

Male Genital Cutting and Human Rights:
Enforcement, Obstacles, and Recognition in the International Community

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ABSTRACT

The international community has in recent years criticised and condemned the practise of female genital cutting as a human rights violation. The regime, however, has produced very little analysis about male genital cutting from the same perspective. With that in mind, this dissertation shifts the paradigm to examine the dimensions of involuntary male genital cutting, and presents the case for why this practise violates universal human rights. This dissertation examines the historical background, types, prevalence, as well as the religious and medical paradigms of male genital cutting. This enables a contextualisation from a human rights perspective, which draws upon international and regional instruments to investigate: (1) patient consent and the limits to parental proxy consent; (2) self-determination and its relationship with consent and the right to health; (3) rights to bodily integrity and, by extension, genital autonomy; and (4) asymmetrical applications of human rights provisions and rights to equality. This analysis provides the groundwork for the discussion of the ensemble of mechanisms and obstacles to human rights, including sociocultural, religious, and medical obstacles. This dissertation concludes, upon rigorous investigation, that the endemic practise of male genital cutting, is incompatible with international and regional standards, and violates human rights. Socio-legal and medical bodies as well as the international community should act swiftly to criticise and condemn male genital cutting to respect, promote, and defend universal human rights, in compliance with international provisions.

DEDICATION

To Katy Gilpatric, Ph.D.,

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ABBREVIATIONS

ACTIVIST INSTRUMENTS

AMR	The Ashley Montagu Resolution to End the Genital Mutilation of Children Worldwide
DGI	Declaration of Genital Integrity
HDRGA	Helsinki Declaration of the Right to Genital Autonomy
UCEI	Universal Covenant of Ecumenics International
UDCEI	Universal Declaration on Circumcision, Excision, and Incision

HUMAN RIGHTS INSTRUMENTS

ACHPR	African Charter on Human and Peoples' Rights
ACHR	American Convention on Human Rights
ACRWC	African Charter on the Rights and Welfare of the Child
ADRDM	American Declaration on the Rights and Duties of Man
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CPC	Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse
CDHRI	Cairo Declaration on Human Rights in Islam
CFREU	Charter of Fundamental Rights of the European

	Union
CRC	Convention on the Rights of the Child
CRCI	Covenant on the Rights of the Child in Islam
DPPRE	Declaration on the Promotion of Patients' Rights In Europe
ECCH	European Charter for Children in Hospital
ECHR	European Convention on Human Rights
ECHRB	European Convention on Human Rights and Biomedicine
ECPR	European Charter of Patients' Rights
ESC	European Social Charter
GDRC	Geneva Declaration of the Rights of the Child
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICME	International Code of Medical Ethics
PT	Proclamation of Tehran
RACHR	Revised Arab Charter on Human Rights
UDBHR	Universal Declaration on Bioethics and Human Rights
UDHR	Universal Declaration on Human Rights
UIDHR	Universal Islamic Declaration of Human Rights
VDPA	Vienna Declaration and Programme of Action

ORGANISATIONS AND AGENCIES

AAP	American Academy of Pediatrics
ACN	Active Citizen Network
ACS	American Cancer Society
ARC	Attorneys for the Rights of the Child
CEDAW	Committee on the Elimination of Discrimination against Women
CDC	Centers for Disease Control and Prevention
CIRP	Circumcision Information Resource Pages
DAKJ	German Academy for Pediatrics and Adolescent Medicine
DOC	Doctors Opposing Circumcision
GCI	Grace Communion International
IHEU	International Humanist and Ethical Union
JAC	Jews against Circumcision
NGO	Non-governmental Organisation
NOCIRC	National Organization of Circumcision Information Resource Centers
OSF	Open Society Foundations
PHAC	Public Health Agency of Canada
RDMA	Royal Dutch Medical Association
UN	United Nations
WHO	World Health Organization

MONITORING AND STATUTORY BODIES

ACHPR	African Commission on Human and Peoples' Rights
AHRC	Australian Human Rights Committee
CCPR	Human Rights Committee
CDDH	Steering Committee for Human Rights
CERD	Committee on the Elimination of Racial Discrimination
CEU	Council of the European Union
CHR	Commission on Human Rights
CmtRC	Committee on the Rights of the Child
CmtAT	Committee against Torture
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECtHR	European Court of Human Rights
HRC	Human Rights Council
IACHR	Inter-American Commission on Human Rights
OAU	Organisation of African Unity
OHCHR	Office of the High Commissioner for Human Rights
QLRC	Queensland Law Reform Commission

MISCELLANEOUS

BXO	Balanitis Xerotica Obliterans
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GC	General Comment
HPV	Human Papillomavirus
STI	Sexually Transmitted Infection
UK	United Kingdom
US	United States of America
UTI	Urinary Tract Infection

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CHAPTER I

INTRODUCTION:

THE NEED FOR A HUMAN RIGHTS FRAMEWORK

The international community has vociferously contextualised female genital cutting from a human rights perspective, and has emphasised its incompatibility with international standards (WHO, 2001, 2008; Zayed and Abdelrahman, 2012; Boukari, 2011; Burki, 2010; Krása, 2010). The Committee on the Elimination of Discrimination against Women (CEDAW) (1990) identifies female genital cutting as a harmful traditional practise, which must be eradicated (General Recommendation No. 14). According to UNICEF (2007), female genital cutting ‘violates girls’ and women’s human rights, denying them their physical and mental integrity, their right to freedom from violence and discrimination and, in the most extreme cases, their lives.’ However, very little analysis has been produced to test male genital cutting against international standards (Svoboda, 1999, 2004). With that in mind, this dissertation shifts the paradigm to examine the dimensions of male genital cutting, and presents the case for why this practise violates universal human rights.

Dissertation Outline and Scope of Study

This chapter outlines the scope of study including limitations and assumptions. Chapter II provides an in-depth investigation of male genital cutting by investigating the historical background, types, prevalence, as well as the religious and medical paradigms. Emphasis is placed on ritual excision, which is the most commonly practised form of male genital cutting. Chapter III draws upon international and regional instruments to contextualise male genital cutting within a human rights framework. This includes

investigations of: (1) patient consent and the limits to parental proxy consent; (2) self-determination and its relationship with consent and the right to health; (3) rights to bodily integrity and, by extension, genital autonomy; and (4) asymmetrical applications of human rights provisions and rights to equality. Part I of chapter IV examines how might international and regional mechanisms enforce the human rights related to genital cutting. Part II analyses the religious, sociocultural, and medical obstacles to human rights. This includes a discussion of the conflict between the rights of the child and the parents' right to freedom of thought, conscience, and religion. Chapter V concludes the dissertation and provides brief recommendations for further study.

Foundations of human rights are not examined, and instead, it is assumed that human rights are universal, which transcend human, cultural, and religious differences (Brems, 2001, p. 4). The international community recognises human rights as minimum standards, which are 'necessary for a life of dignity in the contemporary world' (Donnelly, 2007, p. 8). Universality embodies the value of autonomy and entails diversity in interpretation and application (Freeman, 2002, p. 102; Brems, 2011, p. 11-12). Universality is balanced with consciousness of cultural diversity to achieve a 'relative universal' approach (Brems, 2011, p. 10-11; Donnelly, 2007, p. 37; Robertson and Merrills, 1996, p. 12-15). This allows 'considerable space for cultural, regional, national, and other variations in implementing "universal" human rights' (Donnelly, 2007, p. 38).

This dissertation examines involuntary male genital cutting only. A discussion of voluntary modifications is outside the confines of this study. Genital cutting is said to be involuntary if the individual is unable or refuses to consent, such as in the case of infants and children. Genital cutting of intersex individuals has also received very little

international attention, and more research ought to address the practise from a human rights perspective (Mason, 2013; AHRC, 2009; María Arana, 2005).

This dissertation largely refers to genital modifications as ‘cutting’, to disrupt medicalisation and legitimacy. ‘Genital mutilation’ is a complex term, and embodies a range of cutting practises which differ in severity, and will be discussed in Chapters 2 and 4. This term is usually applied only to some practises, such as female genital cutting, but not to others, such as male genital cutting. Although some practises are in fact anatomically ‘mutilating’ by impairing genital function, ‘mutilation’ is hyperbolic for less invasive cutting practises. The connotation of ‘mutilation’ often illustrates a vivid image of brutality to cultural outsiders, and elicits moral judgement against the cultures in which genital cutting is perpetuated. Ultimately, ‘mutilation’ is an incendiary term, which hinders transcultural dialogue about human rights. Clinical terminology can be euphemistic, which legitimises cutting practises. ‘Genital cutting’ also incorporates the practises which may not be carried out by a medically trained physician. However, in efforts to minimise overall cumbersomeness, clinical terminology is utilised sparingly.

CHAPTER II

A CRITICAL LOOK AT MALE GENITAL CUTTING

Introduction

Chapter 2 seeks to answer ‘what is male genital cutting?’ by investigating the historical background, types, prevalence, as well as religious and medical paradigms. This enables the contextualisation of male genital cutting from a human rights perspective, which will be discussed in chapter 3.

Historical Background

Male genital cutting has been performed for at least five thousand years (Doyle, 2005, p. 280, 284; Dunsmuir & Gordon, 1999, p. 1; Angulo and García-Diez, 2009). All major civilisations employed genital cutting beginning with the Sumerians in 4000 BCE (Doyle, 2005; Abu-Sahlieh, 2012, p. 39; Larue, 1989). Although origins unknown, the ritual probably began as a mark of cultural and ethnic identity, a fertility rite, or mark of defilement, as in the case of slaves (WHO, 2007, p. 3; Lewinsohn, 1958; Rogers, 1956; Dunsmuir and Gordon, 1999). Male genital cutting remains a traditional blood ritual and rite of passage into adulthood; this is particularly true in the eastern and southern regions of Africa (See: Parkin, 1992, p. 22; Cartry, 1992, p. 31-4; Jamous, 1992, p. 60-2; Hoskins, 1990; p. 299-30; Field, 2001, p. 215-7; Wood, 2001, p. 329; Marck, 1997; Papu and Verster, 2006; Ayisi, 1972, p. 36; Hemson, 2001, p. 68). In Southwest Asia, Europe and North America, the ritual is largely directed by Abrahamic faiths (Dunsmuir and Gordon, 1999; Doyle, 2005; Hoffman, 1995: Chapter 1).

During the Greco-Roman period and the Hellenisation of Palestine, minority groups were pressured to assimilate to majoritarian cultural ideals (Bigelow, 1994, p. 56).

Genital cutting was not an accepted ritual, and it became necessary to conceal circumcised genitals in order to improve social and economic standing (Schultheiss, 1999). This led to cultural and religious suppression, especially Jewish, and several laws were enacted to prohibit the ritual (Schultheiss, 1999; Offord, 1913; Tushmet, 1965; Henerey, 2004, p. 267). Jewish authorities soon radicalised ritual genital cutting by implementing the *per'iah* (Schultheiss, 1999; Hall, 1992; Hodges, 2001; Abu-Sahlieh, 2004; 1999, p. 164). Whereas the traditional *milah* amputates only the distal end of the foreskin (prepuce), the *per'iah* ablates the entire foreskin to completely denude the glans (head of penis) (Bigelow, 1994; Schultheiss, 1999; Lang, 2012 p. 651). This made the mark of Jewish identity more conspicuous, and thus more challenging to conceal (Bigelow, 1995).

Male genital cutting spread throughout Anglophonic countries during the eighteenth and nineteenth centuries when it was believed to provide physical and psychological benefits (Doyle, 2005, p. 279; Abu-Sahlieh, 2012, p. 22). The *per'iah* (excision) became the medicalised form of genital cutting, which transformed the ancient rite into a perfunctory medical practise (Steadman and Ellsworth, 2006, p. 181). This is the most commonly practised form of male genital cutting today (Svoboda, 2001, p. 304; Doyle, 2005, p. 279; Abu-Sahlieh, 2012, p. 18).

Types of Male Genital Cutting

Scholars classify types of male genital cutting differently (See: Svoboda, 2001; Abu-Sahlieh, 2012; DeMeo, 1997; Doyle, 2005; Bryk, 1934). For the purposes of this dissertation, they can be categorised into four main groups: incision, excision, flaying, and subincision. This indicates that male genital cutting is not limited to one form, but

varies in type and severity. This will be revisited in the discussion of taxonomy and obstacles to human rights in Chapter 4.

Incision

Incision involves a single cut on the foreskin to draw blood, or in the case of a dorsal slit, cutting through the preputial tissue to partially expose the glans without excision (DeMeo, 1997, p. 3; Valeri, 1990, p. 259-60). Superincision, largely practised in some Pacific Islands, involves longitudinally slicing the dorsal side of the foreskin (McGrath and Young, 2001, p. 143; Walter, 1988; Kemp and Hermann, 2003; Glick, 2009). It is unclear if superincision is analogous to the dorsal slit, or if it is more invasive by slicing through the penis to the pubis (Firth, 1963; Kempf, 2002; Wilson, 2008; Macalastair, 2013; Diamond, 2004; Chessler, 1997; Brigman, 1985). A variation of incision, may include incising the glans or the frenulum without amputation of the foreskin, which is largely practised in some parts of Australia and the Pacific Islands (Doyle, 2005, p. 279; Montagu, 1974, p. 322). Incision sometimes only amputates the tapered preputial tissue, which extends beyond the glans. Although some scholars have grouped this type of genital cutting with the entire ablation of the foreskin, for clarity, this dissertation differentiates between them (Abu-Sahlieh, 2012, p. 17).

Excision

Excision, or circumcision, completely excises the preputial tissue to ablate the entire glans in the flaccid state (Chessler, 1997; DeMeo, 1997, p. 3; Brigman, 1985). Excision may be practised shortly after birth or in early childhood, as a cultural or religious ritual, or during puberty, as a rite of initiation or pain endurance (Abu-Sahlieh, 1997, p. 42; DeMeo, 1997, p. 3). This is the most commonly practised and medicalised

form of male genital cutting (Doyle, 2005, p. 279). The medicalisation of excision enabled and institutionalised male genital cutting in Western medicine, which will be discussed in the 'Medicine' section (Hodges, 1997, p. 26). Numerous metal, plastic, and disposable devices are utilised to perform excision (See: Young, 2013; 'Colorado NOCIRC,' n.d.; Dusmuir and Gordon, 1999; Abu-Sahlieh, 2012; WHO, 2007a; Hodges, 1997, p. 26). Excision is very painful, and can result in serious complications including up to death (See: Gee and Ansell, 1976; Baker, 1979; Warren, 1997; Williams, 1997, p. 190; Crowley and Kesner, 1990).

There is no specific procedural method for excision for Muslims and Christians except that the entire foreskin is ablated (Abu-Sahlieh, 1994, 1997). However, Jewish excision is heavily ritualised, which utilises knives and sharpened fingernails to shed away the genital tissue of the eight-day-old baby (Abu-Sahlieh, 2012, p. 17). Some Ultra-Orthodox sects also practise the traditional *metzizah*, during which the mohel (circumciser) places his mouth on the infant's penis and 'with two or three draughts, sucks the blood out of the wounded part. He... takes a mouthful of wine... and spurts it, in two or three intervals, on the wound' (Bryk, 1967, p. 49-50). Some rabbis have called for the use of a sterile pipette to eliminate direct genital contact with the mohel's mouth, which has caused some babies to contract herpes (QLRC, 1993, Section 3; 'US Rabbis Approve,' 2005; Berkman, 2013; Rosenberg, 2012; Zambito, 2012; 'Breaking! Another NYC,' 2013; Brady, 2013). Some Jews have vociferously opposed restrictions on the *metzizah*, including initiatives requiring parent consent forms (Rosenberg, 2013; Halperin, 2006; Nathan-Kazis, 2012; Stern, 2013). Most Jews, however, neither practise the

metzizah, nor were they aware of the ritual prior to recent media coverage (QLRC, 1993, Section 3; Kirsch, 2013; Korobkin, 2006).

Flaying

Flaying, also known as *salkh* or skin stripping, involves peeling the penile skin and sometimes the scrotum and pubis, from below the navel to the upper thigh (See: Abu-Sahlieh, 2012, p. 17; DeMeo, 1997, p. 3; Aggleton, 2007, p. 16; Chessler, 1997; Chabukswar, 1921; Koriech, 1987, cited in Abu-Sahlieh, 2006, p. 61; Henninger, 1989, cited in Abu-Sahlieh, 2006, p. 61). Skin stripping has largely been practised in the Southern Arabian Peninsula as a rite of marriage and pain endurance (Abu-Sahlieh, 2012, p. 17; Montagu, 1946; Svoboda, 2001; Remondino, 1891, p. 55). According to DeMeo (1997, p. 3), ‘community blessing would only be bestowed upon the young man who could refrain from expressing emotion during the event.’ Skin stripping caused insufferable pain, and had a high mortality rate (Soubhy, 1894, p. 129; Šakūrzāda and Omidsalar, 1991). *Salkh* is thought to be a pagan custom, and a religious decree (*fatwa*) has been issued to condemn the practise (Thesiger, 1959, p. 91-92; Abu-Sahlieh, 2012, p. 17). Similar rituals have been documented in parts of Africa (Lantier, 1972, p. 95).

Subincision

Subincision, or *arilta*, involves longitudinally slicing open the urethral passage on the ventral side of the penis from the root of the scrotum to the glans, resulting in bifurcation (Brigman, 1985, Section II; DeMeo, 1997, p. 3; Montagu, 1974; Abu-Sahlieh, 2012, p. 17). Subincision is an initiation rite, and usually coincides with excision (Hiatt, 1965, p. 53; Bates, 1952, Chapter 4; Fox, 1972, p. 323). Thin sticks are sometimes used to maintain urethral patency (DeMeo 1997, p. 3; Marshall, 2011, p. 30; Chessler, 1997;

Doyle, 2005; p. 279). *Arilta* is extremely painful and may require men to squat to urinate in order to control urine flow (Abu-Sahlieh, 2012, p. 241; Hiatt, 1996, p. 95; Bettelheim, 1962, p. 101). According to Hoebel (1949, p. 160, 285), the ritual can be dangerous and is 'often fatal.' Subincision is largely performed in Aboriginal Australia and in some Pacific Islands (See: Pounder, 1983; Montagu, 1937, 1960, 1974; Basedow, 1927; Elkin, 1993; Berndt and Berndt, 1982; Roheim, 1949; Peterson, 2000; Hogbin, 1970; Martin, 1981; Atkinson, 1990, p. 78-9). The ritual is said to transform the male genitals to resemble the vulva, which allows for menstruation, as the blood flows from the wound (Abu-Sahlieh, 2012, p. 27; Bettelheim, 1962; p. 100-106; Knight, 1983, 1993). The wound is sometimes used in future rituals as a site of blood letting (Marshall, 2011, p. 30). It is believed that subincision provides various therapeutic benefits, and for some, the ritual 'bisexualises' the male organ to draw upon the power of an Aborigine god (Montagu, 1960, p. 188; Berndt, 1951, p. 16).

Other Forms of Male Genital Cutting

Some scholars identify other forms of male genital cutting, which can be briefly mentioned here. Testicular extirpation is the amputation or crushing of one testis, and is an initiation rite in some parts of Africa and Micronesia (Svoboda, 2001, p. 304; Wilson, 2008; Saint-Aubin, 2005, p. 25; Bryk, 1934). Penile skin degloving, or avulsion, may also be a genital cutting ritual, but largely appears to be a result of serious genital injuries, or a method of surgical restoration (Sarin et al., 2004; Selvan et al., 2009; Ward et al., 2010; Kiffin et al., 2012; Brandes and McAninch, 1999).

Infibulation is the suturing of the foreskin without excision, and has been practised since antiquity for various reasons, including: to demonstrate modesty,

abstinence, or beauty, to prevent sexual activity, and to preserve the voice (Schultheiss et al., 2003; Schmidt, 2004, p. 263; Zanker and Shapiro, 1996, p. 28-29; Favazza, 1996, p. 190; James, 1979, p. 365; Miller, 2002, Section II). Ancient Greek cultures favoured an intact penis with a tapered foreskin, and considered the exposed glans to be obscene. Consequently, men often clasped the foreskin to prevent glannular visibility, or in the case of excised men, stretched the residual genital tissue to conceal the glans, in a process called foreskin restoration (Hodges, 2001; p. 381; Schultheiss, 1999). Restoration involves the renewal of the foreskin, either surgically by reconstruction, or non-surgically by tissue expansion, and has been undergone primarily by circumcised men for various reasons throughout history (See: Bigelow, 1994, 1995; Brandes and McAninch, 1999; Tushmet, 1965; Edwardes, 1967; Hall, 1992; Boyd, 1990, p. 69).

Castration, the amputation of part or all of the genitals, has been practised throughout the world for centuries, and has been significant in several religions and cultures (Taylor, 2000; Min et al., 2012; Remondino, 1891, p. 89; Diers and Valla, 1997; Hossain, 2012). Castration has been practised to punish or control men, diminish libido, and in the case of Western medicine, to cure masturbation and sex diathesis (Stinneford, 2006; Ellison, 2001, p. 262; Hodges, 1997, p. 20; Saint-Aubin, 2005, p. 36). Surgical alteration of the genitals is also a treatment for intersex individuals, or those born with genitalia that do not traditionally confine to the male or female sex (See: Greenberg, 2012, Chapter 1; Creighton and Liao, 2004; Thomson, 2008, p. 170; Stein et al., 2004; Hughes, 2002). This may include involuntary sex assignment in infants as well as voluntary transgender procedures in children and adults (Gibson and Catlin, 2010a,b; Gibson, 2010;

Zeiler and Wickerström, 2009; Bradley et al., 1998; Hermer, 2007; Zucker, 2002; Gurney, 2007).

Prevalence of Male Genital Cutting

Reliable statistical data about male genital cutting does not exist (Abu-Sahlieh, 2012, p. 22-23). Its frequency varies widely depending on geographical regions and demographics such as religion, education, and socioeconomic status (Maeda et al., 2012; Williams et al., 2006; Dave et al., 2003; PHAC, 2009; CDC, 2011; WHO, 2007b). Age varies, and ranges from shortly after birth (which is the most common) to adolescence and adulthood (Abu-Sahlieh, 1997, p. 42; Svoboda 2001, p. 307; Van Gennepe, 1960, p. 70-1). Official data may be recorded but usually only accounts for medicalised genital cutting and excludes religious ceremonies and rites of passage (Abu-Sahlieh, 2012, p. 23). Studies may utilise self-reporting methodologies, but these are ultimately unreliable because participants may be unsure of their genital status (Nnko et al., 2001; Brown et al., 2001; Urassa, et al., 1997; Risser et al., 2004).

According to Denniston and Milos (1997, p. v), 13.3 million males undergo genital cutting in the world. This averages to ‘1,100,000 children per month, 36,438 children per day, 1,518 children per hour and 25 children per minute’ (Abu-Sahlieh, 2012, p. 22). According to Hammond (1999), 650 million males are living with altered genitals, which is about 23% of the world’s male population. The World Health Organization (WHO) estimates that this figure is closer to 30%, the majority of whom are Muslim (WHO, 2007a, p. 1). Table 2.1 provides a general breakdown of the prevalence of male genital cutting throughout the world.

Table 2.1 – Prevalence of Male Genital Cutting

Americas¹	
United States	Roughly 50%
Canada	Less than 20%
Central, South America, Caribbean	Less than 20%
Mexico	10-31%
Europe	
North, South, East, West Europe	Less than 20%
United Kingdom	Less than 10%
Albania, Bosnia, Kosovo	20-80%
Macedonia, Montenegro	20-80%
Africa	
North, East, Middle, West	Greater than 80%
Southern, Sudan,	Between 20-80%
Central African Republic	
Nambia, Botswana, Zimbabwe, Zambia	Less than 20%
Madagascar	Greater than 80%
Asia	
East, South-East, Japan, India	Less than 20%
South-Central, West Asia	Greater than 80%
Turkey, Indonesia, Philippines, Malaysia	Greater than 80%
South Korea	Greater than 50%
Oceania	
Australia and New Zealand	10-20%
Pacific Islands	Varies;
(Micronesia, Melanesia, Polynesia)	Greater than 80% in some regions

Genital cutting tends to be most prevalent throughout parts of Africa, Asia, and some Pacific Islands (WHO, 2007a,b; Afsari et al., 2002). The prevalence of genital cutting in Anglophonic countries has gradually declined, most likely, due to medical opposition to non-therapeutic circumcision (Outerbridge, 1996; Circumcision Statement, 1983; Position Statement, 1996). Genital cutting of prepubescent children is practised by less than 20% of the world's population, and the US remains the only country to routinely

¹ Refer to 'Appendix A' for an itemised list of sources. World regions and itemisation were adapted from Vogeler (n.d.).

circumcise without medical or religious indication (Svoboda, 2001, p. 304). European colonisation reduced the once prevalent practise of genital cutting throughout Central and South America, and the Caribbean, where it now remains rare (Tierney, 2003; Remondino, 1891; Schendel et al., 1968; Goldish, 2003).

Genital cutting is generally uncommon throughout Europe and Southeast Asia, except for the locations with large Islamic and Jewish communities (WHO, 2007a,b; Drain et al., 2006; Schmitz et al., 2001; Violante and Potts, 2004; Mastro et al., 1994). The practise is also declining in South Korea, where it was once perfunctory, due to American influence (Kim et al., 2012; Pang and Kim, 2002; Pang et al., 2001).

Religion

Genital cutting is closely associated with several religious ideologies. This literary snapshot illustrates the contestation of the role of male genital cutting within several religions as well as the degree to which genital cutting is entrenched in religious custom. Religious justifications should be acknowledged in order to contextualise impeding rights between the child and the parent, which will be discussed in chapter 4. These rationalisations, however, are ultimately not compelling to override the rights of the child and undermine the universality of human rights.

The Main Abrahamic Faiths

Male genital cutting is endemic within the Abrahamic religions: approximately 16 million Jews, 300 million Christians, and 1 billion Muslims perpetuate the ritual (Abu-Sahlieh, 1997, p. 41). Virtually all Jews and Muslims practise genital cutting (Doyle, 2005, p. 279; Abu-Sahlieh, 2012, p. 22).

Jewish excision is performed on the eighth day of life, fulfilling the covenant between God and Abraham and his descendants (See: Gen. 17: 1-14; Abu Sahlieh, 2006, p. 49; 1997, p. 42-3; Whitehouse, 1952, p. 99; Levy, 2011, Section III; Lavee, 2011; Jacobs, 2011; Larue, 1989; Van Gennep, 1960). Genital cutting ‘cleanses’ the body of impurity and is symbolic of blood sacrifice, which demarcates Jewish identity in the flesh to distinguish Jews from Gentiles (Tischler, 2006, p. 144; Curtis, 2000, p. 255; Janowitz, 2002, p. 80; Bowker, 1983, p. 186; Bowes, 1982; p. 42; Abu-Sahlieh, 1997, p. 43; 2006, p. 50; Lebreton and Zeiller, 1949a, p. 21, 59). If the man converts to Judaism, he must endure the ritual, and if he is already circumcised, blood must be drawn from his glans to fulfil the covenant (Abu-Sahlieh, 2004; 2006, p. 50). The ritual is occasionally interpreted metaphorically for spiritual holiness, and can include excision of the heart, lips, tongue, or ears (Abu-Sahlieh, 2006, p. 50; Macdonald, 1964, p. 235, 95). The majority of Jews practise ritual excision even though many have abandoned other biblical norms (See: Abu-Sahlieh, 2002; 2006, p. 50; Deut. 19:21; Deut. 22:23; Exod. 21:1-11; Lev. 20:13). Some Jewish communities also practise female genital cutting, however this does not appear to be scripturally authorised (See: Bellmaker, 2012, Davis, 1972, p. 155-6; Bruce, 1790, p. 341-2; Abu-Sahlieh, 2002, 2006, p. 50). Since antiquity, Jews have questioned the necessity and ethics of ritual excision, some of whom replace genital cutting with a naming ceremony, similar to that for girls (See: Abu-Sahlieh, 2006, p. 50; Pollack, 1995, 1997, 2009; Goodman, 1997; Goldman, 1997b, 2004; Glick, 2001; Kimmel, 2001; Costello, 2010; Greenberg, 2009; ‘JAC,’ n.d.; ‘Brit without Milah’ n.d.).

Genital cutting was a pivotal issue in early church establishment (Lebreton and Zeiller, 1949a, p.168; Adams and Adams, 2012). Whereas the Old Testament commands

the ritual, the New Testament does not forbid it but abolishes its requirement (Abu-Sahlieh, 1997, p. 44). Breaking away from Judaism, the new Christian interpretation by St. Paul replaced genital cutting with baptism, emphasising the importance of faith as necessary for salvation (See: Gal. 5:2; 1 Cor. 7:18-20; Col. 3:10-11; Abu-Sahlieh, 2012, p. 135; Rudolph, 2008; Hill, 2004; Jacobs, 2009, p. 98; Waite, 2003, p. 98; Jenei, 2009; Morrison, 2003; Lebreton and Zeiller, 1948, p. 813, 1949a, p. 171; GCI, n.d.; Peron, 2000). Spiritual circumcision became an important Christian interpretation, which supersedes carnal excision (Abu-Sahlieh, 2006, p. 53; Lebreton and Zeiller, 1949b, p. 368; 1949c, p. 525; Ferguson, 2009, p. 214). Some scholars have said that the crucifixion of Jesus fulfils the blood sacrifice of genital cutting (Eph. 2:11; Tischler, 2006, p. 144; Smith, 2006, p. 95; Gollaher, 2000, p. 33). Whilst most Christians do not condone religious excision including Catholics, Mormons, Jehovah's Witnesses, and Baptists, other Christians, largely those of Egypt, Sudan, Ethiopia, the US, and a few Russian sects, continue to practise male genital cutting (See: John XXIII, 1963; Lang, 2012; Dietzen, 2004; Benedict, 2007a,b; 'Circumstitutions,' n.d.; Baker, 1997; Star, 2006; 'Mormonism and Circumcision,' n.d.; 'Circumcision,' 2013; Welty, 2006; His By Grace, n.d.; Abu-Sahlieh, 2012, p. 22, 135; Verghese, 1969, p. 457; Diers and Valla, 1997). This is likely due to cultural favouring of genital cutting and fundamentalist interpretations of the Bible (Abu-Sahlieh, 2006, p. 54-5).

Male genital cutting is considered obligatory in Islam even though the Qur'an does not mention it (Gibb, 1953, p. 64; Pavlovitch, 1999, p. 69; Abu-Sahlieh, 2006, p. 55; 2012, p. 165; Robson, 1979, p. 198; Doyle, 2005). The ritual predates Islam, and continued after the spread of the religion (Muir, 1912, p. 191). Genital cutting is usually

practised sometime during adolescence and an elaborate feast or celebration may follow (Schimmel, 1969; Boudhiba, 2006, p. 22). Similarly with Jews, the ritual is so culturally ingrained that Muslims have defied laws attempting to prohibit the rite (Vucinich, 1969, p. 250; Lietzmann, 1958, p. 45). It is considered a firmly established tradition and rite of passage, stemming from the belief that Prophet Muhammad was circumcised (Szyska, 1999, p. 84; Boudhiba, 2006, p. 27; Ole Manger, 2002, p.138; Faure, 1969, p. 185; Robson, 1979, p. 198). Abu-Sahlieh (2006, p. 57) notes, however, that Muslims have not always practised genital cutting, and the circumcision of Muhammad is still unclear. Muslim scholars base their support of genital cutting based on Surah 2:124, which states that Abraham fulfilled the ‘commands’ (*kalimat*) of God, in addition to the sayings of Muhammad (2:124; Abu-Sahlieh, 2006, p. 55-6). Some scholars reject this interpretation, believing that genital cutting is a harmful anachronistic ritual (Abu-Sahlieh, 2006, p. 57-8; ‘Islam and Circumcision,’ n.d.). The Qur’an, in several Surahs, discusses the perfection of human nature, which would contraindicate genital cutting, and states that the alteration of Allah’s creation is obedience to Satan (See: 25:2; 32:7; 64:3; 95:4; 4:118-9; Abu-Sahlieh, 2006, p. 58).

Other Religions

Religiously justified genital cutting appears to be most infectious within Abrahamic faiths, as well as African religions (Ellwood and Alles, 2007, p. 95; Ekwe-Ewke, 2011, p. 8-9; Wright, 2007, p. 305; Chidester, 1992, p. 64; Fernandez, 1982, p. 200). It is not an obligatory ritual for Baha’i or Zoroastrians (MacEoin, 1994, p. 54; Chryssides, 2001; Kueny, 2004, p. 171; Boyce and Grenet, 1991, p. 363; Abou-Samra, 2011, p. 19; Price, 2001). Buddhists, Hindus, and Sikhs do not practise genital cutting,

nor do Wiccans, Pagans, and Satanists (Lamb, 2010, p. 151; Cox and Morris, 2012, p. 253; Tandavan, 1989; Boon, 1977, p. 210; Pruthi, 2004, p. 198; Dhillon, 1988, p. 297; Singh, 2011, p. 11; Weiser, 1978; Cantrell, 2003; LaVey, 1972, 1992, 1993; Ford, 2007; Rumbleforeskin, n.d.). Whilst many of these religions may not incorporate genital cutting into their ideologies, congregants may nevertheless practise it and justify their behaviour socially, culturally, or even medically.

Medicine

This section examines the medicalisation of male genital cutting, and the current medical debate surrounding the role of circumcision in men's (and women's) health. Justifications for male genital cutting, and in particular, routine infant circumcision, are implausible given current medical evidence; and undermine rights to health and bodily integrity, and the universality of human rights, which will be discussed in chapter 3.

Medicalisation of Male Genital Cutting

Although male genital cutting dates five millennia, the rite became medicalised only in the last two hundred years (Dunsmuir and Gordon, 1999; Bigelow, 1994; Lewis, 2003; Milos and Macris, 1992). Between the mid-eighteenth and late nineteenth century, Victorian physicians succeeded in creating a Puritanical sexual normalcy, which allowed contemporary medicine to control men's sexuality by constructing the intact penis as iniquitous (Darby, 2001, 2005). The critical factor in the successful medicalisation of circumcision was the pathologisation of the foreskin as a source for moral and physical decay (Darby, 2001, 2005). Medical objection to masturbation and conceptualisations of normal genital function and development as pathologies created an 'atmosphere of sexual

Puritanism in which non-procreative sex was regarded as immoral and sexual pleasure feared...’ (Darby, 2005, p. 4).

During the nineteenth century, masturbation was thought to cause a variety of illnesses, and soon, circumcision became commonly advocated to prevent or cure numerous physical and mental indications (Table 2.2) (See: Hodges, 2005, 1997, p. 23; Melendy, 1903; Moses, 1871; Grimes, 1978, p. 125; Wallerstein, 1985; 1980, p. 122-3; Atkinson, 1941; p. 181).

Table 2.2 – Indications for Genital Cutting, Nineteenth Century

Indications ²			
Alcoholism	Eczema	Hysteria	Mental Retardation
Asthma	Enuresis (Bed Wetting)	Idiocy	Neuralgia
Blindness	Epilepsy	Incontinence	Neurasthenia (Chronic Fatigue)
Chorea	Eye Problems	Indigestion	Nocturnal Emissions
Clubfoot	Forgetfulness	Insanity	Paralysis
Constipation	Gangrene	Irritability	Phimosis
Convulsions	Gout	Joint Problems	Polio
Curvature of the Spine	Headache	Kidney Disease	Promiscuity
Deafness	Hernia	Malnutrition	Rheumatism
Dumbness	Homosexuality	Masturbation	Syphilis

The prevalence of circumcision in the US was 5% in 1870, and became endemic (85%) by 1980 (Abu-Sahlieh, 2012, p. 22-3). Circumcision was also pervasive in Britain at the beginning of the Second World War, but gradually declined and virtually became an anomaly by 1970 on the adoption of a social security system that removed financial motivation in medicine (Abu-Sahlieh, 2012, p. 23). Although slowly declining, the rates

² Refer to ‘Appendix B’ for an itemised list of sources.

of genital cutting remain the highest in the US amongst the Anglophonic countries where it is slowly becoming an anachronism of medical practise (Rabin, 2010; DeLaet, 2009, p. 410).

Some nineteenth century diagnoses continued to surface in medical literature of the twentieth century, including: epilepsy, convulsions, chorea, syphilis, promiscuity, and indigestion (Park, 1902; Bare, 1930; Campbell, 1970; Chamberlain, 2009, p. 7). Several indications were newly introduced during this time period, which genital cutting was said, in some way, to alleviate (Table 2.3).

Table 2.3 – Indications for Genital Cutting, Twentieth Century

Indications ³			
Bacterial Vaginosis	Crying in Infants	Hydrocephalus	Prostate Cancer
Balanitis	Desensitisation	Infant Kidney Infection	Rectal Cancer
Balanitis Xerotica Obliterans	Dropsy	Malnutrition	‘Sand Balanitis’
Balanoposthitis	Epistaxis	Moral Hygiene	Sexually Transmitted Infections
Bladder Cancer	Female Cervical Cancer	Nervousness	Trichomonas
Breast Cancer in Women	Group B Streptococcal Disease	Night Terrors	Tuberculosis
Cancer of the Tongue	HIV/AIDS	Penile Cancer	Urinary Tract Infection
Chastity	Herpes Simplex Type 2	Phimosis	
Chlamydia in Women	Human Papillomavirus (HPV)	Posthitis	

Physicians continued to pathologise masturbation indicating that circumcision would deter the behaviour and its pernicious effects (Mark, 1901; Fishbein, 1969; Miller

³ Refer to ‘Appendix C’ for an itemised list of sources.

and Snyder, 1953; Hodges, 1997, p. 32). On the contrary, recent studies have illustrated that circumcised men have more elaborate sexual régimes, and may have greater difficulty with, as well as increased occurrences of, masturbation (Kim and Pang, 2007; Laumann et al., 1997; Lewis, 2003, p. 138; Foley, 1966; Money and Davidson, 1983). The current medical literature surrounding circumcision and potential health benefits is inconclusive and much of the reoccurring controversy surrounds whether or not the practise should be performed as a prophylactic against various infections, some of which are discussed below.

Hygiene and Infection

Medical literature discussing proper genital hygiene and parental advice for their intact sons remains minimal (Osborn et al., 1981). The synechial membrane connects the foreskin to the immature glans, and its natural separation differs in boys, which may not commence until puberty (NOCIRC, 2007; Øster, 1968; Camille et al., 2002; Fleiss, 2000; CIRP, 2005; AAP, 1984; Warren, 1997, p. 89; Kayaba et al., 1996; Denniston and Geisheker, 2007). This developmental process should not be disrupted by surgical intervention or forcible retraction, and only external washing is necessary to facilitate hygiene (Spilsbury et al., 2003; AAP, 1984; Wright, 1994; Geisheker and Travis, 2008; Watson, 1987; Peron, 2007; Milos and Macris, 1992; Milos, 2010). The foreskin protects against pathogens that may be found in nappies (Hill, 2007). Ballooning during urination may occur, which is indication that separation has commenced (Babu et al., 2004; Simpson and Barraclough, 1998; Camille et al., 2002). Once the foreskin is naturally retractable, the boy should clean his penis by retracting, rinsing, and replacing the

foreskin to its forward position (Camille et al., 2002; NOCIRC, 2007; Wisdom, 2012, p. 9).

The Effects of Genital Cutting

The enclosed muscle fibres of the foreskin provide an immunological defence barrier to maintain optimal health (Fleiss et al., 1998; Hill, 2007; Lakshmanan and Prakash; 1980; Simpson and Barraclough, 1998). Circumcision averts this protection and causes the glans to keratinise and thicken, which significantly deadens sensation (Prakash et al., 1982; Milos and Macris, 1992; Foley, 1966). This process is prevented by not circumcising, to preserve sexual erogeneity (Hill, 2007). The foreskin comprises over half of the double-layered mobile skin system, which is heavily innervated and receptive to fine touch and temperature (Hill, 2007; Davenport, 1996; Winkelmann, 1956, 1959; Moldwin and Valderrama, 1989; Taylor et al., 1996).

Circumcision removes at least 10,000-20,000 specialised erotogenic nerve endings and 33-50% of mucosal tissue (Winkelmann, 1956, 1959; Warren, 2010). The foreskin protects the glans against dryness and abrasion, and allows for the unique gliding action to facilitate comfortable sexual intercourse (Cold and Taylor, 1999; Hill, 2007; Morgan, 1965, 1967; Prakash et al., 1982; Lander, 1997; Davenport, 1996). The frenulum is a highly erogenous structure on the underside of the glans, which tethers the foreskin and permits its gliding action; the ridged band is a collection of soft ridges near the junction of the inner and outer foreskin and is the primary erogenous zone of the penis (Warren, 2010; Taylor et al., 1996; McGrath, 2001). Circumcision partially or completely excises the frenulum, and amputates the entire ridged band, which diminishes fullness and intensity of sexual response as well as physiological function (Taylor et al.,

1996; Cold and Taylor, 1999; Warren, 2010). Circumcision damages the mechanical function of the penis resulting in the loss of the gliding mechanism and reciprocal stimulation of the foreskin and the glans (Warren, 2010). The circumcised penis can lack sufficient genital skin to permit a full erection, and is slightly reduced and truncated in size (Warren, 2010; Talarico and Jasaitis, 1973). The foreskin provides for specialised erotogenic nerve endings, muscle sheath, and mucosal tissue; circumcision permanently amputates the principal erogenous zones of the penis, and diminishes the protective, mechanical, and sensory functions, as well as the sexual response system (Taylor et al., 1996; Cold and Taylor, 1999; Winkelmann, 1959; Sorrells et al., 2006; Hill, 2007; Frisch, et al., 2011; Bronselaer et al., 2013; O'Hara, 2001).

Urinary Tract Infection (UTIs)

The susceptibility of acquiring UTIs is low, and whilst circumcision may further reduce possible acquisition, it is contraindicated in the neonate (Amato and Garduno-Espinosa, 1992; Cunningham, 1986; Van Howe, 2005; Altschul, 1990; Bollgren and Winberg, 1991; Thompson, 1990; AAP Task Force, 1999; Kayaba et al., 1996; Fleiss et al., 1998). Several studies have demonstrated that UTIs are a complication of circumcision; and although serious if left to develop, these infections can be treated with antibiotics (Prais et al., 2009; Cohen et al., 1992; Goldman et al., 1996; Smith, 1916; Ginsburg and McCracken, 1982; McCracken, 1989).

Penile and Prostate Cancer, and Sexually Transmitted Infections (STIs)

Studies purporting circumcision as a prophylactic against penile and prostate cancers remain inconclusive, and circumcised men can nevertheless be at risk of acquisition of cancer (See: Fleiss and Hodges, 1996; Van Howe, 2007a; Abu-Sahlieh,

2012, p. 305-7; Cold et al., 1997; Dalton, 2012; Preston, 1970; Leitch, 1970; Seyam et al., 2006; Boczek and Freed, 1979; Oliver et al., 2001; Jackson et al., 1980; Wynder et al., 1971). Penile cancer tends to be more commonly found in the geriatric, and is uncommon (Maiche, 1992; Magoha and Ngumi, 2000; Poland, 1990). According to Gellis (1978), more babies die from genital cutting than men do from penile cancer. The American Cancer Society (ACS) advises against circumcision as a preventative for cancer of the penis, and the American Academy of Pediatrics (AAP) has stated that evidence suggesting that circumcision protects against prostate cancer is unconvincing (ACS, 2012, p. 11; Thompson et al., 1975). Several studies have demonstrated that there is also no statistically significant relationship between genital status and STIs (See: Donovan et al., 1994; Dickson et al., 2008; Dave et al., 2003; Richters et al., 2006; Thomas et al., 2004; Ferris et al., 2010; Mehta et al., 2009; Templeton et al., 2009; Rodriguez-Diaz et al., 2012).

Phimosis, Balanitis, and Balanitis Xerotica Obliterans (BXO)

Phimosis remains largely misdiagnosed, and gratuitous circumcision is often performed on otherwise normal and non-pathological foreskin of developing boys (Rickwood and Walker, 1989; Rickwood et al., 1980; Williams et al., 1993; Gordon and Collin, 1993; Griffiths and Frank, 1992; Shankar and Rickwood, 1999). Phimosis can often be conservatively treated without full excision; circumcision should be recommended only after topical therapies have been attempted (Fleet et al., 1995; Van Howe, 1998; Yilmaz et al., 2003; Atilla et al., 1997; Hoffman et al., 1984; Prakash, 1972; Wahlin, 1992; Cuckow et al., 1994; Wright, 1994; Dunn, 1989; Choe, 2000; Shahid, 2012).

Balanitis (inflammation of the glans) can affect both intact and circumcised males, and the difference in prevalence between them is statistically insignificant (Poland, 1990; Birley et al., 1993; Van Howe, 1997; Fergusson et al., 1988; Edwards, 1996). Circumcision may be indicated for recurrent balanitis (Escala and Rickwood, 1989; Kaplan, 1983; Eason et al., 1994). Genital hygiene protects against penile inflammatory infections; however, excessive washing can increase the likelihood of balanitis (Poland, 1990; Birley et al., 1993).

BXO is a rare skin disease that prevents foreskin retraction, and is another possible indication for circumcision (Leditshke, 1996; Cuckow et al., 1994; Meuli et al., 1994; Shankar and Rickwood, 1999). Method of treatment should begin conservatively with topical and steroid creams, and if unsuccessful, less invasive surgical interventions can be utilised (Catterall and Oakes, 1962; Poynter and Levy, 1967; Pasieczny, 1977; Rickwood, 1999; Shelley et al., 1999; Kiss et al., 2001; Ebert et al., 2007; Rosemberg and Jacobs, 1982; Rosemberg, 1985; Ratz, 1984; Windahl and Hellsten, 1993; Kartamaa and Reitamo, 1997). When surgical intervention is required, only the infected tissue should be excised (Milos and Macris, 1992).

HIV/AIDS

Several African studies have purported that circumcision greatly reduces acquisition of HIV, indicating that it be utilised as a preventative health strategy (Nagelkerke et al., 2007; Ngodji, 2010; Westreich et al., 2007; Wamai et al., 2012; Baeten et al., 2010; Siegler et al., 2012; Paicheler, n.d.). However, mass circumcision is neither as practical nor cost effective as safe-sex initiatives. These studies are unjustifiable because they: do not address behavioural issues that contribute to HIV

infection; demonstrate methodological flaws including research bias; underestimate risks and complications of circumcision including irreparable losses; and marginalise questions of ethics and human rights (See: Van Howe et al., 2000, 2005; Van Howe, 1999b; Darby and Van Howe, 2011; Boyle, and Hill, 2011; Bonner, 2001; Fox and Thomson, 2010b; Lyons, 2013; Boyle, 2004; Darby, 2004; de Vincenzi and Mertens, 1994). The findings of these studies have been used to promote infant circumcision in the US, which misrepresents the epidemic within local contexts, and exaggerates the relevance and applicability of the studies within the developed world, where many factors contributing to HIV acquisition greatly differ (Green et al., 2009; Van Howe et al., 2005; Darby and Van Howe, 2011; Fauntleroy, 2005; Lyons, 2013). Circumcision as a prophylactic against HIV seems to be contraindicated, given that the US suffers from pandemic rates of HIV whilst the highest incidence of circumcision within the industrialised world (Storms, 1996; Nicoll, 1997; Tanne, 1998).

Female Cervical Cancer and Women's Health

The correlation between male circumcision and female cervical cancer remains dubious (Bhimji and Harrison, 2003; Stern and Neely, 1962; Terris et al., 1973; Sumithran, 1977; Megafu, 1979; Menczer, 2003; Waldeck, 2003, 'Cervical Cancer'). This claim is based on the hypothesis that male smegma is carcinogenic; however, both males and females produce smegma, which consists of various genital secretions and epithelial cells, and is not harmful (See: Fleiss, 1999; p. 396-7; Patel, 1966; Reddy and Baruah, 1963; Prakash et al., 1982; Hyman and Brownstein, 1969; Wallerstein, 1985, 'Penile Cancer,' Abu-Sahlieh, 2012, p. 305). Women typically produce more smegma than men, and the substance helps to provide a natural lubrication, which aids sexual

intercourse (Van Howe and Hodges, 2006; Wright, 1970; Fox Internet Services, 2013).

The ACS has stated that circumcision as an intervention against cervical cancer is neither valid nor effective, and the suggestive research is ‘methodologically flawed’ (ACS, 1996).

Several studies have deflated the misconception that male circumcision reduces the risk of HPV (Aynaud et al., 1999; Van Howe, 2007b; Van Howe and Storms, 2009; Lehtinen and Paavonen, 2004; Storms, 2009). Genital cutting also does not reduce the incidence of chlamydia in women, bacterial vaginosis, herpes simplex type 2, or trichomonas (See: Turner et al., 2008; Laumann et al., 1997; Cook et al., 1994; Van Howe, 1999a; Zenilman et al., 1999; Schwebke and Desmond, 2005; Tobian et al., 2012; Dickson et al., 2005; Basset et al., 1994).

The studies that suggest male circumcision is beneficial to women’s health principally imply that foreskin is pathologic, and that men’s bodies are agents of infection. Although physicians attempted, unsuccessfully, to medicalise female genital cutting as a prophylactic for women’s health, it seems unlikely that irreversible genital modification in women would be an attractive method of immunisation for the health of men (Cooper, 1862; Sayre, 1875; Dawson, 1915; Eskridge, 1918; McDonald, 1958; Rathmann, 1959; Wollman, 1973; Mosucci, 1996). Circumcision as a health measure for an unknown beneficiary is speculative and unjustifiable (Waldeck, 2003, p. 488). In order to deter cervical cancer, it is best ‘to use condoms, to restrict the number of sexual partners, to practise good post-coital hygiene and to treat human papilloma virus infections in both males and females when they occur’ (Warren, 1997, p. 97). Community education and safe sex campaigns should be employed (Bassett et al., 1994).

Conclusion

This chapter has investigated the various paradigms surrounding male genital cutting, indicating that it is endemic, which varies in justification, type, frequency, and severity. Male genital cutting transcends popular conceptions, religious and cultural differences. Its ubiquity indicates that the practise is entrenched in sociocultural, religious, and medical frameworks, which become obstacle to human rights, and will be discussed in chapter 4.

The medicalisation of circumcision has resulted in dominant discourses, which inflate spurious health claims and trivialise the foreskin's role in male sexual health. This normalises male genital cutting and undermines discourses about human rights, at the centre of which include rights to bodily integrity and genital autonomy, which will be discussed in chapter 3. These rights also raise questions about impeding rights, such as rights of the child and of the parent, as well as obstacles to human rights, which will be discussed in chapter 4.

CHAPTER III

A HUMAN RIGHTS PERSPECTIVE

Introduction

Chapter 3 seeks to answer ‘why is male genital cutting a human rights issue and is it compatible with international standards?’ Several human rights concepts are discussed, including: consent, self-determination, autonomy, bodily integrity, genital autonomy, and equality. This chapter draws on principal international as well as regional instruments to argue that male genital cutting is a human rights issue, and does not comply with international standards. Chapter 3 enables an examination of obstacles, enforcement, and conflicting rights, which will be discussed in chapter 4.

Human Rights Universality

Human rights are universal and transcend human, cultural, and religious differences. The *Universal Declaration on Human Rights* (UDHR) functions in conjunction with the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR), to form the International Bill of Rights, which is the source of international standards and the core of human rights law (Freeman, 2002, p. 3). The Bill of Rights affirms the equality and inalienability of these rights, and presents ‘a summary statement of the minimum social and political guarantees recognised by the international community as necessary for a life of dignity in the contemporary world’ (Donnelly, 2007, p. 8). The Bill of Rights acknowledges that some people (such as children) are particularly vulnerable to human rights violations, and are guaranteed unique protections (Freeman, 2002, p. 101; Iovane, 2007; p. 236).

This dissertation utilises a ‘relative universal’ approach to human rights, which allows ‘considerable space for cultural, regional, national, and other variations in implementing ‘universal’ human rights (Donnelly, 2007, p. 38). Universalism, thus, embodies the value of autonomy and entails diversity in interpretation and application (Freeman, 2002, p. 106). The UDHR, written in response to imperialist abuses of the Second World War, conceptualises human rights, whilst ICESCR and ICCPR acknowledge non-Western ideals and validate rights and their corresponding duties (Rehman, 2010; Steiner & Alston, 2000; Freeman, 2002, p. 36).

Consent, Self-Determination, and Autonomy

According to Kennedy (1991, p. 178), consent is ‘an ethical doctrine about respect for persons and about power,’ which seeks to ‘transfer some power to the patient in areas affecting... self-determination, so as to create the optimal relationship between doctor and patient.’ This coincides with Article 6 of the *Universal Declaration of Bioethics and Human Rights* (UDBHR), which mandates informed consent of the patient for medical interventions. The right to self-determination is guaranteed by international standards (Article 1 of ICESCR and ICCPR), which allows all people to freely pursue their own developments. The Human Rights Committee (CCPR) (1984, [GC 12], Para. 1) notes, ‘the right of self-determination is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights.’ The right to self-determination provides a continuum of rights, and is applicable to other rights, such as the right to health (discussed below) and the right to freedom of thought, conscience, and religion (discussed in chapter 4) (Rehman, 2010, p. 478-9).

This shifts away from traditional paternalism to improve the approach to medicine in a collaboration between the physician and patient (Foster, 1998, p. 53). The physician has a duty ‘to explain what [s/he] intends to do, and its implications,’ so that the patient may fully understand the potential outcomes to either accept or reject the proposed therapy (McHale et al., 2007, p. 362). The UDBHR (Article 5) maintains that the physician ought to respect the autonomy of the patient, who has a duty to take responsibility for the decisions therein. US Courts in *Salgo v Leland*⁴ and *Canterbury v Spence*⁵ adjudicated that physicians must provide consequential information so that the patient is able to provide informed consent (Foster, 1998, p. 53; Jeffers, 1958; Sevier, 1967, p. 399; Murphy, 1976). Canadian Courts have similarly adjudicated, in *Reibl v Hughes*⁶ and *Ciarlariello v Schacter*⁷, that a patient has a right to know the risks of undergoing or abstaining from a proposed treatment (Foster, 1998, p. 53; Robertson, 1984; Picard, 1981, p. 446; Siebrasse, 1989; Flood, 2000). In *Re T* (1992)⁸ and *Collins v Wilcock*⁹, the UK Courts sustained the right of patient autonomy as ‘inviolable.’ Patients must be fully informed in order to make a decision for a recommended therapy, such as consenting to undergo circumcision.

Article 11 of the *Declaration of Helsinki* maintains that proxy consent must be obtained in cases of legal incompetence; the child’s consent, in addition to the legal guardian’s, must also be obtained if legally conceivable. The consent-giver (the person

⁴ *Salgo v Leland Stanford Junior Board of Trustees* 317 P 2d 170 (Cal, 1957), per Bray J.

⁵ *Canterbury v William Thornton Spence and the Washington Hospital Center* 464 F 2d 772 (DC, 1972).

⁶ *Reibl v Hughes* [1980] 2 SCR 880.

⁷ *Ciarlariello v Schacter*, [1993] 2 S.C.R. 119 at p. 135, 100 D.L.R. (4th) 609, 62 O.A.C. 161.

⁸ *Re T* [1992] 4 All ER 649, per Lord Donaldson MR

⁹ *Collins v Wilcock* [1984] 3 All ER 374 at 378

with parental authority), must be competent and fully informed, and able to provide consent without duress on behalf of the patient (the child to receive therapy) (Committee on Bioethics, 1995). Without accurate information about the risks of circumcision, including loss of preputial function and principal erogenous zones, parents are unable to ethically provide consent on behalf of their children. In light of the medical literature indicating risks, harms, and ethical dilemmas of genital cutting, the compulsion to withhold information to parents violates these provisions, which renders circumcision indefensible.

According to Price (1999, p. 443), ‘parents do not possess rights over their children, but rather have duties towards them, which give them certain defined powers to discharge those duties.’ In such cases requiring consent by proxy, the ‘child’s best interests are paramount’ (Price, 1999, p. 443). The *UK Children Act of 1989* (Section 3) delineates parental responsibilities, whose authority can, in some cases, be overruled in order to protect the child. US Courts in *Prince v Massachusetts*¹⁰ and *Parham v JR*¹¹ adjudicated that parental authority is not absolute, which the government may impede in order to maintain child welfare.

The *Convention on the Rights of the Child* (CRC) secures the child’s best interests at Article 3(1). Its monitoring Committee (CmtRC) notes that the ‘child’s best interests is aimed at ensuring both the full and effective enjoyment’ of human rights, ‘and the holistic development of the child’ (CmtRC, 2013b, [GC 14], Para. 4). This includes ‘the child’s physical, mental, spiritual, moral, psychological and social development’ (CmtRC, 2003, [GC 5], Para. 12). ‘An adult’s judgment of a child’s best interests cannot

¹⁰ *Prince v Massachusetts*, 321 US 158 (1944)

¹¹ *Parham v. J.R.*, 442 US 584, 602-606 (1979)

override the obligation to respect all the child's rights under the Convention' (CmtRC, 2011, [GC 13], Para. 61). This includes the right to bodily integrity, indicating that proxy consent is valid only for medically indicated therapies in times of exigency.

Proxy consent is, therefore, invalid for routine infant circumcision because the patient suffers no pathology, and requires no therapeutic treatment (DOC, 2012, p. 3). Courts in Canada, Australia, and Germany (*E. (Mrs.) v. Eve*¹², *Marion's Case*¹³, and *Köln*¹⁴) have adjudicated that proxy consent is unfounded for non-therapeutic interventions. The Queensland Law Reform Commission (QLRC) notes that 'if the nature of the proposed treatment is invasive, irreversible, and major surgery and for non-therapeutic purposes, then court approval is required before such treatment can proceed' (QLRC, 1993, p. 38). A parent can only consent to medical treatment if it is in the best interests of the child, and circumcision is not in the child's best interest because it is unnecessary and harmful (See: Chapter 2; QLRC, 1995, p. 34-5). The UDBHR (Articles 4, 7(a)) maintains that the benefits and the patient's best interests must be prioritised, whilst the harms of the intervention in question must be minimised. Healthcare providers have legal and ethical duties to provide the child-patient the care that s/he needs, not what third parties (including those with parental authority) desire for the patient (Committee on Bioethics, 1995). In *Gillick v West Norfolk*¹⁵, the UK Court noted that 'giving consent to medical treatment of a child is a clear incident of parental responsibility arising from the duty to protect the child.' This indicates that providing consent by proxy is not a right,

¹² *E. (Mrs.) v. Eve* 2 SCR 388 (1986)

¹³ *Secretary, Department of Health and Community Services v JWB and SMB* (Marion's Case) (1992) 175 CLR 218 FC 92/010

¹⁴ *Langericht Köln*. (7 Mai 2012) Urteil 151 Ns 169/11

¹⁵ *Gillick v West Norfolk and Wisbech Area Health Authority* [1985] 3 All ER 402 at 420

but a parental obligation (Price, 1999, p. 444). The international community recognises the rights of children as a group (Bainham, 2000, p. 113; Bridgeman and Monk, 2000, p. 1). The CRC affirms their right to ‘self-determination, dignity, respect, non-interference, and the right to make informed decisions’ (McHale et al., 2007, p. 406).

The *Declaration of Geneva* outlines a physician’s oath, which maintains: (1) the health of the patient is the foremost medical consideration; (2) all patients deserve superior medical care without discrimination of any kind; and (3) the physician must respect human life (Para. 3, 5-6). The *International Code of Medical Ethics* (ICME) stipulates: (1) medical treatments ‘which could weaken physical or mental resistance of a human being’ must only be enacted in the patient’s interests; (2) the physician has a duty to be fully loyal and utilise all scientific resources; (3) s/he must observe the *Declaration of Geneva*. In order to be in compliance with these provisions, therapeutic treatments, such as medically indicated circumcision, must only be employed after all conservative therapies have failed. The practise of non-therapeutic circumcision violates the ICME, by weakening the reproductive organ and by breaching the principal consideration of the patient’s health as stipulated in the *Declaration of Geneva*. Unnecessary genital cutting contravenes the principles of self-determination and consent, and undermines human rights. Avoiding non-therapeutic interventions maximises these rights and the child’s best interests, which are principal to medical practise, and ensures compliance with international standards (Alderson, 1993; Meyers, 1990, p. 169; Brandazzi, 2008, p. S97).

Bodily Integrity

Several scholars discuss genital cutting in relation to rights to sovereignty, physical and sexual integrity, and a right to an intact body (See: Van Howe, 1997, p. 117;

Hammond, 1997, p. 128; Boyle, 2001; Baer, 1997, p. 199; Abu-Sahlieh, 1997, p. 55).

These rights conceptions can be synthesised as a right to bodily integrity, which indicates respect, autonomy, and security of the body.

According to McHale et al. (2007, p. 351), ‘everybody has a right to bodily integrity, which is protected by the criminal and civil law of assault and battery.’ The provision of consent protects against assault and battery, which includes ‘any type of activity that infringes the bodily integrity or liberty of another’ (McHale et al., 2007, p. 352). These actions may ‘directly and either intentionally or negligently [cause] some physical contact with the person of another’ (Brooke in McHale, et al., 2007, p. 352).

The right to bodily integrity, which prohibits contact of the body without consent, receives no specific mention within international instruments (McHale et al., 2007, p. 349). This, however, can be conceptualised within a corpus of recognised rights, to encapsulate rights to liberty, security of person, and privacy, freedom from inhuman treatment, and right to highest attainable standard of health (OSF, 2013).

Liberty, Security of Person, and Privacy

The UDHR (Article 3) and ICCPR (Article 9) mandate the right to liberty and security of person. This coincides with the right to privacy, which prohibits interference within the private sphere without due cause (UDHR 12; ICCPR 17). The CCPR (2013b, [GC 35], Para. 3) notes, ‘liberty of person concerns freedom from confinement of the body. Security of person concerns freedom from injury to the body, or bodily integrity,’ both rights of which are guaranteed to everyone. Genital cutting violates these provisions by impairing the child’s bodily development and integrity, and confines the body to ideologies, which will be discussed as an obstacle in Chapter 4. ‘Children are not the

property of their parents and have interests that are separable' to them (Fox and Thomson, 2010a, p. 22). The CRC (Article 16) protects children from interference with privacy. This can be extended to include a right to privacy regarding matters of the body, protecting against medically unnecessary modifications without the person's consent. Goldman (1997, p. 179) notes, 'recognising the infant as a person has important implications not the least of which is recognising infant autonomy.' All children, including 'babies and very young children, have the same rights... to have their best interests assessed, even if they cannot express their views or represent themselves in the same way as older children' (CmtRC, 2013b, [GC 14], Para. 44). But, circumcision is performed without any regard for the infant's preferences, wants, and needs, violating the UDBHR (Article 8), which dictates that 'individuals and groups of special vulnerability should be protected and the personal integrity of such individuals respected.' Children may want to keep all parts of their genitals, an interest that must be acknowledged, and they should have the liberty to make this decision upon attaining competence (Peterson, 2001, p. 285; Abusharaf, 2006, p. 11). All actions relating to children must 'take into account their best interests as a primary consideration,' which 'include decisions, but also all acts, conduct, proposals, services, procedures and other measures' (2013b, [GC 14], Para. 17). Postponing involuntary, medically unnecessary genital cutting affirms these rights and complies with prioritising the child's best interests.

Freedom from Cruel, Inhuman, or Degrading Treatment

The *Geneva Declaration of the Rights of the Child* (GDRC) extends particular care to children, including the right to protection against all forms of exploitation (Massie, 1999, p. 340; GDRC, Para. 4). Human rights provisions secure the right to freedom from

torture and cruel, inhuman, and degrading treatment (ICCPR 7; UDHR 5). The *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) defines torture in terms of intentional infliction of severe pain or suffering (Article 1(1)). The monitoring body has indicated that torture can ‘be understood as referring to such cruel, inhuman or degrading treatment which causes pain, exhaustion, disability or dysfunction of one or more parts of the body,’ which includes ‘mutilation, such as amputation of the essential parts of the body such as the genitalia...’ (CmtAT, 2009, p. 5, Article 1(a-9)). The Ad Hoc Working Group Ecumenics International (1995) notes, ‘genital mutilation is a traditional practise of physiological torture and psychological trauma destroying reproductive integrity and sexual health with significant risks of death.’

The CRC (Article 37(a) and 39) mandates the protection of children against all forms of cruel, inhuman, and degrading treatment. The CmtRC stresses ‘no ambiguity’ in this right, which ‘does not leave room for any level of legalised violence against children’ (CmtRC, 2006, [GC 8], Para. 18). This includes physical violence, and ‘violence in the guise of treatment’ (CmtRC, 2011, [GC 13], Para. 23). Non-therapeutic genital cutting is a form of violence, which attempts to treat otherwise normal and non-pathological genital conditions (Darby 2001, 2005). Circumcision amputates several essential components of the penile system (See: Chapter 2, ‘Medicine’), indicating that cutting without medical indication violates this principle (Svoboda, 1997, p. 206).

Health

The UDHR (Article 25) establishes ‘a right to a standard of living adequate for the health and well-being’ of oneself and one’s family. This ‘aims to guarantee the

preconditions of good health’ (McHale et al., 2007, p. 8). ICESCR (Article 12) secures the right to the highest attainable standard of health, which is fundamental and ‘indispensable for the exercise of other human rights’ (CESCR, 2000, [GC 14], Para. 1). The CRC (Articles 17 and 24) grants this right to children, facilitating the child’s optimal development. Article 6(2) of the CRC also ensures the ‘maximum extent possible the survival and development of the child.’ Optimal health includes the maximisation of physical, sexual, and psychological development. Circumcision hinders maximum development by amputating vital genital tissue, and by producing short and long-term psychological affects (Denniston, 2013; Goldman, 1997). ‘Children must be guaranteed the opportunity to develop physically in a healthy and normal way’ (Boulware-Miller, 1985, p. 164-65). Amputation of genital tissue has irreversible consequences whereas remaining genitally intact does not; an intact person may elect for circumcision later in life, but circumcision cannot be undone (Fox and Thomson, 2010a, p. 26-7). This irreversibility limits choice and does not allow complete development of the genitals.

The CRC (Article 6(1)) ensures the inherent right to life, and mandates prevention of infant and child mortality (Article 24(2)). As death by genital cutting is a risk, unnecessary circumcision places the child at avoidable risk of death, which violates Articles 6(1) and 24 (Svoboda, 1997, p. 207; Scurlock and Pemberton, 1977; Baker, 1979; ‘Circumcision Deaths,’ 2013). The right to life ‘overlaps with the right to security of person,’ which in a broader context, ‘also addresses injuries that are not life-threatening’ (CCPR, 2013, [GC 35], Para. 58). Genital cutting which does not result in death violates the right to security of person, and the child inevitably sustains injuries in the form of diminished genital tissue and function.

Exposure to the risks of non-therapeutic interventions would also indicate a violation of the UDBHR (Article 3(1)), which mandates that ‘human rights and fundamental freedoms [be] fully respected.’ As the CmtRC reminds, children may lack the full autonomy of adults, but are still subjects of rights (CmtRC, 2009, [GC 12], Para. 1). The interests and welfare of the child must be prioritised (UDBHR, Article 3(2)), which contraindicate irreversible interventions without clear medical exigency. Such interests include the opportunity to reach normal physical and psychological development. This is in accordance with the GDRC, which mandates that children ‘must be given the means requisite’ for their natural development (Para. 1). The CmtRC notes, ‘the advantages of all possible treatments must be weighed against all possible risks and side effects...’ (CmtRC, 2013b, [GC 14], Para. 77). Van Howe and Svoboda (2008, p. 807) note, ‘...even with pain relief, the inherent risks and burdens of the circumcision, including loss of the functions of the foreskin, outweigh any benefits.’ In cases of genital pathology and infection, the least invasive and irreparable methods of treatment must be utilised. Children are entitled to the enjoyment of their rights set forth by these instruments, and the potential benefits that the child may or may not receive are not justifiable to undermine their human rights.

Regional Instruments and Bodily Integrity

The *Vienna Declaration and Programme of Action* (VDPA) reaffirms the universality, interdependence, and interrelatedness of the international human rights regime (Rehman, 2010, p. 69, 140). It is, therefore, important to test male genital cutting against American, European, African, and Arab regional instruments, which strengthen the international system, by providing distinctive norms, and adding to knowledge ‘about

possible methods for protecting and promoting human rights’ (Steiner et al., 2007, p. 925).

American Instruments

The *American Convention on Human Rights* (ACHR) prohibits cruel, inhuman, and degrading treatment, and secures the right to ‘physical, mental, and moral integrity’ (Article 5). The *Inter-American Commission on Human Rights* (IACHR) notes:

The right to humane treatment cannot be suspended under any circumstance. Securing respect for the basic human integrity of all individuals... is a central purpose of the Convention... and of... Article 5 in particular (IACHR, 2011c, p. 119).

This indicates the inalienability and inviolability of the right to integrity, which is applicable to forced genital cutting in the healthy child. The ACHR (Article 7) and the *American Declaration on the Rights and Duties of Man* (ADRDM) (Article 1) guarantee the right to liberty and security of person. ‘An essential aspect of the right to personal security is the absolute prohibition of torture’ (IACHR, 2011c, p. 119). This protects personal security, which, as a group of rights, includes ‘the right to life, the right to physical integrity, [and] the right to freedom’ (IACHR, 2009, p. 6). Medically unnecessary genital cutting violates these provisions, by inflicting degrading treatment and by placing the healthy child at avoidable risk of serious complications, including fatality (Snyder, 2009). The ACHR (Article 11) and ADRDM (Article 5) maintain the right to privacy. This ‘prohibits any arbitrary or abusive interference in the private life of persons, and specifies a number of realms of privacy, [including] the private life of the family, domicile and correspondence’ (IACHR, 2009, Section E-174). The most private

aspect within this sphere is the body, and the reproductive organs, which circumcision violates.

The ACHR (Article 19) and the ADRDM (Article 7) guarantee that children are entitled to special protection, care, and aid. These provisions ‘view children as human beings that deserve assistance and care due to their status as minors’ (IACHR, 2008, Chapter 1-C). Such care extends to protecting children from circumcision, for which proxy consent is invalid without medical indication. The ADRDM (Article 11) secures the right to preservation of health. To achieve this right requires informed consent for medical treatments and the capability to attain the highest attainable standard of health. Medical intervention without the consent of the patient ‘may constitute a violation of the patient's human rights,’ including the ‘violation of the person's right to personal integrity protected by Article 5 of the [ACHR]’ (IACHR, 2011a, p. 18-19). Genital cutting violates each of these provisions, and in order to respect human rights, intervention must be postponed upon apparent exigency.

European Instruments

The *Declaration on the Promotion of Patients' Rights In Europe* (DPPRE) (Article 3) affirms that informed consent ‘is a prerequisite for any medical intervention,’ and that all patients have a right to consent to, or refuse, any medical treatment (WHO, 1994). This is in accordance with the *European Convention on Human Rights and Biomedicine* (ECHR) (Article 5), which requires informed consent for medical interventions. The *European Charter of Patients' Rights* (ECPR) (Articles 4 and 5) guarantees the right of access to information, which otherwise facilitates an informed decision about medical intervention, and the right to freely choose the preferred treatment

(ACN, 2002). The *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (CPT) noted in their General Report:

Patients should, as a matter of principle, be [able] to give their free and informed consent to treatment... Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances (CPT, 1998, Para. 41).

The *Charter of the Fundamental Rights of the European Union* (CFREU) (Article 35) indicates that people have the right to access preventative health care and to benefit from medical treatment. This would include circumcision insofar as it is medically indicated, but unnecessary interventions violate Article 35, in addition to the *European Charter for Children in Hospital* (ECCH) (Article 5), which maintains that ‘every child shall be protected from unnecessary medical treatment and investigation.’ This is in accordance with the CFREU (Article 24), which grants protection to children to maintain their best interests and well-being. The ECHR ensures ‘equitable access to health care of appropriate quality’ (Article 3) whilst the *European Social Charter* (ESC) (Article 11) secures the right to the highest attainable standard of health. In cases of genital pathology, conservative methods of treatment must be employed prior to therapeutic circumcision (Van Howe, 1998). Genital cutting as a prophylactic is indefensible, and the effects of circumcision prohibit the child’s ability to reach the highest attainable standard of health (Hodges et al., 2002).

The CFREU (Article 6) and the *European Convention on Human Rights* (ECHR) (Article 5(1)) mandate a right to liberty and security of person. These provisions (CFREU, Article 7; ECHR, Article 8) ensure the right to privacy within the domestic sphere. The European Court of Human Rights (ECtHR) has conceptualised private life broadly, to

include physical and moral integrity, self-determination, and personal autonomy (Roagna, 2012, p. 12). Personal autonomy, then, ‘must be interpreted as including the right to make choices concerning one’s body,’ which may include questions of the genitals (Roagna, 2012, p. 16). This coincides with the CFREU (Article 3), which grants integrity of the person, including physical and mental integrity. ‘Non-consensual or compulsory medical treatment or examination, regardless of how minor, will certainly fall within the protective scope of private life under Article 8’ (Roagna, 2012, p. 24). Nontherapeutic genital cutting violates rights to liberty and security of person by invalidating the child as an autonomous being and ignoring the child’s preferences, wants, and needs (Goldman, 1997, p. 197). Autonomy in matters of the body includes those affecting the genitals, and in particular, those which sacrifice healthy genital tissue.

The CFREU (Article 4) and ECHR (Article 3) secure the right to freedom from torture and cruel, inhuman, and degrading treatment. Infant genital cutting complies with the definition of torture (CAT, Article 1) in that ‘it can cause severe pain and it is intentionally inflicted’ (Svoboda, 2013b, p. 5) Non-consensual, nontherapeutic interventions with or without anaesthetic can be recognised as degrading and inhuman treatment, which place the child at avoidable risks. The *Council of the European Union* (CEU) notes:

...Violence against children represents a particularly widespread violation of children’s rights, also compromising children’s developmental needs. Different forms of violence continue to affect the lives of children of all ages in every region of the world, including physical, mental, psychological and sexual violence... (CEU, 2009, p. 56).

The *Royal Dutch Medical Association* (RDMA) (2010, p. 5), has condemned the practise of male genital cutting, indicating that ‘non-therapeutic circumcision of male minors conflicts with the child’s right to autonomy and physical integrity.’ The RDMA also notes that genital cutting can be delayed ‘until the age at which such a risk is relevant and the boy himself can decide about the intervention, or can opt for any available alternatives’ (RDMA, 2010, p. 5). The *German Academy for Pediatrics and Adolescent Medicine* (DAKJ) has also condemned genital cutting as medically unnecessary and beset by various complications and risks (DAKJ in ‘German Pediatric Association,’ 2013). *British Association of Paediatric Surgeons* et al. (2001) list three indications for circumcision, which is indicative of its futility in the majority of children. Genital cutting constitutes violence to children, which places them at preventable risk to life-long complications (Fletcher, 2013). Circumcision of minors is unnecessary, which, to sustain compliance with regional instruments, should be deterred until the child can provide consent.

African Instruments

The *African Charter on Human and People’s Rights* (ACHPR) (Article 4) confirms the inviolability of human rights, and notes that ‘every human being shall be entitled to respect for his life and the integrity of his person. The *Organisation of African Unity* (OAU) (1996) confirms the universal right to protection from all forms of exploitation. The *African Charter on the Rights and Welfare of the Child* (ACRWC) (Article 5(2)) ensures the ‘maximum... survival, protection, and development’ of children. All persons, including children, have the right to achieve the ‘best attainable state’ of health (ACRWC, Article 14; ACHPR, Article 16). The Commission

acknowledges that the right to health must be ‘fully realised in all its aspects without discrimination of any kind’ (Nolan, 2010, p. 153). Genital cutting violates these provisions, by disallowing the development of the child to the fullest capacity. This indicates that the best course of action would be to refrain from unnecessary modifications in order to respect the child’s bodily integrity. Children must be protected from harmful traditional practises, and in particular, those that are prejudicial to their health or life (ACRWC, Article 21(1)). The CmtRC received the state report of Lesotho, which acknowledges ‘the problems arising from circumcision’ (CmtRC, 2001b). Lesotho’s 1998 Addendum report noted, ‘children should be allowed to decide at 21 years of age whether or not they want to be circumcised’ (CmtRC, 1998, p. 47). Guinea-Bissau noted in its report:

Traditional practices... are causing serious problems for children and women. The circumcision of boys aged 9-13 years and the partial or total excision of the clitoris in girls aged 7-12 years... are the most cruel and harmful practices. Notwithstanding the harm caused by these practices, which have been strongly condemned, there are no effective measures at the national level to eliminate them (CmtRC, 2001a, Para. 52).

Regional mechanisms acknowledge that consciousness must be raised to eradicate sociocultural practises that hinder the health of the child (African Committee, 2010, p. 2; African Unity, 2008). The *African Commission’s Working Group* has indicated that practises interfering with the right to health must be discouraged, and child mortality should be reduced (Working Group, 2012, p. 4). Non-therapeutic genital cutting is contraindicated as a custom inconsistent with the rights set forth in the ACRWC (Article 3), which should be prevented. The Commission has noted ‘that the promotion and

defense of the rights of the child is the only way of safeguarding the future of the African continent’ (African Commission, 1999).

Arab and Islamic Instruments

The *Revised Arab Charter on Human Rights* (RACHR) (Articles 33(2) and 39) declares the protection of children to ensure the maximisation of optimal physical and mental development and health. This coincides with the *Covenant on the Rights of the Child in Islam* (CRCI) (Article 6(2)), which guarantees the ‘basics necessary for the... development of the child.’ The *Tehran Declaration* (2009) confirms that the ‘enjoyment of the highest attainable standard of health’ is a universal human right. Genital cutting violates these provisions by prohibiting the child’s body to develop to its fullest capacity. The *Cairo Declaration on Human Rights in Islam* (CDHRI) (Article 2(d)) guarantees protection from bodily harm. The CDHRI (Article 18(a)) also mandates a right to security of the person, including one’s property, and the *Universal Islamic Declaration of Human Rights* (UIDHR) (Article 2(b)) guarantees the inalienable right to freedom in all of its forms including physical. These are applicable to non-therapeutic genital cutting, which breaches the rights to freedom from bodily harm, personal security, and physical freedom. The *Rabat Declaration* (Article 9) prohibits ‘all forms of exploitation, abuse, torture and violence, including physical, mental, sexual and domestic violence.’ The *Islamic Conference of Ministers in Charge of Childhood* affirmed that children are entitled to the optimal development and ‘fulfilment of their hopes and aspirations’ (Resolution, 2011). Parents should protect their children from harmful traditional practises to ensure that they have the opportunity to enjoy these rights (CRCI, Article 20(2)), and achieve their aspirations, which may include the desire to live genitally intact.

Regional discourses of human rights are anchored in an infallible Islamic ethos, which dictates that rights are provided by Allah and are acquiescent to the Shar'ia (El Sayed Said, 1997; Rehman, 2010, Chapter 11:2). Resolution 1 of the Islamic Conference of Health Ministers emphasises that 'Islam provides solutions to all problems that are faced by humanity' (Resolutions, 2009, p. 1). The CRCI (Article 15(2)) specifically mandates the 'right of a male child to circumcision,' and appears to be the only human rights provision to do so. This article appears under a web of rights to health, and is omitted under rights of religion and culture. This may suggest that discourses of religious and cultural rights are inconsequential, and that discourses of health are most pertinent to Article 15(2). The wording of this provision also suggests autonomy of behalf of the child to freely choose to enjoy the right to circumcision, as opposed to a parent obliging the child to undergo genital cutting. Obligation without medical indication appears to violate the CDHRI (Article 11(a)), which states that all 'human beings are born free,' in addition to violation of the Qur'an, which proclaims no compulsion in religion (2:256), and perfection of Allah's creation (See: 95:4; 27:88; 32:7; 67:3).

Genital Autonomy

Several declarations have been drafted which attempt to universalise all practises of genital cutting as a violation of international standards. These provisions emphasise the universal right to genital autonomy, which emerged as an international response to female genital cutting (Mason, 2010). Genital autonomy, similar to the right of bodily integrity, concentrates on integrity of the genitals, which protects against medically unnecessary and involuntary modifications.

The *Universal Declaration on Circumcision, Excision, and Incision* (UDCEI) (Para. 5) identifies anaesthetised genital cutting as cruel and inhuman treatment, and unanaesthetised genital cutting as an act of torture. The *Declaration of Genital Integrity* (DGI) (Para. 1, 11) affirms the ‘inherent right of all human beings to an intact body,’ and recognises genital cutting as a form of torture, which violates the UDHR (Article 5).

The *Ashley Montagu Resolution to End the Genital Mutilation of Children Worldwide* (AMR), which has been endorsed by several Nobel laureates and non-governmental organisations (NGOs), affirms the UDHR and CRC to oppose all forms of genital cutting (See: Prescott, 1997, 2002; Lewis, c.2003; Salk, 1995; Crick, 1995; ‘Humanist Voices,’ n.d.). The *Universal Covenant of Ecumenics International* (UCEI) (Para. 1) calls on humanity ‘...to challenge the bloody trajectory of female and male genital mutilation’ (Zavales, 1996). The *Oxford Declaration* (Article 2) calls upon the international community to adopt a resolution to prohibit genital cutting of children, giving exception only to medically indicated procedures (Bonner, 1999).

The *Helsinki Declaration of the Right to Genital Autonomy* (HDRGA) (Para. 2), unlike the previous provisions, provides the most detailed account of the right to genital autonomy, which is the right to ‘personal control of [one’s] own genital and reproductive organs; and protection from medically unnecessary genital modification and other irreversible reproductive interventions.’ Para. 3 stipulates that only competent and informed patients may provide consent, and in the case of incompetent persons, a public authority should be appointed to balance human rights concerns, best interests of the person, and the family’s opinions. The HDRGA (Para. 4) also affirms the human right to freedom of thought, conscience, and religion, which will be discussed in Chapter 4. The

HDRGA utilises language of rights rather than violations, and recognises violations as ‘medically unnecessary interventions.’ This might serve useful in order to gain support within the international community, which is currently lacking and is unlikely to arise with the previous sensationalist instruments that do not allow for regional interpretation.

Each of these provisions streamlines all forms of genital cutting as a violation of human rights irrespective of sex and severity. The VDPA (Article 5) and the *Proclamation of Tehran* (PT) (Article 2) reaffirm the universality of human rights. The PT (Article 5) also emphasises the aim of the regime to maximise individual freedoms. With that in mind, the right to bodily integrity, or genital autonomy, is inalienable, to which all children are entitled (Otoo-Oyortey in Smith, 2010, p. 212; el-Salam Mohamed, 2001; Abu-Sahlieh, 1997, p. 55). The denial of this right to boys, but not to girls, indicates disrespect of human rights inviolability and undermining of their universality, which proclaims that only females are worthy of enjoying this freedom. This is unconscionable. If bodily integrity is recognised as a human right, it must be universally recognised irrespective of sex (Abu-Sahlieh, 1997, p. 59).

Equality

Rights to equality and non-discrimination are universally recognised in the International Bill of Rights (UDHR 1, 2; ICCPR 2(1), 3(1); ICESCR 2(1), 3)). Regional systems also secure rights to equality and non-discrimination in American (ADRDM 2, ACHR 1(1)), European (ECHR 14), African (ACHPR 2), and Arab instruments (UIDHR 3, RACHR 3, CDHRI 1(a)). The CCPR notes:

...All human beings should enjoy the rights provided for in the Covenant, on an equal basis and in their totality. The full effect of this provision is impaired

whenever any person is denied the full and equal enjoyment of any right (CCPR, 2000, [GC 28], Para. 2).

Male genital cutting violates numerous international standards, prohibiting males from enjoying these rights equally alongside females. The UDBHR (Article 10) mandates respect of the equality of all human beings. Equality in rights includes ‘equality of opportunity for people to enjoy the highest attainable level of health’ (CESCR, 2000, [GC 14], Para. 8). Conservative interventions are used to treat genital pathology and infection in females, but males are treated with circumcision, an irreversible and radical intervention (See: McCracken, 1989; AAP, 1999; Svoboda et al., 2000a, p. 96). This differential treatment violates equality in rights by disallowing males the same opportunity to enjoy the highest attainable level of health.

Children are also entitled to rights of equality and non-discrimination, which are guaranteed in the CRC (Article 2) and in regional instruments (CRCI 3(4); ACRWC 3). The ACRWC (Article 2(b)) notes that children are entitled to protection against harmful traditional practises including ‘those customs and practises discriminatory to the child on the grounds of sex or other status.’ Males are not protected against genital alternations whilst girls are protected. The UDBHR (Article 11) prohibits discrimination and stigmatisation ‘on any grounds,’ including the violation of human rights and fundamental freedoms. Laws which prohibit some forms of genital cutting but not others, based on sex, violate the UDHR (Article 7), which ensures equality and equal protection of the law. Svoboda (1999, p. 457) notes the importance of resisting ‘any temptation to create hierarchies of rights and then to argue that we need not or cannot now address the abuses we have placed lower in our hierarchy.’ This is apropos to the legal classification of

genital cutting, which takes a strong position against female genital cutting, but does not recognise the violations of male genital cutting. The ‘differential terminology... facilitates differential treatment. We do not speak of male rape and female rape... There is no reason (and no justification) for this gender-stratified taxonomy’ (Svoboda, 2010a, p. 3). The resulting ranking of oppressions privileges some experiences over others (Moraga, 1979, p. 29). By recognising and applying international standards to members of one sex, but not the others, the international community stratifies norms by sex, delegating that one group is entitled to human rights, but not the others. The ‘hypocritical condemnation of one form of circumcision... merely because the act is considered ‘more’ extreme demonstrates a basic denial and ignorance of human rights law’ (Svoboda, 1999, p. 457). All children are entitled to the full enjoyment of their rights, and the international community must ensure that the protection and enforcement of their rights are realised.

Conclusion

This chapter has examined international and regional standards, indicating that male genital cutting is incompatible with, and violates, human rights. The international community recognises and secures rights to liberty, security of person, and privacy, freedom from inhuman treatment, and the right to highest attainable standard of health. This corpus of rights secures the right to bodily integrity, which protects against assault and involuntary contact, and by extension, genital autonomy, which insures integrity of the genitals and freedom from medically unnecessary modifications.

Male genital cutting, as a medically unnecessary, harmful, and involuntary custom, violates rights to bodily integrity and self-determination, as well as the principle of consent, which only the informed patient may provide. Proxy consent is

contraindicated, and therefore invalid, for unnecessary treatments. International standards must be applied and enforced equally so that all children may enjoy their rights and freedoms including rights to equality and freedom from discrimination. Sex-stratified standards violate the very provisions which attempt to protect against sex inequalities.

‘Human rights are heavily influenced by prevailing cultural norms,’ and consequently, culture is often a robust obstacle to their enforcement (Svoboda, 1999, p. 459). Obstacles to human rights include religious, sociocultural, and medical paradigms, and raises concerns of impeding rights, such as the right to freedom of thought, conscience, and religion. These obstacles, in addition to the ensemble of mechanisms for the enforcement of human rights, will be discussed in chapter 4.

CHAPTER IV

MECHANISMS OF ENFORCEMENT AND OBSTACLES TO HUMAN RIGHTS

Introduction

Chapter 4 seeks to answer ‘what are the mechanisms of enforcement and obstacles to human rights related to male genital cutting?’ International and regional mechanisms are examined as well as the concern of non-ratification amongst States. Obstacles to human rights include religious, medical and sociocultural paradigms in addition to gender archetypes and confinement to ideology. This dissertation argues that the right to freedom of belief is a universal human right, which must be protected for everyone, but parental religious freedom is not compelling to override the rights of the child. Chapter 4 enhances the human rights investigation of male genital cutting by addressing what action can be taken to combat the violation of international standards and which barriers are in place to disrupt the programme of action.

Mechanisms of Enforcement and Non-Ratification

The international community provides an ensemble of mechanisms to enforce human rights standards, some of which are useful for the protection of children from genital cutting. The UN General Assembly issues resolutions concerning various matters, which carry significant weight in the international regime (Rehman, 2010, p. 31-4). UN bodies should immediately issue press conferences and resolutions calling for investigations and condemnation of male genital cutting, as they have done with similar abuses, such as female genital cutting (See: UN Department Public Information, 2012a,b). The HRC provides recommendations, facilitates interstate dialogue, and issues universal periodic reviews, which incorporate UN branches, NGOs, and observing States,

to monitor State compliance (Harrington, 2009, p. 91; Rehman, 2010, p. 50-2; Rivlin, 2008, p. 354-5; McMahon & Ascherio, 2012, p. 234). The HRC should investigate the geographical prevalence of genital cutting and pressure states to address methods of eradication. State reports which do not address known prevalence of genital cutting should be condemned, and States which do acknowledge the incidence in their jurisdiction must be held accountable for the human rights violations (See: CmtRC, 2001a,b). The appointed Special Rapporteurs, which investigate thematic mandates of human rights, and in particular, Rapporteurs concerning freedom of religion or belief, prevention of torture, and achieving the highest attainable standard of health, should immediately investigate and condemn male genital cutting (Rehman, 2010, p. 61-5; Rivlin, 2008, p. 355). Monitoring bodies, and in particular, the CmtRC, CCPR, and CmtAT, should swiftly produce resolutions which investigate and condemn the endemic practise of male genital cutting, in compliance with the CRC (Articles 43-5), ICCPR (Articles 40-1), and CAT (Articles 19-20), respectfully.

Reporting and complaints procedures of regional mechanisms should be utilised to pressure states to enforce human rights within American, European, and African jurisdictions (Rehman, 2010, Part 3; Leckie, 1988). The Rapporteurship on the Rights of the Child must be called upon to investigate and condemn male genital cutting within American states (IACHR, 2008, Chapter 1). The European Committee of Social Rights and the Governmental Committee should call upon States to investigate the prevalence of male genital cutting and report the findings so that recommendations for enforcement can be made (Council of Europe, 2012a,b; Rehman, 2010, p. 237-8). The Fundamental Rights Agency should begin investigating male genital cutting, and in particular, the rights of the

child and discriminatory implementation of rights based on sex, with European jurisdiction (Rehman, 2010, p. 261). The Special Rapporteur on Human Rights Defenders as well as the Working Group on Economic, Social, and Cultural Rights should begin researching male genital cutting within African States (ACHPR, 2013a,b). Statutory bodies, including the Organisation of Islamic Conference, should call upon Arab States to investigate male genital cutting, and they should appoint a Rapporteur who is knowledgeable in human rights, genital cutting, and Islam to address the endemic in the region (Rehman, 2010, p. 363; Vitkauskaite-Meurice, 2010).

State non-compliance and failure to ratify human rights provisions is an obstacle to enforcement, such is the case with the United States and its failure to ratify the CRC. However, ‘human rights agreements and other international laws may be widely enough observed by the community of nations to acquire the status of customary law,’ which is ‘applicable to all states’ (Svoboda, 1997, p. 205). Non-compliant States must be held accountable for the violations of internationally recognised provisions within their jurisdictions (Rehman, 2010, p. 20-3).

NGOs operate within local, national, and global sectors and maintain an influential role in pressuring states to enforce human rights (Lewis & Kanji, 2009). Genital autonomy NGOs largely function to promote and protect human rights by shifting sociocultural paradigms, and to enable social change. Several NGOs have submitted statements and written interventions to the international community, which have produced very little response (See: ARC, 1999; CHR, 2002; HRC, 2013). In addition to their grassroots advocacy, NGOs should improve their visibility and participation within the international regime, and continue to exert pressure on states to enforce human rights.

NGOs should make use of the international as well as regional mechanisms in place for the implementation of human rights, by calling upon the appropriate monitoring and statutory bodies and by participating in reporting and complaints procedures.

Obstacles to Human Rights

The Right to Freedom of Belief and Obstacles to Human Rights

The freedom of thought, conscience, and religion (hereafter ‘freedom of belief’) is one of the oldest and most widely recognised human rights (Humphrey, 1985, p. 174; Adhar and Leigh, 2013; Lillich, 1985, p. 158; Evans, 2000; Van Bijsterveld, 2000). The UDHR and ICCPR (Articles 18) secure the right to freedom of belief, which includes the right to freely change belief systems and the freedom to manifest belief in the private and public spheres. The CCPR emphasises that this right is ‘far-reaching and profound’ and the manifestation of belief ‘extends to ritual and ceremonial acts giving direct expression to belief’ (CCPR, [GC 22], 1993, Para. 1, 4). The ICCPR (Article 18(3)) stipulates that this right is subject to limitations ‘necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.’ The Commission on Human Rights (CHR) clarifies that such restrictions must not vitiate the right to freedom of belief (CHR, Resolution 54, 2003, Para. 5). The International Humanist and Ethical Union (IHEU), in its correspondence to the HRC (2013, p. 2-3), notes that the freedom of belief is not compelling to override the rights of the child, and that genital cutting violates ‘...the child’s health and its bodily integrity, and... is not the subject of protection of Article 18 but rather is legitimately to be restricted by the limitations of 18(3).’

Children possess rights independent of their parents, including the right to freedom of belief, which the CRC (Article 14) guarantees (Svoboda, 1997, p. 207).

Children are incapable of professing religious ideologies because they are unable to comprehend their value systems, dogma and practises (Jenkins, 2012). Dawkins (2008, p. 524) notes:

Our society... has accepted the preposterous idea that it is normal and right to indoctrinate tiny children in the religion of their parents, and to slap religious labels on them – ‘Catholic child’... ‘Jewish child’, ‘Muslim child’... – although no other comparable labels: no conservative children, no liberal children.... A child is not a Christian child... but a child of Christian parents... A child who is told she is a ‘child of Muslim parents’ will immediately realise that religion is something for her to choose – or reject – when she becomes old enough to do so’ (Dawkins, 2008, p. 524).

No infant or child is able to consent to religious rituals based on his or her own religion (Svoboda, 1997, p. 207). Baptismal rituals, which are symbolic professions of faith, differ from genital cutting, which incur physical damage and result in irreversible and harmful alterations to the child’s body. Religious excision is based on the ideology of the parents as opposed to the ideology of the child, whose genitals will be permanently disfigured by the ritual acquiescent to the parent’s dogmatic convictions. Whilst parents (and children) have an unlimited right to freedom of belief, the manifestation of this belief is not unconditional, and religious practises which violate the human rights of others, must not be left unquestioned. As Svoboda (1997, p. 207) notes: ‘a traumatic disfigurement of a

nonconsenting baby's sexual organs should qualify as such a violation under this exception. Therefore, human rights principles forbid the mutilation.'

The VDPA (Article 22) and PT (Article 11) reaffirm the right to freedom of belief and condemn anti-religious prejudice. The *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* (Article 3) calls upon the international community to condemn anti-religious discrimination. Advocacy to protect children from genital cutting is not, however, rooted in anti-religious discrimination, which seeks to protect children from all forms of involuntary and medically unnecessary interventions. People may be reluctant to criticise or condemn genital cutting, fearing the charge of 'anti-Semitism,' despite the fact that Jewish rituals constitute only 2-3.3% of the circumcisions in the US (See: Young, 2009, p. 241; Van Howe, 1997, p. 114; Goodman, 1997, p. 177; Goldman, 2004, p. 183-5; Abu-Sahlieh, 1999, p. 140; Fletcher, 1999, p. 259; Garber, 2013, p. 85-6). For instance, an American medical body noted: 'any attempt by any public agency to discourage non-medical circumcision could be misinterpreted as an attack on those religious groups which practise it'; and 'it is not proper for our government to adopt a policy that is directly or indirectly critical of a religious practise' ('Department of Health' cited in Van Howe, 1997, p. 114). Religious apology is a virulent obstacle to human rights, and the charge of anti-Semitism paralyzes discourses which question male genital cutting (Abu-Sahlieh, 1997, p. 55; Somerville, 1999, p. 414). Activists should recognise that opposition to genital cutting has been historically engrained in anti-Semitic rhetoric (Pollack, 1997, p. 171). However, genital autonomy scholarship is not 'anti-Semitic' as it is also not 'Islamophobic,' or 'anti-Aborigine,' because the scholarship advocates universal human

rights for everyone – not just those who are not Jewish, Muslim or Aborigine. The CHR encourages, ‘through education and other means, understanding, tolerance and respect in all matters relating to freedom of religion or belief’ (CHR, Resolution 54, 2003, Para. 4(g)). Inter-faith and inter-activist initiatives should be established to discuss the paradigms of male genital cutting, which must include religious scholars knowledgeable about bioethics, human rights, and alternatives to religious excision.

The CRC (Article 19) requires that States take all necessary action to protect the child from all forms of violence, abuse, and exploitation, including legislative, administrative, social and educational measures.’ The majority of parents very likely elect for genital cutting out of the best of intentions. Regardless of these intentions, the parents who choose circumcision for their children are nevertheless perpetrators of violence. Whilst parents have no deliberate desire to harm, parental acquiescence to genital cutting prohibits optimal care for the child, and results in impairment of child development. Although perhaps not ‘child neglect’ *de jure*, genital cutting is a socially conditioned behaviour, which does in fact result in harm, and may resemble neglect (Van Bueren, 1995, p. 88). Parents justify religious genital cutting based on their own religion, which may or may not be the religion to which the child wishes to ascribe upon fully comprehending the nature of the faith. Parents have a right to teach and guide their children within their own faith and a right to ‘pass their religion to their children’ (Gurfinkiel, 2012, p 3). This right, however, does not permit violating the rights of the child in the form of permanently excising healthy tissue from their bodies (CHR, Resolution 54, 2003, Para. 8). Parents must resist religious temptations to circumcise, so that they may become agents of change as opposed to perpetrators of violence.

Regional Mechanisms and The Right to Freedom of Belief

Regional mechanisms also secure the right to freedom of belief. Within the American states, the ACHR (Articles 12 and 13) secures the right to freedom of conscience and religion, and the right to freedom of thought and expression. The ACHR (Article 12(3)) also recognises the authority of the State to restrict the manifestation of belief in order to protect the rights or freedoms of others (Rehman, 2010, p. 284). The ADRDM (Article 3) secures the right to religious freedom and worship. Article 13 secures the right to cultural participation, which might include participation in a religious community.

Within the European states, the CFREU (Article 22) mandates respect for religious diversity, and recognises the right to freedom of belief (Article 10). The ECHR (Article 9) secures the right to freedom of belief, and limits its manifestation to protect the fundamental freedoms of others. States ‘must ensure the free exercise of religious beliefs... subject to the restrictions permitted... and combat religiously motivated intolerance, discrimination and violence’ (CDDH, 2013, p. 11). The DPPRE (Article 1(5)) requires that medical bodies respect the cultural and religious values of their patients, who are the recipients of proposed interventions. In the case of genital cutting, children are the patients, not the parents. Healthcare professionals must make every attempt to balance the wishes of the parents whilst remaining compliant with medical ethics and respecting the rights of the child.

The Cologne (*Köhn*, See: Chapter 3) court ruling in favour of rights to bodily integrity for boys held that ‘medical ethics requires that the child must in such cases be allowed to make his own decision upon reaching an appropriate age’ (Svoboda and Van

Howe, 2013, p. 5). This, however, created an expected controversy within religious communities, prompting legislation to provide religious exemption (Geisheker, 2013, p. 19; Shweder, 2013, p. 3; Goldman et al., 2013). The Cologne ruling raises broader questions about liberal autonomy, the limits to religious freedom, and the rights of the child (Levey, 2013). However, the subsequent controversy initiated an inter-faith, transnational and trans-scholar dialogue about the paradigms of medically unnecessary genital cutting.

The CDDH notes the need for inter-faith dialogue, and has also recognised that religious genital cutting raises ‘concerns of physical integrity;’ however, the Committee has not established sufficient inter-faith dialogue or discussion about the bioethics and human rights of genital cutting of children as of yet (CDDH, 2013, p. 7). The Committee also notes that freedom of belief is ‘a universal and inalienable right,’ which is necessary to respect ‘everyone’s rights and beliefs’ (CDDH, 2013, p. 10). States should ‘take into consideration the meaning of the practise... and... look for a solution which would be able to save the religious good at stake’ (Heimbach-Steins, 2013, p. 13). This should include addressing religious principles and the available alternatives to religious excision including scriptural interpretations that incite spiritual holiness instead of genital cutting (See: Chapter 2). States cannot protect human rights and ensure respect and tolerance by assuaging religious dogma for the sake of assuaging religious dogma. The right to freedom of belief cannot be appropriated and protected for some – the right to freedom of belief must be protected for all, including the children who have to endure the effects of a religious ritual which may or may not be a ritual of their own. Whilst prejudicial and discriminatory criticisms are unconscionable, religious ideology must not be viewed

above reproach (Earp, 2013b). All practises prejudicial to human rights and fundamental freedoms must be adjudicated against international norms.

Within African States, the ACHPR (Article 8) secures the right to profess and freely practise religion. The ACRWC (Article 9) notes that ‘any custom, tradition, cultural or religious practise’ inconsistent with rights set forth in the Charter may be ‘discouraged’ (Article 1(3)). The African Commission notes that ‘...[limitations] on the right to practise religion... must be based on exceptionally good reasons,’ and such restrictions ‘should be negligible’ (ACHPR, [Activity Report] 2009, Para. 172). Non-therapeutic genital cutting is inconsistent with the rights in the African Charter, and States must become instrumental in establishing initiatives to educate communities to reduce the practise. Parents should be able to freely manifest their faith in ways that do not harm their children, and prohibiting genital cutting is necessary to respect the rights of the child.

The CDHRI of Arab and Islamic jurisdictions does not stipulate a right to freedom of belief, but mandates a right to ‘live in security for himself, his religion, his dependents, his honour and his property’ (Article 18), and prohibits renunciation of faith by means of manipulation or force (Article 10). The RACHR (Articles 30, 25) stipulates the right to freedom of belief, and the right to religious participation. The manifestation of this right, however, may be restricted to preserve the rights and freedoms of others (Article 30(2)). The CRCI (Articles 2(4) and 5) does not secure the child’s right to freedom of religion, and acknowledges religion vis-à-vis protection from discrimination. This may indicate a more challenging obstacle to human rights within Arab and Islamic regions. These provisions are drafted in complete sycophancy to Allah and Shari’a

principles, suggesting that there might not be a freedom of belief for it is assumed that everyone obliges to Islamic principles within these jurisdictions. Initiatives to overcome obstacles to human rights, then, might need to conform to Islamic principles in some way in order to be successful. States should draw upon genital autonomy scholars who study Islamic human rights in order to enforce the rights of the child.

Activist declarations are generally weak on the recognition of the right to freedom of belief (See: AMR; UCEI; DGI, Para. 1; UDCEI, Para. 10). However, the HDGRA (Para. 1, 4) stipulates the universal right to genital autonomy, and notes that the manifestation of the right to freedom of belief is not unlimited, and parental religious beliefs are not compelling to override the rights of the child. This declaration is the most useful for genital autonomy scholarship and to the human rights regime. Its recognition of impeding rights enables compliance with international norms, which protect an unlimited right to freedom of belief, but limits its manifestation to protect the fundamental freedoms of others. Immediate prohibition of religious excision, whilst attempting to enforce human rights, would very likely prove ineffective and counterproductive (Earp, 2013a, p. 2; Fateh-Moghadam, 2012). Although such prohibitions may be tempting, sociocultural and medical paradigms must continue to shift in order to establish and maintain effective human rights compliance (Garber 2013, p. 85). Every effort should be made to protect the right to freedom of belief, including the right of the child to freely choose a faith (Uhlig, 2012).

Medical

The medicalisation of genital cutting remains a robust obstacle to human rights, which has resulted in misconceptions about male anatomy, genital function, hygiene,

disease, and the denial of pain experienced by the infant (See: Chapter 2, Milos and Macris, 1992). The denial of pain during infant circumcision serves a particularly important role in the perpetuation of male genital cutting. It is commonly purported that circumcision is minimally, if at all, painful (Anders et. al., 1970; Anders and Chalemian, 1974; Cope, 1998; Emde et. al., 1971; Tennes and Carter, 1973). However, male genital cutting is very painful and causes greater pain intensity in infants than in adults (Lander et. al, 1997; Sara and Lowry, 1985; Berens and Pontus, 1990; Snellman and Stang, 1995; Taddio et. al., 1997, 1995; Anand and Hickey, 1987). Anaesthetics are not fully effective, and some are contraindicated for use shortly after birth (Lander et al., 1997; Fontaine et al., 1994; Benini et al., 1993). Some infants may withdraw into neurogenic shock due to the sudden massive state of pain, seemingly resembling ‘sleeping’ through circumcision (Milos and Macris, 1992; Anand & Hickey, 1987; Denniston, 2006).

Physicians provide insufficient resources to parents about the functions of the foreskin and the complications and harms of genital cutting (Fletcher, 1999, Section 3; Zoosmann-Diskin and Blustein, 1999; Warren, 1997; Denniston, 1997). This may be the result of physicians’ ignorance of normal genital anatomy, and the absence of this knowledge within medical literature (Harryman, 2004; Scott, 1999; Hodges, 1999b, Section 4.2, 6; Fletcher, 1999, p. 260; Llewellyn, 1999, p. 477; Warren, 1997, p. 86). States must investigate and assess the level of care that medical bodies provide to its patients, including the literature disseminated to parents and the adequacy of parental ‘informed’ consent (Geisheker, 2008, p. 211; Longley, 2009; Sardi Ross, 2009).

Medical bodies remain zealously partial to the advocacy of circumcision, and tend to overlook bioethics, human rights, and literature which outlines the functions of the

foreskin and complications of circumcision (See: Denniston, 1999, p. 234; 2004, p. 50; 2006, p. 192; Reiss, 2004, p. 200; Fletcher, 1999, Section 4; Sorrells, 1999; Van Howe, 2013; 1999c; 1997b, p. 113-4; Fleiss, 1999; Whitfield, 1999; Chapin, 2009; Frisch, et al., 2013). States must investigate and condemn diagnoses of ‘pathologic indications’ for circumcision, including fraudulent misdiagnoses and hasty indications which can be treated conservatively (Geisheker, 2006). States must condemn the prevalence of forcible foreskin retractions, which are traumatic and avoidable (Geisheker, 2006; Geisheker and Travis, 2008). States must also investigate and condemn financial billing abuses, including fraudulent diagnostic codes, which allow physicians to perform circumcision for ‘congenital phimosis’ and ‘redundant prepuce’ – rubbish pathologisations of normal male anatomy (Craig and Bollinger, 2006; Craig et al., 2001; Geisheker, 2006, p. 208; ‘Disorders of Prepuce,’ 2013).

Socio-Cultural

The compulsion to stratify human rights and the types of genital cutting is a robust obstacle to human rights enforcement. The international community identifies four types of female genital cutting (which compress a diverse range of practises), but acknowledges only one form of male genital cutting (excision), even though several types are clearly documented (See: Chapter 2; WHO, 2007a, 2013). Common taxonomy stratifies genital cutting based on sex to claim that cutting of the female is ‘worse’ than cutting of the male (WHO, 2007a). This typology, however, represents a variety of cutting practises.

The international community categorises *all* types of female genital cutting as ‘genital mutilation’ (WHO, 2008). If ‘mutilation’ is defined by the impairment of

function, then incising, scraping, pricking, and/or piercing the female genitalia (Type IV female genital cutting) would not constitute ‘mutilation’ and might be exempt from the ‘genital mutilation’ classification. The AAP recently purported that ‘minor’ forms of female genital cutting are ‘permissible’, most specifically, nicking the clitoris (Van Howe, 2011). The attempt to medicalise female genital cutting to appease cultural and religious justifications was incredulously and stridently opposed, and very quickly, rescinded (Van Howe, 2011). According to Davies (2001, p. 487):

When... the normative status of [male genital cutting]... in the West [is questioned], and when one thinks of female alteration as including... [an] administered “nick,” one begins to see that these two practices, dramatically separated in the public imagination, actually have significant areas of overlap (Davies, 2001, p. 487).

The human rights regime, however, takes a universalist position against female genital cutting, indicating that all forms of female genital cutting constitute mutilation, and are harmful traditional practises, prejudicial to the health and wellbeing of women and girls (CEDAW, General Recommendation 14, 1990). Male genital cutting is also a harmful traditional practise, which affects the health and wellbeing of men and boys; however, the regime has failed to recognise this (See: Chapter 3; Svoboda, 1999).

The perceived differences in harm between female and male genital cutting are ‘often claimed to excuse human rights interpretations that only bar female genital mutilation and do not explicitly protect the male’s right to genital integrity’ (Svoboda,

1999, p. 456). This is based on false comparisons of the most severe form of female genital cutting (infibulation) to male excision, which do not take into account differences in local contexts, including conditions under which the cutting takes place and the training of the operators (Svoboda, 1999, p. 456). Whilst female genital cutting causes a variety of serious health complications (WHO, 2007a, p. 27), male genital cutting also causes short- and long-term health complications, which are well documented (See: Chapter 2). Male and female genital cutting ‘carried out under similar conditions have similar rates of long-term and short-term complication,’ and the true distinction between these two practises ‘appears likely to be one of degree rather than kind’ (Svoboda, 1999, p. 456). This can be illustrated by disrupting sex taxonomy, to reorganise the practises based on *estimated* severity (Table 4.1). In doing so, the inefficiency of stratifying based on sex becomes clear, as not all forms of female genital cutting are ‘worse’ than all forms of male genital cutting.

Table 4.1 – Male and Female Genital Cutting: Estimated Severity Spectrum¹⁶

MGC	Castration
FGC	Infibulation and Clitoridectomy
MGC	Testicular Extirpation and Excision
MGC	Testicular Extirpation
FGC	Infibulation
FGC	Complete Clitoridectomy and Excision of Labia Minora and Majora
FGC	Partial Clitoridectomy and Excision of Labia Minora and Majora
MGC	Skin Stripping (Flaying)
FGC	Complete Clitoridectomy and Excision of Labia Minora
FGC	Complete Clitoridectomy
FGC	Partial Clitoridectomy and Excision of Labia Minora
FGC	Cauterisation
FGC	Partial Clitoridectomy
MGC	Excision
MGC	Subincision
MGC	Incision of Tapered Prepuce and Superincision
FGC	Excision of Prepuce
MGC	Incision of Tapered Prepuce
MGC	Infibulation
MGC/FGC	Incising
MGC/FGC	Scraping
MGC/FGC	Pricking
MGC/FGC	Piercing

According to WHO (2007b, p. 27), there are no known health benefits to female genital cutting, or ‘research evidence to suggest that such procedures could reduce the risk of HIV transmission.’ However, Stallings and Karugendo (2005) presented at the 3rd International AIDS Conference findings from a Tanzanian study, which suggested that female circumcision might provide a protective effect against HIV. Kanki et al. (1992) noted a decreased prevalence rate of HIV-2 infection among women who had undergone female genital cutting. Nazaar El-Duqr (2007) notes that female genital cutting prevents

¹⁶ Adapted from Peaceful Parenting (2011).

preputial infections and painful clitoral erections. El-Banaat Khaled (2003) notes that female genital cutting improves genital hygiene. Mohammed Ali (2003) suggests various physical and sexual benefits, including reduced UTIs, improved genital hygiene and pheromones, and better orgasms. Catania et al. (2007) reported that, contrary to popular belief, female genital cutting does not fully reduce women's sensitivity and ability to orgasm.

Medical arguments are not compelling to undermine human rights. Milos and Macris (1992, p. 94S) note: 'if it could be unequivocally proven that women' could gain medical and sexual benefits 'as a result of performing neonatal labiectomy, would... medical ... communities approve routine, unanaesthetised neonatal labial amputation as a prophylactic measure?' The international community should act immediately to condemn medical rationalisations of unnecessary and harmful interventions in healthy children.

Reducing entitlements to human rights based on perceptions of harm is unconscionable, and undermines human rights and their universality. This creates a hierarchy of human experience and rights, which suggests some human beings are worthy and entitled to the enjoyment of their rights and to live a life of dignity, but not others. Sex-segregated taxonomies, which claim harm differences based on sex and not practise, imply that males are unworthy to enjoy the human rights that females are worthy to enjoy. From a human rights perspective, the most important 'similarity between male and female [genital cutting] is that both are perpetuated by force on the generally unanaesthetised, helpless bodies of unconsenting infants and children' (Lightfoot-Klein, 1997, p. 131). Every child has a 'right to protection from all forms of violence without discrimination of any kind,' irrespective of sex (CmtRC, 2011, [GC 13], Para. 60). All

children possess this right and must be protected equally from any harm, including those at risk of ‘less severe’ forms of genital cutting. ‘The focus must be placed on the children who are forced to suffer without consent’ (Smith, 1998, p. 473). This requires maintaining compliance with international standards, which state that human rights are ‘universal, indivisible and interdependent and interrelated’ (VDPA, Article 5).

Discussions of male genital cutting vis-à-vis female genital cutting are usually fraught with specious inaccuracies about genital function, and trivialisations of complications and harm (Steinem, & Morgan, 1995; Nussbaum, 1999; Bashir, 1996; Seelinger and Reyes, 2013). According to Assaad (cited in Smith, 1998, p. 496), ‘no parts of the male sex organs are being mutilated,’ during circumcision; ‘only the foreskin – the outer cover of the male sex organs – is being removed, without touching the male sex organ itself.’ According to French (1992, p. 106):

Male circumcision does no good but usually does no harm. On rare occasions, the surgeon’s hand slips and cuts a baby’s penis or a baby dies from the operation...

However, circumcision does not deform a male’s genital organs or impede sexual pleasure or any penile function (French, 1992, p. 106).

These seemingly common statements indicate colossal ignorance of genital function, and the effects and complications of male genital cutting. They invalidate and dehumanise men and boys in a methodological attempt to advocate only for the human rights of women and girls.

Gender Paradigms and Confinement to Ideology

Female genital cutting operates within deeply embedded sociocultural frameworks, which confine women to various roles (WHO, 2007b, p. 27). This is also true of male genital cutting. According to Thomson (1998, p. 35-36), ‘gender is an important component of the subjective construction of harm.... [and] is crucially implicated in [the] failure to publically recognise the pain and risks experienced by male neonates.’ Female genital cutting is said to reduce sexual desire and functioning, which ‘many women value highly’ (WHO 2007b, p. 27). Whilst this is true, it is also true that many men lament over the irreversible modifications of their bodies, which has resulted in a loss of a genital function, they too value highly (Hammond, 1997). However, this recognition is met with great cultural resistance. Acknowledging the harm of male genital cutting requires acknowledging that the practise victimises men, which subsequently challenges dominant conceptions of gender and masculinity, and disrupts the narrative that women are victims whilst men are perpetrators of violence.

For many, genital cutting marks ideology in the flesh, which ‘involves signs separating an “us” from a “them” entangled in various discourses of identity and distancing’ (Boon, 1994, p. 556). This is particularly true with religious and cultural rituals, but medicalised genital cutting also participates in demarcation (Bouhdiba, 2000, p. 20; Tractenberg, 2010, 110-1). ‘...Circumcision is understood as sexing the infant body in two related ways. The first [is] the removal of feminised tissue. The second concerns the relationship between pain, risk, and the process of defining the male body and masculinity’ (Thomson, 1998, p. 34). Genital cutting amputates the tissue ‘that both disrupts the aesthetic of the phallic body and disrupts an ideal of permeability’ (Thomson,

1998, p. 34). Genital cutting ‘transforms the male body into a kind of body that it may consider masculine’; and whilst the ritual is itself momentary, ‘the cultural discourse that makes it seem masculine, erotic, or beautiful operates over a long period of time’ (Reeser, 2010, p. 95). This embodies penile beautification and constructs female desirability to reinforce the cultural discourse that circumcision makes the penis beautiful, and that women prefer the penis in this condition (Fink et. al, 2002; Williamson & Williamson, 1988; Richters, 2006; Young, 2006; Darby, 2005; Fox & Thomson, 2009). Genital cutting, then, enables the genesis of masculine performance (Butler, 1990). Resisting male genital cutting would require redefining the boundaries of the male body, by destigmatising the foreskin as both feminine and pathological, and by reconstructing masculine aesthetic and identity.

Whether as a mark of defilement, religious or cultural identification, or hegemonic masculinity, genital cutting symbolises subjugation of person (Dunsmuir and Gordon, 1999; Abu-Sahlieh, 2012, p. 16). It transforms the body into an identifiable being, distinguishable from other beings (Abu-Sahlieh, 2012, p. 348). Children are permanently confined to the unfortunate ideologies of their parents who, in the name of religion or culture, carve their values into their flesh. They ‘can never rid themselves of the mark,’ which they may never have desired (Abu-Sahlieh, 2012, p. 531). ‘All societies have found the arguments that best fit their local cultural traditions and environments’ to maintain genital cutting – the foundation of which is the permanent confinement to ideology (Hellsten, 2004, p. 253).

It is imperative that those participating in the discourses surrounding male genital cutting adopt a social justice framework to resist dominant discourses including

medicalisation, which propagate violations of human rights (Fox and Thomson, 2012a,b; Wisdom, 2012). Shulman (1972, p. 388) notes: ‘it is the quality of our response... and our capacity to enter into the lives of others that help us to make their lives and experiences our own.’ Many men are dismayed by their circumcised status – their voices and experiences must be heard and validated in order to resist human rights violations (Wisdom, 2013; Griffiths, 1999; ‘Global Survey,’ 2013). This requires a deconstruction of medicalisation and resistance to the illusion of ‘parental choice’ to become a child’s advocate and defender of human rights. As previously indicated in chapter 3, ‘parents do not possess rights over their children, but rather have duties towards them, which give them certain defined powers to discharge those duties’ (Price, 1999, p. 443). Parents rationalise circumcision as a ‘personal choice’ in order to maintain ‘cleanliness’ and to prevent infections – as opposed to fulfilling their duty to teach their child how to wash himself. Most of these parents do not elect for unfounded interventions on any other part of the body to maintain cleanliness, and instead they teach their child how to care for his body in commonplace ways. Parents’ proxy consent powers are legally invalid for medically unnecessary procedures, and cannot override the child’s rights to bodily integrity and freedom of belief.

A social justice framework must include sensitivity to local, sociocultural and religious contexts. Genital cutting ‘dovetails with deeply embedded associations between the endurance of pain or distress and proving or defining masculinity’ (Thomson, 2008, p. 36). Rites of pain endurance and initiation serve to transform boys into men through masculinisation (Kiwuwa and Masaba, 2013; SAPA, 2013). Embodiment of masculinity and adulthood brings improved social status, and loss of this privilege may lead to social

ostracisation, which can potentially have detrimental effects on the quality of men's lives (Okoloko and Majivolo, 2013; Fihlani, 2002). Educative initiatives must be employed, as opposed to swift methods to eradication to enforce human rights, which are likely to prove injurious, and may very well complicate the already complicated human rights violation of forced genital cutting.

Conclusion

Chapter 4 has examined the appropriate programme of action to combat and eradicate male genital cutting, and has identified an ensemble of mechanisms available to enforce international standards. International and regional bodies must begin to investigate, criticise, and condemn male genital cutting within their appropriate jurisdictions. NGOs should utilise the mechanisms available to them to improve their participation within the human rights regime in order to protect and enforce human rights. The right to freedom of belief is a universal human right, which must be protected for both parents and children, but also serves as an obstacle to human rights and, specifically, the rights of the child. Various medical and sociocultural obstacles are in place, including gender and ideological paradigms, which prohibit adequate enforcement of human rights standards. Socio-legal and medical bodies as well as the international community should act swiftly to criticise and condemn male genital cutting to respect, promote, and defend universal human rights, in compliance with international provisions.

CHAPTER V

CONCLUSION

The international community has investigated and condemned female genital cutting as a violation of human rights, but has produced very little analysis of male genital cutting from the same perspective. This dissertation has shifted the investigative scope to examine male genital cutting from a human rights perspective.

Male genital cutting has been practised since antiquity and carries significant sociocultural and religious importance throughout various regions of the world. Only recently has the sacrosanct ritual become medicalised, which arguably plays an important role in public health. The medical literature, however, has identified an alarming trend of pathologising intact genitals and has indicated that medical ‘benefits’ are spurious, which are not compelling to undermine human rights concerns.

International standards stipulate clear provisions on patient consent and the limits to parental proxy consent; they also mandate rights to self-determination, health, bodily integrity, and equality. Male genital cutting violates international norms by undermining the rights of the child and the universality of human rights. An ensemble of mechanisms is in place within the human rights regime, which may be utilised to enforce international standards. However, robust obstacles to human rights delay their implementation, which include various sociocultural, medical, and religious paradigms. The right to freedom of belief is a universal human right, which must be protected for everyone, and parental religious freedoms are not compelling to override the rights of the child and undermine universal human rights.

International and regional bodies as well as Member States must act swiftly to investigate and condemn the practise of male genital cutting within their jurisdictions. NGOs should improve their visibility and participation within the human rights regime to help enforce international standards. The international community should call upon monitoring bodies and Rapporteurs to begin researching the practise of male genital cutting throughout Member States, and develop programmes of action in order to begin eradication. Actors in the human rights regime, and participants in the discourses surrounding male genital cutting, must adopt a social justice framework to resist the dominant discourses, which perpetuate violations of human rights. The disruption of the normalisation of male genital cutting, in addition to the development of a transnational programme of action, will facilitate the necessary catalyst to reduce and eradicate the human rights violations which arise from genital cutting.

APPENDIX

APPENDIX I:

SOURCES FOR ‘TABLE 2.1 – PREVALENCE OF MALE GENITAL CUTTING’

Americas	Abu-Sahlieh, 2012, p. 22-3; CDC, 2011; Task Force on Circumcision, 2010; ‘US Circumcision Incidence,’ 2012; ‘Canada Circumcision Statistics,’ 2008; Wirth, 1980; Waldeck, 2003, p. 23; Leitch, 1970; Outerbridge, 1996; WHO, 2007a,b; Drain et al., 2006; Castellsagué et al., 2002; Lajous and Mueller, 2006
Europe	Frisch, et al., 2011; Viviani, et al., 2010; Hofvander, 2001; WHO, 2007a,b; Rickwood et al., 2000; ‘UK: Incidence of Male Circumcision,’ 2006; Leitch, 1970; The Case against Circumcision, 1979; Warren, 1997, p. 86
Africa	Drain et al., 2006; Kottak, 1982, p. 304-5; Bloch, 1986; WHO, 2007a,b
Asia	Özdemir, 1997; WHO, 2007a; Lee, 2005; Hull and Budiharsana, 2001; Drain et al., 2006; Schmitz et al., 2001; Violante and Potts, 2004; Mastro et al., 1994
Oceania	Richters et al, 2006; Wirth, 1986; Leitch, 1970; Afsari et al., 2002; Darby, 2011; Circumcision and

Non-Circumcision in Australia,' 2012; Royal
Australasian College of Physicians, 2010, p. 5

APPENDIX II:

SOURCES FOR ‘TABLE 2.2 – INDICATIONS FOR GENITAL CUTTING, NINETEENTH CENTURY’

Alcoholism	Remondino in Miller, 2002, p. 527 and Whitfield, 1999, p. 406
Asthma	Remondino, 1891, p. 291
Blindness	Gentry, 1890
Chorea	Heckford, 1865; Fisher, 1895
Clubfoot	Sayre, 1875
Constipation	Hofheimer, 1893
Convulsions	Rickets, 1888; Fisher, 1895
Curvature of the Spine	Sayre, 1875
Deafness	Gentry, 1890
Dumbness	Gentry, 1890
Eczema	Rickets, 1888
Enuresis (Bed Wetting)	Remondino, 1891, p. 275
Epilepsy	Heckford, 1865; Sayre et al., 1870; Heckford, 1865
Eye Problems	Landesberg, 1881; Eggleston, 1886
Forgetfulness	Remondino in Darby, 2003a
Gangrene	Remondino, 1891, p. 236
Gout	Remondino, 1891, p. 291
Headache	Remondino, 1891, p. 271-2
Hernia	Sayre, 1870

Homosexuality	Dunsmuir and Gordon, 1999, 'Mid-19th to Early 20th Century'; Wallerstein, 1980, p. 19, 33, 222
Hysteria	Jacobi, 1876
Idiocy	Remondino, 1891, p. 265, 69
Incontinence	Bell, 1873; Rosenberry, 1894; Hofheimer, 1893
Indigestion	Gollaher, 1994, note 50
Insanity	Beard, 1882
Irritability	Remondino, 1891, p. 269; Fisher, 1895
Joint problems	Sayre, 1875
Kidney disease	Remondino in Whitfield, 1999, p. 406
Malnutrition	Jacobi, 1876
Masturbation	Dixon, 1845; Kellogg, 1888; Moses, 1871; Landesberg, 1881; Hutchinson, 1890, 1891; Spratling, 1895
Mental Retardation	Rickets, 1888
Neurasthenia (Chronic Fatigue)	Beard, 1882
Neuralgia	Kane, 1879
Nocturnal Emissions	Lallemand, 1836, 39, 42; Kane, 1879
Paralysis	Sayre, 1870, 1875; Jacobi, 1876; Fisher, 1895
Phimosis	Dixon, 1845; Dunsmuir and Gordon, 1999, 'Mid-19th to early 20th century'; Gollaher, 1994; Darby, 2003b, p. 58-60; 2005, p. 4; Hodges, 1999a
Polio	Darby, 2001, p. 155

Promiscuity	Hutchinson, 1890
Rheumatism	Remondino, 1891, p. 291
Syphilis	Hutchinson, 1855, 1890; Darby, 2003b

APPENDIX III:

SOURCES FOR ‘TABLE 2.3 – INDICATIONS FOR GENITAL CUTTING, TWENTIETH CENTURY’

Bacterial Vaginosis	Cherpes et al., 2008; Fethers et al., 2008; Gray et al., 2009; Tobian et al., 2010
Balanitis	Herzog & Alvarez, 1986; Fergusson et al., 1988; Fakjian et al., 1990
Balanoposthitis	Fakjian et al., 1990; Mallon et al., 2000
Balanitis Xerotica Obliterans	Kiss et al., 2005; Yardley et al., 2007; Sandler et al., 2008; Gargollo et al., 2005
Bladder Cancer	Ravich, 1971
Breast Cancer in Women	Morris, 2013
Cancer of the Tongue	Hand, 1949
Chastity	Cockshut, 1935
Chlamydia in Women	Castellsagué et al., 2005
Crying in Infants	Chamberlain, 2009, p. 7
Desensitisation	Hutchinson, 1900; Mark 1901; Cockshut, 1935; Guttmacher, 1941
Dropsy	Chamberlain, 2009, p. 7
Epistaxis	Campbell, 1970
Female Cervical Cancer	Ravich, 1951; Wynder et al., 1954; Agarwal et al., 1993; Hodges, 1997, p. 29; Svare et al., 2002; Castellsagué et al., 2002;

	Schoen, 2007, 2005a, p. 55-61; Drain et al., 2006
Group B Streptococcal Disease	Fink, 1988
HIV/AIDS	Fink, 1986; Hodges, 1997, p. 43-5; Cameron et al., 1989; Schoen, 2003, 2008, 2005a, p. 36-43; Bailey, 2007; Morris et al., 2009; Nagelkerke et al., 2007; Wawer et al., 2009; Gebremedhin, 2010
Herpes Simplex Type 2	Cherpes et al., 2003
Human Papillomavirus	Svare et al., 2002; Castellsagué et al., 2002; Schoen, 2008; Tobian et al., 2011
Hydrocephalus	Chamberlain, 2009, p. 7
Infant Kidney Infection	Schoen, 2005a, p. 24-30
Malnutrition	Campbell, 1970
Moral Hygiene	Hutchinson, 1900; Hodges, 1997
Nervousness	Fishbein, 1969
Night terrors	Campbell, 1970
Penile Cancer	Wolbarst, 1926, 1932; Ravich, 1951; Chamberlain, 2009, p. 7; Schoen, 2005a, p. 50-4; Schoen et al., 2006; Micali et al., 2006
Phimosis	Hodges, 1999b; Schoen, 2005a, p. 32; Letendre et al., 2009; Fussell et al., 1988
Posthitis	Fakjian et al., 1990; Köhn et al., 1999
Prostate Cancer	Ravich, 1942, 1951; Wright et al., 2012;

	Abomelha, 2004
Rectal Cancer	Ravich, 1971
Rectal Prolapse	Campbell, 1970; Chamberlain, 2009, p. 7
‘Sand Balanitis’	Fink, 1991; Gardner, 1991
Sexually Transmitted Infections	Hand, 1949; Schoen, 2005a, p. 44-9; Morris and Castellsagué, 2010; Tobian et al., 2010; Golden and Wasserheit, 2009
Trichomonas	Gray et al., 2009
Tuberculosis	Wolbarst, 1914
Urinary Tract Infection	Hodges, 1997, p. 33-4; Wiswell et al., 1985; Kinkade and Meadows, 2005; Morris et al., 2009; Morris and Cox, 2010; Schoen, 2008, 2005b; Orrette, 2001

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