

## Intersex Genital Mutilation in Argentina: Update to LOIPR Report

Dear Committee on the Rights of the Child

All typical forms of Intersex Genital Mutilation are still practised in Argentina, facilitated and paid for by the State party via the Universal Health Care System under the oversight of the Argentinian Ministry of Health. Despite previous Concluding Observations by this Committee (2018) denouncing IGM in Argentina as a harmful practice, to this day the **Government still refuses to take action**, therefore upholding the impunity of IGM practitioners, while IGM survivors are denied access to justice and redress. This is also **evident in the State Party Report's** (non-)reply on harmful practices on intersex children.

In contrast, Argentinian intersex advocates remain vocal about the need of legislation explicitly prohibiting IGM practices, ensuring access to justice for survivors, and establishing a Truth Commission, as included in a **Draft Law re-submitted to Congress in 2022**. However, so far, there has been no progress in passing the law, again.

1. Argentina's commitment to "protect intersex children from violence and harmful practices".....	1
a) UNHRC45 Statement, 01.10.2020.....	1
b) UNHRC48 Statement, 04.10.2021.....	2
c) UNHRC54 Statement, 04.10.2023.....	2
2. Insufficient reply on harmful practice on intersex children in State Party Report .....	3
3. IGM practices persist, insufficient protections, Government fails to act.....	3
a) IGM 3 – Sterilising Procedures: Castration / "Gonadectomy" / Hysterectomy .....	4
b) IGM 2 – "Feminising Procedures": Clitoris Amputation/"Reduction", "Vaginoplasty" .....	4
c) IGM 1 – "Masculinising Surgery": Hypospadias "Repair".....	5
4. New 2022 Draft Law to prohibit IGM practices stalled in Congress, again .....	6
5. Suggested Recommendations .....	8

### 1. Argentina'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>1</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>2</sup>

#### **c) UNHRC54 Statement, 04.10.2023**

On occasion of the **54<sup>th</sup> Session of the Human Rights Council** the **State party** supported a public follow-up statement reiterating the call to prohibit harmful practices and inhuman treatment and to ensure access to justice:

*“4. Because their bodies are perceived as different, intersex persons, including children, face stigma, misconception and **violence, such as forced, coercive, irreversible and non-vital medical interventions**. These include so-called “normalising” surgeries that can have **life-long negative impacts on their physical and mental health**. These harmful practices **should be urgently stopped**. Human rights of intersex persons need to be respected, so that they can live free from violence, cruel, inhuman, or degrading treatment and harmful practices. [...]*

*8. We call on all States to increase efforts to combat violence, harmful practices and discrimination on the basis of sex characteristics, address their root causes, and **implement protective laws and policies in close consultations with those affected**, in order to ensure the full realization of human rights of intersex persons.”*<sup>3</sup>

---

1 Statement supported by Argentina (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>

2 Statement supported by Argentina (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/>

3 Statement supported by Argentina (and 55 other States) during the 54<sup>th</sup> Session of the Human Rights Council on 4 October 2023, [https://finlandabroad.fi/web/geneve/current-affairs/-/asset\\_publisher/h5w4iTUJhNne/content/general-debate-item-8/384951](https://finlandabroad.fi/web/geneve/current-affairs/-/asset_publisher/h5w4iTUJhNne/content/general-debate-item-8/384951)

## 2. Insufficient reply on harmful practice on intersex children in State Party Report

### LOIPR (CRC/C/ARG/QPR/7):

#### *Sexual exploitation and abuse and harmful practices*

17. Please provide information on the following: [...]

(g) Progress made in implementing a health-care system for intersex children, the measures adopted to eliminate non-urgent and irreversible surgical and other procedures performed on such children and progress made in adopting the bill on the integral protection of sex characteristics.

### State Party Report (CRC/C/ARG/7):

#### *Response to paragraph 17 (g) of the list of issues*

129. For Argentina, children and adolescents are subjects of rights and their rights are human rights. Rights such as personal development, identity, physical integrity, enjoyment, equal treatment and the right to be different. In this framework, the bodies of newborn intersex persons should not be intervened. Any irreversible sex reassignment treatment should not be carried out until the person decides for themselves, unless urgent intervention is necessary to prevent severe harm to the person's body or health. An informative and practical guide has also been produced.

The State Party conveniently **failed to answer** the questions regarding **measures** to eliminate IGM and the progress made in adopting the **Draft Bill** aimed at prohibiting IGM. As shown below, **recent relevant developments** don't reflect well on the State Party's efforts to combat IGM.

## 3. IGM practices persist, insufficient protections, Government fails to act

All forms of **IGM practices remain widespread and ongoing**, persistently **advocated, prescribed and perpetrated** by state funded University and Public Children's Clinics, as well as in some private clinics, and **paid for** by the Argentinian Universal Health Care System under the oversight of the **Argentinian Ministry of Health**.

Despite previous Concluding Observations by this Committee (CRC/C/ARG/CO/5-6, para 26), and longstanding **public criticism by intersex persons and NGOs**,<sup>4 5 6 7 8 9 10</sup> the **Government fails to take appropriate action**.

4 Info news (05.02.2023), "Piden tratamiento de proyecto de ley para proteger la integridad de personas intersex" ("Call for bill to protect intersex people's integrity to be considered"),

<https://infonews.com/personas-intersex-ley-diputados.html>

5 LM La nueva Mañana (02.11.2020), "Promueven una ley de 'Protección Integral de las Características Sexuales'" ("A law on 'Integral Protection of Sexual Characteristics' is being promoted"),

<https://lmdiaro.com.ar/contenido/257076/promueven-una-ley-de-proteccion-integral-de-las-caracteristicas-sexuales>

6 Grupo La Provincia (02.11.2020), "Presentaron en Diputados proyecto de Protección Integral de las Características Sexuales" ("Draft bill for the Integral Protection of Sexual Characteristics was presented in the Chamber of Deputies"),

<https://www.grupolaprovincia.com/sociedad/presentaron-en-diputados-proyecto-de-proteccion-integral-de-las-caracteristicas-sexuales-600705>

7 LATFEM (06.11.2020), "Un proyecto de ley para proteger las características sexuales con que nacemos" ("A bill to protect the sex characteristics we are born with"),

<https://latfem.org/un-proyecto-de-ley-para-proteger-las-caracteristicas-sexuales-con-que-nacemos/>

8 <https://argentinaintersex.wordpress.com/2021/05/16/i-jornada-en-contra-de-la-mutilacion-genital-intersex-tucuman-argentina/>

9 <https://www.facebook.com/potenciaintersex/posts/pfbid066XZnwJBBK2Mee6NrJJpyvEphPUhprzkrLjDz1PH88xwJLuP1HrvCWnCPFKvcj3TI>

10 <https://justiciaintersex.org/>

Accordingly, the **Argentinian Society of Urology** endorses the current 2023 ESPU/EAU “*Paediatric Urology*” Guidelines prescribing all forms of IGM:

**a) IGM 3 – Sterilising Procedures:  
Castration / “Gonadectomy” / Hysterectomy /  
Removal of “Discordant Reproductive Structures” / (Secondary) Sterilisation  
Plus arbitrary imposition of hormones<sup>11</sup>**

The **Argentinian Society of Urology** (“**Sociedad Argentina de Urología (SAU)**”) endorses the current **2023 Guidelines of the European Association of Urology (EAU)**,<sup>12</sup> which include the current **ESPU/EAU “Paediatric Urology” Guidelines 2023**<sup>13</sup> of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU) which stress:<sup>14</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 [1248, 1249].”*

Further, regarding “*whether and when to pursue gonadal or genital surgery*”,<sup>15</sup> the Guidelines refer to the “*ESPU/SPU standpoint on the surgical management of Disorders of Sex Development (DSD)*”,<sup>16</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.”*

**b) IGM 2 – “Feminising Procedures”: Clitoris Amputation/“Reduction”,  
“Vaginoplasty”, “Labiaplasty”, Dilatation<sup>17</sup>**

The **Argentinian Society of Urology** (“**Sociedad Argentina de Urología (SAU)**”) endorses the current **2023 Guidelines of the European Association of Urology (EAU)**,<sup>18</sup> which include the current **ESPU/EAU “Paediatric Urology” Guidelines 2023**<sup>19</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>20</sup> despite admitting that “*Surgery that alters appearance is not*

11 For general information, see 2016 CEDAW NGO Report France, p. 47.

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

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

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

14 Ibid., p. 94

15 Ibid., p. 93

16 P. Mouriquand, A. Caldamone, P. Malone, J.D. Frank, P. Hoebeke, “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)

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

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

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

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

20 Ibid., p. 89

urgent”<sup>21</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>22</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>23</sup> and making “well-informed decisions [...] on their behalf”, and further **explicitly refusing “prohibition regulations”** of unnecessary early surgery,<sup>24</sup> referring to the 2018 ESPU Open Letter to the Council of Europe (COE),<sup>25</sup> which further invokes **parents’ “social, and cultural considerations”** as justifications for early surgery (p. 2).

Accordingly, the homepage of an Argentinian endocrinologist on “*Congenital Adrenal Hyperplasia*” states:<sup>26</sup>

*“Surgery can correct ambiguous genitalia in girls. Experts recommend that the surgery be done when the baby is 2 to 6 months old.”*

Also, a **2021** medical textbook on “*Paediatric Surgery*” published in Argentina contains a “*Chapter 68: Genitoplasty for Congenital Adrenal Hyperplasia*”.<sup>27</sup>

### **c) IGM 1 – “Masculinising Surgery”: Hypospadias “Repair”<sup>28</sup>**

The **Argentinian Society of Urology** (“*Sociedad Argentina de Urología (SAU)*”) endorses the current **2023 Guidelines of the European Association of Urology (EAU)**,<sup>29</sup> which include the current **ESPU/EAU “Paediatric Urology” Guidelines 2023**<sup>30</sup> of the European Society for Paediatric Urology (ESPU) and the European Association of Urology (EAU). In **chapter 3.6 “Hypospadias”**,<sup>31</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>32</sup> – despite admitting to the “*risk of complications*”<sup>33</sup> and “*aesthetic[...]*” and “*cosmetic*” justifications.<sup>34</sup>

Accordingly, on the homepage of the Department of Urology of the **Hospital Italiano de Buenos Aires**, there is a page “*Hypospadias*” which recommends:<sup>35</sup>

21 Ibid., p. 93

22 Ibid., p. 93

23 Ibid., p. 93

24 Ibid., p. 94

25 [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)

26 [www.endocrinocorrientes.com.ar/pacientes.php?cat=3&pagina=23](http://www.endocrinocorrientes.com.ar/pacientes.php?cat=3&pagina=23)

27 <https://www.editorialatlante.com.ar/15414/cirgia-pediatria>

28 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>

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

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

31 Ibid., p. 27

32 Ibid., p. 29

33 Ibid., p. 28

34 Ibid., p. 28

35 <https://www.hospitalitaliano.org.ar/#!/home/urologia/seccion/10796>



*“To avoid the psychological effects of hypospadias, early correction, before the age of three, is recommended. If it is corrected at an early age, it has no consequences in adulthood. If it is not corrected at an early age, it will be corrected in adulthood.*

*The aim of hypospadias surgery is to reconstruct a straight penis so that sexual intercourse can take place normally and with the urethral meatus in the normal position.”*

Also, a **2021** medical textbook on *“Paediatric Surgery”* published in Argentina contains a *“Chapter 64: Hypospadias”*.<sup>36</sup>

#### 4. New 2022 Draft Law to prohibit IGM practices stalled in Congress, again

The **first** Draft Law “Integral Protection of Sex Characteristics”,<sup>37</sup> submitted to Congress on 2 November 2020 with the support of NGOs **Justicia Intersex**, **Abosex**, the **Plurinational Intersex Network** and the **LGTBIQ+ League of the provinces**,<sup>38 39 40</sup> expired and was sent to the archive in 2022.<sup>41</sup>

However, it was resubmitted as a **second Draft Law 6041-D-2022 “Integral Protection of Sex Characteristics”**<sup>42</sup> to Congress on 11 November 2022, again with the support of local intersex NGOs including **Justicia Intersex**.<sup>43</sup> Currently, it’s pending in Commissions of the Congress with the Commission on Women and Diversity having the lead.<sup>44</sup>

The resubmitted Draft Law again includes:

- **Prohibition.** It is forbidden to undertake any non-therapeutic body modification procedure without the explicit, free and informed consent of the person whose body is involved. (Art. 4)
- **Violations of Rights. Penalties.** The performance of body modification procedures in violation of the provisions of article 4 of this law shall be considered cruel, inhuman and degrading treatment.

36 <https://www.editorialatlante.com.ar/15414/cirgia-pediatrica>

37 S-2090/19, Exp. 5864-D-2020: Proyecto de ley sobre protección integral de las características sexuales, <https://www.senado.gob.ar/parlamentario/comisiones/verExp/2090.19/S/PL>  
<https://dequesetrata.com.ar/proyecto/senado-ar/2090-19-26126>

English translation: <https://justiciaintersex.files.wordpress.com/2020/11/proyecto-intersex-final.docx>

38 LM La nueva Mañana (02.11.2020), “Promueven una ley de ‘Protección Integral de las Características Sexuales’” (“A law on ‘Integral Protection of Sexual Characteristics’ is being promoted”),

<https://lmdiaro.com.ar/contenido/257076/promueven-una-ley-de-proteccion-integral-de-las-caracteristicas-sexuales>

39 Grupo La Provincia (02.11.2020), “Presentaron en Diputados proyecto de Protección Integral de las Características Sexuales” (“Draft bill for the Integral Protection of Sexual Characteristics was presented in the Chamber of Deputies”),

<https://www.grupolaprovincia.com/sociedad/presentaron-en-diputados-proyecto-de-proteccion-integral-de-las-caracteristicas-sexuales-600705>

40 LATFEM (06.11.2020), “Un proyecto de ley para proteger las características sexuales con que nacemos” (“A bill to protect the sex characteristics we are born with”),

<https://latfem.org/un-proyecto-de-ley-para-proteger-las-caracteristicas-sexuales-con-que-nacemos/>

41 <https://www.senado.gob.ar/parlamentario/comisiones/verExp/2090.19/S/PL>

42 Exp. 6041-D-2022: Proyecto de ley sobre protección integral de las características sexuales. Fecha: 11/11/2022, Publicado en: Trámite Parlamentario N° 180,

<https://www4.hcdn.gob.ar/dependencias/dsecretaria/Periodo2022/PDF2022/TP2022/6041-D-2022.pdf>

43 Info news (05.02.2023), “Piden tratamiento de proyecto de ley para proteger la integridad de personas intersex” (“Call for bill to protect intersex people’s integrity to be considered”),

<https://infonews.com/personas-intersex-ley-diputados.html>

44 <https://www.diputados.gov.ar/comisiones/permanentes/cpyhacienda/proyecto.html?exp=6041-D-2022>

These actions will be considered as very serious bodily harm as described in articles 90 and 91 of the National Penal Code and the perpetrators will be liable to criminal as well as civil, administrative, disciplinary and professional charges. (Art. 8)

- **Truth Commission. Creation.** A National Commission on Non-Consensual Modifications of Sex Characteristics shall be created under the Ministry of Justice and Human Rights, which shall have the purpose of clarifying the facts that occurred in the country related to body modification procedures to which people who presented a variation of sex characteristics have been subjected. (Art. 18)

**However, so far, also with the second Draft Law there has been no progress in passing the law.**<sup>45</sup>

---

45 <https://www.diputados.gov.ar/comisiones/permanentes/cpyhacienda/proyecto.html?exp=6041-D-2022>

## 5. Suggested Recommendations

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

### **Harmful practices: Intersex children (art. 24(3))**

The Committee takes note of the Draft Law 6041-D-2022 “Integral Protection of Sex Characteristics”. However, it remains seriously concerned about persisting 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.

**With reference to the joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices, and taking note of target 5.3 of the Sustainable Development Goals, the Committee urges the State party to:**

- **Ensure that the State party's legislation explicitly prohibits the performance of unnecessary medical or surgical treatment on intersex children where those procedures may be safely deferred until children are able to provide their informed consent, and provide reparations for children who received unnecessary treatment, including by extending the statute of limitations.**
- **Provide families with intersex children with adequate counselling and support.**
- **Systematically collect data with a view to understanding the extent of these harmful practices so that children at risk can be more easily identified and their abuse prevented.**

Thank you for your consideration and kind regards,

Daniela Truffer & Markus Bauer (StopIGM.org / Zwischengeschlecht.org)