



## Relativism, Universalism, and Applied Ethics: The Case of Female Circumcision\*

di *Anna Elisabetta Galeotti*  
(Professore Ordinario di Filosofia Politica  
- Università del Piemonte Orientale)

13 dicembre 2008

1. A couple of years ago, one of Carreggi Public Hospitals in Florence, on the basis of a suggestion by a gynecologist of Somalian origin, considered accepting the requests of some adult African women for ritualized, symbolic circumcision as alternative to either cliteridectomy or other, lesser forms of mutilation. Symbolic circumcision consists in a little cut on the external genitals, performed under medical supervision and hygienic conditions; it was devised to prevent any direct or collateral harm to women's genital organs while satisfying their community's requirement for young women to get married.

The proposal was presented to the hospital's bioethics committee, which after a long discussion approved it (1). But before it could be adopted as a policy, the proposal met with strong opposition from some women's organizations, reached the national media, and provoked a scandal both in the government and in the opposition. After a few months of controversy, the government settled the case by passing a statute banning female mutilations of any kind, with harsh punishments for parents, doctors, nurses, or women themselves (2). Before this statute was enacted, female genital mutilations had been covered by the general criminal law concerning bodily mutilation, which carried milder sanctions. In fact, no cases of female mutilation had gone to court, though the Somali doctor who made the alternative proposal told stories of medical complications from clandestine genital mutilations which he had seen and treated in his capacity of gynaecologist (3). Much like abortion when it was illegal, female mutilations by and large remained clandestine – as it did after the new statute was enacted, to my knowledge, putting those involved at greater risk.

Those who took issue with the hospital's proposal cut across the left-right spectrum as well as gender, educational, and cultural cleavages: men and women, feminist and nonfeminist, neo-cons and radicals, xenophobic and pro-immigrant people, government and opposition, nationals and resident aliens. The outburst should come as no surprise. Think, for example, of a similar case in Seattle in 1996. There, the Harborview Medical Center tried to be sensitive to the cultural situation of Somali immigrant women.

In order to prevent the permanent damage and risk of genital mutilations performed back home or within the community, the Center worked out a compromise with Somali women, so that adolescent girls could have a minimal procedure, a symbolic cut with a tiny bloodletting, under hygienic conditions. When the proposal became public, it was seen as an outrage, intolerably giving in to women's subordination in patriarchal cultures. The compromise was eventually dismissed (4). Despite the fact that in both Seattle and Florence only a minimal procedure with no permanent damage or risk of com-

---

\* Il presente articolo è stato pubblicato sulla rivista *Constellations*, Volume 14, No 1, 2007, pp. 91-111.

plications was at issue, the reaction in both cases was so harsh that the difference between symbolic circumcision and actual mutilation was completely blurred (5).

In this paper I want to discuss the philosophical implications of this case from the point of view of a theory of toleration and of its limits (6). I will argue that the minimalist procedure is permissible, especially in the case of adult women, as in Florence, while permanent genital mutilation should not be tolerated. My intermediate position can be attacked in many ways. On the one hand, it seems that I have chosen an easy game: I am defending toleration for a practice that a) has no harmful bodily consequences and b) is freely consented to by those who want to have it done. So the case hardly seems a challenge to standard liberal theories of toleration. On the other hand, the case may not be so obvious: not only insofar as it was fiercely resisted, but also because of some subtle theoretical distinctions my argument requires. In fact, two rejoinders to my reasoning can be made.

First, it can be pointed out that the argument for female circumcision may be subject to a sort of slippery-slope effect, so that toleration of the minimalist procedure may be seen as applying to genital mutilation as well. In this respect, I have to clearly mark the difference between minimalist procedures that deserve the name of circumcision and genital mutilation proper (7).

Second, my discussion of female circumcision depends on the notion of symbolic harm to oneself and third parties. Symbolic harm is a tricky issue because it can either be dismissed, in which case the matter appears as unworthy of discussion, or, if taken up, needs to be properly defined, and shown that it cannot in this instance be taken as a limit for toleration.

2. The public outrage at the proposal in both Seattle and Florence was so widespread that it cannot be ignored in a democratic polity and simply dismissed as prejudice. At least in Europe, it is also one of many examples of an aggressive post-9/11 attitude towards Muslims and immigrant practices in general (8), which includes the ban on headscarves in France public schools and among German teachers as well as recent restrictive policies for immigrants in “defense of liberal democratic society.” (9) The prohibition of female circumcision/mutilation is generally held to be obvious, since the practice runs contrary to the cherished liberal principles of personal liberty and gender equality, so that very few dissenting voices have been raised. It is also a case that, if worthy of toleration, would make many other proposed or adopted restrictions (for example, those concerning dress code or opposition to bilingual Arabic schools) fall apart (10).

Thus, even if the case is considered philosophically easy – and I do not think it is – it would still be politically crucial. Hence the toleration of female circumcision requires a well-developed political-philosophical argument to win in a very hostile political context (11). The campaign against female circumcision in Italy, which paved the way to a more general suspicion of headscarves and all foreign religious practices and symbols, was framed by an appeal to two basic universal principles that were affirmed as clear and uncontested borders of the tolerable, namely: a) the priority of individual rights, specifically women’s rights, over respect for culture, and b) the principle of bodily integrity. The discussion was thus set in such a way that if one stood for universalism, liberalism, democracy, and women’s rights, one had to be against female *mutilation*, and more specifically against Carreggi’s pro-

posals. Consequently, those in favor of allowing a harmless symbolic cut on adult female genitals *were cultural relativists indifferent to the oppression of women* (12).

The argument I want to make in favour of the Florence hospital's proposal dispenses with cultural relativism and appeals to the same universal liberal values as its opposite, but is explicit about the alternative interpretations of those values and differs in its understanding of the circumstances. I will show how universalism turns into dogmatism if these interpretive levels are overlooked, and moreover that the absolutist application of universal principles violates other fundamental universal principles, and is either inconsistent or based on a false presentation of the problem. To do so I follow step by step the most sophisticated argument against the proposal, adopted by liberals and feminists, pointing out its hidden drawbacks at each turn. By contrast, I ignore all the less noble arguments for the defense of "our culture," for "us" against the invasion of "them," the barbaric, backward, dangerous fundamentalists.

3. The bottom line, according to the argument for the prohibition, is that the proposed practice represents a gross violation of women's bodily integrity. It thus infringes both on the harm principle, singled out by Mill as a limit of toleration, and equal respect for women. Hence, so the argument goes, the case for intolerance is straightforward.

Although the practice is embedded in African cultural traditions, liberal cultures are often too willing to compromise with non-Western customs out of guilt or misplaced Third-Worldism. These groups' economic and educational disadvantages should not blind us as to their brutal sexism. It is well known that often community members in a weak position subscribe to imposed practices out of powerlessness, fear, and ignorance – that they can be the best guardians of their own chains. Still, sexist cultural practices are not to be tolerated; no matter how consensual these practices may appear, women from illiberal cultures need to be rescued by democratic rights – their only effective protection (13). My response to this argument is based a) on a discussion of the harm principle with reference to the present case and b) on a reflection of the women's consent to this practice.

The harm principle seems to represent a simple guide for marking actions off as morally wrong and legally impermissible. Any action that brings harm to a third party is wrong and should be prohibited. Yet once we start unpacking the meanings and applications of this simple and attractive principle, things become much more complicated.

First of all, for Mill harm is only a *necessary* and not a sufficient condition for refusing to tolerate certain conduct (14). This is because the harmful action must be weighed against its consequences, which may be positive. Consider the harm produced by surgery: since it is instrumental to restoring health, it is considered justified. In our case, circumcision was requested by adult women, who supposedly wanted it for their own good, no matter if harmful. But the parallel with surgery is weak because the good of surgery for one's health is taken for granted and overwhelms the harm, while the good of being circumcised is very much in question. Thus, in this instance the argument that harm can be justified as instrumental to some future good cannot be accepted if being circumcised is not independently shown to be a good for the person. One way to show this would be to rely on Mill's view that the agent is always the best judge of her own good (15), but then the discussion on harm comes to merge with the discussion of consent and autonomy, which I shall take up later.

Focusing now on harm as instrumental to a future good, I want to stress that the good must override the harm. Whether this is so is often culturally variable. Some kinds of harm to oneself and to third parties are considered acceptable or tolerable in our world whether or not they are instrumental to future good. Think of suicide and extreme dieting; think of allowing environmental pollution, or, to stay closer to our case, piercing and certain kinds of cosmetic surgery. These examples should remind us that the harm principle, despite its general acknowledgment, is sometimes applied in particularistic ways and admits exceptions that simply go unperceived and unquestioned. I do not intend here to dismiss the principles of personal safety and bodily integrity, which are fundamental human rights, but simply to point out that some familiar exceptions are *de facto* tolerated without proper justification. Hence one can suspect a bias here that signals double standards concerning limits to toleration. It seems that certain exceptions are not questioned just because they are familiar, part of the outlook of our everyday world.

The fact that principles are misused or admit exceptions is not a reason to dismiss them. Rather, it shows that their interpretation and circumstances of application ought to be publicly discussed. What is meant by harm, then, be it bodily and material or psychological and symbolic, to a third party or to oneself, is contestable and open to context-dependent interpretations (16). Nonetheless, I think that serious physical injuries resulting in permanent disabilities can be conceded as a kind of harm either to others or to oneself that cannot be permitted. Genital mutilation, like faraonic excision or cliteridec-tomy, irreversibly impairs not only women's sexual life and pleasure but also healthy delivery, and causes many gynecological malfunctions. This is much more than extreme piercing (which can be removed), and is not simply a perverse effect of cosmetic surgery gone awry. It is the intended result of the practice, from which there is no escape. But if we allow suicide, for which there is also no escape, why should we prohibit voluntary genital mutilation? The argument here turns on the problem of consent and autonomy, to which I shall return. What I want to state here is that the kind of physical injuries produced by female genital mutilation (as against circumcision, which does not consist in mutilation but only in a ritual little cut and bloodletting) definitely constitute the kind of harm that qualifies for prohibition. It is still to be seen whether such practices can be left to the allegedly free choice of individuals.

4. Let us now go back to the Florence case. In order to understand what was really at stake, let us set aside bodily harm. As a matter of fact, the proposal took advantage of the range of practices, from mutilations like faraonic excision to lesser interventions (*summa*) to a small, external, symbolic cut, similar to male circumcision; indeed, it can be likened to a reduced, less invasive version of the latter. In this sense, the proposal was meant precisely to overcome the problem of bodily harm and permanent disability.

The ritual cut and bloodletting have no harmful consequences and in no way impair future sexual life and child delivery. Consequently, the reasons for the prohibition of this revised practice cannot consist in bodily harm. It must be pointed out that in public discussion this remained blurred, and the recurrent reference to cliteridec-tomy intentionally or not misrepresented the question. This misrepresentation of what was at stake made it easier for the prohibitionists, who simply pointed to women's oppression and

the need to prevent harm without specifying what kind of harm to whom. This question is crucial because, as I said, the revised practice was precisely meant to do away with serious or permanent injuries. Nevertheless, the practice was seen as intolerable owing to a different kind of harm it implied: not bodily, material, or psychological harm, but *symbolic* harm. I take it that symbolic harm is caused by the symbolic meaning of the practice, at a first level, and by the symbolic meaning of *permitting the practice*, at a higher level. Female circumcision stands for *infibulation*, and hence for women's sexual subordination to men's power and will, for the deprivation of autonomy, choice, and pleasure. What was considered intolerable was precisely this meaning, for one thing because it seems flatly incompatible with cherished democratic values even if it actually infringes on no rights, and for another because permitting female circumcision was taken to imply acceptance of what the practice stands for. Democratic society could be seen as supporting women's sexual subordination.

So let us discuss symbolic harm and see under what conditions it could, if at all, be declared intolerable. First of all, as in the case of material harm, a distinction between other-regarding and self-regarding harm must be drawn. Other-regarding harm, at the symbolical level, is produced by the toleration of the practice. If toleration means letting adult women have circumcision if they choose, its symbolical implication can go further than that, signifying a sort of legitimization of the practice itself. Taken literally, it is no different from male circumcision, and even less risky, so that there would be no grounds for coercive state intervention. Taken in its symbolic meaning, however, one can say that permitting even a minimal procedure, even only for adult women, implies a sort of recognition of what the practice symbolizes, indirectly legitimizing a general cultural attitude that oppresses women (17). As a consequence, young women growing up in a Western pluralistic democracy would find themselves more enclosed in their identity if this identity is recognized by the broader society. They might find it harder to escape the chains of their community if society supports that community and its sexist customs.

This is basically the argument put forward by feminists influenced by Susan Okin's reflections on the risks of multiculturalism (18). They argue that a democratic society has a primary duty to offer protection to women from patriarchal cultures, which is discharged simply by using the legal framework we have in place for equal rights. This primary duty overrides considerations of group inequality and group discrimination. In other words, when women's rights conflict with the right to culture, the ethics of liberal democracy should give precedence to the former. There is an intuitive appeal to this kind of argument for the primacy of (oppressed) individuals over groups; however, it should be unpacked. As will emerge, the case under scrutiny is not properly understood as a conflict between women's rights and cultural rights, but rather as an issue of toleration, in the traditional sense of non-interference. In order to discuss this argument, I restate it in the following steps: (1) The revised practice actually infringes on no rights. (2) But its symbolic meaning clashes with the democratic values of equal liberty and autonomy. (3) This cannot by itself justify legal restrictions, because plenty of social practices fall short of those ideals; think, for example, of the exclusion of women from priesthood in the Catholic Church. (4) Yet toleration of the practice may be taken as a form of public recognition of women's sexual oppression. (5) If the symbolic meaning is thus implicitly recognized, the state is taken to support women's subordination in illiberal cultures.

(6) This being the message, younger women of those cultures would find more difficult to break with the patriarchy of their community; they will, on the one hand, be influenced by the example of their older sisters, and, on the other, be abandoned by democratic institutions in their struggle for gender equality. (7) In order to protect the younger women from the symbolic harm produced by the legal performance of circumcision, then, the practice should be prohibited.

The argument for prohibition on the basis of the symbolic harm to other women of those cultures really depends on (4). If (4) stands, then (5) follows by implication, while (6) follows only if a causal chain from (5) to (6) holds empirically. (6) is a plausible consequence of (5), but far from granted. While I take that (4) represents the crucial step in the argument, I shall start by discussing the conclusion (7), assuming that the passage from (5) to (6) holds. If tolerating the practice symbolically harms young women of those cultures, making their liberation from patriarchy harder, are restrictions justified, despite the fact that no right is actually infringed upon?

Elsewhere I have extensively discussed the importance of the recognition implicit in toleration if sustained by the right reasons, and underlined that symbolic politics has a real impact on society and people's lives (19). I argued that toleration can mean either non-interference – its literal meaning, prevalent in the liberal tradition – or recognition of conduct as legitimate as a symbolic step toward full social and political inclusion for oppressed groups (20). It all depends on the attitude and reasons sustaining toleration. The general argument for toleration as recognition leads to considering some protective measures for oppressed groups aimed at enhancing full inclusion and non-discrimination for their members. Yet I have also pointed out that toleration as recognition of contested behavior or traits of oppressed group is usually less problematic than group-protection from symbolic harm. The latter usually implies some legal ban of practices, such as pornography or hate speech, that are offensive and symbolically harmful for the group (21). Though both toleration as recognition and protection from symbolic harm aim at the same result – granting equal respect and easing the burden of oppression and marginality – toleration as recognition operates by opening up new opportunities and extending the public space for group members, while protection from symbolic harm implies restricting some freedoms, raising a normative conflict that is absent from the former. In the case of protective measures, I have suggested that the right balance of the two competing principles – equal respect and individual freedom – cannot be found once and for all, since weight must be assigned to each in relation to the circumstances and taking into account the legal framework and background culture.

Only local accommodations can be devised. So far, symbolic harm can provide some reasons, but is not sufficient to legally restrict the practice.

The case of female circumcision shares some features with hate-speech and crossburning. All raise the question of whether limits to toleration should be drawn in order a) to prevent symbolic harm to an oppressed group that is the target of the practice and b) to take a public stand against the underlying culture of intolerance and discrimination. Where to draw those limits is an open and controversial question for liberals in cases of hate-speech, cross-burning, and pornography (22). But our case exhibits specific differences that set it apart and weaken the reasons for restriction. Take the example of cross-burning: it is an act performed by groups belonging to the ethnic and religious majority (male, white Christians), explicitly aimed at offending, intimidating, and harassing members of a historically oppressed minor-

ity. The symbolic harm here is also explicitly psychological, which, though difficult to prove and quantify, is a form of real damage to individual people. In the case of female circumcision, by contrast, alleged perpetrators and alleged victims coincide, so the practice has no direct offensive effect, nor is it a statement explicitly meant to curb women's freedom. While some may see in this very fact a better opportunity for disentangling a potential ban from free speech, I think these differences extenuate the grounds for restricting symbolic harm, which is here separate from any offence to the alleged victim. The symbolic harm to other women in the community caused by tolerating female circumcision, if any, is a by-product, not a deliberate and direct effect. According to the doctrine of double effect, there is a moral difference between an intended outcome and a foreseen by-product (23).

In this case, the difference is reinforced because the by-product is only possible, not certain. The grounds for restricting a symbolic harm that is a) only a by-product and b) only possible are weak indeed (24).

There is, however, another, higher-level reason against restricting female circumcision for adult women that objects to step (4) above. As I mentioned, the argument depends on the notion that tolerating the revised practice implies public recognition of its symbolic meaning, women's sexual oppression. It must be stressed, however, that tolerating a practice does not *ipso facto* mean recognizing it. In theory, I hold that toleration as recognition should be the general policy for integrating minorities on fair terms of inclusion, making them feel at ease with their received identity as well as freer to modify it once the stigmata are lifted. But it does not follow that toleration should always be a form of public recognition, or that the latter necessarily follows from the former. In order to work as recognition, toleration needs to be sustained by the proper set of reasons; otherwise the traditional conception of toleration as non-interference with a disliked or disapproved practice is the default (25). To my mind, toleration as non-interference is generally not enough for a fair settlement of most toleration issues under contemporary pluralism. In this case, however, I think that it is the appropriate kind of toleration, and it was the one underlying the proposal. No one spoke the language of rights, or of cultural rights more specifically. As the document of the Regional Bioethics Committee (March 9, 2004) makes crystal clear, they were trying to prevent genital mutilation and for that purpose looking for a *compromise* that could allow adult women to stay within their traditional culture, devising a practice which they labelled "alluding to rather than serving as a replacement for" genital mutilation so as to avoid bodily harm and disability while at the same time to making the practice compatible with our legal framework (26). If the two conceptions of toleration are separated by the reasons embodied in the deliberative process and the consequent policies, here the reasons and the proposed policy were clearly meant to avoid public recognition. The prudent and tentative language of the document, meant to highlight the intolerability of genital mutilation, the high risk to women's health and well-being and the medical complications of traditional mutilations, and the desire to minimize harm and risk for the women, cannot be mistaken for public recognition. The attitude displayed by the document was clearly one of *modus vivendi* rather than legitimizing the practice.

In conclusion, on the one hand, other-regarding symbolic harm, defined as the harm of perpetuating women's oppression in illiberal cultures expressed by the symbolic meaning of female circumcision and its toleration, does not provide sufficient reasons for legally restricting the minimalist practice. On

the other, while there is a clash between the symbolic meaning of the practice and liberal values, there is no symbolic harm in this case because tolerating the revised practice need not be construed as public recognition. In fact, as we have seen, worries about the legitimation toleration would confer on the practice are misplaced given that toleration can be confined to the traditional negative concept of non-interference with a disliked conduct. This does not mean that concern about women's condition in illiberal cultures is misplaced, but rather that such an important political and social concern ought to lead to social and educational measures by social agencies and feminist groups short of the criminal prohibition of the minimalist procedure.

5. Let us now turn to the issue of symbolic self-harm. A cherished liberal value, classically elaborated in John Stuart Mill's *On Liberty*, is that no one is a better judge of his or her well-being than that person. If we add that no one's soul can be saved by the imposition of the true faith, as John Locke argued in his *Letters on Toleration*, it seems that for liberal ethics the value of options can only be based on individual conviction and consent. Consent is indeed the pillar of public ethics under liberal democracy, grounding political obligation, democratic legitimacy, medical treatment, and so on.

But despite this status, consent was not considered decisive in this case. There are good reasons for not always making consent the ultimate basis of obligations. First of all, in order to be normatively valid, consent needs to be qualified: it must be free and informed. If freedom is understood as negative freedom, and information concerns knowledge of practice's consequences, in this case women's consent was definitely valid, since they were adult, knew what they were asking for, and were not coerced. In fact, they were generally children of Westernized diasporic families; feeling estranged in a not-so-welcoming society, they had rediscovered their tradition and community. In this respect, it was not a case of forced consent. Yet this consent was considered an insufficient basis for tolerating the practice because liberals and feminists assumed it to be founded on adaptive, non-autonomous preferences. In this case, actual consent was not considered to correspond to the ideal consent of an autonomous rational agent, which, under a stricter interpretation, alone can provide a choice with proper normative force (27).

The notion of adaptive versus autonomous preferences was introduced by Jon Elster and is exemplified in Aesop's fable of the sour grapes, from which Elster took his title (28). In the fable, the fox, unable to reach the desired grapes, reconsiders his perception; operating what is known as a reduction of cognitive dissonance, he comes to believe that the grapes are sour, and hence not really desirable. In this way, the fox realigns his preferences to reality, reshaping reality so as to make what is impossible undesirable, easing his frustration at the price of irrationality. In the fox's case the preference is clearly adaptive on the basis of two features: a) the change of preference and b) the irrational belief on which is grounded. In other words, there is a prior preference *for* the grapes that is only subsequently revised; and the change, being grounded on the self-deceptive belief that the grapes are sour, is indeed irrational.

In Elster's argument, adaptive preferences thus result from self-deception, while autonomous preferences are distinguished by the lack of self-deception or *akrasia*. This does not imply a strong, thick concept of autonomy, like Kant's or Mill's; merely a negative one. Autonomous preferences are those



that refer neither to self-deceptive beliefs nor to akratic desires, quite apart from their content. The women who asked for circumcision did not exhibit adaptive preferences in this sense: no self-deception and *akrasia* could be ascribed to them. Their request for circumcision seemed rather based on a clear perception of their standing in the diasporic community and their problematic inclusion in the new society, plus the reasonable desire to make the most of their difficult circumstances. Hence Elster's notion does not apply.

There is, however another, less technical notion of adaptive preference that may be in order in our case. The preference for circumcision can be considered adaptive in the more commonsensical sense of being shaped by external conditions. But obviously most of our preferences are shaped by external factors. Classical Lyceum is an option in Italy that does not exist in the US; American children go either to public or to private high school, and their preference is shaped by the context. If raised in Italy, some may have chosen Classical Lyceum. This sense of 'adaptive preference' is clearly too loose to single out the choice of circumcision as non-autonomous.

Alternatively, it has been argued that preferences can be adaptive in the sense of "self-abrogative" (29): they can contradict the agent's long-term interests by undermining her future opportunities for a freer, more creative life, trapping her in an oppressive patriarchal tradition. Given that no free and reasonable person would choose a life of chains, a preference of this sort is seen as the outcome of oppression and subordination.

Hence, preferences produced by oppression justify paternalistic intervention to prevent the non-autonomous person from harming herself by choosing the selfabrogative option (30).

Whereas Elster's concept was basically procedural – based on whether choices are made with sufficient information, following rational norms, and in absence of coercion – this argument makes reference to a substantive notion of autonomy that approximates Mill's: independence, free thinking, self-sufficiency, non-conformism, and self-development. Such a thick notion provides a substantive criterion for drawing a line between autonomous and adaptive preferences and actions. Self-abrogative options qualify for legal restrictions because they signal oppression and would harm present and future selves (31). In order to decide for or against toleration, attitudes and conduct can thus be assessed as leading to, or preventing, a free life.

6. I will now argue a) that a paternalist intervention aimed at preventing adult women from accessing circumcision is not justified within a non-perfectionist conception of liberal-democracy; b) that within a perfectionist conception, a self-abrogative practice constitutes at most only a necessary but not a sufficient condition for paternalistic intervention; and c) that prohibiting the practice raises problems of double standards and violates the principle of non-discrimination.

Paternalistic interventions are not uncommon in liberal democracy, from safety belts to motorcycle helmets. Usually, however, these cases are justified on the grounds of the harm to third parties and to society in general that would result from imprudent behavior, rather than harm to the self (32). The social cost of car or motorcycle accidents can be weighed in the rise in insurance costs. In this sense, the justification is *neutral* with regard to the conception of the good and the comprehensive worldview of the agent. Thus, although paternalistic decisions are always contested, nevertheless they are *independ-*

ent of any political and moral distinction among people that favors some over others. They are therefore compatible with the principles of state neutrality and non-discrimination.

The case we are considering now does not belong to the class of paternalistic interventions for which a neutral reason can be provided. To the contrary, the prohibition is precisely meant to discourage a choice that is seen as ethically intolerable, not for its social costs, harm to a third party, or even physical or material harm to the self, but precisely for its symbolic harm. The latter consists in choosing for an adaptive option that allegedly keeps the agent trapped within the illiberal, gender-oppressive culture in which she happened to be born. But democratic societies are made up of many different subcultures, and quite a number of them have and still do oppress women, though possibly to a lesser extent (think of many churches and religious organizations). Many Western women stick to traditional family values and ways of life and unthinkingly opt for non-autonomous, less-than-equal alternatives. From the perspective of gender equality and personal autonomy, such choices are far from ideal, yet if no right is infringed, no coercion used, no physical and material harm done, and the exit is open, legal restrictions are out of the question. It is a crucial tenet of neutral liberalism that individual freedom cannot be interfered with on the ground that a conduct seems incompatible with the core of principles and values of democratic politics. Consequently, this paternalistic intervention exceeds the limits of a neutral state. Generally speaking, on a neutralist view of liberal democracy, symbolic harm to the self cannot be considered a reason for prohibition. If the exit option is open and there is no bodily and material harm, state prohibition in the form of criminal law could be justified only if the practice represented an actual threat to social safety and political security. Symbolic harm to oneself cannot meet this requirement. By contrast, symbolic harm to oneself may be considered a possible limit of toleration on a perfectionist view of liberal democracy. Perfectionists deny that liberalism is devoid of substantive values and principles, and maintain that it exhibits a moral outlook, just like other political ideals (33). On this view, liberal politics presupposes a certain kind of character (autonomous, independent, self-reliant) and is sustained by a corresponding set of substantive virtues and values, including tolerance, pluralism, and diversity. The values of autonomy and independence require that the individual be actually presented with real choices concerning her life-plan and style of living. Pluralism is a precondition for developing an autonomous personality; hence toleration of diversity is a necessary constituent of a liberal society. Consequently, differences are positively valued as options allowing for meaningful choice even though they can give rise to disagreement. Yet only differences that are compatible with autonomy and can, generally speaking, be accommodated within the liberal conception of the good are proper objects of liberal toleration. Paternalistic intervention against choices leading to symbolic self-harm theoretically fits within this conception. This is not to say that perfectionist liberalism implies such an intervention. In fact, as perfectionists acknowledge, in many cases state coercion would be useless or counterproductive. In these cases toleration should be adopted, albeit only as a second best and only if there is no risk for the social order as a whole and no right is infringed on. Moreover, some perfectionists have pointed out a different attitude toward cultural differences that suggests a distinctive liberal perspective on multicultural issues. This perfectionist pro-multiculturalism is best represented by Joseph Raz, and is shared by an increasing number of scholars, sometimes called the new autonomists (34). They assign a special role to culture in autonomous choices and individual well-being, leading to a right to culture

and a state duty to support cultures. In this way, new autonomists endorse cultural rights and multicultural policies.

Let us however put aside this pro-multicultural development for the moment and try to reason from perfectionist liberalism to see whether paternalistic intervention can be endorsed in our case. The stand taken by Italian feminists, taking up Susan Okin's argument against multiculturalism, seems to be based on such a view. Perfectionist liberalism puts forth a fundamental principle, thick autonomy, which may justify the prohibition of "self-abrogative" practices. The symbolic self-harm implicit in such practices negates the value of consent, even if it is informed and rational. Thus, from this perspective there is at least *prima facie* a justification for the prohibition. This argument, however, applies only if there are reasons to believe it will be effective in bringing about women's liberation at a tolerable cost. Alan Ryan has discussed this point, asking whether the use of coercive means to promote liberation from illiberal cultures is justified (35). Revisiting Mill's argument on mandatory education for children, his answer is yes – if there are reasonable expectations that liberation will follow, coercion is minimal, and no other harm would follow from the prohibition. These conditions may lead us to conclude that actual cases where coercion can be legitimately used for bringing about liberation are rare indeed, given that the odds are difficult to determine and the risk of worsening people's prospects real (36).

Therefore, paternalistic interventions in cases like ours cannot be justified simply by appealing to a thick conception of autonomy as crucial to liberal democracy, even from a perfectionist perspective. Incompatibility with liberal values is not sufficient for prohibition.

But let us assume instead that state intervention against "self-abrogative" preferences is considered a justified form of paternalism that applies generally. Obviously, in that case, all preferences, whether in liberal or illiberal cultures, must be evaluated accordingly. It must be stressed that such an evaluation is not based on a procedural test of autonomy: the principle of non-discrimination requires an assessment of the content of all preferences. At this point, we face a typically double-bind: on the one hand, if all preferences were tested in this way, liberalism would collapse under excessive state interference; on the other, if only alien preferences and choices were scrutinized, the principle of non-discrimination would be violated. We cannot presume that all preferences and options in our culture are autonomous while those linked to other cultures are suspicious. There is no need for sociological research to observe that many familiar practices are problematic from the point of view of substantive autonomy. All choices shaped by television, advertising, and fashion, aimed at fixed and unattainable models of beauty, possibly leading to pathologies like anorexia and bulimia, or to plastic surgery and drug addiction, do not appear informed by the value of thick autonomy. Why, then, should we want only women of alien cultures to conform to high standards of autonomy? Why should we accept the self-abrogative conduct of would-be starlets while questioning the choices of lucid, adult African women? Is our judgment not biased in favor of what is familiar and against what is foreign, strange, and consequently suspicious, possibly dangerous? (37) On the basis of these considerations, we can conclude that symbolic self-harm cannot be held as a justifiable limit to toleration both for principled and pragmatic reasons. First of all, if one shares the neutralist view of democracy, there are no justifiable grounds for such intervention. But secondly, even if one adopts a more perfectionist view, it does not by itself support a paternalistic

prohibition of female circumcision for adult women. Even a perfectionist must check if such a prohibition is likely to produce the intended result, and, in questionable cases, refrain from intervening. Finally, reasons based on equality and non-discrimination stand in the way of simple intolerance. Altogether, even if we allow that “self-abrogative” practices do not deserve acceptance in principle, in practice they must be tolerated as second-best alternatives.

7. It is another story, however, if we turn from symbolic to bodily self-harm. The whole argument above is developed with reference to the revised practice, which precisely excludes bodily harm. By contrast, as previously mentioned, female genital mutilation entails the kind of harm that should not be tolerated, even if self-regarding. Yet if it is voluntarily chosen, with appropriate information of its permanent consequences, it is not clear that it should be legally forbidden. After all, we have overcome the instinctive distaste for suicide, and what is worse and more final than death? However, the parallel with suicide does not hold. For one thing, we know that suffering can make life unbearable and death a rational choice; for another, those who commit suicide often are wrong about the hopelessness of their life, in which case we would have liked to have prevented their death. So we respect suicide if we see it as rationally permissible, but regret the life that is lost when it is prompted by emotional pressure, impulsiveness, and impaired judgment. Female genital mutilation leading to serious injury and permanent disability cannot be considered a rationally permissible choice: this is an instance where the concept of self-abrogative choice makes sense. In the case of actual genital mutilations, the woman impairs her future chances for a healthy sexual and reproductive life with no return and no exit. She gives up an important and valuable part of herself, of her being a woman. This makes her choice self-abrogative in the proper and literal sense. Some have seen a parallel here between genital mutilation and sex-change surgery. A sex change is a no-return surgery that impairs both reproductive capacity and the possibility of sexual pleasure; it is, in this respect, mutilation. Nevertheless we usually think that such a painful choice is an autonomous one that deserves respect and sympathy. Why, then, not ritual genital mutilation? I argue that genital mutilation and sex change cannot be equated, precisely because there are good reasons to believe that the painful choice of changing one’s sex is the outcome of a long inner conflict between sex and gender in the same person. The conflict is intrapersonal, and the decision usually comes after long suffering and many attempts to find less drastic means of inner reconciliation (38). It is also a decision the person takes against his or her social and family context (39). Here making a hard choice “against” family and social pressure is proof of autonomy.

Such proof is lacking in the case of genital mutilation. We can easily conjecture that it does not derive from a personal inner urge and would not even be considered in a different cultural context. The choice is shaped by tradition and family and community pressure. As argued above, this is common to many of our choices, and by itself is not sufficient to declare it non-autonomous, let alone to prohibit the option, *as long as there is no physical and irreversible harm involved, and exit is open*. In Catholic countries, there has traditionally been no objection to boys and girls entering seminaries, monasteries, and convents at a very early age, shutting themselves off from the outside world. This phenomenon is fading because of general secularization, but not because it has been criticized and prohibited for the children’s sake. When it was common, some opted out before or even after becoming priests or nuns. Simi-

larly, the revised procedure does not impair women physically, and does not prevent them from opting out of the traditional values they now endorse. The crucial distinction that sets apart genital mutilation is serious and permanent physical injury, which we have no proof is the outcome of an autonomous choice, as in the sex-change case, because it is not a choice “against” family and community pressure. In case of serious and irreversible bodily harm to the self, then, I argue that permission can be granted only if there is proof of autonomy in the thick sense of the word. Consider, by contrast, the choice for circumcision without bodily harm. Despite the gulf between liberal values such as independence, free-thinking, autonomy, and self-reliance and the culture of submission and obedience to family elders suggested by this preference, we can still see the reason behind the choice: membership in the community, full participation in it, respect and recognition, marriage and protection from the wider society. The latter cannot always be seen as a land of opportunity and prospective happiness for immigrants. So the choice is rational given the women’s disadvantages – not only being women in a patriarchal culture, but also being members of a minority that does not have a good deal in our society. Now, if the choice were between cliteridectomy and exclusion from the community, the women would face a difficult dilemma and the cost of membership would be too high a price for their wellbeing. In this sense, the prohibition of genital mutilation is not only in line with the intolerability of the harm involved; it also has the pragmatic effect of helping women avoid such a drastic choice.

Alternatively, if the minimal procedure is viable and legally permitted, there is no such a dilemma. They can go on being members of their community without hurting themselves and preventing their future selves from changing their minds. In the case of an independent and rebellious woman who has already overcome family submission and obedience, I do not see why the toleration of female circumcision should worsen her prospects. Indeed, the availability of the revised procedure could work the other way in the community: it can be used by women to negotiate a reinterpretation of traditional ways more in line with their interests, and can be seen by the community as a reasonable middle ground for accommodating to Western society (40). Obviously such considerations are only conjectural, female circumcision having been criminalized and the girls’ fates now being completely hidden from public scrutiny. But the idea that toleration of female circumcision would increase women’s submission is likewise conjectural. Setting aside these pragmatic considerations, my main argument is that consent cannot override permanent, serious bodily harm unless there is proof of the autonomous nature of that consent (change of sex case), while it cannot be overridden in the case of symbolic harm. In the latter case, we should rehearse Locke’s argument against forced conversion. Much as defenders of the true faith would like to see heretics saved from hell, contemporary liberals and feminists would like to see women of African origin saved from their oppression. But coercion is as ineffective in producing liberation as it is in producing faith. The very principle of autonomy implies that in order to be an expression of liberation, a certain lifestyle has to be chosen for the right reasons, not out of fear of the law or conformism with the majority. To promote autonomy, choices must be tolerated, no matter how disliked.

In conclusion, I want to defend the claim that the minimal procedure is in line with liberal toleration. To be a matter of toleration, a practice must be genuinely disliked or disapproved of, and not just out of spite or arrogance. Once it is ascertained that no right is infringed on and no bodily and material harm

is done, there are no reasons for intolerance. Are there, however, any good reasons for tolerating a hideous practice symbolizing women's sexual oppression and subordination? I think there are, and they are found in respect for others as a moral duty, and in equal respect as a political principle. At the interpersonal level, tolerance is precisely the virtue that provides people with contrasting views, opinions, and conduct a reason to accept what they disapprove of; that reason is respect for others. At the political level, this respect should be distributed equally to all citizens, as far as the harm principle allows; and equal respect for all implies that political action should not favor any view or introduce moral distinctions among citizens because of their views. But why should respect compel us to put up with morally objectionable conduct? Precisely because of the values of liberty and autonomy, which exclude the use of coercion to liberate consenting people from non-autonomous lifestyles – especially when the judgment of non-autonomy is so controversial, and forced liberation concerns only the practices of alien cultures.

**8.** I would like to point out that my normative conclusions derive from universal principles (toleration, autonomy, equal respect, harm to others and oneself), appropriately interpreted and applied to specific circumstances. This collides with a widespread view in current debates about multiculturalism that was prevalent in the discussion of the Florence case. On this view there are two approaches to multicultural issues: universalism and relativism (41). Relativism has recently become the villain in public discourse. The new Pope, in a public speech just before his election, singled out relativism as the source of all the troubles of the contemporary world, and his view seems to be widely shared. Against relativism, universalism of values, principles, and rules seems to support a more aggressive attitude toward different cultures, mores, and civilizations. I do not intend to rescue relativism here, but rather to underline that universalism cannot do the job its supporters seem to expect of it when it comes to particular cases.

Universal principles and values cannot provide clear-cut, straightforward answers to practical issues and hard cases by means of simple deduction. Between principles and their application there is a whole area that requires careful analysis. This, to my mind, is the realm of applied ethics. My position is not relativist because it does not imply that the value and moral judgment of a practice depends on cultural context, historical period, individual preferences, or groups' views. I indeed believe that there are some principles, values, and ideals that, though contingently produced under particular historical circumstances, have been acknowledged as universal. Individual liberties, principles of justice, equal respect, and dignity are the first examples that come to mind; they constitute the ethical core that underlies contemporary democracies and informs the Universal Declaration of Human Rights. These principles are rarely challenged in theory. Yet not only are they often discarded in practice; their application is controversial insofar as it depends on three different kinds of interpretation, the interpretation of a) the principles, b) the case; and c) potential conflicts among principles. Simply considering one of these three elements shows that a complex case cannot be resolved directly and univocally by a principle. If these three factors are overlooked, the proposed solution is likely to be informed by implicit interpretations that are disguised simply because they appear standard. These remarks on the need to interpret principles and contexts of application are especially relevant when it comes to practices and behavior from different traditions. Whether or not such practices are tolerable in a liberal democracy cannot be

settled simply by judging whether the practice can be subsumed under fundamental principles. This is because a) the principles apply under interpretations that can be contested; b) the practice is subject to controversial interpretations; and c) the case often opens up conflicts among principles, for example between individual autonomy and group non-discrimination, and which principle should take precedence is a matter of relative weight, given the circumstances. All applied principles embody interpretations of these three kinds. While sometimes such interpretations are shared and uncontested, they should not be taken for granted, and should be subject to analysis and democratic public discussion. Starting with the very same principles, different interpretations can lead to different conclusions. In turn, interpretations are not a matter of subjective preferences; they are grounded on reasons and considerations that critical analysis and democratic discussion will reveal as more or less compelling, though hardly conclusive or irresistible. Universalists who do not acknowledge the implications of the application of their principles can be both particularistic and dogmatic: particularistic because their views embody particular interpretations, and dogmatic because obscuring such interpretations places them beyond critical scrutiny. This has given universalism a bad name as a form of domination, making it an easy target for postmodern criticisms. In the course of this controversy, the prohibition of female circumcision was sustained as a universal stand against the culpable indulgence of cultural relativists who were willing to give up autonomy and gender equality for the sake of cultural diversity. But we have seen that this defense of women's autonomy was based: a) on a denial that their choice of circumcision was autonomous; b) on a controversial interpretation of autonomy as genuine only if oriented toward a liberated lifestyle; and c) on the objectionable conclusion that non-autonomous choices justify state intervention. Likewise, gender equality was invoked without taking into account that it is an ideal that many familiar practices, accepted as a matter of course in our societies, fall short of. The uncompromising stand for universal principles was thus vitiated by double standards. Meanwhile, limits to toleration were backed by the harm principle without unpacking the many issues involved in understanding what counts as harm and for whom, and when it is intolerable. The whole discussion failed to make a clear distinction between circumcision and mutilation, and depended on preconceived ideas about the fundamental incompatibility of Islam and related customs with the liberal world, failing to notice that genital mutilations are an African tradition only contingently linked to Islam. The argument I have offered relies on the same principles and values, but interprets them and their context in a way that leads to opposite conclusions. A final observation on the role of legal provisions for cultural issues is in order. No one denies that legal provisions, at the local, national, or supranational level, have an important impact on practices from other cultures, be it as incentives or restrictions. Moreover, legal provisions have symbolic effects: communities have been taken seriously, rudely dismissed, or, in the most positive cases, been engaged in a process of negotiation that can enhance both their recognition and their integration. Nevertheless, it would be simplistic to think that the politics of immigration and integration stops at legal provisions. I agree with feminists that genital mutilation and arranged marriage are important issues in immigrant communities, but they cannot be properly faced primarily through law enforcement. What is needed, for example, is community work by feminist groups. Take the example of what feminist groups engaged in the cause of women's control of their bodies and reproductive function did in Italy in the sixties and seventies: provided information, education, contraception, and support by setting up counsel-

ing centers for women. The same has been done for battered women, for child abuse, for legal education concerning separation and divorce. Those centers, together with new laws on divorce, the family, and abortion, have worked well, judging for example by the decreasing abortion rate since the law was enacted in 1978.

Now, like clandestine abortions and family abuse, the problems with genital mutilation and arranged marriage rarely surface and come to court. Legal restrictions on genital mutilation may save feminists' conscience, but they do not touch the destiny of girls who are sent back to their home country to be mutilated. Offering viable alternatives to mutilation together with community work will be more effective in eradicating a harmful practice and promoting women's empowerment and integration.

## NOTES

This paper was presented at the fellows seminar of the E.J. Safra Foundation Center For Ethics in December 2005, where it was discussed by Dennis Thompson, Arthur Appelbaum, Jeff Abrahamson, Elizabeth Ashford, Tosh Cochrane, Renee Jones, Maria Merrit, and Daniel Philpott. I am grateful for their comments and encouragement. Then it was presented at the Political Colloquium of the University of Chicago (January 2006) and I wish to thank Robert Pippin and Iris Young, who jointly hosted the seminar, and all the participants. Later it was discussed at: Scripps College, for which I would like to thank Andrew Aisenberg; the Institute for Advanced Study, Princeton, invited by Joan Scott and Michel Walzer; and at the Colloquium on Toleration at Lubjana. Joshua Cohen read it and commented very carefully and Roberta Sala gave me helpful discussions and hints.

(1). See "Parere della Commissione Regionale di Bioetica espresso nella seduta del 9 marzo 2004 relativamente a "Prevenzione delle Mutilazioni Genitali Femminili: liceità etica, deontologica e giuridica della partecipazione dei medici alla pratica di un rito alternative." On the website of Regione Toscana.

(2). The law was approved and published on the *Gazzetta ufficiale* 14, January 18, 2006: "Disposizioni concernenti la prevenzione e il divieto delle pratiche di mutilazione genitale femminile."

(3). L. Catania-H. Abdulcadir Om, *Ferite per sempre* (Rome: Derive Approdi, 2005).

(4). See Dena S. Davis, "Male and Female Genital Alteration: A Collision Course with the Law?" *Health Matrix: Journal of Law-Medicine* 11 (2001).

C\_ 2007 The Author. Journal compilation C\_ 2007 Blackwell Publishing Ltd. 108 *Constellations Volume 14, Number 1, 2007*

(5). The difference between symbolic circumcision and genital mutilation, and between symbolic harm and real damage, was expressly denied by Yves-Charles Zarka at a Conference on Toleration and Ethics in Lubjana, October 12–13, 2006. His position is that circumcision, symbolizing cliteridectomy, has precisely the same negative meanings and effects as mutilations.

(6). The theory of toleration has been the focus of much work in moral and political philosophy in recent years. For an overview of a very complex discussion that has grown from the mid-1980s with the research group of York University led by Susan Mendus (I shall quote only her most recent book: *The Politics of Toleration in Modern Life* (Durham, NC: Duke University Press, 2000), see D. Castiglione and C. McKinnon, eds., *The Culture of Toleration in Diverse Societies* (Manchester:

Manchester University Press, 2003) and *Toleration, Neutrality, Democracy* (Berlin: Springer, 2004);

C. McKinnon, *Toleration: A Critical Introduction* (London: Routledge, 2006); and A.E. Galeotti "Identity, Difference, Toleration" in *The Oxford Handbook of Political Theory*, ed. J. Dryzek, B.

Honig, A. Phillips (Oxford: Oxford University Press, 2006).

(7). The definition issue, circumcision or mutilation, often signals the position for or against the practice. See: I.R. Gunning, "Arrogant Perception, World Traveling, and Multicultural Feminism: The Case of Female Genital Surgeries," *Columbia Human Rights Law Review* 23 (1991–92): 189–248; and, on the opposite side, A. Besussi, "La libertà di andarsene. Autonomia delle donne e patriarcato," *Ragion Pratica* 23 (2004): 433–51.

(8). On this point, among the many websites and dossier, I refer to recent research by Pewglobal, released on June 22, 2006 in *The Great Divide: How Westerners and Muslims View Each Other*.

*Europe's Muslims More Moderate* (www.pewglobal.org). It turns out that there is a clear asymmetry between European Muslims' perceptions of Europeans and Europeans' perception of Muslim immigrants or citizens. Europeans nationals are



more inclined to see a clash of civilization and an irreducible conflict between being a good citizen and being a devout Muslim than their Muslim counterparts.

(9). The headscarf issue, in France, elsewhere in Europe, and in Muslim countries, is a neverending controversy. On the original case, which erupted in 1989 in Creil, France and was settled with atolerant interpretation by the Ministry of Education (Lionel Jospin at the time) and an unclear opinion from the Conseil d'Etat, see A.E. Galeotti, "Citizenship and Equality: The Place for Toleration," *Political Theory* 21 (1993), N. Moruzzi, "A Problem with Headscarves: A Reply to Galeotti," and my rejoinder: "A Problem with Theory: A Rejoinder to Moruzzi," *Political Theory* 22 (1994). An updated version of my original essay appears in A.E. Galeotti, *Toleration as Recognition* (Cambridge: Cambridge University Press, 2002), 115–36. The decision to prohibit the headscarf after the Stasi report is just one of the sign of the present climate of intolerance against Muslims in Europe. See [www.amimuslims.it](http://www.amimuslims.it) and [www.arabmonitor.info](http://www.arabmonitor.info).

(10). On dress codes I have mentioned the issue of the veil; on bilingual schools, there are wide differences in Europe, but double standards everywhere. See e.g. J.-F. Husson, ed., *Le financement des cultes et de la laïcité: comparaison internationale et perspectives. Actes de colloque organise le 8 octobre 2004* (Namur: Observatoire de Relations Administratives entre le Culte, 2005) and P. Weil, *La république et sa diversité. Immigration, intégration, discrimination* (Paris: Seuil, 2005). On forced marriage in Great Britain see: A. Phillips and M. Dustin, "UK Initiatives on Forced Marriage: Regulation, Dialogue and Exit," *Political Studies* 52 (2004): 531–51.

(11). It should be remembered that the practice of female genital mutilation is only contingently linked to Islam. It is originally an African tribal practice especially widespread in Egypt, Sudan, Somalia, Eritrea, and Ethiopia. It is contingent that those populations converted to Islam; many other Muslim populations in Asia and around the world do not practice female mutilation. On the various types of genital mutilation, see [http://en.wikipedia.org/wiki/Female\\_genital\\_cutting](http://en.wikipedia.org/wiki/Female_genital_cutting). However, in the European public imaginary female genital mutilation, Islam, and the veil are all linked without much ado, reinforcing the idea of an intrinsic incompatibility between Islam and modern world.

(12). This radical alternative is a simplified version of the argument made by Brian Barry against multiculturalism: *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge: Polity, 2001). A more nuanced critique of multiculturalism with reference to women's rights is put forward by S.M. Okin, *Is Multiculturalism Bad For Women?*, ed. J. Cohen, M. Howard, and M.C. Nussbaum (Princeton: Princeton University Press, 1999), "Mistresses of their Own Destiny: Group Rights, Gender, and Realistic Right of Exit," *Ethics* 112 (2002): 205–30, and "Multiculturalism and Feminism: No Simple Question, No Simple Answer," in *Minorities within Minorities*, ed. A. Eisenberg and J. Spinner-Halev (Cambridge: Cambridge University Press, 2005), 67–89. For a general overview of the liberal and non-liberal debate on multiculturalism, see J. Spinner-Halev, "Multiculturalism and Its Critics," in *The Oxford Handbook of Political Theory*, 546–63.

(13). There is a wide discussion on the danger of multicultural policies for vulnerable members of minorities, especially women. I have already mentioned Susan Moller Okin's position, which inspired Italian feminists in this case. There are also intermediate positions such as J. Spinner-Halev, "Feminism, Multiculturalism, Oppression and the State," *Ethics* 112 (2001): 84–113; M. Deveaux,

"A Deliberative Approach to Conflicts of Culture," *Political Theory* 31 (2003): 780–807; A. Shachar, *Multicultural Jurisdiction: Cultural Differences and Women's Rights* (Cambridge: Cambridge University Press, 2001); and O. Reitman, "Multiculturalism and feminism: Incompatibility, Compatibility or Sinonimity?," *Ethnicities* 5 (2005): 216–47. An overview can be found in Eisenberg and Spinner-Halev, eds., *Minorities within Minorities*.

(14). "In the first place, it must by no means be supposed, because of damage, or probability of damage to the interests of others, can alone justify the interference of society, that therefore it always does justify such interference." J.S. Mill, *On Liberty*, ed. D. Spitz (New York & London: Norton, 1975), 87.

(15). *Ibid.*, 71.

(16). For a discussion on the harm principle, see, e.g., J. Feinberg, *Social Philosophy* (Englewood Cliffs: Prentice Hall, 1973), ch. 3. For a discussion focused on Mill and toleration, see e.g. J. Horton, "Toleration, Morality and Harm" and P. Jones, "Toleration, Harm and Moral Effect", in *Aspects of Toleration: Philosophical Studies*, ed. S. Mendus and J. Horton (London: Methuen, 1985).

(17). S.M. Okin, "Feminism and Multiculturalism: Some Tensions," *Ethics* 108 (1988): 678–79 and *Is Multiculturalism Bad for Women?*

(18). See A. Besussi, "La libertà di andarsene. Autonomia delle donne e patriarcato."

(19). See Galeotti, *Toleration as Recognition*, 11–12 and 99–108.

(20). It may be useful to recall that this conception of toleration is shared by some (e.g., K.-O. Apel, "Plurality of the Good? The Problem of Affirmative Tolerance in a Multicultural Society," *Ratio Juris* 10 (1997) and Rainer Forst, *Toleranz im Konflikt. Geschichte, Gehalt und Gegenwart* (Frankfurt/Main: Suhrkamp, 2003)) but not all students of toleration. See e.g. Susan Mendus, *Toleration and the Limits of Liberalism* (London: Macmillan, 1989) as well as John Horton, "Toleration as a Virtue," in *Toleration: an Elusive Virtue*, ed. D. Heyd (Princeton: Princeton University Press, 1996) and esp. "Why the Tra-

ditional Conception of Toleration still Matters,” paper presented at the Symposium “Toleration: Between ethics and politics,” Lubjana, October 12–13, 2007.

(21). Galeotti, *Toleration as Recognition*, 109–114.

(22). As far as pornography is concerned, I only recall here Catharine MacKinnon’s call for a ban on pornography (*Only Words* (Cambridge, MA: Harvard University Press, 1992)) and the liberal response by Ronald Dworkin, “Women and Pornography,” *New York Review of Books* (October 1993): 36–42. As far as hate speech and other racist displays are concerned, see e.g. R. Harrison, “Tolerating the Offensive” and J. Jackson, “Intolerance on the Campus,” in *Toleration: Theory and Practice*, ed. J. Horton and P. Nicholson (Aldershot: Avebury, 1992); M. Matsuda, “Public Response to Racist Speech: Considering the Victim’s Story,” *Michigan Law Review* 87 (1989): 2329–59; M. Matsuda and C.L. Delgado, *Words that Wound* (San Francisco: Westview, 1992); R.C. Post, “Racist Speech, Democracy and the First Amendment,” *William and Mary Law Review* 32 (1991): 267–388; Sara Dunant, ed., *The War of the Words: The Political Correctness Debate* (London: Virago, 1994). On more general considerations about speech restriction and liberal constitutions, see F. Schauer, “The Phenomenology of Speech and Harm,” *Ethics* 103 (1993): 635–53; S.H. Shiffrin, *The First Amendment: Democracy and Romance* (Princeton: Princeton University Press, 1990).

(23). See e.g. W. Quinn, “Actions, Intentions, and Consequences: The Doctrine of Double Effect,” *Philosophy and Public Affairs* 18 (1989): 334–351 and, more recently, F.M. Kamm, “Non-Consequentialism, the Person as an End in Itself, and the Significance of Status,” *Philosophy and Public Affairs* 21 (1992): 334–89.

(24). Tariq Modood argues that the chance for the single individual to stay enclosed in her cultural group does not depend on multicultural programs and tolerant attitudes, but precisely on the opposite.

The more intolerant and assimilationist the society, the more frequent individual enclosure in the group. Modood, “Anti-Essentialism, Multiculturalism and the ‘Recognition’ of Religious Groups,” in *Citizenship in Diverse Societies*, ed. W. Kymlicka and W. Norman (Oxford: Oxford University Press, 2000), 175–95.

(25). Galeotti, *Toleration as Recognition*, 101–3.

(26). The main argument of the document was in fact “the lesser evil argument” and the prevention of permanent physical injury. I think that the lesser evil argument is in fact redundant, and that there are good reasons for tolerating the objectionable practice: simply because no physical harm is involved and symbolic harm, if at all, is an insufficient reason, while there are positive reasons for toleration as we shall see. Yet the lesser evil argument is important because it shows the lack of recognition of the value implied by its proposed toleration.

(27). For a well-informed discussion of autonomy and feminism, see M. Friedman, *Autonomy, Gender and Politics* (Oxford: Oxford University Press, 2003). The author specifically takes up the evaluation of autonomy when the agent opts for traditional practice and comes to the conclusion that, in the absence of contrary evidence, autonomy should be presumed.

(28). Elster, *Sour Grapes* (Cambridge: Cambridge University Press, 1983).

(29). See Antonella Besussi, “La libertà di andarsene. Autonomia delle donne e patriarcato,” 448.

(30). A similar reflection on women’s autonomy in illiberal cultures can be found in D.T. Meyers, “Feminism and Women’s Autonomy: The Challenge of Female Genital Cutting,” *Metaphilosophy* 31

(2000): 469–91, where the author sees an asymmetry of autonomy between women who accept the traditional practice and women who reject it.

(31). The problem of the autonomy of women belonging to illiberal cultural groups can be dealt with short of legal prohibition, namely as a problem of increasing women’s empowerment and capability to rebel and exit; see e.g. Sawaitri Saharso, “Female Autonomy and Cultural Imperatives: Two Hearts Beating Together,” in Kymlicka and Norman, eds., *Citizenship in Diverse Societies*, 224–42.

(32). For defenses of paternalism under specific circumstances, see e.g. G. Dworkin, “Paternalism” in *Philosophy, Politics and Society*, ed. P. Laslett and J. Fishkin (Oxford: Oxford University Press, 1979), 78–96; D. Brook, “Paternalism and Autonomy,” *Ethics* 98 (1988): 550–65; D. Scoccia, “Paternalism and Respect for Autonomy,” *Ethics* 100 (1990): 318–34; J. Feinberg, *Harm to Self* (Oxford: Oxford University Press, 1986); and D. Van der Veer, *Paternalistic Interventions* (Princeton: Princeton University Press, 1986).

(33). V. Haskar, *Equality, Liberty and Perfectionism* (Oxford: Oxford University Press, 1979); J. Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986); S. Wall, *Liberalism, Perfectionism and Restraint* (Cambridge: Cambridge University Press, 1988); T. Hurka *Perfectionism* (Oxford: Oxford University Press, 1993); S. Caney, “Antiperfectionism and Rawlsian Liberalism,” *Political Studies* 47 (1995); Steven Wall, *Liberalism, Perfectionism and Restraint* (Cambridge: Cambridge University Press, 1998), R. Kraut, “Politics, Neutrality and the Good,” *Social Philosophy and Policy* 16 (1999): 315–32; Joseph Chan, “Legitimacy, Unanimity and Perfectionism,” *Philosophy and Public Affairs* 29 (2000): 5–42.

(34). J. Raz, “Multiculturalism: A Liberal Perspective,” *Dissent* (Winter 1994): 67–79. Most prominent among others is W. Kymlicka, *Liberalism, Community and Culture* (Oxford: Oxford University Press 1989), *Multicultural Citizenship* (Oxford: Oxford University Press, 1995), and, as editor, *The Rights of Minority Cultures* (Oxford: Oxford University Press, 1995).

Another autonomist view of multiculturalism, though critical of Kymlicka, is G.B. Levey, "Equality, Autonomy and Cultural Rights," *Political Theory* 25 (1997): 215–48.

(35). A. Ryan, "Compulsory Liberation and Liberal Self-Restraint," paper presented at the Princeton Political Theory Colloquium, 1992.

(36). On the costs of imposing gender equality to women themselves, see A. Shachar, "Church and State at the Altar," in Kymlicka and Norman, eds., *Citizenship in Diverse Societies*, 199–223, and Deveaux, "A Deliberative Approach to Conflicts of Culture."

(37). This problem is thoroughly discussed by Joseph Carens, *Culture, Citizenship and Community: A Contextual Exploration of Justice as Evenhandedness* (Oxford: Oxford University Press, 2000).

(38). For a vivid illustration of that inner conflict and the difficulty of deciding between sexual and gender identity, see Jeffrey Eugenides, *Middlesex* (New York: Farrar Straus Giroux, 2001).

(39). This argument was suggested to me by Michael Walzer while discussing the paper at the Institute for Advanced Studies, Princeton.

(40). Recent developments within multiculturalism have contemplated the possibility of a compromise between the cultural rights approach (Kymlicka, Raz, or, in a libertarian variant, Chandran Kukathas, "Liberalism and Multiculturalism: The Politics of Indifference," *Political Theory* 26 (1998) and "Is Feminism Bad for Multiculturalism?," *Public Affairs Quarterly* 5 (2001)) and the individual rights approach (Okin or Barry). See J. Spinner-Halev, "Extending Diversity: Religion in Public and Private Education" and J. Waldron, "Cultural Identity and Civic Responsibility" in Kymlicka and Norman, eds., *Citizenship in Diverse Societies*; S. Benhabib, "Democracy and Identity: In Search of the Civic Polity," *Philosophy and Social Criticism* 24 (1988): 85–100; Zhidas Daskalovski, "Neutrality, Liberal Nation Building and Minority Cultural Rights," *Crisp* 5 (2002): 27–50.

(41). There are also universalist defenders of multicultural politics, divided essentially in two strands: libertarians like Chandran Kukathas, who think that the state should not meddle in the internal affairs of groups, and democrats like Seyla Benhabib, who see a mediation between particular claims and universal political principles in deliberative processes within civil society. See Kukathas, "Is Feminism Bad for Multiculturalism?" and Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era* (Princeton: Princeton University Press, 2002). By contrast, my position focuses on the conditions of application, the indeterminacy of principles, and the interpretation of contexts.