



# An examination of erroneous medical practices in circumcision surgery in light of supreme court decisions

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## Abstract

**Purpose** Global interest in circumcision, one of the oldest and most frequently performed surgical procedures worldwide, continues. There is a significant increase in cases regarding medical malpractice claims in the world and in our country. It is aimed to identify situations that lead to malpractice claims in circumcision surgery, which has question marks regarding its psychological and ethical aspects, to identify situations that are considered errors and professionally risky, and to contribute to eliminating these deficiencies.

**Methods** We examined the Supreme Court appeal decisions related to circumcision malpractice cases resolved between 2012 and 2022, using the keyword "circumcision" on the official website of the Republic of Türkiye Supreme Court.

**Results** We examined 30 Supreme Court decisions that met our criteria. It was determined that the most common lawsuit was filed due to negligence (43.3%), followed by carelessness (20%) and faulty action (20%).

**Conclusion** Physical conditions must be appropriate and healthcare personnel must be adequately trained for circumcision, which is frequently performed especially in pediatric patients and is more frequently subject to malpractice lawsuits than other pediatric operations.

**Keywords** Circumcision · Malpractice · Supreme court · Surgery

## Introduction

Circumcision, the surgical removal of the foreskin covering the glans penis, is one of the oldest and most frequently performed surgical procedures worldwide [1]. Its continued practice due to religious, traditional, and medical reasons maintains a global interest in circumcision. Today, circumcision is one of the most commonly performed surgeries by various medical specialists in many societies [2]. Despite ongoing debates about its psychological and ethical aspects, it is mostly performed within the first five years of life [3].

Although the circumcision procedure is not a simple one, it is often performed by inadequately trained, unlicensed individuals. A study conducted in 2005 indicated that approximately 85% of 100 circumcision cases in our country were performed by traditional circumcisers, 10% by health technicians, and only 5% by specialist surgeons [3]. Despite being the most frequently performed surgery in our country, the exclusion of circumcision from social security coverage for many years resulted in most circumcisions being carried out by unauthorized non-physicians. However, since July 2007, the inclusion of circumcision within social security coverage has increased the number of procedures performed by specialist physicians who can meet all the necessary conditions for a surgical operation [4].

As with any surgical procedure, circumcision carries a risk of complications. The most common complications include persistent bleeding, infections, incomplete or insufficient circumcision, hematoma, penile adhesions, urinary retention, glanular injury, and urethral strictures [5]. Surgical teams or individuals who have not received adequate training in this area may fail to recognize congenital malformations

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(such as congenital chordee, penoscrotal webbing, etc.), which increases the risk of surgical complications [6].

Even when a doctor performs generally accepted medical practices and exercises all necessary care and attention throughout the process, unwanted outcomes may still occur and are considered complications. Malpractice, on the other hand, is different from complications. It is defined as harm resulting from a healthcare professional's failure to follow standard practices, lack of skill, failure to provide treatment, or providing incorrect treatment during the diagnosis and treatment process [7]. There has been a significant increase in lawsuits worldwide and in our country related to allegations of medical malpractice. As a result of these lawsuits, healthcare workers may face various legal sanctions [7].

In our study, Supreme Court decisions in cases of alleged malpractice in circumcision surgery are examined. The aim is to identify the situations that have led to malpractice allegations, determine the circumstances considered errors and those deemed professionally risky, and contribute to addressing these deficiencies.

## Materials and methods

In our study, we examined the Supreme Court appeal decisions related to circumcision malpractice cases resolved between 2012 and 2022, using the keyword "circumcision" on the official website of the Republic of Türkiye Supreme Court. Since personal data were protected in the Supreme Court decisions and the decisions were publicly accessible, no ethical committee approval was obtained. This study did not receive any financial support from any institution or organization. The authors declare no conflicts of interest. The study was conducted by obtaining data from the publicly available decisions of the Supreme Court and in accordance with the Helsinki Declaration.

## Results

In our study, we examined 30 Supreme Court decisions that met our criteria. Of these 30 cases, 17 were reviewed by the Civil Chamber and 13 by the Criminal Chamber. It was determined that 17 (56.7%) of the Supreme Court decisions were related to civil (compensation) cases, while 13 (43.3%) were related to criminal cases.

When examining the types of offenses alleged in the criminal case files, it was found that 1 file involved a charge of "negligent manslaughter", and 12 files involved charges of "negligent injury".

Among the reviewed decisions, 23 individuals who were sued were healthcare workers, and 3 were unauthorized individuals. In 4 cases, the person performing the circumcision

**Table 1** Information on the field/specialization of individuals sued for medical malpractice

Field/specialization	n (%)
Physician (specialization unspecified)	11 (36.7)
Auxiliary health personnel	4 (13.3)
General surgeon	4 (13.3)
Pediatric surgery specialist	2 (6.7)
Urologist	2 (6.7)
Unauthorized individual	3 (10)
Unknown individual	4 (13.3)
Total	30 (100)

**Table 2** Types of faults related to circumcision

Type of fault	n (%)
Negligent injury	13 (43.3)
Lack of care	6 (20)
Faulty procedure	6 (20)
Non-compliance with mass circumcision rules	2 (6.7)
Negligent manslaughter	1 (3.3)
Unspecified	2 (6.7)
Total	30 (100)

was unidentified. Of the 23 healthcare workers performing circumcisions, 4 were auxiliary health personnel, 4 were general surgeons, 2 were pediatric surgery specialists, 2 were urologists, and the specialties of 11 doctors were not specified (Table 1).

In the examined files, it was found that lawsuits were filed due to the following allegations: 13 cases of negligent injury (43.3%), 6 cases of lack of due diligence (20%), 6 cases of erroneous procedure (20%), 2 cases of non-compliance with mass circumcision rules (6.7%), and 1 case of negligent manslaughter (3.3%). In 2 files (6.7%), the type of fault was not specified (Table 2).

It was observed that in 2 (6.7%) of the lawsuit files filed due to allegations of medical malpractice, death had occurred. Table 3 shows which courts handled the examined 30 cases and whether fault was attributed.

The first-instance court decisions and the Supreme Court's decisions regarding these rulings for the examined 30 cases are presented in Table 4.

## Discussion

The circumcision procedure is more commonly performed for religious reasons in Islamic countries and for medical reasons in Western societies. While routine circumcision is not recommended in studies on circumcision, it is argued

**Table 3** Information on supreme court decisions (defect information)

Report result	Courts where cases are heard in the supreme court		
	Criminal court n (%)	Civil court n (%)	
Faulty	8 (26.7)	16 (53.3)	24 (80%)
Faultless	2 (6.7)	0	2 (6.7%)
Complication/fault undetermined	2 (6.7)	1 (3.3)	3 (10%)
Fault given, causality not established	1 (3.3)	0 (0)	1 (3.3%)
Total	13 (43.3)	17 (56.7)	30

**Table 4** Information on decisions by first instance courts and yargitay chambers

Decision made by the supreme court chambers	Decision made by first instance courts		
	In favor of circumcision performer n(%)	Against circumcision performer n(%)	
Overturn	18 (60)	2 (6.7)	20 (66.7%)
Uphold	2 (6.7)	5 (16.7)	7 (23.3%)
Re-examination	3 (10)	0	3 (10%)
Total	23 (76.7)	7 (23.3)	30 (100%)

that circumcised males have a reduced risk of sexually transmitted diseases (especially HIV) and penile cancer. It has been reported to reduce the risk of urinary tract infections, especially in boys under 1 year of age [8]. It is estimated that approximately one-sixth of the world's population undergoes circumcision for various reasons [2]. Like any surgical procedure, circumcision carries a risk of complications. The rate of post-circumcision complications in newborns is approximately 0.2–0.6%, while it is found to be 10 times higher in those circumcised between the ages of 1–9 [9]. Given the high frequency of this surgical procedure, a significant number of complications arise, leading to allegations of malpractice for these cases [10].

Debates continue regarding consent in infants, as well as the sexual/psychological harms and medical necessity of circumcision [11]. This surgical procedure, which is only performed for medical reasons and especially on non-consenting patients, is also questioned from an ethical standpoint [12]. Therefore, we believe that a better understanding of the situations leading to malpractice in circumcision surgery is necessary. In this study, we found that the most common allegation leading to malpractice, which reached the highest court, was the offense of negligent injury.

A study conducted on medical malpractice claims in the United States indicated that the number of cases was 2320 in 1990 and reached 88,460 in 2011 [13]. Similarly, in Turkey, the number of cases referred to the Council of Forensic Medicine due to allegations of medical malpractice was 653 between 1990 and 2000. However, in just a 2 year period covering 2013–2014, the number of cases referred to the 1st and 2nd Council of Forensic Medicine Specialization Boards for opinions on medical malpractice claims was reported to be 1980 [14].

Reports indicate that the vast majority of healthcare professionals accused of medical malpractice are physicians. Studies conducted in our country indicate that physicians are most frequently accused, with percentages ranging from 82 to 96.4%, followed by other healthcare personnel such as nurses and midwives [14]. Physicians are involved in all stages of patient care, from obtaining informed consent to examination, treatment administration, discharge, and follow-up examinations. Therefore, when undesirable outcomes occur, physicians are often the first healthcare professionals to be complained about. It is reported that physicians accused of medical malpractice often work in surgical specialties, according to their areas of specialization [15]. This is attributed to several factors, including the relatively severe illnesses of patients who seek treatment in surgical departments, higher expectations of patients to recover their health after surgical treatment, and the higher risk associated with surgical treatment compared to other treatment modalities [16]. Particularly in surgical fields, malpractice allegations arise from events occurring during or after surgery. Jena et al. determined that annually, 15% of all medical malpractice claims are related to general surgery and 11% to urology [17]. Similarly, in this study, among physicians with known specialties, medical malpractice claims were most frequently associated with general surgery.

Despite the increasing rate of medical error lawsuits and the growing controversies surrounding pediatric circumcisions, data on cases involving circumcisions are quite limited. However, it has been reported that nearly one-third of lawsuits in pediatric surgical cases are related to appendicitis and circumcision [18]. In the United States, some doctors have been reported to be prosecuted for post-circumcision malpractice and sentenced to pay millions of dollars in

compensation [10]. Li et al. identified 77 cases of circumcision malpractice lawsuits in a legal database covering the years 1939–2021. Among the examined cases, urologists were the most frequently sued (29%). Most patients were underage during circumcision (64%) and during the lawsuit (59%). The most common cause of the lawsuit (49%) was determined to be negligent surgical performance [19]. In our study, the sued urologist accounted for 6.7%, and 6 cases (20%) of the lawsuits were filed due to lack of due diligence. In studies conducted in our country, it has been reported that death occurred in cases of medical malpractice allegations ranging from 26.4 to 53%, and sequelae developed in 33% and 41.8% of cases [14]. In our study, death occurred in 2 cases (6.7%). One of these cases was charged with negligent manslaughter, and the other was filed due to lack of due diligence. In Li et al.'s study, 16 out of 70 cases (10 in favor of physicians, 4 against physicians, 2 with other verdicts) were concluded in the first court, and 54 were appealed. Of the cases appealed, 27 (50%) resulted in favor of physicians, 14 (25.93%) against physicians, and 13 (24.07%) were taken to a higher court. In the Supreme Court decisions in our study, 24 (80%) of those performing circumcisions were found to be at fault, but 22 (73.3%) of them were healthcare personnel.

In a study conducted in our country, it was found that 29.1% of healthcare workers were found at fault in criminal cases filed due to allegations of medical malpractice, and 94.1% of those found at fault were convicted of negligent offenses [14]. In our study, 24 (80%) individuals performing circumcision were found to be at fault by the courts, and 22 (73.3%) of those found at fault were identified as healthcare workers. Additionally, the most common reason for lawsuits in our study was the offense of negligent injury (43.3%).

Aktürk et al.'s study, which examined cases of alleged medical malpractice that were concluded by the Supreme Court in 2021, found that out of 93 cases, 44 (47.3%) were upheld (26.9% in favor of physicians, 20.4% against physicians), 34 (36.6%) were overturned (25.8% in favor of physicians, 10.8% against physicians), and the remaining cases were reconsidered [14]. In our study, out of 30 cases, 7 (23.3%) were upheld by the Supreme Court (6.7% in favor of the circumcision performer, 16.7% against the circumcision performer), 20 (66.7%) were overturned (60% in favor of the circumcision performer, 6.7% against the circumcision performer), and 3 cases were sent for reconsideration. It is noteworthy that the rate of overturning decisions in circumcision-related Supreme Court cases is significantly high.

Our study has important limitations to consider. Moreover, since this is a legal database analysis, relevant medical details such as the method of circumcision and clinical characteristics of patients are often not captured as they are not typically presented to the court for review. However, despite these limitations, our study is the first to identify the

characteristics of cases related to circumcision and factors predicting trial outcomes through a large-scale legal database analysis in our country.

Our findings indicate that the rarity of cases related to circumcision is quite low, considering the prevalence of the procedure. However, the risk of medical errors continues to burden medical practitioners directly through financial costs, including compensation payments, as well as indirect costs such as time, stress, additional work, and damage to reputation.

As a result, physical conditions must be appropriate and healthcare personnel must be adequately trained for circumcision, which is frequently performed especially in pediatric patients and is more frequently subject to malpractice lawsuits than other pediatric operations.

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**Author contributions** AB: protocol development, research design, management and supervision. AS: data collection, manuscript writing/editing.

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**Data availability** The data sets used and/or analyzed during the current study are available from the corresponding author on reasonable request

## Declarations

**Conflict of interest** The authors declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

**Ethical approval** Since personal data were protected in the Supreme Court decisions and the decisions were publicly accessible, no ethical committee approval was obtained.

**Consent for publication** All patients included in this research gave written informed consent to publish the data contained within this study

## References

1. Dunsmuir W, Gordon E (1999) The history of circumcision. *BJU Int* 83(S1):1–12. <https://doi.org/10.1046/j.1464-410x.1999.0830s1001.x>
2. Tasci A et al (2020) Management of post-circumcision necrosis of the penis: the medicolegal aspect. *Pediatr Surg Int* 36:523–528. <https://doi.org/10.1007/s00383-020-04630-2>
3. Atikeler MK et al (2005) Complications of circumcision performed within and outside the hospital. *Int Urol Nephrol* 37:97–99. <https://doi.org/10.1007/s11255-004-6077-2>
4. Özkan A (2012) Bin dokuz yüz sünnet olgusunda komplikasyonların retrospektif incelenmesi. *Konuralp Med J* 4(1):8–12
5. Özdemir E (1997) Significantly increased complication risks with mass circumcisions. *Br J Urol* 80(1):136–139. <https://doi.org/10.1046/j.1464-410x.1997.00218.x>

6. Krill AJ, Palmer LS, Palmer JS (2011) Complications of circumcision. *Sci World J* 11:2458–2468. <https://doi.org/10.1100/2011/373829>
7. Özgönül ML, Arda B, Dedeoğlu N (2019) Tıp etiği ve hukuk açısından tıbbi hata, malpraktis ve komplikasyon kavramlarının değerlendirilmesi. *Türkiye Klinikleri J Med Ethics-Law & History* 27(1):48–56. <https://doi.org/10.5336/mdethic.2018-63439>
8. Moses S, Bailey RC, Ronald AR (1998) Male circumcision: assessment of health benefits and risks. *Sex Transm Infect* 74(5):368–373. <https://doi.org/10.1136/sti.74.5.368>
9. Weiss HA et al (2010) Complications of circumcision in male neonates, infants and children: a systematic review. *BMC Urol* 10:1–13. <https://doi.org/10.1186/1471-2490-10-2>
10. Etli Y, Aşıröz M, Hekimoğlu Y (2017) Toplu sünnet etkinliğinde tıbbi uygulama hatası iki olgu. *Adli Tıp Bülteni* 22(2):140–145. <https://doi.org/10.17986/blm.2017227931>
11. Morris BJ, Moreton S, Krieger JN (2019) Critical evaluation of arguments opposing male circumcision: a systematic review. *J Evid Based Med* 12(4):263–290. <https://doi.org/10.1111/jebm.12361>
12. Price C (1997) Male circumcision: an ethical and legal affront. *Bull Med Ethics* 128:13–19 (PMID: 11655044)
13. Health, U.D.o. and H. Services, *health resources and Services administration*. National Center for Health Workforce Analysis, 2013: p. 2013–2025.
14. Aktürk G, Özesen TA (2023) 2021 yılında Yargıtay tarafından karara bağlanan hatalı tıbbi uygulama iddiası olgularının değerlendirilmesi. *Adli Tıp Dergisi* 37(1):19–25
15. Koç S (2014) ADLİ TIBBİ AÇIDAN MALPRAKTİS ve HEKİM SORUMLULUĞU. *Bulletin Thoracic Surg/Toraks Cerrahisi Bülteni* 5(1):14–22. <https://doi.org/10.5152/tcb.2014.002>
16. Li H et al (2014) Claims, liabilities, injures and compensation payments of medical malpractice litigation cases in China from 1998 to 2011. *BMC Health Serv Res* 14:1–9. <https://doi.org/10.1186/1472-6963-14-390>
17. Jena AB et al (2011) Malpractice risk according to physician specialty. *N Engl J Med* 365(7):629–636. <https://doi.org/10.1056/NEJMsa1012370>
18. Rich BS, Shelton K, Glick RD (2020) Litigation involving pediatric surgical conditions. *J Pediatr Surg* 55(4):602–608. <https://doi.org/10.1016/j.jpedsurg.2019.08.047>
19. Li KD et al (2022) A legal database review of circumcision related litigation in the United States. *Urology* 160:94–101. <https://doi.org/10.1016/j.urology.2021.09.036>

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