Rituelle Beschneidung

In Judentum und Islam aus juristischer, medizinischer und religionswissenschaftlicher Sicht

Halle a/d Saale, 14-16 Oktober 2012
Leopoldina
The Circumcision Debate from the Perspective of Legal Anthropology

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Structure of the presentation

• The Perspective of *Legal Anthropology*
• Anthropological Parameters & Religious Motivations of Child Care
• The Challenges of Justice in Contemporary Plural Society: Human Rights and diversity
• Cultural Expertise and Litigation: An accurate and just understanding of cultural diversity
• The Way Forward: Identity markers and legal pluralism
• Illustrative Cases
The Perspective of Legal Anthropology

• Studying Law in the Field:
  – extended participant observation
  – qualitative ethnography
  – based on long residence with the culture/group/people studied

• The Colonial Heritage
• The Rise of ‘Legal Pluralism’
• Institutions of Social Regulation
• Cross-cultural comparisons
Religious Motivations of Child Care

- Physical Integrity and Cultural practices: what is ‘mutilation’?
- Medical, penal and religious ‘mutilations’
- Religious Motivations of Child Care in Islam and Judaism
- The Study of Cultural Practices in their own Societal Context: standards and values are relative to the culture from which they derive.
The Challenges of Justice in Contemporary Plural Society: Human Rights and Diversity

• Anthropology and Human Rights
• Identification of Legal Universals: What are (the) Cross-Culturally Salient Human Rights?
• Ongoing Criticisms
• Case-Study: Physical Integrity & Child care
  – Female Genital cutting (excision)
  – Circumcision
  – Initiation rituals
  – Marriage at (very) young age: e.g. cross-cousin marriage
  – Practices linked to the kinship structure
  – Bodily ‘mutilations’ in contemporary European societies
Cultural Expertise and Litigation: What is an accurate understanding of cultural diversity?

• Applied Legal Anthropology
• Cultural Conflicts in the Courtroom: the Cultural Defense
  – Excuse Defenses
  – Mitigation Circumstances
  – Justification
  – Anticipatory Self-Defense
• Addressing the Objections: the Culture Concept
The Way Forward: Identity Markers and Legal Pluralism

• How European Countries Respond to ‘Cultural Delicts’:
  – French Law Courts and Female Genital Cutting
  – The Dutch approach: Accommodating cultural practices (report: ‘s Lands wijs ’s Lands eer)
  – Archbishop Rowan Williams’ proposal: Multicultural jurisprudence (Ayelet Schahar)
  – The German approach: careful legislative work