

# Cultural Rights or Human Rights: The Case of Female Genital Mutilation

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The Women's International Conference in 1995 in Beijing proposed the idea that women's rights be considered within the category of general human rights. Our concepts about human rights are rooted in the liberal traditions of a relatively homogeneous Western culture. In recent years, however, this culture has become increasingly heterogeneous. As a result of this greater diversity of beliefs and subcultures, some interesting challenges to these liberal traditions have arisen. An example of where such challenge elicits particularly divergent views is the issue of female genital mutilation, where the social and cultural rights of various subgroups appear to conflict with concepts concerning the human rights of an individual. Thus, this issue challenges a number of beliefs, including aspects of multiculturalism and feminism. In this article, I first examine the problem of Female Genital Mutilation (FGM) within the context of multiculturalism, with particular emphasis upon feminism of women of color. Additionally, two opposing positions within the liberal multicultural approach—that of Kymlicka versus that of Kukathas—are then examined critically, and several rapprochements are offered. A final section focuses upon the implications of these issues for feminist women of color.

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The practice of Female Genital Mutilation (FGM; or radical female circumcision) has received increasing public attention in the past 20 years, arousing mass condemnation from the West in general, and Western feminists in particular (Berkovitch & Bradley, 1999). United Nations' proposals have targeted this issue as part of its human rights campaign. Legislation banning or restricting the practice has been enacted in a number of countries. Moreover, organizations such as Amnesty International has recognized female genital mutilation as a human rights violation (Bulbeck, 1998).

Female genital mutilation is practiced in some Asian and North and Central African countries, as well as by immigrant groups (mainly Muslim) in some Western countries as well. According to the World Health Organization's report of 1996, FGM is

still practiced in 28 countries. According to Amnesty International, the practice of FGM is performed on more than 2,000,000 women out of which 600,000 are in Africa (Akulogu, 2000).

There are various forms of the practice, ranging from a partial clitoridectomy to a full excision of the clitoris, labia minora, and majora followed by infibulation (the stitching of the vulva leaving a small opening for urine and menstrual blood). The practice is usually performed on girls or young women, often as part of a "coming of age" ritual, although it may also be performed on adult women. Following the procedure, a girl usually gains social status within her group and becomes a legitimate candidate for marriage. The "surgery" is typically performed by a female "midwife," often in unsanitary conditions with no anesthetic. These conditions frequently cause infection and both immediate and long-lasting pain.

It is important to note that there are no specific religious mandates for this practice. It is not performed in all Muslim communities and is not

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derived from any textual base; rather, the practice is a cultural tradition. Reasons or explanations for the practice include initiation into womanhood, preparation for the pain of childbirth, and prevention of women's temptation toward adultery.

From a Western feminist perspective, it appears to be self-evident that this practice is a violation of women's rights. The fact that it persists is seen as attributable to far-reaching male domination of women within traditional communities. There is no question, so far as Western feminists are concerned, that the practice must be outlawed (Kymlicka, 1995; Okin, 1998). An adult woman accepting the practice voluntarily is seen as comparable to a battered wife who stays with her husband: she is misguided and acts out of fear.

The issue, however, is more complex than this. There are serious defenders of the practice who argue from an apparently rational standpoint. I shall discuss two such viewpoints. The first stems from the concept of "group rights" for minority cultures. The defense of FGM in this context is related to the larger question of how a liberal state, whose politics are based upon the importance of individual rights, can allow special group rights, as part of a multicultural policy. The second view defending FGM comes from those who support feminism of "color" or "difference." Their argument is interesting, especially when it is presented by women members of cultural groups performing the practice. It claims that cultural relativism rather than universalism be used as the primary basis for establishing moral norms and legislation. These two positions defending FGM are related, but stem from different premises and result in different conclusions. After more detail is presented later about them, I will present a counterargument demonstrating the need to condemn the practice, despite the defenses noted, together with thoughts about practical methods of fighting the practice.

### **CULTURAL MINORITY AND GROUP RIGHTS: CAN FEMINIST AND MULTICULTURALIST DEMANDS BE RECONCILED?**

The demands of ethnic minorities in Western countries have grown considerably in the last 20 years because of increased migration of members of ethnic minority groups, and their increased political power. Policies of "multiculturalism" or "cultural pluralism" that take into account the concerns

of ethnic minority groups have become both popular and necessary.

"Multiculturalism" is a policy that occurs when many subcultures exist within the same jurisdictional framework, where there is both a comprehensive policy that affects all constituents, but which, nevertheless, allows room for a variety of cultural norms (Levy, 1997; Taylor, 1985; Walzer, 1988). Policies of multiculturalism have been enacted in various ways, and have focused upon such factors as the protection and preservation of minority cultures, or on the establishment of special group rights for a cultural minority. These rights may include guaranteed political representation and "affirmative action" in selected areas; exemptions from laws that interfere with cultural practices; recognition of the minority group's traditional legal code within the dominant legal system; and assistance in doing those things that the majority can do unassisted (such as the provision of multilingual ballots).

Naturally, there are theorists who oppose the idea of multiculturalism or cultural pluralism. These include those that support assimilationist policies (such as the traditional "melting pot" ideal of the United States), or bifurcationist policies, where a distinction is made between the public sphere (where minority groups are expected to assimilate), and the private sphere (where minorities are entitled to practice their own traditions). A policy of cultural pluralism, however, is generally thought to be the most defensible model in contemporary liberal multicultural societies. (Parekh, 1999), because it "better reconciles the legitimate demands of unity and diversity than the others" (Parekh, 1999, p. 121).

Although the general model of multiculturalism is widely accepted as necessary, theories defending a multicultural pluralist policy vary in the extent to which they provide cultural minorities with autonomy. The central question for multiculturalism, according to Grillo (1998), is

What kind of pluralism is possible or desirable in countries like Britain, France and the USA, where there is commitment to universalistic, democratic ideals? What room should such societies allow for being French or British or American "differently?" (p. 189)

The main proponents of group rights in multiculturalism base their claims in some way on liberal ideals. These extend from the strict liberal view advocated [for example, by Will Kymlicka (1991)] whereby rights of cultural groups in no way restrict rights of the individual, to the less traditionally

liberal view encouraging greater “toleration” of cultural practices, put forward by Kukathas (1986, 1997), which suggests that cultural minorities be permitted to determine their own norms without state interference. Kukathas’ model is often used as the basis for the defense of the practice of female genital “surgery” in cultural minority groups. (e.g. Margalit & Halbertal, 1994).

Kymlicka’s view (Kymlicka, 1995) espouses the idea that the rights of groups within liberal societies themselves derive from individual rights to autonomy. According to this view, also elaborated by Rawls (DATE), the individual needs to belong to a rich and secure cultural structure in order to develop self-respect, a strong identity, and a capacity to make independent choices.

It should be noted that the basis of Kymlicka’s argument, a supposed need for cultural membership, however, has not been widely accepted as a “primary good” for the individual. In its absence, some minority groups feel that they need special group rights to enable the group to preserve its special culture, which would therefore facilitate the development of the individual’s cultural identity referred to by Kymlicka.

In further elaborating his position, Kymlicka justifies the granting of group rights, but with limitations. According to him, for example, a group right cannot entail the suppression of an individual right or liberty. If it did, it would contradict the major purpose of group rights as he perceives them. Within his view, then, group rights are thus only applicable for a cultural group that itself accepts liberal principles. In contrast to the cultural identity he discusses as a strength, a person would not be expected to derive positive benefits from a group that is closed and suppresses an individual’s free choice. As he notes

Liberal values require both individual freedom of choice and secure culture context from which individuals can make their choices. Thus liberalism requires that we can identify, protect and promote cultural membership, as a primary good without accepting . . . [the] claim that this requires protecting the character of a given cultural community. It is the existence of a cultural community viewed as a context of choice that is a primary good and a legitimate concern of liberals . . . Protecting the homophobic character of England’s cultural structure, [for example,] from the effect of allowing free choice of sexual life style undermines the very reason that we had to protect England’s cultural structure—that it allows meaningful individual choice. (Kymlicka, 1991, p. 169)

Kymlicka’s position does allow for the pursuit of an illiberal policy by a cultural group, but

only in exceptional cases where the culture in question is in danger of extinction. According to him, it could be allowed temporarily under the following circumstances.

If certain liberties really would undermine the very existence of the community, then we should allow what would otherwise be illiberal measures. But these measures would only be justified as temporary measures, easing the shock which can result from too rapid change in the character of the culture . . . helping the culture to move carefully towards a fully liberal society (Kymlicka, 1991, p. 170)

Kymlicka’s main purpose, however, is the liberalization of all cultural minority groups. Thus, his theory of group rights would not allow cultural groups to engage in FGM because it would violate the freedom of the individual, especially if it is conducted on minors. Even when practiced on freely consenting adult women, FGM is seen as not liberal, because it is part of a chain of oppression and violence against women. Within Kymlicka’s conception of group rights, minority groups are required to “liberalize” their practices.

Because Kymlicka’s defense of group rights gives insufficient autonomy to cultural minorities and insufficient attention to cultural difference, many multiculturalists have not found his view acceptable, and have sought other positions.

The writings of Chandran Kukathas have provided such an alternative (Kukathas, 1986, 1992). While still within the liberal tradition, Kukathas’ conception of group rights has a different focus from Kymlicka’s. Kukatha begins by noting that

liberal political theories rest on the assumption that while the interests given expression in groups, cultural communities, or other such collectives do matter, they matter ultimately only to the extent that they affect actual individuals. (Kukathas, 1995, p. 234)

Although individuals are the building blocks of society in liberal theory, Kukathas argues that as individuals they must be free to live the way of life they prefer, to join any cultural association they choose and “to live by the terms of those associations” (Kukathas, 1995, p. 238). Thus, cultural communities must be respected by the state because they are made up of free individuals, whose rights of freedom of choice must be respected by the state. According to Kukathas, as long as membership in a cultural community is voluntary and the member is entitled to leave when he chooses, the state should allow the cultural community to pursue its own traditional

practices. A “voluntary” commonwealth, according to Kukathas, is one whose

members recognize as legitimate the terms of association and the authority that uphold them. All that is necessary as evidence of such recognition is the fact that members are free to choose to leave. (Kukathas, 1995, p. 238).

His assumption is that in such a community there exists no mechanism of oppression or hegemony whereby the bonds of community are forcibly maintained.

In direct contradiction to Kymlicka, Kukathas believes that minority communities are thus entitled to practice illiberal policies because of the rights of the individuals involved in these groups. Whereas Kymlicka opposes any illiberal policies in minority communities because these would suppress individuals within the community, Kukathas defends the right of the individual to join a community that pursues illiberal policies, as long as these policies only affect the willing members of the group and not the rest of society. Thus, Kymlicka focuses on the liberal tradition of the individual’s right not to be oppressed, whereas Kukathas focuses on the individual’s right to choose. The only fundamental right of the individual against his cultural community that Kukathas retains is “the right to be free to leave” (p. 138). As he notes, this view of an individual’s rights

gives a great deal of authority to cultural communities... if members of the cultural community wish to continue to live by their beliefs, the outside community has no right to intervene to prevent those members acting within their rights.” (Kukathas, 1995, p. 238)

Kukathas does not actually propose granting cultural minority group special benefits, rather he suggests that the state should have a *laissez-faire* policy to the practices carried out within cultural minorities. In his opinion it would be wrong to expect every cultural minority group to conform to the philosophy and policies of liberalism. What is necessary is that the wider community remain liberal, thus providing the dissident cultural minority member with a real option of leaving. If he or she appeals against a cultural practice to the wider political community, such as a forced marriage in the example cited by Kukathas, the state should then protect the individual against his or her community.

With regard to FGM, this option covers only the cases of adult women who are in danger of becoming victims of FGM and who are capable either of

appealing against the cultural practice to the wider political community, or of leaving the cultural group. This view does not provide a solution for young girls who are in danger of being victims of FGM and who are not capable of leaving the group. Kukathas’ position also ignores another complication that hinders many adult women in these cultural groups, namely, the economic and social obstacles involved in exercising their right to leave the group. In some instances, they would be unable to support themselves financially, they might be forced to leave young children, etc. It is often fears about a different “outside world” that can serve to keep women within the cultural group. In some instances, ironically, the typically more liberal “outside world” they fear may protect them better than the minority group they are fearful of leaving. Nevertheless, the bonds of community may be even more difficult for women to break than for men.

According to the multicultural theory presented by Kukathas, FGM should be allowed among adult consenting members of a minority cultural group. The state does not have the right to impose its morality on the voluntary members of cultural groups. The adherents of this philosophy claim that the state must respect the practices of its cultural minorities and not suppress its traditions. A corollary belief is that a liberal state cannot be culturally neutral and therefore has to take effective steps in order to secure the minority groups’ rights (Miller, 1994; Tamir, 1998; Taylor, 1994).

Kukathas’ stance is problematic, however, because his central concept, voluntary participation in cultural practices, is a difficult and complex variable to measure. If, for example, cultural groups are permitted to control the education of their members, more members will follow the prescribed practices. It does not follow, however, that such choices are necessarily free or informed decisions. How can the voluntary nature of membership be assessed when cultural minorities are often closed communities, and are allowed to carry out illiberal practices that are not interfered with by the law? Who would know what processes of persuasion, indoctrination, implicit or explicit threats are carried out within the community? In addition to this problem, those who voluntarily remain members of such groups do so for a great variety of reasons (e.g. cultural affinity, family connection, or definitions imposed on them by the rest of society) but may still object to certain group practices. Such individuals would not be adequately protected by the state under the guidelines outlined

by Kukathas because such individuals are assumed to accept any treatment that the group offers by virtue of their voluntary membership.

Another problematic aspect of Kukathas' model has to do with the treatment of minors within the cultural group. It is not clear how children fit into his model. In order for children to grow into "voluntary" members of a cultural group, surely they should be educated in an open, liberal manner—but this interferes with the cultural group's autonomous right to educate its members as it sees fit. Similarly, in many cultures, ritual acts are practiced on children and female genital mutilation is usually carried out on minors. In another article, Kukathas posits that tolerance is the core idea of liberalism. In his elaboration, he states

Perhaps toleration of cultural practices of ethnic groups includes allowing ritual acts to be carried out upon children, because these can be an essential part of the culture, and allows parents to educate and raise their children according to their cultural laws. (Kukathas, 1986, p. 99).

Kukathas tries to defend the state's allowing illiberal practices within cultural minorities on the basis of an individual's freedom of choice. His argument does not stand up, however, because he fails to address the hidden and more subtle problems of coercion and education. His argument, especially when used by illiberal cultural minorities, comes across as cynical. Take, for example, the arranged marriages of minors. Some groups try to justify this practice on the basis of a "right of free choice," a right that is not something that they themselves believe in or uphold. Rather, it simply represents a means for them not to be interfered with by the state. There is certainly a paradoxical quality to a group's usage of liberal principles that it does not subscribe to.

### **TOWARD A PRACTICAL MULTICULTURALISM: THE CASE OF BRITAIN**

Great Britain has rejected both models outlined earlier because Kukathas' model of multiculturalism does not sufficiently protect members of cultural minorities from violations of their freedoms, and Kymlicka's view does not sufficiently respect the nature of a cultural community. Are there other viable alternative models of multiculturalism? If so, how do these models deal with the problem of FGM?

To avoid the pitfalls in both of the models de-

scribed earlier, we need a model of multiculturalism that awards special benefits to minorities but that does not recognize any special group rights for providing cultural education. In other words, what is required is a system that moderately controls even the internal policies of minority groups. A "modified pluralism" in Britain, for example, would institute state-funded "voluntary-aided" schools for all minorities, as exist currently for Protestants, Catholics, Methodists, and Jews. These schools would have to follow the national curriculum and include lessons on liberal social policy and about other religious and ethnic groups apart from their own, but they would still enable the ethnic minority group to preserve its cultural identity. If positive group rights such as these are provided, then perhaps the state can still provide sufficient tolerance, aid, and respect for cultural minorities without needing to lapse into "legal pluralism" for minority groups' illiberal practices such as FGM (Grillo, 1998).

Parekh (1999), for example, suggests that Britain must widen liberal integrationism to allow for the teaching of the languages of minority groups state supported schools. But he goes on to reject legal pluralism at all costs.

"Britain cannot allow separate legal systems for different communities without violating the fundamental principles of common citizenship and equality before the law," however, the law "can and should accommodate acceptable cultural differences without violating these principles." (cited in Grillo, 1999, p. 204)

In other words, according to Parekh, the country must decide about its principles, its fundamental beliefs, and the nature of its citizenship. Legislation, then, must remain loyal to these core beliefs. Only cultural practices in accord with this core should be permitted expression. The country is entitled to determine its own principles of justice according to its social norms, its own political system, and its traditions. The practice of FGM is carried out in many Muslim countries; however, as previously noted, it is not a religious practice but rather a cultural and traditional one. Therefore it does not necessarily imply legal contradiction or conflicts between two formal sets of legal systems.

Sebastian Poulter, in his discussion of the integration and rights of immigrants in Britain, stated that the most important implication of a policy of cultural diversity or cultural pluralism is that the cultural practices of the minority communities will need to be "recognized and respected in the interests of

liberal democracy” (Poulter, 1986, p. 593). He makes it clear, however, that this does not necessitate the acceptance of any particular cultural practice. Basic standards of justice must always be upheld, and these standards should be clear from British legal tradition. Poulter uses the example of slavery as a cultural practice whose illegal status would clearly be beyond dispute. As Poulter powerfully states, “cultural tolerance obviously cannot become ‘a cloak for oppression and injustice within the immigrant communities themselves,’ neither must it . . . endanger the integrity of English values” (Poulter, 1986, p. 593).

This approach to multiculturalism has in general been adopted in Britain with regard to legislation. Because the minority groups in question are immigrant groups, it is generally thought that although society should aim toward toleration and absorption, the “bottom line” is that Great Britain is a British country and so is entitled to determine its own British cultural and moral norms in legislation. The argument does not follow from a philosophical analysis of liberalism, as did Kymlicka’s; rather it is derived from an emphasis on British tradition and British values. Perhaps these values are themselves liberal, but this is not the emphasis of Poulter’s point. He seems to be saying that whatever the root of British values, it is Britain’s right to determine which practices are “reasonable” and which are “abhorrent,” according to its tradition. Naturally, although the United Kingdom does not have a formal constitution, these traditions are not completely ambiguous, nor are they all specifically “British” traditions, given that Britain is a contracting party to UN and European conventions and treaties. “British tradition” thus includes any legal treaties to which Britain is committed.

In a sense, Poulter’s theory of multiculturalism is in accord with Kukathas’ model if we understand Poulter’s claim in the following terms. Allowing cultural practices that are contrary to British standards of justice is equivalent to allowing cultural practices that affect wider society and do not affect only members of the community themselves. By merely allowing practices such as female genital mutilation to take place, the very essence of British culture and moral norms would be harmed.

What Poulter is worried about here is British culture, a culture that historically has been primarily determined by men. The patriarchal aspects of this argument have been criticized by Okin (1998). She is concerned with the tension that arises from the political aims of both multiculturalism and feminism, noting that

... so many of the world’s culture are highly patriarchal. That this is so is confirmed by the fact that “But this is our culture” is a response so often given by male elites around the world to justify the continued infringement of women’s rights. (Okin, 1998, p. 679)

Okin ignores the fact, however, that this protection of one patriarchal culture (the minority) is being made by another patriarchal culture, the British culture in this case.

Poulter’s model of multiculturalism was the basis of the 1985 Prohibition of FGM Act in the UK (see Appendix). Poulter says of the Act

the essential purpose of the whole Bill...is to prevent acts of cruelty or harm from being performed under the cloak of custom or ritual...these particular customary practices are incompatible with the culture of this country. (Poulter, 1986, p. 596)

This should not be seen simply as a nationalist claim; Poulter does not advocate the suppression of ethnic minorities in the name of a national culture. He maintains, however, that it is the right of a country to determine its own cultural norms and pursue these in legislation. This can also be seen to be the result of the democratic process—the majority culture determines the law. Poulter’s multiculturalism seems to be the most effective counterargument to minority group defense of FGM. It is therefore impossible that the phenomenon of FGM will be reflected as a norm that will be allowed as long as it is a norm practiced by the minority. However, Poulter cannot exclude the possibility of accepting FGM by democratic means.

It is arguable that Poulter’s view is only effective for immigrant ethnic groups. How does Poulter’s multiculturalism stand up in countries with minority groups made up of indigenous populations such as the Aborigines in Australia, the Inuit in Canada, and the Bedouin in Israel? Perhaps in such cases, minority groups should be allowed greater tolerance for cultural practices alien to the dominant culture, on the basis that some rights are derived from historical precedence. Poulter would probably not agree because he views the right to cultural dominance as being derived simply from the power of the cultural majority, making an argument of historical precedence irrelevant. The moral question can be raised, however, of why a conquering power should have the right to force an ancient cultural group to give up its long-held cultural traditions for a new, imported, moral code whose superiority is derived from the

power of a majority? This question leads to the second part of the investigation of arguments in defense of FGM that involve a different understanding of the concept of universal human rights.

### **FEMINISTS OF COLOR, CULTURAL RELATIVISM, AND UNIVERSAL WOMEN'S HUMAN RIGHTS**

There is a logical contradiction between the demand for universal human rights and simultaneous acceptance of the autonomy of each culture to determine its own ethical standards. The determination of universal human rights based on the individual's freedom is itself contrary to the conception of man and his position in society of many cultures.

Traditional (first and second wave) Western feminism has relied on the establishment of universal rights for women and the demand that these should be observed. These theories have come under criticism from new wave feminists who have demanded the recognition of "difference" between women (e.g. Butler, 1990). New wave feminists claim that earlier feminist views have perceived women as all being of the same nature, and consequently ignored basic differences between women of different cultures. In some instances, these differences are so fundamental, that some African American feminists claim, for example, that their blackness precludes their sharing the feminist beliefs of white women. The implication is that there is no pure undifferentiated essence of "womanhood" on which a universal ethic of feminism can be based.

This argument of "difference" is analogous to the call for cultural relativism in its claim that one's conception of morality is bound to one's cultural surroundings. The most recent success of international feminist movements was the granting of International Women's Rights at the United Nations Fourth World Conference on Women in Beijing in 1995. Here the UN committed itself to promote and protect the freedom of women and girls worldwide as an indivisible part of universal human rights. However, the existence of universal human rights itself is an issue disputed by proponents of cultural relativism and the existence of women's rights is what they most frequently object to. In 1994 at the Cairo Conference on Population and Development, for example, Islamic and Christians fundamentalists, including the representatives of some Asian governments and leading members of the Catholic church, united to oppose the validity of women's universal human

rights on both cultural and doctrinal grounds. They challenged the concept of human rights as a Western ploy, a form of cultural imperialism and intellectual colonialism. (Afkhani & Fridi, 1997). This debate is an important theoretical obstacle that must be resolved if feminists; or anyone else for that matter attempt to defend global goals, or to make univocal universal demands.

Some other negative reactions to feminist assumptions of First and Second wave have come from a movement referred to as Feminism of Color. This movement gathered momentum in the 1980s as Black, Asian, and "Woman-of-color" feminist theories and literature began to emerge. It became apparent to them that traditional feminism was ethnocentric. As Anthias and Davis note

much of feminist theory was predicated on the "sisterhood" of women, endowing the category woman with an essential and static property always in a dichotomous relation to the dominant "other," man. . . . Feminist literature . . . has only recently . . . become even conscious that it has ignored the ways in which gender and class processes differentially affect women from different social groups. (Anthias & Davis, 1992, p. 96).

Feminism of color can be seen as an extension of feminism of "difference," which emphasizes that women are discriminated against because they are socialized differently from men. Feminism of color theorists view cultural differences among women as equal causes of discrimination. This latter wave of feminism connects the oppression of women to imperialist and colonialist oppression of non-Western cultures, while preserving its link with class oppression already claimed by earlier wave feminists. Feminists of color, inspired by postmodernist philosophy (and Foucault's views in particular) believe in giving voice to the women of other cultures, who had previously been "constructed" falsely by Western feminists. Thus, they claim that white feminists could not possibly understand issues affecting women of other cultures. They also maintain that white feminism has often presented women of other cultures in a "racist" way, implying that they are passive and submissive because they agree to cultural practices that seem oppressive to Western women.

Western feminists condemn cultural practices such as purdah (the veiling and controlled modesty of women in Muslim law); sati (widow immolation, which was practiced by Hindus in India until it was outlawed in 1987); polygamy; and female "circumcision," judging them from the perspective of

Western social and moral norms, without sincerely trying to understand the norms of the respective cultures where these practices exist, and thereby evaluating the real moral meaning of these practices.

According to feminism of color, such practices only have meaning in relation to other realities of their respective cultures, for example rituals performed on men, family structures, and female economic dependence on men. They do not exist independently of the whole cultural way of life in which they are practiced. Similarly the practices cannot be assessed according to Western moral norms. The Western feminists must come to understand that just as a practice that she may comprehend, such as voluntary cosmetic surgery, or voluntary famine, might be incomprehensible to a woman of the "Third World," so perhaps she cannot fully appreciate or comprehend the practices of other cultures. It must also be understood that whereas girls who undergo genital "surgery" in non-Western culture may be thought to be "minors" by Western standards, some of them over a certain age may already be seen as adults in their culture.

Although feminists of color do not explicitly refer to FGM, their general argument for respecting other cultures does seem to implicitly justify its practice, particularly as part of a "coming of age" ceremony in which the girl ceases to be a minor.

The claims of feminists of color are comparable to those of cultural relativists who base their claims on anthropological (empirical) rather than philosophical (conceptual) premises. Cultural Relativism and Universal Human Rights Cultural Relativism developed as responses to the anthropologist's problem of finding cross-cultural criteria by which to evaluate different cultures. Every culture has some moral system, but the content of these systems varies widely among cultures. Standards and values essential to one culture were seen to be simply inapplicable to others. For example, whereas Western culture focuses on the separateness of the individual, some non-Western cultures do not conceive man as existing separately from other members of society. Essential differences such as these greatly limit the applicability of Western values to other cultures (Panniker, 1996; Steiner & Alston, 1996).

The philosophical defense of universal human rights against cultural relativism is based on the claim that there are certain basic norms that are common to all cultures. These norms transcend cultural differences because they give expression to basic features of human nature. As Gutmann (1993) claims

some basic human goods span the considerable diversity of modern cultures and support a set of ethical standards that are universal at least for the world as we know it and human beings as we know them. (p. 193)

From most philosophical perspectives moral relativism is difficult, if not impossible, to defend logically. However, cultural relativists who approach the issue from a normative perspective maintain that the definitive cross-cultural ethical standards that Gutmann speaks of are not visible in the empirical world. What is visible, they assert, is that every culture exhibits its own conception of what it regards as good around which its moral norms are built. This implies that the assessment of the morality of any culture cannot be made only from the standpoint of a universal morality that transcends all cultures. The problem of the relativity of values is clearly pertinent with regard to the status of "universal" human rights. If there is no universal human nature, in the sense that people's conception of man differs essentially between cultures, then it seems that constructing a universal system of values applicable to "man" in general is merely a philosophical pipe dream.

Perhaps all cultures have a concept of the "dignity" of the person, but this cannot be reduced to the individual's rights. "Dignity" may be connected to duties rather than rights and the person may be seen only in connection to his [or her] family, spouse, or community. As Rhoda Howard says

The idea that an individual can enhance his or her "dignity" by asserting his or her human rights violates many societies' most fundamental beliefs about the way social life should be ordered. Part of the dignity of a human being consists of the quiet endurance and acceptance of what a human rights approach to the world would, consider injustice or inequality. (Howard, 1995, p. 222).

As noted earlier in this paper, the practice of FGM is seen to be a violation of universal human rights, and most members of the United Nations have signed their Declaration of Human Rights. These signatures, however, often do not represent fundamental conceptions of all existing cultures. Indeed, as the foregoing discussion suggests, some view this as meaning that Western countries have imposed their conception of legal rights on non-Western member states. While FGM is not explicitly mentioned in the original General declaration, it is now considered part of the human rights claims that feminists of color object to on several grounds, including the belief that the international community dominated by Western



conceptions does not have the right to impose its ethical standards on the rest of the world.

Some feminists of color also support the continued practice of FGM. They claim that the practice of FGM is not objectively wrong, since there are no objective moral standards. In fact even in the United States and England, female genital surgery was performed as late as 1945 as a "cure" for masturbation, promiscuity, and nymphomania (Bulbeck, 1998). The reasons for the continuation of the practice in non-Western cultures is not necessarily part of the structure of male oppression of women and male domination of female consciousness. They argue that in many places it is not even carried out to control women's sexuality, but simply because it is a tradition that is taken for granted. Neither men nor women necessarily see the practice as oppressive; it is merely a norm, just as they look upon the practice male circumcision in other communities.

Some of the points raised by feminists of color are important, particularly those that suggest that cultural practices are a lot more complex than they originally appear to those outside the culture, and often need to be evaluated within the context of their own cultural and moral framework. In some instances, however, their own views are as oversimplified as they claim others to be. They tend to see their group as more unified and unanimous in their opinions than they really are. They often fail to recognize that within any group, there are women who do feel oppressed by the norms of their communities, and who do want cultural changes, and those who don't (Jaggard, 1998). Hence, feminism of cultural relativism is in danger of preserving the status-quo in communities simply on the grounds of cultural norms, while abandoning the original feminist goals of promoting equal rights for women. Some feminists of color try and justify practices such as female genital mutilation by claiming that it is on a par with the Western practice of cosmetic surgery and voluntary famine (i.e. dieting). While there may be some interesting parallels, these practices are not necessarily acceptable to Western feminists, nor are they culturally imposed upon children.

While attempting to defend their cultures, feminists of color sometimes wind up supporting the continued oppression of women who do not want to be "circumcised" or to "circumcise" their daughters. Even in communities where uncircumcised women are considered unmarriageable, women who oppose more radical surgery have often substituted token

acts, such as merely scratching the clitoris to draw blood.

A final counterargument against feminists of color is that cultural relativism is in itself but another form of oppression. The implication of their arguments is that universal human rights that apply equally to women and to men are only to be pursued in Western societies, whereas non-Western societies should be left to pursue practices that the West would not put up with. This is equivalent to the abandonment of the pursuit of women's struggle for equality.

## CONCLUSION

As noted at the outset, the issue of FGM, both within Western and non-Western countries is more complex than it first appears. This paper has reviewed and critically analyzed some of the philosophical approaches that have been offered to deal with this issue in both contexts.

How to deal with this practice (and others like it) within Western democracies has been the focus of attention of many theories. Several conflicting theories were discussed, particularly in the context of Great Britain, where a political resolution has been obtained, even if not to everyone's satisfaction. FGM clearly represents a "test case" of these various theories that deal with the relative roles of individual and group rights.

The messages of feminism of color have more relevance to the second context, i.e. the continued practice of FGM in non-Western countries. Based upon a far-reaching multicultural model, these messages have been (a) the cultural norms of one group (even if very dominant) should not be imposed on communities outside the West, where FGM takes place, and (b) international legislation is less likely to affect cultural norms in these countries than negotiation and collaboration. The first part of their position represents a belief; the second part is potentially verifiable (but has not been).

Invoking cultural relativism, however, does not remove all values and judgments in the real world. Western liberal feminists are still entitled to maintain that female genital mutilation is wrong, and to advocate their ideals. Taking into account the views and norms of others and not behaving in a paternalistic fashion would be advantageous in this endeavor.

The aim of Western feminists with regard to FGM should be to support the right of free speech for those members of communities who are opposed to the practice and are currently unable to speak out.

## APPENDIX

The (UK) Prohibition of Genital Mutilation Act 1985 includes the following provisions:

Subject to section 2 below, it shall be an offense for any person to exercise, infibulate or otherwise mutilate the whole or any part of the labia majora or labia minora or clitoris of another person; or to aid, alert, counsel or procure the performance by another person of any of those acts on that other person's own body.

On conviction, the offender shall be subject to a fine or to imprisonment for a term not exceeding five years or to both; on summary conviction, to a fine not exceeding the statutory maximum (as defined in section 74 of the Criminal Justice Act 1982) or to imprisonment for a term not exceeding six months, or to both.

### Section 2

The act does not render unlawful a surgical operation which is necessary for the physical or mental health of the person on whom it is performed. In determining whether the operation is necessary for the mental health of A person, no account is to be taken of any belief of the person or any Other person that the operation is required as a matter of custom or ritual.

The Act is supplemented by the Children Act 1989 which provides for the investigation of suspected violations of the female genital mutilation prohibition and enables the removal of the child from her home where this is the only way her protection can be guaranteed. The Children Act also empowers the courts to prohibit parents from removing their children from the country to have the operation done elsewhere.

Taken from internet site: [http://Legislation.Acts.Britain-International And Comparative Law Quarterly, Vol. 36, \(July 1987\), 589-615](http://Legislation.Acts.Britain-International And Comparative Law Quarterly, Vol. 36, (July 1987), 589-615).

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