

The Limits of the Law

Comparative Analysis of Legal and Extralegal Methods to Control Child Body Mutilation Practices

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Abstract: Throughout history and throughout the world, a wide range of body mutilation practices have been carried out by adults on children. Many such practices involve sexual mutilation, including female genital mutilation in present-day Africa, male circumcision in the present-day United States, penile skin stripping in nineteenth-century Arabia, female genital mutilation in the twentieth-century United States, subincision among Australian aborigines, and others. Practices involving non-sexual body mutilation include footbinding in China, infant cranial deformation in ancient Central Asia, infant swaddling in ancient Central Asia, forced bone deformation in Malaysia, and others. Arguably includable here is the drastic practice of infanticide, for which (obviously) no benefit to the individual is claimed but which has taken root in a wide variety of cultures and periods. I will examine infanticide as practiced in nineteenth-century India. These practices are allegedly performed for the benefit of the child but result in overall harm to the child while producing actual or imagined benefits only for others, i.e., parents, surgeons/midwives, and/or society. The practice adopted by a particular culture receives social, cultural and/or legal endorsement within that culture's set of mores and values. Analytical tools provided by a range of disciplines including law, sociology, human rights, anthropology, and psychology are applied to explore how a broad variety of bizarre and extremely harmful practices on children are justified and rationalized into consistency with a culture's asserted values.

INTRODUCTION

Throughout history and throughout the world, a wide range of body mutilation practices have been carried out by adults on children. Many such child body mutilation practices involve sexual mutilation, including female

genital mutilation in present-day Africa and other places, male circumcision in the present-day United States, penile skin stripping in nineteenth- and twentieth-century Arabia, female genital mutilation in twentieth-century United States, subincision among Australian aborigines, and others. Practices involving non-sexual body mutilation include footbinding in China, infant cranial deformation in ancient Central Asia and numerous other places around the world, infant swaddling in ancient Central Asia, and others. Included here by extension is the drastic practice of infanticide, for which, obviously, no benefit to the individual is claimed. Infanticide has taken root in a wide variety of cultures and periods but will be examined as found in nineteenth-century India.

This paper will focus on five representative child body mutilation practices: artificial cranial deformation, Chinese footbinding, female infanticide in nineteenth-century India, female genital cutting, and male genital cutting, both in North America and in developing countries. The undeniably profound differences between the various cultures that engaged in, and in some cases still engage in, these disparate practices only highlight the compelling nature of the analogies that we shall consider. In preparation for a comparison of legal and extralegal approaches to controlling (and perhaps eventually eliminating) child body modifications, we will delve into a number of pertinent sociological, anthropological, historical, economic, medical, and psychological contexts for each modification: the setting in which the child body modification occurs (geographic, chronological, physical location, methods employed, persons involved, etc.), the age of the child, class and economic issues relevant to the mutilation, gender of the child, complications of the mutilation, pain caused and cultural norms related to the pain, roots or underlying social factors contributing to the mutilation, explicit purposes of the mutilation from the point of view of those performing the procedure, mythology relevant to the mutilation, and issues related to sexuality and the mutilation. As we shall learn, appreciating all these contexts is important in developing effective legal and/or extralegal approaches to controlling these mutilations.

All over the world, people recoil and are repulsed by each other's child body mutilation practices while also justifying their own practice (if any) and disapproving of cultures that have not adopted it.¹ Child body mutilation practices are allegedly performed for the benefit of the child but result in overall harm to the child while producing actual or imagined benefits only for others — parents, surgeons/midwives, and/or society. Analytical tools provided by a range of disciplines will be applied to explore how a broad variety of bizarre and extremely harmful practices on children are justified and rationalized into consistency with a culture's asserted values. A specified subset of these values can usefully be phrased as and viewed as

legal norms regardless of the particular society's level of formalism. According to E. Adamson Hoebel, law performs four critical functions "essential to the maintenance of all but the very most simple societies:"

1. Defining relationships among the members of a society
2. Taming naked force and directing force to the maintenance of order
3. The disposition of trouble cases as they arise
4. Redefining relations between individuals and groups as the conditions of life change.²

Each particular child body modification practice receives social, cultural and, therefore, under certain circumstances, legal endorsement within the practicing culture's set of mores and values.

A culture's legal (and extralegal) endorsement of its chosen form of child body modification, however, must eventually come into crisis, even if the practice may persist for a thousand years (as with footbinding) or even thousands of years (as with artificial cranial deformation, and perhaps female infanticide in some settings). Sooner or later, activists will emerge to challenge child body mutilations based on alternative legal norms that will be asserted to be more universal and more accurate than those claimed by the culture as justifying the mutilation. Paths to control and perhaps eventual elimination of the mutilation may follow legal approaches, extralegal approaches, or a combination of the two. We will review historical examples of legal and extralegal efforts to control past child body mutilations, and will analyze prospects for control of extant mutilation practices. We will find that while legal and extralegal approaches each have certain distinctive advantages and disadvantages, a fortuitous blend of both maximizes the chances of a successful outcome.

1. ON THE APPLICABILITY OF LEGAL NORMS TO "PRIMITIVE" CULTURES

Child body mutilation practices persist despite (and because) of their extreme harmfulness to the children and to society as a whole because they are simultaneously associated in complicated and interconnected ways with real or imagined benefits for and connections to society along a variety of axis — cultural, economic, class-related, medical, mythological, psychological, sexual, religious, "scientific," etc. The rituals that various cultures develop may well be socially acceptable means of processing deep-

seated primitive fears and impulses that would otherwise induce great conflict and anxiety.³ Cultures seem to institutionalize practices on children in part to promote the cultivation or preservation of desired values in society as a whole or among adults, including valor, pride, bravery, fulfillment of the assigned sexual role, religious devotion, willingness to sacrifice for the good of society, and countless others.

Applicability of the concept of law does not require “advanced” societies. Any society, however “advanced” or however “primitive,” normalizes its own distinctive rules about childrearing, property, family structure, and other essential issues. Certain behaviors are allowed, others are not. While not all rules give rise to legal norms, all legal norms are rules. According to one useful definition of law, at whatever level of technology and whatever level of legal formality, a legal norm exists whenever a rule’s neglect or violation will be regularly met, in threat or in fact, by the application of physical force by an individual or group possessing the socially recognized privilege of so acting.⁴ We shall see how legal norms related to each society’s chosen form of child body mutilation diffuse themselves into many different levels of society and become so ingrained that they are viewed as cultural or religious or mythological. Their normative and behavior-controlling (legal) aspects then become submerged. Since the mere passage of decades in one culture may suffice to dramatically transform child-raising norms,⁵ it is not surprising that norms may vary even more strongly between cultures separated by centuries and continents. In many other societies (indeed some would argue in all other societies⁶⁻⁷), these take on forms involving some brand of child abuse and/or child body mutilation. In the societies we will examine, one specific form of mutilation has been adopted. As will be seen, all the societies on which we are focusing, diverse though they are, share the common element of ordering their social and legal precepts so as to smooth the way and indeed, facilitate the performance of the particular form of mutilation that they endorse. Appreciation of the various dimensions of the mutilations (setting, age, gender, class/economics, pain, roots, purposes, mythology, sexuality) is necessary to set the stage for consideration of approaches to control and perhaps eventual elimination of the practices. Legal norms thus can serve both to justify or preserve a mutilation and also to challenge or control it.

1.1 Setting

1.1.1 Artificial Cranial Deformation

A steady, continuous pressure is applied to shape the skull as befitting the custom of the society.⁸ The six principal methods employed were (and are):

1. Molding the head of the infant
2. The application of boards to the head
3. The application of bandages to the head
4. The application of pads to the head
5. The application of stones to the head
6. The tight lashing to the cradleboard itself with the purpose of inducing deformation.⁹⁻¹⁰

Artificial cranial deformation was widespread from early times on every inhabited continent, including in the New World and on some of the Pacific islands, including Indonesia.¹¹⁻¹² The distribution of cranial deformation extended from western Asia, across Eastern Europe, through the Crimea, along the Danube, into the Balkans, Hungary and Germany, and Hawaii.¹³⁻¹⁴ It was practiced by numerous Native American tribes.¹⁵ Well into the nineteenth century, it was common in the Caucasus region of Russia,¹⁶ throughout most of France, in Italy and elsewhere in Europe.¹⁷ The custom still survives from Greenland to Patagonia.¹⁸

1.1.2 Footbinding

Footbinding began in about the tenth century and endured for a millennium.¹⁹ It was primarily practiced in China and Taiwan but a less severe form also cropped up in Korea.²⁰ Every night, mothers wrapped strips of cloth two inches wide and up to ten feet long around their girls' feet to bind the feet so tightly that the bones of the foot would be broken and the smaller toes forced under the foot, while the large toe was left unbound.²¹

1.1.3 Female Infanticide

Infanticide has hardly been limited to the relatively well-documented case of nineteenth-century India. According to Langer, among non-Judeo-Christian peoples, infanticide, from prehistoric times, has been the accepted procedure for disposing not only of deformed or sickly infants but of any newborns who might strain the resources of the individual family or the larger community.²² According to DeMause, firm evidence for it has been found in early Egypt, Israel, Babylonia, Greece, Crete, Algeria, Sicily, Sardinia, Sumer, Britain, Ireland, Denmark, China, India, Mexico, Peru, Hawaii, Tahiti, and in fact virtually every early state.²³ Infanticide was often employed as a late and (for the mother) safer form of abortion. In Hellenistic Greece, infanticide, chiefly in form of the exposure of female babies, was engaged in to such an extent that the average family was exceptionally small.²⁴ Some data shows sex ratios of over two to one.²⁵ The Romans continued the practice.²⁶ Many cultures found that illegitimate children could be easily put out of the way by exposure on a hillside, abandonment in the streets, by being tossed down a privy hole, or by countless other methods.²⁷

In Phoenicia, child sacrifice was commonplace. The actual burning of the child took place while music was played to drown out any lamentation by the parents. Children, probably already drugged or dead, were incinerated one by one.²⁸

Turning now to nineteenth-century India, as many as 20,000 infants were annually destroyed in the districts Malwa and Rajputana alone.²⁹ Infanticide is more or less exclusively a Hindu practice; neither Muslims nor Christians engage in any noticeable levels.³⁰⁻³² In 1805, for example, there were no young females whatsoever to be found among residents of the Jadeja district of northwestern India, one of the places where female infanticide was most endemic.³³ Nearly three decades later, in the census of 1834, for every young female there were still two young males among the Jadejas.³⁴ Even thirty years later, it was still common for individual villages to have absolutely no females of young age.³⁵ Residents of Narainpur claimed that no girl had been born since the English took possession of India!³⁶ Indians employed various methods to commit female infanticide: (1) various poisons, (2) suffocation, (3) exposure, (4) placement of the umbilical cord on the mouth of the infant immediately after birth, (5) throwing the newborn daughter into a vessel of milk immediately after birth (the vessel was kept available nearby for this specific purpose) or else drowning her in a hole filled with milk, (6) withholding nourishment, (7) burying the infant alive, and (8) stifling her by filling her mouth with ashes.³⁷⁻⁴²

Indian infanticide is not merely of historical importance but is rather an ongoing reality in the new millennium. Even today, India is struggling with

preferential neglect of female children,⁴³ as well as the more invisible but no less sinister practice of amniocentesis followed by selective abortion of fetuses that are determined to be female.⁴⁴⁻⁴⁶ Recent research demonstrates the existence of wholesale infanticide among the Kallars of Madurai district, whereby fully 75% of female births are resulting in infanticide.⁴⁷ In 1993, as discussed more fully below, the latest in a series of laws was passed in an attempt to eradicate amniocentesis-driven selective abortion.⁴⁸ One particular careful analysis led to a conclusion that in the villages studied, infanticides, either through direct child murder or via sex-selective amniocentesis, had occurred in 40% to 50% of families in the last two years.⁴⁹

For those of us who may be tempted to feel smug about the prevalence of female infanticide in the developing world, it should be noted that, in the nineteenth century, England itself faced a fierce epidemic of infanticide, albeit in a less gender-selective form than that found in its territory of India. Benjamin Disraeli wrote as early as 1845: "Infanticide is practiced as extensively and legally in England as it is on the banks of the Ganges; a circumstance which apparently has not yet engaged the attention of the Society for the Propagation of the Gospel in Foreign Parts."⁵⁰ Estimates of annual levels of infanticide in London alone around 1860 range from 300 to 1,200.⁵¹ Eighteenth-century Scotland also experienced a virtual epidemic of infanticide.⁵²

1.1.4 Female Genital Cutting

Although many authorities recognize either three or four principal types of female genital cutting, Lightfoot-Klein identifies five: mild sunna, modified sunna, clitoridectomy, excision, infibulation, pharaonic circumcision, and introcision.⁵³ This author adds two more types of special importance in the Sudan, intermediate and recircumcision or refibulation.⁵⁴ Female genital cutting has taken place on every inhabited continent, in Asia, Australia (among aborigines), Europe (including Britain and Russia), Latin America (Peru, Brazil, and some parts of Mexico), the USA, Africa, the Roman Empire, and amongst Oriental and African Jews, Christians, and Muslims.⁵⁵ Currently, it is distributed "more or less contiguously across a zone running from Senegal in the west to Yemen in the east and from Egypt in the north to Tanzania in the south."⁵⁶ According to Mackie, "with explainable exceptions, female genital cutting is unique to that zone."⁵⁷ It is seen in all levels of society, from university-educated to the simplest peasant, in city and country.⁵⁸ In the west, clitoridectomies have been used as a treatment in medical science.⁵⁹ In nineteenth-century Britain and early twentieth-century North America, some doctors used this procedure as a cure for masturbation and various mental conditions.⁶⁰ Articles in popular

American women's magazines recommended the procedure as recently as 1976.⁶¹⁻⁶² Respected medical journals also touted female genital surgeries well into the seventies.⁶³⁻⁶⁴

1.1.5 Male Genital Cutting

Five major types of male genital cutting exist: incision, infibulation, circumcision, subincision, and testicular extirpation.⁶⁵⁻⁶⁶ For the purposes of this paper, we are focusing on the most persistent and widespread practice, male circumcision. Today male circumcision performed in the newborn period, during childhood, or at puberty is practiced by less than 20% of the world's population.⁶⁷ The United States is at this time the only Western country that extensively practices nonreligious circumcision.⁶⁸

Male circumcision is being or has been practiced by a wide variety of primitive as well as advanced peoples throughout recorded history. It also has been found on all inhabited continents, occurring in Asia, Africa, North and South America (among the native populations), Europe, among Australian Aborigines, and in Polynesia. It was practiced by the ancient Aztecs and Mayas as well as the ancient Egyptians, from whom the Phoenicians, the Arabs, and probably the Jews derived the practice. In most cultures, it represents a rite of passage into adulthood and/or out of childhood, often as an immediate prerequisite to mating and marriage.⁶⁹

1.1.6 Female Genital Cutting and Male Genital Cutting

In many different cultures, when genital cutting is associated with initiation or a rite of passage, but not normally in the developed world or when performed on infants, a striking number of commonalities exist among the numerous different cultures performing genital cutting around the world. Lightfoot-Klein created a useful cross-cultural synthesis of similarities in attitudes and misconceptions about male and female sexual mutilations on a number of axes including: minimization of damage and pain, conceptualization of the cutting as promoting beautification, invention of false medical indications, the misconceptions that the mutilation promotes hygiene, prevents future problems, improves sex, or is universal, the medicalization of the cutting, and the denial of long-term harm.⁷⁰

The author's review of countless reports on different rituals associated with male and female genital cutting reveals a remarkable number of common elements present in many different cultures and ceremonies (though none of these is present in all forms of genital cutting), including: singing, dancing, gathering initiates together as a self-conscious group with an identity distinct from those who did not undergo this particular genital

cutting ceremony, enduring pain without reacting (common to virtually all cultures), ensuring initiators are of the same sex as the initiates (common to virtually all cultures that have initiators)⁷¹ and initiators are themselves graduates of the initiation ceremony,⁷² including playful elements of sexuality in the ritual, wearing new clothes following the ceremony, introducing concepts of death and rebirth and entering adulthood and leaving childhood, promoting the concept that the uninitiated individual is ugly and/or childish until he/she is cut, spending time in seclusion after the ceremony and prior to the return of the initiates to the larger society, teaching the initiates many things concerning their people during their seclusion (history, traditions, beliefs, or how to raise a family, etc.), holding a coming-out or “graduation” ceremony after the initiation is completed and followed by the initiates rejoining the larger community, teaching the concept that the initiates can never look back to the time before their initiation, requiring initiates (be they male or female) to understand the importance of enduring the pain stoically, feasting that follows the ceremony, and marking the initiation as a change in the status of the initiate. Doubtless other shared elements also exist.

Whatever one’s beliefs regarding the ethics of male or female genital cutting of children, with or without their assent, one cannot help but be struck by the profound level of integration of these ceremonies into the cultural lives of the people, as well as the striking concordance in certain basic elements despite the impossibility in many cases of these cultures on different continents ever having directly transmitted information to each other. One can only surmise that the roots of these practices in individual and collective psychology run very deep. Caldwell, et al., have noted that the geographical coincidence of male and female genital cutting for a vast area north of the equator in Africa means that the two practices were probably seen and justified in much the same way, and it is relatively unlikely that female genital cutting was understood largely in terms of male control of female sexuality.⁷³

1.1.7 Footbinding and Female Genital Cutting

Mackie has pointed out a number of remarkable parallels between footbinding and infibulation:

Both customs are nearly universal where practiced; they are persistent and are practiced even by those who oppose them. Both control sexual access to females and ensure female chastity and fidelity. Both are necessary for proper marriage and family honor. Both are believed to be sanctioned by tradition. Both are said to be ethnic markers, and distinct ethnic minorities may lack the practices. Both seem to

have a past of contagious diffusion. Both are exaggerated over time and both increase with status. Both are supported and transmitted by women [and] are performed on girls about six to eight years old...Both are believed to promote health and fertility. Both are defined as aesthetically pleasing compared with the natural alternative. Both are said to properly exaggerate the complementarity of the sexes, and both are claimed to make intercourse more pleasurable for the male. Important general differences between Imperial China and Sudanic Africa are elite concubinage in China vs. commonplace polygyny [husband with multiple wives] in Africa, exogamy [marriage outside one's social group] vs. endogamy [marriage within one's social group], and agrarian and commercial vs. pastoral and horticultural production. Important similarities...are their histories of imperial female slavery and their rules of emancipation for the children of concubines.⁷⁴

1.1.8 Footbinding, Female Genital Cutting and Male Genital Cutting

Rationales for footbinding, female genital cutting, and male genital cutting include cultural conceptions of femininity/masculinity, notions of marriageability and social acceptance, and cultural identity. Attitudes and misconceptions shared by these three mutilations include minimization of damage and pain, conceptualization of the cutting as promoting beautification, invention of false medical indications, the misconception that the mutilation improves sex, and the denial of long-term harm.

1.2 Age

1.2.1 Artificial Cranial Deformation

Artificial cranial deformation was possible only in the first years of life when the cranium is soft and malleable and the sutures are not closed.⁷⁵ It is only at this time that the cranium is plastic enough to yield to continuous pressure over considerable periods of time.⁷⁶

1.2.2 Footbinding

Little girls were most commonly forced to start footbinding between the ages of five and seven, when their bones were still flexible, their life force or chi was believed to start flourishing, and their minds were supposedly mature enough to understand the importance of bodily discipline.⁷⁷⁻⁷⁸ However, geographic and class factors did strongly affect the timing for

initiating the process of shaping the “three-inch golden lotus.” The girl’s age at first binding, the tendency to unbind later in life, and average age at unbinding all differed regionally.⁷⁹ Sichuan girls, for example, were bound at an average of 6 years of age, while the average Fujian girl was not bound until she was almost 12.⁸⁰ The upper class started binding as early as age 3 and the peasantry waited as late as age 12 or 13.⁸¹ Footbinding typically ended between the ages of 13 and 15.⁸²

1.2.3 Female Infanticide

In India, female infanticide was normally carried out minutes or hours after birth. It was considered essential that it be done before the first nursing so as to prevent bonding between mother and child from occurring.⁸³

1.2.4 Female Genital Cutting

The most common age for female genital cutting is between the ages of 8 and 12, although ages vary as widely as from eight days of age in Ethiopia to even after marriage or for the first time after bearing children, as with some Swahili-speaking people.⁸⁴

1.2.5 Male Genital Cutting

In the United States, circumcision most commonly occurs within days after birth.⁸⁵ In Africa, depending on the group, it may occur anywhere between the ages of 7 to 8 days (Morocco)⁸⁶ through the age of 25 years (among the Xhosa of South Africa).⁸⁷ As an illustration of the degree to which these practices can vary, it should be noted that the Konso of Ethiopia use circumcision not to mark the beginning of sexual maturity but the end of sexual life. Their men may be in their 60s or older when the surgery is performed and they often become transvestites following the procedure.⁸⁸

1.3 Class/Economics

1.3.1 Artificial Cranial Deformation

In most if not all settings where it was practiced, artificial cranial deformation was most common among the upper classes, and often served as a marker of class distinction.⁸⁹⁻⁹⁰ One may recall the highly distorted, egg-shaped skull of Nefertiti, which millennia later still seems to carry an appeal for many.⁹¹ At Tikal, Guatemala, artificial cranial deformation was practiced

by elite women at least a generation before non-elite women began the practice. The trait also appears in elite men prior to men of non-elite status.⁹²

1.3.2 Footbinding

One interesting feature of footbinding (which is not true in general of the other practices examined in this paper) was that it was a mechanism, and in many cases the only mechanism, allowing the lower classes a realistic chance to move up the social ladder in later generations. Girls with particularly well-bound feet were potential concubines, maids, or even wives for nobility and wealthy merchants.⁹³⁻⁹⁴ Footbinding as a way to jump up the class ladder was a long shot because the number of pretty poor girls greatly exceeded the number of rich potential grooms to marry them. Yet, this was a virtually expense-free gamble open to anyone with a female child. All her family would lose was the girl's ability to do hard labor. The frequency of footbinding suggests that many parents were willing to forego that labor and roll the dice.⁹⁵

Gradations related to class tended to be found not only in the age at which footbinding began (as noted above), but also in the level of disability caused by footbinding. The very rich could afford for the women to be in such a state of helplessness that they could not walk. Their lives, therefore, tended to be characterized by immobility, leisure, and tedium. When they did need to travel, they would be carried on backs of natural-footed female slaves. By comparison, middle-class women were able to walk four or five miles a day. The upper classes were also the first to engage in footbinding,⁹⁶ as well as being among the leaders of its elimination.⁹⁷

1.3.3 Female Infanticide

In its setting in nineteenth-century India, the roots of female infanticide lay deep in the institutions of caste and marriage as well as in economics.⁹⁸ Families bore the responsibility of paying for no fewer than four costly ceremonies for their daughter:

1. Naming and ear-boring
2. Celebration of the attainment of puberty
3. Marriage (including dowry; this was the most burdensome of the four)
4. Birth of the first child.

The expense of these ceremonies was the main reason given for female infanticide.⁹⁹⁻¹⁰⁰ Social codes required that a daughter marry only a husband whose caste was equal to or higher than her own, and also that she be married before a certain age.¹⁰¹ Not only is intermarriage prohibited between families of the same clan but between those of the same tribe.¹⁰² As if all this were not enough, a daughter's marriage would result in the alienation of the whole or the majority of the family's hereditary land. Moreover, the relative prestige of different castes and sub-castes was far from settled and in fact was a constant source of competition, dispute, and tension.¹⁰³ Those who bore daughters and yet claimed themselves to be of highest caste found themselves confronting an awkward dilemma — either find a husband for their daughter and thereby implicitly confess their caste to be lower than they had claimed (since literally no caste should be good enough for her if she was indeed of the highest caste), or bring their daughter up unmarried.¹⁰⁴ Both options were impermissibly shameful. Many such families, therefore, concluded that their only viable option was infanticide. As is discussed *infra*, the upper class and the politically powerful spearheaded many branches of the movements for elimination of female infanticide, passing declarations and enforcing laws but also leading extralegal approaches to reduction of female infanticide.

Incidentally, it should be noted that a parallel Hobson's choice would confront families in the lowest castes to whom males were born.¹⁰⁵ Such boys could expect never to marry since they could never find a bride from a caste lower than their own and also were subject to infanticide.¹⁰⁶ This problem has received virtually no scholarly attention, no doubt in part due to British and academic fascination with female infanticide among highest-ranking castes but perhaps also due to lack of interest in infanticide of males. One might even suggest a parallel with the disproportionate level of American media and political attention to female genital cutting relative to male genital cutting, in a country where the majority of males are still being circumcised.

1.3.4 Female Genital Cutting

In a number of countries, Somalia for example, one of the reasons why virginity at marriage is extremely important is because upon it depends the payment of the bride price. Therefore, genital mutilation is seen as an integral part of the culture.¹⁰⁷ In many countries, female genital surgeries are common even among the most educated classes of women.¹⁰⁸ Highly educated women (and men) are in the forefront of current female genital cutting "eradication" efforts. This fact, combined with the participation of

many foreigners in the anti-female genital cutting movement, has contributed to a virulent backlash against efforts to curtail the practices.¹⁰⁹⁻¹¹³

1.3.5 Male Genital Cutting

The practice of non-religious circumcision in the US started among the upper to upper-middle classes in the late nineteenth century.¹¹⁴

1.3.6 All

Footbinding in China, male genital cutting in the US, and Indian female infanticide all started among the upper classes in eras of rapid economic and political change. The upper classes naturally had a greater opportunity to create and carry out such counter-natural practices. They had the luxury of creating physical markers on their children for their own neuroses. With footbinding and female infanticide, a “first in, first out effect” has been observed. The powerful are the institutors of the practice and later, when the practice starts to be rooted out, they are also in the forefront of the opposition. “First-in” describes the preferential participation of the elites in acquired cranial deformation and American male genital cutting, and “first-out” describes female genital cutting.

1.4 Gender

1.4.1 Acquired Cranial Deformation

Performed on both infant boys and infant girls.

1.4.2 Footbinding

Primarily carried out on girls, with a primary purpose of reinforcing gender concepts and roles.

1.4.3 Female Infanticide

By definition, carried out on girls, though as noted above, lower-class males were at least as subject to infanticide as were upper-class females. The difference is that infanticide of lower-class males did not draw public attention or concern. Both practices result from gender-related societal practices but are not principally motivated by a desire to strengthen or support such roles.

1.4.4 Female Genital Cutting

By definition, only carried out on females, one principal purpose being to reinforce societal concepts of female gender roles.

1.4.5 Male Genital Cutting

By definition, carried out exclusively on males. The only child body mutilation considered in this paper of which this is true. One primary motivation behind male genital cutting in many, if not most or all, practicing societies is undeniably the reinforcement of male gender roles. Certainly, the fact that the victimized gender has been seen as privileged and, in fact, the oppressor of females has significantly impeded the process of society recognizing male genital cutting as a human rights violation and criminal act.

1.5 Complications

1.5.1 Acquired Cranial Deformation

According to Henschen, brain damage will occur in at least some cases.¹¹⁵ Severe binding has caused death in some children, and it can cause the obstruction of nasal passages.¹¹⁶ Infants and children often died from the organ-crushing aspects of cranial deformation or from secondary infections.¹¹⁷ Dingwall tabulates a wealth of evidence demonstrating the potential range of complications. A European who observed a Chinook child, whose head was being flattened between two boards, wrote: "Its little black eyes, forced out by tightness of the bandages, resembled those of a mouse choked in a trap."¹¹⁸ Dingwall also reports that another observer described a child whose head had just been removed from the apparatus as the most frightful and disgusting object he had ever seen, with the front part of the skull completely flattened, and the child's inflamed, discolored eyes protruding half an inch from the sockets.¹¹⁹ As practiced by the Koskimo Indians, "[t]he pressure is often so great that the noses of children who submit to it are constantly bleeding."¹²⁰ Many French physicians labeled acquired cranial deformation as medically dangerous and condemned the practice, considering that it played a part in the development of epilepsy, mental retardation, and chronic insanity.¹²¹

1.5.2 Footbinding

It was said that one out of ten girls died from footbinding or its aftereffects,¹²² although this may have been an exaggeration. In addition to causing the girls ghastly pain, footbinding led to the literal putrefaction of flesh, with portions often sloughing off from the sole, causing a horrible odor. Sometimes one or more toes dropped off.¹²³ When the bindings were removed from one little girl in Chungking, her feet were found hanging by the tendons, with gangrene extending above the ankles; another child in Nanking had an ulcer extending halfway up her knee and would have died from blood poisoning had her leg not been amputated.¹²⁴ Toes often drop off under the bindings, and not uncommonly half the foot does likewise. An early chronicler reported one poor girl's grief on undoing her bandage — "Why, there is half my foot gone!" — and how she herself said that, with half her foot, and that half in good condition, she would be much better off than those around her.¹²⁵

1.5.3 Female Infanticide

Self-evident.

1.5.4 Female Genital Cutting

One particularly thorough tabulation of potential complications from female genital cutting mentions pain, hemorrhage, shock, urinary infection, blood poisoning, fever, tetanus, infection, cysts and abscesses, keloid scarring, painful intercourse, infertility, recurrent urinary tract infection, difficulty in urinating, calculus/stone formation, clitoral hypersensitivity, anal incontinence and fissure, rigid scar tissue, serious delivery problems, stillborn child, post-natal fistulae, prolonged labor, lack of orgasm, sexual dissatisfaction, anxiety, depression, and death.¹²⁶ This is only a partial list. One pair of commentators rightly deplore the lack of rigor and failure to distinguish between different forms of female genital cutting evident in many authors' lists of complications.¹²⁷ This comment does not detract from the undeniably grave and diverse complications caused by female genital cutting.

1.5.5 Male Genital Cutting

Circumcision removes 50 percent of penile shaft surface tissue and thousands of specialized nerve endings, fundamental to normal sexual response.¹²⁸⁻¹²⁹ The externalized glans and inner foreskin remnant become

dried and skin-hardened (keratinized), further desensitizing the penis, with progressive lifelong loss of sensation.¹³⁰ Complications, including as many as 225 deaths each year in the United States alone,¹³¹ range up to 55%, depending on the definition applied, and willingness to report complications fully and accurately (for example, meatal stenosis, urethral fistulae, penile necrosis, accidental amputation of part or all of the glans, skin tags).¹³²⁻¹³⁴ Circumcision causes behavioral and neurological changes, diminished self-esteem and body image, sexual deficits, and often lifelong circumcision-related stress.¹³⁵ Many circumcised men suffer ongoing symptoms of post-traumatic stress disorder.¹³⁶⁻¹³⁷

1.6 Pain

1.6.1 Acquired Cranial Deformation

Children often cried for hours under the application of the constricting apparatus without the parents realizing the cause of the child's distress.¹³⁸ In Brittany around 200 years ago, as soon as the infants were born, midwives molded and pressed their heads, endeavoring to make them rounder, a proceeding that typically caused the babies to howl with pain.¹³⁹ In certain tribes in Louisiana, when children were born, the upper part of their forehead was crushed and flattened with a board so they might be able to bear loads better. "The child cries and turns black, and when the mother presses on its forehead a white slimy fluid comes out of its nose and ears. Thus it sleeps every night until its head has taken on the desired shape."¹⁴⁰ Among the Chinook Indians, as Dingwall records some contemporary observers' statements, "The process is attended...by a good deal of pain, and certainly the appearance of the child is shocking. Its eyes seem to start from their sockets, its mouth is contorted...the noses of the children were accustomed to emit a whitish pus."¹⁴¹

1.6.2 Footbinding

The enforced breaking of the foot's bones and the forcing of the smaller toes under the foot naturally caused the girls unspeakable pain. "The pain continued for about a year and then diminished, until at the end of two years the feet were practically dead and painless."¹⁴² In China, for a lady of virtue, "It was considered laudable for her to submit to the dreaded pain of footbinding in early childhood with stoical endurance, fighting back the tears in order to please her mother by achieving the criterion of beauty sanctioned through the ages."¹⁴³ A truly loving mother in China had to teach her

daughters how to endure pain physically, emotionally, and mentally.¹⁴⁴ Daughters were expected to grow up and eventually to be grateful to their mother for seeing them through this necessary process despite the hardship it presumably represented for them.¹⁴⁵ Pain was viewed not as an unfortunate byproduct of the process but as a necessary experience for women to endure. According to this view, women needed to learn to be subservient to pain so that they would tolerate the pain that was seen as an inevitable byproduct of the lust that their economic survival required them to inspire in men. Simple foot amputation, for example, would have defeated the whole point of binding as a “voluntary,” protracted, and disciplined self-sacrifice.¹⁴⁶ This trial in turn awakened the ardor and passion of her male suitors. “When a Chinese man sees a pair of lotus feet, he feels a tremendous pity for the fragile beauty that has gone through so much pain and suffering; he is in awe of the wonder that comes out of violence.”¹⁴⁷

1.6.3 Female Infanticide

Obviously, the techniques used for female infanticide were in general extremely painful to the murdered child. Among the Phoenicians, mourning the emotions felt over the death of a child was considered inappropriate and was not indulged. Carthaginian families were apparently required not to react to the death of a child but to be proud of it and not react to pain of death.¹⁴⁸ Indians similarly suppressed all feelings in reaction to the child’s loss of life.¹⁴⁹

1.6.4 Female Genital Cutting and Male Genital Cutting

Anesthetic can rarely be used and may defeat the purpose anyway. For most if not all groups practicing female and male genital cutting, at least on non-infants, stoically enduring the pain without reaction is a required test in the rite. Males thereby prove their manhood and their ability to defend the group and their family by force.

For Mandinka boys and girls, for example, stoically enduring the cutting is one of the most culturally valued displays of strength and courage.¹⁵⁰ Similarly, in Kikuyu male and female circumcision, the crucial test was for the initiate to show no pain, to neither change expression nor even blink, during the cutting. The initiates remained utterly stoic and expressionless throughout. In Kikuyu tradition, it is this ability to withstand the ordeal that confers adulthood, that allows one to marry and have children, and that binds one to one’s age-mates.¹⁵¹

1.6.5 Female Genital Cutting

The pain associated with female genital cutting is typically considered necessary to teach women to endure and to prepare for the subservience required by her sex. By withstanding the pain of being cut, a woman demonstrates her maturity and readiness to endure the pain of childbirth and hardships of married life. In the Sudan, "severe physical pain is, in certain contexts, normative and positively valued and enforces ideas of personhood."¹⁵² Enduring the pain is a constitutive experience in preparing a woman for her role as wife and mother, her central role in Rendille society in Kenya.¹⁵³ Among the Nandi of Kenya, if a girl is reported to be a coward in the ritual, or not a virgin, the parents and brothers are so ashamed that they threaten to kill themselves or kill the girl. Only the intervention of other people stops them from carrying out this threat.¹⁵⁴

1.6.6 Male Genital Cutting

In Yemen, if the male initiate even winks a little, or shows any sign of pain, he is either killed on the spot, deported in disgrace, or sold as a slave.¹⁵⁵ Among the Masai, a boy who cries out during the procedure will be declared a coward by spectators and disgraced along with his family. His parents will be spat upon for having raised a coward. The boy will be thoroughly beaten, and his foot will be spat upon, and he will be required to eat all of the foreskin.¹⁵⁶

A 1997 infant circumcision pain study was abandoned because inflicting pain on unanesthetized controls was deemed unethical.¹⁵⁷ Circumcision traumatizes infants, who have few pain-coping mechanisms.¹⁵⁸ Pain may be blunted but not eliminated by local anesthesia.¹⁵⁹ Pain causes irreversible changes in the developing brain, heightening pain perception.¹⁶⁰ Atrophy of non-stimulated neurons in the brain's pleasure center follows severed erogenous sensory nerve endings.¹⁶¹ Circumcised boys react with greater pain intensity to immunizations six months after circumcision.¹⁶²

As long ago as the twelfth century, the Jewish scholar Moses Maimonides acknowledged that the very purpose of the Jewish circumcision ritual was to inflict a wound that the child would recall for the rest of his life.¹⁶³ "The bodily pain caused to [the penis] is the real purpose of circumcision."¹⁶⁴ At the time medicalized circumcision was instituted in the United States in the nineteenth century, pain was seen as a necessary aspect of circumcision, which was in part favored because of the pain it caused. Prominent American surgeon, inventor of the corn flake, and writer of many popular medical treatises, John Harvey Kellogg, like most of his contemporary professional colleagues, saw masturbation as being

responsible for a host of medical problems. Circumcision was likewise intended to prevent masturbation, and Kellogg noted the importance of the pain: "The operation should be performed by a surgeon without administering an anesthetic, as the brief pain attending the operation will have a salutary effect upon the mind, especially if it be connected with the idea of punishment, as it may well be in some cases."¹⁶⁵ Along the same lines, the eminent British doctor Athol A.W. Johnson wrote: "In cases of masturbation we must, I believe, break the habit by inducing such a condition of the parts as will cause too much local suffering to allow the practice being continued...[T]he operation, too, should not be performed under chloroform, so that the pain experienced may be associated with the habit we wish to eradicate."¹⁶⁶ Along the same lines, Moroccan circumcision must not be performed before a boy is old enough to remember it, apparently so that he can remember the pain.¹⁶⁷ Note the ironic reversal of the suggestion that neonatal circumcision is harmless because it occurs before the boy is old enough to remember it.

1.6.7 All

Pain has played a critical role and is an inevitable byproduct of all these childhood body modification techniques. It is often viewed, not as a regrettable side effect of the procedure, but as a desired and integral component of the overall process. At least where performed after infancy, and arguably even when done at infancy (as is requisite for acquired cranial deformation and as is usual among certain cultures for female and male genital cutting), a bond of shared suffering is often created among survivors of the practice.¹⁶⁸ The pain also serves to impress upon the candidates, and all others concerned, the social importance of the occasion.¹⁶⁹ The awareness of the pain associated with that culture's particular form of mutilation may also serve as a subconscious attractor.

The individual learns to transcend personal limitations and to suffer for the (at least professed) good of the individual, the group and/or society. Pain initiates and trains men in sacrificing their bodies as protectors and warriors; it prepares women for childbirth and suffering later in life.

1.7 Roots

1.7.1 Acquired Cranial Deformation

Archeologists have determined that this practice extends into prehistory.¹⁷⁰

1.7.2 Footbinding

Instances of footbinding can be traced back as early as twenty-first century BC.¹⁷¹ It started to spread over China during the fifty years that elapsed between the T'ang and Sung Dynasties (907-959 AD).¹⁷² Transmission of the custom followed the pattern of migration from north to south.¹⁷³

The rise of footbinding coincided with drastic economic, political, and economic changes.¹⁷⁴ These were times of strong urbanization, expanding bureaucracy, commercialization of agriculture, monetization, and thriving trade.¹⁷⁵ As cultivation of agriculture, development of commerce as well as the arts brought great material abundance and artistic richness to China of this era, Chinese culture also faced severe invasions by foreign cultures.¹⁷⁶ Perhaps even more critically, in a culture that had always emphasized differences between men and women,¹⁷⁷ dramatic erosion of boundaries and hierarchies was occurring, blurring formerly stark distinctions and divisions between race, gender, and sex.¹⁷⁸ Under the money-driven economy of the Ming and Qing eras, demarcation lines were being elided and a merger was formed between the previously distinct domains of artist and craftsman.¹⁷⁹ Signs of gender confusion were everywhere: cross-dressing women, girls raised as boys, female archery experts, and male embroidery masters. Marriages between women and homosexual relationships became common for the first time in Chinese history, with men masquerading as women and thereby obtaining opportunities to seduce virginal young girls.¹⁸⁰ Footbinding was in part sustained by neo-Confucianism,¹⁸¹ a Chinese philosophy emphasizing, among other things, moral and physical purity, especially for women.¹⁸² Footbinding was women's way of supporting, participating in, and reflecting on, the community of Neo-Confucian discourse.¹⁸³ Blake's "mindful-body" theory interprets footbinding as a voluntary ordeal by which mothers taught their daughters to succeed in the male-controlled neo-Confucian world.¹⁸⁴

1.7.3 Female Infanticide

Female infanticide took root amidst times of great change in nineteenth-century India. The Muslim invasion brought profound cultural changes. The forced migration of the wealthy, influential, somewhat arrogant Rajput caste from the fertile Ganges-Jamuna valley to the deserts of Rajasthan and the forced conversion of many of them set the stage for the popularization of female infanticide.¹⁸⁵ Intermarriage among castes also helped contribute to social instability, and raids by bandits made preservation of women's honor more difficult. Meanwhile, an increasingly complex system of castes and

clans was developing. Each caste had its own intricate set of rules, each held itself apart from the others, and the ranking of the different castes varied from place to place. Consequently, the field for selection of bridegroom narrowed and narrowed.¹⁸⁶

Marriage of a daughter became more difficult for other reasons, too. A high moral standard became expected of women just as crime and immorality were increasing.¹⁸⁷ As a result of the chaos and confusion ensuing from all this social change and ferment, some clans found themselves losing some of the social standing they had previously enjoyed, exacerbating tensions. All these factors interacted in complex ways and may have set the stage for society to process its deep fears by projecting them onto its children, in this case, its female children.¹⁸⁸

The birth of a son in a Hindu family was always desirable. By contrast, a daughter's birth caused her parents anxiety, particularly among high castes that were subject to losing status due to the ongoing reshuffling of social forces. Pride, poverty, contempt for the female sex, the caste system's rigidity, and the simple difficulty of finding suitable bridegrooms all contributed to female infanticide.¹⁸⁹

In nineteenth-century England, by contrast, the causes contributing to infanticide were illegitimacy, economic insufficiency, the widespread use of "baby farms" as well as nurses for hire (who in turn were usually forced to allow their own infants to die in order that they might suckle their mistress' child), and in many cases the absence of the father.¹⁹⁰ In eighteenth-century Scotland, the culprits were economic changes that led to consolidation of large farms and eviction of small-scale tenant farmers, illegitimacy, and the difficulty of finding suitable husbands for young women.¹⁹¹

1.7.4 Female Genital Cutting

Herodotus reported female circumcision in ancient Egypt in the fifth century BC.¹⁹² Female genital cutting predates both Christianity and Islam, but it is unclear where or when such practices began; or indeed whether they were the invention of a single culture and proceeded to spread to others or were the independent creation of several different societies.¹⁹³ In the Middle East, family honor is defined almost exclusively in terms of the sexual purity of its womenfolk.¹⁹⁴ Economics, sexuality, honor, religion, and class are all tied up together and interconnected in ways difficult for westerners to appreciate.

Pharaonic "circumcision" actually makes a woman (whether or not she is a virgin by the western definition) into a Sudanese virgin.¹⁹⁵⁻¹⁹⁶ The importance of this conceptual category of virginity in the Sudanese ideology cannot be overemphasized.¹⁹⁷ Female genital cutting thus has the power to

transform the individual — from child into adult, from non-virgin back into virgin. It has the potential to transcend otherwise uncrossable boundaries. Female genital cutting gives power to certain women at the same time that it constricts all women.

1.7.5 Male Genital Cutting

Male circumcision presumably arose independently in various parts of the world and was practiced from the very beginning in various forms.¹⁹⁸ Barring any dramatic and improbable future archeological discoveries, it is impossible to be certain about its beginnings. Various theories exist proposing that circumcision originated:

1. As a mark of subjection imposed by conquering warriors
2. To prolong lovemaking
3. As a test of endurance
4. To avoid peril from sexual relations
5. As preparation for sexual life
6. As a hygienic measure
7. As a sacrifice.¹⁹⁹

In the United States, medicalized (non-religious) male genital cutting began in the post-Industrial-Revolution, post-Civil-War late nineteenth-century, a time of profound change in gender roles. Masturbation was believed to cause a host of medical problems and circumcision was suggested as a possible cure precisely because of the loss of sensation it entailed.²⁰⁰ The identification of moral hygiene with physical hygiene and the preoccupation with the banishment of all body odors also contribute to the passion for amputating foreskins.²⁰¹ To this day, social pressures are among the leading reasons why Americans opt for circumcision.²⁰²⁻²⁰³

1.7.6 Footbinding and Male Genital Cutting

The nineteenth-century Protestant American culture, which gave rise to medicalized circumcision, shared a number of precepts with neo-Confucianism, the reigning philosophy at the time of the popularization of footbinding: an attachment to moral superiority, which could often be

demonstrated through physical suffering; an emphasis on moral and physical purity, especially for women; a certain prurience; and a strongly pro-family orientation.

Footbinding and female genital cutting: Although it would be an exaggeration to say that modesty is an exclusive attribute of the female and honor is an exclusive attribute of the male, the idioms translating these concepts into the uses of everyday life cluster around the female on the one hand and the male on the other.²⁰⁴ And it is at the top that these forms of control are most intense.²⁰⁵ Both footbinding and infibulation originated under conditions of extreme resource polygyny as a means of enforcing the imperial male's exclusive sexual access to his female consorts.²⁰⁶

1.7.7 All

Insecurity around certain issues (in the case of female infanticide, chastity and caste rank, for male genital cutting, hygiene and sexuality, for footbinding and female genital cutting, chastity, and, we may speculate, for acquired cranial deformation, social rank) leads to acting out on the most vulnerable members (the children) of an attempt to safeguard the feared area of loss. As seen *supra* in the discussion of class, these practices tend to be born during periods of unusually rapid change which may exacerbate this insecurity, although the practices may then persist for decades, centuries or even millennia after the initial source of the insecurity has faded.

1.8 Purposes

1.8.1 Artificial Cranial Deformation

Artificial cranial deformation is necessarily not a rite of initiation since it must be effected while the subject is an infant, when the head is still plastic enough to yield to continuous pressure over considerable periods of time.²⁰⁷

Artificial cranial deformation may have been associated in some cases with a magical practice, and certainly in other cases reflects a desire to distinguish oneself or one's children from the masses, or to enhance a child's beauty.²⁰⁸⁻

²⁰⁹ In some cultures, mothers believed that artificial cranial deformation could protect their children from disease.²¹⁰ European artificial cranial deformation was greatly influenced by phrenology, according to which memory was located at the back of the head and that the brain needed to be elongated like the end of a gourd to open up space for memory.²¹¹⁻²¹²

Artificial cranial deformation provides an example of how ancient cultures from the Old and New World enhanced or created certain defining

features that separated them from their neighbors. Sometimes these customs indicated different statuses within one cultural group.²¹³ In many places throughout the world, artificial cranial deformation is likely to have been a mark of aristocratic lineage.²¹⁴

Other purposes that have been suggested include: to make the head appear more formidable (Mexico); to enlarge the face (Dominican Republic); to preserve facial symmetry (Colombia); practice believed conducive to health and vigor (Peru); to make people easier to rule (Peru); to facilitate bearing burdens on one's head; and to prevent a child's head from swaying from side to side on a cradle board.²¹⁵

1.8.2 Footbinding

The common assumption that footbinding was an initiation ritual is mistaken. It was not. The following interview is representative:

"Did your mother do anything special on the day that she bound your feet?" we asked.

"No."

"Did she choose a good day, or burn incense and pray to ask for success, or make special food, or put medicine on your feet?"

"No."

"Where did she bind your feet, and who was there?"

"In the house, no one was around. It wasn't anything special."

"Were there any customs?"

"No."²¹⁶

Several explicit statements record that one purpose of footbinding was to hobble women and thereby to promote their seclusion and fidelity.²¹⁷⁻²¹⁸ Footbinding is believed by some to have originated in esthetic appreciation of the small foot and to have been maintained by male erotic interest.²¹⁹ With a pair of perfectly bound feet, women of lower rank could have hopes of moving upward socially and economically by entering a more affluent or more educated family, often as a concubine or maid.²²⁰ Young men would marry women who were a generation older and had ordinary features, provided they had a pair of perfectly bound feet.²²¹ "Through footbinding, a

plain daughter could be improved, and a pretty one made beautiful.”²²² Chinese women’s bound feet were universally associated with both higher-status love and sex; thus they carried strong connotations of both modesty and lasciviousness, a potent combination for Chinese men.²²³ Here lies a fundamental contradiction of footbinding — it was designed to keep women chaste, yet is itself a highly eroticized procedure. Such oppositions are common to child body mutilation practices, which by definition oppose nature.

Similarly to female genital cutting, the immediate explanation always given for footbinding in its heyday was to secure a proper marriage.²²⁴ Others regard it as an ostentatious display of the practicing family’s wealth, as appeasing male castration anxieties, or as a way of ethnically differentiating civilized Chinese from invading northern barbarians and of maintaining gender distinctions as refined Chinese males became more effeminate.²²⁵⁻²²⁷ Footbinding helped consolidate and perpetuate the patriarchal Chinese kinship system.²²⁸ Physiological benefits were also claimed, as discussed *infra* in reference to mythology.²²⁹ Bound feet were claimed to be conducive to better intercourse.²³⁰ Obviously it is possible that all these reasons were simultaneously at work. “To rebel against footbinding was as unthinkable as to oppose traditional Chinese mores, with their insistence on maintaining a sharp cleavage between men and women.”²³¹

1.8.3 Female Infanticide

Some of the functions of infanticide throughout history are: eliminating defectives, motherless infants, multiple births, and illegitimates; spacing children; regulating future adult sex ratios; and population control.²³² In some societies, infanticide was the only practical and reliable method for limiting the number of children.²³³ Children of tender age have also been sacrificed to avert evil or calamity.²³⁴

The main reasons for female infanticide in nineteenth-century India were the expense of the four ceremonies associated with having a daughter in one’s family, along with the constraints imposed by the caste system and the requirement that the daughter marry into a caste higher than that of her family of origin.²³⁵⁻²³⁶ Another authority listed desire to avoid unwanted female babies, escape from illegitimacy, desire to limit family size, and fear of deformity or sickness in the child.²³⁷

1.8.4 Female Genital Cutting

Among the many reasons cited for female genital cutting are the following:

1. Beauty/cleanliness. Female genitals are unhygienic and need to be cleaned; female genitals are ugly and will grow to become unwieldy if they are not cut back. Female circumcision is the fashionable thing to do to become a real woman
2. Male protection/approval. Female circumcision is an initiation into womanhood and into the tribe. The non-circumcised woman cannot be married. Female circumcision enhances the husband's sexual pleasure. Female circumcision makes vaginal intercourse more desirable than clitoral stimulation
3. Health. Female circumcision improves fertility and prevents maternal and infant mortality
4. Religion. God sanctifies female circumcision
5. Morality. Female circumcision safeguards virginity; circumcision cures "sexual deviance" (i.e., frigidity, lesbianism, and excessive sexual arousal)
6. Belonging. Fear of losing the psychological, moral, and material benefits of "belonging" is one of the greatest motivations to conformity²³⁸
7. Pleasing personality. Cutting instills feminine traits such as calmness and submissiveness²³⁹
8. Religious sacrifice. Giving up part of the body for salvation of the whole
9. Initiation rite into the tribe²⁴⁰⁻²⁴¹

It should be noted that both religious justifications are erroneous, as nothing in Islam requires female genital cutting or, for that matter, male genital cutting.²⁴² For the North Sudanese, for example, infibulation emphasizes morally appropriate fertility, which they consider to be the essence of femininity. It purifies, smoothes, and makes clean the womb's outer surface, thereby socializing or culturalizing a woman's fertility.²⁴³ It also may bond the girl with her female ancestors.

A variety of medical reasons have been incorrectly asserted, including:

1. Prevention of the enlargement of the clitoris and labia
2. Improvement of fertility

3. Prevention of maternal and infant mortality
4. Enhancement of the husband's sexual pleasures
5. Lack of ability to have a climax
6. Treatment of frigidity
7. Prevention of mania, nymphomania, and "onanism"²⁴⁴⁻²⁴⁵

Most fundamentally, these operations are believed to ensure the transmission as well as the maintenance of the reigning cultural ethos throughout a woman's lifetime.²⁴⁶

1.8.5 Male Genital Cutting

As discussed *infra*, medical mythology suggesting the foreskin's connection with an astonishingly wide range of diseases was integral to the widespread adoption of male circumcision in the United States in the nineteenth century.²⁴⁷⁻²⁴⁸ As reasons have been disproven, circumcision advocates have devised others to take their places.²⁴⁹⁻²⁵⁰ Current explanations for the mutilation's persistence include physician pressure, religious justifications, cultural rationales, cultural inertia, and perhaps most egregiously, the desire that the child's genitalia resemble his father's.²⁵¹⁻²⁵²

In the developing world, reasons given according to Favazza include "sanitation, substitution for human sacrifice, symbolic castration, desire to be like women, elevation to the status of manhood, sexual differentiation, enhanced fertility, contraception, resolution of identity conflict, permanent incorporation into a social group, control of sexual urges, a mark of caste, a test of endurance, a covenant with God, and so on."²⁵³⁻²⁵⁴

Female genital cutting and male genital cutting: Parallel justifications for female and male genital cutting include claimed enhancement of physical beauty, incorrect medical justifications, incorrect theories that it improves sex, or is universal, and its use as a rite of initiation into adulthood.²⁵⁵

1.9 Mythology

1.9.1 Artificial Cranial Deformation

As mentioned *supra*, Europeans followed phrenological theories that memory was located at the back of the head and that elongation of the brain

was advisable to free up space for memory.²⁵⁶⁻²⁶⁷ Some mothers who practiced cranial deformation believed in medical mythology, suggesting it would protect their children from disease.²⁵⁸

1.9.2 Footbinding

A mythological folk song about “Madam big feet” expressed the genuine danger that was perceived from natural-footed women. Everything about “Madam big feet’s” body was not only gross but also threatened the cosmic order.²⁵⁹ Her body represented the unstrung forces of nature that via earthquake and flood bring ruin, engulfment, contamination, and death. Social life on the scale envisioned by the Neo-Confucian imperial order was possible only if these elemental forces were restrained and mediated by human effort and individual initiative.²⁶⁰ Chinese society thus projected its fears for its own survival onto its women and then onto its female children on whom footbinding was inflicted.

Medical mythology was also devised to justify footbinding. Lotus lovers came to believe that footbinding broadened women’s hips and increased their vaginal folds.²⁶¹ The accepted physiological benefits of constricting the lower limbs included concentrating the blood in the upper parts of the legs and groin, thereby supposedly increasing sexual sensitivity and enhancing the fertility of the woman’s “seed chamber.”²⁶² Bound feet were said to be conducive to better intercourse, a claim that of course is medically false.²⁶³

1.9.3 Female Infanticide

The Purriar Meenas, who were even more addicted to infanticide than the Rajputs, believed that women born in their tribe are fated to bring disgrace to their families and sect.²⁶⁴

1.9.4 Female Genital Cutting

Medical mythology, religious mythology, and tribal/cultural mythology have all played a role in perpetuating female genital cutting. Among unschooled Sudanese, for example, widespread beliefs exist that circumcision will keep the sexual organs clean, prevent malodorous discharges, prevent rape, prevent vaginal worms, help women conceive, facilitate giving birth, and somewhat paradoxically, make women both less sexually sensitive before marriage and more responsive after marriage. Of course, none of these reasons has any basis in fact.²⁶⁵ In both the Sudan and Somalia, a strong cultural myth persists that female genital cutting will prevent the clitoris from growing to an enormous size.²⁶⁶

The Muslim religion does not require female (or male) circumcision.²⁶⁷⁻
²⁶⁸ Yet many cultures continue to connect female genital cutting with the Muslim faith. For example, the mostly illiterate Sudanese, unable to review religious teachings on their own, believe infibulation is required by their faith.²⁶⁹ In Kenya, where clitoridectomy is practiced by tribes that have converted to Christianity, girls are confident they will be condemned to eternal hellfire if they do not undergo the knife.²⁷⁰ The Mandinka of Guinea-Bissau link circumcision for boys and clitoridectomy for girls first and foremost to religious identity. Clitoridectomy is a cleansing rite that defines a woman as a Muslim and enables her to pray in the proper fashion, both of which are defining features of Mandinka identity.²⁷¹

1.9.5 Female Genital Cutting and Male Genital Cutting

The tribal mythology of both the Dogon and Bambara of Mali suggests fascinating metaphorical powers for female and male genital cutting. These two groups believe that when human beings first arrive in the world, they are both male and female and possess twin souls. The boy's "female soul" is in the prepuce, the female element of the genitals, and the girl's "male soul" is in the clitoris, the male element.²⁷²⁻²⁷³ Often omitted in the retelling of this myth is what may be its most interesting part, stating that from the moment of birth, the Bambara child is inhabited by the Wanzo, an evil power which is in his blood and skin, and a force of disorder within the individual that prevents fecundity. The prepuce and the clitoris, seats of the Wanzo, must be severed to destroy that evil power.²⁷⁴ The Egyptians tell a similar story about the bisexuality of the gods.²⁷⁵⁻²⁷⁶ Similarly, in Somalia it is thought that the human body has soft female and hard male components; through genital cutting, hard parts are removed from the girls.²⁷⁷

1.9.6 Male Genital Cutting

Medical mythology played a key role in the institutionalization and popularization of circumcision in the United States. At the time medicalized circumcision was instituted in the United States in the nineteenth century, the foreskin was claimed to cause a host of diseases including epilepsy, paralysis, malnutrition, "derangement of the digestive organs," chorea, convulsions, hysteria, and other nervous disorders.²⁷⁸ At that time, circumcisers used words such as hygiene to denote moral hygiene, not personal hygiene.²⁷⁹ Other medical reasons that were later given for this procedure in search of a disease include penile cancer, cancer of the prostate and cervix, sexually transmitted diseases, urinary tract infections, and most recently, HIV.²⁸⁰⁻²⁸¹

1.9.7 All

Mythology, including medical mythology, religious mythology, and/or tribal/cultural mythology are invoked by each practicing culture to justify, normalize, and legalize their particular form of childhood body mutilation.

1.10 Sexuality

1.10.1 Artificial Cranial Deformation

No direct relevance.

1.10.2 Footbinding

Footbinding was designed to produce a foot that would — among other things — be more sexually attractive to Chinese men.²⁸² Ironically enough, for a culture with profound concerns about distinguishing male from female, a lotus foot bore a distinct resemblance to a penis.²⁸³ As the bones become broken and the flesh deteriorated, her foot became a perfect penis-substitute, often losing several toes as they were bent under her foot in order to emphasize the big toe sticking out.²⁸⁴ On the other hand, the deep crease in the middle part of the lotus foot suggests the female sex organ, as does the lotus shoe.²⁸⁵ “Outside, a bound foot is erect and pointed like a penis; inside, it is creased and curved like a vagina.”²⁸⁶ Here, unlike with female and male genital cutting, male and female elements are permitted to coexist.

The penis-toe became the focus of the man’s perversion and of his sexual excitement during intercourse.²⁸⁷⁻²⁸⁸ Chinese pornography prints and paintings showed men’s and women’s naked bodies and genitals but never bared the woman’s lotus feet.²⁸⁹⁻²⁹⁰ This process demonstrates a sort of genitalization of the feet in footbinding-Chinese society.

Bound feet became a profound sexual fetish, but a societal rather than an individual one. “The ways of grasping the foot in one’s palms were both profuse and varied; ascending the heights of ecstasy, the lover transferred the foot from palm to mouth. Play included kissing, sucking, and inserting the foot in the mouth until it filled both cheeks, either nibbling at it or chewing it vigorously, and adoringly placing it against one’s cheeks, chest, knees, or virile member.”²⁹¹ Thus, even sex with a female could simulate homosexual intercourse for Chinese males. DeMause suggests that, since the girl shared the family bed with her parents and presumably observed her father playing sexually with her mother’s penis-foot, it is likely that the sexual aim of her painful mutilation was apparent to her.²⁹² While they fawned over the

appearance and disappearance of tiny feet in an erotic context, men contorted themselves in combinations and permutations of disgust, contempt, anger, rage, and pity for anything that associated them with the actual production of tiny feet.²⁹³

1.10.3 Female Infanticide

No direct relevance.

1.10.4 Female Genital Cutting

For the Sudanese, infibulation ensures that when she marries for the first time, a woman is a virgin, by the Sudanese definition if not by the western one. After each birth, a woman's was body restored, at least superficially, to its condition prior to marriage. During her 40-day period of confinement, she is re-presented to her husband as a bride and given gifts of clothing and jewelry similar to those she received at her wedding.²⁹⁴

1.10.5 Female Genital Cutting/Male Genital Cutting

Both female and male genital cutting were intended to help incorporate boys and girls into adult societies of sexuality, reproduction and family. Even where performed on infants and thus necessarily not rites of passage, secular male genital cutting can doubtless be motivated by inchoate, even subconscious, desires to formally induct them into the community and to help them along in life. Men are performers, initiators, and often the most ardent supporters of male genital cutting, and women are performers, initiators, and often the most ardent supporters of female genital cutting and footbinding.²⁹⁵

As discussed *infra* regarding mythology, numerous groups including the Dogon, the Bambara, the Egyptians, and the Somalis perpetuate genital cutting based on myths that male and female genital characteristics must be accentuated by removing non-conforming parts.²⁹⁶⁻²⁹⁹ One Egyptian author notes:

As a young boy grows up and finally is admitted into the masculine society he has to shed his feminine properties. This is accomplished by the removal of the prepuce, the feminine portion of his original sexual state. The same is true with a young girl, who upon entering the feminine society is delivered from her masculine properties by having her clitoris or her clitoris and labia excised. Only thus circumcised can the girl claim to be fully a woman and thus capable of the sexual life.³⁰⁰

Victims of both female and male genital cutting often deny that any loss has resulted to their sexual sensitivity.³⁰¹ In the case of female genital cutting, some Kenyan Rendille women insisted that sex was actually better after being circumcised,³⁰² and among the Rendille³⁰³ and the Yoruba of Nigeria,³⁰⁴ few women believed their capacity for enjoyment had been reduced.

1.10.6 Male Genital Cutting

Few, if any, nineteenth-century physicians would have denied that masturbation, unless stopped at a young age, produced a wide range of dire consequences. Early promoters of circumcision fully acknowledged the sexual functions of the foreskin and advocated circumcision as an intentional destruction of those functions. Circumcision was alleged to reduce the likelihood of masturbation, thereby promoting both moral and physical hygiene.³⁰⁵ Intriguingly, exposure of the head of the penis by circumcision gives it a perpetual appearance of erection, transforming the sexually immature child into a symbolically mature state and separating him from the female world.³⁰⁶

1.10.7 Footbinding, Female Genital Cutting and Male Genital Cutting

Women's bound feet became mappings of human reproductive systems for both sexes, or what George Hersey calls "vectors" — ornamental indicators that point to or frame the sex organs.³⁰⁷⁻³⁰⁸ Female and male genital cutting, of course, are literal reframings of the sex organs, mappings of the intact organs by use of the knife. Female and male genital cutting directly remap the genital organs, while footbinding does so through symbolic genitals, purging femininity of all earthly dross and carnality. While both male and female elements are permitted to exist within the simulated genitals created by footbinding, male and female elements may not coexist on the literal genitals as modified pursuant to male and female genital cutting. Male genital cutting purges the male body of the "female" foreskin, while female genital cutting purges the female body of the "male" clitoris.

2. COMPARISON OF LEGAL AND EXTRALEGAL METHODS TO CONTROL CHILD BODY MUTILATIONS

2.1 Introduction

According to E. Adamson Hoebel's useful definition of law, at whatever level of technology and whatever level of legal formality, the neglect or violation of a legal norm will be regularly met, in threat or in fact, by the application of physical force by an individual or group possessing the socially recognized privilege of so acting.³⁰⁹ Pospisil defines law as possessing four attributes: authority; intention of universal application; obligation or the duty of the defendant to rectify the breach of law; and sanction. As part of the process of identification with their social group, group members will typically comply with and internalize its laws.³¹⁰ Broadly speaking, law consists of a norm coupled with the ability rightfully to apply force if the norm is violated. Typically, legal norms will derive from broadly held values and/or from values held by those with the power to pass the laws. When values change, laws will eventually change in all likelihood, though the lag time can be painfully long. The gap between legal norms and social norms leads to a wide variety of phenomena such as popular resistance to laws, laws which exist on paper but are ignored in practice even by those with the ostensible duty to enforce them, and laws which accord in full with popular sentiment and therefore will typically prove effective. In our survey of the five child body mutilations, we shall see how legal norms related to each society's chosen form of child body mutilation diffuse themselves into many different levels of society and become so ingrained that they are viewed as cultural or religious or mythological. Their normative and behavior-controlling (legal) aspects then become submerged.

2.2 Legal Approaches to Control of Child Body Mutilations: Specific Historical Examples

2.2.1 All

The terminology "eradication" is avoided when possible as it may fail to be sufficiently sensitive to the peculiar orientation of each child body mutilation practice within a given culture. Such terminology tends to be rarely employed by native activists but usually by external agents of change.

Moreover, it is often associated with germ theory and worldwide campaigns against infectious diseases.³¹¹ While “eradication” may be the ultimate goal, before this can be achieved, first the practice must be brought under control. Therefore, the term “control” is preferred. In fact, as we shall see, the very process of learning why “eradication” is inappropriate as a goal may lead us to develop useful control techniques and approaches.

The peculiar persistence of these practices should be noted. Despite laws repeatedly passed forbidding the practices, footbinding and artificial cranial deformation persisted for a thousand years and longer, respectively, as does female genital cutting today despite the passage of numerous laws intended to eradicate it. Laws rarely will by themselves bring a child body mutilation under control. More commonly, law will either formalize a political process that has already run most of its extralegal course, or will ineffectively attempt to legislate behavior from above. Harsher, externally imposed measures will appear to succeed but will be resisted surreptitiously or subsequently as we shall see with footbinding, female infanticide, and female genital cutting.

2.2.2 Artificial Cranial Deformation

The Spanish authorities often tried to suppress artificial cranial deformation, operating from the ineffective position of condescending superiority toward the native superstitions. Resolutions were passed in 1567, 1573, and 1585, but none of these was particularly successful. The 1585 document used religious terminology to advocate for the extirpation of the native people’s superstitions, including artificial cranial deformation, which was classified as a sin. The punishment was fixed at a higher level for persons of high rank than for plebeians, and special scales of still milder punishments applied to women. Intransigent sinners were referred to an unspecified higher authority, although the precise sequel is unknown.³¹²

2.2.3 Footbinding

Following the Manchu conquest of the Han, footbinding was outlawed in 1665 in order to assimilate Han people into Manchu culture.³¹³ This straightforward legal effort backfired in a decisive manner. During the period of the ban, levels of footbinding actually reached a peak. Evidently, interest in the child body mutilation was enhanced by the law forbidding it.³¹⁴ Manchu women adopted the practice of binding their feet, and to the likely horror and chagrin of the rulers, even Manchu court members instituted a modified version of the mutilation.³¹⁵ A subsequent legal attempt to eliminate the practice in 1847 met with no more success.³¹⁶

In 1911, the first laws were passed against footbinding after political approaches had already virtually eliminated the practice. The law thus merely served as a legal confirmation of an extralegal political movement's success.³¹⁷

2.2.4 Female Infanticide

Human sacrifice has been practiced from the beginnings of history and continues today. Common in North African territories over two millennia ago, it was first forbidden by the Romans as early as 97 BC, by a decree of the Senate, with capital punishment as the penalty. Even this extreme sanction merely forced the practitioners underground, but could not extinguish the ritual for centuries. Only in the third century AD was human sacrifice almost entirely eliminated, after the Emperor Hadrian passed the third and most far-reaching Roman law against it.³¹⁸

As recently as 1993, the Punjab Prenatal Diagnostic Techniques (Control and Regulation) Bill was enacted to limit prenatal screenings to determination of genetic abnormalities and to prevent its use for determination of gender.³¹⁹ Similar laws were passed by the state of Maharashtra in 1988 and by Rajasthan and Haryana in 1993-94. Such laws, however, are difficult to enforce where both the hospital and the patient are motivated to violate the law, can easily keep the violation secret, and no one is likely to be motivated to complain.³²⁰ Phillip and Bagchi suggest that, if the government truly intends to stop selective female killing, it will have to take measures that are more specifically tailored to region, caste, and culture. The villages can be sensitized to withstand the stigma against having a girl child. Improving the literacy level would also help.³²¹ We shall see that similar guidelines apply to the control of female infanticide in other forms, as well as of the other mutilations.

The British first observed footbinding in India in 1789.³²² Again, it should be underscored that infanticide of both daughters in high-status families and of sons in low-status families were common, but only the former received serious attention at the time from authorities. And today, studies of the phenomenon of male infanticide in India are virtually nonexistent, while a small bookshelf can be filled with books focusing on female infanticide. British strategies for the suppression of female infanticide in north India may be divided into legal and extralegal approaches, with the latter being analyzed in the next section. Legal methods can be further roughly separated into four categories: (1) unmoderated legal coercion, forbidding female infanticide imposed by the supposedly "enlightened" colonial rulers, which rarely succeeded, (2) coercive legal measures endorsed and passed by local authorities, (3) legal measures relating to enforcement

which did not directly outlaw female infanticide, and (4) measures designed to alter some of the circumstances that fostered female infanticide, such as wedding expenses. It should be noted that blended combinations of various of these approaches are frequently seen. As we proceed down the categories toward more culturally based and less legalistic techniques, we find — with exceptions — that they become increasingly successful. The harsher and more externally imposed measures may appear to succeed but will be resisted surreptitiously or subsequently as we see with female genital cutting and footbinding also.

2.2.5 Unmoderated Legal Coercion Imposed by Rulers

In 1795, female infanticide had been declared murder in Bengal and further regulations were passed in 1799 and 1804 to strengthen the first.³²³⁻³²⁴ It was known by 1816 that the Regulation of 1795 had failed to suppress the practice.³²⁵ In 1802, the British also passed a national law forbidding the practice.³²⁶ It is interesting that this law was not the focus of the successful campaign to control the practice. In fact, as with many of the current laws against female genital cutting, it seems to have had virtually no influence on the practice. Instead, the focus tends to fall more on the fifty-year campaign against female infanticide, which was launched in 1804 by the Governor of Bombay, as discussed in more detail *infra*.³²⁷

Decades later, the British still found it necessary to take further forceful steps to reduce female infanticide in India. A proclamation was issued in 1853, threatening certain prominent castes — in addition to the capital penalty already on the books — with confiscation of their lands unless they renounced female infanticide.³²⁸ Dramatic short-term reductions of female infanticide resulted, with numbers of female children doubling in some villages.³²⁹ All too often, however, the people quickly relapsed into their old habits if pressure and attention was not constantly maintained.³³⁰ The legal system had difficulty dealing with these cases due to problems of proving the actual killer's identity.³³¹

2.2.6 Coercive Legal Measures Passed by Local Authorities

One might presume that rulings instituted against female infanticide by regional rulers would prove more effective than mandates passed by a colonial power with vastly different culture. But even when passed by local government, coercive legal measures rarely fared better than laws passed by the British. The people understood that these rules were issued by local rulers to please the British.³³² For example, an agreement renouncing female infanticide was passed by various Jadeja in 1808 at the urging of a British

official,³³³ but did little to stop female infanticide among the Jadeja Rajputs.³³⁴ Similar events occurred elsewhere.³³⁵

2.2.7 Legal Measures Relating to Enforcement

Other legal measures designed to halt female infanticide were crafted that did not directly outlaw the procedure but rather aimed to develop administrative enforcement mechanisms to prevent the child body mutilation.

One successful approach, employed with minor variations in a number of different places, created local authorities who were friends and neighbors of the people they would be stopping from practicing female infanticide. A compulsory registration system for all children was initiated, along with measures entailing strict supervision by up to four important and preferably Muslim members of the village. The village's watchmen were directed to report the birth of every female child to the police station, and a policeman was then required to visit the house and see the child. One month later, the child's health was to be reported to the police station. If the female child died under suspicious circumstances, the body was to be sent to the civil surgeon for examination. The success of the measures within a short span of time was most striking and remarkable, although infanticide did continue, using more subtle techniques.³³⁶⁻³³⁷

Major national legislation followed. The Female Infanticide Act of 1870 required the registration of all births, marriages and deaths as well as providing for a regular census. Significantly, local governments were granted authority to hire special police forces to focus on the issue, since regular police tended to be overburdened with other obligations and not to see stopping female infanticide as an important part of their duties. Even though there was strong circumstantial evidence that the female child had been murdered, the courts were acquitting the accused due to lack of sufficient evidence. The success of the Act of 1870 was undoubted. The percentage of girls increased steadily every year from 1875, when it was 30.2%, to 1881, when it reached 38.6%.³³⁸ Yet, the mutilation was not to be quickly eliminated. To escape the Act's provisions, the castes, which earlier practiced female infanticide, were now resorting to deliberate neglect of females.³³⁹

2.2.8 Measures designed to eliminate circumstances fostering female infanticide

Some legal approaches were oriented toward changing the precursor conditions that contributed to female infanticide by limiting dowries and

wedding expenses, restricting movements of the wealthy mendicants who demanded hefty fees for assisting with weddings, and restricting hypergamy (marriage up the social ladder).³⁴⁰ As early as 1847, the British passed laws to encourage endogamy and discourage hypergamy, which would in turn discourage infanticide as one byproduct. But these laws were resisted and, after an uprising in 1857, the British temporarily abandoned these attempts. The first attempts at limiting dowries failed because they didn't address the all-consuming issue of hypergamy.³⁴¹

Some leaders agreed to pass resolutions against hypergamy and in some cases to limit wedding expenses but these actions produced few concrete results.³⁴² However, there is no evidence that any follow-up action was taken following the signing of these agreements. Mere resolutions at meetings could not change established social norms.³⁴³ Subsequent stick-carrot approaches worked better, combining liberal assistance with or relief of wedding costs and a tough line of action in case of breach of the code. Infanticide cases became more or less negligible, until 1874 and 1875, when no cases were reported.³⁴⁴

2.2.9 Female genital cutting

People in countries performing female genital cutting commonly view unmodified genitals as ugly, unrefined, and undignified, and hence not fully human. They associate unmodified genitals with life outside of or at the bottom of civilized society. They think to themselves: "What kind of barbarians are these who fail to alter and improve their genitals?" The disgust is a mutual one.³⁴⁵

In 1946, a British law forbade all forms of female sexual mutilation in Sudan. This law proved not only ineffectual, but actually caused a religious and political backlash against colonial control. The nationalists saw the amendment as interference by the British-dominated government and as an attempt to manipulate the lives of the Sudanese people.³⁴⁶ The population rushed to have its daughters infibulated before the law went into effect, causing high levels of complications and deaths. The arrest of midwives set off violent protests that led to the government largely refraining from further application of the law.³⁴⁷ In 1956, Sudan shook off colonial control, and, in 1974, passed its own law forbidding the pharaonic procedure while permitting clitoridectomy.³⁴⁸

Yet, the practice continues, despite all the laws, with no serious attempt being made to keep it secret.³⁴⁹ These laws, then, have never become law in Pospisil's sense because they have never been internalized by the social group.³⁵⁰⁻³⁵¹ The law has played a limited role as a tool of control in Sudan for three reasons. First, the cumbersome legal procedure made it extremely

difficult and time consuming for anyone to pursue a female genital cutting case. Second, those charged with enforcing the law had their own daughters circumcised and, therefore, were part of the social machinery upholding the tradition. Third, the law was conceived as a part of the Penal Code and called for a prison sentence for those practicing female genital cutting. No one wanted family members sent to prison for committing an act with strong cultural legitimacy and one considered completely acceptable by social measures.³⁵²

Such laws may prove counterproductive by preventing parents from bringing their damaged daughters to a medical installation when things go wrong after a badly managed circumcision. The child may bleed to death in preference to the parents' naming the perpetrator and facing subsequent ostracism.³⁵³

Moreover, people's fear that a law will be passed making the practice illegal can result in communities circumcising all girls before it is "too late."³⁵⁴ Backlashes in reaction to external pressures against female genital cutting occurred in Sierra Leone, the Gambia, and Guinea-Bissau.³⁵⁵ Kenya was the site for an interesting indigenous variation on the uselessness of laws in the absence of popular support. In April 1956, an officially sanctioned local council of Meru leaders unanimously banned clitoridectomy. On returning in the evening from the council meeting, the chiefs found that all the girls had been circumcised. In the three years following the passage of the ban, more than 2,400 girls, men, and women were charged in African courts with defying the order.³⁵⁶

2.2.10 Male Genital Cutting

Male circumcision is already illegal under the existing laws and human rights treaties of many countries but western-biased cultural blindness to date has prevented widespread official acknowledgment of this.³⁵⁷⁻³⁵⁸ Two commentators have written perceptive articles demonstrating that, given the federal law against female genital cutting, male genital cutting must also be illegal under the constitutional principle of equal protection.³⁵⁹⁻³⁶⁰ The United Nations has already endorsed in official documents the principle that male genital cutting qualifies as a human rights violation, at least under certain circumstances.³⁶¹⁻³⁶² Circumcision violates all seven ethical principles of the American Medical Association.³⁶³

One obvious distinction between male genital cutting in the United States and all other mutilations considered here is that, as a developed country with an elaborately evolved system of civil litigation, the United States offers the realistic possibility of civil lawsuits as a second legal avenue to elimination

of male genital cutting. In many ways, civil litigation appears much more viable than criminal prosecution as a tool for reduction of this practice.

Substantial awards and settlements sometimes mounting into millions of dollars have resulted from civil litigation in the United States and other developed countries. In 1999, a settlement was reached in a ten-million-dollar lawsuit over a botched circumcision that severed the tip of a Cleveland boy's penis.³⁶⁴ In 1987, a Louisiana court upheld a trial court's finding that a third-year surgical resident was negligent in modifying a circumcision technique on a child, resulting in the burning off of the child's penis, and upheld the jury's \$2.75 million award.³⁶⁵ In 1998, a British pilot who claimed his life was destroyed when a circumcision left him "grossly genitally mutilated" accepted a settlement in excess of UK £800,000 (US \$1.3 million).³⁶⁶

To date, all such awards and settlements have occurred in cases involving either a "botched" procedure or a lack of informed consent. The legal status quo in the United States, whereby circumcisions are not punished either criminally or civilly as long as they are done "competently" and with "consent" of the parents, must be unstable. Parental consent is invalid except under certain limited circumstances not met by routine infant circumcision.³⁶⁷ More than one effort to demonstrate the general illegality of circumcision has already been launched. In 1987, a lawsuit by plaintiff Adam London on the merits of parental power to assent to their child's circumcision was denied by a California trial court, and the denial was subsequently affirmed by a state appeals court. Finally, the California Supreme Court denied a petition for review.³⁶⁸ More recently, despite well-settled precedent supporting the viability of such a claim, although technically moot, is capable of repetition, yet evading review,³⁶⁹ the Eighth Circuit Court of Appeals affirmed a trial court's invocation of lack of standing as a justification for refusing to consider a mother's claim on behalf of her son who was circumcised with his father's consent but without her consent.³⁷⁰ Other lawsuits are currently under way to compel courts to rule that male genital cutting is illegal.³⁷¹

2.3 Extralegal Approaches to Control of Child Body Mutilations: Specific Historical Examples

2.3.1 Footbinding, Female Genital Cutting, and Female Infanticide

The first anti-footbinding society was founded in 1874 by local missionaries for their converts. The society introduced the effective technique of having its members pledge not to bind daughters nor let sons

marry bound women. Pledge associations swiftly ended the practice of footbinding in China.³⁷² Female genital cutting and female infanticide are essentially equivalent to footbinding and originate from similar causes. They persist because of the same convention mechanism. One family's choice does depend on another family's choice. A peculiar characteristic of a convention like this is that, even if each individual in the relevant group thinks that it would be better to abandon the practice, no one individual acting on her own can succeed. Every family could come to think that the child body mutilation is wrong, but that is not enough: the child body mutilation would continue because any family abandoning it on its own would ruin the future of its daughters.³⁷³ If there is some critical mass of individuals, within a group of people whose children marry one another, who have come to the point that they would like to abandon the child body mutilation, a public pledge among such individuals would forever end the mutilation for them and also quickly motivate the remainder of the intramarrying population to join in the pledge and abandon the mutilation as well. In the case of female infanticide, the chiefs vowed not to give their daughters to a tribe that would not give their daughters in return, and limits on marriage expenses were agreed.³⁷⁴

2.3.2 Footbinding

Anti-footbinding societies propagandized the disadvantages of footbinding in Chinese cultural terms, subtly conveying international disapproval of the custom.³⁷⁵ Natural foot societies began to spring up everywhere at the end of the nineteenth century. Natural foot societies organized mass meetings where foot-bound and natural women showed their feet, connecting natural feet with progress, health, youth, high class, and the future.³⁷⁶ Anti-footbinding societies made several arguments against the practice, not limiting themselves to moral or political reasons. Apart from the pain and physical torture, the procedure caused tremendous inconvenience, for example, when purchasing medicine for elderly parents.³⁷⁷

Perhaps the most effective appeal against footbinding was written by a Chinese man, thereby appropriately situating the anti-footbinding campaign in Chinese culture. He argued that the practice was an act of disobedience to the Emperor, who had pronounced footbinding illegal, and also that footbinding was sacrilegious because those who bound their daughter's feet ignored Confucius' teaching that people should respect and never injure their bodies. Mr. Chou, author of the *Suifu Appeal*, invoked practical economic concerns to support the abolition of footbinding, stating that stronger women made for a stronger, more productive nation. This Appeal thus framed the

campaign against footbinding within the affected community's socio-cultural context. Also, skillful lobbying of the Empress Dowager and other influential figures helped to end footbinding.³⁷⁸ The need to save national face proved a powerful motivation to end a custom that not only hindered modernization by keeping women out of the labor force, but also brought ridicule from the west.³⁷⁹

Whenever binding did end, it ended rapidly. One conservative rural area 125 miles south of Beijing went from 99 percent bound in 1889 to 94% in 1899 to zero in 1919.³⁸⁰ Footbinding had ended for the vast majority by 1911, when a legal prohibition against it was enacted.³⁸¹

2.3.3 Female Infanticide

Four different systems for female infanticide control were tried in India. They all had the same end in view but worked to achieve their goal by emphasizing different methods, varying with time and circumstance. One system could not be transplanted to another place, as not only were the problems of a completely different nature but the attitude of the officials and the people seemed equally different.³⁸² The principal actors in most control efforts were the wealthy and the politically powerful.

Certain chiefs were induced to enter into a pledge association similar to that which ended footbinding; they promised not to give their daughters in marriage to any tribe who would not give them their daughters in return. Also, another agreement was brokered, setting an upper limit on expenses for daughters' weddings.³⁸³

In 1804, the Bombay Governor discovered the child body mutilation among Rajputs in a certain town and instituted an anti-female infanticide campaign that lasted 50 years.³⁸⁴ Governor Walker had to rely chiefly on persuasive methods like holding meetings, writing letters, and sending messages to the local chiefs. He achieved his aims to make female infanticide a subject of constant discussion and to induce the chiefs to enter into engagements reducing marriage-related costs and difficulties and thereby facilitating a reduction of the practice.³⁸⁵ He instituted a plan involving the levying of fines against perpetrators according to rank and status and distribution of levied fines to others who adhered to the engagements. Not only were presents and rewards given to those who resisted female infanticide but also pecuniary aid in the form of loans to meet the marriage expenses of their daughters.³⁸⁶

Times changed. By 1819, the Jadejas were already taking for granted that little danger lay in violating their earlier engagements since the British Government was no longer maintaining systematic surveillance of the villages.³⁸⁷ A new strategy was called for. A combination of measures was

put into place: (1) a thorough census was taken, (2) the chiefs were made responsible on pain of loss of their sovereignty for maintaining the register of births and deaths as well as for suppressing female infanticide in their own districts, (3) a plan of rewarding informers was launched, (4) the clans supplying daughters in marriage were encouraged to stipulate at the time of marriage that the issues of both sexes should be preserved, and (5) the program of giving presents of clothes or money for having preserved their daughters was continued.³⁸⁸

The system of informers produced immediate effects. Very soon even chiefs were being turned in for murdering their daughters.³⁸⁹ In 1834, there had been 102 males under one year of age and only 20 females, but by 1846, there were 171 Jadeja females to 189 males of one year and under. Coercion through the system of paid informers helped. When the colonial government threatened the Jadejas with confiscation of their estates, they got the message. They realized that they would lose not only their estates but also their high position in the status hierarchy if they did not abandon female infanticide.³⁹⁰

No approach works perfectly on all levels. One shortcoming of this system, effective though it was, was that it required continuous and vigilant supervision, which was becoming increasingly difficult.³⁹¹ Also, the social system as a whole was unceremoniously threatened through the inevitable tension created by the presence of hired informers. Forceful efforts to rigorously investigate and heavily punish female infanticide might have been enormously effective to cow the orthodox spirit of the Jadejas but such high-handed actions were equally helpful at making the people more vigilant at concealing the crime.³⁹² Penal enactments, without the concurrence of the body of the people, never can be of unmitigated benefit to the community. Until a wholesome public opinion is raised in the country, all punishments will appear either as acts of individual hostility or of gross public severity, and thus will prove useless.³⁹³

Besides rigorous coercion, the empirical approach of the colonial government towards suppression of female infanticide among Jadejas took the form of discouraging hypergamy and encouraging the formation of pledge associations. Rajput social structure, with its rigid hierarchy, was not amenable to reciprocal marriage arrangements. Hence British efforts to encourage reciprocal marriage among Rajputs often did fail, despite persistent efforts. Many of the resulting unmarried women resorted to suicide. Death was "simply transferred to a later period of life to take place under more harrowing circumstances."³⁹⁴

In the northwestern provinces, officials were convinced that coercive measures would not succeed. Instead, familiarity with the Hindu religion enabled the sinfulness of the practice to be pointed out. Friendly meetings by

British officials with local leaders convinced them to renounce the practice and work by using moral and religious discussions with their fellow citizens to reduce the practice. Some commentators insist that moral considerations were the only persuasion used, though it is impossible to be sure no implicit coercion was exerted. Registration of the births of girls was initiated.³⁹⁵ Resolutions were passed by the chiefs fixing marriage expenses according to the family's rank. The results were dramatic. Agreements were also forged to expel from certain castes practitioners of female infanticide.³⁹⁶

The system employed in the Punjab benefited from the experience gained from other approaches. The Government attempted to effect reconciliations between groups belonging to the same caste. In some cases, they succeeded in obtaining consent to inter-marriages between both clans, and in some cases also, an agreement to fix marriage expenditures according to family incomes. The Punjab officials also engaged in extensive education to discourage the practice, holding large-scale meetings and throwing the entire influence of the government into stopping female infanticide. The British were confident that the only effective way to control infanticide was "by carrying the people with them and by destroying the motives of the crime, by making its commission profitless, and by the gradual diffusion of morality."³⁹⁷ For the change to fully take hold, the generations needed to be turned over. Patience played an essential role in this process.³⁹⁸ The value of education has again been demonstrated in efforts to reduce the recent resurgence in a new form of female infanticide in India.³⁹⁹

The need for foreign campaigners against child body mutilations to also clean their own house came into sharp focus in the case of the English efforts to stop Indian female infanticide. Simultaneous with the strenuous control efforts in India, England was rocked by news of widespread infanticides at home, and in 1836 and 1872 laws were passed to stop it.⁴⁰⁰ The English were struggling to stop Indian infanticide while wholesale baby-killing was going on in their own literal backyards. I have not yet come across an analysis of this striking disjunction. Either the irony of this parallel was lost on all the leading authors on female infanticide, or else they were too polite to mention it.

2.3.4 Female Genital Cutting

Frontal assaults, even educational, non-legal ones, even national ones, can backfire badly if perceived as externally imposed. In 1959, well-meaning Ghanaian governmental and non-governmental organizations gathered to discuss female genital cutting. They decided to disseminate medical opinions on the practice's health effects, but failed first to develop an understanding of the traditional roots of female genital cutting. This

attempt only served to drive the practices underground, setting a foundation for future social disasters affecting young Ghanaian women.⁴⁰¹

A less controversial approach than unnuanced total eradication has been to promote changes in values and attitudes toward female circumcision as part of a larger process of social transformation. This “development and modernization” approach assumes that improvements in socioeconomic status and education, particularly for women, will have far-reaching social effects, including a decline in the demand for female genital cutting. Changing social conditions will not automatically change strongly held beliefs and values on female circumcision; it is still important to convince men and women that female genital cutting negatively impacts their lives.⁴⁰²

Reasons for dropping female genital cutting given by Kenyan women fall into three categories: (1) clitoridectomy and the associated ceremonies were seen as being uncivilized and counter to the Bible, (2) it was no longer the style and difficult to find operators to do it, and (3) it was expensive and undesirable for health reasons. Significantly, no one cited its illegality.⁴⁰³

An instructive story about control of female genital cutting involves a program to provide basic education to Senegalese people that unexpectedly ended up causing female genital cutting to be renounced in 31 villages. Ending genital cutting had not been a program objective. The Tostan program offers a comprehensive curriculum in national languages not only for reading, writing, and mathematics but also for improving participants’ essential life skills and socioeconomic conditions. One week of the course focused on problem solving regarding village health problems and included as one of its activities creation of a theater piece about a girl who died from genital cutting.⁴⁰⁴

Tostan staff perceived the breakthrough in ending genital cutting to derive from four essential steps: (1) basic education, (2) public discussion, (3) public declarations, and (4) media campaigns. The session on sexuality evidently also played a role in the women’s decision to end genital cutting, helping them to understand that they have the right to a healthy sexual life. Other factors contributing to the end of female genital cutting in Senegalese villages are the right cultural conditions, the positive participation of Islamic leaders, and the importance of public declarations by villagers who courageously decided to oppose female genital cutting. No doubt Tostan’s nonjudgmental approach was also helpful, as educators never told the villagers what to do. The facilitators did not condemn the participants or accuse them of being violent, uncivilized, brutal, or barbaric.⁴⁰⁵

2.3.5 Male Genital Cutting

A significant movement evolved in the last decades of the twentieth century to oppose male genital cutting. A broad range of approaches is being simultaneously deployed: media appearances, radical political action, academic conferences, grass-roots and professional organizations that quietly network, etc. The rate in the United States has declined from a high of 85% in 1979 to a current rate of 57% as of 1998.⁴⁰⁶

2.3.6 Female Infanticide, Female Genital Cutting and Male Genital Cutting

Both female and male infanticide were present in nineteenth-century India, and yet only the former received significant attention from government and scholars, then and now. Similarly, both male and female genital cutting are present today, and yet to date statutes and official “eradication” efforts have been directed only to female genital cutting. No reason in logic or law can justify this discrimination. Moreover, campaigns against both female infanticide and female genital cutting in foreign countries have occurred while, at home, female infanticide and male genital cutting were proceeding in epidemic proportions. Women in countries practicing female genital cutting have complained, with understandable outrage, about western feminists who try to stop their “mutilation” while hypocritically performing their own favored types of body alteration.⁴⁰⁷ One should always clean one’s own home first.

2.4 Legal and Extralegal Approaches to Control of Child Body Mutilations: Lessons to be Learned

Legal measures probably never suffice to eliminate child body mutilation by themselves, as history has shown us time and again. The people must first accede to and even desire change. Working with native activists whenever possible is both prudent and effective. Forceful interventionist efforts by foreign missionaries who denied school admission to foot-bound girls failed to eliminate the mutilation, as have ideologues raging against female genital cutting from the comfort of the developed world. The control of footbinding took place because it was (accurately) perceived as primarily a Chinese effort; it did not and could not have occurred simply through the rules, laws, and edicts of outsiders. The campaign’s success derived from its educational and integrationist approach. Activists shift public opinion, and after that the practice’s incidence declined. And it was only then that the passage of a

positive law could prove effective.⁴⁰⁸ Law generally follows the current of society, rarely leading dramatic social transformations.⁴⁰⁹

Extralegal approaches can backfire, especially if they share the drawbacks commonly found with legal approaches — insensitivity to local culture, for example. Also, laws can do worse than not work; they can be counterproductive by reinforcing people's resistance to control of a mutilation. Despite child body mutilation's peculiar persistence, often a scale-flipping effect occurs in which non-observance of the mutilation captures popular imagination.

What may be needed is a shift away from the paradigm that holds up criminal law as the only type of law that can be effective. The debate may take a new turn if greater emphasis is given to civil law measures. One example is a tort lawsuit brought by a child against a practitioner when the child reaches a sufficient age. This approach avoids the harshness, the scandal, and the high stakes of criminal procedure. The cultural debate will continue to derail the legal debate as long as the only operative remedy or deterrence is criminal law.⁴¹⁰

Familiarity with local culture and religion should be developed. This will facilitate decoupling the mutilation from religion and culture, as will be needed to eliminate both female and male genital cutting. It will also assist formulating a proposal for control in terminology that the native population can appreciate. The needs met by the mutilation, including initiation, belonging, and facilitating marriage, will need to be fulfilled through other methods or else all efforts to control a mutilation are likely to fail. It will be helpful to disseminate accurate information regarding problems created by a child body mutilation — medical complications, economic difficulties, sexual complications, etc. Creativity should be cultivated, and ways should be found to help ease any difficulty that control may cause to individuals (such as performers of the mutilation).

A number of lessons may be distilled from the successful mutilation control efforts we have reviewed:

1. Avoid appearing hypocritical in the eyes of those you seek to influence. Work towards eliminating child body mutilations in your own culture before attempting to eliminate them in foreign countries.
2. Be selectively firm. Adapt the approach to the specific location.
3. Address the perpetrators of ritual mutilations with respect. Avoid condemning their mutilation, with its roots in their culture and history, as barbaric.

4. Be opportunistic. Do what works, and do not look to established principles to guide effective control mechanisms.
5. Promote literacy and education to assist the control process.
6. Use persuasive methods whenever possible rather than prohibitory (legal) punishments.
7. Use as many approaches as possible. Often, practical reasons are more effective than legal or moral ones. As we saw with female infanticide and genital cutting, the people must be internally motivated to control the practice or else the practice will resume as soon as the eye of authority looks elsewhere
8. The less interference exerted by foreign authorities, the more powerful and efficient becomes the moral influence.
9. Always remain vigilant. Care should be taken to avoid exchanging one evil for another.
10. Avoid being radical. Listen to the people and build common ground.
11. A combined “carrot-and-stick” approach can, on occasion, work very well.
12. Legal measures can be the *coup de grace* but cannot be the first stage of eradication. Mere resolutions or statutes cannot change entrenched social norms.
13. Supreme patience is required, as the elimination of child body mutilation practices may take several generations.

3. CONCLUSION

Child body mutilations that persist develop interconnections, apparent or genuine, with important social concerns such as adulthood, virginity, marriage, and initiation. All these practices clearly exact a toll on the entire society that probably exceeds the inestimable suffering inflicted on the children and on those who care about them. All child body mutilations repaint on a large canvas the individual tortures and degradations that are

first sketched out on the bodies of the children. Thus, the entire culture becomes the sufferer from the wracks ostensibly only inflicted on the most powerless members of society. Approaches to controlling these child body mutilations always arrive too late for uncounted numbers of these tiny victims. A judicious integration of legal and extralegal approaches holds out the hope of helping to control and eventually end these practices. We can only hope that the line from person to culture can also be reversed and we can somehow imbibe the benefits of curing a sick culture of its own private version of hell.

The rituals that various cultures develop may well be socially acceptable means of processing deep-seated primitive fears and impulses that would otherwise induce great conflict and anxiety.⁴¹¹ We in the US live in a country that inflicts its neuroses on children.⁴¹²⁻⁴¹³ While footbinding is the most obvious societally shared fetish, all mutilations, those that are explicitly sexual and those that are not, could be generally described as culturally endorsed fetishes that promote the sexualization and commodification of the child.⁴¹⁴

Social endorsement of pain and violence erases its reality, subdues it, controls it. Even the language does that; terminology literally makes something conceivable. Language reflects this principle: among the coastal peoples of New Britain, deformed heads are said to “look good” while normal heads are called “big heads.”⁴¹⁵ The Chinook take this a step further, calling men with deformed heads “good men.”⁴¹⁶ An analogous, if muddy, concept that circumcision is necessary or at least helpful to being a “good man” still seems to hold some currency in certain demographic groups in the United States.⁴¹⁷⁻⁴¹⁸

The transformational power of child body mutilation practices must be appreciated to understand these practices’ persistence. Child body mutilations can turn a boy into a man, a girl into a woman, a non-virgin back into a virgin, a woman of average appearance into a beauty, a middle class person into someone greater, or can even bring a family, fearing economic extinction, back to viability.

All these practices illustrate a strange combination of opposites, requiring cultural if not individual double-think. Sexuality is controlled and masturbation stopped by removing part of the genitals, or women’s feet or people’s heads are made more attractive by deforming them, or family problems are solved by killing recently born family members.

Cultural parochialism is all too common and is most apparent when each culture’s own form of mutilation is defended as admirable. One must always bear in mind the power of mutual repugnance that each society feels toward the presence of unfamiliar mutilations or the absence of familiar ones.⁴¹⁹ Practices emanating from other cultures tend to be perceived as primitive,

barbaric, unnecessary, and non-western, while those from the west are more likely to be accepted. Those procedures most often performed by medics may gain some legitimacy from the empowered 'spaces' in which they take place and the professionals who perform them. "Eradication" efforts directed toward practices in "other" places are unlikely to receive enthusiastic receptions until, at the very least, we have eradicated our own harmful traditional practices. It will be necessary for us to develop more tolerance for the customs of the "other," however abhorrent they may seem to us, and uproot parochial acceptance of "our" evils, however familiar and innocuous they may appear.⁴²⁰

There can be no fitter way to conclude than by glancing one more time at "our" own child body mutilation, namely, male circumcision. I would like to offer the words of anthropologist Nancy Scheper-Hughes, who exemplifies the spirit of the open-mindedness that we will require if we are to re-examine our own culture's chosen form of mutilation and arrive at some striking, resonant conclusions. Scheper-Hughes awakened to the horror of male genital cutting when she heard her son's shrieks from the waiting room. She pleads with her audience, composed of professionals comparing cultures, "Where are the passionate voices of our western, male medical anthropologists — some of them circumcised, some of them not — speaking out on the practice of male genital surgery in the United States? Why isn't male circumcision also one of the places "where we ought to draw the line?"⁴²¹

While we need to build a new civilization, free from all forms of prejudice and all types of child body mutilation, we can start our work by joining Scheper-Hughes. Drawing the line against all forms of abuse may prove the best, even the only, way to lead us out of our own cultural blindness and into an era of respect for all children everywhere.

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