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RESEARCH

The prosecution of Dawoodi Bohra women: some reasonable doubts

Richard A. Shweder, rshd@uchicago.edu
University of Chicago, USA

Muslim women of the Dawoodi Bohra community have recently been prosecuted because they customarily adhere to a religiously based gender-inclusive version of the Jewish Abrahamic circumcision tradition. In Dawoodi Bohra families it is not only boys but also girls who are circumcised. And it is mothers who typically control and arrange for the circumcision of their daughters. By most accounts the circumcision procedure for girls amounts to a nick, abrasion, piercing or small cut restricted to the female foreskin or prepuce (often referred to as ‘the clitoral hood’ or in some parts of Southeast Asia as the ‘clitoral veil’). From a strictly surgical point of view the custom is less invasive than a typical male circumcision as routinely and legally performed by Jews and Muslims. The question arises: if the practice is legal for the gander why should it be banned for the goose?

Key words Dawoodi Bohra • female circumcision • male circumcision • gender equality • religious freedom

Key messages

- Wherever there is female circumcision there is male circumcision – the custom is gender-inclusive.
- The tradition of gender-inclusive Abrahamic circumcision has broad support among Dawoodi Bohra Muslim women.
- Female circumcision as practised by Dawoodi Bohra women is less invasive than male circumcision as legally practised by Muslims and Jews.
- Why should girls be excluded from the Abrahamic circumcision tradition? If it is legal for boys why shouldn’t it be legal for girls?
- Has the time come to rethink the expression ‘female genital mutilation’? Is it a ‘no brainer’ or has it made us ‘brain dead’?

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Gender-inclusive circumcision among the Dawoodi Bohra: what is it?

Muslim women of the Dawoodi Bohra community have recently been prosecuted because they customarily adhere to a religiously based gender-inclusive version of the Jewish Abrahamic circumcision tradition. In Dawoodi Bohra families it is not only boys but also girls who are circumcised. And it is mothers who typically control and arrange for the circumcision of their daughters.

This longstanding gender-inclusive circumcision tradition (known as ‘khafb’, ‘khafz’ or ‘khatna’ when referring to females) is religiously meaningful for some, although not all, denominations of Muslims around the world (Duivenbode, 2018).¹ The history and religious foundations of the custom have been described and documented in a 2019 report by the English barrister Zimran Samuel, which also includes a first of its kind representative survey of current Dawoodi Bohra female opinion about the practice (Samuel, 2019).² As Samuel discovered, the custom has widespread contemporary female support in the Dawoodi Bohra community, even among highly educated professional women, of whom there are many.

Globally the Dawoodi Bohra religious community has approximately 1 million members, with its ‘Vatican’ located in India, and a membership which includes citizens from all over the world (Blank, 2001).³ They are a small, highly educated and cosmopolitan Shia Muslim denomination that has distinguished itself with its gender egalitarian orientation to education and the high participation of Dawoodi Bohra women in various professional occupations.

I mention this last fact mindful of the neocolonial sounding discourse of disparagement, condescension and denial of women’s agency frequently employed by global activists who campaign against gender-inclusive circumcision traditions in Africa and Asia. These campaigners are reluctant to allow that when a mother supports the circumcision of her daughter as well as her son it is a meaningful act that she does for justifiable reasons. Instead these campaigners believe that any mother who adheres to the custom is either (a) uneducated and ignorant of the consequences of the custom, (b) a slave of a tradition she herself would like to escape if only she had the option, (c) oppressed and under the thumb of the deplorable men in her family who wish to control their wives and daughters and deprive them of any sexual enjoyment in life, or (d) she herself is deplorable. By way of contrast, most Dawoodi Bohra women, including those who are highly educated health professionals, appear to embrace female circumcision with their eyes open.

Right now, Dawoodi Bohra women are under global attack. In the United States and Australia there have been interrogations, arrests, child protective service trials aimed at separating mothers from their children and cancelling their parental rights, and indictments by prosecutors who hope to convict Dawoodi Bohra mothers of a crime. In India, their Supreme Court has received a so-called Public Interest Litigation Writ Petition (PIL) against the Dawoodi Bohra custom submitted by a children’s rights advocate. The petition assails the female (but not the male) side of the Dawoodi Bohra circumcision tradition and calls on the Court to require Ministries and the state governments of India to ban the practice.

In the United States the prosecutions can be dated to 12 April 2017. Dr Jumana Nagarwala, a 44-year-old native born American physician trained at Johns Hopkins Medical School, a mother of four children, and an admired member of the Dawoodi

Bohra religious community who performed circumcisions at a local medical clinic was arrested by the FBI in the Eastern District of the State of Michigan. She was charged with 'female genital mutilation' under a 1996 federal statute by that name and accused of conspiring to transport children across state lines to commit a sexual offence and making false statements to a federal agent. Bail was denied by a magistrate judge and she was consigned to captivity in a Michigan jail. A federal criminal trial was scheduled, the first of its kind under that statute, and a separate State of Michigan Child Protective Services petition was filed in Wayne County seeking to terminate her parental rights. Other Dawoodi Bohra women were indicted as well, including several mothers whose daughters had been circumcised by Dr Nagarwala. The legal case, which is moribund but still alive, has gone through several twists and turns.⁴

In Australia the prosecution of Dawoodi Bohra women can be dated to 2015. A Dawoodi Bohra mother who was a pharmacist living and working in Sydney, her female circumciser and her local religious leader were indicted, tried and convicted of 'female genital mutilation' under a statute very similar to that in the US. The mother served her sentence under house arrest. Ultimately the convictions were appealed and that case too has had its twists and turns.⁵

Legal assaults of this type (focused exclusively on the female side of a gender-inclusive custom) have seemed unfair, inconsistent or even hypocritical to some. Activists opposed to childhood male circumcision (for example, as routinely practised by Jews and Muslims) often refer to the procedure as 'male genital mutilation' and view the procedure as a type of assault or violation of the autonomy and physical integrity of the male child. They argue that there should be equal protection before the law regardless of sex or gender.⁶ In 2010 the Royal Dutch Medical Association issued a report titled 'Non-therapeutic Circumcision of Male Minors'. Striving to be gender equal and hence consistent in their policy recommendations concerning non-medical genital procedures in childhood they called on Jews and Muslims in Holland to abandon their customary practice of male circumcision.

That perception of unfairness, inconsistency or hypocrisy is there as well in the eyes of those who argue for liberal pluralism and tolerance of diverse cultural and religious traditions.⁷ By most accounts the Dawoodi Bohra circumcision procedure for girls amounts to a nick, abrasion, piercing or small cut restricted to the female foreskin or prepuce (often referred to as 'the clitoral hood' or in some parts of Southeast Asia as the 'clitoral veil').⁸ From a strictly surgical point of view the custom is less invasive than a typical male circumcision as routinely and customarily performed by Jews and Muslims everywhere in the world and as currently legally practised in India, the United States and Australia. So the question arises: if the practice is legal for the gander why should it be banned for the goose?

The World Health Organization (WHO) has proposed a classification for modified female genitals, which they label with a moral conclusion-demanding and rhetorically spun emotive expression: 'female genital mutilation' (FGM). Within the terms of the WHO classification the customary Dawoodi Bohra circumcision procedure for girls would likely be classified as either Type 1a or Type 4. Type 1a is defined as procedures involving the 'removal of the clitoral hood or prepuce only'. Type 4 is defined as procedures involving pricking, piercing, incising, scraping or cauterising. As I shall suggest below the application of the concept of 'mutilation' to Type 1a and Type 4 surgical procedures is without foundation in scientific evidence. Sensational causal attributions of dire long-term effects do abound in the advocacy literature produced

by opponents of any type of 'non-therapeutic' procedure for girls (in other words, procedures that are religiously or aesthetically motivated or intended as marks of community identity and/or self-identity). Nevertheless, the limited reliable scientific evidence that does exist on the causal consequences of Type 1a and Type 4 genital procedures for physical and psychological wellbeing (including reproductive health and sexuality) provides little support for strong harm and disfigurement claims.⁹

In the remainder of this essay I will refer to the female side of the Dawoodi Bohra gender-inclusive circumcision tradition as 'khafz'. I will address four questions. (1) Why do Dawoodi Bohra mothers embrace the custom for their daughters? (2) Is it reasonable to have doubts about the horror inducing and affect arousing causal attributions popularised by activist organisations and the media? (3) How should we evaluate the presumed authority of the WHO to label the custom 'mutilation' and call for its eradication as though it was a disease? (4) What truths can we discern about customary childhood female genital procedures from the highest quality scientific studies of their consequences for health and sexuality?

Gender-inclusive circumcision: why do they do it?

Why do Dawoodi Bohra mothers embrace khafz? Why do they support a circumcision tradition that includes their daughters as well as their sons? The human foreskin (that part of genital anatomy also known as 'the prepuce' in both males and females) has received a lot of attention in the history of cultures and religions. Notably, two of the three Abrahamic religious traditions (Judaism and Islam) have invested foreskin reduction for males with a spiritual significance. When describing the origins and religious foundations of gender-inclusive circumcision among the Dawoodi Bohra, Zimran [Samuel \(2019\)](#) appropriately makes note of the Jewish Abrahamic male circumcision tradition and the legendary belief among Muslims (and Jews) that the Jewish patriarch Abraham was the first circumcised male.

Both Jews and Muslims ultimately trace their own custom of circumcision to Genesis 17 of the Hebrew Bible and its account of the divine command to Abraham sealing the covenant between Abraham's descendants and God. One of those circumcised male descendants was Abraham's first-born son Ishmael, who was 13 years old at the time. Many Muslims view Ismael as an ancestor of the Prophet Mohammed. Dawoodi Bohra Imams view themselves as Abraham's descendants and their Shia Muslim denomination accepts the biblical story of the divine command in Genesis 17. Along with many other Muslims, they interpret the covenant to be an act of purification of the human body in which excess parts of the body (uncut fingernails, uncut hair, the foreskin) are trimmed back to restore it to what they view as its original God-made natural form.

But then the plot thickens in a way that makes Dawoodi Bohra interpretations of Genesis 17 distinctive (although not unique) among Muslim denominations. They believe the Prophet Mohammed built on and went beyond the sacred texts of the Jews and the Christians (the Hebrew Bible and the New Testament). With reference to khafz they believe the Prophet judged Genesis 17 of the Hebrew Bible to be an incomplete account of the divine plan. They believe he endorsed khafz as a way for females to make manifest their commitment to a relationship with God that is gender equal.

A bit of Christian history, especially the ambivalence (and at times outright hostility) of European Christianity towards the Jewish tradition of male circumcision, makes it possible to more fully interpret the historical significance of gender-inclusive Islamic versions of the Abrahamic circumcision tradition. Unlike the exclusively male Jewish circumcision ceremony (the ‘brit milah’ or ‘bris’), the Christian ritual of baptism is a gender-inclusive process. Most Christians have found their most profound spiritual meanings in the gender egalitarian process of sacramental purification through immersion. Although the Gregorian calendar indirectly acknowledged Genesis 17 by setting aside a day (1 January) to celebrate the circumcision of Jesus Christ, anti-Jewish Christian polemicists in Europe during the early centuries of the Christian era seized on the gender exclusive character of the Jewish rite of entrance into the covenant of Abraham and drew invidious comparisons between Christianity and Judaism (the Prophet Mohammed and Islam had not yet appeared on the historical scene). By the 5th century, Christian theologians were heralding their moral and spiritual superiority to Judaism by disparaging what they viewed as sex discrimination in Jewish communities and by posing the mocking question: ‘Why aren’t Jewish women circumcised?’ (That question is the title of a brilliant book by Shaye [Cohen \[2005\]](#), the Harvard professor of Hebrew literature and philosophy, which tells the story of early debates between Christians and Jews over the ritual of male circumcision.)

An historian of religion might well be tempted to suggest that two centuries later the Prophet Mohammed in effect responded to that anti-Semitic rhetorical question by extending the application of Genesis 17 to females. Or at least that is the way the faithful in some Muslim denominations (including the Dawoodi Bohra) seem inclined to interpret God’s will. They start with a picture of the human body in which the foreskin (the prepuce) itself is gender inclusive. In that regard they are simply acknowledging a fact about genital anatomy. They are biologically correct. The foreskin or prepuce does refer to homologous body parts in the genital anatomy of both males and females: not just men but women too have a foreskin. In males the foreskin is the sheath of skin surrounding the head of the penis. In females the foreskin is the sheath of skin (often called the clitoral hood or clitoral veil) surrounding the head of the clitoris. From that descriptive truth about human biology the faithful in the Dawoodi Bohra community go on to embrace what they sincerely believe is an historical fact: that the Prophet Mohammed gave his approval to gender-inclusive foreskin circumcision.

[Samuel \(2019\)](#) references much of the source material relied on by those observant Muslims who believe the Prophet not only endorsed gender-inclusive circumcision but also outlined the essential characteristic of the female procedure (that it not be invasive), and thereby certified the female side of the circumcision custom as compatible with the divine plan.

One of the ironies in the current attacks on Dawoodi Bohra women is that neither the Prophet nor devout Dawoodi Bohra women view a circumcision as a ‘mutilation’. Quite the contrary: they view it as an enhancement – a purification and beautification by means of trimming of the body of both males and females.

One source of this denominational belief is found in the ‘Sunna’ (the record of the way of life and customs accepted by the Prophet, including his sayings, which are known as ‘hadith’). Another source is the books of religious law (Sharia) governing everyday Islamic practice, written around the 10th century, and based on interpretations of the Qur’an and the hadith by classical scholars. There one finds

references to gender-inclusive foreskin procedures, including the prescription that for girls it is not to be done before the age of seven.

One frequently mentioned example is the hadith in which the Prophet advises a female circumciser in Medina by offering this counsel: 'Do not go to the extreme in cutting; that is better for the woman and more liked by the husband.' Notice that, contrary to the horrors and anxieties induced by the expression 'female genital mutilation', the Prophet's aim, according to this view, is not the elimination of the capacity for sexual pleasure.

It should be acknowledged that many activists opposed to female circumcision deny the religious foundation of *khafz*,¹⁰ either by asserting that if it is not explicitly mentioned in the Qur'an then it cannot be religious for Muslims; by debating whether the Prophet believed that gender-inclusive circumcision was a religious duty or obligation (as opposed to just an option); or by pointing to denominational disputes within Islam over the authenticity of this or that particular hadith. A moment's reflection, however, suggests that those are not very convincing arguments.

The first argument (arguing that *khafz* is not mentioned in the Qur'an) ignores the various sources (including the Sunna) of everyday Islamic rituals and religious practices (such as male circumcision and the requirements for prayer, neither of which are explicitly mentioned in the Qur'an). Matters of conscience and sincerely held beliefs that are at the core of a person's identity and spiritual sense of meaning in life are not always or only to be found in an officially designated holy book. And even though the Qur'an never specifically mentions or engages in an explicit discussion of Genesis 17, it does accept the divine origin of the Hebrew bible and New Testament and incorporates them while presuming to arrive at an enhanced or superior understanding of God's will.

The second argument (arguing that *khafz* is optional and not a strict obligation in Islam) overlooks the existence of denominational differences within every major religious tradition. The fact that some Reform Jewish rabbis do not require already circumcised non-Jewish males to have a simulated 'drop of blood' Jewish circumcision ceremony ('*hatafat dam brit*') before they marry a Jewish woman does not make that conversion ceremony less compulsory or religiously significant for members of Orthodox and Conservative Jewish denominations.

The third argument (questioning the authenticity of the sayings attributed to the Prophet Mohammed) simply evades the central issue for legal traditions designed to respect religious liberty. Such legal traditions enlarge the scope for religious pluralism by deliberately NOT asking whether a religious belief (and associated religious custom) is true or false, but rather by determining what role it plays in the conscience and way of life of those who sincerely believe it. For example, religiously motivated animal sacrifice is constitutionally protected in the United States and no federal judge is going to try to decide whether those who sacrifice animals to feed their Gods are right that their Gods exist, and are hungry, and need to be fed or else they will die. No secular court in the United States is going to try to decide whether Abraham truly received a command from God as recorded in Genesis 17. That type of decision making about religious orthodoxy might go on in a theocracy or perhaps in academic contexts among secular critics who view themselves as enlightened and believe all religious beliefs are misguided or superstitious. However, assessing the truth or falsity of religious beliefs is not the business of secular courts in a liberal democracy.

By the lights of most women of the faith in the Dawoodi Bohra community, khafz connects them to God's will.

Two surveys by critics of the custom: how pseudo is their science?

When trying to draw factual conclusions about overheated and politically charged topics it is usually a bad idea to limit your source of information to an advocacy literature. Disciplined impartial scientific organisations and responsible journalists generally embrace that bit of methodological advice. Unfortunately, the caution has gone unheeded in news coverage of the Dawoodi Bohra practice of khafz. Once a custom is labelled 'female genital mutilation' by activists (and thus rhetorically packaged as a form of 'violence against women' or 'sexual blinding of women') journalists seem to think there is no other side to the story (Wade, 2012). They think it is a 'no brainer'. They do not spend their time tracking the scientific research literature on the general topic of female genital surgeries. Instead they seem to go brain dead.

If journalists bothered to look they would discover a scientific research literature that is sceptical and critical when it comes to evaluating the (often nightmarish) harm claims (for example, concerning reproductive health and sexual enjoyment) in the advocacy literature. (See, for example, Obermeyer, 1999; Morison et al, 2001; Shweder 2002; 2013; Essén and Johnsdotter, 2004; Johnsdotter and Essén, 2005; Catania et al, 2007; Ahmadu, 2009; Public Policy Advisory Network, 2012) Instead, the mainstream media tends to uncritically popularise the claims and policy statements of activist organisations, such as those by 'Sahiyo: United Against Female Genital Cutting' (Taher, 2017) and 'We Speak Out' (Anantnarayan et al, 2018). The media thereby maligns the Dawoodi Bohra practice of khafz and discourages critical reflection by labelling the custom as mutilation, patriarchal oppression and violence against women.

The Samuel survey report (2019) is potentially a corrective to this failure to engage in disciplined and rigorous inquiry and objective analysis before drawing strong conclusions about the nature and meaning of khafz and its impact on Dawoodi Bohra girls. The survey is disciplined and rigorous in the sense that it randomly draws its global sample of 1,500 adult Dawoodi Bohra female respondents from a global census list. The number of completed interviews is sufficiently large (786 completed interviews with an overall response rate just over 50 per cent) to fairly represent the views of Dawoodi Bohra women concerning the meaning and experience of khafz and its long-term effects on their lives.

Overwhelmingly the women in the global Dawoodi Bohra religious community support the continuation of khafz. And in general, they do not think the procedure had a negative impact on their lives. They embrace the custom even when, thinking back on their own childhood circumcision, they recall the short-term pain associated with the procedure, which some of them compare to an insect bite. Strikingly, there is no evidence that the Dawoodi Bohra women in the survey associate personal problems that may emerge in adulthood (for example, difficulty achieving orgasm – a not uncommon problem among women, even among uncircumcised women in Europe and the United States) with the experience of khafz at age seven.

Contrast those findings with the results of the political campaign-based surveys conducted by activist organisations such as Sahiyo (Taher, 2017) and We Speak Out

(Anantnarayan et al, 2018). I call them ‘political campaign-based surveys’ because Sahiyo (whose moniker includes the phrase ‘United Against Genital Cutting’) begins its survey report by announcing its eradication goal: ‘This study was done with the intention to establish strategies that can bring the practice to an end.’ Although my essay is not about research ethics per se one ethical issue does seem deserving of comment. The political motive of these activists was apparently kept hidden from prospective interviewees of their online survey. Their recruitment and consent form for the survey begins with the following rather deceptive statement of purpose: ‘The sole intention of this research is to shed light on misunderstandings and lack of information surrounding this age-old practice, which is not often talked about in social circles.’ I suppose when you are involved in a political campaign or moral crusade it is easy to convince yourself that the end justifies the means.

In any case, both activist organisations have produced reports presenting to the world the opinions and memories of a selection of Dawoodi Bohra woman concerning khafz (also referred to as khatna or khafb). Their reports include the causal attributions of their interviewees concerning the impact of the custom on their lives. For example, of the 10 per cent of the Dawoodi Bohra women in the Sahiyo survey who wished to ‘elaborate on the effects of Khatna [khafz] on your sexual life’ 29 per cent expressed the view that their adult difficulty or inability to achieve orgasm was caused by their childhood circumcision (see page 45 of the Sahiyo online report). Both reports aim to mobilise public opinion (and the power of the state) against the female side of the gender-inclusive circumcision tradition in the Dawoodi Bohra community. The opinions, the reported experiences, and the troubling causal attributions of the Dawoodi Bohra participants in these two surveys have been widely circulated by these activist organisations and amplified by a sympathetic (even if insufficiently informed and rather uncritical) mainstream media.

Despite the media attention (and applause), those two politically motivated surveys deserve to be criticised. Indeed, from a methodological point of view it is hard not to view them as fatally flawed. With respect to their sampling or respondent selection procedures, the studies display a massive selection bias in the service of their political agenda. With respect to their causal analysis, they substitute subjective causal attributions embedded in empathy arousing personal testimonials for the type of controlled comparative analysis required in an objective causal investigation. And they ignore the scientific research literature relevant to an objective assessment of the likely long-term impact of various types of female genital procedures for health and sexuality.

Concerning sampling procedures there are reasons that scientific researchers worry about selection bias (and response rates) when they conduct a survey or try to produce an accurate portrait of attitudes and opinions within some population. For example, if one wants to know whether the physical activity of skiing is hazardous to your physical wellbeing it is probably not a good idea to restrict your interviews with skiers to those who you find in the emergency room at a local hospital in Aspen, Colorado. If one wants to estimate the frequency of hot flashes or discomfort during sexual intercourse associated with entering the life stage of menopause it is probably not a good idea to oversample menopausal women who have those experiences.

Massive sampling bias is a methodological fatality for any survey claiming to represent the views of a community. And it is a rather conspicuous problem in the execution of both these campaign-based surveys. Starting with a small group of

Dawoodi Bohra opponents of khafz the Sahiyo research team utilised a personal nomination and ‘snowball’ sampling procedure that resulted in the creation of a radically non-representative selection of Dawoodi Bohra women, with 82 per cent of them declaring they would abandon khafz for their daughters. A similar selection bias is displayed in the We Speak Out sample, where 59 per cent of the women selected for interviews opposed the custom. Those 82 per cent and 59 per cent figures alone are a revealing index of the massive selection bias (and political agenda) built into those surveys.

In stark contrast stand the results of the population survey conducted by [Samuel \(2019\)](#), where respondents were randomly and blindly selected for interviews. An overwhelming majority of the Dawoodi Bohra women in his survey believed that khafz was a worthy tradition that should be passed on to the next generation. In other words, the Samuel survey, which more closely approximates a random probability sample, makes it apparent that the widely publicised female voices in the Sahiyo and We Speak Out surveys are not representative of the views of most Dawoodi Bohra women. Indeed, they appear to be rather atypical.

Moreover, when conducting a causal analysis there is good reason to distinguish subjective causal attributions from objective causal analysis. A sincere and accurate heart-rending testimonial from an adult who reports two very personal things about her life – that she has difficulty experiencing orgasms when having sexual intercourse and that she was circumcised when she was seven years old – does not in and of itself count as scientific evidence of a real causal connection between those two things. A causal attribution connecting dots in one’s mind is not really the same as an objective causal fact. Why not? Because (no matter how strongly one believes it must be true or feels it deserves to be true) subjective causal attributions must be validated with comparative evidence. For example, with evidence comparing populations of women from circumcising and non-circumcising groups matched for age, socioeconomic status, parity (and so on), or with evidence from women who were sexually active before they were circumcised who can provide comparative ‘before versus after’ temporal evidence on their own sexuality.

Over the decades anti-female circumcision activists have made all sorts of causal claims about the long-term impact of female circumcision, for example that it causes infertility, increases the risk of painful sex during intercourse, and diminishes (or even eliminates) the capacity for orgasm. Yet when medical researchers have been able to make controlled comparisons between matched samples of circumcised and uncircumcised women those imagined and subjectively attributed causal attributions have often turned out to be fictive rather than really real (for example, [Obermeyer 1999](#); [Morison et al, 2001](#); [Catania et al, 2007](#); [Ahmadu, 2009](#)).

Some Dawoodi Bohra women who embrace the custom believe that khafz is a form of clitoral hood reduction that actually increases the likelihood of achieving orgasm by exposing the clitoris to stimulation. But that too is just a causal attribution in search of relevant comparative evidence. At this point we know next to nothing about the overall prevalence rate for difficulty achieving orgasm among a representative sample of circumcised Dawoodi Bohra women or among women in other circumcising Muslim communities (for example, in Southeast Asia, Egypt or Kurdistan) where khafz is customary. How does that rate compare to the rate of difficulty of achieving orgasm for uncircumcised women in the United States, which has been estimated to be 30 per cent or so? We do not have a clue whether the rate for Dawoodi Bohra women

is higher, lower or the same as uncircumcised women. Critical reason cautions us to beware of any invitation to conflate causal attributions with established causal facts.

Below I say more about the scientific research literature that is missing from the Sahiyo and We Speak Out reports. Perhaps the authors of those reports are not familiar with the academic research literature. Or perhaps they see no point in coming to terms with facts that are embarrassing to their political agenda. One does hope, however, that in our public policy and legal forums (and in journalistic circles as well) campaigners who want us to ban longstanding religious and cultural traditions on the grounds that they are harmful will be held to strict evidence-based scientific standards.

Despite their fatal flaws as objective research studies, the Sahiyo and We Speak Out reports do make it apparent that among the 500,000 or more women in the global Dawoodi Bohra community there are women who oppose the longstanding tradition of gender-inclusive circumcision and will not pass it on to the next generation. Nevertheless, if the estimates in the Samuel survey are correct the widely publicised opposition to the custom comes from either a very small minority of women in the Dawoodi Bohra community or from those who have already exited the community for one reason or another. This pattern is not unlike what one might expect if one did interviews about male circumcision among Jews in Israel, where vocal opposition voices certainly exist but where over 90 per cent of the population adhere to the custom and are prepared to carry forward their ancient Abrahamic tradition. The same pattern appears to be true for Dawoodi Bohra women.

The WHO classification: is it mutilation by definitional fiat?

In recent decades, the section of the WHO concerned with women's health has come under the influence of anti-FGM activism. Sadly, in the late 1990s the WHO pretty much surrendered its authority as an objective scientific organisation, at least when it comes to the topic of female genital procedures (see [Shweder 2005](#); [Earp and Johnsdotter, 2020](#); [Essén, 2020](#)). Despite its name the organisation is not the highest or most expert body in the world pertaining to evidence on customary genital procedures and their consequences for women's health. When it comes to this topic the WHO acts like a political partisan. So perhaps it is not too surprising that it uses the expression 'female genital mutilation' to describe any non-medical procedure involving the genitals of girls. It does this by definitional fiat. It simply presumes that every non-medical surgical procedure on the genitals of girls (but not boys) is an injury even if the procedure is not physically or biologically damaging and regardless of its spiritual, religious, social and aesthetic benefits. Thus, for example, given the WHO definitions of Type 4 procedures and their inclusion in the WHO classification, even the aesthetic use of genital jewellery by teenage girls or female college students which requires a tiny piercing of the clitoral hood must be designated a 'mutilation'.

A more scientific approach is to ask (a) whether a genital procedure of some type is in fact damaging, for example, in the sense of producing a lasting disfigurement; or (b) whether the procedure when properly performed is harmful, for example, in the sense of causing sexual or reproductive dysfunction (see [Aurora and Jacobs, 2016](#)). Adopting that approach, and because khafz is a less invasive surgical procedure than the typical circumcision of Muslim and Jewish boys, members of the Dawoodi Bohra community have every right and reason to insist that the WHO adduce evidence that its classification of khafz as a 'mutilation' is empirically based rather than presumptive.

In 2017, Jamila Najmuddin, a Dawoodi Bohra journalist at a South Asian news service, did precisely that. She pressed the staff at the WHO to supply her with credible scientific evidence that khafz was harmful (for example to reproductive health or sexuality). As noted earlier, within the terms of the WHO classification of female genital procedures khafz is most likely Type 1a or Type 4. The former is defined as procedures involving the ‘removal of the clitoral hood or prepuce only’ while the latter is defined as procedures involving pricking, piercing, incising, scraping or cauterising, which (also as previously noted) would include the decorative body work done by teenagers and young women who use genital jewellery.

When Jumila Najmuddin requested evidence that Type 1a or Type 4 procedures were harmful the WHO staff came up with nothing.¹¹ If there does exist scientific evidence of that sort, the WHO staff did not produce it, nor has anyone else at this point.

Had the WHO staff been sufficiently conscientious and informed they might have come up with at least one study of potential relevance: the WHO’s own cross-national study titled ‘Female genital mutilation and Obstetric Outcome’. This was a large-scale study of reproductive health in six African countries published in *The Lancet* in 2006 (WHO Study Group, 2006) where the focus was on adverse maternal and infant outcomes in hospital births. Although not mentioned in the text or in the sensational press coverage that accompanied the publication, the actual data presented in the statistical tables in that *Lancet* article seem to suggest that there were no statistically significant differences between women who had Type 1 surgeries and women who had no surgery at all.¹² Does the WHO have reliable, robust and convincing evidence on health and sexuality outcomes to justify their classification of khafz as a ‘mutilation’? We should all be curious to know.

The expression ‘female genital mutilation’ is of course affect-laden, conclusion-demanding and rhetorically effective as a political campaign slogan. ‘Are you in favour of the murder of innocent life?’ is the way an anti-abortion activist might begin a debate about abortion. ‘Are you in favour of the mutilation of the genitals of young girls?’ is the parallel stab in the rhetorical world of anti-FGM activism. Both moves immediately close down critical analysis and serious thought. No normal person supports murder or mutilation or wants to be tarred with the accusation. Nevertheless, there is a big difference between piercing your child’s ear lobe and cutting off their ear. The incontinent and indiscriminate employment of the mutilation label to describe any type of non-medical genital procedure (no matter how minor and regardless of its religious, aesthetic or identity-enhancing benefits) is not only defamatory to the reputation of Dawoodi Bohra women, it is also potentially perilous for the reputation of the WHO as a discerning, disciplined, impartial and authoritative scientific organisation.

Facts and fictions in the study of female genital customs

If one wants to distinguish between fact and fiction in representations of customary genital procedures for females one should not rely on the partisans at the WHO or on an advocacy literature produced by opponents of the custom. Instead one might have a look at an academic scientific research literature that is more rigorous, evidence-based and (to the extent possible) tries to be non-ideological and non-partisan. Here for example are four facts gleaned from that literature which I would suggest ought

to play some part in any public policy assessment or legal judgement concerning the Dawoodi Bohra custom of gender-inclusive circumcision.

The first two facts have a bearing on claims about gender discrimination.

Fact #1: There are hardly any (perhaps no) ethnic, cultural or religious groups in the world where genital procedures are customary for females but not for males. In other words, the custom does not single out or pick on females, nor does it privilege males. Any exclusive focus on the female side of the custom is misleading. In those groups where female genital procedures are customary the tradition itself incorporates both females and males in the cultural process. Thus, from a descriptive or ethnographic point of view the operative custom is most accurately and fairly described as gender inclusive. The alternative stand-alone, in and of itself description of the custom as 'female circumcision', 'female genital surgery', 'female genital cutting' or 'female genital mutilation' mischaracterises the tradition by ignoring its gender-inclusive scope and rendering the male side invisible.

Fact #2: In those ethnic, cultural or religious groups where these procedures have long been customary, women are among the strongest supporters of the tradition and manage the female side of the process. Many of those women are highly resistant to activist campaigns that would privilege males and exclude women from participation in the custom. Their opposition might even be interpreted as a steadfast allegiance to a custom which they believe is inclusive of females (without placing them under male control) and respects gender equality. In the light of the [Samuel \(2019\)](#) survey of female opinion in the Dawoodi Bohra community this appears to be true for that group as well.¹³

The next two facts have a bearing on assessments of harm.

Fact #3: Despite the impression created by the boilerplate litany of horrors standardly reproduced in the typical press report about 'female genital cutting', 'female circumcision' or 'female genital mutilation', serious medical complications are the exception, not the rule.

Fact #4: Customary genital procedures do not typically impair the sexual functioning (sexual desire, sexual enjoyment, frequency of coitus, capacity for orgasm) of females.

It would not be surprising if the four generalisations I just stated as facts produced in the reader a state of disbelief. The claims routinely asserted in the mainstream media (which typically recapitulate the sensational claims made in the advocacy literature) have not been subjected to sceptical or critical analysis, at least not outside the academic world. When critical appraisals have been published in credible scholarly journals they have largely been ignored by the press. For example, a major critical review of the medical and demographic literature on female genital surgeries by the then Harvard medical anthropologist and epidemiologist Carla Obermeyer brought forward those last two facts about medical complications (they are the exception not the rule) and sexual functioning (most circumcised women are not sexually disabled). Her review of the literature was published in the *Medical Anthropology Quarterly* over 20 years ago ([Obermeyer, 1999](#)). As far as I know her article has never been publicised, not even once, by the mainstream media.

More recently a network of 15 scholars and researchers (this author was one of them) published a public policy advisory in the *Hastings Center Report*, which is a well-known and respected bioethics journal, titled 'Seven things to know about female genital surgeries in Africa' ([Public Policy Advisory Network, 2012](#)). The

Table 1: Controlled Comparison of Genital Surgery Effects on the Reproductive Health of Gambian Women (N = 1138). Adjusted for age, marital status, parity, plus partial controls for ethnic group membership.

Type of morbidity	Prevalence in women (%)		P-Value
	Surgery	No Surgery	
Infertility	10	10	NS
Painful sex	16	14	NS
Prolapse	46	52	.02
Menstrual problems	33	43	NS
Vulval tumours/cysts	03	02	NS
Incontinence	07	08	NS
Damaged perineum	62	56	NS
Any stillbirths	15	11	NS
Anal sphincter insufficient	03	04	NS
BMI weight/height ² < 18	16	16	NS
Vaginal discharge problems (itching, irritation, odour)	41	43	NS
Squamous cell lesions	07	05	NS
Candida infection	12	14	NS
Trichomoniasis infection	07	05	NS
Gonorrhoea	00	00	NS
Chlamydia	<01	02	NS
Syphilis	02	05	.03
Anaemia	55	49	.03
Bacterial vaginosis	52	30	.001
Herpes simplex	45	18	.001

Notes: These percent (%) prevalence numbers and summary of their adjusted odds ratio statistical significance are based on results reported in Table 3 (page 648) of Linda [Morison et al \(2001\)](#). 'NS' is a summary label I have given for prevalence differences that were not statistically significant in the Morison et al study when comparing 'cut' and 'uncut' Gambian women.

publication summarised the results of the highest quality research available on the topic, including the impact of customary genital procedures for health and sexuality, and cautioned against hyperbolic and sensationalised claims such as those found in the advocacy literature, and which are often uncritically circulated by the press. Perhaps because the results summarised in the *Hastings Center Report* challenge the sensational and by now standardised mutilation narrative, the mainstream media took no notice of the advisory, despite its relevance at the time to a scheduled upcoming vote at the United Nations calling for a worldwide ban on all non-medical female genital procedures. Given what is currently at stake for women in the Dawoodi Bohra community perhaps right now might be a good time for journalists to have a look at that *Hastings Center Report*.

By way of concluding, here are some results from a high-quality comparative study (perhaps the best available in the scientific literature) on the reproductive health consequences for women of the custom of gender-inclusive genital surgery. The study ([Morison et al, 2001](#)) was published in the journal *Tropical Medicine and International Health* not long after the Obermeyer review of the literature. It reports the results of one module from a broad community health investigation conducted in West Africa

(in the Gambia) by the British Medical Research Council. The genital procedures that are customary for females in the Gambia (typically Type 2) are more substantial from a surgical point of view than the Type 1a and Type 4 procedures associated with khafz. That is one of the reasons the results of this study – where very few differences were discovered between circumcised and uncircumcised women in health outcomes – are relevant to any assessment of the Dawoodi Bohra custom.

There are many reasons to admire this British Medical Research Council investigation. The study was not conducted in order to produce evidence confirming some pre-existing claim about ‘female genital mutilation’. To all appearances these researchers did not have an axe to grind. Moreover, the study is comparative, involving 1,138 ‘cut’ and ‘uncut’ Gambian women. The women in the study were not only interviewed but were also given gynaecological examinations, including various laboratory tests. And the study ranks high for its design features and its methodological rigour. When comparing women with and without genital modifications there were controls for the age, marital status, and parity of the participants, and a partial control for their ethnic group status.¹⁴

The numbers shown in [Table 1](#) are percentages. The findings are eye-opening and well-worth thinking about. For example, 10 per cent of Gambian women with genital modifications are infertile. Yet the comparative evidence reveals the same 10 per cent rate of infertility for Gambian women who had no genital modification. In general, the differences in reproductive health consequences for women with or without genital alterations in this West African country were not statistically significant. This is so even for morbidities (such as the experience of painful sex, incontinence, genital cysts or infertility) that standardly appear in the horror stories about ‘female genital mutilation’ featured by the mainstream media. Many Gambian women have health problems. And these need to be addressed. But those health problems are not because of the shape of their genitals.¹⁵

Or consider a second example of comparative research, an eye-opening study of the sexual experiences of African women living in Florence ([Catania et al, 2007](#)). These are African women who had their genital surgeries before moving to Italy and who utilise the services of a local women’s health clinic. Most of the women were from Somalia, where the customary genital surgery is more extensive and substantial than the Dawoodi Bohra-like Type 1a and Type 4 foreskin procedure. The researchers themselves begin their research report by avowing their general opposition to what they refer to as ‘mutilation/cutting’. They then proceed to counter the widespread assumption that customary female genital surgeries are sexually disabling by presenting evidence that the sex lives of these African women (in self-reported frequency of coitus, sexual desire, orgasm and other erotic pleasures) are just as rich if not richer than the sex lives of non-African Italian women.¹⁶ The study was published in the *Journal of Sexual Medicine*. In this case too, as in most other cases of empirical findings that do not fit the popular sensational ‘mutilation’ narrative, the paradigm-challenging evidence was never featured or even mentioned by the mainstream press.

Thus, one is tempted to propose a fifth generalisation. Namely, that almost any study of female genital procedures that is methodologically rigorous is likely to produce results that mitigate the horror story narrative about the harms associated with the female side of this typically gender-inclusive custom (and therefore will probably not receive much attention by the mainstream media).

Conclusion

To the extent the Dawoodi Bohra custom of circumcising girls as well as boys (a) has broad support among Dawoodi Bohra women, (b) is motivated by a gender equal interpretation of the Abrahamic covenant (Genesis 17 of the Hebrew Bible) traceable to the views and sayings of the Prophet Mohammed, (c) is less physically invasive than a legal male circumcision as practised by Jews and Muslims, and, additionally there is scant evidence of serious harms associated with the procedure, it seems reasonable to suggest that space should be made in a liberal multi-religious, multi-ethnic, multi-cultural society for this particular longstanding family life custom. When and if those four conditions hold, the custom is arguably protected by principles of religious liberty, family privacy, parental rights and equal protection for both females and males before the law.¹⁷ It remains to be seen, however, whether that spirit of pluralistic tolerance is still alive and well in liberal democracies such as our own.

Notes

¹ For an account of a similar female genital procedure among Muslim Malay populations in Malaysia see [Rahman et al \(1999\)](#).

² The current essay was originally written as a commentary on the Samuel Report (2019), providing readers of the report with an analysis of several questions of public policy importance occasioned by my reading of its findings.

³ The global Dawoodi Bohra community has a clerical hierarchy and a supreme religious leader – the Da'i al-Mutlaq – whose spiritual status in the eyes of its members resembles the spiritual status of the Pope for the global Catholic community. The central religious and administrative offices of the denomination are located in Mumbai.

⁴ Dr Jumana Nagarwala's trial has been delayed several times. After nearly six months of confinement she was released under strict bail conditions. The federal judge presiding over the case, Bernard Friedman, eventually dismissed all charges related to the 1996 female genital mutilation statute. Given that the statute had never before been used in a prosecution it was a case of first impression. The judge was thus entitled to rule on its constitutionality. In response to a motion by the defence he declared the statute unconstitutional on jurisdictional grounds. He judged that Congress lacked the authority and police power to write nationally binding criminal laws, which in the US system of divided governance is generally a function reserved to the states not the federal government (with some exceptions, for example if interstate commerce is implicated). See <https://content-static.detroitnews.com/pdf/2018/US-v-Nagarwala-dismissal-order-11-20-18.pdf>. Much to the displeasure of activist organisations who supported the prosecution and imprisonment of Dawoodi Bohra mothers, the Solicitor General of the United States declined to appeal the decision and agreed with Judge Friedman that the original statute had been improperly framed. He advised Congress on how to rewrite the statute so that federal authority could be properly claimed. All charges in the original indictment have been dismissed by now, with the exception of obstruction of justice. Whether there will be a trial related to that charge remains to be seen and to that extent the case is still alive. For a news account of the dismissal of the charge of conspiring to transport children across state lines to commit a sexual offence, see www.detroitnews.com/story/news/local/michigan/2020/03/05/judge-dismisses-charge-against-doctor-female-genital-mutilation/4960323002/. With the recent passage of the Stop FGM Law of 2020 (signed into law in 2021) the US Congress has reasserted its claim to jurisdiction over this type of criminal prosecution,

- explicitly invoking the interstate commerce clause of the Constitution. The validity of that assertion of jurisdictional authority has not yet been tested in court.
- ⁵ On 10 August 2018, three years after the original conviction, the Court of Criminal Appeal (Supreme Court New South Wales) overturned the convictions. New evidence was introduced indicating that the genitals of each of the two Dawoodi Bohra girls in the case were fully intact. It was concluded that whatever genital procedure had occurred during their customary ‘circumcision’ was minor and no more serious than a nick or scratch that had healed. The appeals court judges reasoned that the jury in the trial should have been instructed that such a minor procedure does not amount to ‘mutilation’ given the plain meaning of the word, including its meaning in the statute prohibiting ‘female genital mutilation’. That decision itself was appealed and later reversed in October 2019 when the Australian High Court in a divided opinion interpreted the meaning of the word ‘mutilation’ in the statute to encompass even a scratch or nick to the foreskin or clitoral hood. For a discussion of the original trial see [Rogers \(2016\)](#).
- ⁶ For a discussion of the parallels between female and male circumcision see [Earp \(2016\)](#); [Earp and Johnsdotter \(2020\)](#); [Shweder \(2009; 2013; 2016\)](#). For a defence of religiously based Jewish circumcision against calls for its legal prohibition, see [Jacobs \(2021\)](#).
- ⁷ See for example [Davis 2001](#), who discusses various constitutional issues which arise because of the inconsistency and proposes common regulatory standards for gender equal circumcision.
- ⁸ That account of the Dawoodi Bohra female circumcision custom as a foreskin procedure appears to be accepted even by some activist organisations opposed to the practice, as evidenced by the title of a prominent advocacy document: *The Clitoral Hood: A Contested Site (Khafd or Female Genital Mutilation/Cutting [FGM/C] in India)* ([Anantnarayan et al, 2018](#)). Also see [Padela and Duivenbode \(2017\)](#).
- ⁹ Recently the WHO has classified specifically clitoral hood (prepuce) procedures (until recently defined and labeled Type 1a) as Type 1 without assigning them an explicit sub-type label.
- ¹⁰ For a general discussion of this opposition, see [Duivenbode and Padela \(2019\)](#).
- ¹¹ <https://newsin.asia/female-circumcision-communities-call-religious-freedom-upheld/>
- ¹² For a short critique of the sensational press coverage of the study see [Public Policy Advisory Network on Female Genital Surgeries in Africa \(2012\)](#).
- ¹³ [Lane and Rubinstein \(1996\)](#); [Williams and Sobieszzyk \(1997\)](#); [Ahmadu \(2000\)](#); [Thomas \(2003\)](#). Also see the website of an organisation of Dawoodi Bohra women with over 70,000 members called Dawoodi Bohra Women’s Association for Religious Freedom: <https://dbwrf.org/>.
- ¹⁴ Concerning ethnicity, Gambian women from three ethnic groups – Mandinka, Wolof, and Fula – participated in the study. Genital ‘cutting’, which is the term used by the authors of the study, is fully present among the Mandinka women and completely absent among the Wolof women. Fula women living in the Gambia, however, are not uniform in their adherence to the custom. For the sake of the comparison of reproductive health outcomes, all the Mandinka women plus those Fula women with the surgery were compared with all the Wolof women plus those Fula women without the surgery.
- ¹⁵ Although most of the studied morbidities displayed in Table 1 were not significantly more prevalent in the sample of ‘cut’ women, when there were statistically significant morbidity differences between the ‘cut’ and ‘uncut’ women the health outcome sometimes favored the ‘uncut women’ and sometimes favored the ‘cut’ women. Overall

reproductive health outcomes did not favor either the ‘cut’ or the ‘uncut’ Gambian women.

¹⁶ For a survey report on the frequency of sexual intercourse comparing ‘cut’ and ‘uncut’ married women in an African country (in particular, the Central African Republic) see [Stewart, Morison and White 2002](#).

¹⁷ For a discussion of the application of religious liberty principles to the Dawoodi Bohra custom, see [Volokh \(2017\)](#). Also see [Davis 2001](#).

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Conflict of interest

The author declares that there is no conflict of interest.

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