Author's response to reviews

Title: Recommendation by a law body to ban infant male circumcision has serious worldwide implications for pediatric practice and human rights

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Version: 2 Date: 9 August 2013

Author's response to reviews:

We thank the Editor and the Reviewers for their positive appraisal of our manuscript. In revising our manuscript we have copied each of the comments and show them below, then follow each comment with our response, showing where changes have been made in the revised manuscript to address what the reviewers and editor have stated.

REVIEWER 3:
Reviewer: Nelson Bennett
Reviewer’s report:

REVIEWER’S COMMENT:
GENERAL: Overall, this is a well-written debate on the ethical, moral, scientific, and economic issues regarding infant circumcision.
ABSTRACT: No issues.
BACKGROUND: No issues

**AUTHORS’ RESPONSE: No response required.

REVIEWER’S COMMENT:
DISCUSSION:
1. Please revise the first and second sentence of the section as it is awkward. A suggestion is, "The independent Commissioner for Children in Tasmania, Mr. Paul Mason, requested that the University of Tasmania graduate student ..."
**AUTHORS' RESPONSE:** We have now made the change in wording suggested by the reviewer.

**REVIEWER'S COMMENT:**
2. Please consider including the following reference as another facet of your argument...’Robinson JD, Ortega G, Carrol JA, Townsend A, Carnegie DA, David Rice D, Bennett NE “Circumcision in the United States: Where Are We?” JOURNAL OF THE NATIONAL MEDICAL ASSOCIATION 2012; 104, Nos. 8&9.’

**AUTHORS' RESPONSE:** We have now referred to this article at the beginning of paragraph 2, lines 1-8 of the subsection entitled “The 2012 AAP policy”, by stating:

“In contrast, a review article published at the same time as the AAP report appeared concluded, “There is a lack of evidence both in favor of and against recommending routine neonatal circumcision in the United States” [1]. It questioned, ‘whether we should continue unwarranted male circumcisions, especially when the major tenet of medical ethics is ‘do no harm’.” The article failed to account for the substantial medical benefits of male circumcision reported during the previous five years [2-7], especially that from several high quality male circumcision trials [8]. Its reliance on the somewhat ambivalent 1999 AAP policy statement may explain its conclusion.”

**REVIEWER'S COMMENT:**
CONCLUSION: No issues
REFERENCES: No issues.

**AUTHORS' RESPONSE:** No response required.

**REVIEWER 5:**
Reviewer: Yechiel Barilan
Reviewer's report:

**REVIEWER'S COMMENT:** This paper criticizes the Tasmanian Law Reform Institute’s recent recommendation to ban cultural infant male circumcision. To the extent that a law proposal in one Australian state is of interest to the readers of BMC Pediatrics, this paper is of interest. Perhaps some of my critical comments below help revise the paper and enrich the discussion.

**AUTHORS' RESPONSE:** We thank the reviewer for positive comment and for suggestions that follow, and to which we have now responded with changes.

**REVIEWER'S COMMENT:** Infant male circumcision (hence: circumcision) is usually divided between “cultural” and “medical”. A cultural circumcision is motivated by culture and religion; medical circumcision is indicated by considerations such as circumstance of high-risk to HIV in the future. The
bioethical debate is mainly focused on the question whether the cultural choices of the parents may have the power to interfere with the child’s bodily integrity and to put the child’s health at risk (wherever circumcision carries health risk with it). If society affirms the negative liberty of parents to circumcise their babies, one may ask whether society should take responsibility over the performance of cultural circumcision as well. Unfortunately, the authors do not refer to this body of literature which contains papers by Dekkers, myself and others.

**AUTHORS' RESPONSE:** The TLRI report appears to support the circumcision of boys for religious or cultural reasons, but not medical reasons, which it ignores. Our criticisms are directed at the prejudice and rejection of the extensive evidence base that supports so-called “non-therapeutic” infant male circumcision as a simple, safe intervention that has considerable health benefits and little immediate or long-term risk. In accordance with the suggestion by the reviewer, we have now discussed Dekker et al. as well as Brusa & Barilan, and also a recent quite pertinent article by Jacobs that was published subsequent to the submission of our manuscript. We have done this by addition of a new 2nd paragraph to the subsection now entitled “Ethics and human rights”, as follows:

“Using as a basis of natural law and intuition, an articulate, albeit prima facie, argument has been made for a right to bodily integrity when it comes to circumcision [37]. Another author, by ignoring the substantive pediatric benefits [24,25], stated, “the only significant [benefits] (reduced risk of penile cancer and sexually transmitted infections) do not apply until adulthood” [38]. Claims that circumcision harms penile sensitivity [38] have no broad evidential support [39]. On the other hand, an ethicist has pointed out that, “If circumcision is a net benefit to a child, parents do not violate his rights to bodily integrity or self-determination by circumcising him” [40]. Another ethicist has provided compelling arguments in support of his contention that, “appealing to this right [to bodily integrity] in the context of circumcision entails a misunderstanding of the nature of this right” [41]. Since infant male circumcision is not prejudicial to the health of children, but instead is beneficial, it does not violate Article 24 (3) of the United Nations Convention on the Rights of the Child.”

REVIEWER'S COMMENT: The authors target their paper at the impracticality, even immorality (the distinction could be made clearer) of assessing whether parents’ choice to circumcise is motivated by strong religious commitment, rather than “weak” cultural values. But this is a technical, not substantial argument. It also ignores utilitarian considerations of public health – when parents intend to circumcise the baby anyhow, perhaps it is safer to do it in a public hospital. (Is willingness to perform “black” circumcision good evidence to the strength or religious/cultural commitment to the practice?)

**AUTHORS' RESPONSE:** When we discuss religious or cultural reasons for circumcision we are referring to the Jewish practice in the case of the former and the Islamic and traditional practice in various cultures in the case of the latter. The TLRI report appears to accept each of these as valid reasons for circumcising a boy. Our manuscript is concerned with the TLRI’s apparent rejection of medical reasons, namely that infant male circumcision is in the best
interest of public health and individual well-being. We cite the reviewer’s article in Bioethics that argues in favor of introducing cultural circumcision of children into the public health system of the European Union, and where the reviewer supports a “utilitarian argument that finds hospital-based circumcision safer than non-medicalized alternatives”. In so doing, we have added sentences that appear at the end of new paragraph 6 of the subsection entitled, “Ethics and human rights” as follows:

“Other authors, “conjecture that misunderstandings about the ‘anatomical’ and the ordeal contribute to opposition to circumcision in Europe” [14]. They argue that, “from a cultural point of view, being circumcised opens opportunities and boosts autonomy more than it constrains them.”

REVIEWER’S COMMENT: Indeed, I also find the TLRI report interesting because it creates a new, gray area of motivation to circumcise, a motivation that is neither medical nor strongly religious. Such an area exists in the US laws on 2nd screening. In many states screening is mandatory. A few recognize exception on religious grounds only. Other privately chosen parental value-judgments receive no recognition. A similar case of refusal to screen on religious grounds was debated in the Irish Supreme Court.

**AUTHORS’ RESPONSE: The TLRI report accedes to extremist arguments that infant male circumcision has no health benefits, and relies too much on a seriously flawed, web-based pediatric policy statement by the RACP in Australia that was shown by experts to differ from a proper evidence-based review of the medical literature, so making it biased. It was, moreover, at odds with the more recent AAP policy statement in 2012 that did evaluate all of the medical evidence. By “gray area” is the reviewer referring to the rights to cultural circumcision? (as opposed to religious or medical circumcision). The reviewer raises a very interesting analogy, namely neonatal screening. We have therefore added the following as a new 2nd to last paragraph to the subsection entitled, “Ethics and human rights” as follows:

“In some ways, neonatal screening for genetic disorders presents comparable legal, ethical, public health and parental rights issues [15]. While medical practitioners are compelled to advise parents of the importance of screening, and most states have newborn screening statutes, these vary from being compulsory to laissez faire, allowing parents or guardians to refuse. An important difference is that, “no newborn screening test involves a communicable disease” [15]. Whereas there is no culture of refusal to screen neonates, there is a secular culture of opposition to infant male circumcision.”

REVIEWER’S COMMENT: Whereas there is no culture of refusal to screen neonates, there is a secular culture of infant male circumcision. Late in the 19th century and based on a medical theory popular at the time, circumcision became very popular in the English speaking world. In a way, it has become part of the contemporary Anglo-Saxon culture, to which Tasmania belongs.

**AUTHORS’ RESPONSE: We agree with the reviewer’s excellent highly
perceptive statement. We have therefore now included a sentence stating this in at the last paragraph of the subsection on “Ethics and human rights” – see response immediately above and as follows:

“Whereas there is no culture of refusal to screen neonates, there is a secular culture of opposition to infant male circumcision.”

In response to the reviewer’s comment about Anglo-Saxon culture and Tasmania we have now incorporated this point into a new 1st paragraph of the Background that also addresses a later comment by the reviewer, so making each of these best placed together in the same opening paragraph of the main text as follows:

“In response to the reviewer’s comment about Anglo-Saxon culture and Tasmania we have now incorporated this point into a new 1st paragraph of the Background that also addresses a later comment by the reviewer, so making each of these best placed together in the same opening paragraph of the main text as follows:

“Circumcision of male children in the English-speaking world became popular late in the 19th century because of a medical view at the time [1]. With the exception of the upper classes, it then declined in the United Kingdom after the 1940s when the National Health Service withdrew coverage for it, and in Australia began to decline in the 1970s because of a sudden change in pediatric policy that has continued to lack accordance with the ever-growing medical evidence [2]. In contrast infant male circumcision has remained popular amongst Americans of Anglo-Celtic heritage [1], which is also the predominant ethnic group in Australia. Currently, amongst Australian states and territories, infant male circumcision is least common in Tasmania and most common in Queensland, these being the coldest and most tropical states, respectively [3]. Nevertheless, the practice had until recently long been part of Tasmanian culture just in the rest of Australia’s dominant Anglo-Celtic culture and Australia’s indigenous people.”

REVIEWER’S COMMENT: You may debate the practice from within medical science – whether it is beneficial, harmful or innocuous; you may debate at the cultural level – whether the state should interfere with parental choice to circumcise, assuming it is indeed harmful. In my view, as long as the first debate is going on, the latter one is quite meaningless.

**AUTHORS’ RESPONSE: We agree. There has been a gradual shift in medical thinking as a result of a continual outpouring of medical evidence attesting to the benefits. This has led to a dilution of arguments opposing the procedure, including those directed at the circumcision of male infants. Since the medical evidence is now compelling, as can be appreciated from the AAP’s 2012 policy statement, arguments by opponents appear to have largely retreated to more nebulous issues of legal and ethical concerns.

REVIEWER’S COMMENT: The analogy made with vaccination is interesting. In Jacobson v. Mass, US constitutional law upheld the “police power of the state” in relation to compulsory vaccination. But whereas non-vaccination might free-ride on the herd immunity resulting from the vaccination of others and also put them at risk, refusal to screen and refusal of circumcision carries risk (even if minor in terms of either chances or severity) only to one’s own child.

**AUTHORS’ RESPONSE: WE thank the reviewer for this knowledgeable comment. We have therefore now added a sentence at the end of paragraph 2 of
the subsection entitled, “Ethics and human rights” that reads:

“While a century ago US constitutional law has upheld the “police power of the state” in relation to compulsory vaccination [36], in democratic societies today neither vaccination nor childhood male circumcision are ever likely to be made compulsory.”

We agree with the reviewer that, depending on the level of community vaccination, children who are not vaccinated may “free-ride” on the herd immunity of others, it has also meant infections and deaths in infants that would not have occurred otherwise. While refusal to screen neonates for genetic diseases poses no harm to the health of others, failure to circumcise males will increase the acquisition and spread of communicable infections transmitted sexually in adolescents and adults of both sexes. We have therefore added in subsection “Ethics and human rights”, 1st paragraph, lines 20-21:

“… and similarly failure to circumcise boys in a population will create a risk for future sexual partners ...”

REVIEWER’S COMMENT: In Common Law, the power of the state to interfere is derived from the doctrine of Parens Patriae, according to which the Crown is the ultimate responsibility for the welfare of incompetent persons. Whereas in American law the state interferes only when parental choice poses “imminent danger” to the child, in Common Law, the state is expected to take a position (even if not to impose it) whenever the welfare of a minor is at stake. This distinction looms large over the diverse ways in which controversial interventions, such as separation of conjoined twins and heart-transplantation, has been treated in American and UK legal systems. It is evident that infant male circumcision, even if considered harmful by some, does not pose “imminent danger” to the baby.

**AUTHORS’ RESPONSE: We agree, and have now added this as a paragraph at the beginning of the subsection entitled, “Criminality”, which states:

In Common Law, the power of the state to interfere is derived from the doctrine of Parens Patriae, according to which the Crown has the ultimate responsibility for the welfare of incompetent persons. Whereas in American law the state interferes only when parental choice poses “imminent danger” to the child, in Common Law, the state is expected to take a position (even if not to impose it) whenever the welfare of a minor is at stake. This distinction looms large over the diverse ways in which controversial interventions, such as separation of conjoined twins and heart-transplantation, has been treated in American and British legal systems. It is evident that infant male circumcision, even if considered harmful by some, does not pose “imminent danger” to the baby.”

REVIEWER’S COMMENT: The authors criticize the TLRI for failing to meet the methodological standards of the AAP and for failure to comply with it as well. I wish the authors provided direct and more systematic argumentation. After all, one cannot expect a small and poor jurisdiction such as Tasmania to rise to the standards of the largest and richest medical organizations in the world. It sounds a little condescending to expect an independent and remote island to be in line
with American standards. It might be interesting to learn more about the Australian (Tasmanian?) legal and ethical tradition regarding controversial healthcare related choices made by parents on behalf of their children.

**AUTHORS’ RESPONSE:** The TLRI is an authoritative academic law body that is part of the University of Tasmania. There is no reason why the TLRI would not be able to meet the intellectual standards of the AAP even though these are quite different kinds of bodies. The standards required of a law body and its graduate students, as well as the English lawyer who took up the position of Commissioner for Children as an independent posting by the Tasmanian state government, should be quite high. While we would agree that the standards adopted by the AAP are without doubt superior to those of equivalent body in Australia, namely, the Division of Paediatrics and Child Health of the Royal Australasian College of Physicians (RACP), who have developed policies on the topic of infant male circumcision, we consider making a comparison of the AAP and the TLRI to be inappropriate given that these are professionally discordant organizations – one concerning the law and the other being medical in nature. We do not agree that relative level of wealth of each is relevant, especially as it is intellectual prowess, not financial, that is under consideration. One can but read the TLRI report to recognize that despite its flaws, it is professional. It uses appropriate terminology, setting out and citation of references, as one would expect from an academic enterprise.

The reviewer’s suggestion about adding more on the legal and ethical tradition of circumcision in Australia (and thus Tasmania) is appreciated. We have therefore added a new 1st paragraph to the Background section, as was referred to above, namely:

“Circumcision of male children in the English-speaking world became popular late in the 19th century because of a medical view at the time [1]. With the exception of the upper classes, it then declined in the United Kingdom after the 1940s when the National Health Service withdrew coverage for it, and in Australia began to decline in the 1970s because of a sudden change in pediatric policy that has continued to lack accordance with the ever-growing medical evidence [2]. In contrast infant male circumcision has remained popular amongst Americans of Anglo-Celtic heritage [1], which is also the predominant ethnic group in Australia. Currently, amongst Australian states and territories, infant male circumcision is least common in Tasmania and most common in Queensland, these being the coldest and most tropical states, respectively [3]. Nevertheless, the practice had until recently long been part of Tasmanian culture just in the rest of Australia’s dominant Anglo-Celtic culture and Australia’s indigenous people.”

**REVIEWER’S COMMENT:** As a last note: It is the second time I am asked to review for an “open access journal” that levies publication fees from authors (in the first time I was unaware of this). I have many doubts about the ethical and methodological probity of this format; especially I am worried about promising young scholars who cannot afford the very high price tag. Even those who come from affluent societies often struggle hard to eke a living and to break their way in
the competitive academic world. In theoretical papers such as this one, the publishing fee might become a genuine barrier on the expression of important ideas, that otherwise do not involve significant pecuniary expenses. The 200 long word section “authors information” does not tell the reader how much each author has paid for publication, and perhaps about the source of payment (a grant? personal salary? a graduate students’ stipendship?). I feel sad raising such questions, which, in light of the format become self-evident.

Y. M. Barilan
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**AUTHORS’ RESPONSE: Since this comment does not apply to the contents of our manuscript we suggest that no response may be required.

COMMENTS BY EDITOR

EDITOR’S COMMENT: In addition to the reviewers comments there are also some editorial issues regarding the manuscript. Firstly, being a debate article, some attempt to address the issues on both sides of the argument should be made in order to make the debate more balanced. Aside from the arguments presented, an engagement with the bioethical aspects of the topic may help to provide a more balanced approach. Secondly, while the AAP guidelines are indeed important, they are at this stage only guidelines and not law, and this should be kept in mind throughout the manuscript. In this regard, these guidelines are based on the American experience not the Tazmanian or Australian experience, which is where the TRLI proposal relates to.

**AUTHORS’ RESPONSE: We appreciate the Editor’s advice and have now expanded what we say so as to better address both sides of the debate. As a result our presentation is now more “balanced”. For example see discussion of harm from circumcision, imposition on child of an irreversible bodily change before the child is able to consent and addition of references to statements by additional bioethicist having a different view to each other. Some of this new material should be apparent from our responses to the reviewers.

One example of our attempt to introduce both sides of the debate has been by the addition to the last paragraph of the subsection “The AAP policy” the following:

“In contrast, a review article published at the same time as the AAP report appeared concluded, “There is a lack of evidence both in favor of and against recommending routine neonatal circumcisions in the United States” [1]. It questioned, ‘whether we should continue unwarranted male circumcisions, especially when the major tenet of medical ethics is ‘do no harm’. The article failed to account for the substantial medical benefits of male circumcision reported during the previous five years [2-7], especially that from several high quality male circumcision trials [8]. Its reliance on the somewhat ambivalent 1999 AAP policy statement may explain its conclusion.”

In addition to what the reviewers asked us to add regarding the other side of the
bioethical arguments, we have added the following to the subsection “Ethics and human rights”:

Paragraph 2 of that subsection (see pages 11-12): “Using as a basis of natural law and intuition, an articulate, albeit prima facie, argument has been made for a right to bodily integrity when it comes to circumcision [9]. Another author, by ignoring the substantive pediatric benefits [2,3], stated, “the only significant [benefits] (reduced risk of penile cancer and sexually transmitted infections) do not apply until adulthood” [10]. Claims that circumcision harms penile sensitivity [10] have no broad evidential support [11]. On the other hand, an ethicist has pointed out that, “If circumcision is a net benefit to a child, parents do not violate his rights to bodily integrity or self-determination by circumcising him” [12]. Another ethicist has provided compelling arguments in support of his contention that, “appealing to this right [to bodily integrity] in the context of circumcision entails a misunderstanding of the nature of this right” [13]. Since infant male circumcision is not prejudicial to the health of children, but instead is beneficial, it does not violate Article 24 (3) of the United Nations Convention on the Rights of the Child.”

Paragraph 4, lines 12-23, of that subsection (see page 13): “At the same time, there are no long-term adverse effects of a successful medical circumcision on sexual function, sensitivity, sexual sensation or satisfaction [11]. It is, “disingenuous to suggest that the procedure is comparable at both ages” [20]. The latter ethical evaluation went on to point out, “An adult cannot consent to his own infant circumcision”. The author also referred to the fact that, “Many nations that condemn circumcision are not as quick to condemn other comparably invasive and dangerous non-therapeutic procedures” [20]. Examples of procedures performed on children that are not medically necessary include cosmetic orthodontia, correction of harelip, surgery for ankyloglossia, treatment of short statute by growth hormone injections and removal of supernumerary digits [20]. Given its substantive health benefits, it thus seems curious that circumcision seems unique among childhood procedures in attracting controversy [20].”

Paragraph 6 of that subsection (see last paragraph on page 14): “Religious and cultural reasons for infant male circumcision aside, Article 24(1) of the UNCRC calls upon parties to the agreement to, “recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services”. An ethicist refutes justice arguments that a fundamental right to bodily integrity exists warranting the abolition by the state of parental rights to have their son circumcised, pointing out that, “neither the UNCRC nor the ethics literature provides an authoritative rule for resolving conflicts between rights” [20]. The author goes on to say, “Art. 24, §3 does not in fact call for abolishing infant circumcision. First, its language does not do so. The net health effects of infant circumcision are positive, at least according to the AAP and WHO. If infant circumcision is not prejudicial to the health of children, it does not violate Art. 24, §3. Second, Art. 24, §3 never was intended to eliminate circumcision. Almost all
Islamic states have signed or ratified UNCRC, as has Israel. They never would have agreed to the abolition of an essential practice of their established religions. In fact, one can construe Art. 24, §3 to require circumcision.” Article 24 (3) seeks to abolish, “traditional practices prejudicial to the health of children” [21]. Since infant MC is not prejudicial to the health of children, and in fact is beneficial, it does not violate Article 24 (3) [20]. On the other hand, since, “abstention from circumcision is traditional in the UK and Scandinavia”, the tradition in those countries, “is conducive to transmission of various serious illnesses, including HIV, among sexually active minors” [20]. As such, a tradition of non-circumcision could be considered as prejudicial to the health of children. The author then asserts that, “Most parents care deeply for their children and try to do what is best for them. Parents generally are more concerned for their children than are activists who do not know the child but who find their parents’ choices distasteful,” whereas parents who are opposed to infant male circumcision appear willing to “tolerate dissemination of an incurable disease to preserve the prepuce” [20].

It should be appreciated that we have now added substantial new discussion of the bioethical aspects. This has included new arguments with references arguing why circumcision breaches bioethical principles such as the article by Dekkers et al. suggested by reviewer 5 and counter-arguments by other researchers, including the reviewer [ref 49], as suggested by him. In addition we present arguments on the issue by Jacobs [ref 46] published since submission of our manuscript. His article was in a recent issue of J Med Ethics that contained a number of articles on the ethics of infant male circumcision, many of them arguing against the procedure. We have now cited many of these (namely, Johnson [ref 20], Savulesco (ref 21], Davis [ref 22], Ben-Yami [ref 23], Darby [ref 39], as well as Robinson [ref 24] (the latter suggested by reviewer 3) and Benatar [47]. The diversity of arguments they make is now presented and discussed in paragraph 2, lines 1-8 of the subsection “The 2012 AAP policy” (see page 10) as follows:

“In contrast, a review article published at the same time as the AAP report appeared concluded, “There is a lack of evidence both in favor of and against recommending routine neonatal circumcisions in the United States” [23]. It questioned, “whether we should continue unwarranted male circumcisions, especially when the major tenet of medical ethics is ‘do no harm’.” The article failed to account for the substantial medical benefits of male circumcision reported during the previous five years [6,24-28], especially that from several high quality male circumcision trials [29]. Its reliance on the somewhat ambivalent 1999 AAP policy statement may explain its conclusion. Similarly, the TLRI’s comment that “no authoritative health policy maker in any jurisdiction with a frequency of relevant health conditions as low as that in Australia recommends circumcision as an individual or public health measure” has now been made obsolete by the publication of the authoritative AAP policy in 2012.”

We trust the Editor will agree that all of this extra information on both sides of the debate has made our manuscript more inclusive and balanced.
As to the AAP’s new policy being guidelines not law and the American versus the Australian experience, we believe that our new 1st paragraph of Background is helpful as it highlights the cultural and historic similarity of each country. In addition we have now added a new last paragraph to the subsection “Criminality” that states:

“While the AAP’s policy provides guidelines, it did not seek the imprimatur of the law for its advice to its constituents, namely US pediatricians. Although its new guidelines are based on American experience, it should be appreciated that the practice, preventive health issues, culture and history of infant male circumcision in each jurisdiction are quite similar.”

Finally, we consider that we have made it clear that the ideal of a balanced approach needs to be considered in the context of space limitations and the fact that the article is a critique of a report that relies upon outdated and now inaccurate medical opinion and loosely applied legal authority.

Once again we wish to express our appreciation for the helpful suggestions made by the reviewers and Editor.