

# Bruchim Podcast – EPISODE 9

## **Episode 9-The Ethics of Neonatal Circumcision**

In the fourth and final part of this four-part series, Jeff presents his view on the ethics of circumcision and Max and Eli respond with their own views on the matter. They discuss the right to bodily integrity, the right to self-determination, the differences and similarities between male and female genital cutting practices, and the non-harm wrongs that the practice entails.

### **Show Notes**

Eli's Text Study Video:

[https://youtu.be/w\\_7xv6V68b8?si=YVdN3Jv53JTUOKv1](https://youtu.be/w_7xv6V68b8?si=YVdN3Jv53JTUOKv1)

Eli's Essay on the Ethics of neonatal circumcision:

<https://www.eliungar.com/circumcision/2013/9/8/on-the-impermissibility-of-infant-male-circumcision.html>

Eruvin 13b

<https://www.sefaria.org/Eruvin.13b.1?lang=en&with=all&lang2=en>

Eli Ungar-Sargon:

This is the *Bruchim Podcast*, the only podcast in the world dedicated to Jews who think differently about circumcision.

(music)

I think we can't avoid this anymore. So, Jeff, you don't think – you don't accept my position on the ethics of circumcision. I think Max is closer to where I'm at, maybe not identical to where I'm at, but much closer than where you are. I just want to understand your – I think you should state your position on the ethics of circumcision and then we can talk about it.

Jeff Helmreich:

So I don't think that circumcision harms children in a way that is impermissible without their consent at that stage, or at least I didn't feel enough of a risk that it would. But I did believe that *not* circumcising might be harmful in certain communities. So for that reason, I just did a balance.

And yeah, I just, you know, I'm just not persuaded by talk of the harms that there are, the medical or the – whatever it is. This isn't something that I am willing to go to the mat on. This isn't something I'm necessarily willing to take a stand on. And I have to make a choice personally. So I made one.

But, you know, this is ultimately an empirical question to some extent. And I'm open to being persuaded, maybe not right here, right now, but open to being persuaded by counter-evidence is a purely empirical question, purely biological question.

But I don't think more, you know, based on what I believe right now, just, you know, under my head, what do you think about? I don't think that the considerations forced me to say, OK, this is like God destroying Sodom and Gomorrah, even though there might be innocent people.

No, God, I don't care. You know, “God, shmod, this isn't ethical.” There's times for that. There's places for that. The tradition celebrates and romanticizes that from Abraham all the way to Job. But this isn't that to me.

EU-S:

So I'm hearing two things from what you just said, and I just want to clarify before Max jumps in here.

The first thing I'm hearing is that you think it's a purely empirical question whether or not this is morally permissible.

JH:

No. But I think it's also an empirical question.

EU-S:

Oh, you said it was – because you said it was purely an empirical question.

JH:

Well, but it can't be, right? Because it's a moral question. Whether something it's always going to be at least partly a moral question, whether something's permissible.

OK, but I think if empirically the harms were very obvious and severe, then I think morally I would be required to say, you know, “tradition, shmadiation,” you know.

EU-S:

Right. But you did just say also that you don't consider circumcision to be – even if it is a moral violation, it's not on the level. So what I was getting from what you were saying was that in your mind, there are certain kinds of moral violations that are more intense than others. And even if you were to concede that this is a moral violation, you would probably not concede that it's at a level that might trump halacha or be considered something that's, you know, so morally severe that it needs to be taken in that kind of a way.

JH:

Yeah. And a contrast case, which I hesitate to say because I know you're all over it and I am very under-schooled in it, is the female case. But something like, God forbid, I mean, clitoridectomy or female circumcision, I think would be a case where I would say, no, I don't care. I don't care what tradition requires. And maybe I'm taking a hit.

In that case, by the way. I think the ethical monstrousness would itself be a ground to and this gets me in, I guess, Ethan Tucker's territory, to severely doubt and interrogate whether the heavenly halacha or the core part of the Torah that's not human is really dictating that.

But either way, if empirically it turned out to be imposing a very severe harm that the person could never conceivably consent to, or that even if they could consent to, we have no right to inflict on someone without their consent, then I think I would have to say, yeah, forget religion, you know, lay off.

So it's empirical to the extent that if something is it could be it's an empirical question whether something is that kind of a harm. That's where the empirical question comes in. And I think that the male circumcision case, the ritual males, at least in this society, the way it's done in most cases, doesn't fit.

Now, there was a case in L.A. recently that I just – someone I know personally – who had a child born as a hemophiliac where it couldn't be done in the normal way, you know, in a temple with a, you know, or whatever, however they do it now with rabbis and knives. It had to be done surgically in a hospital.

And they were looking for all kinds of – this [was] just last week. And someone had this situation.

Max DuBoff:

Eli has an excellent recorded text study on the Bruchim YouTube channel, which talks about uncircumcised priests and seems to have something to do with hemophilia. So (I) definitely recommend that folks check that out if they haven't already seen it. Really an ancient application of the same issue.

JH:

Interesting. Yeah. So here's what I would say.

I wouldn't – I'm not persuaded empirically by the harms to the point that I think ethically I have to move on this. But I am persuaded that there is a risk of harm. There is a definite potential loss to being circumcised that might be avoided.

And so I salute you all for coming up with ways within the integrity of halacha to try to change it. But until that's successful, until that's been done, this is not an Abraham case for me. This is not a Moses case for me.

MD:

Yeah, Jeff, this is really helpful. One thing that I want to bring up is an objection that I have to a lot of ethics that I think halacha can help us with a bit.

So in your framing, you've been using the language of harm. And I hold the broader ethical view that we won't go into all the particulars of that ethics and ethical consideration should not be limited to harm. That there are lots of really important ethical reasons that are not about harm or that can't be reduced to harm. And I think focusing on measurable harm is really detrimental to a lot of the practice of ethics.

But to bring that into the Jewish realm, one way of interpreting Halakha would be saying that halacha is asking us how we can be godly. Right? It's not telling us not to do harm.

You know, halacha has all kinds of reasons and authority over us that don't boil down to harm. Right. So if we're thinking about how to act as Jews, I think that

really suggests that we shouldn't be using, at least exclusively, this framing of is circumcision harmful? But rather, is circumcision a way of promoting our godly values and godliness in the world? Right?

And if we've pivoted to that question, then there's all kinds of other concerns we can bring up. You know, we can bring up concerns like, is circumcision expressing respect for other human beings? Is circumcision respecting their agency in particular? Is circumcision contributing to a patriarchal system which is encoded in halacha and continues to inform our world, etc., etc.? You know, is halacha imposing risks on vulnerable people in our society?

I think those are a lot of the questions that we should be asking. And it's a bit of a red herring to ask about harm specifically, because I agree with you that on balance, you know, if we're looking at sort of pros and cons and harms in that way, there's not much of an argument against circumcision.

But there's so much more we ought to look at as Jews, as well as as ethicists.

JH:

Well said. I fully agree with that. Certainly the spirit of what you're saying.

I think that harmfulness, severe harmfulness, whether psychic or physical – and I exclude momentary pain for the moment, so don't even try that – no, I see the momentary, but no, but I think those are sufficient for rejecting a religious dictation. I don't know if they're necessary for it.

MD:

No, I agree.

Yeah, I'm saying that harm is a reason, but not the only reason.

JH:

I know that exactly. I was saying that that would be sufficient so that if something was shown to be imposing a substantial loss on the person for the rest of their lives in certain ways, which would cause them either psychic, you know, mental trauma of some sort, mental loss or pain or just the wish that it didn't happen. If that was the kind of –

EU-S:

That's exactly the kind of thing we're talking about.

JH:

If there was harm, a substantial harm of a physical or mental kind, then I think that would be sufficient, for me at least. And I think that's really the standard that the cases like Abraham and Moses and Job set. I think those –

EU-S:

But why does circumcision not qualify? It sounds to me exactly like that's an empirical question.

JH:

Well, hold on. But I agree with the point that there are other kinds of considerations that might also be sufficient. What I said is sufficient doesn't mean it's necessary. There's others.

So, yeah, I think, again, the case of discrimination. So if we only ordain men or only count men in a minyan, you might say, look, no one's suffering physical or psychic harm, but they are suffering dignitary or expressive harms. Women in general are suffering dignitary or expressive harms from this, feeling excluded. You might not call that a harm, or you might not call it the kind of harm, you know, in the physical or psychic sense I was referring to. People may not psychologically experience it, but only experience it as a harm.

But it is a, you know, what Elizabeth Anderson and Richard Pildes call an expressive harm or a dignitary harm or just just something bad to do to someone, quite independent of whether they're suffering in a psychic or physical or experiential way because of it.

EU-S:

I just need to say a parenthetical statement here, because women who are caught up in the rabbinic system in Israel who may be agunot or whatever are actually experiencing both kinds of harms, because they're not allowed as witnesses in the court and they're not allowed – they have no agency in a process that's actually controlling their whole lives. So I think there are examples in which both of those things are true.

JH:

Yeah. And those raised serious problems, the kind that I'm suggesting would be raised by circumcision if it too, were imposing those kinds of harms. And I just wasn't I'm not persuaded that it does. I'm not persuaded by that empirical claim.

But I agree completely with Max and I'm sure you hold this position too, Eli, that there are other kinds of harms or other kinds of wrongings that if a religious practice was prescribing them would be grounds to reject the practice or at least revise it urgently and immediately.

MD:

So I want to sort of flag where we are in our conversation here, because if I'm understanding correctly, we've now put three positions on the table. And then, Eli, you should totally say a bit more about yours. Right?

So one position, Eli's I take to be that circumcision very frequently causes significant amounts of experienced harm of some sort. And that's a reason that we should be religiously uncomfortable with it.

And then my position is that, well, circumcision might not cause very frequently large amounts of experienced harm, but it's in conflict with other sorts of ways of living that are important to us as Jews. And so we should be skeptical of it for that reason, and maybe try to change it.

And then Jeff's position, if I understand it correctly, is that all of those are possible reasons. But as far as Jeff can tell, those don't apply to circumcision.

JH:

That's correct.

MD:

Yeah. Eli, did you want to jump in and say a little bit more about your position first?

EU-S:

I think you characterize it very well. I mean, I think that we have a situation here where whether or not the person experiences their body as having been harmed, something has been taken away from the body. A certain function, a natural function of the foreskin has been taken away, which has implications for sexual experience and other kinds of things.

And again, like it could be that a person grows up and doesn't care about that. And I'm happy for people who aren't upset about the fact that they were circumcised as infants.

But the fact remains that they have a penis whose functions have been permanently altered and they had no say in the matter.

I also want to raise the issue of the rights framework.

JH:

That's it?

EU-S:

What is that, what do you mean, "that's it"?

JH:

Are you saying that the functions have been permanently altered without their say and to their detriment, to their harm? Or just a function has been permanently altered without their say, and that alone is grounds for complaint?

EU-S:

This is why I was going to bring up the issue of rights, because when we have conversations about rights – and I do believe that there's a thing called a right to bodily integrity – we don't do this sort of empirical weighing of pros and cons. That's why we have the concept of rights in the first place. It's to say in this situation, we're not going to weigh the medical benefits versus the risks. That's not what this conversation is about. Right?

If I cut off a person's ear at birth, we could have a similar conversation. And you might even be able to make the argument that cutting off a person's ear at

birth is in some ways less of a damaging thing to that person than cutting off their foreskin.

The point of the matter is, if we have this concept of a right to bodily integrity, people are taken to have the right to make those decisions about their own bodies, especially decisions that have permanent consequences.

JH:

Agreed.

But I just wanted to put you, to pin you down on that, because that is a different claim from the claim that they only have a right against bodily damage or harm without their say. That even just, there's a further thing. I'm not saying that this doesn't count as all three.

But you're suggesting, if I hear you right, that quite apart from what circumcision causes or inflicts, what loss or advantage or disadvantage it imposes, quite apart even from what dignitary or expressive harm it may impose or not.

Just the fact that it is a change, a bodily change, to which the person didn't consent is enough for you to consider it a rights violation?

EU-S:

Yes. It's a permanent body modification, so it's a rights violation.

It's also a violation of another right that I think is very important, which is the right to self-determination.

JH:

Okay, so here's, I guess, another place where we disagree. And it's good because it's not a merely empirical disagreement. There, I disagree with you on the normative upshot of what you're saying. I don't agree about this right.

But I do agree that if there were such, first, that such a right could be talked about independent of harm. And I agree that if there were such a right, harm would not be the defining factor.

Or even the kind of harm, I'm calling it a harm, that Max is referring to, that I'm calling an expressive or dignitary harm. Max is talking about a non-harm wrong.

But even that, you're saying beyond that, there's just a right to bodily integrity.

EU-S:

That's right.

JH:

A right to bodily non-alteration by an outsider without your consent.

MD:

Yeah, and one possibility that Eli could go for in addition would be that a loss of some kind of healthy tissue or something like that constitutes a harm, even if it's not experienced as such, because of some kind of lost potential. Right? It doesn't need to be that someone is worse off, but rather if they're losing out on something, that could be construed as a harm, depending on your notion of harm.

JH:

Right. So if we all were born, let's say, with tails, and it was just common practice in our society to snip the tail off at birth, or if a common practice to ear pierce at birth, which means we're depriving people of at least a part of their ear, and everyone did it, this would be an argument for your own child being the first to exclude from the practice and keep the tail, or keep the part of the ear that would otherwise be pierced.

EU-S:

Yeah, but I don't think we need to go to science fiction. I think we could—I'll give you a better example.

JH:

Ear piercing is real.

EU-S:

No, I'll give you a better example. Yeah, this tail thing, not so much. I'll give you a better example. Let's imagine that someone came up with a procedure for inoculating infants, and it would have lifelong protective benefits against COVID. Right? So there's a procedure that involves sticking something up the nose, and it gives—it confers on the person to whom it's done lifelong immunity—immunity, right? Like, totally, like, you don't get it from COVID. But the downside is that they lose their sense of smell. Right?.

So I would argue that that is a violation of the right to bodily integrity, and it should not be done.

JH:

I would argue the same. And I think it's an easy case, because losing smell is a real loss. I mean, it's a loss that's not merely the loss of something, of a function. It's a loss of a function you would very reasonably desire, very reasonably complain about losing.

I don't think the same holds for a part of an earlobe. I don't think the same holds for a tail if no one has one.

EU-S:

The foreskin is much more like the sense of smell than it is like the tail.

JH:

Hey, you said bodily integrity. We can talk about bodily advantages or disadvantages. That's a separate question. And that is an empirical question, and you're now raising an empirical point about the foreskin, which we could get into.

But I'm just flagging – mere bodily integrity for me doesn't impress me for the reasons and for the type of examples, crazy as they may sound, that I'm raising. But, you know, if there's a harm or a loss, that's a different story. Or if there's a disrespect, different story.

MD:

I actually do tend to side with Jeff on that specific point. I'm also not super swayed by bodily integrity, although I appreciate, Eli, why you raise it and

stand by it. And that, in part, Jeff, is why I'm really interested in the other sorts of reasons I mentioned.

And so maybe I'll just say a little bit more about them. So what I think is that we need to think about ethically and halachically, how should we act, right? What's to be done? And there are various sorts of principles and ways of thinking through that, some of which are expressed in our tradition.

But one principle that we can point to is respect, or human dignity, right? And we can express that through the lens of B'tzelem Elohim, right?

JH:

Sure.

MD:

Being created in the image of God. And also, we could think about the ways that there are obligations and personhood in other parts of the halachic system. But I take this sort of respect or human dignity to be one of the principles that helps me figure out how to act. And it's both ethical and Jewish for me, which is not to say that all principles have to be, but I think this one is.

And circumcision, I think and feel deeply to be in tension with this, right? Because it's inflicting pain and it's inflicting risk and it's doing something that is potentially harmful, at least in some cases, on another person whom I ought to respect.

And so there might be other ways as well that we can say this. I talked in one of our previous episodes in the series about egalitarianism. And I'll bring it up again because egalitarianism is a guiding light at this point for a lot of liberal, by which I mean non-Orthodox, Judaism.

And I think to take egalitarianism really seriously, you have to think of it as bound up with respect and human dignity. And also think of it as a sort of way of treating others, which is giving them the space to be who they are and be in community. And circumcision is an imposition that I think to be in contrast with that value.

And then I said a little bit before about some feminist concerns about circumcision, but I'll bring them up again because I think that they're really entailed by my vision of egalitarianism. That circumcision, as I understand it,

historically evolved as an intensely patriarchal rite. And in our Jewish society today, we haven't fully shed a lot of the patriarchal aspects of halacha and of our broader society. And so for me, although this may not be true for everyone, circumcision is – represents that in a way that we can't just forget. And that is uncomfortable to the level of being problematic and maybe something we shouldn't do.

JH:

So I like the idea. I think it's a very helpful and beneficial idea, that there is that the respectfulness or not of a certain practice ought to count in favor of it or against it, or in favor of revising it or changing it or rejecting it.

And I think that that does have to figure in here. And we do have to – I mean, a lot of the biggest debates in theology, in terms of the ethics-versus-halacha conflict, is about this.

It's not – counting women in a minyan doesn't necessarily – I mean, if anything, it gives them more time. And they can do what they want. They don't have to wake up before the time of kriyat shema and show up. But it disrespects them. It subordinates them. And that's, I think, an urgent call to reevaluate it. It's also a good reason to reject the fact that it's a good interpretation of heavenly halacha.

Whether the circumcision case actually qualifies, I am having a little bit of a harder time. On the one hand, you suggest that circumcision disrespects the people you circumcise. But then you also seem to be saying that not circumcising someone disrespects them for not circumcising them. And this I find to be a tension.

If it's disrespectful to women to exclude them from the practice, it might be because it's respectful to include people in what – a practice by its own right takes to be a kind of rite of passage, a kind of mark of inclusion in the community.

And I agree that if that is what the practice represents, it is disrespectful to exclude women from it, though it may be hard to find a way to include them.

EU-S:

It's not hard. We could institute some kind of female cutting. There have been feminist suggestions of breaking the hymen as an analog. That's actually been suggested by feminist scholars.

JH:

Yeah, and I think a less invasive version is the simchat bat, having a celebration or a ceremony. And it's part of the reason we do that. We do that to redress this inequality within halacha. It's not hard to do. I think actually that's probably better than what you're suggesting, Eli. I mean, you're not suggesting it, but I'm saying –

EU-S:

Wait, why do you think it's better?

JH:

Because –

EU-S:

Why do you think that a simchat bat, which doesn't involve any kind of cutting, is better than a hypothetical procedure that did involve some cutting for an infant girl? Why is that better?

JH:

Because there's a chance if you cut something that you're going to cause harm.

MD:

[laughter] That's not a reason against circumcision?

JH:

Is it? If it is –

MD:

Yeah. Yeah.

EU-S:

That's what I've been trying to say.

JH:

But we know what we're cutting in the circumcision. That's why I want to ask what – OK, so if you're saying – if you're saying we're cutting, you know, her nails.

EU-S:

No, let's be specific, OK?

JH:

– or if we're cutting –

EU-S:

Let's be specific, OK?

JH:

– or doing a piercing –

EU-S:

Let's be specific. The thought experiment that I'm talking about comes from feminist Jewish scholars who – and there is at least one person like this whose name escapes me right now, but who actually made this concrete suggestion – that in an analog ceremony to male circumcision, what we should do is insert a probe into the vagina of an infant Jewish girl and break her hymen so that there's some blood in the ceremony.

OK? So what I'm asking you is why would you prefer a simchat bat that didn't include that specific procedure?

JH:

If I can tell you right now – God spoke to me last night, turns out – or just now while you guys were talking and diddling about this – and then God actually spoke – I just got a revelation. It's crazy.

MD: A bat kol again?

JH:

You know, the boss came down and says, “you guys, I was wrong. Turns out, I mean, you guys – have been getting this wrong the whole time. And don't even get me started on separate milk and meat dishes. But you guys are getting this wrong big time –”

MD:

[laughter]

JH:

“ – Turns out by circumcision, I just meant like squeezing it. I didn't mean cutting it.”

If you heard that, OK, wouldn't any of us who heard that want to say, OK, then forget it. We're not going to – just because we've done it in the past, we're going to continue to cut the foreskin – why? The baby cries. It's one second of crying. I don't think – even one second of crying is better than zero seconds of crying.

EU-S:

I know, but I'm trying to – Jeff, what I'm trying to nail you down on here is you seem to have a very kind of –

JH:

Less is more, OK?

EU-S:

You seem to be stating that you don't really see this as any kind of ethical violation worthy of massive concern. But when I proposed something that is

similar to you on the female side, you're saying, no, obviously we don't want to be doing that. And what I'm trying –

JH:

No, that's not what I said.

EU-S:

And what I'm trying to get you to explain is why that's not what I said.

JH:

I said less is more. I just gave an example of even the male case where I would go with less. Look, less cutting is better than more. Less blood is better than more.

Let's imagine if we – I mean, I've never heard a baby cry at a simchat bat. Well, that's not true, but they don't cry from the simchat bat procedure. But I've heard a baby cry for circumcision.

Let's say a baby cries for exactly two seconds of entirely negligible suffering, but it's two seconds of suffering for a male circumcision and zero for the female because there's no cutting at all.

I'd say, you know – or let's say the baby has to wait for five minutes before its diaper gets changed under a male circumcision, but it can wait only for two minutes under a female. I'd go with the less, all else equal.

And really, if all else was equal, less harm, even of a very momentary negligible kind that doesn't raise ethical problems, I'd favor the less, obviously. And if – so would everybody else. If circumcision didn't have to involve any of the things involved in the male case –

EU-S;

It doesn't. It doesn't –

JH:

Good! I'm all for that. That's why I called when I was going to have the baby.

That's why I called and said, "Can – is there a way to pierce it without even giving the pain, without even giving the crying?"

EU-S:

You summarily dismissed my psak that came from the heavenly court.

MD:

[laughter]

JH:

From – yes, but from the get here, I have always admitted that there's even less harmful, less invasive ways of messing with a child that I would prefer to current ritual circumcision.

I just – I'm not persuaded that the harm that it does involve is sufficient to prohibit it or to exclude particular children, particularly because I know what harm not doing it involves.

EU-S:

Now, I want Max – I want Max to jump in here.

MD:

So I want to clarify my position from a bit ago, because Jeff, I think you might have misunderstood my position and that could be because I didn't state it as precisely as I could have.

So my position is not that there's any disrespect by not circumcising. It's that cutting is a form of disrespect, given what we otherwise consider to be respectful behavior – and that circumcision represents the patriarchal system of halacha and society in a way that's not easy or maybe even possible to disentangle. And specifically, that circumcision developed as a way of encoding patriarchal power in the male body. And that's a historical claim that we don't need to go into right now.

But – so that's some of my position there. And so I don't think it would be any better to have more cutting. And I think you and I agree, but my position then

is that, you know, we shouldn't have any cutting. Imposing risk of side effects is really problematic –

JH:

I agree.

MD:

– and it is a violation of our respect for other human beings when there's not consent in a case when it's not medically indicated. Now, we can talk about what's medically indicated. I don't think that circumcision is what we would call medically indicated. That's a position that I want to lay out.

JH:

If it wasn't a case of knowingly imposing a risk of side effects or harm of any kind, if it was just cutting, just cutting – sometimes a cut is just a cut – it is just, you know, harmless, agreed from the get that it is harmless cutting, like an ear piercing that doesn't inflict pain – would there still be the disrespect? I just want to isolate it. I'm not saying that there isn't harm.

MD:

Yeah. I mean, this is a very fanciful example. So I want to flag that. Yeah. I mean, I think that this gets a little bit to Eli's point about bodily integrity, right? But in a world where we care about folks controlling their bodies and having agency over certain relevant parts of their lives, cutting is going to be a problem, even if it doesn't lead to pain or something like that. You know, one thing that then someone might respond is that bodily autonomy is not really a value in the halachic system. I think that's probably true. That's a really difficult topic to know what to make of.

But yeah, so there might be some scenarios in which cutting were significantly less problematic. But using other people's genitalia for ritual purposes is problematic in and of itself. And this is something that Eli's and my friend and fellow board member, Max Buckler, is working on in some research at the border of ethics and religion.

EU-S:

I also want to just put a concrete case on the table here because I don't think it's actually fanciful. We had an email come in to Bruchim not too long ago – and we get all of these sorts of people contacting us – and this was a mother who had converted after she already had children who I believe were seven and eight. And she converted, but because her children, you know, she wasn't pregnant when she converted, so her children needed to undergo some kind of rite.

And what ended up happening was the kids were circumcised already. So they did what's called a hatafat dam brit, which is where you sort of lance the circumcision scar. Some people do a little bit of the glans, and you literally just draw a drop of blood, right? So this is a practice that goes all the way back to the Mishnah for cases where children are born without a foreskin or cases where a person needs to be converted to Judaism, but they are already circumcised. So it's called hatafat dam brit.

So this actual case happened, and what ended up happening is that little boy who had this hatafat dam brit ceremony done on him when he was eight years old grew up to be a man who felt that he had been sexually assaulted, and wants nothing to do with Judaism right now.

Now – and all that was done was a drop of blood was drawn from his penis. And I think this is a directly relevant case to what we're talking about and to my concern about the right for bodily integrity.

JH:

Yeah, no, if he were on the program, I would be arguing with him about this. Say, no, you weren't sexually assaulted. But look, I mean –

MD:

So first of all, I would really hope that you wouldn't say that to someone's face, too.

JH:

No, I would not. Gosh, of course I wouldn't. But look, what I would caution against doing is inferring from the interpersonal practices we have with fellow adults in the world to how we should treat infants in our care.

So like, let's say – to go back to my fanciful case where cutting the foreskin is harmless – let's suppose it's harmless. And I find myself at age 20 in a nudist colony and I see, oh my God, there's a guy with a foreskin and he's Jewish and he's, they must have missed him. All right.

And I walk over and with a little snipper, a little scissor, I just snip off the foreskin. And again, it's harmless. So there's no problem here. I think we'd all agree that that's monstrous anyway.

EU-S:

Why would we agree?

JH:

Because you don't go over to a stranger's genitalia and mess with it.

EU-S:

Why? Why?

JH:

You don't mess with a stranger's genitalia.

EU-S:

Why?

JH:

Because they have a right not to be touched by you.

EU-S:

Ah! Ah! Ah!

JH:

– unlike your newborn infant. Your newborn infant – Ah! – whose diaper – if I went over to him, by the way, and changed his underwear, same problem. He could object forever. Exactly the same, in fact.

EU-S:

It's not the same because it would be a permanent body modification. So that's not the same.

JH:

Again with the permanent body modification. But that's not the point.

The reason it's disrespectful, first of all, the reason it was disrespectful a moment ago was that I'm messing with the genitalia, not that I'm permanently altering it. But I can change his underwear. I can change his diaper.

Of course you can't do that to a – it's disrespectful to do that. It's not disrespectful to determine permanently the course of a child's education, the course of what will be their main language, to the detriment of a much easier and better language, the course of what will – to mess – to constantly deal with their genitalia, with diapers, with diaper rashes, with God knows what else.

All of this is completely different when you're dealing with your own infant. You alter them permanently every day. You touch their genitalia every day. And it's not disrespectful.

MD:

Yeah, no, no. And you're raising a helpful question here, right? Which is, what do we owe to infants?

And I think that your position of questioning my inference from what we can or shouldn't do to adults and applying that to infants, I mean, I think that's certainly fair to critique that.

I'm coming at this with a broader view that I'm more skeptical of paternalism in cases of young children than a lot of people are. A lot of people think paternalism gives a very broad mandate to parents. And I instead hold the view that when parents are exercising paternalism, are doing things that they're not able to ask the infant about, that they're only ethically allowed to do things that are both for the infant's own good –

JH:

Yes.

MD:

– and are things that they can't defer to the infant on.

JH:

I agree.

MD:

So obviously, there are less things – and so then the question becomes, is circumcision for the infant's own good? And what are other constraints?

JH:

So here I agree. That's why I think all the serious questions come down to the actual benefits and burdens you're imposing on the child with circumcision. I think most of the other things end up either turning out to not be all that important in their own right or to bottom out in that.

And I didn't mean to express any confidence about that. My view, my take on it, my assessment was that it wasn't causing those benefits and those burdens in a way that – and I knew the burden that would be involved, the exclusionary burden that would be involved in not circumcising. And I was – again, this is not a position that I'm strident about. That was how I assessed the burdens that I'd be imposing.

But I actually fully agree. I think that the parenting role involves harming the child in a way without their consent. Maybe even having a child in the first place involves that in a way for which you have to remain almost permanently apologetic. And I think you are on the hook for all harm that you've unconsensually caused.

I don't think that the very fact of engaging with a child's genitalia in certain ways or altering the child forever can be considered itself a harm in its own right or itself a wrong in its own right, because that would negate the parent role. But the truth is I'm deeply agnostic about whether the parent role itself is justified.

MD:

[laughter]

JH:

In other words, I'm not sure that anti-natalism is wrong – not at all sure – and there's even talmudic sources on that. But I also think –

MD:

Eruvin 13b.

JH:

Okay [laughter]. So there's that. There's that, and then there's – and I do agree that you have to really take seriously whether it's truly for the child's benefit and you owe them not just the best efforts, you owe them actually being correct. There's a strict liability here.

MD:

Yeah, yeah.

JH:

So I think I'm with you on that, Max, and I'm sure Eli's in agreement.

EU-S:

Guys, this was a real pleasure and I think a really high-level and really deep conversation.

MD:

[laughter] Yeah.

JH:

Thank you. Yes, I agree.

EU-S:

I appreciate you both being here. Yeah, thank you so much for being on the *Bruchim Podcast*. And I look forward to the next conversation.

MD:

Yeah, thank you so much. This has been so great.

JH:

Great pleasure. I really enjoyed it and look forward to more.

Eli Ungar-Sargon:

Next time on the *Bruchim Podcast*:

Dr. Na'ama Carlin:

In a sense, the world does dangle at the edge of a foreskin, right? Circumcision divides opinion. And I think there's something really interesting about it as being a cut that divides opinion and it brings a cut that also brings someone into a fold. So it incises as well as it brings in. And it's this kind of like, also this kind of notion where it's not this or that, it is both. It operates as a cut that makes whole, right? That's kind of my whole argument.

And I think this is why it's so meaningful and why we practice it despite the fact that it might not have meaning to some. It's because it doesn't matter. It still contains meaning through its action and through its removal and excision.

EU-S:

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