

Gender or genital autonomy: Healthcare and Secularism Part 5

Video available at: <https://www.youtube.com/watch?v=oV7oADV2klQ&>

0:00:04.580,0:00:09.889

Our next speaker - I'm so grateful to - he's traveled all the way from the United

genital cutting would be mentioned in this conference and indeed that's a

0:01:03.439,0:01:06.920

large theme of my talk. I'll try to summarize my point

0:00:09.889,0:00:16.460

States to speak to us today - the medical ethicist Brian Earp - and Brian's unique ethical

0:01:06.920,0:01:11.000

in a nutshell which is that due to some of the anomalies that James laid out in

0:00:16.460,0:00:20.360

perspective, insights and dedication to integrity were true inspiration to many

0:01:11.000,0:01:16.790

the law, it's the case that female, male and, as I'll mention, intersex genital

0:00:20.360,0:00:25.340

of us who splutter with indignation where Brian finds the words to challenge

0:01:16.790,0:01:22.040

cutting are going to rise or sink together. The ethical and legal

0:00:25.340,0:00:30.010

even the most mendacious of claims and he does so with clarity, grace and kindness.

0:01:22.040,0:01:26.450

principles apply to both even though the facts about what's done in any

0:00:30.010,0:00:35.360

In 2013 whilst working at Oxford, Brian edited the British Journal of

0:01:26.450,0:01:31.340

particular case may differ significantly and so what I'll argue is - if all you cared

0:00:35.360,0:00:39.850

Medical Ethics special edition on circumcision. So Brian will now speak on

0:01:31.340,0:01:34.760

about was protecting girls from non-therapeutic general cutting, you

0:00:39.850,0:00:44.360

gender or genital autonomy - why framing non-therapeutic genital cutting as a

0:01:34.760,0:01:38.090

would have to get on board with the arguments to do with boys because these

0:00:44.360,0:00:50.500

children's rights issue is both ethically and pragmatically necessary.

0:01:38.090,0:01:43.100

issues are going to be linked in law and in ethical policy going forward and I'll

0:00:55.449,0:01:00.290

Thanks very much. Earlier someone raised the question about whether female

0:01:43.100,0:01:48.860

just show you why that's the case

0:01:00.290,0:01:03.439

in the slides to follow. So here's my
0:01:48.860,0:01:53.360
talk in an outline - a collision course
has been set regarding different ethical
0:01:53.360,0:01:57.020
treatment of female, male and intersex
forms of childhood genital cutting and
0:01:57.020,0:02:02.060
the collision in law and policy is
actually playing out right now.
0:02:02.060,0:02:06.290
Prominent defenders of ritual male
circumcision are aware that the global
0:02:06.290,0:02:11.720
zero-tolerance stance toward FGM or FGC
including toward what some people
0:02:11.720,0:02:15.290
characterize as minor forms of female
genital cutting, so this is something
0:02:15.290,0:02:17.790
that includes
what's called a ritual nick - this is a
0:02:17.790,0:02:21.900
practice where no tissue is actually
removed, an incision is made into some
0:02:21.900,0:02:26.099
part of the vulva, a drop of blood is
drawn for ceremonial purposes but the
0:02:26.099,0:02:30.239
point here is that if the law says even
that is not permitted and yet it allows
0:02:30.239,0:02:34.349
a far more invasive procedure on boys,
something's going to have to give - either
0:02:34.349,0:02:38.940
the law is going to have to tolerate

minor forms of FGM, which is what some
0:02:38.940,0:02:42.239
are now arguing it should do, or it's
going to have to take a more restrictive
0:02:42.239,0:02:46.470
stance toward male circumcision. Now
those who are in favor of ritual male
0:02:46.470,0:02:50.010
circumcision are aware of this problem,
they're aware that there's a double
0:02:50.010,0:02:54.360
standard and so to create a buffer of
protection around male circumcision they
0:02:54.360,0:02:58.890
have now begun summoning arguments that
we should indeed tolerate minor forms of
0:02:58.890,0:03:01.920
female genital cutting. So I have to
credit them for intellectual consistency
0:03:01.920,0:03:06.989
and integrity in this regard but this is
the sort of thing that makes me suggest
0:03:06.989,0:03:09.629
that these cannot be treated separately,
these are going to be one and the same
0:03:09.629,0:03:16.079
issue to do with children's rights. So as
I say these defenders of ritual male
0:03:16.079,0:03:19.379
circumcision are now advancing arguments
in mainstream journals including the one
0:03:19.379,0:03:23.220
that was mentioned the British Journal
of medical ethics which I edited. In a
0:03:23.220,0:03:28.049
subsequent issue, some prominent

ethicists said we should tolerate minor

0:03:28.049,0:03:32.940

forms of FGM. Defenders of what they would call female circumcision have been

0:03:32.940,0:03:37.769

emboldened by these moves and are now in a more active way taking the arguments

0:03:37.769,0:03:41.010

directly from the male circumcision playbook - the reasons why people say well

0:03:41.010,0:03:43.980

we should tolerate it, it's religious, it's important and they're saying well

0:03:43.980,0:03:47.160

that applies to our case and in any event the form of cutting we do on our

0:03:47.160,0:03:52.260

daughters is less invasive than what you tolerate on your boys so you, you have to

0:03:52.260,0:03:57.299

extend the same consideration to us. So the gains of the last 30 years of

0:03:57.299,0:04:00.599

advocacy and consciousness raising on the part of feminists and global

0:04:00.599,0:04:04.230

activists to try to protect young girls from cutting in, in many different

0:04:04.230,0:04:09.660

settings is now under threat because of these developments. And so I'll suggest

0:04:09.660,0:04:13.200

that separate discourses are no longer sustainable where you have boys over

0:04:13.200,0:04:16.200

here and girls over here and intersex

children over here. I'll say more about

0:04:16.200,0:04:21.359

this third case in just a moment. Moving forward, the argument is going to

0:04:21.359,0:04:24.419

have to be, if you're a proponent of children's rights no matter which

0:04:24.419,0:04:28.349

particular case is the one that matters most to you there's going to have to be

0:04:28.349,0:04:30.480

a banding together of those who think that the

0:04:30.480,0:04:33.060

main issue here has to do with the vulnerability of the person and their

0:04:33.060,0:04:36.630

lack of ability to consent rather than where they fall along a spectrum of sex

0:04:36.630,0:04:41.100

or gender - and I'm going to be highlighting some feminist organizations

0:04:41.100,0:04:43.740

that have begun to take up these arguments and are now leading the charge

0:04:43.740,0:04:49.830

in arguing for all children's rights to genital autonomy. Now the notion that

0:04:49.830,0:04:53.430

there is a collision course in law is not new to me and this was raised back

0:04:53.430,0:04:57.710

in 2001 by Dena Davis who is a prominent American bioethicist and legal scholar.

0:04:57.710,0:05:02.700

She said, with respect to the U.S.

situation, which applies also in the UK

0:05:02.700,0:05:06.180

and in many other Western legal jurisdictions, that the federal and state

0:05:06.180,0:05:09.419

laws that criminalize the genital alteration of female minors

0:05:09.419,0:05:13.470

are written so broad in their language that strictly speaking they covered

0:05:13.470,0:05:17.190

procedures significantly less substantial than newborn male

0:05:17.190,0:05:21.240

circumcision and she says a complete laissez-faire attitude toward the one

0:05:21.240,0:05:24.870

practice, coupled with total criminalization of the other, has

0:05:24.870,0:05:27.810

troubling implications for the constitutional requirement of equal

0:05:27.810,0:05:31.800

protection because the laws appeared to protect little girls but not little boys

0:05:31.800,0:05:37.919

from religious and culturally motivated surgery. Now the United States is facing

0:05:37.919,0:05:44.040

its first test case of exactly this consideration. This test case is now the

0:05:44.040,0:05:51.960

first federal FGM law that's being applied to a particular case of a group

0:05:51.960,0:05:57.060

of Shia Muslims called the Dawoodi Bohra

and in this particular sect based primarily in India

0:05:57.060,0:06:00.660

and Pakistan but with members all over the world including some in Detroit,

0:06:00.660,0:06:06.510

Michigan - they perform a practice that they call Khatna which is a word for

0:06:06.510,0:06:11.400

circumcision - it's the same word they use with respect to what they do to both

0:06:11.400,0:06:16.200

their sons and their daughters but in this particular Muslim group the form of

0:06:16.200,0:06:19.530

cutting on the daughters is far less invasive than the form of cutting they

0:06:19.530,0:06:24.870

do within the same families to their sons. Furthermore, this form of cutting is

0:06:24.870,0:06:29.280

done in a clinical environment so the way that the debate around FGM has

0:06:29.280,0:06:32.610

played out in many Western discourses has been focused on these sort of horror

0:06:32.610,0:06:37.830

stories out of North East Africa where you have these stereotypes of, you know,

0:06:37.830,0:06:42.210

rusty razor blades and far-off villages. Now in a way a lot of this has

0:06:42.210,0:06:45.510

to do with misrepresentation of the diversity of practices around the world

0:06:45.510,0:06:50.340

and it's a sort of a, media likes to focus on the most extreme cases, so in reality

0:06:50.340,0:06:54.510

what we call FGM refers to some dozen or more types of practices done in

0:06:54.510,0:06:58.680

different settings, some of them are done by doctors, as in this case so the

0:06:58.680,0:07:02.100

practice has been as it's called medicalized just as in the United States,

0:07:02.100,0:07:05.160

my home country, male circumcision has been medicalised

0:07:05.160,0:07:09.120

and is considered something that is done by doctors in a hospital setting. The

0:07:09.120,0:07:13.080

same is true that Dawoodi Bohra so this woman here - Jumana Nagarwala -

0:07:13.080,0:07:17.370

is facing basically the rest of her life in prison for in a clinical setting

0:07:17.370,0:07:23.040

performing an instance of cutting on girls, allegedly, that is by the admission

0:07:23.040,0:07:26.640

of those in this very same group less invasive than what's done to their boys

0:07:26.640,0:07:31.590

and yet only the female operation is regarded as criminal in US law. So this

0:07:31.590,0:07:34.260

is the collision course - it's happening right now and this is going to be up

0:07:34.260,0:07:39.300

before the judge. Now this is a survey by members from within the Bohra community

0:07:39.300,0:07:42.570

who are reformers - these are women who are very bravely trying to end the

0:07:42.570,0:07:45.900

practice of female genital cutting within their group and so they wouldn't

0:07:45.900,0:07:51.060

be motivated to minimize the harm done by female genital cutting and

0:07:51.060,0:07:54.930

here's what they say 'in most instances the process involves the removal of a

0:07:54.930,0:07:58.470

pinch of skin from the clitoral hood - that's the tissue that covers the

0:07:58.470,0:08:01.700

clitoris and is analogous to the foreskin, though it's much smaller in

0:08:01.700,0:08:06.690

females, they say with respect to the religious significance well it's not

0:08:06.690,0:08:10.800

strictly mentioned in the Quran the sort of main recognized scripture of Islam it

0:08:10.800,0:08:14.790

is indeed mentioned in the Daim al-Islam which is a Hadith - a sort of collection of

0:08:14.790,0:08:19.590

sayings attributed to Muhammad - and they say that in this religious text which is

0:08:19.590,0:08:23.700

followed by this community this minor form of female genital cutting is in

0:08:23.700,0:08:27.870

fact endorsed and so within this community the scriptural support for

0:08:27.870,0:08:33.150
both male and female circumcision as they would say is equivalent. Now you

0:08:33.150,0:08:37.380
often hear this argument that because, as it's often said and this discourse,

0:08:37.380,0:08:41.910
FGM is not mentioned in the Quran therefore it's not religious. Now this is

0:08:41.910,0:08:46.920
a ridiculous argument in two different ways. First of all, there's an implied

0:08:46.920,0:08:49.809
suggestion that if something is a religious practice

0:08:49.809,0:08:54.040
therefore it's automatically permissible or therefore it's worthy of respect - that

0:08:54.040,0:08:57.040
doesn't follow - there may very well be a religious practice that ought to be

0:08:57.040,0:09:02.139
criticized. It also seems to imply that 'but if it's merely a cultural practice,

0:09:02.139,0:09:05.410
well then it's more just like a bad habit' that doesn't deserve our respect -

0:09:05.410,0:09:09.459
that doesn't follow either - something might be quote unquote merely a cultural

0:09:09.459,0:09:12.970
practice yet central to the way of life of a group of people even if it doesn't

0:09:12.970,0:09:17.529

happen to be codified in some literalistic protestant-like way in how

0:09:17.529,0:09:22.209
we conceive of religion in this society and so it's wrong on both ends but

0:09:22.209,0:09:26.350
nevertheless the premise in this case is incorrect. It's not true that it's not a

0:09:26.350,0:09:29.589
religious practice because what counts as a religious practice in this group is

0:09:29.589,0:09:34.720
not just what's literally stated in the Quran. So Michael Thomson here along

0:09:34.720,0:09:38.799
with a colleague and I have pointed out, citing the work of others, that just as

0:09:38.799,0:09:42.879
in Judaism and Christianity perceived binding religious obligations can arise

0:09:42.879,0:09:47.379
from oral teachings and extra-biblical sources, Islam also looks to other

0:09:47.379,0:09:52.119
sources to interpret and supplement the Quran such as the Hadith - the sayings of

0:09:52.119,0:09:56.559
the Prophet Muhammad - so somebody who wants to make this argument would be saying to

0:09:56.559,0:09:59.619
a Roman Catholic who opposes abortion that it can't be an opposition on

0:09:59.619,0:10:03.040
religious grounds because there's no literal opposition to abortion where it

0:10:03.040,0:10:06.819

says some line you know abortion is impermissible in the Bible that's just

0:10:06.819,0:10:09.459

clearly not how something attains a religious standing within a community

0:10:09.459,0:10:13.629

and yet people are grasping for these ridiculous arguments to try to cordon

0:10:13.629,0:10:17.589

off female genital cutting and suggest well it's just a bad habit so we don't

0:10:17.589,0:10:21.100

need to really consider it. We do need to consider it and in this community it has

0:10:21.100,0:10:25.119

as much importance and significance as male genital cutting does and yet we

0:10:25.119,0:10:28.689

know what the law says about the relationship with religion to female

0:10:28.689,0:10:33.669

genital cutting. So the religious versus cultural distinction I think is a red

0:10:33.669,0:10:37.329

herring but I'm now going to argue that actually the distinction between males

0:10:37.329,0:10:41.679

and females in the law is also facing a collision course and I'll raise that by

0:10:41.679,0:10:45.819

introducing the example of persons with what are sometimes called differences of sex

0:10:45.819,0:10:49.959

development, some of these individuals identify as intersex, so they take on the

0:10:49.959,0:10:54.399

identity of somebody who's neither fully male nor female and so about 1 in every

0:10:54.399,0:10:59.910

1,500 or 2,000 births occurs where the child has, in terms of visible

0:10:59.910,0:11:03.120

external genitalia characteristics, genitals that are neither

0:11:03.120,0:11:07.639

stereotypically male nor female and falls somewhere between these extremes.

0:11:07.639,0:11:11.430

Now here's the legal situation - if you move over to the left-hand side of the

0:11:11.430,0:11:17.699

spectrum you can cut these genital structures in any western regime - you

0:11:17.699,0:11:21.660

don't need to have a medical license to do it and it's mostly unregulated - you

0:11:21.660,0:11:24.420

don't have to collect statistics either as long as you call it a circumcision,

0:11:24.420,0:11:29.880

you can cut babies with genitals that look like this. If you move over to the

0:11:29.880,0:11:32.339

other side of the spectrum, it is a criminal offense

0:11:32.339,0:11:38.519

sometimes carrying life sentences or decades in prison, heavy fines, extreme

0:11:38.519,0:11:42.389

stigmatization for those who had cut genitals on this end of the spectrum to

0:11:42.389,0:11:47.100
any degree. So I'm not just talking about extreme excisions of clitoral tissue

0:11:47.100,0:11:51.180
with rusty razor blades, I'm saying any incision that's not medically necessary

0:11:51.180,0:11:57.120
is criminally forbidden on that side of the spectrum. In the middle you have

0:11:57.120,0:12:00.660
these intersex conditions and now people are starting to see why the law is going

0:12:00.660,0:12:05.310
to have to stop drawing lines based on sex or gender because in the middle

0:12:05.310,0:12:08.220
you have what's sometimes called feminizing cliteroplasty so if you

0:12:08.220,0:12:11.730
have an intersex child who has a larger than average clitoris but no other

0:12:11.730,0:12:15.779
functional or medical problem for purely social reasons it's still common in many

0:12:15.779,0:12:19.560
Western hospitals for the doctors to excise what they consider excess

0:12:19.560,0:12:22.829
clitoral tissue - they say well she wouldn't want to have a very big

0:12:22.829,0:12:25.680
clitoris - that might look a little masculine. Well that's making a big

0:12:25.680,0:12:29.339
presumption about what she might want later in life but it's tolerated now to

0:12:29.339,0:12:35.130
simply excise clitoral tissue. The problem is that just is FGM on the World

0:12:35.130,0:12:39.889
Health Organization definition so the law is gonna have to sort this out.

0:12:39.889,0:12:43.709
Now there aren't just of course six different stages of genitals, this is

0:12:43.709,0:12:45.990
more of a spectrum and so here's the legal question that we're gonna have to

0:12:45.990,0:12:51.480
pay attention to going forward - At what exact point is a small penis which is

0:12:51.480,0:12:55.600
legal to cut become a large clitoris which is illegal to cut?

0:12:55.600,0:12:59.199
Now embryologically this is the same tissue and normally it diverges because

0:12:59.199,0:13:03.639
of exposure to hormones in utero where the tissue then diverges and you could

0:13:03.639,0:13:06.370
characterize the penis as essentially a very large clitoris - that is in fact what

0:13:06.370,0:13:09.819
it is or a clitoris as a small penis - it's the same tissue with some

0:13:09.819,0:13:14.170
differences in terms of where the urethra goes through but in the intersex

0:13:14.170,0:13:17.980
conditions it just is the same structure - it just is the same thing - a large

0:13:17.980,0:13:20.440
penis or a small clitoris. You'd
have to come up with a ruler and you'd

0:13:20.440,0:13:23.920
have to make an arbitrary definition- a
millimeter this way, that's a penis - a

0:13:23.920,0:13:27.339
millimeter that way, it's a clitoris - and
the law is going to draw a distinction

0:13:27.339,0:13:31.509
based on sex or gender in terms of whose
genitals you're allowed to cut ? That's

0:13:31.509,0:13:36.160
not sustainable. So what's happening is
that defenders of both male and female

0:13:36.160,0:13:39.370
genital cutting are recognizing that
some of these distinctions are breaking

0:13:39.370,0:13:42.970
down and they're both turning now to
religious freedom as a way to bolster

0:13:42.970,0:13:48.430
support for why their cultural practices
should be protected. Here's an issue that

0:13:48.430,0:13:50.889
hasn't received any attention in the
literature so I'm just going to put this

0:13:50.889,0:13:54.790
on the table in this talk. People are now
more and more aware of those who

0:13:54.790,0:13:58.389
identify as transgender - so this is
someone who, roughly speaking , has a

0:13:58.389,0:14:02.170
gender identity that doesn't align with
the sex that's been assigned to them at

0:14:02.170,0:14:05.920
Birth based on their external genital
characteristics. When you permanently

0:14:05.920,0:14:09.759
alter a child's genitals before they've
formed an identity, before they've

0:14:09.759,0:14:14.889
developed even basic preferences or
acquired the capacity to say no, you

0:14:14.889,0:14:18.310
deprive them of the future autonomy that
they might have had over the most

0:14:18.310,0:14:21.699
private part of their body. So very
often in these debates I hear people

0:14:21.699,0:14:24.910
talking about ear piercing or letting
their children participate in sports as

0:14:24.910,0:14:29.829
though these are just clearly comparable
activities but everyone knows that the

0:14:29.829,0:14:34.750
genitals have significant psychosexual
importance to everyone. They're the sort

0:14:34.750,0:14:37.630
of thing that are specially private,
they're the sort of thing that makes us

0:14:37.630,0:14:41.050
say that sexual assaults compared to
other kinds of assault should be taken

0:14:41.050,0:14:44.920
more seriously. So everybody agrees that
the genitals are the sort of thing that,

0:14:44.920,0:14:48.189
as James pointed out, if you are eighteen
there would be an absolute prohibition

0:14:48.189,0:14:52.329
on anyone so much as touching your
genitals without your consent, but here

0:14:52.329,0:14:56.880
we allow for the permanent modification
and removal of erogenous tissue from

0:14:56.880,0:15:01.200
children born with genitals on one side
of the spectrum.

0:15:01.200,0:15:04.870
With male circumcision in particular not
only do you deprive them of this future

0:15:04.870,0:15:09.370
choice, you deprive them of quite a lot
of tissue in terms of surface area that

0:15:09.370,0:15:14.380
could be used for surgeries such as
gender affirmation surgeries later on. So,

0:15:14.380,0:15:18.610
again I haven't seen any discussion of
this, but I'll put it on the table. When

0:15:18.610,0:15:22.960
you have a vaginoplasty which is
where you take external male

0:15:22.960,0:15:28.930
genital structures and you invert them
to create a neo vagina this can be

0:15:28.930,0:15:32.800
performed in a single stage and uses the
penile shaft skin, foreskin and scrotal

0:15:32.800,0:15:37.090
skin so you have, if you've just removed
about 30 or 50 square centimeters of

0:15:37.090,0:15:40.780
tissue from a baby - that's what it would
be in the adult case - that tissue is now

0:15:40.780,0:15:46.000
not available for these other potential
uses. Now some people say well it's a

0:15:46.000,0:15:49.150
little snip, how much tissue could we
really be talking about? It's true that

0:15:49.150,0:15:52.630
in an infant it's not very much tissue
because the penis is very small when

0:15:52.630,0:15:56.110
you're born, but it grows by about 200
percent over the course of development

0:15:56.110,0:15:59.920
and so at the end of the day you have
much larger tissue. Furthermore, there's

0:15:59.920,0:16:03.730
no dotted line on the penis showing
where the foreskin ends and the rest of

0:16:03.730,0:16:07.240
the penis begins, so when you're dealing
with the diminutive structure you're

0:16:07.240,0:16:10.330
just making a guess - you're saying well
we're gonna cut here, and we hope that

0:16:10.330,0:16:14.020
when the penis reaches its full size
over a decade later, that we won't have

0:16:14.020,0:16:17.440
accidentally removed too much tissue -
which by the way if we have, that's not

0:16:17.440,0:16:20.260
going to be recorded anywhere as a
medical complication because nobody's

0:16:20.260,0:16:25.540
keeping track of data that long. So I'm
gonna show you some pictures - these are

0:16:25.540,0:16:28.900

disturbing but this is what's done at least a million times a year in the

0:16:28.900,0:16:34.390

United States and more. So the first step in a circumcision is you have to detach

0:16:34.390,0:16:37.630

the foreskin from the head of the penis to which it's adhered at birth by a

0:16:37.630,0:16:41.380

membrane in much the same way that your fingernail is adhered to your finger and

0:16:41.380,0:16:46.000

these structures separate naturally over the course of many years but in order to

0:16:46.000,0:16:49.330

get the foreskin off at this stage you have to separate them with a blunt probe

0:16:49.330,0:16:54.820

and even with anesthesia this is excruciating to the infant. In the

0:16:54.820,0:16:58.180

United States we use what's called a gomco clamp primarily. Circumcision

0:16:58.180,0:17:02.650

can be performed in many different ways but this is our very civilized way of doing

0:17:02.650,0:17:07.600

in the United States and so here's the final step, you remove what you can

0:17:07.600,0:17:11.880

see is about half the penile skin system I mean it's not look people talk

0:17:11.880,0:17:15.209

but a flap of skin and when they say that I think oh they literally don't

0:17:15.209,0:17:19.020

know what a circumcision is - a circumcision is removing just about half of the penile

0:17:19.020,0:17:25.050

skin system. This is what you get at the end. Now, you know, this will heal and it

0:17:25.050,0:17:28.680

won't look so bad in a couple of weeks but, by the way, while this is healing the

0:17:28.680,0:17:32.220

child is going to be wearing a diaper and that wound is going to be exposed to

0:17:32.220,0:17:36.210

urine and faeces and so forth so you're creating a wound which I think people

0:17:36.210,0:17:39.960

don't realize - that when we say circumcision it sounds very sort of

0:17:39.960,0:17:44.280

gentle and scientific but if that's what you're doing is creating a wound. Now if

0:17:44.280,0:17:48.300

you were to wait till this tissue reached its adult size and you're to unfold it so

0:17:48.300,0:17:51.120

you can see both layers you have at least as much tissue to cover a

0:17:51.120,0:17:55.650

credit card - this is actually a slightly smaller than average foreskin on a large

0:17:55.650,0:18:00.960

sample of about 900 men and this is also the most sensitive tissue on the penis.

0:18:00.960,0:18:03.690

This has been shown in a number of studies but I'll just draw a

0:18:03.690,0:18:09.150
recent one. The study here shows a lower bar - represents a lower tactile threshold, so

0:18:09.150,0:18:12.600
lower means more sensitive, and as you can see the foreskin here is more

0:18:12.600,0:18:17.310
sensitive in terms of light touch sensation and detection of mild

0:18:17.310,0:18:20.520
sensation of warmth but it's no more sensitive to pain which is what's on the

0:18:20.520,0:18:23.580
the right-hand side so it's basically an acutely sensitive part of the male

0:18:23.580,0:18:28.440
genitalia. People often I think, think of male sexuality as this grinding and

0:18:28.440,0:18:32.580
thrusting masculine kind of thing but in the United States and we actually remove

0:18:32.580,0:18:37.700
the most sensitive and delicate part of boys genitals as a regular course.

0:18:37.700,0:18:40.980
Another study showed the same thing - circumcision removes the most sensitive

0:18:40.980,0:18:45.210
parts of the penis. Now if we weren't talking about the foreskin and we were

0:18:45.210,0:18:49.500
instead talking about the labia, I think people would have different intuitions

0:18:49.500,0:18:53.820
about what exactly is wrong with removing this tissue from a person. The

0:18:53.820,0:18:58.710
labia actually constitute a little bit less tissue in the adult on average. Now,

0:18:58.710,0:19:02.580
if an adult woman wants to have the labia removed or reduced for what she

0:19:02.580,0:19:05.610
considers cosmetic reasons you might think that she's been informed by

0:19:05.610,0:19:09.480
problematic norms that are constrictive about feminine beauty or something like

0:19:09.480,0:19:12.390
that but at the end of the day I think most people would concede it's her

0:19:12.390,0:19:16.500
choice, if that's what she wants to do to her body it's up to her - you might try to

0:19:16.500,0:19:20.580
convince her there's no need to do it but anyway it's your choice. Now what

0:19:20.580,0:19:23.600
this suggests is that the mere changing or alteration of tissue is not

0:19:23.600,0:19:27.140
necessarily in itself a bad thing if you want it and you're willing to put up

0:19:27.140,0:19:31.520
with the risks involved but if somebody were to perform a labiaplasty on a woman

0:19:31.520,0:19:35.570
without her consent as James pointed out that would just be a severe form of

0:19:35.570,0:19:39.380
bodily injury, an assault, so we need to separate the issue of harm as in what

0:19:39.380,0:19:43.880
exactly is the medical complications,
from the moral concept of wrong - you

0:19:43.880,0:19:47.750
wrong a person when you violate the
bodily integrity without their consent

0:19:47.750,0:19:51.559
even if you don't harm them.
So consider the example of a sexual

0:19:51.559,0:19:54.290
assault or a rape. Let's say that you
don't actually cause any tissue damage

0:19:54.290,0:19:57.770
so you haven't harmed the person
physically you certainly have wronged

0:19:57.770,0:20:02.660
them and that is what is going to be
consistent across these cases is the

0:20:02.660,0:20:08.179
violation of the person's bodily and
sexual integrity. So let's imagine that

0:20:08.179,0:20:11.809
somebody said 'well but there's all these
advantages to doing labiaplasty in

0:20:11.809,0:20:15.500
infancy so that's one reason why we we
should just override this issue of

0:20:15.500,0:20:19.700
consent' so you know, she won't remember
it - that's an advantage - I hear this about

0:20:19.700,0:20:23.960
my circumcision frequently in the United
States - it'll heal faster, it maybe is true

0:20:23.960,0:20:27.500
- it's cheaper and less risky at this
age - you don't have to have general

0:20:27.500,0:20:31.240
anesthesia, the medical risks are lower
so that's the reason to do it earlier.

0:20:31.240,0:20:35.030
Some people will say her future sexual
partners will prefer it, that's a common

0:20:35.030,0:20:39.020
refrain in the U.S. - well you know, some
women might not really like it so we'll

0:20:39.020,0:20:42.920
just go ahead and do it when he's
an infant. It's easier to keep her vulva

0:20:42.920,0:20:47.720
clean, there's less moist tissue that
could trap bacteria - a common refrain in

0:20:47.720,0:20:52.630
circumcising cultures. Fewer labial
injuries during sex - that's probably true.

0:20:52.630,0:20:57.770
Lower risk of labial cancer - probably
true - she won't have to take time off

0:20:57.770,0:21:01.429
work or school assuming that this is
something that she would later want. Okay,

0:21:01.429,0:21:06.559
but it's her body, so it's her choice.
Period. That's the whole ethical argument

0:21:06.559,0:21:10.790
right there. Even if all these things are
true, and there are as it were medical

0:21:10.790,0:21:14.570
advantages to performing the procedure
earlier in life, it doesn't matter

0:21:14.570,0:21:20.030
because she didn't choose it. Here's just
a common article about male circumcision

0:21:20.030,0:21:23.480
which gives a nice medical gloss to
these claims - Infancy is the optimal time

0:21:23.480,0:21:26.780
for circumcision because an infant's
low mobility facilitates the use of

0:21:26.780,0:21:30.650
local anesthesia, sutures are not
required, healing is quick, cosmetic

0:21:30.650,0:21:33.460
outcome is usually
excellent, cost is minimal, complications

0:21:33.460,0:21:37.360
uncommon, circumcision in adolescence or
adulthood might evoke a fear of pain -

0:21:37.360,0:21:40.120
you'd have to take time off work and
school, and so forth.... so you see the the

0:21:40.120,0:21:44.980
problem like this. Now why does the infant
have low mobility? it's not because the

0:21:44.980,0:21:48.310
infant isn't struggling, it's because
the infant has been strapped on to

0:21:48.310,0:21:54.370
what's called a circumstraint. So this is how
again we do it in the United States - as a
routine hospital measure when boys are

0:21:54.370,0:21:57.850
brought into the world they have all
four of their limbs strapped to this

0:21:57.850,0:22:01.330
board and then they undergo a genital
surgery as one of the first experiences

0:22:01.330,0:22:05.590
of life. Now the straps here are
blue which I guess is to play on the

0:22:05.590,0:22:08.980
stereotyped colour to show you that this
is really something that's done for boys

0:22:08.980,0:22:13.300
but just imagine that the straps were
pink and this was being done to a girl, I

0:22:13.300,0:22:16.930
think people's moral intuitions would
suddenly shift and say well clearly

0:22:16.930,0:22:21.760
something is wrong about this. Now this
sort of medicalized version of

0:22:21.760,0:22:24.340
circumcision is really a best-case
scenario in terms of risks and

0:22:24.340,0:22:28.630
complications and so forth. This is a
traditional Muslim circumcision that has

0:22:28.630,0:22:31.780
been partially medicalised. So
the boy is older here and you see he is just
being

0:22:31.780,0:22:35.230
held down. I mean you just have to kind of
imagine the experience of that - somebody

0:22:35.230,0:22:37.780
you love just literally pinning your
arms down

0:22:37.780,0:22:42.370
while you undergo a genital surgery. Here's
a traditional Jewish circumcision. In

0:22:42.370,0:22:45.580
this case, if it's done traditionally,
there won't be any pain control - you may

0:22:45.580,0:22:48.670
have a drop of wine that's sort of

ceremonially placed on the tongue or

0:22:48.670,0:22:52.150

something like that.

Some Jewish circumcisions do involve

0:22:52.150,0:22:57.070

anesthesia but if it's done in the traditional way there won't be any and

0:22:57.070,0:22:59.950

because of the great deference that's given to religious practice, you have

0:22:59.950,0:23:03.820

even more extreme forms of religious genital cutting that are not regulated

0:23:03.820,0:23:08.200

and I'll just show you an example of this. This is a procedure called metzitzah b'peh,

0:23:08.200,0:23:11.770

which is an ancient form of circumcision where the mohel uses his

0:23:11.770,0:23:16.690

mouth to supposedly cleanse the wound. Now, thousands of years ago that may very

0:23:16.690,0:23:20.380

well have been a hygienic measure but we have better methods now and the point is

0:23:20.380,0:23:26.920

you can transmit the herpes virus this way. And so this is 100% legal in the

0:23:26.920,0:23:31.720

United States, also in England. Again, you just have to imagine if this we're done to a

0:23:31.720,0:23:37.750

girl I don't think the laws would be quite so kind. Here we have an attempt to

0:23:37.750,0:23:40.690

at least regulate this practice in New York City. This was met with great

0:23:40.690,0:23:43.650

resistance - the thought was that even having the parent sign a consent form

0:23:43.650,0:23:47.220

saying they acknowledge, they know in advance that there will be oral contact ,

0:23:47.220,0:23:52.770

was seen as too much among this very Orthodox community and so Romi Cohn, a

0:23:52.770,0:23:56.850

representative said that he'd performed more than 25,000 circumcisions in New

0:23:56.850,0:23:59.730

York City and elsewhere almost every time he puts his mouth from the baby's

0:23:59.730,0:24:02.790

penis. Now I was going to say when I was preparing this slide that thankfully

0:24:02.790,0:24:06.150

this is rare, I was going to say well this is kind of a rare thing that , you know,

0:24:06.150,0:24:09.720

it's a little bit unusual - most Jews don't know about it and that's true but

0:24:09.720,0:24:13.230

the Orthodox community is very large and this is not rare. In New York City it

0:24:13.230,0:24:20.400

happens 3,600 times every year. Baby boys are born and there's no regulation. It's not that it's

0:24:20.400,0:24:25.770

not illegal - it's that it's not even regulated. Between 2000 and 2011,

0:24:25.770,0:24:31.680
eleven babies contracted herpes and as a result died. Two further had permanent

0:24:31.680,0:24:35.400
brain damage. Okay, so when people are saying well

0:24:35.400,0:24:39.510
what's the harm of a circumcision? I mean it's just a bit of skin - well, I mean,

0:24:39.510,0:24:42.330
maybe they think, they're thinking well there's not that big of a risk of

0:24:42.330,0:24:45.210
infection if you do it in a hygienic way or something or maybe they think the

0:24:45.210,0:24:48.600
risk of surgical complications isn't that high compared to other surgeries -

0:24:48.600,0:24:51.900
I'm not sure what the claim is exactly - but as we've discussed there's the

0:24:51.900,0:24:55.710
difference between harm and wrong. So here you don't have to start to make

0:24:55.710,0:24:59.190
these gradations about exactly how much tissue is removed, is it this much or

0:24:59.190,0:25:05.010
that much, the wrong is done simply in virtue of the non-consensual cutting of

0:25:05.010,0:25:09.120
an extremely personal part of the body without urgent medical need. That's why

0:25:09.120,0:25:13.140
it's wrong regardless of any debate you may have about the degree of physical or

0:25:13.140,0:25:20.130
other harm. So I'm on to the, the final bit here - I recognize I'm on a short

0:25:20.130,0:25:24.090
schedule - so I'll breeze through this part. If you accept that there should

0:25:24.090,0:25:27.180
be an exception made for religion, this is going to place us into a dilemma with

0:25:27.180,0:25:29.460
respect to female genital cutting in the following way -

0:25:29.460,0:25:33.660
if male circumcision should be permitted generally and for any reason

0:25:33.660,0:25:39.270
because in some groups it is regarded as an explicitly religious practice, then

0:25:39.270,0:25:43.320
relatively more minor forms of female genital cutting, that are regarded by

0:25:43.320,0:25:47.730
some groups as explicitly required by their religious understanding, should be

0:25:47.730,0:25:51.570
given equal consideration and should be permitted for anyone regardless of the

0:25:51.570,0:25:57.720
reason. Indeed, some prominent defenders of ritual male circumcision who are aware

0:25:57.720,0:26:01.200
of the existing double standard in the law have recently begun to argue that

0:26:01.200,0:26:04.710
mild forms of female genital cutting should in fact be tolerated in Western

0:26:04.710,0:26:10.440
law to detract attention away from the
issue of male circumcision. So, here's a

0:26:10.440,0:26:13.590
prominent article in the Journal of
medical ethics by some leading

0:26:13.590,0:26:17.340
bioethicists whose explicitly argued
that because male genital cutting is

0:26:17.340,0:26:21.570
tolerated in our societies, so too should
we tolerate minor forms of female

0:26:21.570,0:26:24.539
genital cutting. This is the leading
medical ethics journal in the world, this

0:26:24.539,0:26:27.960
is not an obscure publication but it
wasn't just confined to academics - the

0:26:27.960,0:26:32.190
Economist picked up this argument and
here they say well, you know, 30 years

0:26:32.190,0:26:34.769
we've been trying to eradicate a
barbaric practice, we haven't made much

0:26:34.769,0:26:38.639
traction so it's probably time to try a
new approach, by which they mean we

0:26:38.639,0:26:41.820
should tolerate minor forms of female genital
cutting. So this argument is

0:26:41.820,0:26:47.820
gaining steam. Last bit here.
Defenders of female genital cutting are

0:26:47.820,0:26:52.470
capitalizing on this issue of the double
standards that we we just accept in our

0:26:52.470,0:26:57.029
regular discourse so here's a website
that some have launched, very nicely put

0:26:57.029,0:27:01.529
together, very professional. You go here
to the consent and parental rights

0:27:01.529,0:27:04.950
section and well, what kind of arguments do
they

put here ? I'll just walk you through some

0:27:04.950,0:27:08.429
quotes - minors by definition are
incapable of making decisions for

0:27:08.429,0:27:10.769
themselves.
Therefore consent on behalf of minors is

0:27:10.769,0:27:13.830
routinely provided by parents where
parents determine what is in the best

0:27:13.830,0:27:17.220
interest of the child. This right of
course is not limited by notions of

0:27:17.220,0:27:20.729
bodily integrity and medical benefit
alone rather, in securing the best

0:27:20.729,0:27:24.090
interest of a child, parents rightly
consider "social, cultural, religious, and

0:27:24.090,0:27:29.519
familial benefits and harms" . Now you
notice there's a hyperlink there - they're

0:27:29.519,0:27:32.999
actually quoting another source and I'll
just show you what that source is - it's

0:27:32.999,0:27:37.559
the American Academy of Pediatrics task
force statement on male circumcision. So

0:27:37.559,0:27:42.419
they take, literally copying and pasting
the text from American medical support

0:27:42.419,0:27:46.379
for male circumcision for cultural
religious familial and whatever other

0:27:46.379,0:27:50.039
benefits, and then they put that on their
website and say well we get the same

0:27:50.039,0:27:51.779
consideration and you know what? - they're
right -

0:27:51.779,0:27:56.609
it just is anti-muslim bigotry to say
that well in your case you're not going

0:27:56.609,0:28:00.239
to get these protections but you know
we'll let this other religious

0:28:00.239,0:28:03.570
group have these protections. I mean that
that just is a double standard. So the

0:28:03.570,0:28:06.470
point here is that they're making
good argument, which means that those who

0:28:06.470,0:28:09.710
want to protect children's rights need
to make a better argument and the

0:28:09.710,0:28:12.680
argument is that we shouldn't be
tolerating one of these practices and

0:28:12.680,0:28:18.230
allowing the other. So, they say, as noted
elsewhere on the site, female

0:28:18.230,0:28:21.170
circumcision is anatomically similar to
male circumcision - they're referring to

0:28:21.170,0:28:24.590
the nick - the minor form that doesn't
remove tissue - so in fact although it's

0:28:24.590,0:28:28.550
analogous, it's less invasive than male
circumcision and they say 'it's our

0:28:28.550,0:28:31.400
assertion that the female circumcision
if performed correctly under medical

0:28:31.400,0:28:35.270
supervision causes no harm' so they now
want to medicalize the practice. So they say -

0:28:35.270,0:28:39.230
well in the United States you do
circumcision in hospitals, that's, I mean

0:28:39.230,0:28:42.530
you know if you're concerned about
medical harm, just have doctors do it -

0:28:42.530,0:28:47.720
we're happy to do the same, just let us
keep cutting our girls. Now what they

0:28:47.720,0:28:51.260
mean by no harm is there's a relatively
low risk of surgical complications as

0:28:51.260,0:28:54.500
far as we know. I mean, you'd have to
conduct some controlled studies to do

0:28:54.500,0:28:57.200
this and how long should we be
experimenting on the genitals of girls

0:28:57.200,0:29:00.530
to find out if maybe there are worse
complications than they thought, I mean,

0:29:00.530,0:29:05.120
this is a non-starter. Furthermore the
issue of harm is not just the risk of

0:29:05.120,0:29:08.060

surgical complications, it's the risk of something times the magnitude of the

0:29:08.060,0:29:12.740

badness if it happened. If you're cutting a baby's genitals, you know, the

0:29:12.740,0:29:16.070

risk of something going wrong might be quite small but if it does go wrong

0:29:16.070,0:29:20.060

you've maimed their genitals and so the magnitude is quite large and those have

0:29:20.060,0:29:23.210

to be multiplied together when considering what is a really morally at

0:29:23.210,0:29:26.180

stake. Also, there are many harms besides just medical harms - there's risk of

0:29:26.180,0:29:28.970

psychological harm when somebody reflects back and is upset about what

0:29:28.970,0:29:33.170

happened to them. I think I'm on my last two slides here. So Dena Davis says as

0:29:33.170,0:29:36.260

long as Western countries continue to countenance male genital cutting, the

0:29:36.260,0:29:39.980

criminalization of even the ritual nick cannot fail to dilute the persuasiveness

0:29:39.980,0:29:43.970

of the official stance against FGC while carrying the unmistakable taint of

0:29:43.970,0:29:47.990

intolerance and double standards and I argue that to push back against this

0:29:47.990,0:29:51.230

trend, what's needed is a coherent and conjoined effort on the part of

0:29:51.230,0:29:54.620

advocates of children's rights to emphasize that it's the lack of consent

0:29:54.620,0:29:59.000

without medical necessity that's the ethical and moral concern here not where

0:29:59.000,0:30:03.650

along a spectrum of sex or gender a person's body happens to fall. The

0:30:03.650,0:30:07.340

genitals are not like other parts of the body. These points hold regardless of

0:30:07.340,0:30:11.390

contestable benefit/risk ratios and regardless of the supposed motivation of

0:30:11.390,0:30:13.440

the parent - as long as you say there's an acceptable

0:30:13.440,0:30:16.350

motivation for cutting children's genitals, parents simply have to cite

0:30:16.350,0:30:19.080

that motivation - you can't get inside their head and ask them what's their

0:30:19.080,0:30:21.899

true motivation - they say oh well, we do it for religious reasons, if that's

0:30:21.899,0:30:26.340

what you need to hear. So this is the strongest argument for protecting

0:30:26.340,0:30:29.850

children's rights and I'll just end with a graph. So I'm suggesting that instead

0:30:29.850,0:30:33.299

of drawing a line here on the x-axis
where we say it's permissible to cut

0:30:33.299,0:30:36.990

genitals to the left of that line but
not genitals to the right of that line

0:30:36.990,0:30:41.429

we should turn our attention here to the
y-axis which is about autonomy and we

0:30:41.429,0:30:45.779

should say it's not permissible to cut
genitals on somebody who can't consent

0:30:45.779,0:30:48.600

unless there's an urgent medical need
and you have to do to save their life

0:30:48.600,0:30:52.470

and preserve their future bodily
autonomy but if it's above that line if

0:30:52.470,0:30:55.860

somebody wants this under their body
that's fine, it's up to them - it's their

0:30:55.860,0:31:01.110

body. A quote here to conclude - feminist
organizations are taking up this

0:31:01.110,0:31:04.470

argument this is Terre des Femmes - a
German
group recently celebrated worldwide day

0:31:04.470,0:31:08.279

of genital autonomy and they say whether
it's medical or in a mild way, FGM

0:31:08.279,0:31:11.429

remains a violation of human rights, so
any discussion of whether there could be

0:31:11.429,0:31:15.659

an acceptable mild form of FGM is

rejected by our group and for that

0:31:15.659,0:31:18.750

reason analogously there's no discussion
as to whether it might possibly be

0:31:18.750,0:31:23.779

acceptable to tolerate a boy's genital
injury. Thank you