

Criticising religious practices

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Brian D. Earp
University of Oxford

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Abstract: In 2012, a German court ruled that religious circumcision of male minors constitutes criminal bodily assault. Muslim and Jewish groups responded with outrage, with some commentators pegging the ruling to Islamophobic and anti-Semitic motivations. In doing so, these commentators failed to engage with any of the legal and ethical arguments actually given by the court in its landmark decision. In this brief commentary, I argue that a firm distinction must be drawn between criticisms of religious practices that stem from irrational prejudice and bigoted attitudes and those that are grounded in sound moral reasoning. Given that ritual circumcision is a pre-Enlightenment custom that elevates the inclinations of the community over the rights of the individual, it is hardly surprising that a growing number of post-Enlightenment philosophers and legal scholars are taking an ethical stand against it. As the “circumcision debate” continues, parties on all sides of the issue must remember to reason through the relevant considerations with care and respect.

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In a now-notorious ruling, a regional court in Cologne, Germany decided that non-therapeutic circumcision of young boys violates their constitutional rights to bodily integrity and to self-determination – even if carried out with parental permission, and even for religious reasons (Landgericht Köln, June 26, 2012). The German legislature passed an emergency statute to protect religious circumcision from any future legal challenges, but the initial court decision sparked a firestorm of controversy. Muslim and Jewish commentators were outraged. Child rights activists and a handful of humanitarian groups were overjoyed. Professional bioethicists were not entirely surprised.

Why not? Ritual circumcision is a pre-Enlightenment tribal tradition. The Jewish version is

openly sexist – females are left out of the divine covenant, perhaps to their great relief – and males lose functional erogenous tissue to an excruciating surgery done years before they are old enough to give their consent. Islam is more egalitarian: it allows for circumcision of boys and girls, although there appears to be no heavenly commandment involved in either case, and the procedure takes place in later childhood as opposed to pre-verbal infancy. Both versions are consistent with the norms of patriarchal tribalism; both elevate the concerns of the community over the freedom of the individual to make decisions about his own body in his own time; and both brand a child with a permanent mark of religious belonging despite the significant possibility that he may one day fail to embrace the belief system and/or cultural practices of his parents. Medical ethics, on the other hand, along with much of Western law, came to fruition in a post-Enlightenment world that favours notions like autonomy, consent, individual rights, and a child's entitlement to an open future. Going by strict definitions, the medically irrelevant excision of healthy genital tissue – whether it's taken from the vulvas of little girls, or the penises of little boys – is equivalent to criminal assault of a minor under the legal codes of most developed nations. The tension was bound to cause cracks somewhere.

And there is a genuine tension here. The religious metaphysic – which appeals to things like community rights, ritual continuity, and obedience to divine command – just doesn't square very well with the normative basis of much of contemporary philosophical ethics nor with the underlying legal paradigm of secular constitutional democracies. You normally don't get to cut off non-diseased, non-regenerating, functional and protective body parts from other people without first getting their permission, whether you think God told you to do it or not. Even religious freedom has its limits. But this point has not been very thoroughly acknowledged by the most vocal of Muslim and Jewish commentators in the ongoing aftermath of the Cologne decision: cries of religious persecution and even of outright Islamophobia and anti-Semitism came very quickly to the tongue. The ringing is still in the air.

Yet as Russell Blackford (2012) recently reminded us in his wonderful essay, “Excessive tolerance?”, it really is OK to criticise religious practices on moral, ethical, or legal grounds. If one can pull off one's critique in a spirit of fairness, that is, and without any sort of undue spite. His topic happened to be the burqa. Reviewing Martha Nussbaum's recent failure in *The New Religious Intolerance* (2012, Harvard University Press) to find “anything problematic at all”

about veiling norms within Islam, Blackford brought up the existence of a handful of plausible, respectable, cogent, and relatively simple-to-raise moral objections to these contentious norms that have nothing whatsoever to do with irrational prejudice against Muslims.

Blackford's assessment of Nussbaum is right on the mark, and provides a general lesson. While it's true that "the state", as he put it, "ought to adopt a degree of epistemic modesty about religious issues, and many moral ones (as well)," individual thinking citizens, and philosophers above all, need not be quite so timid about taking a clear ethical stand on potentially harmful customs, whether they are religious in nature or otherwise (p. 122). As Blackford puts it with characteristic pithiness:

"We are well within our rights to conclude, from within our respective understandings of the world and conceptions of the good, that a particular religion has its dark side, or that a moral norm favoured by some religion is preposterous and harmful." (p. 122)

Of course, compelling women and young girls to hide themselves in cloth bags in the name of modesty is (at least arguably) one such moral norm. So too is cutting off parts of their genitals in the name of chastity. Likewise, and – again, as at least a sensible, non-prejudiced, non-bigoted collection of arguments can reasonably be taken to show – so too is amputating functional erogenous tissue from the penises of male babies and other minor boys.

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As Douglas Adams (1998) once observed, "If somebody votes for a party that you don't agree with, you're free to argue about it as much as you like ... everybody will have an argument but nobody feels aggrieved by it." Same for different views on economic policy, or whatever else might come up for spirited and productive debate. But if somebody mentions something about her religious practices: "Here is an idea or a notion that you're not allowed to say anything bad about; you're just not. Why not? Because you're not!"

Adams' point was plain enough. But it's worth spelling out as a reminder – especially given recent debates about the moral and practical limits of freedom of speech in a climate of dangerous, and sometimes deadly, taking-of-offence. There is absolutely no good reason to think that we must refrain at all times from criticising an idea or custom just because it is rooted in

religion. Indeed, sometimes we have an obligation to do the opposite. What if the pious practice is harmful? What if it flies in the face of certain ethical norms? What if we think those norms should count for something and are worth defending in the strongest of terms?

The circumcision debate will rage on for some time to come, and there are decent arguments to make on every side of it. But we do have to have the debate. Criticising a religious practice from the perspective of secular ethics is not the same thing as being prejudiced against the religion, nor does it imply any sort of ill-will toward members of a particular faith group. This distinction bears repeating at every turn. We simply have to be able to talk these things through.

Brian D. Earp is a Research Fellow in the Uehiro Centre for Practical Ethics at the University of Oxford.

References

Adams, D. (1998). Is there an artificial god? *Digital Biota 2*. Lecture conducted from the University of Cambridge, Cambridge, UK. Text retrieved from:

<http://www.biota.org/people/douglasadams/>.

Blackford, R. (2012). Excessive tolerance? *The Philosophers' Magazine*, 59, 121-122.

Nussbaum, M. (2012). *The new religious intolerance: Overcoming the politics of fear in an anxious age*. Cambridge, Harvard University Press.