

An Intact Penis is Better: Intactivism in Israel

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Abstract

- My journey to intactivism
- Intactivism in Israel
- Elinor's case - the mother who was told by a rabbinical court to circumcise her son against her will or pay the equivalent of US\$140 every day until she complied.
- Changing social norms—what can we learn from the campaigns to end foot binding in China and FGM in Muslim countries?

Shalom

Nine years ago when my son was born, I wasn't debating whether to circumcise him or not. The thought of not circumcising did not even cross my mind. I did feel a strong resentment, though. I hated the feeling that I'm doing this against my will, just because it is a cultural dictate. And of course I recoiled from the idea that my son's penis would look weird. In fact, I had no idea what an intact penis looked like.

Three things saved my son from the knife: (1) information against circumcision that I stumbled upon online; (2) an online forum where parents and activists offered support and shared their experience; and (3) was Ronit Tamir. Ronit has a 15-year-old intact son and since the year 2000 she organizes meetings between parents who did not circumcise their sons and parents who debate whether to do it or not. Until I met Ronit, the idea of not circumcising felt virtual, because it was confined to information and people I found on the Internet. Meeting Ronit in person was a great leap for me that helped me to finalize my decision.

Ronit lives in Tel Aviv, which is where I grew up and lived for the first 30 years of my life. She was kind and spoke openly about her decision, and it suddenly felt so normal not to circumcise. This meeting was a confirmation for me that I was not insane. However, the fear that I'm making my son a freak did not die so quickly. Two months later, my wife and I went to a meeting Ronit organized, where we met several couples who did not circumcise their sons. It was very reassuring for me to hear their stories; to learn that their sons were not being bullied for having an intact penis, and that this issue was a nonissue.

Our families did not like our decision to leave our son intact. They told us that what we are doing is wrong for our son, that he would hate us when he grows up, that circumcision is healthy and that an uncircumcised penis is disgusting, and that there are some things that you simply do, period. My niece, who was 12 at the time, said: "What?? He would be a Goy??"

The ordeal of making this decision, ignited in me the desire to reach out to other parents who might be questioning circumcision, but are too afraid to voice their opinion. I wanted to share the information I learned and let them know that they were not alone. So I set up a website called Gonen Al Hayed, Protect the Child. Many years later, Elinor, a young mother of two who's going through a divorce, visited my website and after researching circumcision decided not to circumcise her son.

The divorce proceedings between Elinor and her husband were held in a religious rabbinical court in Netanya. The religious rabbinical court system in Israel has an exclusive jurisdiction over matters of marriage and divorce. During one of the hearings in which Elinor was not present, her husband mentioned to the religious judges the fact that their son was not yet circumcised and asked the rabbinical court to instruct Elinor to perform Brit Milah. The rabbinical court ruled that Elinor must allow the performing of Brit Milah, and later, at the request of the father, issued an injunction, forcing Elinor to circumcise her son within seven days or else face a fine of NIS 3,500 (about USD 1,000), and about USD 150 more for each day she fails to comply.

Elinor was shocked and filed a motion to overturn the decision. Her motion was denied. She then appealed to the High Rabbinical Court and her appeal was denied as well. In their decision to deny the appeal, the religious judges of the High Rabbinical Court wrote:

“Although originally brit milah is a religious duty, within the Jewish people, and especially in Israel, everyone circumcises their sons, except a few extremists. For a long time now we have witnessed public and legal campaigns against Brit Milah in many countries in Europe and in the United States, and the people in Israel are united as one against such campaigns, and sees them as another aspect of anti-Semitism to be fought against. We congratulate any declaration and action by the leaders of those countries who support our position. How will it be seen in the world if even here (in Israel) each individual can decide whether to perform Brit Milah or not according to his or her own worldview.”

Elinor then appealed to the High Court of Justice, which is a secular court. In her appeal she claimed that the rabbinical court is not authorized to force brit milah when one of the parents does not wish to perform it. In addition she claimed that it is doubtful that any court has such power. Elinor also claimed that forcing her to perform brit milah is a grave infringement on her right to freedom from religion. Seven supreme court judges heard the case. Miriam Naor Vice President of the Supreme Court of Israel delivered the opinion of the majority. Here's a summary of her decision: Brit milah involves a physical act on the child's body. The consent of the parents of the minor can substitute his, and this happens routinely when brit milah is performed on the 8th day. According to the Act of Legal Capacity and Guardianship, article 14, the parents of the child are his natural guardians. The guardianship entails, according to article 15, as follows:

“... the duty and the right to take care of the child’s needs, including education, schooling, acquiring a profession, and keeping managing and developing his or her assets.” It is my opinion that brit milah is included in the term “child’s needs”. It is well known that the overwhelming majority of the Jewish people, and especially in Israel, sees the ceremony of brit milah as a significant and meaningful event, which symbolises the national and Jewish identity of the individual, even without the context of a religious belief. Brit milah is one of the most important mitzvas (or edicts) of Judaism, and throughout Jewish history many have fought to observe it and even sacrificed themselves for it. Most of the Jewish people in Israel secular and religious alike circumcise their sons, and this is a fact that does not require evidence. Hence, it seems that brit milah, which is accepted by most of the people in Israel, can meet various needs of the minor, including social needs. Therefore, it is a matter for the guardians, the minor’s parents, to decide on. Usually, the consent of the parents for circumcising the minor substitutes his consent. According to the Act of Legal Capacity and Guardianship, article 69, the court can intervene in the autonomy of the family when the parents cannot decide what is the best interest of the child. Article 68 reads as follows:

“(a) A court can take measures to protect the interests of a minor.

(b) If the request is to perform a surgery or to take other medical measures, the court shall not order it unless it is convinced, by an expert medical opinion, that the measures are required to preserve the physical or psychological well being of the minor.”

Preserving the well being of the child includes feeling socially comfortable. For example, there are surgeries which improve the appearance of retarded children. These medical measures do not confer physical benefits but rather improve the way the child is treated socially, which in turn improves his well being. Article 68(b), therefore, empowers the court to order that a child will be circumcised even when one of the parents is against it.

The matter of brit milah cannot be attached to the divorce proceedings, and therefore the rabbinical court is not authorized to order that a child will be circumcised. If the parents disagree about this matter, it should be decided by the family court.

Justice Neal Hendel concurred with vice president Miriam Naor, and added a few paragraphs about brit milah. Neal Hendel says:

“Brit milah is a very important mitzvah. It’s the first mitzvah that was given to the Jewish people. Brit milah is the covenant between God and the future of the people. The connection between the individual newborn to the past of his people, to its present and its future unfolds in all its glory. The act of brit milah enjoys a distinguished status, religiously, historically and culturally. It seems unquestionable that the act of brit milah has a vast and profound impact on the basic identity of the child. Brit milah is not merely a medical procedure. It’s also not a narrow religious issue. Brit milah is a value of national and historic importance, which expresses the belonging of the individual to the Jewish people. It is related to the identity of the child. It’s true that the child cannot express his wishes. But that is true to other matters of education as well. The religious edict to circumcise a healthy child when he is eight days old forces the parents to decide this way or the other. The clock is ticking, and the parents have to decide whether to circumcise their son at the right time, as is accustomed in the Jewish people,

or not. The newborn cannot choose, so the parent has to choose. This is how a humane message is expressed, that the smaller the child, so the parent has to be more involved in his education, in the broad sense of the term. Still, and maybe because of that, the dignity of the child and the baby is preserved.”

Justice Elyakim Rubinstein delivered the minority opinion. He was the only judge who ruled that a rabbinical court is authorized to order a parent to perform brit milah when there is a disagreement between the parents. (All the other judges said that the authorized court to deliver such a decision is the family court). Here’s a summary of Rubinstein’s decision:

Brit milah can be attached to the divorce proceedings, and therefore the rabbinical court is authorized to order that a child will be circumcised when the parents disagree about this matter. If a Jewish father or a Jewish mother asks to attach to the divorce proceedings a question that pertains to the most fundamental aspect of the Judaism of their son, they can do it. My opinion is based on the notion that Israel is a democratic and Jewish state and on the fact that brit milah is the core of the Judaism of the child, his covenant with the Jewish people and God. Brit milah is one of the basic mitzvas of Judaism. It is a sign of covenant between the Jewish people and their God. It is the national identification sign of the Jewish people. It is observed by not only religious Jews, but by the overwhelming majority of the people in Israel. Although it is not required to determine here whether Brit Milah is in the child’s best interests, the fact that most of the Jews in Israel, religious and secular alike, circumcise their sons speaks for itself. It is also worth noting that an uncircumcised boy in Israel will suffer from being socially different. I should also note the position of the State of Israel regarding those countries who act against brit milah, and the medical benefits of circumcision. And here Rubinstein quotes Professor Shimon Glik who says: “There are many medical benefits to circumcision”. And Bryan Morris who says: “Circumcision is basically a vaccine.”

Conclusion

All seven supreme court judges who heard the case think a court has a power to force a parent to circumcise his or her son. The majority ruled that when a dispute on this matter arises, the correct forum is a family court and not a rabbinical court, and that the guiding principle should be the best interests of the child. All of them agree that brit milah is important and that a child might pay a social price if he is uncircumcised.

So the question before us is this: how do we change a social norm that has such strong religious, historical and cultural roots? I suggest we take a good look at the successful campaign to end footbinding in China. Footbinding afflicted most Chinese women for a thousand years, from the 10th century to the 20th century. Beginning at about age six to eight, the female girl’s four smaller toes were crushed under the foot, the sole was forced to the heel, and then the foot was wrapped in a tight bandage day and night in order to mold a bowed and pointed four-inch-long foot. Footbinding was extremely painful in the first 6 to 10 years of formative treatment and caused severe complications.

During the 17th century the Manchu emperors tried to abolish footbinding by issuing edicts forbidding the practice, but their efforts failed entirely despite intimidating penalties. The similarities between footbinding and circumcision are as follows:

Both are an ethnic marker. Both customs are practiced by parents on children. Both customs are defended and supported by parents. Both are perceived by the parents as culturally mandatory. Both are perceived as a prerequisite for marriage or love life. Both are self-enforced by social pressure, by fear of shame. Both are believed to promote health and defined as aesthetically pleasing compared with the natural alternative. In the communities where they are practiced, they are nearly universal, persistent and practiced even by those who oppose them.

The successful campaign to end footbinding started in China at the end of the 19th century, and two decades later the custom was virtually ended. The campaign was comprised of three elements:

- Explaining that the rest of the world did not bind women's feet and that China was losing face in the world and was subject to international ridicule.
- Education about the advantages of natural feet and the disadvantages of bound feet.
- Forming natural-foot groups whose members pledged not to bind their daughter's feet and not let their sons marry women with bound feet. The forming of those groups was crucial, because it served as a guarantee for every mother in the group that her daughter's marriage prospects will not be affected.

Two very important principles guided the anti-footbinding activists:

- Respect for the parents. They understood that mothers bound the feet of their daughters not because they are evil but rather they are motivated by a strong desire to guarantee marriage prospects of their daughters.
- A law cannot by itself change a deeply rooted social norm. They understood that the change must come from within the community, by forming small groups all over the country. I think that the combination of these elements should be a blueprint for our efforts as well.

Eran Sadeh is a computer instructor and the publisher of *Protect the Child* website, (www.gonnen.org). Eram is married and the father of a girl (10) and a boy (8). When his son was born, he stumbled upon anti-circumcision websites and started to research. He and his wife eventually decided to leave their son intact. Eran later started a website with the aim of educating Israeli parents about the advantages of an intact penis and the disadvantages of a cut penis, and about the growing movement of parents who decide to leave their son intact. Ever since, he has appeared in many media interviews promoting intactness. In 2007, he gave a lecture about the harm of circumcision to students in Tel Aviv. In 2012, he went to Berlin, Germany, and delivered a statement in a press conference, supporting a court ruling that called circumcision a violation of bodily integrity. Tuval, Israel.