



# McGill

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**EXTRACT FROM A LETTER FROM DR. SOMERVILLE  
DATED JUNE 10, 1992  
TO THE MINISTER OF JUSTICE OF CANADA**

I have, in the past, adopted the position that male circumcision should be regarded as legal and female circumcision as illegal, in particular, under the Criminal Code. There are no federal or provincial laws dealing expressly with the legality of male or female circumcision, and therefore, we need to consider how this view, which reflects current practice (namely that male circumcision is treated as legal, or at least not illegal, and female circumcision is treated as illegal, under the Criminal Code) can be justified.

Any wounding, and clearly circumcision involves this, is "prima facie" illegal, unless it can be justified. Initially a therapeutic aim was the sole justification for such an intervention. More recently, it has been argued that an alternative justification is possible, in that, some non-therapeutic interventions (those that are not contrary to public policy) are legal with the informed consent of an adult. In the case of a male infant such consent is not a possibility, and neither, in the vast majority of cases, could the intervention be considered therapeutic. One would have to find other justification for the intervention. The only possibility, which comes to mind, would be that the harm involved is "de minimus" and, therefore, would not be taken into account by the law. I am not sure, however that we can any longer claim this with regard to male circumcision. Possibly, an argument along the lines of respect for religious and cultural freedom of the parents provided the intervention is, indeed of minimal harm, could be considered. Again, I am uncertain this would justify wounding the involves irreversible consequences, and the issue remains of whether only minimal harm is involved.

There are also some forms of female circumcision, which would be no more harmful than male circumcision and, possibly, less harmful. However, I strongly support the position that these, together with all forms of female circumcision, should be prohibited. But in this case, it makes it even more difficult to determine why we would continue to regard male circumcision as legal and allow it.