

## **The Male Neonatal Circumcision Debate: Social Movements, Sexual Citizenship, and Human Rights**

**Lauren M. Sardi**  
Quinnipiac University<sup>1</sup>

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### **Abstract**

Male circumcision is known to be one of the oldest and perhaps one of the most controversial body modification procedures in the history of humanity (Darby 2005; Gollaher 1994, 2000; Grimes 1980). Such scholars and activists, especially those who self-identify as being against the routinized procedure of male neonatal circumcision, discuss circumcision as a human rights violation. However, what is notable about the anti-circumcision movement more broadly is how they implement a Western notion of human rights in which there are contradictions between the rights of children versus the concept of cultural rights, which are both religious and secular in nature. In this article, I provide a very brief literature review of the relevant topics regarding male circumcision from a Western perspective. Second, I demonstrate how newer social movements such as the anti-circumcision/intactivist movements have attempted to reframe the procedure as a human rights violation when they compare circumcision to other body modification procedures such as female genital cutting (FGC) and surgery done on children born intersexed. However, those who feel that circumcision is a religious act believe that to deny any group of people the ability to practice their own religion freely is, in itself, a human rights violation. I conclude with a discussion of the ways in which such Western notions of human rights are not only inherently contradictory but also fail to include other conceptualizations of what human rights as a global term broadly incorporates.

### **Keywords**

Male Circumcision, Informed Consent, Medicalization, Citizenship, Social Movements

Male circumcision is known to be one of the oldest and perhaps one of the most controversial body modification procedures in the history of humanity (Darby 2005; Gollaher 1994, 2000; Grimes 1980). The routinized practice is also known to be one of the most common medical procedures in the United States (Bell 2005). The choice to circumcise male infants is seen as a deeply personal decision usually

thought of being in the hands of parents. However, new research demonstrates that doctors have increasingly medicalized the procedure of circumcision in the United States and have not supplied parents with adequate information in order to make an informed decision about whether or not to circumcise their male infants (Darby 2005; Gollaher 1994, 2000).

Despite the routinization of the procedure, there have been an increasing number of activists and scholars who have begun speaking out against male neonatal circumcision over the past 30 years by claiming the procedure to be a human rights violation (Goldman 1997; Gollaher 2000). Broadly, the anti-circumcision movement has tended to frame male neonatal circumcision as a procedure that denies an infant or child the right to bodily integrity while proponents of the procedure note that this narrow framing of 'human rights' does not take into account opposing views, such as the right to practice one's own religion. Many proponents of religious circumcision, such as Jews or Muslims, cite human rights violations if neonatal circumcision were to be banned, for example. This Westernized concept of human rights is both contested and contradictory in nature, and also does not take into account non-Western notions of human rights as well. Both opponents and proponents of male neonatal circumcision have used human rights-based claims to condemn or justify the practice, although they are essentially talking past each other by using narrow and competing frameworks to support their positions. Thus, the conversation surrounding male neonatal circumcision has more recently been framed as a broad right to bodily integrity versus rights to religious freedom.

In this article, I first provide the national rates of male neonatal circumcision in the United States and locate the discourse surrounding the procedure within an increasingly medicalized context. Second, I demonstrate how newer social movements such as the anti-circumcision movement have attempted to reframe the procedure from a medicalized issue to a human rights issue, pitting bodily integrity of children against the rights and freedoms of religious groups. I conclude with a discussion of the ways in which such Western notions of human rights are not only inherently contradictory but also fail to include other conceptualizations of what human rights as a global term broadly incorporates.

#### MALE CIRCUMCISION RATES IN THE UNITED STATES

The United States is the only nation that has routinely circumcised most of its male infants for nonreligious reasons. Other industrialized and colonized anglo nations such as England, Canada, Australia, and New Zealand have practiced widespread circumcision at drastically lower rates (Goldman 1997). Although actual rates of male circumcision are difficult to obtain because of the vast geographical areas in which the procedure takes place within the United States, data from the National Hospital Discharge Survey (2005) demonstrates that national circumcision rates have been decreasing steadily since 2002.

Data regarding newborn circumcision are available both from the National Hospital Discharge Survey (NHDS) and the National Inpatient Survey (The Circumcision Reference Library 2009) which demonstrate a few general trends. By geographic region, the Midwest has the highest rates of circumcision, hovering around 80 percent between 1995 and 2006. During the same time period, the Northeast had the second-highest circumcision rates, starting at about 70 percent in 1995 and dropping to approximately 65 percent in 2006. Southern states had a circumcision rate of approximately 65 percent in 1995 with rates tumbling to around 55 percent by 2006. The western portion of the United States has historically seen the lowest rates of circumcision. In 1995, approximately 43 percent of infant boys were circumcised in a hospital before they were discharged, and by 2006 that percentage dropped to around 35 percent. However, boys who are circumcised after they are discharged from the hospital or in religious ceremonies at other locations such as their homes are not factored in these rates (The Circumcision Reference Library 2009).

Nationally, the most recent data suggest that circumcision rates have reached a new low of 33 percent, according to a *New York Times* article (Rabin 2010). Although these rates have been questioned by various sources, anti-circumcision groups such as Intact America have been drawing attention to these numbers in order to gain awareness about the overall decline in circumcision rates. Despite this decline, one of three males still experiences a procedure that is not medically necessary. As changes in social norms and medical intervention have taken place over time, so too have the rates of male neonatal circumcision.

## THE MEDICALIZATION OF CIRCUMCISION

Circumcision rates in the United States increased during the mid-1800s for a number of reasons. Circumcision was believed to 'cure' masturbation among children and adults. Masturbation was a practice to be feared, particularly during the Victorian era, as it was seen as a form of 'self abuse' which could inevitably lead to epilepsy, clumsiness, incontinence, hysteria, and death (Darby 2005; Goldman 1997; Gollaher 2000). Some saw routine circumcision as a cure-all for infectious diseases, syphilis, and particularly as a preventative measure against masturbation as well (Darby 2005; Goldman 1997; Gollaher 2000). Monetary incentives also encouraged doctors to recommend the procedure to parents as events such as childbirth became increasingly medicalized, and such beliefs upheld the practice solidly from the 1800s well into the 1970s (Goldman 1997; Gollaher 2000).<sup>2</sup>

As circumcision rates rose because of numerous medical concerns, circumcision became necessary and practiced. The procedure became increasingly medicalized and placed under the control of doctors and other medical professionals during the 19<sup>th</sup> century in the United States and in Britain (Darby 2005). In order to legitimate the procedure as both routine and prophylactic, medical professionals had to make a stronger argument in its favor. Once germ theory gained legitimacy in the late 1800s, circumcision was seen as a preventative measure and even a cure-all against many diseases. As Darby (2005:168) writes:

The case for prophylactic circumcision was boosted by the realization that many diseases could not be cured, only prevented; by the development of hygienics as a branch of medicine, with its slogan 'Prevention is better than cure;' by the emergence of 'fantasy surgery' as a legitimate medical approach; by a devaluation of the role of the foreskin in the bodily system to the point where it was regarded as an inconvenience at best and a menace at worst and by the sanitarians' discovery of a hygienic rationale in the ancient rites of Islamic and Judaic religion.

As Victorian doctors realized that they could charge patients for performing circumcisions, the procedure gained further acceptance. Numerous doctors made fortunes selling the idea that masturbation was actually a disease itself. According to Goldman (1997), in 1888 John Harvey Kellogg blamed masturbation for thirty-one different ailments and identified 'symptoms' such as shyness and insomnia. Kellogg said he discovered a number of cures; the first was Kellogg's breakfast cereals and, for chronic masturbators, the second was circumcision.

Scholars also argued that circumcision could not only effectively reduce sexual pleasure but also curb sexual desire as well (Darby 2005; Gollaher 2000). Notably, circumcision was not limited to males during and after the Victorian era. Women, especially girls, who were found masturbating, sometimes had acid poured on their clitorises in order to drastically reduce or completely remove all feeling in these sensitive tissues (Darby 2005).

Two world wars helped booster the claim that preventative circumcision stopped the transmission of sexually transmitted diseases. By the beginning of World War II, Darby (n.d.) notes that circumcision rates in the United States were around 40-50 percent and increased rapidly post-war when employers were attempting to attract potential employees by offering lavish medical insurance plans. All private companies were willing to cover male neonatal circumcision fully, so there was no need for anyone, including the government, to look into its worthiness as a medically necessary procedure (Darby n.d.; Gollaher 2000). By 1959 the circumcision rate was around 90 percent (Darby n.d.) and until recently, was still hovering around 50-60 percent.

These reasons behind the medicalization of circumcision demonstrate that medical professionals were and still are working from a sociohistorical framework. The medicalization of circumcision was indeed so successful because it was consistent with cultural attitudes surrounding male and female genitalia and sexual pleasure, as well as a newer interest in maintaining 'proper' hygiene. As a result, circumcision was legitimated as standard medical practice; rates had increased and remained steady well into the 1970s. It was at this time that the 'intactivist' movement started to gain public attention.

## THE RISE OF THE ANTI-CIRCUMCISION MOVEMENT

A nationwide anti-circumcision movement has been gradually gaining momentum through a variety of outlets: the internet, hospitals, doctors' offices, churches, synagogues, and universities. This movement is directly challenging older medical opinions and documents as well as religious practices which previously stated that newborn male circumcision has beneficial consequences. As the anti-circumcision movement was gaining in popularity since the 1990s, rates of circumcision have also decreased. In analyzing these changing circumcision rates and the shift from talking about circumcision as a medicalized to a human rights debate, I have utilized a multimethodological approach that combines a content analysis of various online anti-circumcision websites, current newspaper articles from national magazines such as *The New York Times* and *The Washington Post* that discuss the anti-circumcision and intactivist movement, as well as what Shell-Duncan (2008) refers to as 'grey literature.' This type of literature includes internal documents such as circumcision consent forms, hospital policy documents regarding circumcision, and working drafts of statements written by intactivists. I have been privileged to have the opportunity to interview numerous intactivists who allowed me to have access to these materials, and I have also conducted fieldwork in various hospital settings in order to observe the ways in which neonatal circumcision is carried out in the day-to-day activities of hospital settings.

Many doctors, parents, and scholars point out that various 'intactivist' movements are gaining legitimacy and popularity across the country by using newer forms of internet technology such as blogs and numerous social media sites such as Facebook and Twitter. These movements have also been able to raise funds to spread what they consider to be updated and accurate information which demonstrates that routine circumcision is not beneficial either to newborn boys or to adult men (Bonné 2003; Denniston 1996; Goldman 1997). The term 'intactivist' combines the words 'intact,' meaning an un-circumcised penis, and 'activist.' The term 'intact' is itself controversial and is the subject of numerous questions: Are circumcised men not 'intact?' In line with current debates, is the foreskin even part of the male genitalia? The term also implies that if one is circumcised, they are no longer 'whole' beings, to which many circumcised men and

other individuals may take offense. Like many movements, there are iterations of levels of involvement and type of position. As such, 'intactivists' arguably take a more 'extreme' position against circumcision than do anti-circumcision activists more broadly, but currently, in popular writings from and about the intactivist movement, bloggers and journalists make no distinction between intactivists and anti-circumcision activists. Stark examples of these now-interchangeable names are apparent when conducting internet searches on the anti-circumcision and intactivist movements. Thus, for the purposes of this article, I use the terms anti-circumcision and intactivist interchangeably.

Through the rise of the intactivist movement, numerous websites have appeared on the internet allowing individuals to join this virtual realm of debate, either through sites promoting circumcision (such as Circlist.com) or denouncing circumcision as an act of 'unspeakable cruelty' which 'denies a male's right to genital integrity and choice for his own body' (National Organization of Circumcision Information Resource Centers 2011). Indeed, one of the banners on the National Organization of Circumcision Information Resource Centers' (NOCIRC) homepage declares that they are, in fact, 'Making a Safer World for Children.' The intactivist movement stresses that all male neonatal circumcision is genital mutilation and deserves the same scrutiny that female genital cutting, for example, has faced on a global level.

By looking at the ways in which intactivist groups in particular compare and contrast male neonatal circumcision and female genital cutting with each other in terms of actual procedural steps, the reasons for such procedures, and outcomes of the procedure, contradictory human rights discussions emerge surrounding rights to bodily integrity and sexuality, informed consent, and children's rights. Thus, many intactivist groups have directly challenged traditional medical authority and the ways in which medical knowledge surrounding male circumcision came into existence. It is also from the intactivist movement that male neonatal circumcision as a human rights issue has evolved, including the link between the male circumcision and female genital cutting.

## MALE NEONATAL CIRCUMCISION: A HUMAN RIGHTS ISSUE

Intactivists have begun to shift their argument against male neonatal circumcision by not only providing a medicalized argument against the procedure, but also by proclaiming that male circumcision is a human rights violation as well. By moving from a medicalized or health argument to a human rights argument, intactivists<sup>3</sup> have sought to provide parallel examples of other procedures that have faced more widespread condemnation in Western societies, such as female genital cutting (FGC) or the more value-laden term, female genital mutilation (FGM), as well as surgical intervention for children born intersexed. In fact, many intactivists refer to male circumcision as male genital mutilation (MGM) as a way to draw such parallel comparisons and to bring a human rights discussion to the fore.<sup>4</sup> While these procedures have many unique features, the same issues that have been raised regarding FGC pertain to the intactivist discussion of male circumcision as well.

There are a number of human rights-based claims that intactivists make against male circumcision, particularly when that procedure is performed on infants and children. Here I draw from Shell-Duncan's (2008) discussion of the ways in which FGC has been reframed as a human rights violation. Shell-Duncan (2008) suggests four main rights-based claims against genital cutting which include: the rights of the child; the rights of women (for the purposes of male circumcision, the rights of men); the right to freedom from torture; and the right to health and bodily integrity. Clearly, each claim inherently has certain strengths and weaknesses associated with it, but these discussions on such critiques tend to be made from a legal standpoint (for a more in-depth discussion of the legal strengths and weaknesses of each claim see Breitung 1996 and Gunning 1992 in Shell-Duncan 2008).

## THE RIGHTS OF THE CHILD

Many intactivists have argued that, regarding FGC (and male neonatal circumcision), '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' (Hosken 1994 in Bell 2005:130). Bell (2005) and Bouclin (2005)

note that FGC is usually (although not always) performed on children far too young to give consent even if some form of consent were solicited. Intactivists, therefore, argue that such rights violations can also be applied to male circumcision as well.

Furthermore, in places where FGC is practiced, there are few guidelines, policies, or laws which specify at what age children are either no longer children (and are adults who can give informed consent) or are still children who can (perhaps legally or ethically) give informed consent. According to Dustin and Davies (2007), all forms of FGC constitute significant harm to children according to the Children Act of 1989 in England, Article 3 of the 1950 European Convention on Human Rights (ECHR) and Article 37a of the 1990 United Nations Convention on the Rights of the Child. Notably, many intactivists state that girls should not be subjected to FGC because they do not have the capacity to make a decision freely, with full understanding of the health consequences of such a procedure. Therefore, informed consent plays a significant role in this rights-based claim. By making such broad, condemning statements against FGC and then linking the practice to male neonatal circumcision in Western societies, many intactivists attempt to bridge similarities in procedures which also result in similar rights-based violations. (For a discussion of similarities between FGC and male neonatal circumcision from a Western perspective, please see Goldman 1997).

Intactivists also note that the Declaration of the Rights of the Child asserts that children be given the opportunity 'to develop physically, mentally, morally, spiritually, and socially in a healthy and normal manner and in conditions of freedom and dignity' (UN General Assembly 1959). Because children cannot provide informed consent to an elective procedure such as male circumcision, their status as a vulnerable population offers a legitimate reason for arguing against the practice. However, counterarguments to this rights-based claim involve an understanding that parents often make the decision to have their male infants circumcised so that they have the ability to develop socially, mentally, and physically in a society where many of their peers are circumcised as well. Thus, although the practice of circumcision is decreasing, parents may argue that they feel it is in the best interests of their son for him to be circumcised because it is still the 'cultural norm' and thus falls under the conditions of 'normal

development.’

#### THE RIGHTS OF MEN

The rights of men is another common rights-based claim used by intactivists as a way to argue against male circumcision. However, because ‘men’ as a gender are not considered a vulnerable population, circumcision is not classified as a form of violence against men. As such, legal sanctions do not exist for anyone who performs the procedure, as long as they have consent from an infant’s parent. Classifying FGC as a form of violence against women allows for the legal possibility of utilizing the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Because similar legal sanctions are not applicable to males, intactivists tend to draw from two main arguments which fall under the rights of men: the right to experience sexual pleasure and the right to participate in sexual behavior.

Popular discourse surrounding male circumcision does not draw attention to the ways in which the procedure lends itself to ‘normative’ conceptions of the ‘proper’ male body. Since these discussions never question men’s ‘right’ specifically to sexual pleasure, such debates foreground questions regarding whether or not the foreskin increases a man’s pleasure or whether the removal of foreskin allows him to ‘last longer’ during heterosexual intercourse. If the overwhelming consensus regarding foreskin is that this tissue ‘... makes a major contribution to sexual sensation and function’ (Darby and Svoboda 2007:309), then the erotic significance of the foreskin itself has led to these two contrasting debates. The man who displays ‘normalized’ sexual functioning through ‘culturally acceptable’ masculine behaviors does so by his ability to prolong sexual performance (which is presumably the result of desensitization through removal of the foreskin), as the man is ultimately ‘responsible’ for women’s sexual pleasure (see Bell 2005; Green 2005). Notably, however, removal of the foreskin may also be responsible for decreased sexual functioning because the overwhelming concentration of nerve endings in male genitalia has been removed during the circumcision process (Zoske 1998).

Although men’s sexuality is not popularly discussed as being intricately connected through the presence or absence of foreskin,

circumcision necessarily serves as a form of social control and regulation of what is considered to be 'normal' male sexuality and bodily aesthetics. Harrison (2002) argues that circumcision affects not only male sexuality, but that being circumcised or not circumcised actually results in different sexual repertoires and forms of pleasure, so that he concludes that circumcised and uncircumcised men are 'differently sexed.' By noting the ways in which male circumcision debates have become *too medicalized*, Harrison argues that individuals 'forget' that when parents choose for their son to be circumcised (or not) those parents are literally '...circumscribing certain types of sexual behavior for their sons, and are thus limiting exploration of other sexual possibilities of the penis' (2002:311). For example, 'docking' as a sexual technique requires that a man have his foreskin so that it can be pulled over the head of the penis to act as a type of orifice that is then penetrated by another object (Harrison 2002). If a man is circumcised, he cannot participate in such activities so that, in effect, he must relegate his experiences with sexual pleasure to other physical acts that will conform to the contours of his penis. And so, intactivists contend that if a man's ability to experience sexual pleasure or to engage in certain behaviors is limited in any way, his rights as a sexual being are therefore violated by his circumcision status.

#### FREEDOM FROM TORTURE

Many intactivists have used other rights-based claims in which they define male circumcision as a form of torture. Beginning with a medicalized approach, intactivists have cited newer medical research from the past 20 years which demonstrates that not only do infants feel pain, but that they may experience pain more intensely than do older children and adults. Such an example includes Wellington and Rieder's (1993) original research and discussion of medical studies conducted on neonatal pain from circumcision and possible long-term physiological, emotional, and physical effects that can result from the procedure when done without analgesia.

However, other intactivists have argued that because circumcision is an inherently painful procedure—even with pain management techniques such as penile dorsal nerve blocks and numbing cream—the procedure is a form of torture (see the ASPMN Position Statement on Neonatal Circumcision Pain Relief 2001, as

well as Brady-Fryer, Wiebe, and Lander 2005 for studies conducted on the pain felt by infants during circumcision.) As intactivists have argued, because infants are a vulnerable population and cannot articulate their own sense of pain, circumcision falls under a form of torture, which is defined as ‘...any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person . . . for reasons based on discrimination of any kind’ (Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, Article 1 1984). The concept of torture, however, holds less when discussing adults, who can consent to the procedure and also discuss how they would like to handle issues of pain management. Therefore, torture as a rights-based claim tends to dovetail with claims that follow from the rights of the child. As Shell-Duncan (2008:228) argues, calling a procedure such as circumcision (or FGC) ‘torture’ which is socially valued by many individuals ‘...may be viewed as an attack on culture and may be more likely to cause resistance than to help end the practice.’ Even though CATCID (1984) requires that torture be inflicted with the active or passive consent of public officials, because countries such as the United States have not banned the procedure outright for boys, it can be inferred that public officials are therefore allowing male circumcision to take place (see Breitung 1996 for a more detailed discussion.) In other words, because male circumcision is not banned in the United States it receives implicit approval at political levels, which makes the procedure culturally accepted.

#### THE RIGHT TO HEALTH AND BODILY INTEGRITY

Like the rights-based claim of freedom from torture, the right to health and bodily integrity is also intricately connected to the rights of the child when intactivists discuss male circumcision as a human rights violation. Previous comparisons of rights violations have juxtaposed male neonatal circumcision with FGC, and intactivists continue to do so when discussing bodily integrity. However, intactivists also draw from cases of children who are born intersexed, or have ‘medically indeterminate’ sex status.<sup>5</sup> In fact, the National Organization of Circumcision Information Resource Centers’ website disclaimer opens with the following statement:

Welcome to the website of the National Organization of Circumcision Information Resource Centers, founded by healthcare professionals to provide information to expectant parents, healthcare professionals, educators, lawyers, ethicists, and concerned individuals about circumcision and genital cutting of male, female, *and intersex infants and children*, genital integrity, and human rights ([www.nocirc.org](http://www.nocirc.org) retrieved 20 August 2011, italics added).

Intactivists have attempted to make connections between the practice of male circumcision and other medicalized procedures that also take place within the boundaries of the United States.

Common perceptions in medical science and in the law both suggest that children born intersexed should be operated on in order to 'fix' their 'indeterminate' status, and that parents have the right to decide this fate on behalf of the intersexed child. However, as scholars have noted, if both sex and gender is understood to be socially constructed (see Butler 1993; Fausto-Sterling 1993, 2000), then an infant born intersexed ultimately should not be seen as having any sort of defect or malformation of the body in the first place.

Holmes (2006) discusses a Colombian Constitutional Court's decision in 1999 on the rights of intersexed minors as entitled to special protection against prejudice and its potential consequences. In this decision, the Court recognized the right of a child's 'developing autonomy' and its subsequent right to protect it. Ultimately, however, the Court's ruling is only in favor of protecting the rights of a child's autonomy if it has *already* developed, meaning that the individual must already achieve a sense of self-concept and *embodied* subjectivity (characteristics an infant lacks) (Holmes 2006). Therefore, the Court still upheld parents' rights over children's rights, in that it is '...the right of the parents to decide to authorize early surgeries designed to reshape the genitalia of their children' (Holmes 2006:117). However, although the Court failed to recognize children's rights prior to their 'autonomous' status, many intactivists note that this ruling is important insofar as it recognizes a number of important rights-based documents from both national and international levels, such as: (1)

The Convention on the Rights of the Child (1990), which presumes that all human beings, including children, have a right to autonomy and dignity of their persons which also includes the right to *bodily integrity*; and (2) The American Academy of Pediatrics ethical guidelines (1995) stating that unless a patient cannot make decisions on his or her own behalf, then all patients have a legal and ethical right to make their own decisions. These decisions involve not only the type of treatment they authorize doctors to perform on their bodies, but also the right to *refuse* any treatment at all. As intactivists point out, the case of children born intersexed demonstrates the importance of these rights and makes visible the concept of bodily integrity in the intersex debate as well as in the male circumcision debate; if intersexed children should have the right as individual beings to make autonomous and informed decisions about their own bodies (which ultimately affect their own sexuality and sexual experiences) as defined by both the UN's Declaration at the Convention on the Rights of the Child (1990) and the American Academy of Pediatrics ethical guidelines (1995), the rights of male infants would seem to correspond to the rights of those children born intersexed, particularly regarding an individual's right to sexual and bodily integrity. If such decisions to operate ultimately belong to the individual, intactivists argue that parents should not have the ability to act in a child's 'best interest' regarding these types of procedures.

The strongest rebuttals to the intactivist debate most commonly originate from parents, who assert that they are making the choice to circumcise their sons for medicalized reasons such as for disease prevention and hygienic purposes as well as for cultural reasons, such as wanting sons to 'look like' their fathers or other peers. In this case, parents do not see themselves as robbing their sons of their bodily integrity; in fact, by removing their foreskin, they are potentially alleviating a number of physical and mental difficulties that could eventually interfere with one's bodily integrity over time.<sup>6</sup>

#### RELIGIOUS RIGHTS AS A COUNTERBALANCE

Previous rights-based claims put the individual in the forefront of ownership, in that the individual possesses rights that supersede any group. However, what some Western rights documents also grant is the right to practice religion freely, '...either alone, or in

community with others and in public or private...’ (Universal Declaration of Human Rights, Article 18 1948). It is important to consider religious rights as a counterbalance to the Western inactivist rights debate because it is one of many frameworks that assists in maintaining and legitimating the practice of male neonatal circumcision, particularly in the United States. Furthermore, it is also important to recognize that Westernized notions of human rights are inherently contradictory in nature when using a case study such as male neonatal circumcision. Much of the debate concerning whether or not parents should circumcise their children has developed out of the writings of self-identified Jewish scholars. Hoffman (1996), for example, set out to write a history of the Jewish life cycle, in which he realized that circumcision was a defining moment in what he calls the ‘male lifeline.’ However, throughout the course of his research, he realized that the act of circumcision is symbolically (re)created through historical practice. But, he noted, circumcision in Hebrew is *milah*, which he considers to be a shortened form of *brit milah*, meaning ‘covenant of circumcision.’ Thus, he argued that if the physical act of circumcision is the symbolic act of marking the physical body as Jewish, then that symbolic gesture is a covenant between men and God. In effect, this covenant specifically leaves women out of that covenant, marking their bodies as religiously inferior.<sup>7</sup>

Identifying as a Reform Jew,<sup>8</sup> Goldman (1997) also focused on the act of circumcision because, as a Jew, he questioned why the act has been normalized among Jews and Americans. By questioning the link between the routinization of neonatal circumcision as both a Jewish and an American practice, the procedure has taken on not just a religious component but also a cultural (secular) component as well.<sup>9</sup> Goldman’s (1997) exclusion of Orthodox Jews in his appeals to end religious circumcision demonstrates that although he believes many Jews to be questioning the religious relevance of circumcision, he does not consider the fact that many Jews have intentionally refused to link circumcision to the current medicalization and human rights debates; because circumcision is the symbolic and physical act that binds men to their covenant with God, any other discussion surrounding the procedure is not only inappropriate but also offensive. Thus, many Jews like Norman Manzon, for example, note that ‘the present attack

on the Abrahamic requirement to circumcise is a current phase in the enemy's [intactivist groups'] attempt to destroy Jewish identity...' (2007). Using a Western framework of human rights to denounce a sacred practice such as circumcision is therefore considered to be a violation of the human rights of Jews to practice their religious beliefs and to do so in what many believe to be the most humane way possible. For example, Jewish pediatrician Ed Schoen argues that neonatal circumcision is the most humane form of circumcision because it is performed during a time when '...a full-term infant is tough, adaptable, and resilient' (2005:12). Furthermore, Schoen (2005) notes that there is no evidence to support the claims that painful—even traumatic—events that occur in infancy permanently affect the psychological state of that person as an adult. In fact, Schoen (2005) claims that what would be much more physically and psychologically traumatic to an individual is being circumcised as an older child or adult. Such discussions are reiterated throughout popular discourse which serve to reinforce, perpetuate, and legitimize the procedure.

As previously noted, however, there have been other scholars and activists who have different interpretations of documents such as the Universal Declaration of Human Rights (1948). For example, Article 18 states:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

If Jews specifically believe that male circumcision is intricately connected to Jewish identity (that is, being circumcised 'marks' a Jewish male's covenant with God and 'makes' him Jewish) then to deny Jews the right to circumcise their male infants is a violation of the right to religion and the right to practice it. As Pollis and Schwab (1980) also note, the conception of human rights, specifically as they are mentioned in the Universal Declaration of Human Rights (1948),

is inherently Western. In other words, The Universal Declaration (1948) mentions human rights which are modeled after other documents such as the American Declaration of Independence (1776), the United States Constitution (1789), the American Bill of Rights (1791) and other documents such as the English Petition of Rights (1627) and the French Declaration of the Rights of Man and Citizen (1789) (Pollis and Schwab 1980). These writings specifically conceptualize individual rights as natural rights that were supreme over sovereignty of the state, which directly contradicts many other types of governments and cultures which understand the state to be responsible for granting in the form of political and legal rights. In effect, efforts to impose the Universal Declaration of Human Rights (1948) as it currently stands, even within Westernized cultures, show evidence of chauvinism and ethnocentricity which view Western conceptions of democracy and liberty through a libertarian lens in which the individual possesses certain inalienable rights in nature (Pollis and Schwab 1980).

However, from a Western perspective, group rights may take precedence over individual rights in certain situations. Even Jews in the United States who consider themselves non-religious often circumcise their male children out of cultural duty if not a religious one. If infants have certain inalienable rights, then his parents do not have the right to practice their religion as it is granted to them in Article 18 of the Declaration (1948). The discussion of religious rights is important to consider because of the significant role it plays in legitimating male neonatal circumcision in the United States. Unlike the issue of FGC or of children born intersexed, in which religion is not a social, political, or cultural factor, a discussion of religion serves to counterbalance concerns regarding individual human rights in the male circumcision debate. As a medicalized issue, there are potential risks and benefits which serve to justify the procedure. However, a medicalized risk/benefit analysis is not a consideration for those who practice male neonatal circumcision for religious purposes. It is for this reason that the issue shifts from one of individual rights to group rights.

## GENITAL CUTTING, GENDER, AND THE VIOLATION OF HUMAN RIGHTS

Western intactivists have drawn from a variety of sources to make the differences in cultural understandings and legal repercussions of male neonatal circumcision and FGC more explicit. For example, Darby and Svoboda (2007) note that globally, two million cases of FGC are performed every year, as compared to male circumcision that is performed on 13 million males annually. The pediatrician or obstetrician who wishes to remove foreskin on a male infant need only gain consent from his parents; however, if the same physician were to remove analogous tissue from a female infant, he or she could receive up to five years in prison. The fact that male circumcision remains legal while FGC is not demonstrates a reflection of ethnocentric reactions of public officials in the United States who refuse to acknowledge that similar procedures are performed on American boys (and girls) every day without any legal consequence (Bell 2005; Denniston 1996; Sargent 1991).

As Shell-Duncan (2008:229) notes, 'the human rights movement articulates problems in political terms and solutions in legal terms.' The main intactivist debates are set up in such terms, which first rely on visceral, 'common sense' appeals through health or newer rights-based policy claims; but both sides of the debate offer solutions in the form of legal ramifications. In 1996, Congress enacted a number of provisions as part of the Illegal Immigration Reform and Immigrant Responsibility Act, which criminalizes the practice of FGC on a person under 18 years of age for non-medical reasons. Since 1998, several states have also enacted similar laws which institute criminal sanctions against the practice of FGC, including California, Colorado, Delaware, Illinois, Maryland, Minnesota, Missouri, Nevada, New York, North Dakota, Oregon, Rhode Island, Tennessee, Texas, West Virginia, and Wisconsin (Rahman and Toubia 2000; U.S. Department of Health and Human Services 2005). Clearly, the legal response to the practice of FGC was due to the fact that public officials recognized the procedure was being performed, although not commonly, by non-white 'immigrants' to the United States. As intactivists note, the United States is willing to enact legislation to prevent the integration of non-Western practices, but is unwilling to examine similar practices such as male neonatal circumcision because

of the cultural and social ramifications of potentially banning the procedure (Bell 2005). Intactivists also argue that male circumcision is viewed as an acceptable practice in the United States because many Americans are willing to recognize that the procedure is embedded within cultural and religious practices; when viewing FGC, Americans ethnocentrically consider the practice to be a 'non-Western' form of female social and sexual control that is located outside the boundaries of any other cultural discussion, even though various types of FGC are performed on consenting adult women every year (see Bell 2005 and Green 2005 for a discussion of various types of female genital surgeries performed for aesthetic purposes in Western countries.) Because the practice of male neonatal circumcision is routinized in the United States and to a lesser extent other Western nations, the procedure has escaped this same scrutiny.

While intactivists note that there are clear similarities between male circumcision and FGC procedurally, in popular discourse the differences between these procedures tend to be highlighted. Rarely is male circumcision popularly discussed in terms that are overtly value-laden; in effect, its medicalization 'protects' it from cultural scrutiny. In stark contrast, within the realm of academia, FGC has been called 'an assault on female sex organs' (El-Defrawi, Lotfy, Dandash, Refaat, and Eyada 2001:470), 'a cultural practice inflicted upon girls...' (Dustin and Davies, 2007:4), and that rather than it being racist for 'Westerners' to assist in stopping FGC, is actually considered 'racist' according to Dustin and Davies (2007) *not* to campaign actively against FGC. Thus, the justifications for FGC versus male circumcision are often conceptualized differently. Activists and scholars who are against the practice of FGC focus on cultural and social issues as reasons to eliminate the practice; ironically, it is those same cultural and social issues that perpetuate male infant circumcision.

Activists and scholars who oppose FGC commonly cite cultural and social reasons for its perpetuation, but they usually stress the issue of patriarchal control of female sexuality. As Rahman and Toubia (2000:5-6) note:

Because sexuality is socially constructed, it has different meanings depending upon its context. For many communities that practice FC/FGM [female genital cutting], a family or clan's honor depends upon a girl's virginity or sexual restraint. This is the case in Egypt, Sudan and Somalia, where FC/FGM is perceived as a way to curtail premarital sex and preserve virginity. In other contexts, such as in Kenya and Uganda, where sexual 'purity' is not a concern, FC/FGM is performed to reduce the woman's sexual demands on her husband, thus allowing him to have several wives.

Thus, FGC serves to reduce women's sexual desire on a number of levels, depending upon the ways in which a woman's sexuality has been socially constructed in any given society. By 'maintaining' a woman's virginity or marital fidelity, so goes the argument, these social controls are instituted to protect male sexuality at the expense of women's sexual fulfillment.<sup>10</sup>

#### CONTRADICTIONARY NOTIONS OF WESTERN HUMAN RIGHTS

These debates clearly demonstrate a need to balance the rights of infants as autonomous individuals with the rights of groups (both secular and religious) in order to understand that both cultural and religious practices are not static, nor do cultural or religious aspects make up the only dimension of an individual or group. It is important to look at political, economic, and legal rights *as they are understood by particular individuals and groups* and how those rights intersect with Westernized conceptions of human rights. As Shell-Duncan (2008:228) notes, '...in the past decade, the concept of VAW [violence against women], including FGC, has been integrated into expanding notions of human rights, resulting in acceptance of FGC as counternormative at the international level' (see Boyle 2002 as cited in Shell-Duncan 2008). However, such a framework cannot be so readily applied to male neonatal circumcision, especially when religious and cultural group rights are juxtaposed against the rights of individuals.

In fact, as Shell-Duncan (2008:229) argues, Western societies are attempting to shift ‘...from one narrow framework to another,’ in which intactivists argue that the routinization of male neonatal circumcision mirrors the ‘abuses’ of FGC. Thus, it is important, as Shell-Duncan (2008:230) argues, to recognize the following issues: (1) ‘Human rights [are] a Western construct imported, and in some cases imposed, on other cultures,’ although it is also important to note that such ‘agendas’ which are conceptualized as Western is ‘overly simplistic;’ and (2) While ‘human rights’ are seen as a Western humanitarian movement brought in to ‘rescue’ other societies, such human rights paradigms are perhaps ‘an evolving ‘culture of human rights,’ one that develops and changes over time in response to a variety of social, economic, political, and cultural influences’ (Merry 2001:31 as quoted in Shell-Duncan 2008:230). As such, human rights are important tools for intactivists and pro-circumcision activists alike, but it is also important to recognize the overwhelming influence that culture plays on both the understanding of human rights as well as how those rights are implemented in such debates. It is not simply religion that informs and legitimizes male neonatal circumcision, but it is also the culture(s) in which that practice is located as well.

How can these debates offer insight into the ways in which we perceive human rights in a discussion surrounding male neonatal circumcision? The Western human rights framework as implemented by both intactivists and many pro-circumcision groups alike seems fundamentally grounded in the imposition of Western ways on non-Western culture. In the case of male neonatal circumcision in Western cultures, it is unlikely that narrow and contradictory conceptions of human rights will ultimately be effective as either a deterrent or a protective force; the irony is such that as we as Westerners attempt to ‘save’ non-Westerners here by imposing legislation to protect them from most types of genital cutting, there is no one who can protect ‘us’ from ourselves.

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### Endnotes

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<sup>2</sup>Anti-circumcision activists generally cite two leaders in the movement, Van Lewis, who picketed outside a Tallahassee, Florida hospital in 1970, as well as Marilyn Milos, a nurse who was fired for advising against the procedure to parents in 1985. Milos later went on to found the National Organization for Circumcision Information Resource Centers (NOCIRC).

<sup>3</sup>For the purposes of this article, I discuss human rights-based claims that intactivists specifically from the United States, Canada, Great Britain, and Australia have used.

<sup>4</sup>For perhaps the most well-known example, see <http://mgmbill.org/>, for an overview of the Genital Mutilation Prohibition Act which was submitted to the Senate and the House of Representatives in 2011 January. The bill notes: '*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, to amend the Female Genital Mutilation Act of 1996 (a) so that boys, intersex individuals, and nonconsenting adults may also be protected from genital mutilation; (b) to increase the maximum punishment of offense to 14 years imprisonment, (c) to include assistance or facilitation of genital mutilation of children or nonconsenting adults as an offense, and (d) to prohibit persons in the U.S. from arranging or facilitating genital mutilation of children and nonconsenting adults in foreign countries*' (<http://mgmbill.org/usmgmbillstatus.htm>, emphasis in original.)

<sup>5</sup>For examples of specific intactivists groups that make the link between male circumcision and surgeries on children born intersexed, see <http://www.foreskin-restoration.net/forum/forumdisplay.php?f=21>, <http://www.nocirc.org/>. For an in-depth discussion on the debate from an intactivist framework, see <http://www.circumstitutions.com/Intersex.html>.

<sup>6</sup>Such arguments made by parents who choose to circumcise their sons are not only found when talking to parents of male children themselves, but also are routinely highlighted on numerous online blogs and popular discussion forums. See <http://kidshealth.org/parent/system/surgical/circumcision.html>, <http://www.mothersagainstcirc.org/decided.htm>, <http://www.quora.com/Circumcision/Why-do-some-parents-have-their-children-circumcised>; <http://answers.yahoo.com/question/index?qid=20100415033916AAZhtQ5> for a few examples of various types of popularized discussions and debates.

<sup>7</sup>Hoffman (1996) further noted that the dominant symbol of circumcision is its blood, which many Rabbis contrast with menstrual blood as the core binary gender differences occurring within Judaism. As a result of his research in the Jewish life cycle, Hoffman turned his focus toward circumcision and its symbolic meaning and realized that the act was both physically and symbolically excluding women.

<sup>8</sup>For a more in-depth discussion of the different Jewish denominations, see the Jewish Outreach Institute's (2008) explanation at <http://joi.org/qa/denom.shtml> (retrieved 14 August 2011).

<sup>9</sup>As Ed Schoen (2005), a self-identified Jewish pediatrician noted, circumcision has become a form of patriotism, in that the comparative high rates of circumcision in the United States link the procedure not only to having a Jewish identity but also because 'it's the American thing to do.'

<sup>10</sup>What these scholars also fail to note, however, is that several forms of FGC have persisted for as long as male circumcision has been practiced in the United States, generally for similar historical reasons—note that in the Victorian era, male circumcision was practiced to curb masturbation. Circumcisions and chemical removal of the clitoral hood, clitoris, and/or other erogenous tissue were performed on females during this same time period to prevent similar practices that were deemed socially unacceptable (see Darby, 2005; Darby and Sveboda, 2007; Goldman, 1997; Gollaher, 2000).

**Lauren M. Sardi, Ph.D.**, is Assistant Professor of Sociology at Quinnipiac University in Hamden, CT. Her current research focuses on the medical and social construction of male neonatal circumcision in the United States. In her research, she analyzes the ways in which routinized male circumcision is maintained as a social norm in hospital settings, as well as how parents and expecting parents make the decision regarding whether or not to circumcise their male infant children. Her research also attempts to bridge the gap between medical professionals and parents surrounding the informed consent

process, human rights, and access to updated information about the procedure itself.