with tumour risk or **in complete androgen insensitivity syndrome or 5 alpha reductase deficiency**. Testicular prostheses can be inserted at puberty at the patient’s request.”*

Also, the “**2016 Global Disorders of Sex Development Consensus Statement**”<sup>60</sup> refers to the “**ESPU/SPU standpoint**”, advocates “**gonadectomy**” – even when admitting “*low*” cancer risk for CAIS (and despite explicitly acknowledging CRC/C/CHE/CO/2-4)<sup>61</sup>:

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54 For general information, see 2016 CEDAW NGO Report France, p. 47,  
<https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

55 <https://uroweb.org/guidelines/endorsement/>

56 <https://d56bochluxqz.cloudfront.net/documents/full-guideline/EAU-Guidelines-on-Paediatric-Urology-2023.pdf>

57 Ibid., p. 94

58 Ibid., p. 93

59 P. Mouriquand, A. Caldamone, P. Malone, J.D. Frank, P. Hoebcke, “The ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)”, *Journal of Pediatric Urology* vol. 10, no. 1 (2014), p. 8-10, [http://www.jpurology.com/article/S1477-5131\(13\)00313-6/pdf](http://www.jpurology.com/article/S1477-5131(13)00313-6/pdf)

60 Lee et al., “Global Disorders of Sex Development Update since 2006: Perceptions, Approach and Care”, *Horm Res Paediatr* 2016;85:158–180, <https://www.karger.com/Article/Pdf/442975>

61 Ibid., at 180 (fn 111)



**Table 2.** GCC risk: clinical management

	Male	Female	Unclear gender
Gonadal dysgenesis (45,X/46,XY and 46,XY)	Undescended testes – Orchiopexy with biopsy – Self-examination – Annual ultrasound (post-puberty) Post-pubertal biopsy – Based on ultrasound and results of first biopsy – If CIS becomes GB → gonadectomy <b>Low threshold for gonadectomy</b> if ambiguous genitalia	<b>Bilateral gonadectomy</b> at diagnosis	<b>Low threshold for gonadectomy</b> if ambiguous genitalia  If intact, gonadectomy depends on gender identity
Undervirilization (46,XY: partial AIS, complete AIS, testosterone synthesis disorders)	Undescended testes – Orchiopexy with biopsy – Self-examination – Annual ultrasound (post-puberty)  Post-pubertal biopsy – Bilateral, CIS → gonadectomy/irradiation Repeat biopsy at 10 years of age – Consider <b>gonadectomy</b> to avoid gynecomastia or if on testosterone supplementation	<b>Partial AIS</b> and testosterone synthesis disorders – <b>Prepubertal gonadectomy</b>  <b>Complete AIS – Postpubertal gonadectomy</b> or follow-up – GCC risk low, allow spontaneous puberty	Partial AIS and testosterone synthesis disorders – Bilateral biopsy  – <b>Low threshold for gonadectomy</b> Intensive psychological counseling and follow-up
No data are available on the value of cryopreservation or safety if a precursor lesion for GCC is present.			

**Source:** Lee et al., in: *Horm Res Paediatr* 2016;85:158-180, at 174

Accordingly, the still current “**Manual of Paediatric Surgery from A to Z**” of the **Chilean Society of Paediatric Surgery** (“**Sociedad Chilena Cirugía Pediátrica SChCP**”) published in September 2019, prescribes “*prophylactic gonadectomy*” justified by an alleged “*high*” cancer risk for intersex children diagnosed with Androgen Insensitivity Syndrome (AIS):<sup>62</sup>

*“4. Risk of neoplasia: [...] For DSD patients carrying Y chromosome genetic material (or SRY segment) with varying degrees of gonadal dysgenesis and, also, cases of androgen insensitivity at post-pubertal ages are even more likely to have them. These children are likely to benefit from prophylactic gonadectomy given the high risk of developing gonadal neoplasia.”*

Similarly, a **2022 Manual of Paediatric Urology (2<sup>nd</sup> edition)** out of the **Hospital Dr Exequiel González Cortés** prescribes:<sup>63</sup>

*“Risk of neoplasia: [...] The risk of premalignant lesions such as gonadoblastoma or germ cell neoplasia in situ can be as high as 60%, with progression to invasive germ cell carcinoma between 60-100%. The highest risk is for DSD patients carrying Y chromosome genetic material (or SRY segment) with varying degrees of gonadal dysgenesis and also in cases of androgen insensitivity at post-pubertal ages. These patients are likely to benefit from prophylactic gonadectomy given the high lifetime risk of developing a gonadal neoplasm.”*

**Note:** Early “prophylactic” gonadectomies on intersex children diagnosed with Complete Androgen Insufficiency Syndrome (CAIS) are often performed under the pretext of an **alleged “high cancer risk”**, however, **the actual cancer risk is only 0,8%**.<sup>64</sup>

Also, a **2021 Paper** by doctors of the **School of Medicine of the Pontifical Catholic University of Chile** in Santiago and the **Hospitals Dr. Sótero del Río** and **Dipreca** in Santiago prescribes

62 Sociedad Chilena Cirugía Pediátrica SChCP (2019), “Manual de Cirugía Pediátrica de la A a la Z”, p. 372, <https://schcp.cl/wp-content/uploads/2023/03/Manual-de-Cirugia-Pediatica-de-la-A-a-la-Z-SChCP-2019.pdf>

63 Ricardo Zubieta A., Nelly Letelier C., Carlos Finsterbusch R. (2022), “Manual of Paediatric Urology”, p. 304 (p. 306 in PDF), [https://www.urologiahegc.cl/files/ugd/eb8a4b\\_3f4d5cd8a4874f6ea6544f392f5f9dd0.pdf](https://www.urologiahegc.cl/files/ugd/eb8a4b_3f4d5cd8a4874f6ea6544f392f5f9dd0.pdf)

64 J. Pleskacova, R. Hersmus, J. Wolter Oosterhuis, B.A. Setyawati, S.M. Faradz, Martine Cools, Katja P. Wolffenbittel, J. Lebl, Stenvert L.S. Drop, Leendert H.J. Looijenga: “Tumor risk in disorders of sex development,” in: *Sexual Development* 2010 Sep;4(4-5):259-69

unnecessary “gonadectomy”:<sup>65</sup>

*“In female phenotypes, the testes are usually in an ectopic position and those located within the abdomen are at risk of malignancy, and therefore are usually removed. These are the most difficult cases to manage because apart from the need for gonadectomy followed by female hormonal therapy, there is a narrow vagina and a deep blind pouch that usually requires surgical correction to allow sexual activity.”*

## **b) IGM 2 – “Feminising Procedures”:**

### **Clitoris Amputation/“Reduction”, “Vaginoplasty”, “Labioplasty”, Dilation<sup>66</sup>**

The Chilean Society of Urology (“Sociedad Chilena de Urología SCHU”) endorses the current **2023 Guidelines of the European Association of Urology (EAU)**,<sup>67</sup> which include the current **ESPU/EAU “Paediatric Urology” Guidelines 2023<sup>68</sup>** of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU). In **chapter 3.17 “Disorders of sex development”**,<sup>69</sup> despite admitting that “Surgery that alters appearance is not urgent”<sup>70</sup> and that “adverse outcomes have led to recommendations to delay unnecessary [clitoral] surgery to an age when the patient can give informed consent”,<sup>71</sup> the ESPU/EAU Guidelines nonetheless explicitly **refuse to postpone non-emergency surgery**, but in contrary **insist to continue with non-emergency genital surgery** (including partial clitoris amputation) on young children based on “social and emotional conditions” and **substituted decision-making by “parents and caregivers implicitly act[ing] in the best interest of their children”<sup>72</sup>** and making “well-informed decisions [...] on their behalf”, and further **explicitly refusing “prohibition regulations”** of unnecessary early surgery,<sup>73</sup> referring to the 2018 ESPU Open Letter to the Council of Europe (COE),<sup>74</sup> which further invokes **parents’ “social, and cultural considerations”** as justifications for early surgery (p. 2).

Accordingly, the current “**Manual of Paediatric Surgery from A to Z**” of the **Chilean Society of Paediatric Surgery (“Sociedad Chilena Cirugía Pediátrica SChCP”)** published in September 2019, prescribes “feminising surgery” justified by “psychosocial” indications:<sup>75</sup>

*“Sexual function: Although it is an issue that does not seem to be important in the newborn period, [...] a urologist familiar with the management of [...] ‘feminising’ surgery, among others, will be needed later.”*

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65 José F. Delgado G., Javiera Pérez E., Dasha Delgado B., Felipe Valenzuela P., Alejandra Martínez G., Eugenio Arteaga U., José F. Delgado G., Javiera Pérez E., Dasha Delgado B., Felipe Valenzuela P., Alejandra Martínez G., Eugenio Arteaga U. (2021), “Síndrome de insensibilidad a andrógenos: Revisión bibliográfica a propósito de 5 casos” (“Androgen insensitivity syndrome: literature review of 5 cases”), Rev Chil Endo Diab 2021; 14(1): 21-28, p. 21 (p. 2 in PDF), [http://revistasoched.cl/1\\_2021/4.pdf](http://revistasoched.cl/1_2021/4.pdf)

66 For general information, see 2016 CEDAW NGO Report France, p. 48,

<https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

67 <https://uroweb.org/guidelines/endorsement/>

68 <https://d56bochluxqnz.cloudfront.net/documents/full-guideline/EAU-Guidelines-on-Paediatric-Urology-2023.pdf>

69 Ibid., p. 89

70 Ibid., p. 93

71 Ibid., p. 93

72 Ibid., p. 93

73 Ibid., p. 94

74 [https://www.espu.org/images/documents/ESPU\\_Open\\_Letter\\_to\\_COE\\_2018-01-26.pdf](https://www.espu.org/images/documents/ESPU_Open_Letter_to_COE_2018-01-26.pdf)

75 Sociedad Chilena Cirugía Pediátrica SChCP (2019), “Manual de Cirugía Pediátrica de la A a la Z”, p. 371, <https://schcp.cl/wp-content/uploads/2023/03/Manual-de-Cirugia-Pediatica-de-la-A-a-la-Z-SChCP-2019.pdf>

Also, a **2020 Presentation** at the **Congress of the Ibero-American Society of Paediatric Urology** by a surgeon from the Department of Paediatric Urology of the **Hospital Exequiel González Cortés - Clínica Alemana (Santiago)** cryptically asks “*Where are we standing on posterior sagittal approach?*”<sup>76</sup> – notably, a **previous publication** including gruesome photos co-authored by the same surgeon reveals that said hospital in particular favours the “*posterior sagittal approach*” for the “*more complex cases*” of “**feminizing genitoplasty in adrenal congenital hyperplasia**”, “*if possible before 6 months*”.<sup>77</sup>

And a **2021 Paper** by doctors of the **School of Medicine of the Pontifical Catholic University of Chile** in Santiago and the **Hospitals Dr. Sótero del Río** and **Dipreca** in Santiago prescribes unnecessary “*surgical correction to allow sexual activity*”:<sup>78</sup>

*“In female phenotypes, [...] [t]hese are the most difficult cases to manage because apart from the need for gonadectomy followed by female hormonal therapy, there is a **narrow vagina** and a **deep blind pouch** that usually requires **surgical correction to allow sexual activity.**”*

Further, a **2022 Manual of Paediatric Urology (2<sup>nd</sup> edition)** out of the **Hospital Dr Exequiel González Cortés** prescribes:<sup>79</sup>

*“Surgical: In patients with CAH. The best clinical results are seen with a **surgical approach in children under 2 years of age**, specifically for patients with pronounced virilisation (Prader III-V). Focus on **correction of the urogenital sinus** with or without **clitoroplasty** and **vaginoplasty.**”*

And a paediatric urologist out of the Paediatric Urology department of the **Clínica Alemana** states on its private **homepage** under “*Disorders and Pathologies*”:<sup>80</sup>

*“**Genital surgery** refers to all surgeries performed on the male and female genitalia to **improve both function and appearance**. Among the most frequent are circumcision, testicular descent, inguinal hernioplasty, hydrocele treatment, varicocele surgery, hypospadias surgery. There are also **surgeries performed on girls**, such as the division of labia minora synechiae, reduction of labia minora, inguinal hernias. There are more complex surgeries such as **clitoral reduction and descent of the urogenital sinus.**”*

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76 Ricardo Zubieta (23.10.2020), “Abordaje sagital posterior, ¿dónde estamos? / Where are we standing on posterior sagittal approach?”, presentation at the XXV Congress of the Ibero-American Society of Paediatric Urology, [https://web.archive.org/web/20211204165949/https://siupurologia.com/wp-content/uploads/2020/08/Programa\\_XXV-Congreso-Virtual-SIUP\\_Edited-Aug-24-2020-FINAL-1.pdf](https://web.archive.org/web/20211204165949/https://siupurologia.com/wp-content/uploads/2020/08/Programa_XXV-Congreso-Virtual-SIUP_Edited-Aug-24-2020-FINAL-1.pdf)

77 Jose Manuel Escala, Yair Cadena, Pedro-Jose Lopez, Lorena Angel, Maria G. Retamal, Nelly Letelier, Ricardo Zubieta (2009), “Genitoplastia feminizante en hiperplasia suprarrenal congénita; ¿Una o dos etapas quirúrgicas?” (“Feminizing genitoplasty in adrenal congenital hyperplasia: one or two surgical steps?”), Paediatric Urology Arch. Esp. Urol.; 62 (9): 724-730, <https://scielo.isciii.es/pdf/urol/v62n9/06.pdf>

78 José F. Delgado G., Javiera Pérez E., Dasha Delgado B., Felipe Valenzuela P., Alejandra Martínez G., Eugenio Arteaga U., José F. Delgado G., Javiera Pérez E., Dasha Delgado B., Felipe Valenzuela P., Alejandra Martínez G., Eugenio Arteaga U. (2021), “Síndrome de insensibilidad a andrógenos: Revisión bibliográfica a propósito de 5 casos” (“Androgen insensitivity syndrome: literature review of 5 cases”), Rev Chil Endo Diab 2021; 14(1): 21-28, p. 21 (p. 2 in PDF), [http://revistasoched.cl/1\\_2021/4.pdf](http://revistasoched.cl/1_2021/4.pdf)

79 Ricardo Zubieta A., Nelly Letelier C., Carlos Finsterbusch R. (2022), “Manual of Paediatric Urology”, p. 303-304 (p. 305-306 in PDF), [https://www.urologiahegc.cl/files/ugd/eb8a4b\\_3f4d5cd8a4874feca6544f392f5f9dd0.pdf](https://www.urologiahegc.cl/files/ugd/eb8a4b_3f4d5cd8a4874feca6544f392f5f9dd0.pdf)

80 <https://renatogana.cl/>

### c) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair”<sup>81</sup>

The Chilean Society of Urology (“Sociedad Chilena de Urología SCHU”) endorses the current **2023 Guidelines of the European Association of Urology (EAU)**,<sup>82</sup> which include the current **ESPU/EAU “Paediatric Urology” Guidelines 2023**<sup>83</sup> of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU). In **chapter 3.6 “Hypospadias”**,<sup>84</sup> the ESPU/EAU Guidelines’ **section 3.6.5.3 “Age at surgery”** explicitly promotes, **“The age at surgery for primary hypospadias repair is usually 6-18 (24) months.”**<sup>85</sup> – despite admitting to the **“risk of complications”**<sup>86</sup> and **“aesthetic[...]”** and **“cosmetic”** justifications.<sup>87</sup>

Accordingly, also in its current **2020 Manual of Urology** the **Chilean Society of Urology (“Sociedad Chilena de Urología SCHU”)** prescribes early surgical “correction” for hypospadias:<sup>88</sup>

*“Hypospadias is treated surgically, preferably between 6 and 18 months of age, after the hormonal surge that occurs in boys between 2 and 3 months of age (mini-puberty).”*

And the current **“Manual of Paediatric Surgery from A to Z”** of the **Chilean Society of Paediatric Surgery (“Sociedad Chilena Cirugía Pediátrica SChCP”)** published in September 2019, prescribes early **“hypospadias repair”** despite high rates of **“complications”**.<sup>89</sup>

**“Hypospadias: [...]**

#### **Treatment**

*The treatment is surgical and is performed between 6 and 18 months of age.”*

#### **“Complications**

*Thanks to technical advances and the use of fine suture materials and instruments, the complication rate has been significantly reduced (5 to 15 % for distal and 25 to 55 % for proximal sutures). On the other hand, the ‘accumulation’ of experience also reduces the complication rate.”*

Further, reports about hypospadias surgery in Chile stress the **psychosocial indications**, namely **relief of parental distress about “abnormal children”**, and the **stigma** associated with boys with hypospadias needing to sit to pee:

First, in a **2019 article** about hypospadias “repair” performed at the **Hospital de Curicó** (Servicio de Salud Maule), the local head paediatric surgeon states:<sup>90</sup>

81 For general information, see 2016 CEDAW NGO Report France, p. 48-49,

<https://intersex.shadowreport.org/public/2016-CEDAW-France-NGO-Zwischengeschlecht-Intersex-IGM.pdf>

82 <https://uroweb.org/guidelines/endorsement/>

83 <https://d56bochluxqz.cloudfront.net/documents/full-guideline/EAU-Guidelines-on-Paediatric-Urology-2023.pdf>

84 Ibid., p. 27

85 Ibid., p. 29

86 Ibid., p. 28

87 Ibid., p. 28

88 Manual de Urología, Segunda Edición / Online (2020), Capítulo 36 - Urología pediátrica, p. 7,

<https://manualdeurologia.cl/capitulo-36-urologia-pediatica/?print-posts=pdf>

89 Sociedad Chilena Cirugía Pediátrica SChCP (2019), “Manual de Cirugía Pediátrica de la A a la Z”, p. 182-183,

<https://schcp.cl/wp-content/uploads/2023/03/Manual-de-Cirugia-Pediatica-de-la-A-a-la-Z-SChCP-2019.pdf>

90 Savalnet.cl (2019), “Operativo quirúrgico de urología infantil”,

<https://www.savalnet.cl/mundo-medico/noticias/operativo-quirurgico-de-urologia-infantil.html>

*“The fundamental thing is that after the surgery, they can **lead a normal life**, that they are not limited or **discriminated against because of this condition.**”*

Second, in a **2021 article** about “*complex*” surgical “*correction of pathologies including hypospadias*” at the **Hospital Coquimbo** (Servicio de Salud Coquimbo), <sup>91</sup> two mothers of children submitted to hypospadias surgery underline the psychosocial indications for surgery and the stigma associated with hypospadias:

*“I think it’s good that they came, because the issue he had was very complex, **because he didn’t urinate like other people, but now he will be able to live a normal life.** He was happy to have the surgery.”*

*“**He can’t urinate normally and he wears nappies, so my concern was to operate on him before he went to school.**”*

Also, a **2022 Manual of Paediatric Urology** (2<sup>nd</sup> edition) out of the **Hospital Dr Exequiel González Cortés** prescribes:<sup>92</sup>

*“**Treatment is always surgical and aims to correct the curvature, construct a urethra of adequate size, with a properly positioned and non-obstructive urethral meatus, a cone-shaped glans and finally a properly positioned scrotum. All this to achieve adequate function (voiding, sexual, fertility) and cosmesis.***

*The recommended **age for surgery is between 6 months and 18 months, before the genital stage of psychological development. Not before 6 months because of the infant's physiological mini-puberty.**”*

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91 Hospital de Coquimbo y Corporación MATER operan a niñas y niños de la región, <https://www.hospitalcoquimbo.cl/archivos/6919>

92 Ricardo Zubieta A., Nelly Letelier C., Carlos Finsterbusch R. (2022), “Manual of Paediatric Urology”, p. 83-84 (p. 85-86), [https://www.urologiahegc.cl/files/ugd/eb8a4b\\_3f4d5cd8a4874feea6544f392f5f9dd0.pdf](https://www.urologiahegc.cl/files/ugd/eb8a4b_3f4d5cd8a4874feea6544f392f5f9dd0.pdf)

### C. Conclusion: Chile is Failing its Obligations under the Covenant

Intersex genital mutilation in Chile causes known severe physical and mental pain and suffering, as explicitly admitted in the new Circular No. 15 (2023) by the Ministry of Health. Doctors continue to perform such unnecessary surgery and other treatment for the discriminatory purpose of making a child fit into societal and cultural norms and beliefs, although there is plenty of evidence of the suffering this causes. **The State party is responsible for these violations amounting to inhuman treatment**, non-consensual medical or scientific experimentation, and a harmful practice, committed by publicly funded doctors, clinics, and universities, as well as in private clinics, advocated and **paid for by the public health care system** via the Fondo Nacional de Salud (FONASA).

Although meanwhile the pervasiveness of and severe harm caused by IGM practices is common knowledge, as well as the **increasing public criticism** by local persons concerned, their NGOs, legal and human rights experts and bodies, and the **State party has been made aware** of the situation and urged to take action also by CRC, CRPD and CEDAW, **Chile nonetheless fails to prevent these grave violations** both in public and in private settings, but allows the human rights violations of intersex children, adolescents and adults to continue with **impunity** – despite publicly claiming the opposite.

Also, **victims of IGM practices** encounter **severe obstacles** in the pursuit of their right to an **impartial investigation**, and to **redress** and fair and adequate compensation, including the means for as **full rehabilitation** as possible. Further, intersex people in Chile face **difficulties in accessing their medical records**, and accurate **information about procedures** performed on them during infancy and childhood.

Thus, Chile is in breach of its obligation to take **effective legislative, administrative, judicial or other measures to prevent inhuman treatment** and to **ensure access to justice**, redress and rehabilitation for IGM survivors.

## D. Suggested Recommendations

*The Rapporteurs respectfully suggest that, with respect to the treatment of intersex persons in Chile, the Committee includes the following measures in their recommendations to the Chilean Government (in line with this Committee's previous recommendations on IGM practices):*

### **Intersex genital mutilation**

The Committee welcomes the introduction of Circular No. 15 (2023). It nevertheless remains concerned about reports that non-urgent surgical and other medical treatment continues, and the lack of legislation to establish criminal liability and effectively address all barriers to access to remedies for victims, including the statutes of limitations (arts. 2, 3, 7, 17, 24 and 26).

#### **The State party should:**

- (a) explicitly prohibit by Law the performance of non-urgent medical or surgical treatment on intersex children before they are able to provide their informed consent, and provide reparations for victims, including by extending the statute of limitations;**
- (b) provide families with intersex children with adequate counselling and community-based psychosocial and peer support;**
- (c) systematically collect disaggregated data on surgical and other medical treatment on intersex children.**

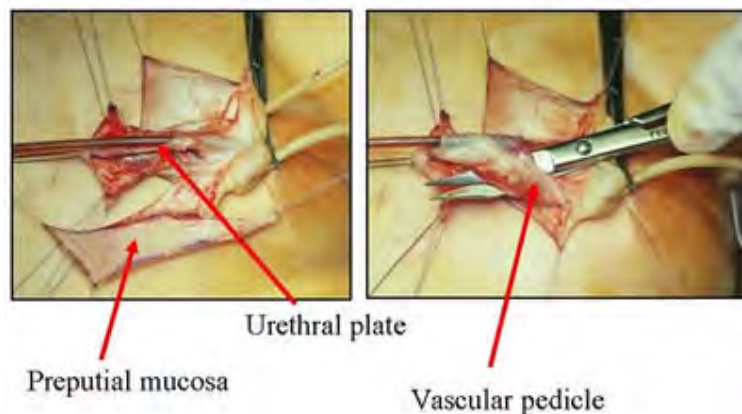
## Annexe – “IGM in Medical Textbooks: Current Practice”

### IGM 1 – “Masculinising Surgery”: “Hypospadias Repair”

“Hypospadias,” i.e. when the urethral opening is not on the tip of the penis, but somewhere on the underside between the tip and the scrotum, is arguably the most prevalent diagnosis for cosmetic genital surgeries. Procedures include dissection of the penis to “relocate” the urinary meatus. Very high complication rates, as well as repeated “redo procedures” — “5.8 operations (mean) along their lives ... and still most of them are not satisfied with results!”

Nonetheless, clinicians recommend these surgeries without medical need explicitly “for psychological and aesthetic reasons.” Most hospitals advise early surgeries, usually “between 12 and 24 months of age.” While survivors criticise a.o. impairment or total loss of sexual sensation and painful scars, doctors still fail to provide evidence of benefit for the recipients of the surgeries.

### Onlay island flap urethroplasty



### Onlay / Duckett - results

- Elbakry (BJUI 88: 590-595, 2001): 42% complications
  - 5 breakdowns (7%)
  - 17 fistulae (23%)
  - Urethral strictures (9%)
  - Urethral diverticulae (4%)
- Asopa / Duckett tube
  - 3.7% (El-Kasaby J Urol 136: 643-644, 1986)
  - 69% (Parsons BJU 25: 186-188, 1984)
  - 15% (Duckett - 1986)





## Hypospadias - Procedures for cripple hypospadias

- No standardized procedures
- Personal experience of the surgeon
- Importance of a uro-endocrine approach of complex cases to increase the healing abilities of the penile tissues



Official Diagnosis “Hypospadias Cripple”

= made a “cripple” by repeat cosmetic surgeries

## Treatment of isolated fistulae

- Rectangular skin incision around the fistula orifice, often lateral
- Dissection and excision of the fistula tract
- Urethral suture
- Multilayer cover with well-vascularized tissue (tunica vaginalis, dartos, dorsal subcutaneous flap ...)
- Problem: coronal fistula +++: Prefer redo urethroplasty
- Suprapubic diversion ? Elbakry



Bad cosmetic result



infection

## Hypospadias - Conclusions

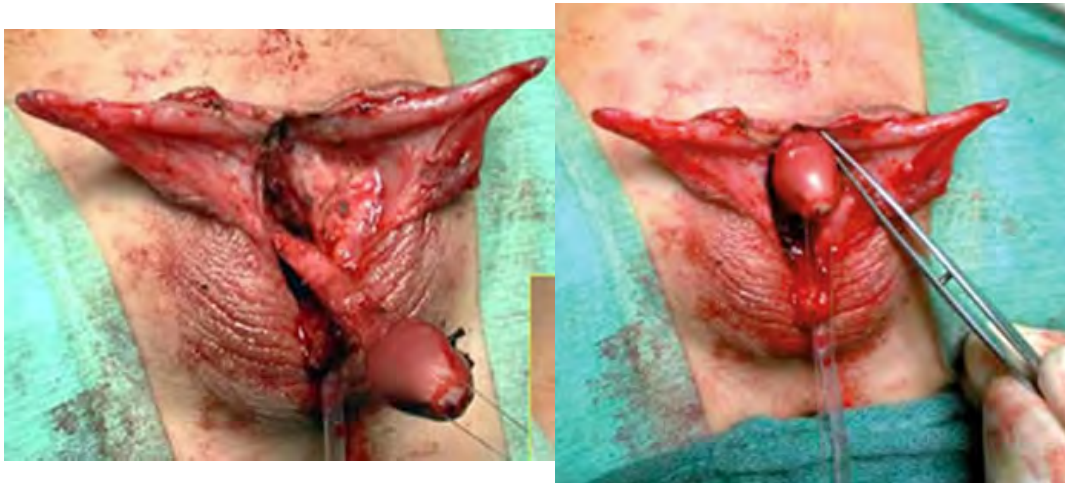
- Hypospadias surgery remains a surgical challenge
- Long-term results are poorly reported
- Essential joint uro-endocrine approach
- Psychological consequences poorly assessed
- Informing parents is crucial: 50% of all hypospadias will require further surgical attention during their life.
- Research: Essential role of the placenta / Penile growth factors / healing factors / blood supply ...

Source: Pierre Mouriquand: "Surgery of Hypospadias in 2006 - Techniques & outcomes"

### IGM 2 – "Feminising Surgery": "Clitoral Reduction", "Vaginoplasty"

Partial amputation of clitoris, often in combination with surgically widening the vagina followed by painful dilation. "46,XX Congenital Adrenal Hyperplasia (CAH)" is arguably the second most prevalent diagnosis for cosmetic genital surgeries, and the most common for this type (further diagnoses include "46,XY Partial Androgen Insufficiency Syndrome (PAIS)" and "46,XY Leydig Cell Hypoplasia").

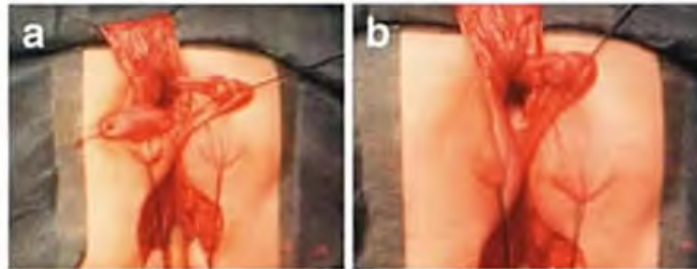
Despite numerous findings of impairment and loss of sexual sensation caused by these cosmetic surgeries, and lacking evidence for benefit for survivors, current guidelines nonetheless advise surgeries "in the first 2 years of life", most commonly "between 6 and 12 months," and only 10.5% of surgeons recommend letting the persons concerned decide themselves later.



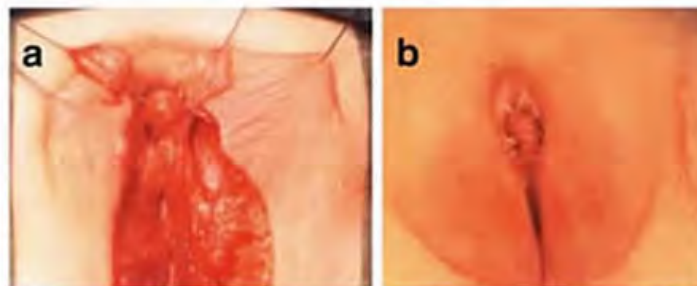
Source: Christian Radmayr: *Molekulare Grundlagen und Diagnostik des Intersex*, 2004



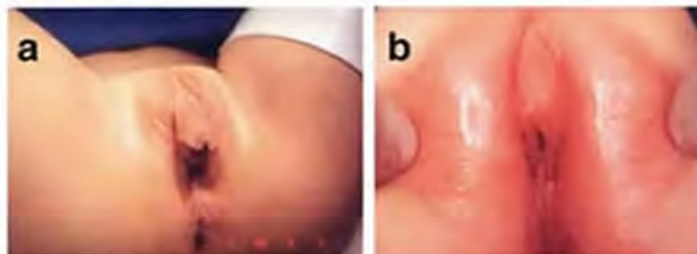
6a-c: Darstellung des Klitorisschaftes (a) sowie der Schwellkörper (b+c).



7a+b: Partielle Resektion der Corpora cavernosa clitoridis.



8a+b: Refixation der Corpora cavernosa clitoridis. "Materialknappheit" bei der Rekonstruktion des Praeputium clitoridis und der kleinen Labien.



9a+b: Klitorisreduktion und Rekonstruktion des Praeputium clitoridis bei Prader IV.

Source: Finke/Höhne: *Intersexualität bei Kindern*, 2008

Caption 8b: "Material shortage" [of skin] while reconstructing the prepuce clitoridis and the inner labia.



Source: Pierre Mouriquand: "Chirurgie des anomalies du développement sexuel - 2007", at 81: "Labioplastie"

### IGM 3 – Sterilising Surgery: Castration / “Gonadectomy” / Hysterectomy

Removal of healthy testicles, ovaries, or ovotestes, and other potentially fertile reproductive organs. “46,XY Complete Androgen Insufficiency Syndrome (CAIS)” is arguably the 3rd most common diagnosis for cosmetic genital surgeries, other diagnoses include “46,XY Partial Androgen Insufficiency Syndrome (PAIS)”, male-assigned persons with “46,XX Congenital Adrenal Hyperplasia (CAH)”, and other male assigned persons, who have their healthy ovaries and/or uteruses removed.

Castrations usually take place under the pretext of an allegedly blanket high risk of cancer, despite that an actual high risk which would justify immediate removal is only present in specific cases (see table below), and the admitted true reason is “better manageability.” Contrary to doctors claims, it is known that the gonads by themselves are usually healthy and “effective” hormone-producing organs, often with “complete spermatogenesis [...] suitable for cryopreservation.”

Nonetheless, clinicians still continue to recommend and perform early gonadectomies – despite all the known negative effects of castration, including depression, obesity, serious metabolic and circulatory troubles, osteoporosis, reduction of cognitive abilities, loss of libido. Plus a resulting lifelong dependency on artificial hormones (with adequate hormones often not covered by health insurance, but to be paid by the survivors out of their own purse).

91 M.M. Bailez • Intersex Disorders



**Fig. 91.6** An inguinal approach for gonadectomy in a CAIS patient with two palpable gonads

**Source:** Maria Marcela Bailez: “Intersex Disorders,” in: P. Puri and M. Höllwarth (eds.),

*Pediatric Surgery: Diagnosis and Management*, Berlin Heidelberg 2009.

**Table 1.** Prevalence of type II GCT in various forms of DSD


Risk	Type of DSD	Prevalence %
High	GD in general	12*
	46,XY GD	30
	Frasier syndrome	60
	Denys-Drash syndrome	40
	45,X/46,XY GD	15-40
Intermediate	PAIS	15
	17 $\beta$ -hydroxysteroid dehydrogenase deficiency	17
Low	CAIS	0.8
	Ovotesticular DSD	2.6
Unknown	5 $\alpha$ -reductase deficiency	?
	Leydig cell hypoplasia	?

GD = Gonadal dysgenesis; PAIS = partial androgen insensitivity syndrome; CAIS = complete androgen insensitivity syndrome.  
 \* Might reach more than 30%, if gonadectomy has not been performed.

**Source:** J. Pleskacova, R. Hermus, J. Wolter Oosterhuis, B.A. Setyawati, S.M. Faradz, Martine Cools, Katja P. Wolffenbuttel, J. Lebl, Stenvert L.S. Drop, Leendert H.J. Looijenga: "Tumor risk in disorders of sex development," in: *Sexual Development* 2010 Sep;4(4-5):259-69.

### 3 months old with scrotal hypospadias and right impalpable gonad

- Uterus and dysplastic gonad removed
- Hypospadias repaired
- Follow-up for surveillance of development testicular and/or renal tumors
- Testosterone required at puberty



**Source:** J. L. Pippi Salle: "Decisions and Dilemmas in the Management of Disorders of Sexual [sic] Development (DSD)," 2007, at 20.

**“Bad results” / “Gonadectomy, Feminising Genitoplasty”**

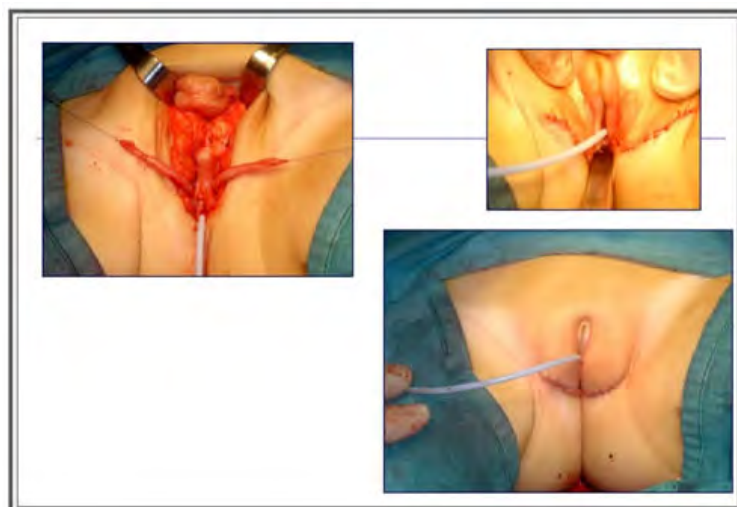


**Abb. 2** ▲ a, b Schlechte Korrekturergebnisse nach Feminisierung und c, d nach Hypospadiekorrektur

**Caption:** 2a,b: “Bad Results of Correction after Feminisation, and”, c,d: “after Hypospadias Repair” – Source: M. Westenfelder: “Medizinische und juristische Aspekte zur Behandlung intersexueller Differenzierungsstörungen,” *Der Urologe* 5 / 2011 p. 593–599.

**PAIS**

- Bilateral gonadectomy
- Skin Biopsy for genetics study of androgen receptors
- Female gender assignment
- Feminizing genitoplasty performed age 6 months



**Source:** J. L. Pippi Salle: “Decisions and Dilemmas in the Management of Disorders of Sexual [sic!] Development (DSD)”, 2007, at 20.