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Paper #3: Testing the Limits of Tolerance

All forms of non-medical surgery, cutting, piercing, pricking, circumcision, peeling, infibulation, and the numerous other terms used to describe the practice of changing the appearance of human genitals are not morally permissible, regardless of social location or cultural norms, when it is done to children without their consent. In order to distinguish this claim from the abortion debate, for the purposes of this paper, a child is defined as a human infant no longer in utero.¹ The subject of what exactly the age of consent is, or some other test to determine autonomy, and whether or not false consciousness leads to the illusion of consent, is the topic for another paper. The non-medical physical alteration of children, beginning with birth until the age they are considered an “adult” in their community, regardless of sex or gender presentation, is morally unsound from a human rights standpoint.

Starting with the WHO fact sheet, the definition of FGM “includes procedures that intentionally alter or cause injury to the female genital organs for non-medical reasons,” “involves removing and damaging healthy and normal female genital tissue,” and “is a violation

¹ Once the technology to operate on fetuses in utero becomes a reliable, regular possibility, this definition will need to change and will be nearly impossible to detangle from the issue of abortion and rights of biological mothers vs. the “rights” of the zygotes, embryos, and fetuses they carry.

of the human rights of girls and women.”² Given that there is insubstantial evidence for the health benefits of male circumcision, even in slowing or stopping the spread of HIV/AIDS³, these definitions also apply to boys, men, and those who cannot be placed into the sexual binary or either male or female. The WHO fact sheet continues later with “It is nearly always carried out on minors and is violation of the rights of children. The practice also violates a person’s rights to health, security, and physical integrity, the right to be free from torture and cruel, inhuman, or degrading treatment, and the right to life when the procedure results in death.”⁴ None of that language is gendered. The underlying condition that WHO says is violated is that of being *human*, not of being male, female, or intersex. Martha Nussbaum’s story of Vasanti⁵ includes a description of how her ability to fully realize her own potential, not just economically or socially, but also the ability to experience art and pleasure, was limited by her lack of choices in what she could experience. Cutting children before they know they are even a person limits the number of ways in which they can maximize their own potential as a human being.

The idea that children can be physically altered, like an object, with no repercussions, is treating them like property, or animals, instead of human beings—a mindset which is directly linked to use of human beings as slaves. Kopelman points out that “[s]lavery, oppression, and exploitation are also necessary to some ways of life, yet few would defend these actions in order

² “Female Genital Mutilation: Fact Sheet No. 241,” *WHO Media Centre*, February 2013.

³ Kirsten Bell, “Genital Cutting and Western Discourses on Sexuality,” in *Medical Anthropology Quarterly New Series*, Vol. 19, No.2 (June 2005) 128.

⁴ “Female Genital Mutilation.”

⁵ Martha C. Nussbaum, *Creating Capabilities: The Human Development Approach* (Kindle Locations 104-108). Kindle Edition.

to preserve a society.”⁶ Why is it acceptable to cut one’s own child, or have some else do it, regardless of the sanitary conditions in which it is done, when a similar thing done to an adult without their consent would be assault in many cultures? Fran Hosken, quoted by Kirsten Bell, says that “Any violation of the physical nature of the human person, for any reason whatsoever, without the informed consent of the person involved, is a violation of human rights.”⁷ Children, especially infants, cannot consent, and therefore are in the care of their parents to protect them into adulthood, not to treat them like property or “living” dolls. The separation of genital mutilation into male and female, and Western cultural emphasis on only FGM/FGC legislation has led to situations like “the paradox whereby an adult female (in Australia) cannot elect mutilating forms of cosmetic genital surgery for herself yet has the legal right to alter the penis of her son.”⁸

Kopelman brings up how much of the discussion over FGM/FGC is subjective to specific cultures and wonders if it is possible to find a shared space in which to accomplish such tasks as assessing if gentile cutting is more like respect or oppression, more like enhancement or diminishing of opportunities, or more like pleasure or torture.⁹ The only way to ensure that individual human rights are not violated is to allow each person to define for themselves whether or not body alteration is something that they wish for themselves. When it comes to children, and the use of non-medical surgeries and cutting to meet culturally constructed norms, erring on the

⁶ Loretta M. Kopelman, “Female Genital Circumcision and Conventional Ethical Relativism,” in *Globalizing Feminist Bioethics: Crosscultural Perspectives*, eds. Rosemarie Tong et al (Boulder, CO: Westview Press, 2000) 233.

⁷ Fran Hosken, quoted by Bell 130.

⁸ Robert Darby and J. Steven Svoboda, “A Rose by Any Other Name?: Rethinking the Similarities and Differences between Male and Female Genital Cutting,” in *Medical Anthropology Quarterly*, Vol. 21, Issue 3 (2007) 303.

⁹ Kopelman 230.

side of intactness before the age of consent is an acknowledgement that no one culture, Western or otherwise, is superior and might be “wrong” in the future as cultures shift and change. Instead of judging each other, we should let our children judge us, as they will be the only ones with the moral permission to truly do so. As an example, Darby and Svoboda discuss the use of an “anatomically erroneous assumption that the most innervation of the penis is in the glans. It is now known that the densest concentrations of blood vessels and nerves is found in the foreskin itself”.¹⁰ This clearly shows how even medical science can change due to the limits of human understanding at any given point in time, and something that is “true” today scientifically or culturally may not be true in even ten years, much less one hundred. The decision to take an action that interferes with the natural development of a human being and all its possibilities—mental, social, biological—is only ever permissible when they are able to consent to it themselves.

Cultures in which autonomy education has been tried have found ways to reform and reeducate without losing their sense of culture and community that binds them together. This is not necessarily to advocate for Meyers’ autonomy-within-culture model¹¹ itself, but to give empirical evidence that it is indeed possible to preserve one’s own culture in the wake of incorporating a concept of universal human rights. Quite possibly such cultures are strengthened in the long term by providing a sense of tradition and community in which youth will wish to remain to form relationships and have their own children, instead of having to run away or be forced to reject their whole histories in order to preserve themselves.

¹⁰ Darby/Svoboda 309.

¹¹ Diana Tietjens Meyers, “Feminism and Women’s Autonomy: The Challenge of Female Genital Cutting,” in *Being Yourself: Essays on Identity, Action, and Social Life* (Lanham, MD: Rowman & Littlefield, 2004) 203-224.

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