
Resolution 9: MGM BILL ENDORSEMENT

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Region: Western Regional Conference
San Francisco, CA

RESOLUTION

WHEREAS genital mutilation of children, regardless of gender, is a violation of human rights;

WHEREAS genital mutilation in the form of circumcision continues to be performed on more than one million male infants annually in hospitals and religious ceremonies in the USA despite overwhelming evidence documenting its harmful physical and emotional effects; and

WHEREAS progress to end male genital mutilation will only be achieved through widespread and forceful public condemnation,

BE IT RESOLVED that AIUSA wholly endorses the attached U.S. and California MGM Bill proposals so that all children in the USA and the State of California will be legally protected from the harmful practice of genital mutilation, regardless of gender, and to send a message to other countries and states that forced genital cutting of minors is a practice that will no longer be tolerated.

BACKGROUND

The purpose of this resolution is ask AIUSA to endorse proposed US and California legislative bills to amend existing Female Genital Mutilation laws in order to make them gender neutral, thereby, recognizing male circumcision as a form of Male Genital Mutilation (MGM).

Provisions of the MGM Bills include the recognition of male circumcision as a form of MGM and the banning of all forms of MGM; the criminalization of persons who perform genital mutilation, including male circumcisions, on minors and unconsenting adults; the maximum sentence for this offense to be set at 14 years in prison; and directives to the Secretary of Health and Human Services to compile data on the number of persons under the age of 18 in the US who have had genital mutilation and create outreach programs in communities practicing genital mutilation.

The attached MGM Bill proposals (also located online at www.mgmbill.org) have been submitted to Congress and the California Legislature twice: first in February, 2004, and again in February, 2005. At this time, there are no sponsors for the proposed bills.

If AIUSA were to move forward with the action called for in this resolution, AIUSA would have to submit a request to the IS to determine whether or not this section can support this bill under current AI policy.

ARGUMENTS IN FAVOR

AIUSA should endorse the MGM Bill proposals. Equal protection of the law is a universally recognized human right held by all people, regardless of gender. However, the rights of male children are being violated on a daily basis in the USA (and other countries) through infant circumcision. Even though no national or international medical organization in the world recommends routine circumcision, male circumcision continues to be widely practiced in the United States, affecting an estimated 55 – 60% of newborn American males. The reasons for continuation of the practice include ingrained cultural traditions, perceived benefits in hygiene and health, and parental religious preferences.

The MGM Bill proposals would put an immediate end to these violations in the United States, but few if any legislators are willing to support or sponsor them until widely recognized and respected health and human rights groups publicly support them first.

The MGM Bill proposals are currently endorsed by eight different organizations, including NOCIRC and the Ashley Montagu Resolution and Petition. NOCIRC is the largest and best known anti-circumcision group, with UN Roster status and more than 100 offices around the world. The Ashley Montagu Resolution and Petition is a declaration calling for an end to genital mutilation of children worldwide, and includes the signatures of Francis Crick, Jonas Salk, and more than 2,500 other individuals from various professions.

An endorsement from Amnesty International would help end MGM in the USA and would send a message to other countries and states that genital cutting of minors is a practice that will no longer be tolerated.

ARGUMENTS AGAINST

See Background and Arguments for Resolution 8, MGM.

AIUSA cannot support this bill without the organization first taking a position on male circumcision. For AIUSA to endorse the MGM Bill, the IS would have to determine whether or not the MGM Bill is consistent with current Amnesty International policy. Currently, the attached bills have not been introduced in any legislative bodies.

RESOURCEIMPLICATIONS

Resource implications cannot be fully determined at this time. The fiscal implications of this resolution would depend upon the extent of membership engagement with this issue.

Genital Mutilation Prohibition Act

IN THE HOUSE AND SENATE OF THE UNITED STATES

A Bill

Submitted to Congress on February 28, 2005

Entitled the "Federal Prohibition of Genital Mutilation Act of 2005"

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.

SECTION 1. SHORT TITLE

This Act may be cited as the "Federal Prohibition of Genital Mutilation Act of 2005".

SECTION 2. TITLE 18 AMENDMENT

(A) IN GENERAL.--Title 18, Part I, Chapter 7, Section 116 of the United States Code is amended by revising the text to read as follows:

"116. GENITAL MUTILATION

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, cuts, or mutilates the whole or any part of the labia majora, labia minora, clitoris, vulva, breasts, nipples, foreskin, glans, testicles, penis, ambiguous genitalia, hermaphroditic genitalia, or genital organs of another person who has not attained the age of 18 years or on any nonconsenting adult; whoever prematurely and forcibly retracts the penile or clitoral prepuce of another person who has not attained the age of 18 years or on any nonconsenting adult, except to the extent that the prepuce has already separated from the glans; whoever knowingly assists with or facilitates any of these acts; or whoever arranges, plans, aids, abets, counsels, facilitates, or procures a genital mutilation operation on another person outside the United States who has not attained the age of 18 years or on any nonconsenting adult outside the United States shall be fined under this title or imprisoned not more than 14 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is (1) performed on a person who has not attained the age of 18 years and is necessary to the physical health of the person on whom it is performed because of a clear, compelling, and immediate medical need with no less-destructive alternative treatment available, and is performed by a person licensed in the place of its performance as a medical practitioner; (2) performed on an adult who is physically unable to give consent and there is a clear, compelling, and immediate medical need with no less-destructive alternative treatment available, and is performed by a person licensed in the place of its performance as a medical practitioner; or (3) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth because of a clear, compelling, and immediate medical need with no less-destructive alternative treatment available, and is performed by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

"(c) In applying subsection (b), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

(B) CLERICAL AMENDMENT.--The table of sections at the beginning of Chapter 7 of Title 18, Part I, of the United States Code, is amended by revising Section 116 to read "116. Genital mutilation."

SECTION 3. INFORMATION AND EDUCATION REGARDING GENITAL MUTILATION

(A) IN GENERAL. -- The Secretary of Health and Human Services shall carry out the following activities:

(1) Compile data on the number of persons of all sexes living in the United States who have been subjected to genital mutilation (whether in the United States or in their countries of origin), including a specification of the number of children under the age of 18 who have been subjected to such mutilation.

(2) Identify communities in the United States that practice genital mutilation, and design and carry out outreach activities to educate individuals in the communities on the physical and psychological effects of such practice. Such outreach activities shall be designed and implemented in collaboration with representatives of the ethnic groups practicing such mutilation and with representatives of organizations with expertise in preventing such practice.

(3) Develop recommendations for the education of students of schools of medicine and osteopathic medicine regarding genital mutilation and complications arising from such mutilation, as well as complications arising from premature forcible retraction of the prepuce. Such recommendations shall be disseminated to such schools.

(B) IN GENERAL. -- The President shall carry out the following activities:

(1) Seek to end the practice of genital mutilation worldwide through the active cooperation and participation of governments in countries where genital mutilation takes place.

(2) Steps to end the practice of genital mutilation should include--

(a) encouraging nations to establish clear policies against genital mutilation and enforcing existing laws which prohibit it;

(b) assisting nations in creating culturally appropriate outreach programs that include education and counseling about the dangers of genital mutilation to people of all ages; and

(c) ensuring that all appropriate programs in which the United States participates include a component pertaining to genital mutilation, so as to ensure consistency across the spectrum of health and child related programs conducted in any country in which genital mutilation is known to be a problem.

(C) DEFINITIONS. -- For purpose of this Act, the term "genital mutilation" means the removal or cutting (or both) of the whole or part of the clitoris, labia minora, labia majora, vulva, breasts, nipples, foreskin, glans, testicles, penis, ambiguous genitalia, hermaphroditic genitalia, or genital organs. The term "premature forcible retraction of the penile or clitoral prepuce" means forced retraction of the prepuce from the glans, except to the extent that the prepuce has already separated from the glans. The term "prepuce" means foreskin. The term "adult" means a person who has attained the age of 18 years. The term "nonconsenting" means not wishing to undergo genital mutilation.

SECTION 4. EFFECTIVE DATES

Section 2 of this Act shall take effect immediately after the date of the enactment of this Act. Section 3 of this Act shall take effect immediately after the date of the enactment of this Act, and the Secretary of Health and Human Services and the President shall commence carrying it out not later than 90 days after the date of the enactment of this Act.

THE STATE OF CALIFORNIA AMENDED BILL TEXT

CALIFORNIA 2005-06 REGULAR SESSION

A BILL

Submitted to the California State Legislature on February 28, 2005

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known and may be cited as the "California State Prohibition of Genital Mutilation Act."

SECTION 2. The Legislature hereby finds and declares all of the following:

(a) This legislation amends the prior version of this law (a) so that boys and intersex individuals may also be protected from genital mutilation, and (b) to increase the combined maximum punishment of offense to 14 years imprisonment. Genital mutilation is an extreme form of child abuse and a violation of people's basic human rights. Genital mutilation is a medically unnecessary modification of the genitalia which for girls typically occurs at about seven years of age, but is known to be practiced any time between infancy and puberty. For boys, genital mutilation typically occurs within eight days of birth, but is known to be practiced any time between infancy and twenty years of age. Genital mutilation for girls involves the excision of a young girl's clitoris and other parts of the external genitalia. The most extreme form of this mutilation, known as infibulation, also involves the sewing together of the two sides of the vulva, leaving only a small opening for the passage of menstrual blood and urine. Genital mutilation for boys involves the excision of a young boy's foreskin, which includes the ridged band of nerves and usually the frenulum. Boys whose foreskins are left intact are often subjected to premature forcible foreskin retraction, which can cause bleeding, scarring of the glans, and other problems. For intersex individuals (those born with ambiguous or hermaphroditic genitalia), genital mutilation typically occurs in hospitals shortly after birth, when the attending physician performs "sex assignment" surgery to make the child fit into the category of boy or girl, rather than intersex.

(b) Female genital mutilation is known to be practiced in 28 nations in the African continent, in a few countries in the Arab Peninsula, among some minority communities in Asia, and among migrants from these areas who have settled in Europe, Australia, and North America. This practice has come to California with the influx of recent immigrant groups from countries that practice female genital mutilation. In addition to the countries where female genital mutilation is practiced, male genital mutilation is widely practiced in the United States, Australia, South Korea, the Philippines, and the Middle East, and is more widespread than female genital mutilation. Statistics on intersex genital mutilation are not as well documented, but in the United States it is not uncommon for an attending medical practitioner to perform genital mutilation on intersex infants.

(c) With the passage of the original version of this act in 1996 (the California State Prohibition of Female Genital Mutilation Act), female genital mutilation of minors became a criminal offense in the State of California. Male genital mutilation was not addressed, however, and the latest statistics indicate that some 35% of young boys in California have their genitals mutilated in the name of health, hygiene, social custom, or religion. Unlike with female genital mutilation, male genital mutilation is practiced openly, in both hospitals and religious ceremonies, without regard to the physical and psychological harm that it causes each of its victims. Intersex genital mutilation was also not addressed. The Intersex Society of North America estimates that the number of "normalizing" genital mutilations is roughly 1 or 2 per 1,000 births, with approximately 1 in 1,666 births being classified as intersexed.

(d) Genital mutilation constitutes a major health risk to all people, with lifelong physical, psychological, and human rights consequences. Complications due to female genital mutilation include shock, hemorrhage, infection, tetanus and septicemia from unsterilized instruments, bladder infection, and even death. Long-term complications include sexual dysfunction, chronic vaginal and uterine infections, severe pain during urination, menstruation, and sexual intercourse, obstetric complications due to obstruction of the birth canal by scar tissue, and lifelong psychological trauma. For the obstructed infant, labor can lead to brain damage or

death. Complications due to male genital mutilation include hemorrhage, infection, excessive skin loss, skin bridges, glans deformation, bowing, meatal stenosis, loss of penis, and death. Long term complications include sexual dysfunction, loss of sexual sensitivity, increased friction and pain during sexual intercourse, and lifelong psychological trauma. The complications of intersex genital mutilation are similar to, and may be even more traumatic than, the complications of female and male genital mutilation.

(e) This 4,000-year-old cultural practice is not a requirement of any major religion. According to the World Health Organization, most families allow their daughters to undergo female genital mutilation out of fear that no man will want to marry an "uncircumcised" woman and that she will be ostracized from the community. Further, some women believe that clitoridectomy or infibulation are not only more hygienic, but will also increase a woman's fertility. In some tribes, infibulation is performed to protect family lineage through ensuring that wives are virgins at marriage and that the children are verifiably the men's descendants. For boys, circumcision is encouraged so that boys will look like others in their community, so they will look the same as their father, and so they will have a penis that is perceived to be more hygienic. In religious circumcisions, male genital mutilation is typically encouraged as a "covenant of blood", and as a way to predetermine the religion of the child. To the extent that intersex children are circumcised for religious reasons, quite often it is based on whether the child is perceived to be "more male" or "more female".

(f) The World Health Organization, which urges the elimination of female genital mutilation, estimates that 2,000,000 girls undergo female genital mutilation each year. Worldwide, approximately 128,000,000 girls and women, now living, have been subject to the procedure. The National Organization to Halt the Abuse and Routine Mutilation of Males estimates that 13,000,000 boys undergo male genital mutilation each year. Worldwide, approximately 650,000,000 boys and men, now living, have been subject to the procedure. As stated in section (c), The Intersex Society of North America estimates the number of genital mutilations at roughly 1 or 2 per 1,000 births.

(g) It is time for this state to join with genital integrity and human rights organizations to condemn this harmful and outdated procedure. The state must take a proactive role to prevent these mutilations through education and outreach activities to make all state citizens aware of California laws, standards, and expectations for child protection. Heightened awareness among child protective services workers, health care providers, educators, and law enforcement personnel will also aid in achieving this end. Finally, criminal investigations and prosecutions should be carried out, when necessary, to send a strong message that California abhors this practice and views its abolition as paramount to the health and welfare of these young children.

SECTION 3. Article 8 (commencing with Section 124170) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code, is amended to read:

Article 8. Genital Mutilation Prevention

124170. The State Department of Health Services, in consultation with the State Department of Social Services and the appropriate federal agency or department, shall establish and implement appropriate education, preventative, and outreach activities, focusing on the new immigrant populations that traditionally practice female genital mutilation, on hospitals that traditionally practice male and intersex genital mutilation, and on religious groups that traditionally practice male genital mutilation, for the purpose of informing members of those communities of the health risks and emotional trauma inflicted by this practice and informing those communities and the medical community of the prohibition and ramifications of Section 273.4 of the Penal Code.

SECTION 4. Section 273.4 of the Penal Code is amended to read:

273.4. **(a)** If the act constituting a felony violation of subdivision (a) of Section 273a was genital mutilation, as defined in subdivision (b), the defendant shall be punished by an additional term of imprisonment in the state prison for two, four, or eight years, in addition and consecutive to the punishment prescribed by Section 273a.

(b) "Genital mutilation" means the circumcision, excision, cutting, mutilation, or infibulation of the whole or any part of the labia majora, labia minora, clitoris, vulva, breasts, nipples, foreskin, glans, testicles, penis, ambiguous genitalia, hermaphroditic genitalia, or genital organs, or any forcible retraction of the penile or clitoral prepuce (except to the extent that the prepuce has already separated from the glans)

performed for nonmedical purposes. “Nonmedical purposes” means any reason other than a clear, compelling, and immediate medical need with no less-destructive alternative treatment available.

(c) Nothing in this section shall preclude prosecution under Section 203, 205, or 206 or any other provision of law.