

The child's right to an open future: is the principle applicable to non-therapeutic circumcision?

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ABSTRACT

The principle of the child's right to an open future was first proposed by the legal philosopher Joel Feinberg and developed further by bioethicist Dena Davis. The principle holds that children possess a unique class of rights called rights in trust—rights that they cannot yet exercise, but which they will be able to exercise when they reach maturity. Parents should not, therefore, take actions that permanently foreclose on or pre-empt the future options of their children, but leave them the greatest possible scope for exercising personal life choices in adulthood. Davis particularly applies the principle to genetic counselling, arguing that parents should not take deliberate steps to create physically abnormal children, and to religion, arguing that while parents are entitled to bring their children up in accordance with their own values, they are not entitled to inflict physical or mental harm, neither by omission nor commission. In this paper, I aim to elucidate the open future principle, and consider whether it is applicable to non-therapeutic circumcision of boys, whether performed for cultural/religious or for prophylactic/health reasons. I argue that the principle is highly applicable to non-therapeutic circumcision, and conclude that non-therapeutic circumcision would be a violation of the child's right to an open future, and thus objectionable from both an ethical and a human rights perspective.

Children...are not born *in* this full state of Equality, but they are born *to* it. Their Parents have a sort of Rule and Jurisdiction over them when they come into the World, and for some time after, but 'tis a temporary one. ... The Power, then, that Parents have over their Children arises from that Duty which is incumbent upon them, to take care of their Off-spring during their imperfect state of Childhood. To inform the Mind, and govern the Actions of their yet ignorant Nonage, till Reason shall take its place.

— John Locke, Second Treatise of Government, Ss. 55 and 58.

INTRODUCTION

Although the child's right to an open future has become 'a commonplace' in applied ethics, most of the discussion has been conducted by social and educational philosophers, and has focused on the ideological aspects of child rearing, particularly education and acculturation into religious beliefs and values—what we might summarise as mental conditioning.^{1–6} The concept has attracted surprisingly little attention in bioethical circles, and there have been relatively few attempts to consider its relevance to bodies rather than minds. One area in which it has been applied is in debates over genetic

reproductive technologies, arising from concern over the manipulation of children's characteristics, especially gender and characteristics normally regarded as disabilities, such as deafness. In this paper, I summarise Feinberg's elucidation of the concept, discuss the position of Dena Davis, perhaps the most prominent bioethicist to develop the principle, and then consider whether it is applicable to physical alterations, such as circumcision, by means of an analogy with the deafness-as-culture question. I also consider harm, the limits of parental discretion, religious freedom, substituted judgement, and the likely future wishes of the average boy with respect to his penis.

FEINBERG AND THE CHILD'S RIGHT TO AN OPEN FUTURE

In a much cited essay, legal philosopher Joel Feinberg proposed that in the family context there were four kinds of rights: rights that adults and children have in common (eg, the right not to be killed); rights held only by children or dependent adults (eg, food, shelter, protection); rights that can be exercised only by adults or older children (eg, to choose or reject a religion); and 'rights in trust': rights that should be saved for the child until he is an adult. Feinberg defines these as the sort of rights an autonomous adult would have, but which the child is too young to exercise: they are 'rights that are to be saved for the child until he is an adult, but which can be violated "in advance" before the child is even in a position to exercise them'. Such violations mean that when the child does grow up he will find that certain options will already be closed to him.⁷ An example would be the right to walk down the footpath, certainly held by an infant even though he cannot yet walk, because as an adult he will be able to walk. This right would be violated before it could be exercised by cutting off his legs or otherwise crippling him. Since children are not capable of defending their own future interests against infringement by their parents, this role must be performed by others, usually the state in its capacity as *parens patriae*. Western courts have long held that the state has a 'sovereign power' of guardianship over minors and incompetent adults, which gives it the authority to look after the interests of those who are incapable of protecting themselves.⁷

None of this means that the child must be left free to do whatever he likes, or that he should be immune from parental discipline and protection. Feinberg points out that paternalism in the raising of children is both inevitable and proper because there will always be times when a child, even an adolescent, cannot properly evaluate his long-term

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interests, and when he must be 'protected from his own immature and unformed judgement'.⁷ Every child is a potential adult, and it is precisely that future adult whose autonomy and capacity for later choice must be protected now. Adults are entitled to gratify harmful whims when they affect only themselves, but it will often be necessary to protect children from making rash decisions: 'Respect for the child's future autonomy as an adult often requires preventing his free choice now'.⁷ Applying this principle to childhood, it is legitimate for parents to prevent children from eating too many sweets or raiding the cocktail cabinet; to make them eat their vegetables and go to the dentist regularly; to refuse requests to get tattoos or nose rings; to refuse a girl's request for a tubal ligation or a boy's for a vasectomy; and—to bring the issue home—to refuse a boy's request to get circumcised because his buddies tease him about his foreskin. The principle in all such cases is to preserve children's future options and prevent them from making irreversible decisions they may later regret. The converse does not apply: just because parents have the right to prevent their children from committing follies, such as a large tattoo or a permanent genital alteration, it does not mean that they have the right to impose such alterations themselves.

DENA DAVIS AND THE LIMITS OF GENETIC MANIPULATION

One of the few bioethicists to apply the open future principle to bodily issues is Dena Davis, who notes that these 'rights in trust' are fragile because they can be 'violated by adults now, in ways that cut off the possibility that the child when he or she achieves adulthood, can exercise them'. An example is the right to reproduce. Even though a child is not physically capable of exercising this right, it is a right that the child will have as an adult. It follows that 'the child now has the right not to be sterilised, so that the child might exercise the right to reproduce in the future. Rights in this category include virtually all the important rights we believe adults have, but which must be protected now to be exercised later'.⁸ Accordingly, Davis argues that it is ethically wrong for parents to use genetic manipulation to ensure that a child is born with the characteristics that they desire because it denies autonomy and choice to the child: while genetic counsellors should respect the autonomy of the parents, they should complement this with respect for the potential autonomy of the future child.

In a multicultural society, there will be conflict between the subcultures that impose restrictions on their members and society's belief in individual rights and equal opportunity. While Davis believes that communities that deny individual choice must be tolerated, this is on the proviso that society recognises 'the right of individuals to choose which communities they wish to join and leave if they have a mind to'.⁸ Since children have no choice as to what kind of community they are born to, it follows that parental rights to bring up children in accordance with their own values and beliefs is not absolute. Davis follows Feinberg in supporting court decisions that compel Jehovah's Witnesses to allow their children to receive blood transfusions, even though this violates deeply held religious beliefs.⁸ Likewise, she criticises the US Supreme Court for its decision in the Yoder case (1972) that allowed Amish parents to withdraw their children from school 2 years earlier than required by State law because the decision ignored the interests of the children: 'the justices ducked the question of whether the liberal democratic state owes all its citizens, especially children, a right to a basic education that can serve as a building block' for the varied and unpredictable decisions that a child may wish to make as an

adult. If the child misses out on those crucial 2 years of schooling, he may never be able to catch up if he later decides that he does not want to follow the Amish lifestyle, but will be forced to remain there for ever, unhappy and resentful.⁸

Davis notes that parental authority, 'the freedom to form and raise a family according to their own conception of the good', may conflict with the future autonomy of the children to 'implement their own life plans' when they reach adulthood.⁹ Arranged marriages, for example, would be a violation of the child's right to a basic tenet of adult autonomy: the right to choose whether and whom to marry. Arranged marriages are illegal, but even if they were not 'they should still be rejected on ethical grounds'.⁸ When it comes to intergenerational conflict, Davis sides with individual choice and the child's right to autonomy:

The autonomy of the individual is ethically prior to the autonomy of the family. ... Where the family exercise of its rights to "form and raise a family according to [its] own conception of the good" threatens to extinguish the abilities of children to choose their own lives when they become adults, ... the family behaves wrongly.⁸

It is in matters affecting their children that groups are most jealous of their prerogatives. Although Davis acknowledges their right 'to shape the values and lives of their children', she also maintains that 'when that shaping ... impinges substantially and irrevocably on the child's right to an open future' we should 'intervene to support the child's future ability to make her own choices'.⁸ Children suffer harm when parents limit the range of choices available to them when they become adults, covering both situations in which a limitation is due to a physical disability and those in which intensified parental expectations made possible by new technologies enable the production of children with specific desired characteristics, such as gender. It is wrong for deaf parents to take steps to ensure that they have a deaf child because deafness significantly limits the child's future options and is thus a harm. Even preconception selection of the child's sex may cause harm because it enhances the parents' gender expectations and makes it more difficult for the child to escape gender stereotypes.⁸

THE OPEN FUTURE PRINCIPLE AND CIRCUMCISION An analogy from designer deafness

Is the open future principle applicable to permanent physical alterations that parents may wish to impose on children—and indeed that children may wish to impose on themselves—such as branding, tattoos, piercing and various forms of genital cutting? Although parents are generally entitled to the custody of their children and to bring them up in accordance with their own values, Feinberg argues that they are constrained by limitations relating to physical integrity, medical treatment and education:

If a parent ... has a legally recognised right to the custody of his own child then we should expect courts to infringe that right only with the greatest reluctance and for the most compelling reasons. One such reason would be conflict with an even more important right of the child himself. Parents who beat, torture or mutilate their children, or who wilfully refuse to allow them to be educated, can expect the state ... to intervene.⁷

He suggests that refusal to provide appropriate medical care, or insistence on providing inappropriate or ineffective medical care would also be grounds for state intervention. On this basis, if circumcision could be considered mutilation or inappropriate medical care, then the state would be entitled to intervene to

protect children from parental desires to circumcise them, as indeed it has done in the case of girls.¹⁰

The example of deaf parents taking deliberate steps to ensure that they have deaf children ‘because they will be like us’ is of particular interest because it is closely analogous to the reason why many parents want their children circumcised. The analogy is doubly valid because although most people would regard deafness as a disability, some deaf people regard their condition as a linguistic identity or minority culture that ought to be accorded the status of other minority cultures in accordance with the multicultural promise. A storm of comment was provoked by news in 2002 that a deaf female/female couple had deliberately sought to mother a deaf child by selecting a deaf sperm donor. The ensuing debate has many points of analogy with the controversy over circumcision. Defenders of the women’s action asserted that the deaf world was a legitimate culture which parents would naturally wish their children to be part of, and into which they were entitled to induct them by taking steps to ensure that they had the same key physical characteristic as the parents.¹¹ Opponents regarded the action as unethical because it focused exclusively on the desires of the parents and ignored the long-term best interests and possible future wishes of the child.^{12–15}

Two points are of particular relevance. First, it is interesting that such a mild action should attract such heavy censure. The couple were not seeking deliberately to deprive an existing child of the capacity to hear, but to increase the likelihood that a deaf child would be born to them through sperm selection. There is a world of difference between this strategy and intentionally causing an unborn child to be deaf by getting infected with German measles; causing a deaf child to remain deaf by failing to correct the deficiency, where possible, by medical treatment; or, worst of all, performing surgery on a hearing child to sever the auditory nerves or remove the ear drums. Critics regarded the couple’s action as unethically impermissible; yet the more severe surgical possibility is comparable with what is done in a circumcision operation, which severs the nerves of the penis and removes sensitive tissue, with irreversible adverse effects on sexual sensation.¹⁶ If genetic selection for abnormality to ensure the birth of a child that fits into the parental culture is objectionable, surgery on a child who would otherwise be normal—capable of the full range of sensory experience, whether auditory or erotic—is even more problematic. Second, it is significant that many of the critics explicitly invoked the open future principle as the basis of their position.^{12 14 15} Nunes argues that because childhood was more a stage than a status, parental reproductive rights must be balanced by regard for the future interests of the child: ‘Parents do not own their children, but are only guardians on their behalf. It follows that a child’s scope of future choices must be protected’.¹² Hladek argues that it is unethical not only to take steps to produce a deaf child because he might well prefer to be able to hear, but also to fail to correct deafness by means of technologies such as the cochlear implant.¹⁵

Deafness and foreskin loss as harm

For critics who did not cite the open future principle explicitly, it was the harm to the child’s interests—both immediate and long term—that made selection for deafness unethical. Shaw argues that the couple’s action was wrong because it was ‘choosing to deprive their child ... of one of the five senses that makes us part of the world’.¹³ Davis likewise argues that deliberately creating a deaf child is a cruel act that denies autonomy to the future adult (who might well prefer being able to hear) and

deprives him of the many additional opportunities available to people with all five senses: deliberately creating a deaf child is harmful because it curtails the child’s right to an open future.⁸ To illustrate this point, she imagines a couple who are deaf for non-genetic reasons and want their child to be likewise. Because this is unlikely to happen through the genetic lottery, the mother exposes herself to an infection known to cause deafness in babies. Accordingly, ‘Baby Ann had two possibilities: being born hearing or being born deaf. Her parents deliberately did something to ensure the latter condition. If being deaf is less desirable than being able to hear, then Ann has been harmed’.⁸

This example is directly applicable to circumcision, since all boys are born with foreskins and thus have two possibilities—growing up with a foreskin or growing up without one—and only deliberate surgical intervention will produce the latter situation. To paraphrase Davis’s words, if being deprived of one’s foreskin is less desirable than having it—and thus preserving the choice of keeping or losing it—then the circumcised boy has been harmed. This point may be more contentious than the example of deafness, since some men are vehement that they like being circumcised, and circumcision advocates insist that the foreskin is itself harmful. This claim is at best contentious, since competent medical authorities agree that routine (non-therapeutic) circumcision of minors is not necessary; even if some benefits can be detected, they are not sufficient to justify imposition of the surgery on non-consenting children.^{17–24} Furthermore, even if the benefits claimed were substantial, the decision could still safely be left until maturity, since the only significant ones (reduced risk of penile cancer and sexually transmitted infections) do not apply until adulthood.

Some commentators on the open future principle have questioned whether parents have the right to indoctrinate children into particular religious or political beliefs^{2 3 6}, but there is no need to take the argument as far as that in order to recognise that there is a profound difference between mental conditioning and physically marking the body. While an individual may never completely throw off the influences of his socialisation and upbringing, many children challenge and reject the values of their parents and set themselves on different courses in adulthood. As Davis writes, although the transformation would never be complete, ‘a person raised as a secular Jew could decide to become a Roman Catholic’. The situation is quite different when irreversible changes have been made to the body:

When choices are irreversible, such as whether a person will be hearing or deaf, or when they can be postponed until the child is old enough to decide for herself, such as whether or not to be tested for adult onset diseases, then good parenthood consists in allowing the child the greatest possible latitude of choice when that child reaches adulthood.⁸

While it may be possible to change one’s mind about religion or other values, it will not be possible to erase permanent physical marks or to restore lost capabilities or body parts. The same principle applies to actions that carry risk. James Dwyer argues that the state’s authority to restrict parental control of children ‘is not nullified merely because the parent grounds his claim to control the child’s course of conduct on religion or conscience. ... The right to practise religion does not include liberty to expose the community or the child to communicable diseases or the latter to ill-health or death’.²⁵ Referring to the case in which the US Supreme Court held that Jehovah’s Witnesses could not prevent hospitals from giving their children life-saving blood transfusions, Dyer further argues that while the Free Exercise clause gives parents the right to ‘train and indoctrinate their children in religious matters’, the placing of a child in danger is

not a form of training, and is thus not constitutionally protected. These cases impose broad limits on the extent of parental authority in religious matters: 'these rights did not include a right to endanger seriously a child's physical health or safety'; parental rights were 'limited to indoctrinating their children and involving them in (non-dangerous) religious practices'.²⁵ If these principles were applied consistently, they would throw doubt on any customary ritual that carried a known risk of infecting a child with a disease, or causing other forms of ill health. Circumcision, like any surgical procedure, does carry such risks.^{26 27}

Childhood is a temporary phase ... circumcision is for ever

Several authorities that do not name the open future principle, nonetheless rely on the same idea when proposing that a child's future interests and wishes should be given weight in the circumcision decision. Australian paediatricians have stated that they are 'opposed to male children being subjected to a procedure, which had they been old enough to consider the advantages and disadvantages, may well have opted to reject the operation and retain their prepuce'.²⁸ Referring specifically to culturally motivated circumcision, the Royal Dutch Medical Association has commented that children also have a right to religious freedom:

The right to physical integrity and the right to religious freedom of the child imply that religiously motivated, irreversible interventions to the body of the child should be avoided. This leaves the child the freedom to make up its own mind whether and in what form he/she wishes to relate to a particular religious community. Baptising children, for example, leaves no irreversible marks on the body, and as such is not a curtailment of the child's religious freedom, whereas irreversible non-therapeutic circumcision is.²⁰

A similar view was the basis for the decision by the Cologne District Court that since non-therapeutic circumcision of a minor constituted both harm and an infringement of the child's religious freedom, it was unlawful: because circumcision 'changes the child's body permanently and irreparably' it 'runs contrary to the interests of the child in deciding his religious affiliation independently later in life'.²⁹

The open future principle can supplement other ethical rules devised for the protection of minors and other incompetents. An objection sometimes raised to the proposition that children have rights is that they lack power to enforce them. It is true that most children are vulnerable and unable to invoke the institutional mechanisms that could protect them from an unwanted intervention, but this fact highlights the need to give them better protection. Indeed, it seems perverse to deny rights to those who need them most, for as Michael Ignatieff has observed, a right is an assertion against power by one in a position of weakness.³⁰ Recognising this, the state has often stepped in to protect the lives and bodies of incompetent adults and disabled children against family wishes; if this is legitimate, how much more important must it be to protect those whose whole lives lie before them and whose undamaged bodies require no special care? Dwyer suggests that children should not have fewer rights or be treated with less consideration than incompetent adults, in accordance with the substituted judgement principle—what the child would choose for him/herself if rationally able to do so.^{25 31} Dwyer acknowledges that infants and very young children would not have shown much evidence of preferences on any aspect of their lives, but does not regard this as invalidating the substituted judgement principle so long

as there are reasonable grounds for determining what the incompetent person would choose if he or she were competent.

The open future principle can solve this problem. Whenever a child is too young to express preferences, the imperative is to refrain from actions that unnecessarily and irreversibly close off options. This principle would not prevent, say, dental care, since good teeth in adulthood are in the child's long-term interests, no matter how great the discomfort at the time or how much resistance he shows. We can reasonably assume that if a child appreciated the discomfort of tooth decay and the disadvantages of losing teeth, he would choose to have them looked after properly. But the principle would prevent amputation of body parts (unless essential for therapeutic purposes) because it is impossible to put them back later, and when the child reaches adulthood, or even before, he may well regret their loss. As Dwyer comments

It seems unlikely that any individual, upon reaching adulthood, would resent having had a range of options in matters of belief, lifestyle and health preserved for her during childhood. It seems reasonable to believe that she might want to make her own choices as an adult in accordance with the personal attitudes and ambitions she has developed, rather than having almost all options closed off to her just because her parents wished to determine her life for her.²⁵

Thus, a boy is far more likely to resent having been circumcised than having been left uncircumcised, because if left alone, he can always get himself circumcised as an adult if that is what he wants. A boy who has been circumcised by his parents does not have this option and must live for ever with the choice that somebody else has made.¹

The open future principle is a corrective to the 'coercive paternalism' that may result when adults make decisions that they consider to be in a child's best interests. Theorists of children's rights, such as John Eekelaar,³²⁻³⁴ are concerned that the best interests formula so often applied in court and medical decision making, can ignore the child's own views and violate his rights by denying him choice in matters that affect his present and future wishes:

Although it might logically be held that B has the right that A should promote B's welfare in accordance with A's perception of that welfare, such a right is really no right at all. A person who surrenders to another the power to determine where his own welfare lies has ... abdicated his personal autonomy.³⁴

The problem has surfaced in several custody cases, where one parent (eg, Muslim father) has wanted the boy to be circumcised, while the other (eg, non-Muslim mother) has not; and the court has then decided on the basis of whether he was more likely to join the mother's or the father's culture. In the British case of *re J*, the court decided that because the boy was unlikely to be brought up as a practicing Muslim it was inappropriate for him to be circumcised—a ruling that implies the converse: that if the court thought he *was* likely to be brought up as a Muslim, his 'best interests' lay in being circumcised.³⁵ The court was applying the best interests standard as assessed by adults, but it

¹It is true that an uncircumcised boy has been denied the *chance* to be circumcised in infancy, but since he is incapable of making a *choice* at that age it cannot be said that he has been denied the right to choose; on the contrary, that right has been preserved for him to exercise later. Some uncircumcised men say they would like to have been circumcised in infancy, but such assertions are as unprovable as any other might-have-been.

did not ask the boy what he wanted, and how could it really judge the lifelong best interests and likely future wishes of somebody so young? Such decisions can never be much more than guesswork and, in the case of culturally motivated circumcision, the application of cultural stereotypes. Not all children brought up as Muslims are glad to have been circumcised, and some are on record as fleeing from or bitterly resenting it.^{36 37} Because the later preferences of a child cannot be known, the safest course is, wherever possible, to keep the options open.ⁱⁱ

Respect for the open future principle thus requires parents to leave their boys' foreskins alone and let them make up their own minds about such an intimate personal choice when they reach the age of consent. Delaying circumcision until the child is mature enough to make an informed decision about it, which in most cases would not be until his mid- to late teens, is not only the soundest policy from an ethical point of view, but also the least-risk approach, in that it avoids both the risks of the surgery and the danger that the adult will resent what was done to him as an infant. The only justification for removing a functional and highly visible part of a sensitive organ, such as the penis, from a minor would be if there was a high risk that its presence would cause death or serious illness before the boy reached adulthood. No boy with normal (healthy) genitals has ever died because his parents neglected to circumcise him, though many have died or suffered crippling injuries as a direct consequence of circumcision. If, for any reason, an adult male prefers to have a circumcised penis, the open future principle ensures that he is free to make this decision for himself, and also that he will be able to select his own surgeon, style of cut, degree of pain control and postoperative care and so on, thus maximising the likelihood that he will be happy with the outcome, and reducing the likelihood of regrets.³⁹

The fact that very few men seek circumcision in adulthood suggests that if they had been offered the choice in infancy or childhood the vast majority would have opted to retain their foreskin. Evidence of this is provided by a study of adult men in San Francisco, which found that even if there were proof that it gave them significant protection against AIDS, only 0.7% said they would agree to get circumcised,⁴⁰ and by numerous complaints from circumcised men that they resent their condition and would prefer to have been left alone.^{41–43} In many cases, their objection is not only to the physical effects of circumcision on bodily appearance and sexual function, but to the denial of choice and the sense of violated human dignity—as these typical comments from an Australian survey demonstrate:

It is the indignation of somebody else making decisions for my body that pisses me off the most.

I feel a great loss of both choice and control in relation to my circumcision.⁴⁴

Using the substituted judgement test, we may conclude that if an infant or child were rationally capable of assessing the relevant

information, the vast majority would reject circumcision. In this connection, is it significant that Davis considers the greatest moral harm in parents deliberately causing their child to be deaf to be not the physical effects of the deafness itself, but the denial of choice: 'The primary argument against deliberately seeking to produce deaf children is that it violates the child's own autonomy and narrows the scope of her choices when she grows up; in other words, it violates her right to an "open future"'.⁴⁵

CONCLUSION

Although neither Feinberg nor commentators discuss circumcision, the examples they give to illustrate their arguments are applicable to parents who deliberately remove a boy's foreskin because they want his penis to be like his father's, to fit the norms of an ethnic or religious group, because they think it is cleaner, or for any reason other than medical necessity, since it also violates the open future principle. If the examples chosen were colour blindness or partial hearing loss, the analogy would be all the more exact, since there is convincing evidence that circumcision reduces the range of sensations capable of being transmitted by the penis, and has indeed been compared with colour blindness by men who have undergone circumcision in maturity.^{46 47} The operation thus closes off options for sexual experience that the child would otherwise have as an adult (and indeed as a child). It also deprives the boy of the choice that should be held for him in trust to exercise in maturity, when he has had the chance to assess the literature on circumcision, and to make his own decision about whether to keep his foreskin or to get it removed for medical, cultural, aesthetic or any other reason.

The child's right to an open future complements the four principles of bioethics developed by Beauchamp and Childress by meeting the objection that children cannot possess rights because they lack moral autonomy and the capacity to make rational choices.³¹ Children may lack such autonomy now, but as adults-to-be they will develop such autonomy in the normal course of their growth. It also supports and extends the argument of Hodges *et al*, that additional scrutiny is demanded when we make decisions about non-essential surgery on children, especially when it entails removal of functional body parts.⁴⁸ One of the compelling features of the principle is its alignment with Locke's proposition that parental authority derives from their duty of care towards their children and is limited by the interests of the latter. Circumcision is analogous to smoking, eating junk food and not cleaning one's teeth because it causes long-term harm to the body and reduces its future functionality. Forcing children to brush their teeth, or endure painful vaccinations, preventing them from smoking, and protecting their foreskin, all have the same rationale: to preserve the body for future use, and ensure that the future adult is able to make autonomous decisions about such matters. The open future principle both constrains parents and gives them authority—constrains them from cutting off their children's future options, but gives them the authority to prevent their children from recklessly doing the same.

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ⁱⁱEekelaar particularly rejects the paternalistic 'welfarist' position that sometimes describes a child as having a right to have performed on him some action, or a decision made on his behalf, that somebody else has determined to be in his best interests.³⁴ This argument pinpoints the central weakness in the argument of defenders of cultural circumcision such as Michael Freeman, that a child has 'a right to circumcision'³⁸ – that is, to be circumcised because somebody else would like him to be. But just as there is 'no such thing as a birthright to be deaf',¹² there is no such thing as a birthright to be circumcised in infancy or childhood—though everybody has the right to elect the procedure for himself when he reaches maturity.

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