

## **The circumcision of boys**

For Jews and Muslims the circumcision of boys is considered to be a natural and necessary part of religious education. According to doctors, the circumcision of boys is physical mutilation, unnecessary, painful and risky. Given that experts see it as mutilation, should parents then be permitted to have their child circumcised?

In practice nothing is done to prevent them. Legislation, jurisdiction and the international Convention on the Rights of the Child are too ambiguous, as is public morality and opinion: the freedoms and interests of the parents may conflict with those of the child, for instance the parents' freedom of religion with the child's physical integrity. The incompatibility of the rights and interests involved, complicate the process of making fair policy and reaching fair decisions.

Pedagogical considerations as to this (what may parents do, what ought parents to do?) are not feasible without medical considerations (see presently 1 and 4) and are inextricably linked to moral and legal considerations (see 2 and 3).

1

In 2011, the Royal Dutch Medical Association (KNMG) called the government, politicians, government bodies, insurance companies and human rights organisations to declare the circumcision of boys a "violation of human rights". The circumcision of boys should be actively discouraged and eventually prohibited by law.

According to the KNMG, the circumcision of boys is "a medically non-essential intervention ... with a real risk of complications". It is "contrary to the rule that minors may only be exposed to medical treatments if illness or abnormalities are present, or if it can be convincingly demonstrated that the medical intervention is in the interest of the child, as in the case of vaccinations". Furthermore, it is "a violation of children's rights to autonomy and physical integrity" (see documents on [www.knmg.nl](http://www.knmg.nl) under the heading 'Dossier Jongensbesnijdenis').

2

The Dutch children's ombudsman seems to struggle with the issue/ doesn't really know how to deal with this. He has issued an official statement, but doesn't dare to cut the knot. It is his belief that the circumcision of boys should not be permitted because it is an irreversible intervention, which violates the child's physical integrity, whilst the child has no choice. However, the Children's ombudsman does not support a legal ban, as the ritual is of great cultural or religious significance for the parents. Furthermore, there is a major risk that, if it is forbidden, boys will still be circumcised, but illegally and less professionally. In the declaration in which he explains his position, he explicitly says — as if he wants to emphasise that it is an unfortunate compromise — that he understands why his Scandinavian colleagues, the Children's ombudsmen in Denmark, Sweden, Norway and Finland do favour of a legal ban.

3

The compromise of the Children's ombudsman reflects the nature of the Dutch justice system. As the circumcision of boys is not prohibited, it is only brought before the courts in the event of parental disagreement or disagreement between foster parents and parents. In all cases (of District Courts, Courts of Appeal and the Supreme Court), it has been ruled that the circumcision of boys is permitted, but only when the parents or those with parental authority give their unqualified and unrestricted permission. In the instance of conflicting views or limited authority, it is punishable by law. For instance, when one parent is in favour of circumcision and the other is not, or when the natural parents want circumcision but they do not have parental authority or have limited parental authority due to a supervision order.

In 2012 there was a row in Germany when the Landgericht (District Court) in Cologne ruled that the circumcision of boys was punishable as a violation of the physical integrity of the child and his right to self-determination and that parental wishes or permission does not justify the intervention. It was a verdict in an appeal case. Earlier, a lower court had ruled that, although the intervention causes pain and injury and is not medically necessary, the circumcision of boys still promotes the child's well-being, given the life view and way of life that is customary in the circles in which the child grows up. For this reason, the judge had ruled that the circumcision of boys is not punishable as child maltreatment. The lower court had affirmed what was customary. The higher court judge seemed to want to set a new norm. Not everyone welcomed this. In reaction to the controversy, the German government also turned radically against the judge from Cologne, after which German legislation was changed: circumcision is permitted as long as it is carried out professionally.

4

Contrary to their European colleagues, doctors in the United States are seriously divided on the matter of the circumcision of boys. In America a higher percentage of boys are circumcised than here: half a century ago 85% of boys were circumcised, nowadays around 55%. The intervention is usually not carried out for religious reasons, but for reasons relating to health and hygiene. American parents traditionally believe that circumcision makes it easier for boys to maintain cleanliness and reduces the risk of venereal disease. According to some doctors this is nonsense and circumcision is therefore an unnecessary operation. Other doctors, however, still adhere to the traditional view.

In 2012, the American Academy of Pediatrics concluded, on the basis of comparative research, that the advantages of circumcision outweigh the disadvantages. The circumcision of boys was declared an evidence-based practice and thus became a medical practice to be recommended rather than forbidden. The official position of the AAP did not signal the end of the discussion, but just added fuel to the fire. In recent years a fierce battle has been raging, including in academic medical journals, focusing on the arguments of the AAP and the AAP's interpretation and utilisation of scientific research, hence focusing on the 'evidence-based claim'. European medical organisations (among others the Dutch KNMG) have strongly condemned the AAP's position and justifications.