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**Submission to the South African Parliamentary
National Assembly
Select Committee on Social Services**

Children's Bill [B70B-2003]

Submitted by:

NOCIRC-SA



**National Organisation of Circumcision Information Resource
Centres – South Africa**

**Emailed to Committee Secretary
Mr. A. Kotze
in Cape Town on 10 October 2005**

CHILDREN'S BILL [B70B-2003]

Clause 12: SOCIAL, CULTURAL AND RELIGIOUS PRACTISES

"Circumcision is a euphemism for genital reduction surgery or genital mutilation, performed by medically-licensed or unqualified practitioners for various reasons. It is important to define it honestly, for that is how the mind interprets it, with or without superimposed denials, explanations and intellectualisations".

Dr Janet Menage MA MB ChB

NOCIRC-SA aims to protect children from forced genital mutilations and contends that such imposed and unnecessary modifications of a child's genitals is a human rights violation. We therefore support the self-determination of female, male and intersex children and affirm their right to full genital integrity.

Section 9 of the Bill of Rights of the Constitution of South Africa provides for equality for all persons, which "includes the full and equal enjoyment of all rights and freedoms." The state may not discriminate on the basis of sex. Moreover, this section obligates the state to pass legislation to prohibit such discrimination.

Section 12 of the Bill of Rights of the Constitution of South Africa provides for freedom and security of a person, which includes the right to bodily and psychological integrity.

The following excerpt is from Clause 12 of the Children's Bill [B70B-2003] and illustrates the gender discrimination in respect to circumcision:

12.

(1) Every child has the right not to be subjected to social, cultural and religious practices which are detrimental to his or her well-being.

(2) [Omitted]

(3) Genital mutilation or the circumcision of female children is prohibited.

(4) Virginity testing of children is prohibited.

(5) Taking into consideration the child's age, maturity and stage of development, every male child has the right to refuse circumcision.

(6) (a) A person who contravenes subsection (3) or (4) or who permits such contravention in respect of a child whom he or she is obliged to protect against maltreatment, abuse or degradation is guilty of an offence.

(b) A person who circumcises a male child against his will or a person who is obliged to protect a male child against maltreatment, abuse or degradation and who allows that child to be circumcised against his will is guilty of an offence.

Male children and infants are seldom in a position to exercise their right to refuse a circumcision. The State thus has the responsibility to protect them from genital mutilation *in the same way* that female children are protected. Male genitalia deserve equal legal and constitutional status as female genitalia.

The above-mentioned section should be amended to remove the gender bias and completely protect all children from any form of genital tampering. We recommend amending Point (3) and incorporating the following text in its place;

(3) Genital mutilation or circumcision of children is prohibited

and thereafter removing Point (5).

Male Circumcision should not be isolated from Female Circumcision or Intersex Genital Modifications. The right to bodily integrity is denied by removing healthy human tissue. Only a consenting adult over 18 years should have the right to surgically alter his/her body without medical justification.

Notwithstanding the above, NOCIRC-SA strongly supports Point 6(a) and 6(b) affording children who have been circumcised against their will, the right to legal recourse against their circumcisors. We recommend that appropriate legislation be created to enable children the ability to exercise this right. We suggest that legal support be made available when presenting their case to the court at the time of assault, or three years after reaching age of majority, or within one year of discovery of harm or loss.

Should the Children's Bill [B70B-2003] be enacted as currently drafted we recommend that firm national guidelines be formulated regarding continuing circumcision practices:

For example:

1. Traditional Circumcisions only be allowed after the age of 18 on a national basis with the informed, signed consent of the individual in question. In fact, the Eastern Cape Province Application of Health Standards in Traditional Circumcision Act (2001) already requires a minimum age of 18 for circumcision so there is ample precedent to require that the male have reached the age of majority. This law sets further standards for the safe practice of Traditional circumcision which should be updated and applied nationally.
2. Circumcisions within Medical Institutions be regulated and stringent polices and updated education be introduced. Medical practitioners are afforded the right to refuse to perform non-medical procedures such as Religious circumcisions.
3. Further recommendations are instituted regarding the qualification of circumcisors and standards of health and hygiene.
4. A national register is created to record all circumcisions and the details of the person who performs the circumcision to afford the individual the opportunity of pursuing legal recourse should they, for whatever reason, chose to do so.

The South African Medical Association's (SAMA) position statement on non-medical circumcision of children stated that, "**from a medical point of view, there was no medical justification for routine circumcision in neonates and children.**" These recommendations are being disregarded within our medical institutions daily. Currently a **healthy** male child can be circumcised without medical need and the legislation is needed to discourage this practice. Parents have the responsibility and authority to make medical decisions on behalf of their children. However, this decision should be guided by the best interests of the child. Decisions that are clearly not in a child's best interest can and should be challenged especially if the parents' decisions are 'potentially dangerous to the child's health, imprudent, neglectful, or abusive.' No other medical situations exist whereby parents can elect to surgically modify part of their child's healthy anatomy. Informed consent is meaningless when the individual is given no right to refuse the surgery, or is unable to refuse it.

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NOCIRC-SA - National Organisation of Circumcision Information Resource Centres - South Africa

This submission is endorsed by:

ICGI, International Coalition for Genital Integrity.

NORM-SA - National Organisation of Restoring Men - South Africa

DOC - Doctors Opposing Circumcision