

Circumcision Troubles

by: Rabbi Jeremy Rosen

I have to my credit (or not) several blogs about circumcision in which I contrast my visceral antipathy towards harming a child with my loyalty to an ancient, resilient, and still relevant tradition. I also draw a distinction between a ritual that permanently removes an organ of pleasure and one which is simply superficial. And, at the risk of offending tattoo lovers, I find circumcised penises much more aesthetically attractive than uncircumcised ones, and indeed more than tattoos and body piercings. But I concede unreservedly that this is very subjective and no doubt culturally conditioned.

For over two thousand years it has been enshrined in Jewish law that where the health of a child is at risk one does not circumcise. All the commandments (except for blasphemy, murder, and adultery) are overruled immediately and without reservation where life is at stake. This is why we delay circumcisions until babies are declared medically healthy and why in the case of a child suffering from hemophilia the ceremony would be delayed indefinitely. There are plenty of other halachic precautions.

So how can one explain the sad death of yet another child because a Chasidic mohel passed on herpes when he put his mouth to the wound to draw blood?

The great and very conservative leader of European Orthodoxy, the Chatam Sofer (1762–1839) was asked to rule on the procedure of Metzitzah, mentioned in the Mishna. The mohel sucks the incision site to force a bloodflow through the cut. The Chatam Sofer writes that the original reason for Metzitzah was functional, to protect the health of the child. The flow of blood would disinfect, help healing, and dislodge any blockages caused by the circumcision itself. He argued that, given the health fears raised in his day, Metzitzah with a sponge was acceptable. Opponents of his ruling argued this was an exceptional ruling rather than a general one, and only in response to the threat of the authorities to ban circumcision altogether.

However, the default position of many ultra-Orthodox Jews, particularly Chasidim, is to perpetuate the custom, and thankfully the number of fatalities is minute. On the other hand, the more Modern Orthodox and more Lithuanian Rabbinical Council of America (RCA) recommend using the glass tube or pipette. In its paper on the subject, the RCA brings plenty of authorities, even from the strictest of Eastern European authorities, who either banned or discouraged the direct mouth method.

In Britain for many years, the late Dr. Bernard Homa, head of the Machzikei Hadass community of London, campaigned against Chasidic persistence in using Metzitzah by mouth. He wrote several articles producing all the halachic evidence, culminating in a pamphlet entitled Metzitzah, published in the UK in 1960.

A few years ago a Chasidic mohel who used the oral method in New York was found to have infected three children with herpes, one of whom died. In response, New York authorities tried to prohibit him from performing Metzitzah b'peh. However, the mohel's attorney argued that the New York Department of Health had not supplied conclusive medical evidence linking his client with the disease. In September 2005, the city withdrew the restraining order and turned the matter over to a rabbinical court. In May 2006, the Department of Health for New York State, issued a protocol for the performance of Metzitzah b'peh which purported to allow it to continue while still meeting the Department of Health's responsibility to protect the public health.

Despite the furor at the time until after May 2007, when Fischer was linked to another case of neonatal herpes. At that time he was prohibited by the New York Department of Health from performing Metzitzah b'peh anywhere in the state. But it seems that both he and his community ignored the ruling. The Chasidic communities, being inherently conservative and opposed to outside interference, have refused concessions to modernity (except when their own lives and health are at stake).

Even so, they have been forced to acknowledge the risk and have encouraged the use of disinfectant and mouthwash. But most medical opinion doubts that this is enough. All this quite apart from the risk the mohel runs, himself, of contracting some blood-borne disease the child might have picked up from its parents. But, hey, if he wants to take the risk, no doubt he believes his Rebbe will protect him.

Once again, it is politics that is preventing anything being done. It seems to me axiomatic that if someone causes the avoidable death of anyone, whether through Herpes or AIDS or whatever, he or she should be prosecuted for manslaughter. Still, neither in Israel nor the USA will this happen. Why? Because in certain areas, the dominant Chasidic population can be commandeered by their Rebbes to vote en masse and en bloc. This is a serious factor in many closely fought political constituencies. No one wants to offend blocs of voters, if at all possible. In Europe, the inner-city Muslim vote similarly exercises a powerful influence to stall interference.

We Jews are the first to cry foul. Why aren't we all crying foul now? I am not suggesting a total ban. After all, we don't ban sexual intercourse because one can pass on HIV. But I would like to prosecute any mohel who causes the death of a child through a practice that could have been avoided without infringing Jewish law. If one wants to be so holy, then one needs to take very serious precautions to avoid turning sanctity into tragedy.

The case against legislation is interference in religious affairs. But this is not a case of preventing a religious practice. It is not a ban on circumcision. It is merely closing one seemingly optional avenue of religious behavior when others are still open, even in the most diehard of communities.

Political correctness is a serious disease, all the more so when it really causes death. It can lead to the failure to stop terrorism by refusing to narrow down the field of suspects, and it can also put lives at stake by

fearing or refusing to interfere with religious practice. If we cannot take the steps to stop it, we must at least enable the courts to.