
Circumcision of Boys: A Serious Male Health Problem

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Introduction

While rare in Scandinavia and Europe, male circumcision is still common in North America despite some reductions in frequency over recent decades. The United States rate has declined from 90 to 60 per cent in recent years and has fallen by 15 percent in five years.¹ Canadian circumcision rates differ dramatically from province to province but the national average is around 25%. It is revealing that the provincial rates have plummeted as each province discontinued coverage under the National Health Service.² Currently, only Manitoba still pays for circumcisions.

Circumcision does not constitute genuine medical treatment. It violates criminal law, the Canadian Charter of Rights and Freedoms, and also human rights. The health implications are graver than is generally realised, despite clear medical evidence of adverse effects from the pain, significant complications, psychological harm and inevitable prejudice to genital function. There are no clearly demonstrable medical benefits. The law, the medical profession, and society in general seems to have turned two blind eyes to this serious form of violence against males.

Is infant circumcision advantageous?

A variety of claims as to lack of pain, minimal risk, absence of harm, and so-called benefits from routine circumcision are frequently made. However, the burden of proof of substantiating these claims lies on those who would pick up a knife to amputate normal, healthy and functional anatomy. The claims made by circumcision advocates are controverted by the facts.

Rationalisations for male genital cutting include claims about hygiene, prevention of genital cancers, urinary tract infections (UTI's), and of AIDS. However, overwhelming evidence exists to the contrary. The American Cancer Society's official website flatly states:

“The consensus among studies... is that circumcision is not of value in preventing cancer of the penis. It is important that the issue of circumcision not distract the public's attention from avoiding known penile cancer risk factors—having unprotected sexual relations with multiple partners (increasing the likelihood of human papilloma virus

¹ See, e.g., “U.S. Circumcision Rate Falling,” (Spring 2000) 14 *NOCIRC Annual Report* 1 (citing the 60% figure and quoting Health Care Investment Analysts for the decline between 1993 and 1998 in circumcisions from 1.3 million to 1.1 million despite the number of male births remaining relatively constant).

² See, e.g., Correspondence Dated December 9, 1999 and March 6, 2000 from Saskatchewan Ministry of Health to John Antonopoulos (documenting that circumcision rate plunged from 40% to 0.4% immediately following the deinsurance of routine circumcision in the province on August 1, 1996); Correspondence Dated November 15, 1999 from Jamie Muir, Minister of Health, Nova Scotia, to John Antonopoulos (documenting that provincial circumcision rate dropped from 11.1% to 2.5%, after coverage by the provincial Medical Services Insurance plan was discontinued). Even more dramatically, British Columbia's rate reportedly dropped from around 50% to near zero, essentially overnight, following the cessation of coverage.

infection) and cigarette smoking.”³

Furthermore, contrary to the claims of circumcision advocates, circumcision does not protect against sexually transmitted diseases such as AIDS.⁴ Those studies which claim to prove the contrary are fatally marred by a failure to properly account for possible confounding factors, such as behavioural and demographic differences between circumcising and non-circumcising tribes in Africa. Moreover, the suspect nature of a possible positive association between HIV and circumcision should be clear from the fact that the United States has both the highest rate of routine circumcision and AIDS in the developed world.⁵ Moreover, UTI's occur in only 1 to 2 per cent of boys, and are conservatively treated with antibiotics. Circumcised men without the protection of a foreskin are at greater risk of many sexually transmitted diseases.⁶ As medical ethicist Margaret Somerville pointed out:

“Moreover, neonatal circumcision is done without consent of the subject, removes healthy tissue with unique anatomical structure and function, and leads to differences in adult sexual behaviour... We need, therefore, to address the issue directly and end the persistent efforts to find a medical rationale for circumcision by removing the cloak of medicine from this procedure.”⁷

Consequently, no national or international medical association in the modern industrialised world (including the Canadian Paediatric Society [CPS], the American Academy of Pediatrics [AAP], the Australian Medical Association, the Australian College of Paediatrics, the Australasian Association of Paediatric Surgeons, or the British Medical Association) endorses routine infant circumcision.⁸ In 1996, the CPS stated, “Circumcision of newborns should not be routinely performed.”⁹ The College of Physicians & Surgeons of Manitoba has also recommended against newborn circumcision, noting that “[s]pecific medical indications for the performance of circumcision in the neonate are rare.”¹⁰ In March 1999 the AAP concluded that “the data are not sufficient to recommend routine neonatal circumcision.”¹¹

It is notable that for one-and-a-half centuries, circumcision has been a procedure in search of a rationale. Published papers written by the day's most respected doctors starting

³ American Cancer Society, ACS Penile Cancer Resource Center, http://www3.cancer.org/cancerinfo/load_cont.asp?st=pr&ct=35, downloaded April 5, 2000.

⁴ See RS Van Howe, “Circumcision and HIV infection: review of the literature and meta-analysis,” (1998) 10 *International Journal of STD & AIDS* 8-16; A Nicoll, “Routine male neonatal circumcision and risk of infection with HIV-1 and other sexually transmitted diseases,” (1997) 77 *Archives of Diseases in Childhood* 194-195; I de Vincenzi and T Mertens, “Male circumcision: a role in HIV prevention?,” (1994) 8 *AIDS* 153-160.

⁵ J S Svoboda, “Circumcising Infants is Wrong”, *Gazette* (Montreal), 14 Oct 1998, p B2 (letter).

⁶ E O Laumann et al, “Circumcision in the United States” (1997) 277 *Journal of the American Medical Association* 1052.

⁷ M A Somerville and D M Alwin, “Lidocaine-Prilocaine Cream for Pain During Circumcision” (1997) 337 *NEJM* 568.

⁸ Canadian Paediatric Society Fetus and Newborn Committee, “Neonatal Circumcision Revisited” (1996) 154 *Canadian Medical Association Journal* 769-80; American Academy of Pediatrics Task Force on Circumcision, “Circumcision Policy Statement (RE 9850)” (1999) 103 *Pediatrics* 686; Australian Medical Association, “Circumcision Deterred”, *Australian Medicine*, 6-20 Jan 1997, p 5; Australian College of Paediatrics, *Position Statement: Routine Circumcision of Normal Male Infants and Boys* (Parkville, Victoria, 1996); Australasian Association of Paediatric Surgeons, *Guidelines for Circumcision* (Herston, Queensland, 1996); British Medical Association, *Circumcision of Male Infants* (London, 1996); see generally www.cirp.org/library/statements.

⁹ Canadian Paediatric Society Fetus and Newborn Committee, “Neonatal Circumcision Revisited” (1996) 154 *Canadian Medical Association Journal* 769-80.

¹⁰ The College of Physicians & Surgeons of Manitoba, “Neonatal Circumcision,” (2000) www.umanitoba.ca/cgi-bin/colleges/cps/college.cgi/914.htm, downloaded April 5, 2000.

¹¹ American Academy of Pediatrics Task Force on Circumcision, “Circumcision Policy Statement (RE 9850)” (1999) 103 *Pediatrics* 686.

in the 1850's assured Americans that amputating half the skin from a boy's penis would cure masturbation, which in turn supposedly caused paralysis, hip trouble, sloth, idiocy, moral laxity, spinal curvature, lameness, clumsiness, hysteria, malnutrition, and epilepsy. At the turn of the last century the procedure was still the cure of choice for not only masturbation but also premature ejaculation, hernia, nervous exhaustion, and diarrhea! As recently as the 1950's prestigious American medical journals were publishing articles recommending not only circumcision but also female genital cutting as cures for a wide range of maladies.

Disadvantages of circumcision

During circumcision, the baby's sensitive foreskin is crushed audibly, and the raw flesh is cut with scissors. In all neonatal circumcisions, forceps or other probes are inserted into the delicate foreskin, scraping, tearing apart and destroying the normal erogenous tissues of the child's sex organ. This causes considerable pain (in addition to being truly horrific to witness) and leaves the raw glans open to infections, with any resultant scar tissue on the glans further compromising sexual sensitivity. Circumcision removes 50 per cent of penile skin and thousands of specialised nerve endings, fundamental to normal sexual response.¹² The externalised glans and inner foreskin remnant become dried and skin-hardened (keratinised), further desensitising the penis, with progressive lifelong loss of sensation.¹³ Reduced sexual function and pleasure has been acknowledged for centuries. Indeed, Maimonides wrote in the 12th century:

“The bodily injury caused to that organ is exactly that which is desired ... there is no doubt that circumcision weakens the power of sexual excitement.”¹⁴

Circumcision makes the achievement of orgasm more difficult, decreases its intensity, and impedes sexual satisfaction among circumcised men and their female partners, thereby reducing or constraining *both* male and female sexuality.¹⁵ Complications, including an estimated 229 deaths each year in the United States alone,¹⁶ range up to 55 per cent depending on the definition applied, and willingness to report complications fully and accurately (for example, meatal stenosis, urethral fistula, penile necrosis, accidental amputation of part or all of the glans, skin tags).¹⁷ Since genital integrity is always

¹² S Scott, “Anatomy and Physiology of the Human Prepuce”, in G C Denniston et al (eds), *Male and Female Circumcision: Medical, Legal and Ethical Considerations in Pediatric Practice* (Plenum, New York, 1999) (paper presented at the Fifth International Symposium on Sexual Mutilations, Oxford University, 5-8 Aug 1998); C J Cold and K A McGrath, “Anatomy and Histology of the Penile and Clitoral Prepuce in Primates” in Denniston et al, *ibid* (paper presented at the Fifth International Symposium on Sexual Mutilations, Oxford University, 5-8 Aug 1998); J Taylor et al, “The Prepuce: Specialised Mucosa of the Penis and its Loss to Circumcision” (1996) 77 *British Journal of Urology* 291; P M Fleiss et al, “Immunological Functions of the Human Prepuce” (1998) 74 *Sexually Transmitted Infection*, 364; P M N Werker et al, “The Prepuce Free Flap: Dissection Feasibility Study and Clinical Application of a Super-Thin Flap” (1998) 102 *Plastic and Reconstructive Surgery* 1075. Also see “What is Lost?” at: www.SexuallyMutilatedChild.org/lost.htm

¹³ P M Fleiss, “The Case Against Circumcision” (Winter 1997) *Mothering: The Magazine of Natural Family Living* 36. See www.MothersAgainstCirc.org/fleiss.html

¹⁴ M Maimonides, *Guide for the Perplexed* (1190, reprint Dover Publications, NY, 1956), p 378.

¹⁵ J Money and J Davison, “Adult Penile Circumcision: Erotosexual and Cosmetic Sequelae” (1983) 19 *Journal of Sex Research* 289; R S Immerman and W C Mackey, “A Proposed Relationship Between Circumcision and Neural Reorganisation” (1998) 159 *Journal of Genetic Psychology* 367; see also R S Immerman and W C Mackey, “A Biocultural Analysis of Circumcision” (1998) 44 *Social Biology*, 265; K O'Hara and J O'Hara, “The Effect of Male Circumcision on the Sexual Enjoyment of the Female Partner” (1999) 83 (Supplement 1) *British Journal of Urology International* 79.

¹⁶ E Wallerstein, *Circumcision: An American Health Fallacy* (Springer, New York, 1980).

¹⁷ N Williams and L Kapila, “Complications of Circumcision” (1993) 80 *British Journal of Surgery* 1231; see also G Kaplan,

destroyed, and sexual function is always compromised, the true complication rate of circumcision is in reality 100 per cent.

In Texas, a five-year-old boy died following circumcision complications.¹⁸ In Miami a boy bled to death after circumcision.¹⁹ Yet another circumcision-related death recently occurred in Cleveland.²⁰ Sometimes, the entire penis is lost, and several boys have undergone gender reassignment (often unacceptable to the victim) resulting from this tragedy.²¹ In Seattle, to save his life, one baby's penis was denuded, his scrotum completely removed, and his skin from his thighs up to his navel had to be excised to stop gangrene spreading from his circumcision wound.²²

Circumcision causes behavioural and neurological changes, diminished self-esteem and body image, sexual deficits, and often lifelong circumcision-related stress.²³ Many men see themselves as deformed or harmed by male genital mutilation, causing enduring psychological damage.²⁴ Many circumcised men suffer ongoing symptoms of post-traumatic stress disorder (PTSD).²⁵ Recent research has found substantial evidence for severe, ongoing PTSD symptoms in adulthood as a direct result of infant circumcision.²⁶

A 1997 infant circumcision pain study was abandoned because inflicting pain on unanaesthetised controls was deemed unethical.²⁷ During the circumcision, a baby's blood oxygen level drops.²⁸ His heart rate, respiratory rate, blood pressure, and stress measures such as cortisol level shoot up.²⁹ His cry takes on a surprisingly high-pitched character observed only when a baby experiences excruciating pain.³⁰

Pain may be blunted but not eliminated by local anaesthesia.³¹ Pain causes irreversible changes in the developing brain, heightening pain perception.³² Atrophy of non-stimulated

"Complications of Circumcision" (1983) 10 *Urologic Clinics of North America* 543; H Patel, "The Problem of Routine Circumcision" (1966) 95 *Canadian Medical Association Journal* 576.

¹⁸ L Lee and R Sorelle, "Family Awaits Autopsy Report" and "Boy's Death to be Probed", *Houston Chronicle*, 28 July 1995.

¹⁹ "Carol County Baby Bleeds to Death after Circumcision", *Miami Herald*, 26 June 1993.

²⁰ "Circumcision That Didn't Heal Kills Boy", *NewsNet5*, 20 Oct 1998. See www.noharmm.org/evansdeath.htm

²¹ C Gorman, "A Boy Without a Penis", *Time Magazine*, 24 March 1997, p 31; see also S J Bradley et al, "Experiment of Nurture: Ablatio Penis at 2 Months, Sex Reassignment at 7 Months, and Psychosexual Follow-up in Young Adulthood" (1998) 102 *Pediatrics* E9.

²² See www.infocirc.org/fourn.htm

²³ R Goldman, *Circumcision: The Hidden Trauma* (Vanguard, Boston, 1997), pp 1-6, 82-123.

²⁴ T Hammond, "A Preliminary Poll of Men Circumcised in Infancy or Childhood" (1999) 83 (Supplement 1) *British Journal of Urology International* 85.

²⁵ J P Warren et al, "Circumcision of Children" (1996) 312 *British Medical Journal* 377; see also J Menage, "Post-Traumatic Stress Disorder after Genital Medical Procedures" in Denniston et al, op cit n 17.

²⁶ J Rhinehart, "Neonatal Circumcision Reconsidered." (1999) 29 *Transactional Analysis J* 215-221.

²⁷ J Lander et al, "Comparison of Ring Block, Dorsal Penile Nerve Block, and Topical Anesthesia for Neonatal Circumcision: A Randomised Controlled Trial" (1997) 278 *Journal of the American Medical Association* 2157.

²⁸ Rawlings DJ, Miller PA, Engel RR. The effect of circumcision on transcutaneous PO₂ in term infants. *AM J Dis Child* 1980; **134**: 676-8.

²⁹ Gunnar MR, Porter FL, Wolf CM, Rigatuso J, Larson MC. Neonatal stress reactivity: predictions to later emotional temperament. *Child Dev* 1995; **66**: 1-13. Gunnar MR, Fisch RO, Malone S. The effects of circumcision on serum cortisol and behavior. *Psychoneuroendocrinology* 1981; **6**: 269-75. Gunnar MR, Fisch RO, Malone S. The effects of a pacifying stimulus on behavioral and adrenocortical responses to circumcision in the newborn. *J Am Acad Child Psychiatry* 1984; **23**: 34-8. Gunnar MR, Malone S, Vance G, Fisch RO. Coping with aversive stimulation in the neonatal period: quiet sleep and plasma cortisol levels during recovery from circumcision. *Child Dev* 1985; **56**: 824-34. Talbert LM, Kraybill EN, Potter HD. Adrenal cortical response to circumcision in the neonate. *Obstet Gynecol* 1976; **48**: 208-10

³⁰ Porter FL, Porges SW, Marshall RE. Newborn pain cries and vagal tone: parallel changes in response to circumcision. *Child Dev* 1988; **59**: 495-505. Porter FL, Miller RH, Marshall RE. Neonatal pain cries: effect of circumcision on acoustic features and perceived urgency. *Child Dev* 1986; **57**: 790-802.

³¹ P Williamson and N Evans, "Neonatal Cortisol Response to Circumcision With Anesthesia" (1986) 25 *Clinical Pediatrics* 412.

³² S Dixon et al, "Behavioral Effects of Circumcision With and Without Anesthesia" (1984) 5 *Journal of Developmental and Behavioral*

neurons in the brain's pleasure centre follows severed erogenous sensory nerve endings.³³ Circumcised boys react with greater pain intensity to immunisations six months after circumcision.³⁴ In a relatively rare joint statement this past February, the AAP and the CPS issued a joint policy statement acknowledging the very grave effects of neonatal pain: "[E]xposure to prolonged or severe pain may increase neonatal morbidity; infants who experienced pain during the neonatal period (up to 1 month of age) respond differently to subsequent painful events..."³⁵

Circumcision violates domestic law

Infant circumcision in the absence of specific medical justification violates Article 7 of the Canadian Charter of Rights and Freedoms, which assures everyone "the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."³⁶

The general rule in Canada is that criminal assault occurs whenever a person, without the consent of another person, applies force intentionally to that other person, directly or indirectly.³⁷ The law is similar for civil actions. As one landmark Canadian case held, "any intentional nonconsensual touching which is harmful or offensive to a person's reasonable sense of dignity is actionable."³⁸ Consent of the victim serves as a defence to assaults that do not inflict actual bodily harm but typically will not prevent liability where bodily harm occurs. Exceptions to the general prohibition on assaults causing bodily harm include medical treatment. Dr. Margaret Somerville, one of Canada's leading ethicists and Founding Director of the McGill Centre for Medicine, Ethics and Law, has eloquently expressed the legally suspect basis of this procedure:

"All woundings are criminal assault unless they can be justified... A therapeutic aim is the justification for almost all medical wounding and is an essential justification for those unable to consent to the wounding for themselves. Consequently, a physician would need to show that infant male circumcision was medically necessary before it would be justified."³⁹

Every doctor has two legal duties: first, to act with reasonable care; and secondly, to obtain informed consent from the patient, except in a life-threatening medical emergency. Failure to obtain informed consent renders any bodily intrusion an assault. The Supreme Court of Canada has stressed the legal requirement that physicians fully inform patients of the risks entailed by a proposed treatment.⁴⁰

When circumcisions have resulted in litigation, the cases have been fought on the grounds of negligence or lack of informed consent. A British Columbia court ordered a

Pediatrics 246; see also A Taddio et al., "Effect of Neonatal Circumcision on Pain Response During Vaccination" (1995) 345 *Lancet* 291; P M Fleiss, "Circumcision" (1995) 345 *Lancet* 927.

³³ J W Prescott, "Genital Pain v Genital Pleasure: Why the One and Not the Other?" (1989) 1 *Truth Seeker* 14. See www.noharmm.org/pain-pleasure.htm

³⁴ A Taddio et al., "Effect of Neonatal Circumcision on Pain Response During Subsequent Routine Vaccination" (1997) 349 *Lancet* 599.

³⁵ American Academy of Pediatrics and Canadian Paediatric Society, "Prevention and Management of Pain in the Neonate," (2000) 454 *Pediatrics* 105.

³⁶ Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c.11.

³⁷ Criminal Code of Canada, Chapter C-46, §265(1)(a).

³⁸ *Malette v. Shulman* [1990] 67 DLR (4th) (Ont. CA) 321, 327.

³⁹ Correspondence Dated January 28, 1998 from Dr. Margaret A. Somerville to Dr. C. Robin Walker.

⁴⁰ *Eldridge v. B.C. (A.G.)*, [1997] 3 S.C.R. 624 at 676-7.

urologist to pay \$40,000 damages to a patient compelled to undergo plastic surgery as an adult because of a circumcision he underwent at the age of twelve.⁴¹ Last year, a settlement was reached in a \$10 million lawsuit over a botched circumcision which severed the tip of a Cleveland boy's penis.⁴²

Also, actions have been based on lack of informed consent. In Alabama, a newborn was circumcised against his mother's wishes, resulting in a verdict of US\$65,000, and a similar case in New York is currently the subject of litigation.⁴³

Parents should require the doctor to explain to them all inherent risks and possible complications, such as severe pain, meatal stenosis, penile necrosis, lifelong sexual dysfunction, brain damage, and even death. Once the foreskin with its thousands of erogenous nerve endings and exquisitely sensitive frenulum has been severed, it can never be replaced. The infant victim has no say in the matter, and is forced to live with the adverse physical, reduced sexual, and psychological/post-traumatic stress disorder consequences for the remainder of his life.

The requirements of informed consent mandate that full information be provided and that no pressure be placed on parents to assent to a circumcision. Nevertheless, medical doctors rarely provide complete information of all complications which may follow circumcision, and some explicitly advocate non-therapeutic circumcision.

Parents cannot consent to non-therapeutic medical procedures

Given international instruments and domestic common law principles and case law, grave doubt exists as to whether even a truly informed parent can consent to the non-therapeutic circumcision of a child.⁴⁴

Under the Convention on the Rights of the Child, Art 12, any child capable of forming his or her own views has the right to express those views freely in all matters affecting him or her, and for those views to be given due weight in accordance with age and maturity. Newborn babies cannot express a view on whether they should be circumcised. Circumcising children removes their choice for all time.

Unless a medical procedure is necessary to preserve life or health, it should be postponed until the child is sufficiently mature to make a decision for himself or herself. Wherever proposed treatment is not unequivocally beneficial to the child, parental assent is insufficient.

The Bioethics Committee of the American Academy of Pediatrics emphasised that the power to consent to a procedure rests solely with patients:

“Only *patients* who have appropriate decisional capacity and legal empowerment can give their *informed consent* to medical care. In all other situations, parents or other surrogates provide *informed permission* for diagnosis and treatment of children with the *assent* of the child whenever appropriate.”⁴⁵

⁴¹ “Legal Action,” (1995) 9 *NOCIRC Newsletter* No. 2, p. 1.

⁴² *Lake County (Ohio) News Herald*, March 26, 1999.

⁴³ Law Office of D J Llewellyn (1998) See <http://firms.findlaw.com/llewellynlaw/practices.htm> See also *Armatas v Elmhurst* (Supreme Court, Queens County, NY, Index #018923/98).

⁴⁴ J N Turner, “Panic over Children's Rights” in L R Newcastle, *Joint Select Committee on Treaties* (1996); see also *Report on United Nations Convention on the Rights of the Child* (Canberra, 1998).

⁴⁵ American Academy of Pediatrics Committee on Bioethics, “Consent, Parental Permission and Assent in Pediatric Practice” (1995) 95

They also concluded:

“Thus, ‘proxy consent’ poses serious problems for pediatric health care providers. Such providers have legal and ethical duties to their child patients to render competent medical care based on what the patient needs, not what someone else expresses.”⁴⁶

Nor do religious considerations permit parents to elect nontherapeutic procedures for their nonconsenting children. Canadian courts have repeatedly held that even if a parent is motivated by religious beliefs, he or she is powerless to consent to a procedure which does not confer a genuine medical benefit upon the child, particularly where it also may cause actual harm.⁴⁷

Involuntary circumcision violates human rights law

Canadian courts have stressed that domestic law must be interpreted in accordance with Canada’s international treaty obligations, which further oblige Canada to execute its provisions within the country.⁴⁸

Ratified by every country in the world except the United States and Somalia, the United Nations Convention on the Rights of the Child safeguards the child’s right to autonomy and bodily integrity – rights violated by neonatal male circumcision. Article 19 provides that states shall take all appropriate measures “to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.” Article 24(3) urges “abolishing traditional practices prejudicial to the health of children.” Article 6(2) safeguards the survival and development of the child.

The following human rights treaties applicable in Canada also prohibit male genital mutilation based on such critical rights as the right to bodily integrity, the right to freedom of religion, the right to the highest attainable standard of health, the right to protection against torture, and the right to equal protection:

- Charter of the United Nations: Art 55(c);
- International Covenant on Civil and Political Rights: Arts 7, 9, 18.3 and 24.1;
- Universal Declaration of Human Rights: Arts 3, 5, 6, 7, 12 and 25(2);
- Convention on the Rights of the Child: Arts 14.1, 14.3, 16, 24.1, 24.2, 34 and 37(b).

Official acknowledgment of circumcision as a human rights violation is growing. Germany awarded political asylum to a Turkish man based on his fear of enforced circumcision:

“There may be ... no doubt that a circumcision which has taken place against the will of the person affected shows ... a violation of his physical and psychological integrity

Pediatrics 315 (emphasis added).

⁴⁶ *Ibid.*

⁴⁷ *Re S.E.M.* [1986] 32 D.L.R. 394 (4th) 394; see also *Pentland v. Pentland* [1979] 86 D.L.R. (3d) 585.

⁴⁸ *Re Corporation of the Canadian Civil Liberties Association et al. and Minister of Education et al.* [1988] 50 D.L.R. (4th) 193; reversed on other grounds, 65 D.L.R. (4th) 1.

which is of significance to asylum.”⁴⁹

Two United Nations reports recognise sexual assault on males, including circumcision, as torture and a violation of human rights.⁵⁰

Discriminatory prohibition of female genital mutilation violates human rights

In 1997 the Canadian Parliament amended Section 268 of the Criminal Code of Canada, dealing with aggravated assault, so as to it specifically outlaw all forms of female genital mutilation (FGM).⁵¹

Section 268 prohibits the surgical cutting for non-medical reasons of female genitalia but fails to address male genital cutting. Such a distinction based on gender directly conflict with sections 15 and 28 of the Canadian Charter of Rights and Freedoms (Charter). Section 15 (1) bars discrimination based on, among other things, sex. Section 28 provides, “Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.” The federal law in the United States outlawing FGM⁵² similarly violates equal protection principles enshrined in the Fifth and Fourteenth Amendments to the American Constitution. When it comes to issues of health and bodily integrity, sometimes males do end up with the short end of the stick.

Countries which proscribe even the mildest forms of female circumcision – which may involve only a nick to the clitoris and/or excision of the female prepuce (Type 1) – but permit infant male circumcision – involving surgical amputation of the entire foreskin – are failing to provide equal protection of the right to bodily integrity for male minors. Laws against female genital mutilation, which do not simultaneously prohibit male genital mutilation, contravene principles of equal protection enshrined in human rights law. They directly conflict with Art 7 of the Universal Declaration of Human Rights, which states:

“All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of the Declaration and against any incitement to such discrimination.”

Likewise, these nations contravene Art 2 of the Universal Declaration of Human Rights, Art 2 of the Convention on the Rights of the Child, and Arts 1(3), and 55(c) of the United Nations Charter. All United Nations members are bound by these and all Charter provisions.

One frequent rationalisation for legislation addressing only female genital mutilation is the supposedly dramatic contrast in severity between female genital mutilation and male genital mutilation. However, circumcision removes a considerable area of erogenous penile skin (an area corresponding to 64 to 90 sq cm in adult males),⁵³ causing significant damage. Human rights principles are absolute, not subject to balancing in the scales of international justice relative to other violations. Interpretations of human rights law which

⁴⁹ Judgment, BVerwG, Bundesverwaltungsgericht Federal Administrative Court, 107 DVBI 828-830, 5 Nov 1991. See also J S Svoboda, “Attaining International Acknowledgment of Male Genital Mutilation as a Human Rights Violation” in Denniston et al, op cit n 17.

⁵⁰ United Nations Document No S/1994/674.

⁵¹ R.S., 1985, c. C-46, s. 268; 1997, c. 16, s. 5.

⁵² 18 U.S.C. s. 116.

⁵³ Werker et al, op cit n 17.

recognise female genital mutilation but not male genital mutilation as violations infringe on equal protection principles enshrined in international law.

Growing resistance

For nearly two decades, the United States-based National Organization of Circumcision Information Resource Centers (NOCIRC)⁵⁴, which has a number of Canadian branches, has been on the forefront of organised resistance to circumcision (as well as all forms of female genital mutilation). Organised Canadian opposition to circumcision has been increasing dramatically in recent years, with the founding of the Circumcision Information and Resource Centre (CIRC)⁵⁵ and INTACT.⁵⁶ In the United States, profession-specific organisations have been founded which are all lobbying aggressively against involuntary circumcision, including Doctors Opposing Circumcision, Nurses for the Rights of the Child, and Attorneys for the Rights of the Child.⁵⁷

Others of us are using slow skin stretching techniques to "restore" our foreskins. Actually this process only partially heals one of the three harmful effects of circumcision discussed above, namely the loss of covering of the glans. Nevertheless, successful restoring men report significantly improved sensitivity of their glans.

Jim Bigelow's excellent book "The Joy of Uncircumcising" discusses foreskin restoration techniques and also documents the problems caused by this barbaric practice, as do other books such as Ronald Goldman's monumental "Circumcision: The Hidden Trauma (\$21.95 postpaid from Vanguard Publications, 888-445-5199).

Conclusion

Reasons for concern about infant male circumcision under human rights principles include:

- the loss of highly erogenous sexual tissue which also serves important protective functions;
- the loss of bodily integrity;
- traumatic and often highly painful disfigurement;
- complications including death and the loss of the entire penis;⁵⁸ and
- the impermissibility of any mutilation of children's genitals performed with neither their consent nor medical justification.

No basis in international human rights law or domestic law justifies the discriminatory prohibition of only female genital mutilation.

⁵⁴ NOCIRC, PO Box 2512, San Anselmo, CA 94979, USA. (415)488-9883. www.nocirc.org.

⁵⁵ CIRC, Succ. Les Atriums, C.P. 32065, Montreal, QC H2L 4Y5, (514)844-CIRC. www.infocirc.org.

⁵⁶ INTACT, Lawrence Barichello, Executive Director, PO Box 31016, RPO College Sq, Toronto, ON M6G 4A7, (416)530-4810. www.intact.ca. lawrence@intact.ca.

⁵⁷ DOC, weber.u.washington.edu/d69/gcd/DOC/. NRC, www.cirp.org/nrc. ARC, www.noharm.org/ARC.htm.

⁵⁸ See <http://infocirc.org/MensHlth.htm>

www.Sexually.MutilatedChild.org/sweet.htm

www.infocirc.org/fourn.htm

www.augsburg.edu/psych/psy355/no_penis.html

www.SexuallyMutilatedChild.org/mnnngr1.htm

Non-therapeutic, invasive and irreversible major surgery, especially sexual reduction surgery on unconsenting minors, is unethical. The standard of care for infrequent events such as infections is antibiotics, not amputation. Circumcision of healthy male minors is useless and traumatic, causing severe and lasting harm physically, sexually and often psychologically.

Enforced non-therapeutic genital cutting of unconsenting minors is overdue for recognition by the legal community as sexual mutilation.⁵⁹ As we enter the 21st century, appropriate legal action must be taken to safeguard the physical genital integrity of male children. We must put a stop to this serious impairment of our health and bodily integrity.

⁵⁹ P Ayton, "Clear Cut", *New Scientist*, 11 Dec 1999. See www.newscientist.com/ns/19991211/clearcut.html