Are Breasts a Right or a Privilege?

A Bioethical Conundrum

by Jacob M. Appel, © Copyright 2010 Huffington Post, Inc. Reproduced with permission.
Article appeared in Polare magazine: October 2010 Last Update: October 2013 Last Reviewed: September 2015

Admittedly, paying for breast enhancement for the flat-chested caves in to many disturbing stereotypes regarding breast size and human (particularly female) worth.

Although the National Health Service in Great Britain has paid for gender reassignment for transsexuals since 1999, at a cost of approximately £10,000 per procedure, precisely how much masculinisation or feminisation should be funded by the taxpayers remains a matter of ongoing controversy. Many patients with Gender Identity Disorder have, for years complained that local health trusts generate countless bureaucratic obstacles for those seeking reassignment, often reducing the N.H.S. promise of medical therapy into merely a paper right. In contrast, Christian conservatives - many of whom deny the existence of Gender Identity Disorder, or believe it should not be treated at all - have drawn attention to costly services available to transsexuals but not to the general population, such as last week's revelation that the N.H.S. in Glasgow was advertising for a 'hair removal specialist' for its transgender clients. Now, in a Kafkaesque decision that may prove a setback to transsexual health rights, Justice David Bean of the High Court has ruled that funding for breast enhancement for male-to-female transsexuals is not an essential part of their transformation.

> ***What ought to matter is that a human being is suffering and the medical establishment has the technology and resources to help.***

This is not the first time a British transsexual has confronted a local health care board unsympathetic to the flat-chested. Earlier this Spring, the British media reported on the case of forty-year-old Miranda Lee, a male-to-female transsexual whose friendly neighbourhood N.H.S. Trust, South Essex Primary Care, paid for her genital surgery and then refused to pay for her breast surgery. Ms Lee pleaded her case in stark terms: "I was born with a female brain, have suffered constant abuse throughout my life, and was even married. In my determination to become a woman, I've lost almost everything ... and now the health trust has left me half-man and half-woman." In contrast, supporters of South Essex noted that, at a time that budgetary constraints led to long waits for many critical health services, the system could not afford to pay for largely cosmetic procedures.

The transgender appellant in A.C. v Berkshire West Primary Care Trust, the ruling handed down on 25th May 2010, had for unclear reasons refused genital surgery for her G.I.D. but had applied to her local N.H.S. trust for breast augmentation after hormonal therapies failed. She provided expert psychiatric testimony that she suffered chronic distress from her lack of breasts and that her 'self-consciousness' had increased with time. In another case several years earlier, Berkshire West Primary Care had paid for augmentation for an eighteen-year-old G.I.D. patient suffering from severe depression. Nonetheless, Berkshire West, which remained more than willing to cut off A.C.s penis on the public shilling, refused augmentation funding. According to the local health board, breast enhancement for transsexuals was not a 'core' procedure for the treatment of G.I.D., unlike genital surgery, so it would not be covered. They wanted no part in making mountains out of molehills.

One cannot assess the N.H.S. policy towards transsexuals without comparing it to the treatment of breast cancer survivors. In Great Britain, women who have had therapeutic mastectomies have their reconstructive surgery paid for in full by the taxpayers. Although the United States does not have national health insurance, reconstructive breast surgery is guaranteed for virtually all holders of private insurance under the Women's Health and Cancer Rights Act of 1998. Medicare also covers such reconstructive surgery, as do most (and possibly all) state Medicaid plans. The purpose of such funding, which seems both reasonable and compassionate, is that reconstructive surgery may be in the best interests of certain patients. But one should not lose sight of the fundamental fact that both 'reconstructive' breast surgeries for cancer patients and 'enhancement' surgeries for transsexuals are inherently cosmetic procedures. Nobody dies for a lack of breasts. In fact, eighty percent of mastectomy patients choose against reconstruction. If policy makers are going to distinguish between the two groups of patients, they should have a stronger foundation for their guidelines than their personal belief that cancer victims are more deserving than people whose brains do not match their genitalia.

The reality is that breast size has significant psychological and social implications for many women. I do not in any way mean to suggest that it should. Anyone who judges another human being by the size or shape of her cleavage is a first-rate idiot. But until everyone shares that view, women must live in the world as it is, not in the world as it ought to be. One cannot help sympathising with the views of Jenna Franklin, the fifteen-year-old English girl who launched a public campaign in 2001 to obtain permission for breast implants on her sixteenth birthday. Franklin, who wore a 34A brassiere, sought C or D size cups. She told the B.B.C.: "You've got to

have breasts to be successful. Every other person you see on television has had implants. I used to pray my boobs would grow. Then I thought, what's the use when I can have implants when I want? I just want to be happy with my body and I think having my breasts enlarged will give me more self-confidence." Franklin was denied surgery at age sixteen. (I do not know if she has sought enhancement since - but whether or not, I hope she has found happiness.) I suspect Franklin's experience is the subjective experience of many other girls. Some suffer depression as a result, while others face fewer professional and romantic opportunities as a result of their physical anatomy. Why are they any less entitled to cosmetic surgery than cancer survivors or transsexuals?

In drawing an arbitrary line between breast cancer survivors and transsexuals and flat-chested teenagers with low self-esteem, we fall victim to the fallacy of naturalism. Somehow, making women 'whole' after cancer is different from 'enhancing' them beyond their normal size - even if their normal size is substantially below average. But one could easily view extremely flat-chested women as less than whole and socially handicapped - as insurers tend to do, for example, in cases of children with cleft lips. Moreover, assuming both groups of women have suffered, does our society want to entangle itself in the business of comparing their suffering?

Admittedly, paying for breast enhancement for the flat-chested caves in to many disturbing stereotypes regarding breast size and human (particularly female) worth. But so does reconstructing breasts after a mastectomy. (How many of the self-styled feminists who chastised Jenna Franklin for buying into a 'beauty myth' were willing to criticise Olivia Newton-John for not embracing her scar?) Yet once we reject the naturalist fallacy that we are making some women "whole" while merely 'enhancing' others, we confront the challenge of whether we are willing to fund breast surgery for any women or men who desire it? And how can we justify such expenditures at a time when many in the world go without any health care at all? On the other hand, are we willing to turn breast enhancement - with its concomitant psychological and apparent social benefits - into a privilege of the wealthy?

King Solomon might have split the difference and agreed to enlarge one breast per woman, but no contemporary student of ethics or policy should view these as easy questions to answer. The very distinction between 'medical' and "cosmetic" often reflects social, rather than biological principles. Maybe we should publicly fund all 'elective' surgeries, recognising that the desire for such procedures is entirely subjective, and that the value of large breasts or a straight nose or a full head of hair is too personal to be assessed by a panel of experts. And before we declare this approach to be a major waste of public funds, we should at least consider the possibility that the personal happiness, and increased productivity, and savings on long-term psychiatric care, generated by such 'free' surgery might more than pay for the initial costs. Or maybe it would cost society a fortune - but we'd all be happier.

What should be clear is that many of our current rules in this field are rather arbitrary and ill-considered - among these, the British policy that pays for genital surgery and hair removal for transsexuals, but not for breast enhancement. It should not really matter whether breast enhancement for certain G.I.D. patients is a 'core' medical necessity or merely a service that can vastly improve their lives. What ought to matter is that a human being is suffering and the medical establishment has the technology and resources to help.

Jacob M. Appel

From Wikipedia: Jacob Appel holds a B.A. and an M.A. from Brown University, Providence, Rhode Island U.S.A., an M.A. and an M.Phil. from Columbia University, New York, U.S.A., an M.S. in bioethics from the Alden March Bioethics Institute of Albany Medical College, New York, U.S.A., an M.D. from Columbia University's College of Physicians and Surgeons, an M.F.A. in creative writing from New York University, and a J.D. from Harvard Law School, Cambridge, Massachusetts, U.S.A.. He has most recently taught at Brown University in Providence, Rhode Island, U.S.A., where he was honoured with the Undergraduate Council of Students Award for Excellence in Teaching in 2003, and at the Gotham Writers Workshop in New York City. He also publishes in the field of bioethics and contributes to many well-known publications.

Jacob M. Appel has published short fiction in more than two hundred literary journals. His short story, "Shell Game With Organs", won the Boston Review Short Fiction Contest in 1998. Another story, "Enoch Arden's One Night Stands", won first prize in the New Millennium Writings competition in 2004. A third story, "The Ataturk of the Outer Boroughs", won the William Faulkner-William Wisdom short story competition. Jacob has also won several other annual contests.

More about Jacob M. Appel at his website.

Polare Magazine is published quarterly in Australia by The Gender Centre Inc. which is funded by the Department of Family & Community Services under the S.A.A.P. program and supported by the N.S.W. Health Department through the AIDS and Infectious Diseases Branch. Polare provides a forum for discussion and debate on gender issues. Unsolicited contributions are welcome, the editor reserves the right to edit such contributions without notification. Any submission which appears in Polare may be published on our internet site. Opinions expressed in this publication do not necessarily reflect those of the Editor, The Gender Centre Inc., the Department of Family & Community Services or the N.S.W. Department of Health.