

Chapter 9

When Cultures Collide: Which Rights? Whose Tradition of Values? A Critique of the Global Anti-FGM Campaign

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In this essay, the big questions raised by its title are going to be addressed rather narrowly, and by illustration, and with special attention to one particular domain of cultural globalization. Of primary concern is the highly visible global campaign against one half of a common-place East and West African cultural practice.² The practice I have in mind is socially endorsed and highly valued by many ethnic groups in nations such as Mali, Sierra Leone, the Gambia, Egypt, Ethiopia, Somalia, the Sudan, and Kenya (although it is not limited to Africa). It involves the surgical modification of the genitals of both boys and girls, so as to promote

- 1 As a Carnegie Scholar (2002-04), I am deeply grateful to the Carnegie Foundation of New York for their support of my research and writing. Stanley Katz was a brilliant discussant at the human rights conference at which this essay was originally presented and I am thankful to him for his incisive remarks. I also wish to thank Marshall Sahlins for advising me about the literature on Captain Cook. I have been very fortunate to have received responses to the essay from Fuumbai Ahmadu, Ylva Hernlund, Sara Johnsdotter, Corinne Kratz, Maivan Lâm, and Thomas Weisner. The positions developed in the essay are, of course, my own.
- 2 See, e.g., E. H. Boyle, *Female Genital Cutting: Cultural Conflict in the Global Community*, Baltimore: Johns Hopkins University Press (2002); M. H. Cooper, "Women and Human Rights," 9 *CQ Researcher: Published by the Congressional Quarterly, Inc.* (1999) 353; A. El Dareer *Women, Why Do You Weep? Circumcision and Its Consequences*, London: Zed Press (1982); F. P. Hosken, *The Hosken Report: Genital and Sexual Mutilation of Females*, Lexington, Mass.: Women's International Network News (1993); O. Koso-Thomas, *The Circumcision of Women: A Strategy for Eradication*, London: Zed Books, Ltd. (1987); A. T. Slack, "Female Circumcision: A Critical Appraisal," 10 *Human Rights Quarterly* (1988) 437.

their "normal" development with respect to local developmental standards concerning gender identity, ethnic identity, physical beauty, and adulthood.³ The

3 See, e.g., F. Ahmadu, "Rites and Wrongs: Excision and Power among Kono Women of Sierra Leone," in B. Shell-Duncan and Y. Hernlund (eds.), *Female 'Circumcision' in Africa: Culture, Change and Controversy*, Boulder: Lynne Rienner (2000); J. Boddy, *Wombs and Alien Spirits: Women, Men and the Zar Cult in Northern Sudan*, Madison: University of Wisconsin Press (1989); E. Gruenbaum, *The Female Circumcision Controversy: An Anthropological Perspective*, Philadelphia: University of Pennsylvania Press (2001); I. R. Gunning, "Arrogant Perception, World-Travelling and Multicultural Feminism: The Case of Female Genital Surgeries," 23 *Columbia Human Rights Law Review* (1991-1992) 189; Y. Hernlund, "Decision Making around Female Genital Cutting: Context and Contingency," FOKO Conference Paper, Malmo, Sweden, September 5, 2003 (available from Y. Hernlund, Department of Anthropology, University of Washington); C. R. Horowitz and C. Jackson, "Female 'Circumcision': African Women Confront American Medicine," 12 *Journal of General Internal Medicine* (1997) 491; S. Johnsdotter, *Created By God: How Somalis in Swedish Exile Reassess the Practice of Female Circumcision*, Lund Monographs in Social Anthropology, Department of Sociology, Lund University, Lund, Sweden (2002); M. C. Johnson, "Becoming a Muslim, Becoming a Person: Female 'Circumcision,' Religious Identity and Personhood in Guinea-Bissau," in B. Shell-Duncan and Y. Hernlund (eds.), *Female 'Circumcision' in Africa: Culture, Controversy and Change*, Boulder: Lynn Rienner (2002); J. Kenyatta, *Facing Mount Kenya: The Tribal Life of the Gikuyu*, London: Secker and Warburg (1938); C. Kratz, *Affecting Performance: Meaning, Movement and Experience in Okiek Women's Initiation*, Washington, D.C.: Smithsonian Institution Press (1994); C. Kratz, "Contexts, Controversies, Dilemmas: Teaching Circumcision," in Misty Bastian and Jane Parpart (eds.), *Teaching Africa: African Studies in the New Millennium*. Boulder: Lynne Rienner (1999); S. D. Lane and R. A. Rubinstein, "Judging the Other: Responding to Traditional Female Genital Surgeries," 26 *Hastings Center Report* (1996) 31; H. Lightfoot-Klein, "The Sexual and Marital Adjustment of Genitally Circumcised and Infibulated Females in the Sudan," 26 *Journal of Sex Research* (1989) 375; O. Meinardus, "Mythological, Historical and Sociological Aspects of the Practice of Female Circumcision among the Egyptians," 16 *Acta Ethnographica: Academiae Scientiarum Hungaricae* (1967) 387; L. A. Obiora, "Rethinking Polemics and Intransigence in the Campaign against Female Circumcision," 47 *Case Western Reserve Law Review* (1997) 275; M. Parker, "Rethinking Female Circumcision," 65 *Africa* (1995) 506; B. Shell-Duncan and Y. Hernlund, "Female 'Circumcision' in Africa: Dimensions of the Problem and the Debates," in B. Shell-Duncan and Y. Hernlund (eds.), *Female 'Circumcision' in Africa: Culture, Change and Controversy*, Boulder: Lynn Rienner (2000); R. A. Shweder, "What about 'Female Genital Mutilation'? And Why Understanding Culture Matters in the First Place," in R. A. Shweder, M. Minow and H. Markus (eds.), *Engaging Cultural Differences: The Multicultural Challenge in Liberal Democracies*, New York: Russell Sage Foundation Press (2002), reprinted in R. A. Shweder, *Why Do Men Barbecue? Recipes for Cultural Psychology*, Cambridge: Harvard University Press (2003); Ch. J. Walley, "Searching for 'Voices': Feminism, Anthropology, and the Global Debate over Female Genital Operations," 12 *Cultural Anthropology* (1997) 405; L. Williams and T. Sobieszzyk, "Attitudes Surrounding the Continuation of Female Circumcision in the Sudan: Passing the Tradition to the Next Generation," 59 *Journal of Marriage and the Family* (1997) 966.

global campaign has been aimed exclusively at the female half of the practice, with the aim of creating and enforcing universal international norms according to which any socially endorsed surgical alteration of the genitals of a female child or adolescent is defined as either (a) an intolerably harmful cultural practice or (b) an obvious and impermissible violation of basic human rights, or both. In this essay, I shall argue that neither claim ("a" or "b") is rationally defensible and that the global campaign against what has been gratuitously and invidiously labeled "female genital mutilation" remains a flawed game whose rules have been fixed by the rich nations of the world. The campaign thus deserves to be carefully scrutinized and critiqued, rather than automatically embraced and given a free ride through the international court of critical reason.

A recent article in the *New York Times* (February 6, 2003) quotes the first lady of the West African country of Burkina Faso as stating that female genital cutting is "the most widespread and deadly of all violence victimizing women and girls in Africa." The article is one of a series of sensational, lurid, and horrifying pieces that the *Times* has printed over the past decade or so covering the topic, all giving one-sided and uncritical expression to a representation of the practice that has been constructed and widely circulated by feminist and First World human rights activist groups. A typical example of this type of representation (which is sometimes referred to as "the global discourse") is a 1995 op-ed piece in the *Times*, written by A.M. Rosenthal, the former columnist. Rosenthal gets his information directly from the activist organizations (he even advertises their names and their cause) and then writes: "Here is a dream for Americans, worthy of their country and what they would like it to be. The dream is that the U.S. could bring about the end of a system of torture that has crippled 100 million people now living upon this earth and every year takes at least two million more into an existence of suffering, deprivation and disease ... The torture is female genital mutilation."⁴

Two other quotes, written by activists and consultants in the now widespread political campaign to ban the practice, capture the essence of the global discourse, with all its supposed horror. Susan Rich and Stephanie Joyce write: "Female genital mutilation (FGM, also known as female circumcision) has been practiced traditionally for centuries in sub-Saharan Africa. Customs, rituals, myths, and taboos have perpetuated the practice even though it has maimed or killed untold numbers of women and girls ... FGM's disastrous health effects, combined with the social injustices it perpetuates, constitute a serious barrier to overall African development."⁵ Olayinka Koso-Thomas writes: "Early societies in Africa established strong controls over the sexual behavior of their women and devised the brutal means of circumcision to curb female sexual desire and response."⁶

4 A. M. Rosenthal, "The Possible Dream," *New York Times*, Op-Ed Page (June 13, 1995) A25.

5 S. Rich and S. Joyce, "Eradicating Female Genital Mutilation: Lessons for Donors," Wallace Global Fund for a Sustainable Future, Washington, D.C. (no date available) 1, 3.

6 Koso-Thomas, *op cit.*, note 2, 37.

If you read and believe those statements or most of the other things you find written about FGM in the popular press (which, for the most part, are recapitulations of the advocacy literature) then you must conclude that Africa is indeed a "Dark Continent" where for hundreds, if not thousands of years, African parents have been murdering and maiming their daughters and depriving them of the capacity for a sexual response. You must believe that African parents (mothers and fathers) are either (a) monsters ("mutilators" of their children) or (b) fools (who are incredibly ignorant of the health consequences of their own child rearing practices and the best interests of their children); or (c) prisoners of a insufferably dangerous tradition that they themselves would like to escape, if only they could find a way out, or else (d) that African women are weak and passive and live under the patriarchal thumb of cruel, loathsome, or barbaric African men. In this essay, I invite you to reject all four of those conclusions and to critically re-examine the central claims of the global discourse, which upon close examination, turn out to be as misleading and insupportable as they are horrific.

Compare, for example, the claims in the global discourse with the following summary remarks by Robert Edgerton, an anthropologist at UCLA who is an expert on East African history and contemporary society.⁷ This is what he has to say about the practice of female genital modifications in Kenya in the 1920s and 1930s, at a time under British colonial rule when Christian missionaries and colonial administrators tried unsuccessfully to wipe it out. In Kenya in the 1920s and 1930s, the surgery typically occurred around adolescence for both boys and girls, and perhaps about 50 percent of Kenya's ethnic groups routinely engaged in these types of body modifications as part of ritualized initiation ceremonies to socialize both girls and boys into adult gender roles. Assessing the consequences of female genital surgeries in Kenya during the 1920s and 1930s, Edgerton remarks that the operation was performed without anesthesia and hence was very painful "yet most girls bore it bravely and few suffered serious infection or injury as a result. Circumcised women did not lose their ability to enjoy sexual relations, nor was their child-bearing capacity diminished. Nevertheless the practice offended Christian sensibilities." It offended Christian sensibilities!

Of course, these days at least two things have changed since the 1920s and 1930s in Africa: anesthesia is more available, and the "civilizing" missionary efforts of militant Protestants have been supplemented and even supported by the evangelical interventions of global feminists and human rights activists. Nevertheless, I believe that Edgerton's comment is a far more accurate representation of the truth about genital modifications in Africa today than the melodramatic pronouncement by Chantal Compaore, who is the First Lady of Burkina Faso, and also directs an NGO. Later, after saying why I think Edgerton is probably correct in his assessment of the short- and long-term consequences of Kenyan genital modifications, I shall argue that if Edgerton is basically correct, then it is time for a new more tolerant neoliberal global discourse to be developed concerning unfamiliar

7 R. B. Edgerton, *Mau Mau: An African Crucible*, New York: The Free Press (1989) 40.

or "alien" body modification practices around the world. One of the central human rights claims of this new "tolerance promoting" (or at least "sufferance promoting") neoliberal discourse might be the following: that an offense to the culturally shaped tastes and sensibilities of cosmopolitan elites or the citizens of rich and powerful societies (whether they are Christian missionaries or secular humanist human rights activists) is not sufficient reason to eradicate someone else's valued way of life.

GLOBALIZATION: IS IT A FLAWED GAME?

"To date, globalization remains a flawed game whose rules have been fixed by rich nations." That condemnation of the emerging neo-liberal new world order was written by the *New York Times* editorial board. It appeared on September 10, 2003 in a statement condemning the United States, Europe, and Japan for taking advantage of a position of unequal bargaining power at the World Trade Organization and for constructing a world system in which the poor nations of the South are forced to reduce their trade barriers, while the rich nations of the North protect and heavily subsidize the production of agricultural goods at home. As the *Times* editorial notes, the current global trade system "has devastating effects on poorer nations, many of which could improve living standards if only given a chance to export farm products at fair market prices." The editorial does not hesitate to draw moral conclusions about how the global system has devolved and fallen short of its own moral ideals. The *Times* points a finger at the contradictions and hypocrisy of current American and European trade policies. There are calls for remedies, for truth in advertising (identifying the real effects of farm subsidies and how current trade policies cause poverty in the Third World) and for greater fairness, reciprocity, and equality of voice in the process of negotiating the international rules of the free-trade game.

Although my concern in this essay is not with economic globalization but rather with one particular aspect of cultural globalization, I am going to argue that the emerging rules of the cultural correctness game have been fixed by the First World and deserve to be critiqued. If there are going to be rules to the game of cultural globalization and diffusion, they will have to address the freedoms and constraints associated with the human search for meaning on an international scale and the conditions under which locally produced ideas, ideals, and practices are created, perpetuated, exported, or reproduced around the world. Ideally, in a neoliberal world order, these rules ought to permit members of different societies or groups a good deal of liberty (within certain moral limits) to live and reproduce their way of life according to their own historical or ancestral consciousness and allow them to evolve and develop conceptions about what is good, what is true, what is beautiful, and what is efficient by their own lights.⁸ Ideally, in such

8 R. A. Shweder, "Moral Maps, 'First World' Conceits, and the New Evangelists," in L. E. Harrison and S. P. Huntington (eds.), *Culture Matters: How Values Shape Human Progress*, New York: Basic Books (2000) 169-170.

an international order, the rules of the cultural globalization game ought to be constructed in a negotiating environment in which accurate information is available about the consequences of leaving peoples free to evolve and carry forward a way of life guided by their own conception of the good. And in that negotiating environment, there ought to be an equality of voice for those who are affected by the application of any agreed upon rules defining the scope and limits on the free exercise of cultural practice.

In this essay, I suggest that in at least one very intimate cultural and family life domain, the rules of the game have been imposed by the rich nations of the world in such a way that they invite moral critique. The critique is invited because activist organizations and governments in the rich nations have tried to universalize their own cultural preferences and tastes with little regard for truth in advertising and with considerable contempt for the democratic voice of majority populations in the particular poor countries most directly affected by the forceful expansion and willful imposition of American and European cultural perspectives. I am going to suggest that these First World governments and activist organizations (who, ironically, often frame their campaigns in a discourse of human rights) have actually acted in violation of several human rights, including rights to self-determination and rights to family privacy, among others, which they themselves often invoke in defense of their own cultural preferences and practices.

EVALUATING THE HARMFUL PRACTICE ARGUMENT

For the sake of argument, I will separate claims that female genital modification is a harmful practice – which maims and murders African children and deprives them of a capacity for a sexual response – from claims that it is a violation of basic human rights. If it is a harmful practice and you are prepared to defend the idea that there are natural, objective, or inalienable human rights (which is itself no small feat, since the idea that human rights are natural, real, or objective rights has been notoriously difficult to defend in the moral philosophy literature, although the claim does have supporters) then it is but a small step to include the right to be free from physical and psychological harm as a basic human right. So at first blush, it seems quite strange to draw a contrast between harms and rights.

Nevertheless, perhaps one good reason for separating the harmful practice claim from the violation of basic human rights claim is that those who want to eradicate the practice want to eradicate it even if genital surgeries already are, or could be made to be, medically safe. They think it is wrong for Africans to modify female (although not male) genitals, and it is wrong, many advocates will argue, even if the body modification can be done hygienically, with anesthesia and with no effect on sexual functioning. In other words, the human rights advocacy groups are not really interested in making the world safe for these types of medical procedures. Their goal is to eradicate the practice, whether it is medically harmful or not. Thus, in the advocacy literature, basic human rights claims often get advanced as

additional reasons that should be separated from claims about the physical harm of the practice or its effects on sexual functioning.

Nevertheless, it remains a fact that many of the most lurid and sensational claims in the global discourse have been about short-term and long-term medical and obstetrical complications, sexual dysfunction, and fatalities supposedly linked to the surgery. How should these claims be evaluated?

In my view, any reasonably objective assessment of these claims must begin with three sources. Two of the sources are critical reviews of the medical and demographic evidence that were published by Carla Obermeyer in 1999 and 2003. Her first publication reviews and critiques the available literature on female genital surgeries through 1996; her second publication reviews the subsequent literature from 1997–2002. The third key source is a research report⁹ based on the most systematic, comprehensive, and controlled investigation of the health consequences of female genital modifications yet to be conducted. Obermeyer is an epidemiologist and medical anthropologist at Harvard and the World Health Organization.¹⁰ Linda Morison's medical field research team conducted their study in the Gambia, with support from the Medical Research Council. Notably, as far as I know, the popular press has either overlooked or ignored these reviews and reports, although one might have thought they would be sufficiently eye-opening and significant to warrant coverage in the health section of the *New York Times*.

⁹ L. Morison, C. Scherf, G. Ekpo, K. Pain, B. West, R. Coleman, and G. Walraven, "The Long-Term Reproductive Health Consequences of Female Genital Cutting in Rural Gambia: A Community-Based Survey," *6 Tropical Medicine and International Health* (2001) 643.

¹⁰ C. M. Obermeyer writes as an independent scholar and not as the official voice of the World Health Organization (WHO). Unlike most research universities and academic centers, the WHO is not committed to the principle of institutional or corporate neutrality on political and public policy issues. In this case it has elected to add an official and, I believe, embarrassingly unscientific and uncritical voice to the global eradication campaign. In its statement at the 57th Session of the United Nations Commission on Human Rights (April 9, 2001), the WHO goes so far as to oppose the practice of female genital mutilation by health professionals in any setting – even settings in which the operation can be performed safely and without pain. It is quite revealing that the WHO has officially adopted the invidious rhetorical phrase female genital mutilation employed by the activist organizations instead of such alternative labels as female genital operations, female genital surgeries, female genital modifications, or cosmetic genital surgeries. It is also revealing that the WHO is less interested in making the world safe for this practice than in eliminating the practice entirely. I would suggest that adopting the nomenclature of "mutilation" and the particular policy stance endorsed by the WHO are indications of the extent to which the organization has departed from its scientific health mission, has become a site for political lobbying by activists in the human rights movement, and has failed to live up to its reputation as a credible source of objective knowledge. In this instance, special interest group politics has trumped critical reason at the WHO.

This is what Carla Obermeyer says in her first comprehensive review of the medical and demographic literature on the health consequences of this cultural practice:

On the basis of the vast literature on the harmful effects of genital surgeries, one might have anticipated finding a wealth of studies that document considerable increases in mortality and morbidity. This review could find no incontrovertible evidence on mortality, and the rate of medical complications suggest that they are the exception rather than the rule ... In fact, studies that systematically investigate the sexual feelings of women and men in societies where genital surgeries are found are rare, and the scant information that is available calls into question the assertion that female genital surgeries are fundamentally antithetical to women's sexuality and incompatible with sexual enjoyment.¹¹

Obermeyer concludes her second and more recent review of the literature by reminding us how her earlier publication¹² "... drew attention to the complexity of measuring harms to health, pointed to the weakness of our understanding, and showed the inadequacy of simplistic judgments."¹³ After reviewing the medical and demographic literature through 2003 she goes on to say, "There is no doubt that better-designed studies can go a long way toward improving our estimates of the health risks of the operations, but the current state of the evidence does not allow hasty pronouncements about all the harmful effects attributed to circumcision."¹⁴

A telling example of what she has in mind can be found in her review (which is also a response to a rather unrestrained and incoherent attack by Gerry Mackie, a political scientist who serves as a consultant to an activist organization), for as she notes, "Analyses of studies on infertility that have appeared in the last few years do not document significant differences (between circumcised and uncircumcised women), while studies of labor and delivery problems show mixed results: those with a comparison group do not find significantly higher risks of complications of labor and delivery, except where these are very loosely defined to include hospital practices such as c-sections and episiotomies ..."¹⁵

Perhaps the most scientifically rigorous and large-scale study of the medical consequences of female genital surgeries in Africa is the Medical Research Council investigation of the reproductive health consequences of the practice.¹⁶ The study,

11 C. M. Obermeyer, "Female Genital Surgeries: The Known, the Unknown, and the Unknowable," 14 *Medical Anthropology Quarterly* (1999) 92, 95.

12 *Ibid.*

13 C. M. Obermeyer, "The Health Consequences of Female Circumcision: Science, Advocacy, and Standards of Evidence," 17 *Medical Anthropology Quarterly* (2003) 408.

14 *Ibid.*, 408.

15 *Ibid.*, 402.

16 Morison *et al.*, *op. cit.*, note 9.

which was published three years ago, was conducted in the Gambia, where the surgery most typically involves an excision of the visible part of the clitoris and either a partial or complete excision of the labia minora. The study systematically compared circumcised with uncircumcised women. More than 1,100 women (ages 15 to 54) from three ethnic groups (Mandinka, Wolof, and Fula) were interviewed and also given gynecological examinations and laboratory tests. This is rare data in the annals of the literature on the consequences of female genital operations.

Overall, very few differences were discovered in the reproductive health status of circumcised versus uncircumcised women. Of the total, 43 percent of women who were uncircumcised reported menstrual problems compared to 33 percent for circumcised women, but the difference was not statistically significant; 56 percent of women who were uncircumcised had a damaged perineum compared to 62 percent for circumcised women, but again the difference was not statistically significant. There were a small number of statistically significant differences – for example, more syphilis (although not a lot of syphilis) among uncircumcised women, and a higher level of herpes and one particular kind of bacterial infection among women who were circumcised. But in general, from the point of view of reproductive health consequences there was not much to write home about. As noted in the research report, the supposed morbidities (such as infertility, painful sex, vulval tumors, menstrual problems, incontinence, and most endogenous infections) often cited by anti-FGM advocacy groups as common long-term problems of female circumcision did not distinguish women who had the surgery from those who had not. Yes, 10 percent of circumcised Gambian women in the study were infertile, but the level of infertility was exactly the same for the uncircumcised Gambian women in the study. The authors caution anti-FGM activists against exaggerating the morbidity and mortality risks of the practice.¹⁷ In addition, circumcised Gambian women expressed high levels of support for the practice; and the authors of the study write: "When women in our study were asked about the most recent circumcision operation undergone by a daughter, none reported any problems."¹⁸

My conclusion from reading these three publications is that the harmful practice claim has been highly exaggerated and that many of the representations in the advocacy literature and the popular press are nearly as fanciful as they are nightmarish. I conclude that in this literature and in the popular press First World feminist issues and political correctness and activism have triumphed over the critical assessment of evidence.¹⁹

17 *Ibid.*, 651.

18 *Ibid.*, 651.

19 On the erosion of standards of evidence and critical reason in FGM political asylum cases in the United States, see C. Kratz, "Circumcision Debates and Asylum Cases: Intersecting Arenas, Contested Values, and Tangled Webs," in R. A. Shweder *et al.* (eds.), *op. cit.*, note 3.

EVALUATING THE HUMAN RIGHTS ARGUMENT

As evidence slowly emerges that African genital modifications are not all *that* dangerous and can in any case be done safely, a second type of argument will be advanced to justify the global eradication of the practice, namely that it is a violation of one or more basic human rights. Indeed, even Morison et al, after having systematically presented credible evidence that “the commonly cited long term health consequences of FGC (female genital cutting) were not markedly more common in cut women” give a nod in the direction of a human-rights justification for eradication policies based on claims about nonconsensual violations of bodily integrity.²⁰

The idea that there is some kind of inherent opposition between rights and culture has gained some currency in the academic and advocacy literatures in recent years (see for example Okin 1999 and the critique by Volpp 2001),²¹ although, I confess, I do not find the idea appealing or even coherent.

If there actually are real, objective, natural or inalienable human rights (for example, a right to freedom of association, freedom of religion, freedom of expression, or the right of parents to educate their children into the beliefs and values of a particular way of life – the way of life of their ancestors), then the very process of group and family formation and the entire symbolic and expressive side of culture might rest on them and might be well justified by reference to some set of human rights.

On the other hand, if real, objective, natural, or inalienable human rights do not exist, as some have argued, then they can hardly be said to be in tension or conflict with culture. And if they exist only as positive rights (rights granted by consensus or declaration or promulgation by some groups at some points in history but not by other groups at other points in history; in other words if they are understood to be convention based, vote based or alienable rights) then it is one’s particular location in culture and history that is the only source of authority for any claim to have a right. So, I do not find the opposition of rights versus culture very helpful.

Ontologically speaking, what is a real, natural, objective or inalienable human right? Presumably it is something to which everyone is entitled simply by virtue of being a human being. If that is the case, then it is an entitlement that derives not from who you are in particular or from what you have accomplished in life. And it is not an entitlement whose authority derives from the will of some person or group who decides or elects to honor the things called rights. A natural or inalien-

²⁰ Morison et al., *op. cit.*, note 9, 652.

²¹ S. Moller Okin, “Is Multiculturalism Bad For Women?” in S. M. Okin (ed.), *Is Multiculturalism Bad For Women?* Princeton: Princeton University Press (1999) and the critique by L. Volpp, “Feminism versus Multiculturalism,” 101 *Columbia Law Review* (2001) 1181.

able right, in the strong sense, must be something transcendental or overarching, something that we may discover but not something we simply make up or invent, either individually or collectively; for then the right would be subjective, not objective, and it would not be universally binding.

Not everyone believes that a strong case can be made for the existence of universal natural rights. And if such rights exist, there are many legal and moral theorists who think they are vacuous and devoid of real content. Richard Posner gives very clear expression to this anti-realist, anti-natural rights position when he argues that there is no trans-historical or extra-cultural authoritative source for our moral obligations. He writes:

I shall be arguing first of all that morality is local, and that there are no interesting moral universals. There are tautological ones, such as ‘murder is wrong’ where ‘murder’ means ‘wrongful killing,’ or ‘bribery is wrong,’ where bribery means ‘wrongful paying.’ But what counts as murder, or as bribery, varies enormously from society to society. There are a handful of rudimentary principles of social cooperation – such as don’t lie all the time or don’t break promises without any reason or kill your relatives or neighbors indiscriminately – that may be common to all human societies, and if one wants to call these rudimentary principles the universal moral law, that is fine with me. But they are too abstract to be criterial. Meaningful moral realism is therefore out, and a form (not every form) of moral relativism is in. Relativism in turn invites an adaptationist conception of morality, in which morality is judged non-morally – in the way that a hammer might be judged well or poorly adapted to its goal of hammering nails into wood or plaster – by its contribution to the survival, or other ultimate goals, of a society or some group within it. Moral relativism implies that the expression ‘moral progress’ must be used with great caution, because it is perspectival rather than objective; moral progress is in the eye of the beholder.²²

It seems to me that the global discourse concerned to eradicate the customary African practice of female genital modification has not come to terms with, or even systematically addressed, these kinds of issues: whether rights are objective or subjective, discovered or made up, products of reason, or expression of personal or collective preference and taste; whether there is a rational basis for extending the authority of rights claims beyond the scope of those who have agreed to honor them; whether the rights that have been invoked in the global discourse are both concrete and context relevant enough to be decisive or criterial yet transcendental and objective enough to make universal claims.

For example, Shell-Duncan and Hernlund have exposed some of the difficulties with applying human rights arguments to support the current anti-FGM erad-

²² R. A. Posner, *The Problematics of Moral and Legal Theory*, Cambridge: Harvard University Press (1999) 6.

ication campaign.²³ In the course of their discussion, they mention several rights, which have been invoked in various UN Declarations (the Declaration of the Rights of the Child (1959) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)). One such right is the right of the child “to develop physically, mentally, morally, spiritually, and socially in a healthy and normal manner and in conditions of freedom and dignity.”

There are numerous and obvious problems with such a formulation when applied to the normative and socially valued practice of genital modification in East and West African communities. For one thing, as Shell-Duncan and Herlund note, “normal” development in many African ethnic groups involves the cultural remaking of the human body (of both boys and girls) for the sake of their physical, mental, moral, spiritual, and social development. Thus the statement of the right is too abstract to be criterial; and any informed application of the right to the case at hand might well lead to the conclusion that the practice is entirely consistent with the rights of the child.

Secondly, some components of the statement of the right (a right to “develop ... in conditions of freedom”) seem to deny the reality of normal and healthy developmental processes and development promoting social relationships, which are often commanding and hierarchical and always constraining and limiting of options, often to a rather high degree. For example, children are not free to decide not to go to school or not to have an inoculation; they are not free to decide to move to some new residence or location, or to select the religion that will be practiced at home, and so on. A very particular and culture-specific (and perhaps social-class specific) kind of liberationist or radical autonomy perspective seems to have been written into this rather ideologically loaded (and hence subjective) formulation of a supposed natural right.

Even the idea of a right to bodily integrity seems problematic as a possible foundation for criticizing this particular practice of African body modification. For one thing, if there is a natural human right to bodily integrity of the type supposed, it would extend to the practice of male genital surgeries as well and might well run counter to the rights to religious freedom and family privacy of Jews and Muslims around the world. Secondly, it is not at all clear what the integrity of the human body actually amounts to, once the overheated and sensationalized morbidity, mortality, and sexual dysfunction claims are viewed with a cautious or skeptical eye. From the cultural perspective of Jews, Muslims, and those Africans (Muslim and non-Muslim) who circumcise their children (both boys and girls), the human body lacks integrity (contains unbidden, immature, problematic, or even ugly and disgusting components) until it is improved, purified, and made “normal” by means of cultural intervention and the status conferring procedure of a genital modification.²⁴

23 Shell-Duncan and Herlund (eds.), (2000), *op. cit.*, note 3, 27.

24 See Ahmadu (2000), Lane and Rubinstein (1996), Meinardus (1967), Shweder (2003), *op. cit.*, note 3.

But perhaps the most problematic aspect of a human rights argument for those engaged in the global eradication campaign is that the global eradication campaign itself appears to violate several readily recognizable supposed human rights. A short list of such rights includes the right of peoples and nations to autonomy and self-determination, the right of parents to raise their children as they see fit, the right of members of a family to be free of government intrusion into decisions that are private, the right of members of a group to favor their own cultural traditions in the education and socialization of their children, the right to freedom of religion (for example, among the Mandinka people of Guinea-Bissau, bodily integrity, interpreted as bodily purity via genital modification, is a prerequisite for prayer),²⁵ the rights of both girls and boys to equal regard, and so on. (In most ethnic groups where female genital modification is a socially valued practice, male genital modification is socially valued as well, and both are associated with access to many social goods. So this is not a case of society picking on women. Quite the contrary, where there are customary female bodily modifications there are customary male bodily modifications, and in many of these ethnic groups both sexes are treated with equal regard for their courage and for their social, moral and physical development).

Recently, Elizabeth Boyle has written an informative book about how global institutions (the WHO, the UN, First World governments, the World Bank, and feminist and human rights activist organizations and NGOs) are pressing for global cultural homogenization in ideas about the body, the family, and child development, and how, with regard to the campaign against FGM, they have made use of their unequal bargaining position, power, influence, and wealth to essentially intrude into the internal affairs of the poor and financially dependent nations of East and West Africa.²⁶ It is a noteworthy fact that in at least seven African nations 80-90 percent of the popular vote would probably vote against any policy or law that criminalizes the practice of genital modification for either boys or girls. Yet in many of those African countries, third world elites (acting as “enlightened” or “liberated” patrons of progressive cultural development, or acting as recipients of foreign aid and largesse, or simply acting under international pressure) have promulgated administrative policy statements and laws that criminalize a practice that vast majorities of their own citizenry endorse, value, or embrace. The last thing in the world that those who support the global campaign want is to give voice to popular sentiment or to support the principles of democratic self-governance. If you put it to a popular vote in Mali or Egypt or Sierra Leone you lose, so you do not put it to a vote.

When it comes to drawing up lists of human rights violations, the results can thus be surprising. Given that those with the money and power have been engaging in what amounts to a propagandistic and excessively rhetorical disinformation

25 Johnson, *op. cit.*, note 3.

26 Boyle, *op. cit.*, note 2.

campaign about the health consequences and mortality risks of genital modifications, one might suggest that it is not Africa that should be viewed as a "dark continent." The First World begins to look darkly ironical (some might say, hypocritical) when North Americans and Europeans who say they value family privacy and self-determination for themselves seem eager to deny both those rights to African parents.

These are, of course, disturbing conclusions; and they are not ones that will be welcome by anti-FGM activist organizations and their supporters. But perhaps they will serve as a wake-up call for those who value fair play, democratically evolved pluralism, and the toleration of differences. Perhaps it is time for liberal free thinking citizens in Europe and North America to recognize that the global campaign is a flawed game. And perhaps it is time for those who care about the accuracy of cultural representations in public policy debates to insist that the voices of the many African women and girls who value the practice be heard and acknowledged; and time to insist, as well, that when it comes to preemptive strikes against other peoples cultural customs, there should be no free ride through the international court of critical reason.

A DIGRESSIVE CONCLUSION: PLURALISTS AND THE CIVILIZING PROJECT IN HISTORY

I would like to conclude this essay in an unusual way, by digressively looking backward for a moment to an earlier age of globalization, in particular to that fleeting but remarkable decade in the second half of the eighteenth century (the 1770s) when cultural contact between "the West" and "the rest" seemed to be compatible with the peaceful coexistence of divergent cultural ideals about what is true, good, beautiful, and efficient and with an attitude of "live and let live." This glance backward may serve as a useful reminder that over the course of history there have been many pendulum swings and a fair amount of tension between those who readily embrace universalizing missionary efforts of either a religious (for example, Christian) or secular (for example, human rights) sort and those who react to such missions with either diffidence, doubt, distrust, indignation, or even fear. When powerful, well-intended, highly motivated, well-connected, and well-financed activists decide to launch global campaigns to spread the good news, enlighten the ignorant, civilize the savages, or impose some unitary conception of the truth or of the good life on outsiders or on others, there is good reason to get nervous and to raise the standard for critically evaluating the conviction that "God is on your side."

In any case, looking back nostalgically at an astonishing moment in human history, the 1770s appear to have been a good time for cultural pluralism. The two most towering icons of exploration of foreign cultures during that time, both British, were Captain James Cook and Warren Hastings. James Cook sailed the South Seas making observations about almost everything that could be seen, recorded, or measured, including the customary practices of indigenous peoples.

Warren Hastings was the East India Company's first governor-general in India; and it was he who helped form the Asiatic Society of Bengal so as to make it possible for English speaking Christians from the North to better understand and appreciate the ways of life (including the languages) of Hindus and Muslims on the subcontinent.²⁷

With regard to Warren Hastings, the political scientists Lloyd and Susanne Rudolph have pointed out that he adopted a governance policy in India based on principles of norm pluralism and an Ottoman-like version of "live and let live" cultural federalism.²⁸ During those early days of British global expansion and international trade, Hastings believed that social order in India was best maintained by applying "the laws of the Koran with respect to Mohammedans and that of the Shaster with respect to Hindus," and by restricting the application of British positive and common law to Englishmen. He was prepared to comprehend the civilizations of the Mohammedan, the Hindu, and Christian as different but in some important sense equally sophisticated and of comparable worth. The eradication of so-called alien cultural practices was not on his agenda.

Of Captain James Cook, the historian Caroline Alexander has written, "His far-ranging accounts of his voyages ... revealed a remarkable respect for the foreign peoples he met, and a striking reluctance to condemn outright even those alien practices that his own culture held to be immoral."²⁹ Indeed, he was not only aware but also critical of the permanent disruptions and ruptures in indigenous life caused by European global expansion.³⁰ Cook's voyages have been the subject of both exceedingly heroic (European) and excessively anti-heroic (Southern World) narratives and legends. The real life complexity of those early encounters between the "West" and "the rest" and the mix of mutual perplexity, confusion, misunderstanding, surprise, excitement, admiration, and disgust produced by the arrival of British ships in the Society Islands or New Zealand has been described in detail in a recent book by the anthropologist Nicholas Thomas.³¹ With specific regard to Cook's mission in New Zealand, Thomas arrives at the following judgment:

He had been told to take possession of lands, and in this sense he was a colonizer, but Cook's colonial interventions in Maori life were tentative and tactical. He was not authorized to make the Maori subject to European law, and he well understood

27 See C. Alexander, *The Bounty: The True Story of the Mutiny on the Bounty*, New York: Penguin (2003); L. Rudolph, S. Rudolph, "Living with Multiculturalism: Universalism and Particularism in an Indian Historical Context," in R. A. Shweder et al. (eds.), *op. cit.*, note 3; N. Thomas, *Cook: The Extraordinary Voyages of Captain James Cook*, New York: Walker Publishing Company (2003).

28 Rudolph and Rudolph, *ibid.*, 45.

29 Alexander, *op. cit.*, note 27, 128; also see Thomas, *op. cit.*, note 27, 202, 211.

30 Thomas, *ibid.*, xxvi.

31 *Ibid.*

that he was in no position to do so. He tried to cultivate 'friendship,' meaning trade, and would deploy force if friendship, or trade, failed, but he tried to do no more than manage the meeting. He presumed that the Maori governed their own lives and would continue to do so. He did not see himself creating a society or civilization that was wanting.³²

Of both James Cook and Warren Hastings, one suspects that they would have rejected the idea that any one people's laws and norms should be applied to all peoples. One suspects that the notion that there is a universal natural law (for example, an orderly list of natural rights or a declaration of human rights) that can be usefully and uniformly used as a specific guide for how to actually live one's life and that can be applied to govern all peoples regardless of whether they are Hindu or Muslim, Tahitian or British would not have seemed spontaneously or intuitively obvious or appealing to either of them. Quite the contrary, Hastings and Cook appear to have engaged their own multicultural realities with an interest in understanding the variety of human beliefs and practices and in giving permission to "difference." Each engaged a multicultural world with the sensibilities of either a practical or moral pluralist.

The Rudolphs also describe a strikingly contrasting attitude among certain other (and later) administrators in India, who held a more disparaging view of the value of the diverse civilizations of India and rejected the view that the so-called alien practices of other peoples ought to be sympathetically researched or recorded or are deserving of protection or respect. Thomas Macaulay's liberal political philosophy of educational and legal reform in India typifies this contrasting view.

During the 1830s, Thomas Macaulay, who served on the Supreme Council of the East India Company, adhered to a universal educational and cultural developmental agenda premised on the view that British society was the most highly evolved and should spread its benefits widely. As described by the Rudolphs, Macaulay and other liberal utilitarian thinkers of his time strove to "liberate Indians from domination by groups, to unravel individuals from the grip of family, caste, and religious community, to strengthen individual choice against collective decision." Macaulay's "enlightened" liberal and imperial vision (akin to the idea of a "white man's burden") was "to assimilate all mankind into the higher civilization of the educated Victorian."³³

One can summarize Macaulay's goals for this civilizing mission in India by quoting one of his most vivid and provocative statements of purpose. For his aim was to use British wealth, power, and influence to create "a class of persons, Indian in blood and color, but English in taste, in opinions, in morals, and in intellect."³⁴ And, of course, he, and later reform minded colonialists, succeeded at doing just

³² *Ibid.*, 100.

³³ Rudolph and Rudolph, *op. cit.*, note 27, 47.

³⁴ *Ibid.*

that. (Here we witness a policy for the formation of third world elites and, in effect, the beginning of the development of a pool of future representatives to global institutions in our current postcolonial period. One is tempted to pose the provocative question: from a strictly cultural point of view, precisely how postcolonial is our current period? How postcolonial is the new world order, if global institutions remain under the control of rich Northern nations; if the cosmopolitan elites who govern in the third world view their own societies as culturally backward or underdeveloped and not just poor, and if these elites speak with a European voice and evaluate the customary beliefs and practices of indigenous majorities in their own countries of origin using North American or European intellectual frameworks?) Ultimately, the Rudolphs link Macaulay's universalizing spirit to the emergence of liberal individualism and of utilitarian philosophies in nineteenth-century England.

One sees in that universalizing spirit the yet to be realized (perhaps never to be realized) ideal of like minded cosmopolitan citizens of the world united in some essential identity that detaches them from their ancestry and community attachments and renders them equivalent before a common set of laws. It is an ecumenical utopian vision that some secular humanists and human-rights activists have found appealing and associate with the very idea of modernity.

Yet that type of vision of the world order is in potential tension or conflict with an alternative ideal, of historically grounded communities, each appealing to some local conception of truth, virtue, and beauty and dedicated to divergent social norms that seem justified in the light of those local conceptions. When and whether that potential for tension and conflict ever becomes manifest depends, in part, on how widely, specifically and substantively, (and with what degree of universally recognizable justification) the ecumenical ideal gets applied. One cannot live by ecumenism alone. In the real social world, everyone has ancestors and community attachments, and there are many traditions of value. Thus, the potential for tension and conflict is perhaps greatest when powerful groups fail to distinguish their own cultural preferences or parochial conception of things from fundamental or universal truth. Under such circumstances of ontological confusion (not perceiving the difference between a cultural preference and a genuine ecumenical truth) and unequal bargaining power, do we really want to support a global system that permits those powerful groups to project their values, beliefs, and practices outward, using the resources at their disposal to impose their ideas and ideals on others? There may be times when it makes good sense to be paternal (or maternal) and presume that what you are doing is for the other's own good; but under the circumstances just described the principle of "live and let live" (or even some variation on "don't ask, don't tell") may be a sounder, safer, and more morally defensible public policy in our multicultural world.

In the history of ideas about how to relate to others or so-called alien cultures, the contrapuntal or phase-like rise and fall of pluralistic and universalizing approaches to multicultural realities suggest to me that the popularity of either approach at any moment in history is not a developmental, progressive or direc-

tional phenomenon. Although the pluralism of Cook and Hastings in the 1770s may have temporarily given way to Macaulay's universal civilizing mission of the 1830s, both approaches have been in ascendancy at one time or another in recent centuries (and one suspects that has been true throughout human history).

Which, in conclusion, bring us back to the main topic of this essay, for a case in point is the recent history in the academy of reactions to encounters with the practice of female genital surgeries in Africa. I myself first became aware of the custom when I was in graduate school at Harvard University in late 1960s. My thesis advisor was John Whiting, one of anthropology's great positivists and perhaps the world's leading expert on adolescent initiation ceremonies for both boys and girls. Positivists do not make moral judgments about social norms. Instead, Captain Cook-like, they report what they observe about the regularities in social life and try to understand, or at least explain, them.

When you learned about African male and female circumcision ceremonies in an anthropology course in the United States during the 1950-70s, the representations were free of moral judgment, except perhaps for the implied disapproval of the colonial anti-circumcision interventions of the late 1920s. For we also learned about those British missionaries and colonialists who were horrified by the female ceremonies, thought they had a white man's burden (or white women's burden) to wipe out the practice and failed miserably in their misguided (or so it was implied) attempt to do so.³⁵

In any case, my first job after graduate school (in 1972-73) was with a Harvard research project in Kenya, where I taught for a year at the University of Nairobi. In 1972, in Kenya, genital surgeries for males were customary in almost all ethnic groups and in about half of those groups the practice was customary for girls as well. Back in 1972, very few Kenyans made a fuss about the practice. There were no official bans, wealthy international donors in Europe and the United States and the emerging First World feminist movement had not yet taken an interest in intervening in the cultural lives of the citizens of the then newly independent nations of Africa, and the predominant postcolonial national attitude within Kenya was a pragmatic live and let live.

In the last twenty years or so all that has changed³⁶ and a discourse of horror similar in many ways to the missionary and colonial discourse of the 1920s is very much back on the scene.³⁷ I do not think this represents moral progress, not

35 On the history of colonial and postcolonial attitudes toward female genital modifications and the politics of the womb in Kenya, see Thomas, *op. cit.*, note 27.

36 Boyle, *op. cit.*, note 2; Thomas, *ibid.*

37 While a common rhetoric of moral horror links the two historical movements there are, arguably, a couple of significant differences between the discourse of the eradication campaigns of the late 1920s and the anti-FGM discourse of today. First, it is noteworthy (and ironic, given the prochoice and population control leanings of many contemporary global anti-FGM activists) that the Protestant missionaries and British colonial administrators in Kenya in the 1920s also viewed the African practice of abortion as

because I am a positivist who is opposed to cultural critique, but because (as I have suggested in this essay) I think the moral critique that has emerged is fundamentally flawed. The global campaign to eradicate female genital modifications in Africa cannot be so easily justified on either harm grounds (the evidence is too weak) or on human rights grounds (the arguments are too weak). Robert Edgerton had it right. To quote him again, as he so wryly put it, speaking of the Kenyan practice in the 1920s and 1930s as a crucible in which it is not just the courage of males but the courage of females that gets tested: "... most girls bore it bravely and few suffered serious infection or injury as a result. Circumcised women did not lose their ability to enjoy sexual relations, nor was their child-bearing capacity diminished. Nevertheless the practice offended Christian sensibilities."³⁸

If there is little more to it than offended religious or cultural sensibilities, that does not seem like reason enough.

repugnant; and they sponsored their own reproductive health movement and maternity clinics aimed at encouraging African women to stop having abortions and to cease female genital modifications for the sake of having more children. The British colonial policy goals were to increase African family size, enlarge the labor force, and counter population decline. (Concerning British colonial antiabortion attitudes and population policy see Thomas, *op. cit.*, note 27) Secondly, the colonial activists were not particularly hesitant to hold adult African women primarily responsible for the genital alterations. Although some English women believed they were behaving altruistically and extending a helping hand to their so-called African sisters, the liberationist ideology of a universal sisterhood united against an oppressive universal patriarchy was not quite as fully developed or popular in the 1920s as in the last decades of the twentieth century. In fact, British activists in colonized parts of Africa often tried to strengthen and enlist African patriarchy to spy on women and intrude into their lives and activities, so as to, in their minds, save the children from their sadistic mothers, aunts, and grandmothers. They made use of male authority figures in their attempts to undermine what the British missionaries and other colonial administrators accurately understood to be the great power of adult Kenyan females to control this intimate domain of gender identity, adolescent development, and family life. It is an open question whether this is really different from the situation today. Conservative Islamic institutions are top-down (and at times inquisitorial) patriarchies yet (ironically) their power and authority is currently being enlisted by global feminists and secular human rights activists to declare female genital surgeries un-Islamic. This in effect prepares the way for male dominated inquisitions against local female authority and for an increase in dogmatic and doctrinal male control over African female bodies. Whatever the discourse differences between then and now (the extent of the difference is a debatable issue), the missionaries and colonial administrators who were anti-FGM activists in the 1920s engaged in precisely the same discourse of horror that is popular today, making all sorts of unsupportable claims about the severe negative consequences of the practice for health and fertility (although they did not seem to talk much about sexuality) and categorizing it as a monstrous form of moral backwardness. It is also noteworthy that even in the 1920s and 1930s not all colonial administrators were cultural interventionists; maintaining social order in a multicultural context by means of a pragmatic live and let live policy had some appeal, even then.

38 Edgerton, *op. cit.*, note 7.