Alþingi
Kirkjustræti
150 Reykjavík

March 27, 2017

Ágæta Alþingi / Dear Members of the Parliament

**Efni: Umsögn um frumvarp til laga um breytingu á almennum hegningarlögum (bann við umskurði drengja), 148. löggjafarþing, 114. mál. / Regarding the proposed legislation banning non-therapeutic circumcision**

I wish to express my strong concurrence with the excellent comments expressed by David Balashinsky, Brian Earp, John Geisheker and Marilyn Milos concerning the above-referenced legislation.

I write separately to convey my own, personal views as a father, and to emphasize (1) the central reality that this proposed legislation is meant to address — a reality that the opponents of this legislation have either treated disingenuously or ignored entirely — the complete lack of a meaningful ethical difference between the non-therapeutic cutting of a girl's genitals and the non-therapeutic cutting of a boy's genitals and (2) the threat to a ***girl's*** right to bodily integrity and autonomy that is presented by the stubborn, unjustified refusal of proponents of male genital cutting to recognize a boy's right to bodily integrity and autonomy.

The proposed legislation simply amends the law restricting non-therapeutic[1] circumcision[2] to those who have reached the age of consent by changing "girls" to "children" to make clear that this age restriction is gender neutral. The many different types of female genital cutting that are already prohibited in Iceland, the United States and most of the rest of

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[1] A "non-therapeutic" procedure is one that is not needed to treat a presently existing, adverse physical, clinical condition. Virtually all genital cutting performed on children is non-therapeutic.

[2] In English at least, "circumcision" is an unhelpful euphemism. As I understand it, the purpose and effect of the proposed legislation is to restrict all non-therapeutic genital cutting to adults capable of giving informed consent. Accordingly, I hereafter use the term "genital cutting" to refer broadly to the non-therapeutic procedures that are the subject of the age restriction imposed by the proposed legislation. As discussed further below, the term "female genital mutilation" or "FGM" is also used to refer to female genital cutting. Because the most commonly performed type of male genital cutting — the type that has been part of a Jewish initiation ritual since approximately 140 A.D. — involves complete amputation of the foreskin or prepuce, removing an intrinsic, essential and functional part of the penis, rendering the glans an external anatomical structure and permanently altering the penis in form and appearance, the term "male genital mutilation" or "MGM" is also used to refer to male genital cutting.

the world include procedures — referred to as "Type 4" FGM — that are no more than the "pricking," "piercing," or "scraping" of the female genital area, and typically do not involve the removal of healthy tissue, or a permanent change to the appearance, form or function of the genitals.[3] A physician is currently a defendant in a criminal action pending in U.S. federal court in Michigan because she is accused of having performed Type 4 FGM on a seven year old girl. If convicted, this physician faces the possibility of a lengthy prison sentence for performing Type 4 FGM on a child.

Although many who engage in Type 4 FGM defend the practice as a matter of parental choice or religious obligation, it is widely considered intolerable and criminalized in Western society, and for good reason. It may be considered a relatively "minor" type of female genital cutting, but let us have no illusions about what is necessarily involved with it. A female, aged between infancy and the age of consent (or even older), is forced to spread her legs so that her most private parts can be cut to satisfy the religious or cultural preferences of her parents or some other third party. What she thinks — or what she may think in the future — about the cutting of her genitals counts for nothing. Her verbal or other protests and her cries are ignored. If she tries to resist, physical force and restraint is used against her.

All of these aspects of Type 4 FGM, as well as the cutting itself, are rightly recognized as so potentially damaging to a girl, so appallingly barbaric, and so inconsistent with her right to control what happens to her own body that when the individual rights involved are weighed against one another, the unavoidable conclusion is that it would be impossible for anyone to decide in good faith that the girl's right to bodily integrity is outweighed by her parents' supposed right to express their religion or culture by forcing a sharp object into her genitals.

But then consider what is necessarily involved with the most commonly performed type of male genital cutting — total foreskin amputation. Again, let us have no illusions about it. A boy, typically an infant, but possibly aged up to the age of consent, is forced to spread his legs so that his most private parts can be cut to satisfy the religious or cultural preferences of his parents or some other third party. What he thinks — or what he may think in the future — about the cutting of his genitals counts for nothing. His verbal or other protests and his cries are ignored. If he tries to resist, physical force and restraint is used against him.

In addition, the total foreskin amputation forced upon him permanently removes unique, healthy, functional, erogenous tissue — skin, nerves, blood vessels, smooth muscle tissue, sebaceous glands — all of which is (by various possible methods) cut, crushed and torn from his penis without possibility of replacement or regeneration.[4] About half the surface area of the penis is taken, leaving a discolored scar that will be a lifelong reminder to the boy of his mutilation. Total foreskin amputation converts the glans from a mostly internal anatomical structure to a permanently external one, radically changing the form and appearance of the penis, and significantly diminishing its functionality. The self-lubricating function of the penis is eliminated, as is the ability to engage in sexual acts that require manipulation of the uniquely flexible foreskin (e.g., movement of the foreskin against the glans and other anatomical surfaces). Sensation in the foreskin is, of course, reduced to zero upon its amputation. Total foreskin amputation is indisputably more invasive and extensive, and its guaranteed adverse physical consequences are more significant, than Type 4 FGM.

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[3] WHO, "Female genital mutilation fact sheet," updated January 2018, available at http://www.who.int/mediacentre/factsheets/fs241/en/

[4] The sensitive anatomical structure that connects the foreskin with the rest of the penis — the frenulum — may or may not be completely removed as part of total foreskin amputation.

Total foreskin amputation is also more painful than Type 4 FGM — so painful that it requires sedation or general anesthetic when performed on a man or older boy. Because sedation and general anesthetic are considered unsafe to give to an infant, infant boys can get only the local anesthetic or analgesic that are considered insufficient to manage the pain of an adult or older child. This is the reason some physicians and others who support amputating the foreskins of male infants cling to the long-discredited myth that infants do not feel pain the way older children and adults do. Often, male infants are given no pain relief at all, because those who amputate their foreskins simply cannot be bothered to incur the cost and time to do so.

Because infants subjected to total foreskin amputation are not given appropriate pain management, and because the cutting involved must be extremely precise in order to avoid damaging the parts of the penis that are not intended to be destroyed, the infant involved must be forcibly restrained to the point of complete immobilization. This is nearly always achieved by placing the infant in a device — called a "circumstraint" — that firmly binds his arms and legs. Because he cannot be given general anesthetic or sedated, the infant is necessarily conscious and fully aware of what is being done to him throughout the amputation, unless and until he passes out from the pain, which is a common occurrence.[5] The pain causes some boys to choke, vomit or stop breathing.[6]

Indeed, the pain of having his penis torn apart is undoubtedly ***more*** intensely and terrifyingly stressful to an infant who cannot be made to understand that the pain (which he cannot, in any event, escape) is temporary and the amputation is an event he (probably) will survive. With no way to control the infant's fear, it escalates quickly to full-blown panic. The "fight or flight" response that is triggered results in a stress test for the boy's entire cardiovascular system. The resulting screaming can cause boys to go cyanotic and suffer collapsed lungs. It is by no means an exaggeration to say that total foreskin amputation performed on an infant is both physical and mental torture.

Each and every argument asserted in support of the proposition that total foreskin amputation is a religious obligation or a parental choice is an argument that has already been asserted in support of the proposition that Type 4 FGM is a religious obligation or a parental choice. As all such arguments in support of Type 4 FGM have been thoroughly rejected — indeed, condemned — by the Western governments that have considered them as invalid or otherwise insufficient in the face of a girl's inherent right to a body free of Type 4 FGM, how can you accept such arguments in support of total foreskin amputation, a practice that is clearly more invasive, extensive, painful and physically harmful, without condoning a blatantly sexist and unjustifiable double standard?

The most charitable comment that can be made about the complete failure of the opponents of this legislation even to recognize, let alone coherently address this question, is that it demonstrates a complete lack of concern about Type 4 FGM, and a complete lack of awareness of their own egregious cultural biases in favor of male genital cutting. A less charitable comment, although possibly more accurate, is that supporters of male genital cutting are well aware of how the restrictions on Type 4 FGM make non-therapeutic infant foreskin amputation completely indefensible, and their preferred solution to their conundrum

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[5] When infant boys pass out from the pain of MGM, the incident is often falsely represented to parents by genital cutting doctors and nurses as sleep.

[6] Janice Lander, *et al.*, *Comparison of Ring Block, Dorsal Penile Nerve Block, and Topical Anesthesia for Neonatal Circumcision*, JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 1997;278(24): 2157-2162.

will be to seek the de-criminalization of Type 4 FGM. Indeed, there are already signs that apologists for male genital cutting will not hesitate to throw a girl's right to an intact body under the bus if doing so will be seen to provide ethical cover for total amputation of a boy's foreskin. In a 2016 article, two American physicians — both outspoken supporters of total foreskin amputation — argued that the law outlawing FGM in the United States "is likely unconstitutional."[7]

Specifically, these physicians argued that both Type 4 FGM and removal of a girl's clitoral hood — which just so happens to be the type of female genital cutting that most closely resembles a boy's total foreskin amputation — should be tolerated. As these physicians put it: "[I]n a liberal society that accepts male circumcision, room for discussion surrounding the acceptability of [FGM] exists." Or, to put it more precisely, in a world in which the legitimacy of male genital cutting is simply presumed, proponents of male genital cutting will inevitably come to see a girl's right to be free of non-therapeutic genital cutting as a threat to be eliminated. Although they hastened to add that they "do not condone the forcible practice of [FGM] if a child developmentally capable of providing assent declines to do so," that merely begs the question of who may decide whether a particular girl is "developmentally capable of providing assent," or more precisely, capable of asserting her own right to avoid a procedure as intrinsically abhorrent as clitoral hood removal in the face of what is likely to be overwhelming parental pressure to submit to the surgery and a US medical establishment that suddenly seems unwilling to stand up for her.[8] Also left unexplained is why girls not yet "developmentally capable of" dissenting from parental authority in this way do not have a fundamental right to keep their clitoral hoods. And of course, the authors' obvious bias in favor of male genital cutting prevented them from making any statement suggesting that even a boy "developmentally capable of providing assent" has a right to refuse total foreskin amputation.

In 1858, on the eve of the U.S. Civil War, Abraham Lincoln famously said:

"A house divided against itself cannot stand. I believe this government cannot endure, permanently, half slave and half free. . . . It will become all one thing or all the other. Either the opponents of slavery will arrest the further spread of it, and place it where the public mind shall rest in the belief that it is in the course of ultimate extinction; or its advocates will push it forward, till it shall become lawful in all the States, old as well as new — North as well as South."

Similarly, a world where the right to bodily integrity is recognized for girls but not for boys cannot endure. The world will soon be forced to decide: either all children have the right to an intact body, or none do. Like it or not, you cannot now step back from this historical moment without risking grave consequences for the rights of all children, male and female. Your failure to act decisively will only prolong an untenable situation, and invite opponents of a boy's right to bodily integrity to make their challenges to a girl's right to bodily integrity become louder and more serious.

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[7] Arora KS, Jacobs AJ Female genital alteration: a compromise solution Journal of Medical Ethics 2016;42:148-154.

[8] As recently as 2010, the American Academy of Pediatrics also argued that Type 4 FGM should be permitted by Federal and State laws because it is "much less extensive than routine newborn male genital cutting." Pediatrics 2010;125:1088-1093 at p1092. (www.pediatrics.org/cgi/doi/10.1542/peds.2010-0187).

A person's right to express his religious or cultural beliefs must end where the flesh and blood of another person — especially a child — begins. Let this irrefutable principle guide your decision.

Respectfully submitted,

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