The Completely Unregulated Practice of Male Circumcision:
Human Rights' Abuse Enshrined in Law?

John V. Geisheker

We are witnessing a disturbing tend to "enshrine" male circumcision into law, shielding the practice from health and safety regulation of any kind. This trend precedes any honest attempt to assess "morbidity," the unavoidable complications of any surgery, especially poignant for this unregulated and pre-germ-theory practice. Without a thorough assessment of morbidity, all bioethical discussions are, logically, premature. The author details a "permissive and incautious" milieu, including a lack of qualifications for circumcisers, rudimentary training, septic non-clinical settings, withheld anesthesia and analgesia, sub-optimal surgical protocols, a lack of back-up resources, minimal post-operative obser-

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

vation, minimal legal remedies, and other shortcomings. It is argued that serious inquiry must ethically precede blanket legal protections accommodating atavistic adult urges.

Key Words: circumcision, male, infant, boys, morbidity, mortality, botch, injury, resident, obstetrician, urologist, micro-surgery, proxy consent, ritual, religion, mohel, imam, assault, Europe, human rights, bioethics, anesthesia, antisepsis, analgesia, law, legal

> In one Aesop's fable, a young fox escapes from a hunter's trap but loses his long bushy tail, leaving him only a stump. He slinks back to his den feeling humiliated. After a time he summons his entire pack to announce that without his tail he now feels less encumbered. 'It got in the way,' he argues. He recommends all the others lose their tails, too.
>
> After a few moments of silence, one old fox speaks up: "Young one, you would not be urging us to be rid of our most distinguishing feature if you had not lost yours."

I began this article over a year ago, after a citizens' initiative in San Francisco proposed a law to restrict male circumcision to consenting adults, or to minors upon medical need. A firestorm followed, led by a coalition of religious groups including, curiously, fundamentalist Christians. Soon afterwards, medical stakeholders joined the lawsuit, but, likely for tactical reasons, they gave the religious coalition the reins. There was no mention of what little boys might want for themselves, nor any discussion of the bioethics involved or a mention of the human rights of the boy.

The initiative was soon quashed by a local judge on the narrow grounds that in California only the State may regulate medical practice.[1] Ironically, religious opponents were exclusively concerned to preserve their private rituals held in non-clinical settings – venues where medical regulation is irrelevant (and where legal safeguards to protect the child are non-existent).

Since then, world events have overtaken the San Francisco *imbroglio*, and each occasion has changed the complexion and growing intensity of the controversy.

In June, 2012, a court in Cologne, Germany, declared that the circumcision of a healthy four-year-old Muslim boy was an illegal assault which, in addition, infringed upon the child's own right to religious freedom.[2] Religious minorities in Germany, like their co-religionists in San Francisco, were soon up in arms, and petitioned the Merkel government for special protection. On December 12, 2012, the German parliament, the *Bundestag*, on a vote of 433 to 100, passed a law 'enshrining' male circumcision as an adult right that may be imposed on children freely. The law provided negligible precautions for the child, even stripping him of legal recourse no matter the physical result.[3] A compromise proposal, which would have postponed circumcision until the child could consent at

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

age 14, failed by a similar vote.[4]

Meanwhile, experiencing an influx of Eastern European and Middle Eastern migrants importing traditions which include mass circumcisions, without anesthesia or antisepsis, of pre-teen boys in public squares,[5] authorities in various Scandinavian countries have explored imposing limitations on what were previously unfamiliar, infrequent, and secretive rituals well below their radar.

The Royal Dutch Medical Association, the KNMG, an umbrella organization encompassing numerous medical specialties in the Netherlands, and under similar migrant pressure, has released a declaration dismissing medical claims made for circumcision, and condemning, outright, non-therapeutic cutting of minors.[6]

Jurists at the Tasmanian Law Reform Institute have debated, in depth, the legality of non-therapeutic, medically unnecessary genital reduction surgeries for boys in Tasmania. In August, 2012, they issued recommendations which, if adopted country-wide, would significantly restrict the practice in Australia.[7]

Consequently, those of us who have been monitoring this issue for decades were caught off-guard, when in September, 2012, an eight-member "Task Force" of the American Academy of Pediatrics, moving in precisely the opposite direction from human rights' advocates and medical authorities overseas, proclaimed that the adult sexual hygiene benefits of infant circumcision "outweigh the risks."[8]

It is against this backdrop of competing interests – the rights of the boy to bodily integrity and security of his person, and even his own religious choice, vs. the rights of adults to indulge their deeply imbedded religious urges, and, in the U.S., the secular freedom to freely "sculpt" a healthy child – that we confront two uncomfortable facts:

> While genital cutting of female minors, for any reason, whether with pious intentions or not, has been fully proscribed in most Western countries, *nowhere* is medically unnecessary male genital cutting of minors illegal.[9] In fact the practice is completely unregulated, even in the U.S. and the latest trend is to prevent, by law, any possible safety regulation
>
> AND
>
> secondly, as the American Academy of Pediatrics itself acknowledges, very little is known about the ultimate morbidity (medical complications) of circumcision in clinical settings, let alone in non-clinical, ritual, and domestic settings.

The latest AAP statement, for instance, in an unusual moment of candor which fully undermined their prior 18-page recitation, states: "The true incidence of complications after newborn circumcision is unknown…," and they freely admit: "There are no adequate analytic studies of late complications in boys undergoing circumcision in the post-newborn period."[10]

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

Thus we focus here on what we might call "cultural morbidity," the permissive and incautious medical, cultural, and legal milieu which sustains and even "enshrines" the practice, rather than on the dubious medical claims, exculpatory bioethics, or human rights' challenges posed by male circumcision, about which much has been written. Morbidity is not entirely separable from these other concerns, of course, and assertions that male circumcision is benign and healthy – if totally unnecessary – undergirds the medical claims (though not the religious, where such notions would be gratuitous).

Circumcision morbidity has largely escaped consideration due to a common assumption that the risks are so minimal and benefits so obvious, that legal constraints and regulation are barely required. Such notions are "memes," of course, units of common understanding that segments of the Anglophone medical community – especially those profiting from the practice – invented and consciously fine-tune year-after-year, memes which religious communities "borrow" when challenged.

Europeans may be the first to be troubled by the fact that any person who wishes to do so may legally circumcise a male child, in any setting, with any available tool, for any imagined reason, holy or not. The only apparent caveat is that the procedure must not create a medical emergency. That is the ostensible threshold whereupon legal authorities, (in the U.S. anyway) might be embarrassed enough to investigate, or stirred enough to impose sanctions, if only to defend the monopoly of medical and ritual practitioners.

Only "9-1-1" cases, where inept adults are ultimately obliged to call for help, have attracted the weight of the law, and, as will see, prior to the Cologne case, that weight has been rather light.[11] There are historic and cultural reasons why this is the case.

State Pre-emption: A False Promise of Protection for Boys

The California statute used to quash the San Francisco initiative provides a useful place to begin. Many U.S. states have similar pre-emption statutes, which reserve the regulation of medical practice to the state:

> Business and Professions Code, Sec. 460: (b) No city, county, or city and county shall prohibit a *healing arts professional* licensed with the state ... from engaging in any act or performing any procedure that falls within the *professionally recognized scope of practice* of that licensee.

As regards circumcision, this statute raises some challenging questions of its own that do not require legal expertise to appreciate, and have little to do with religious notions:

> * Do lay circumcisers, like the traditional village barber of Islam, an East African 'midwife,' (those who perform female genital mutilations), or a non-medically trained religious circumciser, qualify as 'healing arts professionals'?
>
> * Is a duly licensed medical professional within his or her 'professionally recognized scope

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

of practice' when amputating healthy tissue from a healthy boy for merely cultural reasons? Is this the proper role for one trained in the 'healing arts?'

* Is a licensed 'healing arts' professional within a 'professionally recognized scope of practice' when operating in a septic, non-clinical setting, or one devoid of professional backup – i.e., post-op observation, follow-up nursing care, a hospital crash cart, or the ability to signal a 'code blue' or summon a resuscitation team?[12]

* Is a parent acting as a 'healing arts professional' while circumcising a healthy child in the bathtub or on a kitchen table, when no state law requires a clinical setting nor the slightest medical training or licensure for a circumciser?

* Are cultural, unnecessary, non-therapeutic, genital reduction surgeries imposed on children, male or female, even a legitimate constituent of the 'healing arts'? [13]

Even in the most modern medical setting, male circumcision presents predictable, inarguable, and well-documented health and safety risks not counter-balanced by urgency or necessity.[14,15,16] No medical society in the world recommends male circumcision as necessary. Countries like New Zealand and England, with healthy pediatric populations, fully abandoned Victorian non-therapeutic infant circumcision – an Anglophone invention – decades ago.[17] Europeans never adopted the practice, to no discernible loss of child health. Countries in Western Europe now struggle, however, with pressure from immigrant populations demanding cultural circumcisions at public expense, and forcing their host country to bear the cost of rescuing boys injured in septic home circumcisions gone awry.[18,19]

Both the "medicalized" and the ritual practice of male circumcision, are, however, as we will see, completely unregulated, suggesting that, in the U.S. at least, state pre-emption of local medical regulation is a false promise of protection for boys.

And because "ritual" circumcision, and the 19th-century, Anglophone, "medicalized" variety, both predate germ theory and medical ethics (and for that matter, the human rights of children, a recent invention), both suffer from a legacy of neglect and even outright cruelty that virtually guarantees exposure of the child to injury. One might suppose that in the age of bans on over-sized, sugary beverages and denunciation of unhealthy school lunches, amputation of *any* portion of a child's genitals would summon scrupulous oversight, even over – or *especially* over – those occurring in non-clinical settings.

But one would be wrong . . .

Even in the clinical setting, where one might expect a standard of care far exceeding any other venue, there are astonishing lapses.[20]

No Training Is Required

There is no training required of the lay *or* medical circumciser beyond folklore. Apprenticeship or

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

training would be generous descriptions, as the 'training' even for a recent medical graduate might consist of a few minutes of observation in the tradition of "See one, do one, teach one." In American medical education, there is no requirement to study the anatomy, histopathology, neurology, function, or importance of the amputated tissue to the organ or its owner.[21] No genuine consideration is given to bioethical concerns about the boy's lifetime preference, the lack of urgency or necessity, the absence of his consent, or the limits of assent proffered by proxy.[22] Obstetricians with no training in male urology may proceed unimpeded, an irony even they, who specialize in female anatomy, have noted.[23] Basically, it's an historic turf battle which, in the U.S., OBs easily win: they get to the newborn first.[24]

The task is often delegated to the least experienced members of the medical team and will likely be the very first procedure these trainees are allowed to perform unsupervised.[25] R-1's (recent MD grads and first-year medical residents) typically have a quota to meet, a bioethical lapse encouraging hasty or coercive consents. Residents are also famously overworked, as more than one study has demonstrated, increasing the risk of error.[26] In U.S. hospitals, circumcisions are practice, experimentation, barely considered actual surgery.[27]

No Consideration Is Given to Anatomic Variations

Boys facing circumcision are treated as if all males are anatomically equivalent, each able to withstand a degree of genital reduction. Yet it is patently obvious that variations in lifetime genital development – organ size, nerve supply, hormone production, endocrine robustness – must occur randomly. In 2007 a California study, using an objective neurological testing device, showed that circumcision deprives the typical male of 75% of the fine-touch sensation provided by Meissner's corpuscles, the unique mechanoreceptors that make the finger tips, palms, lips, and genitalia so acutely alert. The authors concluded without equivocation, "The transitional region from the external to the internal prepuce is the most sensitive region of the uncircumcised penis and more sensitive than the most sensitive region of the circumcised penis. Circumcision ablates the most sensitive parts of the penis."[28]

Likely males — usually — have more sensation than they need to function (or most North Americans would not exist). But this cannot be ascertained in advance nor be guaranteed for any particular child. A male might be born who needs, especially as he ages, every nerve receptor he can retain.

Nor can the boy be guaranteed, in advance, even to survive the trauma of circumcision however carefully administered. Indeed, some do not. [29]

Rarely Is there a "Procedural Pause"

For this procedure there is rarely a proper "procedural pause," or "time-out,"[30] the safety check of all modern surgery, akin to the pre-flight checklist of an airline pilot. Nor are there any universal, tested, or agreed protocols for infant safety, including checklists for patient suitability such as detection of vascular, enzyme, or genito-urinary disorders, nor even mandatory provision of antisepsis, anesthesia, and post-op analgesia. There is no mandatory, institutional, inspection or sun-setting of worn-down, warped, obsolete, or mismatched surgical devices.[31] There is no monitoring of the child's vital

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

signs to detect excessive stress as might accompany an adult surgery; nor, on occasion, even the proper identification of the patient.[32]

"Window-dressing" Anesthesia Is Used (or Most Likely None at All)

U.S. Federal law, 7 United States Code 54, Sec. 2131, requires effective anesthesia and analgesia for veterinary and laboratory animals undergoing painful procedures. Failure to provide it is a criminal offense. No such law exists to protect infants or children in the U.S. For human children there are no state or federal requirements which mandate appropriate anesthesia or analgesia whatsoever. A 1997 study showed that a circumcised boy, denied anesthesia, is easily identified by his overly dramatic reaction to immunizations a full six months later. The authors called the boy's reaction, "an infant analogue of Post-Traumatic Stress Disorder (PTSD)."[33] Recent studies suggest that premature infants in neonatal intensive care units (the 'NICU') who are subject to multiple heel lancing, scalp IVs, urinary catheters, and other intrusive procedures, may have been 'primed' to be overly sensitive to pain in adulthood, suggesting permanent neurological changes.[34] And, unfortunately, vulnerable "preemies" get pulled out of the NICU for circumcision, though this is ill-advised, unethical, contraindicated, – but commonplace and not illegal.

Only 14% of U.S. neonates enduring circumcision received any anesthesia, in one survey[35] (raw material cost per child: under $10.00). Many of the 14% got a topical ointment, ineffective on highly nerve-supplied and complex, folded, tissue, rarely given its proper 'soak time' in any case, and contra-indicated for neonates or when applied to mucosal issue.

In ritual settings, effective anesthesia is almost never provided (theatrical efforts like a sugar or wine-soaked pacifier are sometimes touted to placate squeamish parents) as that would contravene the intended, ancient, sacrificial element.[36] In some circumcision traditions – African, Polynesian, South Korean, Indonesian, Filipino, Muslim, and others – toddlers and older children are forced by conformity to be brave and to not cry out or risk being punished or ostracized if they do. Thus effective pain control measures for the boy are vanishingly rare in *both* medical and ritual circumcision settings, worldwide, for a variety of reasons.

There Is Zero Tracking of Botches

There is no U.S. authority which keeps a registry, tracking children injured by circumcision – medical or ritual – shepherding them, arranging recuperative or restorative care, or identifying the responsible "operator." Indeed, while the attending physician may be identified on the chart, the actual circumciser delegated the task is often anonymous. Barring civil suit for medical malpractice (unlikely, difficult, expensive, and tediously slow), no one restrains, or retrains, those inept operators who leave a legacy of injured infants and toddlers.[37]

There are no restraints on circumcision "hotspots," where high rates of circumcision suggest aggressive marketing and coercive consents.[38] There is no legal requirement obliging a pediatrician or urologist to report a botch he or she sees months or years later, as suspected sexual or physical abuse cases require. Death or serious injury cases are often discovered only when an insider leaks the details.[39] When challenged, hospitals typically invoke the privacy provisions of HIPAA, the U.S.

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

federal law protecting patient records, which has evolved into a convenient way to evade public scrutiny and unwanted publicity.[40]

There are also numerous systemic reasons why the male child is at risk, whether in the clinical or ritual setting – or even in the courtroom.

The Standard of Care for Male Circumcision Is Crudely Cosmetic

If the child's internal glans is permanently externalized by any means, that is sufficient proof of success. Cosmetic – or worse, collateral damage to adjoining neurologic, vascular, lymph, muscle, limbic, and other body structures – is rarely considered. Circumcision was historically designed, after all, in both the religious[41] and the medical setting, to diminish the male's genital sensation, allegedly to protect him from anticipated sexual excesses, thought in 19th-century medicine to be both the source of all disease as well as indicating failure of "moral hygiene."[42] Thus early circumcision methods developed as a form of "semi-controlled damage," a sort-of punishment-in-advance cum moral warning.[43] A history, in other words, where one could hardly expect an ethical, humane, well-constructed, surgical protocol to develop.

Infant circumcision is essentially micro-surgery, on thin, elastic, highly vascularized, delicate tissue –densely nerve supplied and erogenous, on a structure barely more than an inch and a half (38 mm) long. Tiny surgical mistakes and unavoidable scarring, including skin bridges, stitch tunnels, keloids, skin flaps, urethral ulcer, urethral stenosis, iatrogenic fistulae, etc., aggravated by failure to employ anesthesia for the writhing infant, will loom large when the adult organ has grown to over 20 times its infant volume.[44] When a naked newborn, strapped-down to a hard plastic tray, is cold and fearful, his glans will naturally withdraw proximal to his body, thus presenting additional tissue for amputation. The overhanging portion is described in medical terms as "redundant," regardless of the coverage needed by that child's internal structures when erect.[45] In addition, the slightest inadvertent or asymmetric tug on that tissue by the hemostat, and thus into the surgical clamp, will make a lifetime of difference to the owner of the organ potentially creating skin tension, torsion anomalies, and unusual curvature the male must endure and confront, multiple times each day, for his lifetime. Premature infants with smaller organs are, of course, at even higher risk of injury.

It is common for a child to lose nearly all the sheath of skin covering his tiny penis – termed "denudation" – as this tissue is uncontrollably elastic, easily drawn into the clamp, and difficult to exclude once trapped. Clamp designs prevent the operator from seeing what tissue will likely be amputated before the clamp is tightened down and the tissue crushed.

Nocturnal penile tumescence (NPT), the three to five unbidden and unavoidable non-sexual erections all healthy males, for their lifetime, experience during REM sleep, will exert unnatural and disturbing tension on his scrotum and pubis for that male's lifetime.[46] Unfortunately, circumcisers are inclined to amputate the maximum possible tissue since any visible slack or "overhang" may result in surgical adhesions. Parents might also demand a "re-do" for wholly cosmetic reasons, which encourages maximum tissue amputation at the first attempt. So common are circumcision revisions, euphemistically called "tidy-ups," estimated at between 1% to 9.5% of all circumcisions, [47] that they have their own billing code, CPT-54163. One urology group in central Virginia claims to have done

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

1,600 revisions in only three years,[48] and it is common for pediatric urology clinics nationwide to devote a day each week to circumcision revision surgeries.

One pediatric urologist notes:[49]

> Currently, the American College of OB-GYN (ACOG) have no parameters for training (learning and performing neonatal circumcision, managing complications) of residents, who then go out and continue this practice.
>
> In my practice, as a pediatric urologist, I manage the complications of neonatal circumcision. For example, in a two-year period, I was referred 275 newborns and toddlers with complications of neonatal circumcision. None of these were "revisions" because of appearance, which I do not do. 45% required corrective surgery (minor as well as major, especially for amputative injury), whereupon some could be treated locally without surgery. Complications of this unnecessary procedure are often not reported, but of 300 pediatric urologists in this country who have practices similar to mine … well, one can do the math, to understand the scope of this problem …

The total loss to the adult male of this double fold of densely nerve supplied and complex tissue is generally reckoned at 96 sq cms, or 15 square inches, the size of an index card, half the entire skin of the natural adult organ, and most of its erogenous tissue supply. The glans, often assumed to be the seat of male erogenous sensation, is, by contrast, relatively insensate, barely able to distinguish hot or cold or detect light touch, comparable in acuity to an earlobe, and supplied mostly with scattered, primitive, "protopathic" nerve endings.[50]

Classically, the resident, obstetrician, or lay circumciser hands the child off to the parents soon after the procedure and never sees the final result of his or her handiwork (and, as we'll see, has little to fear). One pediatric urologist has commented on this disconnect in the medical setting, where one might conceivably expect more caution: "A principle of surgery is that the surgeon is responsible for the post-operative care….When obstetricians perform the procedure, generally they do not see the child at follow-up to assess healing, and they assume the primary care provider will manage the post-operative care…typically the obstetrician is unaware of the complications."[51]

A lack of professional interchange among the original circumciser, and those who see his or her handiwork months or years later –the pediatrician and, eventually, the urologist. There exists a natural incentive for the repairing urologist to be grateful for referrals, and to be indulgent about the skills, or lack thereof, of his or her referring colleagues. Thus one can easily find OBs who claim never to have made a single misstep in an entire career.

Young parents, especially those with a first son, have no idea what outcome to expect and are unlikely to recognize a botch. Even if they suspect a problem, parents are usually too embarrassed to seek assistance, and will be understandably reluctant to be candid with their child when he is

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

older. A 1997 study showed that parents were remarkably ill-informed about penile injuries from circumcision.[52]

The growing boy himself is left to assume that what he sees as he looks down is no less than what every male is heir to at birth. Only at adulthood, perhaps via an impolitic comment by a sexual partner, or some furtive, locker room comparison, will he figure out he was diminished. I counsel these young men, invariably deeply distressed, on a regular basis.

Most pediatricians will be reluctant, months or years later, to tell parents their son's circumcision was sub-standard. There are understandable professional barriers against 'outing' inept colleagues, and no legally mandated reporting requirement. The injury, especially if critical tissue was amputated and discarded, or critical structures damaged, is, of course, a *fait accompli*. My pediatrician acquaintances report seeing circumcision anomalies on a near-weekly basis, but they agree these are awkward encounters. There's a strong temptation to say nothing to the parents – let alone distress the older child or teen – if little can be done.

Large, longitudinal (decades or more) studies of both cosmetic and functional morbidity for circumcision are non-existent; rare, smaller-scale studies have been mostly sidelined or ignored. Almost all studies of circumcision morbidity have been perinatal or immediate post-op. These studies, conducted using data from circumcisers themselves, are subject to predictable optimism if not prevarication. This is, after all, a simple – albeit significant for the patient – amputation, the easiest of surgeries. Admitting to sub-par work is embarrassing; thus errors are carefully shrouded or smothered with euphemism and reassurances of the "He'll-grow-out-of-it" variety. Since WWII when it first 'ramped up,' male circumcision is one of the largest epidemiological experiments on children, now in their 60's, ever run without the consent of the patients concerned or any inquiry into long-term morbidity. Millions of Anglophone men unwittingly carry, for life, the sorry experimental handiwork of some 26-year-old's first, unsupervised, 'beta' surgery, and its sexual sequelae in their lives.[53]

It would be the rare or foolhardy attorney who is willing to file a medical malpractice case in any except the most catastrophic circumcision case. The likely compensation available to injured infants and toddlers is too paltry to overbalance the start-up costs and financial risk. The child's sexual losses –years in the future– are speculative. Courts (especially including juries composed of circumcised men in Anglophone cultures) cannot be depended upon to be sympathetic, and 'med-mal' cases are always hard-fought. Courts have been known to rule that parents should have anticipated a less-than-optimum result, and indeed, agreed to that possibility in the signed consent. In a lawsuit my physicians' organization pursued in Washington State on behalf of a seriously botched child, the judge declared from the bench that "the parents took their chances"(thus effectively ending the case before it began.)[54] Claiming pain and suffering compensation for a mere toddler who has undergone multiple repair procedures is completely risible.

Medical malpractice defense lawyers understand and exploit the plaintiff's plight, and so for any instance of a justiciable botch they are likely to circle their clients' wagons and make a quick, low-ball offer. The parents, embarrassed by what was likely a whimsical, coin-toss choice to begin with, and fearing public scrutiny, are of course tempted to accept. Such settlements are always sealed, so nothing is learned and no reforms, medical or otherwise, flow from this secretive process.

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

Outpatient "medicalized" circumcisions, outside the hospital setting, albeit performed by a licensed clinician, are the most dangerous of the medical variety, and are even less regulated than the hospital version – if that's possible. The procedure is not lucrative enough to encourage an extended period of post-operative observation, the major value-added of a hospital surgery. As in the ritual setting, the child is immediately handed back to the parents. At best, parents are 'deputized' as nurses, and briefly instructed to watch for bleeding and infection.[55] Without medical training, young parents cannot possibly determine the miniscule amount of bleeding that will kill their newborn, or detect the onset of serious (and epidemic) infections like Fournier's gangrene, flesh-eating MRSA or VRSA (methicilin or vancomycin-resistant staph aureus) – until it is too late.

Even a large, 4,000 gram, (8.8 pound) infant has only around 12 ounces of total blood volume.[56] The amount of blood loss that will kill a newborn by hypovolemic shock and exsanguination is 20% of the total, or 2.4 ounces, an amount easily hidden, without visible exterior stain, in a modern chemically treated diaper. A tiny but steady 'ooze,' barely detectable to a parent in the wee hours, might easily amount to fatal ounces by morning. Bleeding to death is stealthy and painless. The child grows weary, and just slips away without a sound, in apparent deep sleep.[57]

One researcher has estimated U.S. circumcision deaths at 117 per year. But because this conservative number was extrapolated from available mortality statistics, unable to account for deaths outside the hospital setting or beyond the neonatal period, it is likely a conservative guess. The claimed 117 is fully *115 infants more* than the rankly dishonest, mere *two* statistical deaths per annum to which American medical authorities will freely admit.

There is a simple explanation for this discrepancy. Circumcision deaths are invariably coded without the word 'circumcision' appearing on the death record. The child is said to have died of systemic infection, septicemia, hemorrhage, idiopathic reaction to anesthesia, cardiac failure, sudden infant death syndrome (SIDS), shock, parental negligence, etc. Slight or no mention is made that these secondary causes of death were triggered or aggravated by an unnecessary and non-therapeutic first cause.[58]

Limitations of the Civil Law

Most U.S. states have a short statute of limitations for medical malpractice, two or three years typically, though some allow suit by the child in his own name at age 18 during a brief window of a year or so. Many states foreclose even that limited right with a "statute of repose," which forbids suit for any reason, even including provable fraud, after age seven or eight.

Thus – and because many of the effects of circumcision injuries will not appear until late adolescence or sexual debut – the adult victim of a circumcision botch will almost certainly have no remedy at law whatsoever in most U.S. states. Thus his circumciser had little to fear – a fact well appreciated in medical circles.

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

Home Circumcisions

It should be obvious – especially as to health and safety issues – that furtive, homemade, kitchen table, or bathtub circumcisions – employing tools at hand – are totally unregulated, full stop. These are an apparently rising trend among religious fundamentalists who, despite Christian affiliation, a faith tradition which discouraged the practice nearly two millennia ago according to the New Testament, are driven by eccentric Old Testament interpretations.[59] It has to be said – the notion of circumcision of any kind would hardly occur to such parents without the assistance of religious texts and the bizarre superstitions of pre-germ-theory 19th-century medical practitioners.

The home setting – a front parlor, a kitchen, or even a bathtub– is, of course, inarguably septic. Encouragement to proceed, though, is available on the Internet and YouTube, and the surgical clamps are available on eBay for under $10. Indeed, the U.S. has seen several recent cases of homemade circumcisions, which usually draw attention only because the parents, typically claiming religious motives when cornered, made a messy job of it and were ultimately obliged to call 9-1-1.

Parents do not know that foreskins are never 'cut off.' They are crushed, burned, or rendered necrotic (dead) by strangulation. Cutting highly vascularized foreskin tissue without a plan for hemostasis (control of bleeding) is ill-advised, and will result in immediate and persistent hemorrhage.

The actual incidence of children, male or female, circumcised at home by parents or by hired proxies is completely unknown, but certainly orders of magnitude higher than the few salacious cases which make the local papers or the docket of a state court.

In one such Washington state case, of a male child injured in a bathtub with a hunting knife by a parental circumciser, the Court noted:

> Congress and several states have passed legislation outlawing female circumcision, also known as female genital mutilation. Cutting a child's genitalia is also disfavored in public policy.[60]

But this legal conjoining and disapproval of male and female non-therapeutic genital cutting of minors is unusually candid and thus uncommon, since most courts treat male circumcision – by whomever imposed – as normative, and the female version as horrific.[61]

Recently the Supreme Court of Canada, in a case which upheld a criminal conviction in British Columbia, all but warned the general public where it might venture next, albeit in *dicta* (a non-determinative aside to the main holding):

> Nor do we need, on the specific facts of this case, to rule definitively on whether a circumcision performed by a person without medical training can ever be considered reasonable and in the child's best interest.[62]

And because punishing the parents, whether financially or with incarceration, indirectly punishes

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

a dependent child, courts are regularly indulgent with custodial parents, preferring probation to incarceration. This sends an odd message. Cases of physically harmless (if psychologically devastating) child genital tampering for adult sexual gratification are horrific and call for prison time and registration as a sex offender. Meanwhile, home-grown genital amputations (posing psychological challenges as well, of course) are, well, trivial. Adult motives, whether benign or malign, are of course, of no use or consolation to the child-victim.

Ritual Circumcision and the Free Exercise of Religion in the United States

In the San Francisco case, where the court derailed a citizen attempt to restrict non-therapeutic, medically unnecessary circumcision of minors, the judge added that any restriction on circumcision would also be a violation of the First Amendment free exercise of religion, impermissibly affecting minority religious communities. At first blush this notion seems even more obdurate than the dearth of bioethical rigor in the typical U.S. hospital nursery - but there is a potential reply.

The notion that parents may themselves perform, or submit their children by proxy to genital cutting for claimed religious reasons, is at odds with the holding, never overturned, in two related U.S. Supreme Court cases. In 1878, in Reynolds v. U.S., the Supreme Court held that "laws are made for the government of actions, and while they cannot interfere with mere religious belief and opinions, they may with practices."

And in *Prince v. Massachusetts,* 1944, the Court provided an oft- quoted and unequivocal opinion about the limits of parental authority in religious matters:

> *Parents may be free to become martyrs themselves. But it does not follow they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make that choice for themselves.*[63]

Which is to say that in the long history of the United States Supreme Court's protection of religious *belief,* there is no room to assume permission exists for any religious *practice* which might create a risk of harm to a child. The commonest cases, of course, include religious opposition to blood transfusions, reliance on faith healing, and other inadequate substitutes for appropriate, *necessary,* medical care. The underlying principal – forbidding even the *risk* of harm to a minor no matter how pious the adult motivation – surely applies *a fortiori* to cases where the child has been subject to non-therapeutic, *unnecessary*, merely cultural, genital cutting in the name of religion.

Added to which, there is no state in the U.S. which requires a medical license nor any medical training, even so much as a first-aid course, for the operator at a ritual circumcision, whether by traditional practitioners of Muslim, Jewish, Coptic Christian, or Animist affiliation, or anyone who cares to claim a religious motive (easy to assert, of course, and difficult to disprove.)

Ritual circumcisers are not necessarily medically trained, though some are, but they are certainly not required to be so by law. And it is not clear whether the "certification" any individual claims involves a sufficient level of medical training to ensure minimal risk to the child. There are,

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

for instance, lay circumcisers who advertise coyly on the Internet that they will circumcise *any* child, apparently using religious cover to avoid being charged with practicing medicine without a license. A recent promotional article proudly touted, as a growth industry, the circumcision of non-Jewish boys by *mohelim.*[64]

In three U.S. states,[65] laws forbidding "ritual abuse" (simulated mock execution or torture, animal sacrifice, forced ingestion of noxious substances, etc., all staged to intimidate children) specifically exempt circumcision. About this oddity one legal scholar has noted:

> The need to mention circumcision and circumcisers in such statutes is certainly intriguing, to say the least. If there were no potential for male circumcision to be considered ritual abuse, these laws would be utterly superfluous. They suggest that the legislators tacitly recognized the reasonableness – in the absence of the statutory loophole — of classifying circumcision as abusive, unethical, and/or inhuman.[66]

And in four states,[67] ritual circumcisers are given specific exemptions to practice medicine without a license. Whether the traditional village barber of Islam would also qualify is an interesting question. The wording of the Minnesota law, for instance, which exempts "a person who practices ritual circumcision pursuant to the requirements or tenets of any established religion" would seem to permit it, leaving religious elders to set the surgical standards as low as they like. And what does 'established' mean, and for how long?

Whether these permissive laws would –or should– survive a *Prince vs. Mass.* challenge would, of course, make an interesting law school exam question.[68]

The temptation to avoid the medical system and employ a ritual or lay circumciser is particularly attractive to recent immigrants, assured circumcision "is the American way" or even "required by law." *Medicaid* recipients, who cannot afford a procedure eighteen U.S. state providers no longer subsidize, are particularly susceptible to such appeals.[69]

And of course, even in an "organized" ritual setting, well beyond a medical clinic, there is still no opportunity for the operator, whether an M.D. or not, to signal a "code blue" to assist a child in deep distress, and no hospital "crash-cart" nearby with the tools for resuscitation. Competent clinicians able to staunch a hemorrhage from a severed frenular artery are unlikely to be close at hand, while an infant can bleed to death in minutes.

The simple example below tests the limits of parental authority[70] to risk children's health or safety for putative religious reasons, and is instructive, if only because it is an unfamiliar fact setting, thus avoiding imbedded beliefs and assumptions and providing a novel intellectual puzzle.

In some strains of Shiite Muslim belief, a child's forehead must be slashed three times, from temple to temple, to commemorate the beheading of the saint Imam ibn Ali Hussein, the grandson of Mohammad, in the year 680CE, by rival Sunnis. Shiite children, even infants and toddlers, are subject to this annual religious tradition, which causes profuse facial bleeding, intended to create

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

symbolic participation in the suffering of Imam Hussein. Go to Google "Images" and enter "*Ashura* celebration" for an eyeful of bleeding toddlers. Unlike circumcision, no tissue is lost, but there will be lifetime, visible, scarring, both physical – and possibly – psychological.

Query: would the laws of any U.S. state shield this practice when performed by pious Shiite parents in the septic setting of a private dwelling? Might a licensed physician, using sterile technique, accommodate the request of Shiite parents to perform this ritual on their child in a clinical setting? In the absence of state regulation, could San Francisco citizens forbid the cutting of children on the feast of *Ashura* within their municipal borders? Or is *Ashura* cutting a protected religious ritual and, additionally, if performed by an M.D., within the ambit of the 'healing arts'? Are *any* such occasions protected by the Free Exercise clause?

All these are interesting questions for which *Prince v Mass.* – maybe – provides an answer, except the unequivocal *Prince* standard is rarely invoked. We could imagine that the operator and the parent would simply claim an ever-rising level of piety as the heat came on, hoping the law would prove as impotent as ever to protect the child when claimed (adult) religious sentiment is invoked.

Soon after the San Francisco effort (which in the mainstream media mostly provided jejune fodder for late night talk show hosts), and apparently not satisfied that the matter was settled, the California legislature passed AB768, termed, oddly, an 'urgency statute,' as if they anticipated a tidal wave of opposition to circumcision to spread across the state. AB768 forbids municipalities from restricting male circumcision in any way. Gratuitously, and in stunning disregard of international human rights' law, AB768 enshrined parents' 'authority' to cut their child's genitalia for any claimed reason. The law as passed reads:

> "(a) The Legislature finds and declares as follows:
>
> (1) Male circumcision has a wide array of health and affiliative benefits.
> ...
> (b) No city, county, or city and county ordinance, regulation, or administrative action shall prohibit or restrict the practice of male circumcision, or the exercise of a parent's authority to have a child circumcised. ...[71]

The governor signed AB768 into law over minimal objection. Though the law would not specifically forbid a study of morbidity, it would certainly make it near impossible to enforce any reform which such a study might recommend. Moreover, AB768 serves to protect parents from any restriction on their 'right' to circumcise their child. A competent defense attorney could easily use this statute to successfully defend a parent who performed a septic home circumcision, even if the outcome were serious injury or death of the child.

More such laws enshrining "traditional practices prejudicial to the health of children"[72] can be anticipated if the human rights of boys are ignored in favor of adult cultural whims or claimed piety. Indeed the "enshrining" law that authorizes ritual circumcision, passed by the German Bundestag in December, 2012, – though it forbids circumcision after age six months – eliminates any civil or criminal liability for the child's injury, no matter what the result might be. This is worse than

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

no protection whatsoever for boys under 6 months of age as it “locks in” ritual circumcision as a protected practice, without any scrutiny of morbidity – exactly as does California law AB768. Ironically, though it was occasioned by the travails of a Muslim boy, the six-month limitation on the age for circumcision fails to accommodate varying Muslim traditions, which demand that boys be circumcised at any age from 8 days to 12 years.

Conclusion

The sheer antiquity of “ritual” circumcision (and now after 140 years, Anglophone *medicalized*, male circumcision) has allowed it to escape legal scrutiny, though there is much musing in the academic literature. Without legal incentive or bioethical rigor, medical authorities have created - indeed, established by conscious omission – a regulatory vacuum which suits their needs.

Some readers will no doubt reply that circumcision practitioners are surely not all as heartless and cavalier as might be inferred here. But the point is that whatever precautions a particular individual may take is wholly out of the goodness of his or her heart, and is thus discretionary. To the extent that medicine – and even aspects of religion, for instance - are businesses, random, unofficial acts of kindness are not sufficient to protect all boys.

And for its part, Anglo-American law and bioethics has simply failed to consider the human rights of infant boys. Little attention has been paid to the lifetime physical effects imposed by a religion the boy hasn’t yet chosen– or the losses incurred to humor an adult, secular, cosmetic, whim born of anti-sexual instincts, one which fee-for-service medical practitioners have nurtured for decades.

By contrast, the U.S. federal law forbidding even the mildest, even merely symbolic, female genital cutting, expressly disavowed any exception for ritual motivation or “custom.” This restriction fully ignored those Ethiopian Jews, Muslims, and Animist parents who claimed ancient religious mandates to cut their daughters.[73,74] A gender-neutral law, forbidding the genital cutting of minors, could equally have noted that male circumcision is also a “custom,” especially in the U.S. There has been no successful challenge, however, to the U.S. federal anti-FGM law on either Free Exercise or Equal Protection grounds, nor, I suspect, is there likely to be one any time soon.

Hundreds of years of cutting the genitals of boys is not easy to challenge – or even to question, it seems – despite glaring, minimal, institutional protections for the boy’s safety, or observance of his fundamental human right to bodily integrity. Recent laws that “enshrine” male circumcision, and forbid inquiry into safety regulation, are worse – a huge step backwards for the historical rights of boys.

Footnotes

[1] Jewish Community Relations Council of San Francisco, et al., vs. John Arntz and the City and County of San Francisco, Superior Court of San Francisco, Case No. CPF-11-511370, heard July 15, 2011.
[2] Landgericht Kōln, (7 May 2012) Urteil 151 Ns 169/11.

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

[3] Circumcision remains legal in Germany. Deutsche Welle, 12 December, 2012.

[4] Eddy, Melissa. German Lawmakers Vote to Protect Right to Circumcision. *New York Times*, 12 December 2012.

[5] Özdemir E. Significantly increased complication risk with mass circumcisions. BJU, Volume 80, Pages 136-139, August 1997.
[6] Royal Dutch Medical Association. Non-therapeutic circumcision of male minors. KNMG; May 2010.http://knmg.artsennet.nl/Publicaties/KNMGpublicatie/Nontherapeutic-circumcision-of-male-minors-2010.htm

[7] Tasmania Law Reform Institute. Non-therapeutic Male Circumcision. Issues Paper No. 14. University of Tasmania, 2009. http://theconversation.edu.au/tasmanian-report-calls-for-groundbreaking-reform-of-circumcision-law-9105

[8] The AAP has for decades acted as the self-appointed 'cultural broker' of medical procedures to infants, and their influence extends well beyond U.S. borders. The AAP, however, is a trade association, unelected and answerable only to its members, with an inarguable financial interest in pediatric fee-for-service transactions. In 1971 The AAP declared that male circumcision, then nearly universal in the US, though in steep decline elsewhere, was 'not medically indicated.' But after internal pressure from members losing trade, the AAP—in 1975, 1977, 1989, and 1999—has issued more nuanced pronouncements. Each wavered, declaring at intervals that the benefits and risks are evenly balanced, compromising the bioethics, claiming respect for a 'tradition' physicians themselves invented, and leaving the choice – or the blame – to young parents, the only amputation procedure ever to have been accorded that discretion.

[9] (South Africa has a comprehensive law forbidding male circumcision below age 16, intended to prevent deaths from septic tribal initiation rites which kill dozens of boys each year there. But the law is widely ignored in the medical setting and contains religious exemptions.) Children's Act Number 38 of 2005:

"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. …
(8)Circumcision of male children under the age of 16 is prohibited, except when—
(a) performed for religious reasons in accordance with the practices of the religion concerned and in the manner prescribed; or,
(b) circumcision is performed for medical reason on the recommendation of a medical practitioner.
(9) circumcision of male children older than 16 may only be performed—
(a) if the child has given consent …"
(10) … every male child has the right to refuse circumcision.

[10] http://pediatrics.aappublications.org/content/130/3/e756.full

[11] In one recent case in New York, two infants died from the practice of *metzitzah b'peh* or suction by mouth of the bleeding penis, an uncommon practice usually confined to ultra-Orthodox Jews. The *mohel* continued this practice despite the fact he had active herpes. This affliction is chronic though manageable for adults, but is deadly for infants who have under-developed immune systems. The New York health authorities refused to apply existing law, and instead referred the case,

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

which might have called for a manslaughter indictment, to rabbinical authorities, who promptly tabled it. A compromise proposal by NY health authorities to require parents to acknowledge the risks involved, has been proposed —of no protection whatsoever to the thousands of boys at risk.

[12] One of the members of the AAP's 2012 circumcision task force was quoted in print as having circumcised his own son on his parent's kitchen table, despite ethical canons that forbid MDs from operating on members of their own family, let alone in such a septic setting. http://www.thejewishweek.com/features/new-york-minute/fleshing-out-change-circumcision Query: May one shed one's professional responsibilities, once acquired, by claiming to have stepped out of the healer's role momentarily?

[13] The American Academy of Pediatrics, a physicians' trade organization, would like to think such customs are theirs to 'broker.' In 2010, for example, officials of the AAP recommended a 'clitoral nick' for East African girls, to please their parents, despite the fact that such interventions are patently illegal under U.S. federal law, and that of many U.S. states and foreign countries. The AAP were rapidly forced to withdraw this suggestion.
http://www.psychologytoday.com/blog/about-fathers/201005/aap-sputters-then-retracts-policy-female-genital-cutting

Brusa M, Barilan YM. Cultural circumcision in EU public hospitals — an ethical discussion. Bioethics 2008; 23: 470-82.

[14] Williams N, Kapila L. Complications of circumcision. *Brit J Surg* 1993;80:1231-6.
http://www.cirp.org/library/complications/williams-kapila/

[15] Hill G. The case against circumcision. *J Mens Health Gend* 2007;4(3):318-23.

[16] Dalton J. Male circumcision – see the harm to get a balanced picture. *J Mens Health Gend* 2007;4(3):312-17.

[17] Wallerstein E. Circumcision: the uniquely American medical enigma. *Urol Clin North Am* 1985;12(1):123-132.

[18] Paranthaman K, Bagaria, O'Moore É. The need for commissioning circumcision services for non-therapeutic indications in the NHS: lessons from an incident investigation in Oxford. J Public Health (2011) 33 (2): 280-283. doi: 10.1093/pubmed/fdq053 First published online: July 14, 2010 "*Results*: Thirty-two children were circumcised over a 3 day period in the library of an Islamic faith school [Oxford, England] by a single, medically qualified individual. Among the 29 children with follow-up information, 13 (44.8%) developed complications requiring medical intervention. Information obtained from interviews and the field visit confirmed the lack of implementation of standard infection control practices." http://jpubhealth.oxfordjournals.org/content/33/2/280.abstract

[19] The Guardian, December 17, 2012, "Male circumcision: Let there be no more tragedies like baby Goodluck." http://www.guardian.co.uk/commentisfree/2012/dec/17/male-circumcision-baby-goodluck

[20] The AAP claims that the complication rate of circumcision is 0.2%-0.6%. This means that if a single practitioner performed the procedure 1,000 times in a row, he or she would have a problem result, at most, 6 times; or, among 1,000 practitioners, only 2 to 6 of them would experience a 'sub-standard' event. Since as we will see, the procedure has minimal guidelines and is often per-

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

formed by medical trainees, these figures strain credulity and are risible. Even circumcision revisions amount to 1%-9.5% of all cases. See footnote 46.

[21] One medical textbook sums this ignorance up candidly: “Because circumcision is so common in the United States, the natural history of the preputial development has been lost, and one must depend on observations made in countries in which circumcision is usually not practiced.” *Avery’s Neonatology*: *Pathophysiology and Management of the Newborn*, MacDonald (ed.) Lippincott, (2005:1088)

[22] Ironically, the American Academy of Pediatrics, which has singlehandedly marketed and nurtured U.S. cultural circumcision for decades, suggest these limits on proxy consent, which seem not to encompass non-therapeutic infant circumcision, male or female: “…[P]roviders have legal and ethical duties to their child patients to render competent medical care based on what the patient needs, not what someone else expresses. …The pediatrician’s responsibilities to his or her patient exist independent of parental desires or proxy consent.” American Academy of Pediatrics Committee on Bioethics. Informed consent, parental permission, and assent in pediatric practice. *Pediatrics* 1995;95(2):314-7. Abstract at: http://www.ncbi.nlm.nih.gov/pubmed/7838658

[23] Smith, JF, Am J Perinatol 2011;28:125–128 “To excel in women’s reproductive health, we should no longer passively accept or actively maintain this procedure in our specialty. Steps are suggested to remove the residual and improper inclusion of circumcision from the scope of practice of obstetrics and gynecology.” Abstract at: https://www.thieme-connect.de/ejournals/pdf/10.1055/s-0030-1263294.pdf

[24] Johnson TR, Pituch K, Brackbill EL, et al. Why and how a department of obstetrics and gynecology stopped doing routine newborn male circumcision. *Obstet Gynecol* 2007;109:750–2.

[25] Notable example: in one Louisiana case, two residents, an R-1 being instructed by an R-3, both experimenting with a new electrocautery device neither had been trained to use, burned the penis off a two-year-old boy whose only likely physical problem was the normal membrane of youth, the *balano-preputial lamina*, which needed no medical attention whatsoever. The appellate court noted this about the child-victim: “Sexual pleasure, procreativity, marriage in any normal sense, these things will never exist for him. The suffering of deprivation, both physical and mental, that will accompany him throughout his life can be only vaguely imagined. What will his puberty be like? Where will he go to escape the cruel and ribald jokes of his comrades? For that matter who will be his comrades? Into what corner of his dark cell will he seek refuge when the natural urgings of his body wage battle?” *Terry W. Felice, Sr. v. Valleylab, Inc.*, 520 SO.2d 920, (1987).
http://www.leagle.com/xmlResult.aspx?xmldoc=19871440520So2d920_11201.xml&docbase=CSLWAR2-1986-2006

[26] McCormick F, Kadzielski J, Landrigan CP, et al. Surgeon fatigue: : A prospective analysis of the incidence, risk, and intervals of predicted fatigue-related impairment in residents. *Arch Surg.* 2012;147(5):430-435.
doi:10.1001/archsurg.2012.84.
http://archsurg.jamanetwork.com/article.aspx?articleid=1157932#Abstract
“Results: Residents were fatigued during 48% and impaired during 27% of their time awake. Among all residents, the mean amount of daily sleep was 5.3 hours. Overall, residents’ fatigue lev-

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

els were predicted to increase the risk of medical error by 22% compared with well-rested historical control subjects. Night-float residents were more impaired (*P* = .02), with an increased risk of medical error (*P* = .045)."

[27] A conscientious clinician, wishing to avoid practicing on a live patient, might want to purchase a circumcisable doll kit, the "Life/Form, only $194, available at http://www.enasco.com/product/LF00908U.

[28] Sorrells ML, Snyder JL, Reiss MD, et al. (2007): Fine-touch pressure thresholds in the adult penis. British International Journal of Urology, 99:864-69.

[29] Mor A, Eshel G, Aladjem M, Mundel G. Tachycardia and heart failure after ritual circumcision. *Arch Dis Child* 1987;62:1 80-81 doi:10.1136/adc.62.1.80.

[30] JCAHCO, formerly the Joint Commission on Accreditation of Healthcare Organizations (now TJC, the Joint Commission) which accredits hospitals, requires a 'time out' before all procedures, including circumcisions, performed in hospitals wanting TJC accreditation. But for circumcision, this protocol is widely flouted.

[31] The FDA has issued recalls and periodic warnings about counterfeit and damaged circumcision devices: Potential for Injury from Circumcision Clamps, 29 August 2000, but there is a dynamic market in used clamps and South Asian knock-offs.

[32] Florida: child pulled from the NICU without the mother's consent. http://www.dailymail.co.uk/news/article-1312767/Vera-Delgado-sues-Florida-hospital-doctors-circumcise-newborn-son.html

[33] Anna Taddio, Joel Katz, A. Lane Ilersich & Gideon Koren. *Effect of neonatal circumcision on pain response during subsequent routine vaccination*. 349 Lancet 599-603 (1997). http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(05)62456-7/fulltext

[34] Beggs S, Currie G, Salter MW, et al. Priming of adult pain responses by neonatal pain experience: maintenance by central neuroimmune activity. *Brain* 2012 Feb;135(Pt 2):404-17. Epub 2011 Nov 18.

[35] Garry T. Circumcision: a survey of fees and practices. *OBG Management* (October) 1994: 34-6.

[36] Glick, Leonard. Marked in Your Flesh: Circumcision from Ancient Judea to Modern America. New York: Oxford University Press, 2005:242.

[37] Neonatal Herpes Simplex Virus infection Following Jewish ritual circumcisions that Included direct orogenital suction — New York City, 2000–2011. *MMWR* 2012; 61(22);405-409.

[38] Circumcisions spark debate. Local rate four times national average; MD says doctors may be in it for the money." *The Windsor Star*, Windsor, Ontario, Saturday, 19 March 2005.

[39] The 2012 AAP Task Force report dismissed serious botch cases in a single sentence: "The majority of severe or even catastrophic injuries are so infrequent as to be reported as case reports (and were therefore excluded from this literature review.)" Yet it is the rare case of any kind that makes a published case history, and assuming all circumcision tragedies may be found in case histories is remarkably cavalier if not outright dishonest. http://pediatrics.aappublications.org/con-

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

tent/130/3/e756.full

[40] Title 45, Public Welfare, titles 1-2555, October 1, 2007; http://www.gpo.gov/fdsys/pkg/CFR-2007-title45-vol1/content-detail.html accessed December 4, 2012.

[41] Moses Maimonides (b.1135-d.1204) "Guide for the Perplexed."

[42] Robert Darby, A Surgical Temptation: The Demonization of the Foreskin and the Rise of Circumcision in Britain. University of Chicago Press, 2005. Chap. 5, "The Priests of the Body: Doctors and Disease in an Antisexual Age."

[43] John Harvey Kellogg (1888). *Plain Facts for Young and Old* at p.295. F. Segner & Co.. ISBN 0-585-23264-4.
" The operation should be performed by a surgeon without administering anaesthetic, as the pain attending the operation will have a salutary effect upon the mind, especially if it be connected with the idea of punishment."

[44] "When operating on the infantile penis, the surgeon cannot adequately judge the appropriate amount of tissue to remove because the penis will change considerably as the child ages, such that a small difference at the time of surgery may translate into a large difference in the adult circumcised penis. To date, there have been no published studies showing the ability of a circumciser to predict the later appearance of the penis." Van Howe RS. Variability in penile appearance and penile findings: a prospective study. *Brit J Urol* 1997: 80:780.

[45] ICD-9-605, the billable code under the International Classification of Diseases.

[46] Van Howe RS. Variability in penile appearance and penile findings: a prospective study. *Br J Urol* 1997; 80: 776–782.

[47] Leitch IO. Circumcision. A continuing enigma. *Aust Paediatr J* 1970; 6: 59–65.

[48] Richmond,VA (WTVR), CBS 6 Investigation: "Circumcision Errors all too common in Central Virginia" 10:15 AM EDT, May 18, 2011.

[49] M. David Gibbons, MD, Associate Professor, Pediatric Urology, Georgetown University School of Medicine and George Washington School of Medicine. Posted at Men's Health Magazine, 2009, in response to the article "The debate over circumcision: Should all males be circumcised?" (http://www.menshealth.com/men/health/other-diseases-ailments/the-debate-over-circumcision/article/6a8cd36265f1f110VgnVCM10000013281eac#readerComments)

[50] Cold CJ, Taylor JR. The prepuce. *BJU Int* 1999;83 Suppl. 1:34-44.

[51] Elder JS. Circumcision—Are you with us or against us. *J Urol* 2006;176(5):1911.

[52] Van Howe RS. Variability in penile appearance and penile findings: a prospective study. *Brit J Urol* 1997; 80: 776–7s. J Urol 2006;176(5):1911.
52 Van Howe RS. Variability in penile appearance and penile findings: a prospective study. Brit J Urol 1997; 80: 776–782.

[53] A gallery of the typical botches, not for the squeamish, (caution—adult material, and not safe for work places)—may be seen at: http://www.circumstitions.com/Restric/Botched1sb.html

[54] The judge failed to note of course, that it was not the parents who took the chance as they had

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

little to lose; it was the boy himself who was put at risk. *CM, a minor child, vs. Beidel,* Superior Court of Washington State in and for Jefferson County, cause No. 03-2-00329-7.

[55] Our physicians' group has provided medical testimony or technical advice in three recent cases where the child bled to death or in one case, had his bladder so distended by a blocked urethra that it compromised his vascular system causing an agonizingly slow death.

[56] Nathan and Orkin's *Hematology of Infancy and Childhood*, Saunders, 1998.

[57] *Forrest Keefe et al., vs. United States Department of Interior*, United States District Ct, Central District of South Dakota, CIV 09-03023 RAL.

[58] Dan Bollinger. (2010). *Lost Boys: An Estimate of U.S. Circumcision-Related Infant Deaths.* 4 Thymos: Journal of Boyhood Studies 78-90 (2010).

[59] Example: In a recent Indiana case, an infant was pulled from the cardiac neonatal intensive care unit (NICU) to be circumcised, while still suffering from a congenital heart defect, hypoplastic left heart syndrome, which formerly killed all its victims and requires three separate and delicate surgeries even today. It is obvious even to the medically untrained that this child should not have been subjected to the additional stress of circumcision and that further surgical stress likely caused his death. However, the boy's death will be attributed only to the congenital heart problem and will escape attribution to circumcision.

[60]Oregon mother gets probation in home circumcision. http://www.king5.com/news/local/Oregon-mother-gets-probation-in-home-circumcision-127831283.html accessed December 15, 2012. "PORTLAND, Ore. — An Oregon woman who tried to circumcise her 3-month-old son at home after reading the Old Testament and watching YouTube videos has been sentenced to five years of probation."

[61] *State of Washington v. Baxter*. 134 Wn. App. 587; 141 P.3d 92 (2006).

[62] In a California case, where a father circumcised his child at home, the judge declared: "I do not want in anyway to imply that it is OK to do that or that people should go out and circumcise their children themselves," [Judge] Soto said, "but it is only illegal if one mutilates a female — there is nothing in the penal code about a male child." Inland Valley News, Ontario, California, Monday, 14 February 2005.

[63] *D.J.W. v. Her Majesty the Queen*, SCC 64623.

[64] *Prince v. Massachusetts*, 321 U.S. 158 (1944).

[65] MacDonald J. Mohels give non-Jewish babies a slice of tradition. *Forward*, 28 December 2007.

[66] California, Idaho, and Illinois.

[67] "Routine Infant Male Circumcision," Svoboda, S J, in Sexual Mutilations, a Human Tragedy, Denniston D and Milos M, eds, Plenum, New York, 1997, 22:205.

[68] Delaware, Minnesota, Montana, and Wisconsin.

[69] Boyle GJ, Svoboda JS, Price CP, Turner JN. Circumcision of Healthy Boys: Criminal Assault? J Law Med 2000; 7: 301

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

[70] Arizona, California, Colorado, Florida, Idaho, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nevada, North Carolina, North Dakota, Oregon, South Carolina, Utah, and Washington.

[71] Ross Povenmire. *Do Parents Have the Legal Authority to Consent to the Surgical Amputation of Normal, Healthy Tissue From Their Infant Children?: The Practice of Circumcision in the United States*. 7 Journal of Gender, Social Policy & the Law 87 (1998-1999); Shea Lita Bond. *Female Circumcision and the Equal Protection Clause*. 32 John Marshall L. Rev. 353 (1999).

[72] California Code Sec. 1, Part 10, Division 106, Health and Safety, 125850.

[73] United Nations Convention on the Rights of the Child, Art 24, "3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children." (Only two countries have not signed this convention, the USA and Somalia.)

[74] Hill G. The case against circumcision. *J Mens Health Gend* 2007;4(3):318-23.

[75] "... 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 person, or any other person, that the operation is required as a matter of custom or ritual." Title 18, Part 1, Ch7, Section 116, Female Genital Mutilation.

References

Medical articles, studies, reports

American Academy of Pediatrics 2012 report of the Task Force on male circumcision. http://pediatrics.aappublications.org/content/130/3/e756.full

Avery's Neonatology: *Pathophysiology and Management of the Newborn*, MacDonald (ed) Lippincott, (2005:1088) (Historic loss of knowledge of infant genital development in U.S.)

Beggs S, Currie G, Salter MW, et al. Priming of adult pain responses by neonatal pain experience: maintenance by central neuroimmune activity. *Brain* 2012 Feb;135(Pt 2):404-17. Epub 2011 Nov 18.

Bollinger, D. (2010). *Lost Boys: An Estimate of U.S. Circumcision-Related Infant Deaths.* 4 Thymos: Journal of Boyhood Studies 78-90 (2010).

Brusa M, Barilan YM. Cultural circumcision in EU public hospitals — an ethical discussion. Bioethics 2008; 23: 470-82.

Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report, (*MMWR)* 2012; 61(22);405-409. Neonatal Herpes Simplex Virus infection Following Jewish ritual circumcisions that Included direct orogenital suction — New York City, 2000–2011.

Cold CJ, Taylor JR. The prepuce. *BJU Int* 1999;83 Suppl. 1:34-44.

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

Dalton J. Male circumcision – See the harm to get a balanced picture. *J Mens Health Gend* 2007;4(3):312-17.

Elder JS. Circumcision—Are you with us or against us. *J Urol* 2006;176(5):1911.

FDA warnings about counterfeit and damaged circumcision devices: Potential for Injury from Circumcision Clamps, 29 August 2000.

Garry T. Circumcision: a survey of fees and practices. *OBG Management* (October) 1994: 34-6.

Hill G. The case against circumcision. *J Mens Health Gend* 2007;4(3):318-23.

Johnson TR, Pituch K, Brackbill EL, et al. Why and how a department of obstetrics and gynecology stopped doing routine newborn male circumcision. *Obstet Gynecol* 2007;109:750–2.

Leitch IO. Circumcision. A continuing enigma. *Aust Paediatr J* 1970; 6: 59–65.

McCormick F, Kadzielski J, Landrigan CP, et al. Surgeon fatigue: : A prospective analysis of the incidence, risk, and intervals of predicted fatigue-related impairment in residents. *Arch Surg.* 2012;147(5):430-435. doi:10.1001/archsurg.2012.84.

Mor A, Eshel G, Aladjem M, Mundel G. Tachycardia and heart failure after ritual circumcision. *Arch Dis Child* 1987;62:1 80-81 doi:10.1136/adc.62.1.80.

Nathan and Orkin's *Hematology of Infancy and Childhood*, Saunders, 1998.

Özdemir E. Significantly increased complication risk with mass circumcisions. BJU, Volume 80, Pages 136-139, August 1997.

Paranthaman K, Bagaria, O'Moore É. The need for commissioning circumcision services for non-therapeutic indications in the NHS: lessons from an incident investigation in Oxford. J Public Health (2011) 33 (2): 280-283. (Injury of British children in ritual settings.)

Pediatrics 1995;95(2):314-7. Abstract at: http://www.ncbi.nlm.nih.gov/pubmed/7838658 (limits of proxy consent).

Royal Dutch Medical Association. Non-therapeutic circumcision of male minors. KNMG; May 2010.http://knmg.artsennet.nl/Publicaties/KNMGpublicatie/Nontherapeutic-circumcision-of-male-minors-2010.htm

Smith, JF, Am J Perinatol 2011;28:125–128 "To excel in women's reproductive health, we should no longer passively accept or actively maintain this procedure in our specialty." Abstract at: https://www.thieme-connect.de/ejournals/pdf/10.1055/s-0030-1263294.pdf

© 2012 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

Sorrells ML, Snyder JL, Reiss MD, et al. (2007): Fine-touch pressure thresholds in the adult penis. British International Journal of Urology, 99:864-69.

Taddio A, Katz J, et al. *Effect of neonatal circumcision on pain response during subsequent routine vaccination*. 349 Lancet 599-603 (1997). http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(05)62456-7/fulltext

Van Howe RS. Variability in penile appearance and penile findings: a prospective study. *Brit J Urol* 1997: 80:780. (Inability of surgeon to judge tissue loss beforehand.)

Wallerstein E. Circumcision: the uniquely American medical enigma. *Urol Clin North Am* 1985;12(1):123-132.

Williams N, Kapila L. Complications of circumcision. *Brit J Surg* 1993;80:1231-6. http://www.cirp.org/library/complications/williams-kapila/

Legal cases, statutory cites, and law review

Bond, SL. *Female Circumcision and the Equal Protection Clause*. 32 John Marshall L. Rev. 353 (1999). http://www.cirp.org/library/legal/bond/

Boyle GJ, Svoboda JS, Price CP, Turner JN. Circumcision of Healthy Boys: Criminal Assault? J Law Med 2000; 7: 301

California Code Sec. 1, Part 10, Division 106, Health and Safety, 125850. (forbidding any restriction on male circumcision) http://law.justia.com/codes/california/2011/hsc/division-106/125850/125850/

Children's Act Number 38 of 2005: (South Africa's law restricting male circumcision below age 16). http://www.info.gov.za/view/DownloadFileAction?id=67892

CM, a minor child, vs. Beidel, Superior Court of Washington State in and for Jefferson County, case No. 03-2-00329-7. (Judge keeps serious botch case from jury).

D.J.W. v. Her Majesty the Queen, Supreme Court of Canada, 64623.

Forrest Keefe et al., vs. United States Department of Interior, United States District Court, Central District of South Dakota, CIV 09-03023 RAL. (No period of post-op observation; child bleeds to death.)

Inland Valley News, Ontario, California, Monday, 14 February 2005. (Judge finds no law forbidding

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

homemade male circumcision by parent.) http://www.cirp.org/news/inlandvalleynews02-14-05/

Jewish Community Relations Council of San Francisco, et al., vs. John Arntz and the City and County of San Francisco, Superior Court of San Francisco, Case No. CPF-11-511370, heard July 15, 2011. (Judge blocks local San Francisco initiative restricting male circumcision of minors to medical need.)

Landgericht Kōln, (7 May 2012) Urteil 151 Ns 169/11. (Judgment of local court, declaring circumcision an 'assault.') [In German.]

Prince v. Massachusetts, 321 U.S. 158 (1944). (USSC condemns religious risk to child health)

Povenmire, R. *Do Parents Have the Legal Authority to Consent to the Surgical Amputation of Normal, Healthy Tissue From Their Infant Children?: The Practice of Circumcision in the United States*. 7 Journal of Gender, Social Policy & the Law 87 (1998-1999).

State of Washington v. Baxter. 134 Wn. App. 587; 141 P.3d 92 (2006). (Father convicted of assault in bathtub circumcision.)

Svoboda, S J, "Routine Infant Male Circumcision," in Sexual Mutilations, a Human Tragedy, Denniston D and Milos M, eds, Plenum, New York, 1997, 22:205.

Tasmania Law Reform Institute. Non-therapeutic Male Circumcision. Issues Paper No. 14. University of Tasmania, 2009. http://theconversation.edu.au/tasmanian-report-calls-for-groundbreaking-reform-of-circumcision-law-9105

Terry W. Felice, Sr. v. Valleylab, Inc., 520 SO.2d 920, (1987). (First-year medical resident burns penis off a two-year-old boy.)
http://www.leagle.com/xmlResult.aspx?xmldoc=19871440520So2d920_11201.xml&docbase=CSLWAR2-1986-2006

Title 18, Part 1, Ch7, Section 116, http://codes.lp.findlaw.com/uscode/18/I/7/116
(U.S. law forbidding Female Genital Mutilation.)

Title 45, Public Welfare, titles 1-2555, October 1, 2007; http://www.gpo.gov/fdsys/pkg/CFR-2007-title45-vol1/content-detail.html accessed December 4, 2012. (U.S. law on medical record privacy.)

United Nations Convention on the Rights of the Child, (UNCRC) Art 24, "3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children." http://www2.ohchr.org/english/law/crc.htm

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

MEDIA

CBS 6 Investigation, Richmond, VA (WTVR),: "Circumcision Errors all too common in Central Virginia" 10:15 AM EDT, May 18, 2011.

Daily Mail, 17 September 2010, http://www.dailymail.co.uk/news/article-1312767/Vera-Delgado-sues-Florida-hospital-doctors-circumcise-newborn-son.html (Florida child pulled from the NICU, circumcised, without mother's consent.)

Deutsche Welle, Circumcision remains legal in Germany. 12 December, 2012.

The Forward, MacDonald J. Mohels give non-Jewish babies a slice of tradition, 28 December 2007.

Gallery of common botches, (*caution — adult material*): http://www.circumstitions.com/Restric/Botched1sb.html

The Guardian, December 17, 2012, "Male circumcision: Let there be no more tragedies like baby Goodluck." http://www.guardian.co.uk/commentisfree/2012/dec/17/male-circumcision-baby-goodluck

The Jewish Week (AAP 2012 circumcision task force member circumcises son on parent's kitchen table): http://www.thejewishweek.com/features/new-york-minute/fleshing-out-change-circumcision

King5 news, August 16, 2011: "Oregon mother gets probation in home circumcision." http://www.king5.com/news/local/Oregon-mother-gets-probation-in-home-circumcision-127831283.html accessed December 15, 2012.

New York Times, 12 December 2012, Eddy, Melissa. German Lawmakers Vote to Protect Right to Circumcision.

Psychology Today http://www.psychologytoday.com/blog/about-fathers/201005/aap-sputters-then-retracts-policy-female-genital-cutting (American Academy of Pediatrics briefly endorses female genital mutilation)

Windsor Star, "Circumcisions spark debate. Local rate four times national average; MD says doctors may be in it for the money." Windsor, Ontario, Saturday, 19 March 2005.

RECOMMENDED READING

Darby, Robert, A Surgical Temptation: The Demonization of the Foreskin and the Rise of Circumcision in Britain. University of Chicago Press, 2005.

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.

Glick, Leonard, Marked in Your Flesh: Circumcision from Ancient Judea to Modern America. New York: Oxford University Press, 2005.

Gollaher, David L, Circumcision: A History of the World's Most Controversial Surgery. New York: Basic Books, 2000. (ISBN: 0-465-04397-6).

Kellogg, John Harvey, (1888). *Plain Facts for Young and Old* F. Segner & Co.. ISBN 0-585-23264-4.

Maimonides, Moses (b.1135-d.1204) *"Guide for the Perplexed."*

John V. Geisheker is currently the full-time pro bono Director and General Counsel for Doctors Opposing Circumcision (DOC), based in Seattle, Washington, an international physicians' charity whose members oppose merely cultural, non-therapeutic, genital cutting of children, male or female, on human rights' grounds. He may be reached via the DOC website, or at docdirector.geisheker@gmail.com.

NEW MALE STUDIES: AN INTERNATIONAL JOURNAL (NMS) IS AN OPEN ACCESS ONLINE INTERDISCIPLINARY JOURNAL FOR RESEARCH AND DISCUSSION OF ISSUES FACING BOYS AND MEN WORLDWIDE.
THIS JOURNAL USES OPEN JOURNAL SYSTEMS 2.3.4.0, WHICH IS OPEN SOURCE JOURNAL MANAGEMENT AND PUBLISHING SOFTWARE DEVELOPED, SUPPORTED, AND FREELY DISTRIBUTED BY THE PUBLIC KNOWLEDGE PROJECT UNDER THE GNU GENERAL PUBLIC LICENSE.
THIS ARTICLE HAS BEEN DOWNLOADED FROM HTTP://NEWMALESTUDIES.COM.

© 2013 AUSTRALIAN INSTITUTE OF MALE HEALTH AND STUDIES.