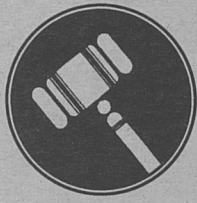


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BRIEFS

What Price Conformity?

BY SUSAN MURRAY AND BETH ROBINSON

Last month we reported on the fifth annual Sexual Orientation and the Law conference, which was held at Vermont Law School in March. The keynote speaker at that conference was Cheryl Chase, director of the San Francisco-based Intersex Society of North America. She spoke about intersexuality — also known as hermaphroditism — and about expanding human rights to include intersexed people.

Each year, a small percentage of infants are born with genitals that do not match the norm: externally, they either have an unusually small penis and testes or an enlarged clitoris and small vagina. According to Ms. Chase, the medical establishment treats these infants as having a serious deformity that must immediately be 'fixed' with genital surgery. Because it is easier to 'chop something off' than to 'build something up,' most of the time surgeons cut off the infant's testes and penis or reduce the size of the clitoris, and 'make' the child into a girl.

Pediatric surgeons see such surgery as a solution to a 'psychosocial emergency.' The sole purpose is to enhance the long-term psychological well being of the patient by allowing the patient to fit in and avoid stigmatization. Unfortunately, according to Ms. Chase, there is no clear evidence that the surgery meets this goal. In fact, a growing body of evidence suggests that such surgery is not only medically unnecessary, but can also

be extremely damaging to the patient in the long run.

The Intersex Society points out that because the surgery is done on infants, the scar tissue often causes significant, chronic pain, because of normal changes in the size and shape of the tissue as the child grows. The Society also points to evidence of a reduction in sexual sensation caused by the surgery. In contrast, hermaphrodites with small penises who escaped surgery as infants report in several studies that they are not only sexually functional but also have satisfying sex lives. Finally, the Society argues that such surgery may cause long-term psychological harm, since a significant fraction of the infants who are 'made into girls' through genital surgery actually develop a male gender identity.

While our culture may be prejudiced against people with unusual genitals — although such prejudice was much less widespread before medical intervention began — the Society argues that surgery is not the way to eliminate such prejudice. We do not suggest operating on a person of color to eliminate the physical characteristics that mark such a person as a member of a racial minority; rather, we have laws prohibiting racism. Likewise, the Intersex Society urges the passage of laws to protect intersexed people from discrimination based on their unusual genitals.

The Intersex Society analogizes the plight of intersexed people to girls subjected to involuntary female genital mutilation. Human rights groups decry such mutilation as a violation of bodi-

ly integrity and personal dignity. Likewise, the Society argues persuasively that it is "repugnant and contrary to a child's basic human rights" to perform medically unnecessary genital surgery simply to enable a child to conform to a cultural notion of "normal" genital appearance. This is especially true when the surgery arbitrarily dictates the child's future gender identity and the child had no opportunity to decide whether he or she wanted the surgery in the first place.

The Intersex Society is working to prevent surgeons from convincing scared and confused parents that they must immediately give consent to allow genital surgery to be performed on their infant child. The Society believes that the patients themselves should be allowed to make the decision when they are old enough to have established a clear male or female gender identity, and when they are old enough to be able to choose for themselves whether they want to have surgery. For more information on this subject, contact the Intersex Society of North America; its Web site address is www.isna.org.

Susan Murray and Beth Robinson are attorneys at Langrock Sperry & Wool in Middlebury whose practices include general commercial and civil litigation, employment, family, estate, personal injury and worker's compensation cases. If you'd like our column to cover a particular legal issue of interest to our community, please write OITM or call us at 388-6356.



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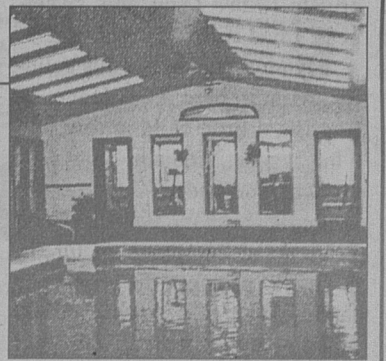
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