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Female circumcision:
reasons, rights and relativism

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Abstract

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PREFACE

In 1979, Fran Hosken estimated that 74 million living females had undergone some form of circumcision (Hosken, 1979). In the 80s it went up by ten million and today it may be as high as 114 million. According to recent figures, about 6000 girls (five a minute) are circumcised every day (Toubia, 1994: p.129). Because the tradition is so widespread, the particular reasons given for practicing it may vary considerably from culture to culture, or even within a culture. For instance, although female circumcision is practiced in most Muslim countries in Africa and by Muslim groups in parts of Asia (the Philippines, Malaysia, Pakistan and Indonesia), it is not practiced at all in the seat of Islam itself, Saudi Arabia; nor is it practiced in Algeria, Iran, Iraq, Libya, Morocco or Tunisia (Koso-Thomas, 1992: p.17). Furthermore, female circumcision is not exclusively a Muslim tradition: it is practiced today by Jews, Catholics and animists too, and on continents as culturally diverse as Africa, Asia, Latin America and even Europe, usually by immigrant groups, e.g. in France.

In Somalia, about 98% of women are circumcised, 80% of whom are both excised and infibulated (Toubia, 1994: p.130; I will define these terms in chapter 1/A). Because of the recent influx of Somali immigrants to Canada, most medical and legal organizations are encouraging awareness of this practice as "female genital mutilation" and have expressed concern about how Canadian institutions are planning to deal with the cultural practice at both the national and international levels. Doctors, social workers and others are currently faced with unprecedented medical, social and psychological complications as a result of female circumcision having already been performed on immigrant women before their arrival to Canada. They are working in close connection with Canadian feminist groups (i.e. Women's Health in Women's Hands) toward gathering more information and working at the "grass-roots" level to help them cope

better with these complications and also to ensure that the practice does not go undetected in Canadian schools and other social institutions.

Minister of Justice Allan Rock issued a statement on April 11, 1994 in which he cited various sections of the Canadian Criminal Code that he deemed applicable to "female genital mutilation". These included sections 267 to 269, pertaining to assault, sections 219 to 221 pertaining to criminal negligence, as well as a recent amendment to the code that prohibits the taking of a child from Canada to another country in order to commit an act against her. Based on the fact that these sections were taken as applicable to female circumcision, Minister Rock did not at first recommend any amendments to the Criminal Code; but due to pressure from several groups who thought it necessary to take more concrete steps toward eradicating female circumcisions in Canada, the Code was formally amended according to Bill C-27 (introduced on April 18, 1996) such that section 268 names excision, infibulation and mutilation of the labia or any other part of the female genitals as a criminal offense (again c.f. chapter 1/A for a definition of these procedures).

There are reasons to doubt that female circumcision involves the offenses listed in any of the above-mentioned sections. It is not always performed without the girl's consent or by means of force (which is what would make it an act of "assault" according to section 265); it is arguable that it has more than transient negative physical effects (which is what would make it "assault causing bodily harm" according to section 267), let alone effects that are the cause of life-long damage in a way that is comparable to wounding, maiming or otherwise intentionally and permanently damaging another's life or person (which would be considered "aggravated assault" according to section 268). Yet it is for these reasons that female circumcision is now considered a crime under Bill C-27.

For example, if parents have circumcision performed on their female child for

reasons of culturally-derived beliefs about mental, physical or spiritual health or well-being, is it appropriate that they be charged with "unlawfully causing bodily harm"? Is it accurate to say that the parents' intention was to "harm" when their actions were motivated by what their culture of origin deems appropriate for girl children? Were they not acting in accordance with customary law, and not, as the charge requires, in the absence of "lawful justification" (section 269)? Is it fair to charge the parents with "criminal negligence", i.e. is it appropriate to judge their intentions in comparison to what a "reasonable" Canadian would be expected to do in the same circumstances (section 221)?

In referring to female circumcisions as "genital mutilations" or in equating them to "child abuse", critics have generally assumed that both the intentions and actions involved in this practice are criminal. But this assumption is inaccurate. One famous incident was reported during the 80s in France of a man being brought to trial for the "torture" and subsequent death of his little girl: she died of massive hemorrhaging due to circumcision on the eighth day after her birth. When the verdict was communicated to the father of the child (translated, because he did not speak French) and he was charged with criminal negligence and child abuse, not only did the father not understand but, apparently, he was so jarred that he became disoriented and confused, mad ("fou"), according to the writer who documented the trial (Canestrier, 1986). The father thought that he was doing the right thing to/for his child according to his own traditions and, because he was not able to get the procedure performed by the usual community members, would have felt negligent had he failed to perform it himself. Citing this case is not intended to demonstrate that no harm was done by the father- his child died- but to suggest that the definition of parental negligence may be a culturally relative one. Individual perceptions of what constitutes a parent's obligations toward her child can be so embedded in culturally informed values that, in cases involving immigrants, a fair

assessment of their intentions and responsibility and a just sentence may not be reliably obtained on the basis of legal considerations alone¹.

Those who propose the criminalization of female circumcision may take for granted a liberal view of what constitutes acceptable gender relations. They seem to forget both that it has taken several millennia for feminism to emerge as a challenge to women's oppression, and that illiberal attitudes toward women's bodies have led to practices comparable to female circumcision in our own culture. For example, in medieval Europe, infibulation by means of a chastity belt (a ring with a padlock inserted through a woman's labia) was used to control the sexuality of wives and slaves up until the twelfth century. Although this particular practice was abandoned some time ago, it has only been a few decades since doctors definitively abandoned clitoridectomy as a cure for nymphomania, hysteria, insanity, depression and epilepsy. Dr. Isaac Baker Brown, a world-famous gynecologist who presided over the Medical Society in London during the mid-nineteenth century, popularized the notion that clitoridectomy cured a wide variety of illnesses suffered by women. North American "officialists" inspired by Baker Brown's work continued to perform excision in the United States up until the 1930s. They believed that, because the clitoris could activate the entire sympathetic nervous system, they could control women's sexual appetites and other "perversions"

¹An interpreter and health educator currently working in Ottawa with circumcised patients mentioned to me once that she disagreed with the fact that the members of non-circumcising cultures blamed parents for the prevalence of female circumcision. She remarked that it is often daughters themselves who ask their parents to circumcise them. In her own case, this woman, as a child, insisted on her own circumcision against her father's wishes. She explained that she was more afraid of being "different" than of having to go through with the pain of the ritual. Although she agreed that female circumcision no longer served any good purpose, this woman was opposed to labeling female circumcision as a "mutilation" or as a form of "child abuse", for- despite both the pain and the medical complications (which she did not deny)- she did not regard circumcision as the cause of permanent damage, either physical or psychological.

(masturbation, moral degeneracy, neurosis, but also epilepsy, constipation and heart palpitations) by reconstructing a woman's anatomy to make it less "phallic" (Barker-Benfield, 1976: p.18).

Like the doctors cited above, some people continue to perform clitoridectomy for called psychological reasons: it is believed to curb a woman's sexual appetite thus enhancing her appeal as a mate (Lightfoot-Klein, 1989: p.82; Koso-Thomas, 1987: p.7). Other forms of circumcision may be justified as a way of safeguarding a woman's purity by preventing the loss of virginity and rape, or for aesthetic reasons, for example, because the labia and clitoris are considered grotesque and a smoother vulvular surface more attractive (Walker, 1992: p.121; Koso-Thomas, *ibid.*: p.7). Some groups are ignorant about normal sexual development and may fear the hypertrophy of the clitoris if left to grow², or they may believe that the clitoris is the vehicle of evil spirits that might endanger a woman's health, child-birth or the quality of food she prepares (Hosken, 1979: II/16, p.8).

The belief that a woman's identity must be separated from her genitals in order for her to maintain her mental and physical well-being is therefore a cross-cultural belief. It is also remarkably tenacious. Although Freud was no advocate of female circumcision, even he believed that a woman's entire sexual identity stemmed from her envy of the male penis. Because the penis is more conspicuous than a woman's physiological equivalent to this member (the clitoris), Freud believed that a healthy feminine sexual identity depended on whether or not she accepted this deficiency and successfully "internalized" her sexuality.

² This obviously false belief may have arisen due to a common complication in circumcised women: dermoid and keloid (skin and fibrous) cysts may form around the scar tissue of the excised area that may grow to the size of a foot-ball. (Toubia, 1995: p.129)

So-called radical feminists have classified female circumcision with other forms of ritualized violence against women (foot-binding, witch-hunting, widow-burning, etc.). According to them, the origins of female circumcision are rooted in a gender hierarchy that devalues a woman's person and/or body. They attribute cultural justifications for the practice to a phallogentric *mauvaise foi*: since a woman whose sexuality is psychologically or physically severed from her clitoris and labia will likely make penetration the object of her sexual satisfaction, all kinds of rationalizations and taboos, including those that justify circumcision, have, they say, been invented by men in order to promote this separation and, thus, glorify the penis. Mary Daly, for example, expresses this point of view in characteristically strong ideological language:

These taboos are operative both within the segments of phallocracy in which such rituals are practiced and in other parts of the Fatherland, whose leaders cooperate in the conspiracy of silence. Hags see the demonic rituals in the so-called underdeveloped regions of the planet are deeply connected with the atrocities perpetrated against women in "advanced" societies. To allow ourselves to see the connections is to begin to understand that androcracy is the State of Atrocity, where atrocities are normal, ritualized, repeated. It is the city of Atrophy where the archetypal trophies are massacred women. (1979: p.155)

Radical feminists regard women as an oppressed class. They regard "gender justice" as requiring both the immediate eradication of cultural practices oppressing women, and the implementation of a strategy for social transformation that would definitively uproot what feminists like Daly term the "phallogratic" prejudices that support misogyny universally.

It may be clear that female circumcisions are not considered appropriate from certain points of view; but what "justice" recommends, or even what understanding requires, may be another thing. To urge the labeling of female circumcisions as "mutilations" or as "criminal" when they have been considered part of a normal lifestyle

for millennia may be perceived as both inaccurate and unduly hostile toward the cultures that may still practice them. New Canadians may even perceive the rallying for laws that target female circumcision as another kind of "witch-hunt", like cultural scapegoating, especially since no immigrant group has been publicly advocating the practice or even privately practicing it.

In any event, the Canadian Criminal Code alone is not likely to facilitate inter-cultural understanding with respect to this issue. For example, section 45 of the Canadian Criminal Code stipulates that anyone who performs an operation that is not considered "appropriate" in the opinion of the Canadian medical profession will not be protected from criminal responsibility. Not only is this too vague a reference for distinguishing an operation that is "appropriate" from one that is not, but it does not explain why those who perform female circumcisions should be held "criminally" responsible. Nor does it explain why the medical profession should be endowed with the relevant moral authority. Rather, the Code appears to admit here that what is an "appropriate" practice in Canada need only reflect Canadian cultural norms more than reasons and arguments: why are male circumcisions, sex changes and breast implants more appropriate in the opinion of the Canadian medical profession? It was only forty years ago that North American physicians practiced clitoridectomies on their female patients; was it more appropriate then? Surely what makes practices harmful and unlawful, or reasonable and appropriate, varies according to cultural and individual circumstances, an understanding of which may lie outside the scope of medical professionals.

What reasons exist to validate the imposition of one's own norms, as laws, on individuals from another culture; does it matter that the individuals most affected by this may not endorse the opinion or the share the power of those who have been granted the authority to legislate norms? What defines a "culture" and what, if any, limits should

apply to the universalization of norms when they are also recognized as culturally relative? These are some of the questions that this thesis will attempt to address.

Chapter one of the thesis will begin by defining the different kinds of female circumcision and how, when, where, who and on whom they are performed, and then discuss some problems related to their cultural origins (why they are performed). The latter discussion will focus on Islam, both because it is within Muslim culture that female circumcision is practiced the most and because this is often taken as a starting point of a critique of its cultural origins. My purpose is to distinguish the ideological framework of any one patriarchal culture from the reasons currently given in favor of supporting this particular practice. After having indicated why I think the origins of this practice should not be specifically linked to the Muslim religion, I will conclude with a discussion of two different approaches to modernizing Islamic cultural trends and suggest why secularization may fail to provide a solution for the eradication of female circumcision in Muslim countries.

Part A of chapter two will outline some of the empirical problems that have already been encountered by a "secular" discourse in the attempt to eradicate female circumcision within the context provided by the International Declaration of Human Rights. Some of the applied limits of a universalistic moral approach which defines the practice as a "violation" of human rights will be anticipated in this section and some reasons suggested as to why taking a culturally relative approach to the issue might be more appropriate than a universalistic one. Part B underscores the practical limits of a universal moral assessment of female circumcision by exploring some of the cultural variables that are most pertinent to an evaluation of the physical, psychological and spiritual effects of this practice.

Chapter three will begin by providing some historical background to the debate between moral universalists and cultural relativists on the issue of human rights. It will

then introduce the anthropological thesis known as "cultural relativism" and discuss variations of the thesis with an emphasis on the philosophical problems that they have posed at both the theoretical and practical levels. After discussion of whether cultural relativism can/should prescribe tolerance of culturally-based moral diversity, the chapter will then turn to more abstract questions of legitimation. The gist of the chapter is to circumscribe a form of applied relativism that remains consistent with both the commitment to morality and the facts of cultural relativism.

I will conclude the thesis with a summary of all three chapters and with some final remarks (based on the findings from chapter three) on how the thesis applies to the issue of female circumcision.

CHAPTER ONE: REASONS

**If she is a wall,
we will build upon her a
battlement of silver;
but if she is a door,
we will enclose her with boards
of cedar.**

[Song of Solomon; 8:9]

A. Introduction

As with most traditional practices, it is difficult to explain why female genital operations were ever invented: not only is the complete history of female circumcision unknown (Hosken, 1979: I/4, p.1; Lightfoot-Klein, 1989: pp.27-31), but the only discernible common factor among the various groups that practice or have practiced it seems to be their placing something above the bodily and sexual integrity of women.

It is not clear where circumcision began to be practiced on women or whether or not it arose simultaneously with, or followed, male circumcision. Some claim that both male and female circumcision were performed in Egypt during the 16th century BC³. Others claim that, judging by Egyptian vases depicting male circumcision, both may have been performed as early as 2300 B.C. (Hosken I/4: 1), perhaps for the same reason that is sometimes still given today: to distinguish oneself or to symbolically remove the other sex from the body, making one's sex "pure" (Shaaan: p.271).

From the research of numerous authors, Hanny Lightfoot-Klein concludes that, although circumcision rites probably did originate among the inhabitants of Egypt and the Nile valley, they were most likely spread from there by Arab traders. She speculates that, as patriarchal societies attempted to become more controlling of women's sexuality, the rites then probably developed into the various forms of the practice that still exist today (Lightfoot-Klein, 1989: pp.28-9). Regarding origins, it is noteworthy that the first indisputable account of the existence of female circumcision is a fairly recent one, coming from Pietro Bembo, a historian who reported its existence in Africa and the Middle East as late as the sixteenth century. By the eighteenth century, various travelers

³ Abu el Futuh Shandall and Alfons Huber, cited by Hosken (I/4: p.4) and Lightfoot-Klein (1989: p.27), both report that signs of clitoridectomy and excision have been found in Egyptian mummies. Infibulation may be hard to detect unless the mummy is unusually well-preserved.

were reporting that infibulation was used on slave girls during slave-trade along the Nile River. Some have inferred from the travel journals of Herodotus and Strabo that female circumcision existed in Egypt during the 5th and 1st centuries B.C., respectively, while others contend that the practices described by these authors provide insufficient evidence to justify this conclusion (Renee Saurel, 1986: p.92 ff.).

Whether female circumcision originated as a sign of distinction or subjugation and whether it is derived from the practices of ancient Egyptians or from those of early Arab traders, we may legitimately suspect that the practice existed prior to our first authentic eye-witness accounts of it. However, we cannot always support more specific inferences about its empirical origins with the few written documents that we possess on the subject because they are often either too vague or too partial to constitute reliable historical source. Sacred scriptures and ancient legal documents constitute another source of knowledge about the origin of practices affecting women, but even these are subject to inconsistent interpretations, as I will discuss in more depth in section B/i.

The purpose of this chapter is to study the reasons given for believing that Islam condones female circumcision in order to determine, first, whether or not there are legitimate reasons to link the origins of female circumcision specifically to Muslim religious culture and, second, to begin the elaboration of an approach to the question of cultural origins that is most useful to a critical and just evaluation of female circumcision as practiced in Islam today. I will, however, first define female circumcision and attempt to answer how, when, who and on whom it is still practiced today.

B. Description of female circumcision

The most comprehensive documentation of female circumcision is Fran Hosken's Genital and Sexual Mutilation of Females (1979)⁴. This report and Olayinka Koso-Thomas's more recent study of the practice in Sierra Leone, The Circumcision of Women: a strategy for its eradication (1992) constitute the two main sources for the description of the practice that follows. I have also referred to a recent technical report published by the Department of Justice of the Government of Canada (Ferguson and Ellis, 1995).

Female circumcision is a broad term used to designate three distinct types of operations. "Circumcision" *tout court* consists in the removal of the skin, the foreskin or prepuce, that covers the glans of the penis or clitoris. Men and women may both undergo this type of operation. It is often referred to as "sunna" circumcision in Arabic although what is "sunna" for women may also involve any of the other forms of circumcision listed below (c.f. B/i).

There are three other forms of circumcision that only women undergo and this is why they are usually referred to as "female circumcision"; they are clitoridectomy (the partial or total removal of the clitoris), excision (the removal of the prepuce and the clitoris, and part or all of the labia minora), and infibulation or pharaonic circumcision (the removal of the prepuce, clitoris, labia minora and majora, and the suturing of the vulva). Since infibulation is intended to close off the vulva (and thereby preserve

⁴ There are several descriptions of the practices that predate the Hosken Report (Karim and Ammar, King, Mustafa, Montagu, Remondino, Shandall, Widstrand). These have not been used as references because they usually focus only on one or two cases where the practice has occurred, usually in Africa, whereas Hosken's paper reviews a variety of practices from East and West Africa and the Arab peninsula to Asia and the Western world. Furthermore, most of the articles published prior to this report, many of which were written by medical professionals in the 60s, do not reflect the broader perspective of a contemporary analysis.

virginity), usually only a very small opening is left for the passage of blood and urine; this is sometimes created by inserting a match stick or splinter into the woman's sutured flesh.

Although they are less conventional, two other variants of female circumcision might also be included in our list: "modified circumcision" and "introcision". The first designates a circumcision where the vulva is only partially infibulated (as opposed to the total infibulation mentioned above), a modification that was introduced in recent years as a result of the medical problems arising from the "pin-hole" infibulation. Introcision consists in the cutting into the vulva and/or perineum. It is unclear who practices this or how, when and why it is performed (Ferguson and Ellis, 1995: p.6).

The age at which women are circumcised varies from culture to culture. However, because female circumcision is perceived as necessary to becoming a woman, it is practiced almost exclusively on the virginal and, usually, the very young. Puberty is actually a less common time for girls than for boys to undergo circumcision. This may be because a pubescent girl is already old enough both to have channeled her sexuality into the vulvular region of her body and to have acquired some individual sense of her own will; she may resist having the operation done and be more difficult to control (wriggling could in fact cause more damage than intended). In many societies, girls are circumcised earlier than puberty, at seven or eight years old and sometimes even at birth. It is exceptional for a woman to remain uncircumcised until marriage although this is sometimes the case.

Like a rite of passage, circumcision may be accompanied by classes or other means of teaching a girl about her social role as a woman. However, the procedure itself is usually performed in the shortest time possible and unceremoniously, with or without the girl's advanced knowledge of when it is going to happen to her. The fully circumcised girl will remain excised her entire life and infibulated until marriage, at

which time she will be handed over to her husband and, like a gift, reopened.

Circumstances surrounding the procedure tend to vary. The girl may be alone or she may be with several girls recruited at a particular time of year. The procedure may take place in a doctor's office, but it might also take place in a hut or even a bathroom. The girl may have some privacy, or not; that is, her circumcision might be performed behind closed doors, as in a hospital, or among a group of people, sometimes among family or women only, but sometimes also among potential in-laws whose testimony is considered important to establishing the girl's virginity before marriage. The girl may get some local freezing if she goes to a hospital but, traditionally, no freezing at all is used. The rationale for this is usually that the pain of circumcision prepares the girl for the hardships of being a woman or that it demonstrates that she is brave, an asset to her sex. Finally, the girl may have more or less healing time, depending on how much time she can afford to take off school and, if she's not in school, depending how much time the family can afford to take care of her.

Who decides to have a girl operated on and who performs the operation are also subject to variation. Although the father or potential family-in-law may decide to have his daughter circumcised against her own or her mother's will, this is not usually the case. Actually, it is more usual that both mother and daughter approve of circumcision. Moreover, it is usually exclusively the female members of a circumcising community who are directly responsible for promoting the procedure. A mid-wife, headwoman or priestess might perform the circumcision, but so too might a barber⁵. As awareness of the dangers of the operation increases, more doctors are being asked to circumcise (even where it is illegal). However, in countries where there is no universal medical care, only

⁵ Case histories from a report prepared by Marie Bassili Assad for WHO (published in WIN News 1979, vol.5 no.2) reveal that, after dayas or mid-wives, barbers were the second most frequent group to be asked to perform circumcision (Hosken, 1979: p.17)

the more affluent families may be able to guarantee that anesthesia, antibiotics and painkillers will be used in performing their daughter's circumcision. In countries where the operation is strictly forbidden, an immigrant family has no recourse to doctors and might therefore have their daughters excised and/or infibulated by a visiting member of the community. Professional circumcisers circulate in foreign countries for this purpose. Parents might also perform the operation themselves⁶.

As for surgical instruments, razor blades, kitchen knives, broken pieces of glass and scissors have all been used to perform female circumcisions. These instruments may be used with or without sterilization and sometimes for many girls in a row. Where clitoridectomy is performed, something sharp, often a fingernail, is inserted and turned in the hole to make sure the whole clitoris and appending nerves have been carved out. Where excision is performed, thorns may be used to hold the vulva together after the labia have been sliced off; and sometimes a paste made of gum arabic, sugar and egg is applied to the wound. Where infibulation is performed, catgut has been used to sew the sides of the vulva together and the girl's legs bound for at least ten days to allow the wound to heal.

A woman's encounters with "the little knife" (as it is often referred to in Sudan and Somalia) are not over once she is circumcised. The scar tissue around the wound usually gets very thick over the years prior to marriage and, as a result, an infibulated woman must be forced open again before being able to engage in any sexual activity. This may be attempted in the nuptial hut by penetrating the vagina until it is enlarged to a comfortable size. If sexual intercourse is not possible, which is not unusual, the groom

⁶ Five such cases were brought to trial in France in 1982 following the death of a child, Bobo Traore, from an internal hemorrhage as a result of excision (Canestrier, 1986).

may try anal penetration⁷. If the husband's attempts to penetrate the vagina are unsuccessful, his wife might have to be re-opened with a knife (usually wielded by a midwife or her husband or, as is more frequently the case now, a doctor). Married women are usually sutured and opened several times during their lives, at childbirth or upon a change in marital status, e.g. after divorce or upon the husband's death.

⁷ Anal penetration is not uncommon during the honeymoon (Hosken, 1/4: p.12). As Lightfoot-Klein notes, anal penetration or otherwise failing to miss the mark (sometimes the urinary tract is also penetrated by mistake) may not reflect the reckless enthusiasm of the groom as much as the couple's shared ignorance of the female genitals and their frustration when presented with the task of trying to locate the vagina (Lightfoot-Klein, 1989: p.11, pp.94-5). The couple may be under great pressure to reproduce and yet to re-open the scars may be difficult if not impossible without surgical intervention (ibid.: p.58). Anal penetration may seem more natural than vaginal penetration; sometimes the absence of pregnancy is the couple's only hint that the man has failed to penetrate his partner correctly. Male impotency as a result of this ordeal is not uncommon (ibid.: p.11, 24, 96)

C. Origins of female circumcision

i) Female circumcision and the Koran

Given the archeological evidence cited in the introduction, nearly all would agree that the types of female circumcision most frequently performed today (those described in section A) are of near Eastern origin as opposed to the Roman (and later, European) method of "mechanical infibulation", chastity belts. Although both forms of infibulation may have been used for purposes of sexual enslavement, chastity belts were a temporary measure used to safeguard a wife's or servant's celibacy while the master was away, whereas the former may have been a more or less permanent condition of virgin slaves and/or young girls, a means of limiting their sexual activity over long periods of time in order to, for instance, increase their trade or dowry value (Giorgis, 1981).

Hosken emphasizes that, although female circumcision is not a rite specific to any one religion, Muslims and animists are the only religious sects to still justify the practice by appealing to religious authorities-- Muhammad, the prophet of Islam, and "the ancestors", respectively. As with most sacrificial rites, circumcision may have originated as a means of obtaining a divine blessing or of securing divine protection. Nevertheless, the reasons given for female circumcision and the types of circumcision performed today have questionable religious roots. As it was pointed out in the introduction to this chapter, the reasons given for female circumcision reflect a diversity of motives (from unconsciously activated superstitions about sexuality to consciously repressive means of making a profit from women's chastity, or both). Because female circumcision appears to have been passed from culture to culture, the roots of the practice are obscure, thus blurring the "reasons" behind its still being observed today.

When looking at the "origins" of female circumcision (particularly with a view to eradication of the practice), it is important to distinguish the religious beliefs of a

circumcising culture from the empirical reasons for and types of circumcision performed today. These are two distinct issues, as I hope to prove in this section. I will focus on Muslim culture, first because it is the most widespread of any of the religious cultures to still support the practice and, second, because this fact is often taken as a reason to (falsely) believe that female circumcision originated with Islam, or that the Koran both condones and perpetuates the practice as a "religious" practice. Indeed, many influential researchers have blamed Muslim culture for the spread of this and other misogynous traditions in Islam. Hosken, for instance, one of the most renowned writers on the subject, links the popularity of female circumcision to what she calls its "moslemization". She says that:

Women are often led to believe that their mutilation is a religious command. Since there is no central authority in Islam (such as the Pope in the Catholic Church), a multiplicity of "interpretations" of the Koran exists in different countries with many local adaptations. The impediment to the education and the freedom of women that these interpretations represent is a matter of degree; but the concept of the inferiority of the female is firmly anchored in the basic Islamic philosophy of the segregation of the sexes. (ibid.: I/4, p.8)

One must grant that the equality of the sexes and women's rights are still major issues in Muslim countries today. However, it is simply not true that Islam regards women as "inferior" to men; at least this ideology is no more "anchored in the basic Islamic philosophy" than it is in the Judeo-Christian one. For instance, when the Shari'a (Islamic law) first came into being, it actually represented a great improvement on a woman's social standing because it gave her legal status where she had none before. As one author writes regarding the status of women in Islam:

It is our [Muslims'] opinion that Islam preceded by fourteen centuries the contents of the international and modern declarations, charters and constitutions. Islam recognizes the equality of men and women in their fundamental constitution (He created you of one soul; 4:1), and gives

women full status, for 'women are the sisters of men.' It addresses them in questions of legislation separately from men, even though they could have been addressed under the category of 'man'." (Farrag, 1991: p.140).

Moreover, in grouping men and women under distinct "categories", the Koran does not stipulate that women should be regarded as the lesser of the two sexes. In fact, most Muslims hold that just the opposite is true of the origin of some of these categories and corresponding religious practices: many Muslim women challenge the belief that being treated as "unequal" to men means being treated as their subordinates. According to Fatima Mernissi for example, "Muhammad revolutionized the lives of women-granting them the right to divorce, the right to inherit, the right to have custody of their children in the event of divorce, the right to pray in the mosque, and the right to participate as fully in life as men" (quoted in Vanity Fair, 1993: p.158). Furthermore, it is not obvious that the existence of a central authority like the Pope would help Muslims make great strides toward a more liberal interpretation of religious laws as they apply to women. On the contrary, the sort of hegemony exercised by a central religious authority (the "fuqaha" in Arabic) has traditionally legitimated the most conservative trends within Islamic states (Mernissi, 1993: p.40)⁸. As Mernissi also points out, "Sharia law does not exist in the Koran. It was created by man. There are only four or five laws in the Koran". (Vanity Fair, *ibid.*: p.158) Finally, female circumcision is not mandated "by Islam"; rather, as I will discuss shortly, it has merely been referred to in the Koran as a practice that already existed at the time of the prophet Muhammad.

Nevertheless, if Islam is not responsible for promoting female circumcision, then how did it become such a widespread practice among Muslims? There are three different reasons why Muslim women may continue to believe that circumcision is mandated by

⁸ For a more detailed discussion of the women's movement in Islamic states and its relationship to fundamentalism, see Kandiyoti, D. (Ed.) Women, Islam and the State.

Islam, none of which, I will argue, authenticates the belief that circumcision is a Muslim prescription or that its origins are specific to Muslim culture. By exploring the meaning of "sunna" and by analyzing Koranic and other references used to justify female circumcision as a Muslim "tradition", I will illustrate both that the reasons given for female circumcision are independent of Muslim religious beliefs and that the origins of the practice should be more broadly linked to the shared ideological roots of Judeo-Christian civilization.

As was mentioned earlier (I/A), Muslims refer to female circumcision as "sunna" as though it were comparable to male circumcision. If sunna only involved partial clitoridectomy (the removal of the prepuce of the glans), this comparison might be legitimate. However, "sunna" literally means "tradition" in Arabic and it does not therefore prescribe one particular type of genital excision: "khafd" (the "reduction" of the female genitalia) could be as partial or total as local tradition dictates. Fran Hosken notes that the removal of only the prepuce of the clitoris would require tools, skills and conditions that are not always available. In Egypt for example, khafd is performed 50% of the time by mid-wives, and 12% of the time by barbers (ibid.: II/4, p.7). Since most professional circumcisers lack access either to the finer medical instruments available to doctors or to the complete anatomical knowledge available through a medical education, they may remove more of the female anatomy than what is necessary even according to their own traditions. As a result, although some Muslims may hold that Muhammad prescribed the removal of one-third of the woman's clitoris (c.f. below), the most frequently practiced form of "sunna" circumcision usually involves the removal of much more than one third of a child's clitoris and perhaps even total removal of the external genitalia, i.e. excision (ibid.: I/1, p.2); it is therefore wrong to equate "sunna" with partial clitoridectomy.

Part of the confusion about what constitutes the "Muslim" form of female

circumcision stems from the fact that "sunna" alone does not furnish any particular type of or reason for circumcision: although it may literally mean tradition, female circumcision is not performed for a shared religious reason in the same way that, say, male circumcision is among Jews. Furthermore, not all Muslims are of Semitic origin: there are, for instance, Muslims who practice female circumcision in Malaysia. Sunna may therefore be a "tradition" observed only by Muslims, but, because of the diffusion of Muslim culture, it finds no universally accepted religious justification.

Indeed, Muslims may hold quite different beliefs about how their religion should affect the lives of women, making the reasons given for female circumcision, veiling or other sexually discriminatory practices as diverse as the interpretations of the Koran or the hadiths. As opposed to "haram" (what is forbidden, e.g. the eating of pork) or "wajib" (what is obligatory, e.g. five daily prayers), what is defined as "sunna" is subject to variation according to local traditions (Brooks, 1995: p.38). Some Muslims may consider female circumcision to be a woman's duty. Others may consider it "makrama" (ennobling) (WHO Seminar, February 1979: pp.10-15). Others, although they may be illiterate or otherwise ignorant about the sacred texts of Islam, continue to believe that excision and infibulation are mandated by "Islam". Still others belong to communities that have never practiced any form of female circumcision and do not condone it any grounds.

This brings me to the second issue: nothing in the Koran (neither in the body of scriptures or in the hadiths) mentions anything about female circumcision that can be taken to have prescriptive value for practicing Muslims. I will first demonstrate this with respect to the "hadiths", and then go on to explore more generally certain versions of the Koran that have been cited by Hosken to justify her criticism of female circumcision as a tradition that is related to the sacred texts of Islam.

It is true that certain hadiths have cited an occasion where Muhammad advised

against cutting women "too deeply" during circumcision and that this is why it has been interpreted as having prescriptive value for Muslims (Hosken, 1979: 1/4). However, I want to argue that, although Muhammad's intervention on this matter could be interpreted as acquiescence in female circumcision, it cannot be interpreted as a wholehearted advocacy. In fact, there is less reason to believe that Muhammad would have condoned excision and infibulation than there is to believe that he attempted to furtively convey his disapproval of them in favor of adopting a "less deep" form of female circumcision. There are several reasons why Muhammad's intervention should be interpreted in this way.

First, in this hadith, Muhammad never actually prescribes female circumcision but simply alludes to it. It is possible that excision and infibulation were observed among his converts, not necessarily among pagan Arabs (for central to their way of life was the idolization of female sexuality via the worshipping of goddesses called "the daughters of God": Armstrong, 1993: p.147), but perhaps among those whose language, laws and genealogy went back, like his own, to the Old Testament patriarchs (Roberts, 1985: p.319). In either case, these practices were not invented by Muhammad, the founder of Islam, and their origins must therefore pre-date Muslim culture.

Second, with respect to what others say Muhammad said (recorded as "hadiths"), it should be noted that this testimony is taken to be only relatively reliable (all hadiths are rated as "true", "good" or "weak" depending on their authorship; Brooks, *ibid.*: p.38). There is no way to determine what Muhammad himself actually prescribed. For example, nearly all of the hadiths recorded by Muhammad's most beloved wife, Aisha, were destroyed upon their compilation by scholars during the ninth century: of 2210 hadiths written down by Aisha, only 174 remain (Brooks, *ibid.*: p.87). It is therefore possible that what were originally recorded as hadiths were even more rigidly against female circumcision than what was retained three centuries after Muhammad's death.

Third, it would seem contradictory for Muhammad to sanction any form of misogyny if, as it is well-known, his personal attitude toward women was more generous than his contemporaries'. Muhammad's first converts were comprised mostly of women.

As Armstrong notes:

...their emancipation was a project that was dear to his heart. The Koran strictly forbade the killing of female children and rebuked the Arabs for their dismay when a girl was born⁹. It also gave women legal rights of inheritance and divorce: most Western women had nothing comparable until the nineteenth century. Muhammad encouraged women to play an active role in the affairs of the *ummah* [Muslim community], and they expressed their views forthrightly, confident that they would be heard. On one occasion, for example, the women had complained to the Prophet that the men were outstripping them in the study of the Koran and asked him to help them to catch up. This Muhammad did. One of their most important questions was why the Koran addressed men only when women had also made their surrender to God. The result was a revelation that addressed women as well as men and emphasized the absolute moral and spiritual equality of the sexes. Thereafter, the Koran quite frequently addressed women explicitly, something that rarely happens in either the Jewish or Christian scriptures. (1993: p.158)

So, although an interpretation of certain hadiths as condoning excision and infibulation might well have been adopted by certain Muslims, there is good reason to question that they actually represent a practice prescribed by Muhammad. The majority of Muslims deny that any hadith ever prescribed female circumcision, even in its most superficial form (partial clitoridectomy). As Brooks notes:

Some Muslims believe Muhammad's *sunnah*- tradition or "trodden path"- encouraged the removal of one third of a female child's clitoris. The majority of Muslims say no such *sunnah* exists. (ibid.: p.38)

In spite of it being impossible to prove that female circumcision was ever mandated by the prophet of Islam, many have yet claimed that the practice finds

⁹ These traditional attitudes toward girl children were not specific to Arabs.

justification within the basic texts and traditions of Muslim culture. Exploring these claims constitutes the third and final issue to be addressed in this section.

Hosken claims that certain versions of the Koran explicitly mention female circumcision as a Muslim tradition. She cites one version where the origin of circumcision is attributed to an Arab sultan who, out of jealousy for his wives, had his entire harem "excised" to secure their faithfulness to him. She also cites a version that would appear to support the belief that the tradition originated with Hagar, the legendary mother of Arab peoples (Hosken, 1979: I/4, p.7). I want to argue that these versions alone do not furnish enough evidence to conclude that female circumcision ever had roots specific to Muslim beliefs and practices. The former story, for example, has many of the fantastic qualities of a mythical or folkloric story, somewhat like the story of Susanna or Bel and the Dragon added to some versions of the Old Testament. Because such stories stem from oral, and not prophetic, traditions, they are usually left out of orthodox versions of the scriptures: although they may have once been espoused by certain religious sects as authentic scriptural material, their religious value is historically limited, having probably been derived from the desire to counter-act the spread of nonconformist ideas circulating among infidels (e.g. via novelistic literature) during the later copying of the scriptures. Furthermore, because this particular story involves a sultan, and not a prophet or other religious figure, the story relates an event that, although it may have actually taken place, does not of its own have any prescriptive value: it is not even an adequate documentary source of customary or non-religious laws. As an "explanation" of the origin of female circumcision among Muslims, the evidence provided by this tale should probably be regarded as far-fetched: it in no way establishes the legitimacy of female circumcision either as a religious duty of Muslims or as a widespread, or widely accepted, practice among Arabs during a particular period of their history.

The second version mentioned above relates that when Hagar (Abraham's Egyptian

slave) conceived from Abraham, she gloated over it to the point that her barren mistress, Sarah (the wife of Abraham), excised her out of jealousy; and that this is how female circumcision became a Muslim tradition. This story carries potentially more weight than the previously cited one.

First, Abraham is a significantly more important figure than the Arab sultan considered above: he is deemed to be the spiritual father of all Semitic peoples. Both Muslims and Jews believe that the descendants of Abraham through Hagar's son, Ishmael, became one nation (the Arabs living south of the Dead Sea) and his descendants through Sarah's son, Isaac, became another (the Israelites exiled in Egypt with Jacob). Second, the cycle of Abraham is about establishing the paternal lineage of God's people, central to which theme is the assimilation of new rites and laws, including male circumcision, that would redefine human sexual relations in terms of this lineage. Finally, the authenticity of this story can be checked against extrascriptural material that documents ancient marital and sexual practices. Although this material may be of no "religious" importance, it would of course be significant if it lent more credibility to the Koranic version. I shall therefore review these points in a little more detail, the purpose being to determine whether or not there is any reason to believe that, since Abraham, there has been a long-standing difference between Arabs and Jews with respect to their cultural heritage, especially with respect to those traditions pertaining to marital laws and other rights and duties affecting women's sexuality.

It should, however, be made clear from the start that the Hebrew version of the cycle of Abraham does not read that Sarah "excised" Hagar but that she "dealt harshly with" Hagar until she finally fled. Since the Koran is based on the Hebrew Pentateuch, it would therefore seem that the Koranic version alone provides no *prima facie* evidence for believing that Sarah ever excised Hagar. It could simply be that "excised" was added to the Koranic version of the Abraham cycle during one of its many rewritings or

translations over the millennia since the recorded events are supposed to have taken place. Nevertheless, the composition of the book of Genesis was so heavily influenced by Mesopotamian culture and written by so many different hands¹⁰ that any reference to traditions regarding sexual relations and marriage can hardly be accurately interpreted on the basis of literal interpretation alone. Why did Sarah *abuse* Hagar, and what exactly did this abuse entail? An answer requires an interpretive evaluation of the social laws that might have governed them in order that the term *abuse* retain the meaning of the author's intention. One renowned commentator interprets their relationship both to the laws that unified Mesopotamia, the Code of Hammurabi, and to the marital practices of the Hurrians, who provided a kind of model society for the Hebrews (Speiser, 1962: p.121).

According to Speiser, of particular relevance to the legal rights and statuses of Sarah and Hagar are paragraph 146 of the Code of Hammurabi, and a certain passage of the Hurrians' Nuzi documents. According to these sources, a slave could acquire the right to bear the children of a man whose legal wife was barren. During the Axial Age, it was not unusual for a wife/priestess to promote a slave to the status of concubine in order that she (the slave) become the mother of her husband's off-spring. Although the concubine could be demoted again to slave if she attempted to promote herself to a status equal to that of her mistress, she could not have been legally expelled. To have abused the mother of your husband's (legitimate) children as Sarah apparently did was therefore stretching

¹⁰ There are at least three authors of the book of Genesis, designated as "J" for Jehovah due to references to God as "Jehovah" or "Yaweh", an appellation that was not used prior to the time of Moses (Speiser, 1962: p.xxiii) and whose authorship is thus placed somewhere in the tenth century B.C. (Ibid.: p.xxviii), "E" for Elohim (an account that parallels J's but is assumed to have come later due to, among other linguistic factors, its reference to God as "Elohim"; ibid.: xxx-xxxiv) and "P" for Priestly (standing for, as Speiser says, "a long-standing committee, so-to-speak, in regular session since the inchoate beginnings of ethnic consciousness in Israel", ibid.: p.xxvi). The part of the cycle of Abraham that is of interest here was in fact written from at least two of these sources (J and E).

the limit of marital rights as defined by these sources: Sarah so abused Hagar that she finally fled, which is as good as having forced her to leave, "excising" her from the father of her child and his people.

With this historical context in mind, this part of the Abraham cycle should probably be interpreted, not only as condoning the use of violence against foreigners as a means of enforcing the will of God's self-appointed inheritors (not an especially novel interpretation of a religious text), but as audaciously approving of such action despite the fact that it stretched (if it did not actually break) current marital laws: although Hagar will be compensated by God for her "affliction" and awarded her own lineage, it is Sarah who, at 90 years old, is blessed with her own off-spring and designated by God as the mother of His people: the Israelites.

Now it is important to understand that the mission of the authors of Genesis was to appropriate the legal context of Hurrian society while adapting it to monotheism; they were not accountable to Hurrian laws or to historical facts, and they did not actually transcribe the events as they took place but "recorded" them about a thousand years after the fact! It is thus imperative to interpret this story with this context in mind: the authors were depicting how they believed the cult of Yaweh came into being, a retrospective picture that was more idyllic than historically accurate¹¹. That Sarah's unlawful behavior did not, in the eyes of the authors of the story, render her less worthy of acquiring the eminent status that she ultimately did, can thus be taken as an indication of the way the creators of monotheism sought to authorize the "cutting off" of one's legal kin out of jealousy for one's blood line. Although this kind of behavior was considered illicit,

¹¹ Although the Canaanites are chosen as the founding fathers of the new religion, their spiritual practices conformed more to Mesopotamian polytheism and mysticism than to monotheism. For instance, divine apparitions were each designated by a different name; they were not yet considered to all be visions of the one God "Yaweh".

during the Axial Age, it was here incorporated as a righteous means of safeguarding the purity of a new ethnic nation.

Furthermore, Sarah's "oppression" of Hagar played a significant role in the history of Israel: the oppression of an Egyptian in Canaan is often interpreted as foreshadowing the Israelites' own oppression in Egypt during their exile. Not only is "oppression", in both of these instances, the burden of men and women who are spiritually "excised" or "cut off" as slaves, but it is part of a dialectics of emancipation: oppression is overcome through blood and water rites, symbolizing spiritual cleansing and rebirth, a means of re-establishing ethno-religious identity and integrity. "Cutting off" will actually become a recurring theme of later parts of the Old Testament, used especially as a punishment for promiscuity or taboo sexual relationships that might defile one's ancestry (c.f. Leviticus: 20).

As stated at the outset, however, the Hebrew version of the Abraham cycle makes no mention of Sarah's excising Hagar. In fact, the Old Testament as we know it makes no mention of female circumcision at all: but Hagar was an Egyptian (possibly acquired by Abraham after his first Egyptian sojourn) and we do know, from hard archeological evidence, that some form of female circumcision was already practiced in the Kingdom of Egypt. Egyptians were among the first to settle in Canaan. It is thus possible, even in the absence of evidence from the Hebrew Pentateuch, that genital excision was at some point integrated by Semitic peoples during the period when the events in Genesis are supposed to have taken place. Furthermore, and by curious coincidence, the Pentateuch not only mentions male circumcision but it occurs for the first time in this part of Genesis, and to the very chapter that follows the story of Sarah and Hagar! And in later parts of the Old Testament, a ritual offering of one's earthly property, including a part of one's body or first off-spring, would represent a turning away from idolatry and other forms of spiritual corruption and a turning toward, and being led by, one God. Like its

counterpart "cutting off", blood covenants were an important means of reaffirming the exclusive bond between the Hebrews and their God. So, although male circumcision was observed in the neighboring regions of Canaan (Egypt, Edom, Ammon and Moab) long before its discovery and appropriation by the Hebrews (Speiser, *ibid.*: Introduction and p.127), it was only with Abraham that it would become a sign of distinction that would identify the "Chosen People" of Israel. Male circumcision would become the primary means by which to unite God's followers on earth as a nation whose "walk" would be dedicated to the same ends ("feet" is often used as a euphemism for the genitals; c.f. Jeremiah 9.13, Exodus 4.25, 2 Kings 18.27, Isaiah 6.2, 7.20).

Finally, the rivalry between Hagar and Sarah is typical of the kind of conflict that was blamed for the Israelites' interminable quest for the religious solidarity necessary to becoming a unified people. Women were portrayed as capricious and subversive creatures who, because of their sensual and boastful ways, posed a constant threat to establishing the nation of Israel. If men had to be circumcised as a way to keep track of the father's seed, the designated womb also had to be circumscribed so as to prevent its random sowing. The Hebrews would ultimately invent laws to prevent the sway of female sexuality from distracting men who were trying to establish paternity as righteous followers of their newly elected male God. In her book, *The Creation of Patriarchy*, which traces the beginnings of patriarchy back to the Ancient World, Lerner writes:

Acceptance of monotheism, circumcision and observance of God's laws as given to Moses are the obligations of the chosen people and will mark them off from their neighbors. But their cohesion and purity must be guaranteed by male circumcision and strict female virginity before marriage. Sexual control which assures the dominance of the father here is elevated not merely to a human social arrangement incorporated into man-made laws, as, for example, in the Mesopotamian law codes-it is presented as the will of God expressed in His covenant with the men of Israel. (1986: p.193)

Although this still furnishes no proof that the Hebrews ever sought to control female sexuality through preventive measures such as infibulation or excision, it does explain why harsh punitive measures (repudiation, ritual cleansing and even death by stoning or fire) were ritually enforced by Levitical law as a righteous form of punishment for a wife's or concubine's promiscuity.

I am not suggesting that female circumcision, in any form, was ever a Hebraic custom-although, if the Koranic version of their origins were held to be authentic, this would make it a custom with Semitic, rather than just Muslim, roots- but that the Torah, as much as the Koran, could be used to defend misogynous practices as "God's law" and that whether or not they could be used to defend clitoridectomy, excision or infibulation would depend less on actual scriptural content than on one's religious authorities: the opinion of a religious leader, the particular author or translator of a sacred text, a traditional interpretation of what is a metaphor and what is not, etc. All this is a matter quite independent of what the original authors of the Holy Scriptures actually said or meant to say: for (as far as what is recorded) none of them made any unambiguous prescriptions against the mistreatment of women although certain forms of female circumcision and other forms of oppressing women, slaves and vanquished enemies were probably practiced in Africa and the Middle East, if not at times mandated by various sects as a means of righteous self-determination.

To conclude then, although the Old Testament version of the cycle of Abraham makes no mention of female circumcision, but only of male circumcision (adopted by Abraham as a sign of his descendants' covenant with God), the purpose of the latter was to guarantee the purity of paternal lineage, which in the context of monotheism could have justified the circumcision of women. Finally, regarding the Muslim origin of circumcision, if Sarah's apparently intolerable abuse of Hagar consisted in her excision, then an interpretation of this event could claim female circumcision as a tradition that had

once distinguished Arabs from Jews, or Egyptians from Canaanites, or even slaves from mistresses during slave-trade. But the legitimization of female circumcision as a religious practice is still another thing: in so far as Sarah's action was neither lawful nor commanded by God, Hagar's possible excision still remains devoid of any prescriptive value for Muslims: Hagar was subjected to Sarah's will as a slave! If Sarah did excise Hagar, she did so out of her own anger and jealousy, no reason for anyone to interpret this practice as a God-given sign that should distinguish Muslim from Jewish ethnicity.

Moreover, as was mentioned above, no reference to genital excision is made in the Old Testament account of the cycle, an account which, although it has been rewritten since its first transcription circa 10th century B.C., provides the very basis of the Koranic account, itself not written until the 6th century A.D. There is thus no reason to believe that the interpretation of Sarah's abuse as genital excision provides a more authentic account than even the latest Biblical version. As a text written some 2000 years after the life of Abraham and as a version based on the Hebrew Pentateuch, the Koran alone cannot possibly have documented the marital practices of the first Patriarchs more accurately than the Bible.

Having demonstrated that the cultural link to the practice of female circumcision among Muslims is not a scriptural one, that it cannot be claimed that either the Koran or the hadiths "sanction" female circumcision, I hope now to establish more generally that those who yet believe that female inferiority is somehow more "anchored" in the Islamic philosophy than in other religious philosophies are quite simply wrong. Moreover, this section's discoveries have not as yet elucidated the ideological origins of female circumcision, which- among other inadequacies- is of no real help to establishing a critical strategy to eradicate the practice. If it is not Islam, but only unsubstantiated interpretations of the Koran, that have justified the practice of female circumcision among Muslims, who invented this practice and why? Some authors believe that the

origins must be linked more generally to the misogyny inherent in Muslim culture. As Brooks writes:

Presented with statistics on violence toward women, or facing the furor of the Rushdie fatwa, progressive Muslims (...) ask us to blame a wide range of villains: colonial history, the bitterness of immigrant experience, Bedouin tradition, pre-Islamic African culture. Yet when the Koran sanctions wife-beating and the execution of apostates, it can't be entirely exonerated for an epidemic of wife-slayings and death sentences on authors. [...] It becomes insufficient to look at Islam on paper, or Islam in history, and dwell on the inaudible improvement it brought women's lives in the seventh century. Today, the much more urgent and relevant task is to examine the way the faith has proved such fertile ground for almost every antiwomen custom it encountered in its great march out of Arabia. When it found veils and seclusion in Persia, it absorbed them; when it found genital mutilations in Egypt, it absorbed them; when it found societies in which women had never had a voice in public affairs, its own traditions of lively women's participation withered. (Brooks, 1995: pp.231-2)

According to Brooks, there must be something about Arab culture that has supported both violence against and the degradation of women. She ascribes this to the Islamic faith itself. Add to this a dismissal of Islam "on paper" or "in history", and we have here, in the guise of a critique, a statement of the moral superiority of Judeo-Christian civilization. It is to discourage culturally imperialistic criticisms of this nature that I now want to enlarge our vision of the "origins" of female circumcision by discussing them within the context of the patriarchal traditions of Judeo-Christian culture as a whole. What I hope to do is thus, in part, to exonerate Islam from certain criticisms of female circumcision that would portray the faith as more misogynous than other faiths, and to lay the groundwork for a criticism of the practice that is more broadly directed to the politics of patriarchy in general.

ii) The shared cultural roots of Jewish, Christian and Muslim practices affecting women: patriarchy and monotheism

I suggested at the conclusion of the previous section that, if the origins of female circumcision are going to be ascribed to Islam as a misogynous cult, criticisms should be situated within the context of monotheism generally. Indeed, although female circumcision may not be mentioned in the Old Testament version of the Abraham cycle, we know that it probably already existed in the regions where the events are supposed to have taken place. We also know, because of a "hadith" that refers to it, that female circumcision must have been practiced around the time of the writing of the Koran, i.e., between the sixth and ninth centuries of this era. One author cited by Hosken believes that female circumcision was practiced among the Jews until 1000 A.D. (Hosken, 1979: I/4. p.11), and Hosken herself does not discount this possibility, adding that female circumcision is still practiced by the Falasha, the only Jewish population to have lived in Ethiopia until the recent exodus of many members of this group to Israel. It is also known that female circumcision has been practiced to this day by various Catholic and Protestant groups living in Africa. So if one wanted to justify female circumcision from a "Christian" point of view, it could be done and probably has been done in those places where Christians did or still practice it. A case could also be made for female circumcision being condoned by "Black African" mysticism¹², but the point I want to make now is that any religious reasons given as a justification of the practice are not particular to any one body of religious literature but to the misogyny of patriarchal culture universally.

Evidence of misogyny was in fact to be found in all nascent forms of monotheism that definitively replaced the ancient goddess cults. For example, in both the Bible and

¹² Koso-Thomas makes this case (1994: p.15)

the Koran, the places where goddesses used to be worshipped are described more like illicit houses of prostitution than the fertility temples that they were. Although the possibility that there was once, prior to patriarchy, a "matriarchal" period in mankind's history is a purely speculative thesis¹³, there is evidence to suggest both that, before the discovery of paternity, matrilineal societies allowed women greater sexual freedom¹⁴ and that the history of the first Patriarchs was intimately and consciously bound up with the rejection of, simultaneously, polytheism and the female body. For example, the Creation Story recounted in Genesis is (even scholars concede) a near plagiarism of the Babylonian *Enuma Elis*, the most marked difference being that the original narrative attributed the various celestial and terrestrial creations to many rival deities (some of which were female) while the Old Testament narrative attributes them all to just the one omnipotent (male) God (Speiser, *ibid.*: pp.10-12). As for the origin of mankind, the garden of Eden narrative parallels the Mesopotamian *Epic of Gilgamesh* with the

¹³ The Paradise Papers (Germain, 1991) by Merlin Stone explores this possibility.

¹⁴ In his well-known book, Marriage and Morals (1970), Bertrand Russell traces a man's sexual possessiveness to the "psychology of paternity" rather than to some innate desire to control the female body. The Trobrian Islanders (that people made famous by Malinowski) do not know that children have fathers. Not only is there a matrilineal system of inheritance among the Trobrianders, but the mother's brother is held responsible for the moral upbringing of her children while her husband is bound only to love and protect them as he would his wife. Thus men are not generally concerned with women's (or young girls') sexual activity which they distinguish from love; sexual intercourse is simply considered as one way (among others) of opening the vulva to the spirit of impregnation. Because sex is perceived as having nothing to do with either love or the man's "seed", even a married man whose child may have been conceived during his absence does not suspect his wife of "infidelity" (*ibid.*: p.19). Moreover, since children usually live at a considerable distance from their moral fathers (the maternal uncle), they do not appear to suffer the curse of men raised in patrilineal societies: the Oedipus complex (*ibid.*: p.21). Russell concludes that it is only with the knowledge of paternity that marital sex becomes a moral issue; where children are perceived by the father as an extension of himself, a woman's body and offspring become a means of his acquiring power. It is only then that he will become jealous of his wife's ability to conceive, and that her promiscuity in particular will become a source of his suspicion.

significant difference that, in the latter, the hero's quest for knowledge and immortality do not lead him to "fall" from divine grace but to his gaining insight or "wisdom": the gift of clothes made to Enkidu- while symbolizing that he is no longer a part of nature- are, in his case, emblematic of his having become "like a god" (ibid.: pp.26-7). By contrast, the God of Genesis, having forbade Adam and Eve to taste of the tree of Knowledge, curses them for having gained insight into (or experience of) their own flesh. Their knowledge divides them from each other and from God. Given clothes to hide their disgrace, they are exiled from the Garden of Eden and forbidden to taste of the Tree of Life (i.e., immortality) the way to which will be eternally guided by "the fiery revolving sword" (Genesis, 3:25).

That the temptation to "know" should be emphasized, in the Hebrew version, as a "threat" to God's omnipotence is an addition to the original epic that betrays the androcentric fears of its authors. They portray the first woman primarily as a lecherous creature whose curiosity and seductive powers were the cause, not only of man's disobedience, but of God's curse on mankind. The authors of Genesis thus make obedience¹⁵, rather than knowledge and experience of difference or "the other" (woman), the way to wisdom and immortality, the sword representing the separation of God's word (Logos, or the verb) from sexual love (Eros), and God's will replacing the will of the flesh, or instinct, as the privileged link ("copula") to what is divine in man.

As mentioned in the previous section, it was in this new religious context that marital laws that were more harsh than those enforced in Mesopotamia were defended as necessary to control female sexual activity. Tainted with Original Sin, the woman would henceforth play no exalted role in earthly affairs except when united with the flesh of man in a reproductive capacity. Mosaic laws were the first to make virginity

¹⁵ Religion comes from the Latin for "to bind" and obey from the Latin for "to hear".

before marriage a religious duty of women; and the Levitical law of the Israelites would stipulate that, after marriage, women must remain faithful to their husbands, a breach of which duty was punishable by death (by stoning or fire). From now on, female sexuality would be guarded and controlled, an irreversible contribution to women's subjugation within Judeo-Christian culture.

Periods of decadence during the formative years of Zion were overtly associated with a return to the old fertility cults. The perceived loss of control over female sexuality incited prophets to direct their criticism and suggestions for punishment toward a feminine object, reprimanding her behavior with charges that almost always had sexual overtones. The book of Isaiah, for example, begins with a description of the Israelites' corruption in Jerusalem around 700 B.C. Reminiscent of Moses' role in the book of Exodus, Isaiah prophesies that God will judge his people for their moral weakness, because "children are their oppressors, and women rule over them" (3.12). He then goes on to describe how women will be punished for their impropriety:

Because the daughters of Zion are haughty and walk with outstretched necks, glancing wantonly with their eyes, mincing along as they go, tinkling with their *feet*; the Lord will afflict with scabs the heads of the daughters of Zion, and *the Lord will lay bare their secret parts*." (Isaiah 3.16-17, my emphasis; again, feet could be used as a euphemism for the genitals)

Like Muhammad's advocates today, many Christians have claimed that Jesus intended to reform religious laws as they applied to women. However, like any hadiths advising men on prevalent marital laws and practices, ambiguities could also be read into Jesus' counsel as transcribed in the Gospels. For instance, the book of Matthew records that the Pharisees asked Jesus whether or not a man should "put a woman away for every cause" as God had commanded through Moses. This refers to the practices of polygamy and other means of repudiating a wife. Now, although it is written here that

Jesus responds by making a case for monogamy, so apparently does he legitimate "putting a woman away" for reasons of "fornication" (Matthew 19.9). Given that Jesus is said to have regarded marriage as a sacred "union of flesh", this verse could be interpreted to justify, not only divorce, but other means of "cutting off" a woman's flesh from one's own if it has been defiled, e.g. by her promiscuity. The excision of a woman's sexual parts could therefore be interpreted as being as righteous as the emasculation of eunuchs who, as Jesus says in the following verse, "have made themselves so for the Kingdom of heaven's sake" (19.12). If one takes literally the following (famous) quote that- curiously- precedes by a few verses the above discussion of sexuality, it could in fact be argued that Jesus condoned dismemberment as a punishment for carnal sin: "[Jesus:] Wherefore if thy hand or *foot* offend thee, cut them off, and cast them from thee: it is better for thee to enter into life halt or maimed, rather than having two hands or two feet to be cast into everlasting fire". (Matthew 18.8; my emphasis). Now "cutting off" could certainly be interpreted as a mere hyperbole, but it could also be interpreted literally by fundamentalists, and it certainly could be used to prescribe female circumcision if "feet" were taken as a euphemism of the genitals as it so often is throughout the Bible.

Because of the ambiguity of Christ's counsel to the Pharisees, one might still argue that Mosaic laws were modified in the New Testament in a way that was generally more favorable to women whose sex, likened to a "church", was to be unto mankind what Jesus was unto God. To be compared to a sublime piece of architecture might be flattering in another context, but here the analogy is used to encourage the sublimation of male sexuality, not to exalt the female sex which, as a vehicle, or medium, for the

proliferation of men's holy seed, is to be used solely as a means to men's spiritual ends¹⁶.

Despite Mary's having been the "Mother of God", it is Jesus, the Son of God, who will be elected to lift God's curse on mankind, for it is He (not Mary) who will offer, in the flesh, what had been forbidden since Eden: immortality. The sword that had separated Logos from Eros and men from Eternal Life is thus brought to man in the mouth of Jesus himself. This was perhaps Good News. Nevertheless, the new path to God would remain absolutely distinct from sexual love, the latter being damned to unite men only to the dust from whence they came: the body is of the earth, deceit and ultimately darkness and death, whereas Christ is the Truth, the Light and the Way. God's will on earth will henceforth be done in the name of the Holy Trinity (Father, Son and Spirit), severed once and for all from the sin that has been committed in the name of Woman and the Flesh.

Through Christian sexual ethics, monotheism made a lasting contribution to the subjugation of women, one that would effectively repress female sexuality for nearly two thousand years (c.f. Russell, 1970: pp.33-62). It was of the utmost importance to early Christians that a woman's earthly role be more restricted than ever before, for even the purely biological contribution of her sex was, in light of a (supposedly imminent) second-

¹⁶ Just to emphasize that it is the psychology of paternity, a psychology of power (not love), which is at the basis of a Christian sexual ethics, I will quote Russell at length on his account of why Christian missionary work in Melanesia failed to convert Trobrianders:

"Christianity... cannot be made emotionally or intellectually intelligible to people who do not recognize fatherhood. Instead of 'God the Father', it would be necessary to speak of 'God the Maternal Uncle', but this does not give quite the right shade of meaning, since fatherhood implies both power and love whereas, in Melanesia, the maternal uncle has the power and the father has the love. The idea that men are God's children is one that cannot be conveyed to the Trobrian Islanders, since they do not think that anybody is the child of any male. Consequently, missionaries are compelled to tackle first the facts of physiology before they can go on to preach their religion. One gathers from Malinowski that they have had no success in this initial task, and have, therefore, been quite unable to proceed to the teaching of the Gospel." (ibid.: p.22).

coming, secondary to a more urgent task: to avoid burning in Hell. Thus a woman's only glory would find itself confined by the roles she would play as either a virgin bride of Christ, or as a soul-factory. As Bertrand Russell explains:

At the Second Coming men were to be divided into sheep and goats, and the only thing of real importance was to find oneself among the sheep on that occasion. St. Paul holds that sexual intercourse, even in marriage, is something of a handicap to win salvation. Nevertheless it is possible for married people to be saved, but fornication is a deadly sin, and the unrepentant fornicator is sure to find himself among the goats. I remember once being advised by a doctor to abandon the practice of smoking, and he said that I should find it easier if, whenever the desire came upon me, I proceeded to suck on an acid drop. It is in this spirit that St. Paul recommends marriage. He does not suggest that it is quite as pleasant as fornication, but he thinks it may enable the weaker brethren to withstand temptation; he does not suggest for a moment that there may be any positive good in marriage, or that affection between husband and wife may be a beautiful and desirable thing, nor does he take the slightest interest in the family; fornication holds the center of his thoughts, and the whole of his sexual ethics is arranged with reference to it. (ibid.: pp.45-6)

It is hard to overlook the "neurotic misogyny", as Armstrong calls it, that quickly came to characterize the asceticism of the new Christian faith. She cites Tertullian, the leading theologian of the Latin church during the second century A.D., although his invectives against women were by no means unique¹⁷:

Do you not know that you are each an Eve? The sentence of God on this sex of yours lives in this age: the guilt must of necessity live too. *You* are the devil's gateway; *you* are the unsealer of that forbidden tree; *you* are the first deserter of the divine law; *you* are she who persuaded him whom the devil was not valiant enough to attack. *You* so carelessly destroyed man, God's image. On account of *your* desert, even the son of God had to die. (quoted by Armstrong, 1995: p.124)

As heiresses to Eve, it was thus inevitable that women should come to be

¹⁷ c.f. Russell, ibid.: p.61.

considered as equally wanton by all forms of monotheism. As we have seen, it was because of the suspicion of women generated by monotheistic variations of the Creation Story and other myths about female depravity that women fell into disrepute.

Now Islam, as the third and final monotheistic religion, is a little atypical of, if it does not actually break with, the misogynous heritage of its spiritual predecessors.

First of all, Muhammad did not adopt the religious intolerance characteristic of other religious prophets: the idolization of pagan gods (usually goddesses) was not decreed punishable by death. This is significant because of both the sexual permissiveness and the idolization of female sexuality and fertility characteristic of polytheistic sects. Also, although Muslims may have later adopted misogynous practices, women are not described in the Koran as objects, neither sexual nor spiritual, but as sexually-charged and powerful agents of an absolutely equal status to that of men. It is only because their ability to seduce was believed to be like that of a serpent, or Satan, that their capacity for virtue was deemed a half degree less than man's, and that Muhammad worshipped only the virgin and the child¹⁸. With the arrival of the new faith, an odd synthesis occurred between the phallocentrism that was typical of monotheistic cults and a new respect or even fear of female sexuality. Muslims would come to regard femininity as the very symbol of unreason and disorder (or, rather, of the cause of this among men); unfortunately, it was concluded that, in order for men to remain holy, the seductive power of women had to be hidden or otherwise repressed.

Because they pertain to the status of women, a remark should probably be

¹⁸ But at least women were not expected by Muhammad to be more holy than men; they were supposed to tempt men, naturally. So, according to Muhammad, what was "natural", although it was not always holy, was not necessarily a "sin". It is moreover well-known that Muhammad himself could not keep his hands off women (this, by the way, is not considered by Muslims to be a "fault" of the prophet but part of his charm). It may therefore be because he himself was so promiscuous that he condoned polygyny as more "natural" for men.

included here with respect to the so-called "Satanic Verses" that inspired Rushdie's recent work by the same name. Although the satanic verses are not known, from either oral or written sources, to have actually been recited by Muhammad, a tenth century historian named Abu Jafar at-Tabari claimed that these verses had indeed been recited but then later replaced by the prophet. The original verses are supposed to have declared that goddesses could act as legitimate spiritual intercessors between God and human beings. It is for this reason that the verses are said to have been inspired by Satan: only a satanic influence could have caused Muhammad to attribute such a high status to female deities.

Jafar at-Tabari thought that Muhammad, upon realizing the necessity of breaking once and for all with the old polytheistic faiths, replaced these verses with the harsher than usual condemnation of the ancestral pagan goddesses worshipped by the Quraysh (the tribe to which Muhammad had belonged before converting to Islam). The significance of Jafar at-Tabari's claim is not that it suggests that Muhammad might have compromised his belief in the one God (which is, I think, why Muslims take offense at the historian's claim), but that such intolerance was apparently so uncharacteristic of Muhammad that at-Tabari had obviously felt the need to contextualize his vicious critique of pagan idol worship¹⁹. Some scholars think that Muhammad's condemnation of the worshipping of goddesses represented an opportunity for him to claim equality with the faith of Christians and Jews. Before Islam, some revelation of the one God was anticipated by Arabs as they awaited their own spiritual deliverance; the pressure to convert to monotheism was in fact exacerbated by the contempt expressed by Muhammad's contemporaries who regarded polytheism as a sign of "barbarism" or

¹⁹ Unlike the prophets of other sects, Muhammad was more willing to admit that divine messages were often hard to decipher; his modesty and realism allowed him to recognize that, as a human being, he too was subject to human error. This had sometimes caused him to retract verses that he believed had been influenced by less than divine sources. So the historian's claim is not so far-fetched.

"spiritual inferiority" (Armstrong, 1993: p.136).

But I think that enough information has been provided in this sub-section to conclude that, if misogyny is the root of female circumcision in Islam, it cannot be attributed specifically to a Muslim attitude toward women but to the shared root of Judeo-Christian gender attitudes and practices affecting women. Imperialistic criticisms of the origins of female circumcision might thus not only fail to accurately situate misogyny within the shared roots and symbols of monotheistic faiths but, by fueling the fear of cultural imperialism or by otherwise alienating the non-Judeo-Christian woman, they may be an ineffective means of developing a strategy to eradicate this practice.

Having illustrated some of the complex social and historical issues related to the origins of female circumcision in Muslim culture, I hope to have established that it is presumptuous (if not plain wrong) to blame the religious or ideological differences of Islam for either the creation or the perpetuation of this practice among Muslims today. But we still have not discovered why, if there is no religious prescription to sanction the practice in Islam, female circumcision is still practiced so faithfully on so many Muslim women. Beyond when, where and how it is or has been performed, **why** it is still performed today- on anyone- remains somewhat elusive, whereas grasping the reasons why female circumcision is still practiced is necessary to eventually eliminating it.

In the case of Islam, if it is not the Koran that is responsible for the creation and perpetuation of female circumcision, then what is it that has contributed to ongoing allegiance to this practice in Muslim society? According to Reza Afshari, it is the failure of Islam to have developed an "ideological synthesis" between nationalism and democracy. As he writes:

Before the rise of the Islamist movements, the ideology and political disposition of nationalism contributed to the failure of democracy. The Arab elites placed liberation of the nation over individual liberties, the creation of Arab unity over the defense of individual Arab's human rights,

and the strength of the state over the protection of civil society from state abuses. (Afshari, 1994: p.235)

It is in fact the politicization of Islam and not its religious culture per se that, in Afshari's view, is responsible for the transgression of individual liberties including women's sexual freedom. Similarly, Fatima Mernissi distinguishes between Risala Islam (the Islam of the Koran and hadiths) and the political Islam preached by fundamentalists, what she calls "Petro-Islam" (Vanity Fair, 1993: p.158).

What I propose to do in conclusion of this chapter is to lay out the points of view of these two Muslim authors, both of whom strive to establish some basic critical tenets by which to re-evaluate the portrayal and treatment of women within contemporary Muslim society. Although both are progressive Muslims, one bases his critical tenets on notions derived from "outside" traditional Muslim culture while the other attempts to modernize the culture "from within". One proposes secularization while the other proposes a more conservative approach to modernization. They therefore represent concrete examples of the two general approaches that I will contrast in chapters two and three: the secular, universal approach and the more culturally relative approach.

D. Conclusion: two critical approaches to modernizing Islam

As we saw at the end of the last section, Reza Afshari claims that the anti-secular trend of the Islamization project has been motivated by political rather than cultural interests. The Islamic state, he says, is only superficially concerned with the renewal of traditional practices and values; otherwise it would not be so eager to absorb Western-derived commercial and bureaucratic know-how. He thus maintains that "secular habits" are not so alien to Islam as fundamentalists would have us think: according to Afshari, secularization has become the norm within the economic and administrative strata of public life, while what remains unchanged is "the arbitrary power of the state, the habit of private consumption, military ambitions and armaments" (ibid.: p.243). In Iran, for example, Afshari alleges that the rejection of secularization serves mainly as a "smoke-screen" (ibid.: p.249), used to protect the interests of the "bloated public sector" (ibid.: 241) whose socioeconomic ascendancy has been left unchecked by democratic principles. As a result of this combination of (economic) secularization and (cultural) Islamization, he contends that:

The individual is left unprotected by a state that uses contrived, religiously-sanctioned, political rationales for a reincorporation of the individual into an imagined communitarian society. Paradoxically, the enormous capacity of the modern state's apparatus is used to create a communitarian society, and the community is left with more of an authoritarian state. (ibid.: p.249)

According to Afshari, the repressive mechanisms of the state, defended as "cultural practices", have become an excuse for supporters of Islamism to deny the legitimacy of the Universal Declaration of Human Rights (UDHR), central to which is the commitment to limiting the state's control over the individual. Caught in the middle of a struggle against secularization that is more political than cultural in fact, women, he

claims. have become the most valuable allies in maintaining absolute state rule:

As the state's dominant discourse, Islamism is left with only one major mark of distinction: its drive against moral impurities resulting from the "un-Islamic" appearance of behavior of women in public. Being placed on the edge of what seems to be the sole slippery terrain for deviation from the true path of Islam, women have become the *raison d'être* of Islamism, the reluctant bestowers of its legitimacy. (ibid.: p.257)

Afshari concludes that sexually repressive cultural traditions (veiling but also, in some Islamic states, female circumcision) are not "authentic" expressions of the Muslim way of life as much as they are symbols of how the state has successfully maintained its coercive power over individuals by disguising it behind the rhetoric of Islamism. Since the Islamization of modernity has prevented rather than facilitated state protection of individual freedoms, Afshari suggests that even the "new traditionalist" who aspires to modernize Islam by making it "fully consonant" with international norms (Abdullah An-Na'im being representative of this view; ibid.: pp.269-70) cannot hope to abolish the gender injustices currently imposed by the Islamic state without first adopting the secular discourses promoted by Muslim intellectuals: human rights and feminism (ibid.: p.256: pp.272-76).

Like Afshari, many Western critics of Islamism believe that, in order for women to be liberated from oppressive social trends, Islam must follow the path of most modern states and make certain concessions to secular institutions such as the UDHR. I will discuss the foundations and limitations of this human rights approach in greater depth in the next chapter. However, it may be useful to raise, in a preliminary way, some of the questions it raises. Women's sense of identity within Islam is affected by cultural institutions that, although they may have little to do with the religion of Islam, may have even less to do with the moral precepts advocated by a secular state. It may not therefore be perceived as very advantageous to them to have the state adopt a more "secular"

attitude with respect to national legislation; and even if they could be persuaded of the benefits of secularization, nobody is able to promise that it would improve their current standard of living. Even feminist anthropologists hesitate to recommend secularization as the royal road to women's liberation. Still in the process of correcting some of the oversights generated by gender-biases in their field (e.g. in the study of kinship systems), a feminist anthropology is not even able to theorize its research as a distinct discipline yet, let alone recommend a strategy for social change that would embody feminist ideals (c.f. Introduction, di Leonardo, 1991). Although the first criticism of androcentric interpretations of gender roles within traditional communities may go back as far as Margaret Mead, a "feminist anthropology" is still trying to establish that the concepts of sex and gender are cultural and not natural constructs²⁰.

Now it is true that, in the case of female circumcision, most professional and university educated women are both uncircumcised and opposed to circumcision²¹. Nevertheless, it is not clear that this can be claimed to be an effect of "secularization" and, even if it could be, this would not indicate what the actual social and psychological processes might be, or where they start. Obviously, we cannot discount women's social advantages before entering a secular educational system (including the fact that they are literate and sexually intact and live among men who prefer them that way) as having contributed to their forming an idea of female circumcision as an "illiberal" practice. Women without these advantages may not see the benefit of adopting a more progressive

²⁰ The first attempts to theorize a "feminist anthropology", Reiter's Toward and Anthropology of Women (1975) and Rosaldo and Lamphere's Women, Culture and Society (1974), were compiled about sixty years after the work of the first anthropologists to have focused on the issue of gender and anthropology: Ruth Benedict and Margaret Mead

²¹ Koso-Thomas conducted a survey of 257 circumcised women of various backgrounds (Muslims, Protestants, Catholics, Animists and others). Nearly all of those who favoured the practice were illiterate; among those with an education, 79% favoured discontinuing the practice.

attitude with respect to current gender roles within their culture. It would therefore be hasty to conclude that secularization rather than, say, an improvement in their immediate living conditions would, for these women, have the most liberating effect. They, unlike Afshari, are not intellectuals.

Furthermore, the notion of "secularization" is itself an ambiguous concept, to be distinguished from both pro-feminist and non-religious institutional reforms. The secularization of morality, as it was called in the nineteenth century, had nothing to do with the rights of women, nor did it represent the freeing of morality from theology. In his well-known lectures on the topic, Owen Chadwick in fact defines secularization as "the relation (whatever that is, which can only be known by historical inquiry) in which modern European civilization and society stands to the Christian elements of its past and the continuing Christian elements of its present." (1993: p.264) He demonstrates that even the most enlightened anti-clericalists failed to subvert their own Christian roots when it came to morality. Just as contemporary culture has evolved from patriarchal and religious society, so too have contemporary moral axioms evolved from patriarchal and religious thinking.

Although it may be frequently used in this sense, the secularization of culture cannot therefore be understood as marking a break with traditional culture, for it cannot even be defined in opposition to religious culture. On this, Afshari would in fact agree. As he so eloquently states:

In the praxis of life in a changing world, secularization cannot be reduced to a cast of mind or a mental trait, nor should it be characterized as a set of abstract principles or anti-religious ethos (...) The secular and the traditional are intertwined in such a way that it is hard to distinguish one from the other. The preconceived locale of the sacred and the profane constantly shifts, and, as in Salman Rushdie's famous novel, devils descend on us when we expect angels, profanity when we await reverence, and doubt when we desire faith. Life [in Islam] has become a *mélange* in the disjunction, so characteristic of the Third World neopatriarchy, between

theory and practice, between words and deeds, between the claim to ideological purity and the hybrid reality of everyday actions (ibid.: p.239)

But Afshari apparently fails to follow through on the reversibility of his own point. One could argue that the Western notion of "civil rights" are themselves a typical example of how the patriarchal elements of Judeo-Christian culture have been bred into "secular" culture and that to oppose Islamic law (the Shari'a) in the name of secular laws such as those promoted by the UDHR is to deny the latter's own religious roots. Such criticism would not affect the claim that making certain concessions to Western-defined human rights might have the effect desired by intellectuals such as Afshari, and who could not be sympathetic to his plea:

In defense of the human rights of millions of educated, secular, and modern Middle Easterners, I urge rejection of the dichotomy created between tradition and modern, between authentic and inauthentic Muslims. This is an arena for a witch-hunt. I am aware that "human" in human rights has ceased to be the "other", it has become "me", and the experience of my life, shared by thousands of men and women who have broken intellectually and emotionally with the past. (ibid.: p.259)

However, Afshari's defense of secularization is distinct from an argument that could be used to convert opponents ("traditionalists") to his point of view. He has not actually established that the transformation of religious law into civil law will yield a greater scope of "freedom" or a better "quality of life" or some other social advantage that is superior to the advantages currently afforded by conformity to religious traditions²². Where social identities depend on conformity to religious laws as they presumably do in the minds of traditional Muslims, the imposition of new laws may even represent a form of oppression. As Chadwick remarks:

²² Determining the success of a more systematic attempt to legitimate the foundation of human rights is the object of chapter 3.

Without law, freedom is not. To resist governments in the name of freedom is in one aspect to resist men believed to tyrannize over freedom. Simultaneously it is to weaken or wipe out the law which is the ground of freedom" (ibid.: p.24).

Furthermore, if, as Afshari claims, it is the politicization of Islam, and not Islam itself, that is behind oppressive trends within Muslim culture, then it may be quite unnecessary to target the religious basis of Islamic laws as that which must be subverted in order to liberate women. As we have seen, it is not fair to submit that Islam is fundamentally more unjust with respect to women than other monotheistic cults, or even that Judeo-Christian laws are "more secular" than Islamic ones. As Memissi objects:

Is it correct to say that the Muslim world did not develop a modern legal system in the Western sense of the word? Are the laws governing public and private actions of Muslims today the same laws sketched by Muhammad? Of course not. The *shari'a* had to confront the daily realities of the increasingly numerous and culturally diverse members of the *umma* [Muslim community]...The result was a gradual liberation of some subjects from the hold of religious law. (ibid.: pp.21-2)

Perhaps the most significant objection to a liberal apology of the benefits of secularizing Islam is that it may prove futile in thwarting the traditionalist's commitment to the Shari'a as it currently stands; it may not be enough to make a case for the needs of liberal intellectuals, or against political despotism. How can traditionalists living within a complex culture such as Islam be expected to adhere to the ideals of a culture whose legal and political discourses are alien to them? I am not talking solely about the politicians and intellectuals but about the unenlightened and unempowered members of this culture. In order to engage them in any kind of social change, wouldn't it be more effective to take into account the reasons given by them for their continued allegiance to traditional practices rather than go over their heads and demonstrate, to fellow intellectuals and other sympathizers, how they have been politically manipulated?

Without having addressed the specific reasons given for practices that are oppressive to women, even a successful conversion of the traditionalist to the secularist's ideals of modernization may remain a strictly political move, for the real obstacles to women's emancipation- in practice- may be related to Muslim women's sense of social identity within a complex and evolving society. Grasping the immediate reasons for adhering to cultural practices that are oppressive to women could provide an indispensable means of removing the obstacles that are currently hindering a critical strategy for their eradication.

As a feminist and a Muslim, Fatima Mernissi attempts to contextualize modern day Islamic culture by foregrounding the missed relationship of Islam to Enlightenment ideals. She stresses that the foundation of what is called secular humanism in other countries "was developed not so much against religion as against state interference in religion and especially manipulation of it" (Mernissi, 1992: p.45). She then proceeds to examine the origins of the fear of democracy, of freedom of thought and individualism and how these fears are reflected today in the conflict between the Shari'a and the United Nations Charter. As a progressive member of Islamic society²³, she tries to establish some links between feminism and her own culture rather than treating them as fundamentally irreconcilable. Mernissi suggests an approach that may hold more promise than Afshari's of removing those obstacles that are preventing an authentic and lasting assimilation of basically new concepts and ideals.

With respect to the Universal Declaration of Human Rights, Mernissi concedes that its concepts "could have emerged and changed perceptions in societies with a despotic tradition only if a systematic program of education and civic training had been undertaken." (ibid.: p.73) But she also accepts the fact that this did not happen and that history cannot be changed. In the absence of this past, what must be done, according to

²³ Afshari, by the way, is basically sympathetic to Mernissi's criticism of Islam.

her. is a "minute remodeling of concepts of power and its use shaped in the Arabic language, which has been tightly controlled since the Abbasids so that it could not diverge from its caliphal past". Unlike Afshari, Mernissi does not think that this remodeling can be based on secular texts, ideas and history; she attempts instead to graft some new critical concepts onto the Koran, which is and will probably remain the basic text of Islam.

With respect to the role of women in contemporary Muslim culture, Mernissi attempts to emphasize those feminist tendencies that are not alien to Islam. One of the main theses of her book Beyond the Veil (1987) is to demonstrate that the male-female dynamics of Islamic culture are based not on the belief in a woman's inferiority but in her power, especially her sexual power. Like Afshari, she believes that conservative trends in Muslim culture, such as promoting the veiling of women during the seventies and eighties, were politicized as a means to re-establish cultural cohesion. Unlike Afshari, however, she does not think that these trends can be interpreted according to feminist standards of "liberation" which she finds "superficial" (because the feminist movement is led by women and does not, from her point of view, significantly alter male-female dynamics). Moreover, she takes seriously the psychological issues latent in the commitment to traditionalism: external forces (territorial invasion, television, advertisement, etc.) are still perceived as a threat to the Islamic way of life; and who is to deny this threat? Finally, she links these issues to the traditional spatial "boundaries" of male-female dynamics which she believes are so essential to maintaining social and economic stability, concluding that cultural sensitivity and differentiation are necessary to appreciate the evolution of women's rights in Muslim society:

This belief in women's potency is likely to give the evolution of the relationship between men and women in Muslim settings a pattern entirely different from the Western one. For example, if there are any changes in the sex status and relations, they will tend to be more radical than in the

West and will necessarily generate more tension, more conflict, more anxiety and more aggression. While the women's liberation movement in the West focuses on women and their claim for equality with men, in Muslim countries it would tend to focus on the mode of relatedness between the sexes and would probably be led by men and women alike (Mernissi, 1987: pp.19-20)

The different legal, historical, political and religious traditions of women in other cultures, combined with the fact that human rights is a relatively new issue for all cultures, and that women, in spite of the formal equality they have achieved, are still not emancipated in secular culture, should lend some credibility to the more conservative approach to social change as advocated by Mernissi. With or without recourse to an exalted authority, or even to a religious law, "tradition" continues to be the most frequent reason given for continued allegiance to the practice of female circumcision in cultures other than Islam. In Sierra Leone, for example, the women interviewed by Koso-Thomas came from diverse educational backgrounds, representing all of Christian, Protestant, Muslim, animist and "other" persuasions: among these women, 86% cited "tradition" as the reason for their continued allegiance to the practice (Koso-Thomas, *ibid.*: p.46)²⁴.

So we might not disagree with Afshari that the despot's commitment to tradition represents only a "superficial" reason to promote traditional practices like female circumcision; but this may not constitute the only obstacle to secularization that **cultural traditions** represent. For example, as was pointed out in section i) of this chapter, even if female circumcision may point to some deliberately oppressive origins, cultural members seem to be ignorant of them or at least sufficiently distanced from them that they no longer have recourse to these "origins" as a reference or justification for their

²⁴ The other reasons indicated by respondents to this questionnaire included reasons of social identity (which came in second place but trailing by nearly 50%), and then, in decreasing popularity, reasons of religion, marriage, chastity, hygiene, and a few others.

current commitment to the practice; the religious symbol appears to stand on its own. Is it not this which distinguishes "traditions" from rationally deliberate actions? Isn't it individual fidelity to repressive traditions that poses the real obstacle to the kind of social emancipation desired by liberal intellectuals?

As I will discuss in more depth in the next chapter, it does seem to be "custom" that continues to dictate ritual practices even in the absence of ceremonies that endow them, as symbols, with their original meaning (if ever there was a particular one). custom that determines whether or not a woman will have her daughter circumcised, even when circumcision is no longer celebrated as a covenant with a deity or as some other sign of group membership and identity. So even if there may be sound reasons to want to criticize the traditionalist rhetoric of an oppressive state, it is not clear that these same reasons can convince all adherents to oppressive practices to abandon them as "traditions". For this it would seem necessary to uncover the reasons given for cultural traditions by various cultural members and why, if the traditions betray oppressive (and in the case of female circumcision, misogynous) intentions, cultural members (including women) still advocate them.

The next chapter demonstrates how the "secular" approach to female circumcision adopted by the UN has made certain concessions to the type of approach to modernization favored by Mernissi. Advocates of universal human rights have had to admit that female circumcision, as a cultural tradition, may be considered by cultural members as a means of expressing and/or protecting their cultural identity and that it cannot, for this reason, be treated in the same manner as other rights violations and simply eradicated.

CHAPTER TWO: RIGHTS

...we distinguish between the law of that which the needs of men require of me from that which their rights demand, the latter prescribing essential duties while the former assigns non-essential duties.

[Kant, Critique of Practical Reason]

Introduction

By summarizing the historical development of the claim that female circumcision represents a "violation of human rights", part A of this chapter will illustrate some of the applied limits of a human rights discourse on the issue of female circumcision. Human rights advocates have not been able either to denounce this practice as they would other rights violations or make specific recommendations toward its eradication. They have been compelled to adapt their universalism to the fact that female circumcision is a "cultural tradition".

Part B will proceed to discuss in more detail some of the factors currently influencing women's support of female circumcision in various cultures in order to illustrate that a critical assessment of female circumcision cannot be made without taking a wide range of cultural variables into account. These variables underscore the need to adopt a culturally sensitive approach to female circumcision such as the approach that has been adopted by the UN Sub-Commission assigned to address this practice. The chapter ends with some critical remarks concerning the non-universalizability of a rights discourse and how this raises theoretical questions pertaining to the relationship between liberal universalism and cultural relativism generally.

A. Female circumcision and the limits of universal rights

i) History of female circumcision as a violation of rights

Although female circumcision has been known to exist for a long time, it has only been in recent years that it has emerged as a rights issue in international assemblies. In 1958, the UN Economic and Social Council (ECOSOC) invited the World Health Organization (WHO) to undertake a study "of the persistence of customs which subject girls to ritual operations" (ECOSOC resolution 680 BII (XXVI)). This was the first time that female circumcision was mentioned in any public forum. But it took longer for this issue to actually come to the international fore: the resolution was actually rejected during the 1959 WHO Assembly on the grounds that the study of such ritual operations, as cultural practices, were beyond the competence of this organization. WHO did accept to undertake research on female circumcision as part of the study "On the Participation of Women in Public Life" (adopted as resolution 821 II (XXXII) in July 1961); however, it was only twenty years later, in 1981, that CEDAW (the Convention on the Elimination of All Forms of Discrimination Against Women) formally brought the UN's attention to gender specific practices such as female circumcision as violations of women's "rights to health".

Not until 1993 were specific practices mentioned in any declaration as violations of women's and children's rights. Female circumcision, or "female genital mutilation", as it was renamed in 1990 (WHO/Inter-African Committee (IAC) Regional Conference, Addis Ababa, 1990), was one such practice. It has thus taken nearly fifty years for feminists and other groups just to designate female circumcision as a practice whose effects on women's health should be put on the same footing as the effects of other harmful practices that may permanently impair one's overall well-being (e.g. torture). By Western standards, it is now generally considered as a violation of fundamental rights as

stipulated in the UN Charter, including the rights to life, liberty and security (article 3 of the Universal Declaration of Rights).

Regarding women's "health rights" specifically, there is still no formal "right to health" for women or anyone, but there is a right to "a standard of living adequate for health and well-being" (article 15 of the UDR), as well as other Declarations that could be used to protect a woman from practices that endanger her health: notably, the Declaration on Persons Being Subjected to Torture and the Declaration of the Rights of the Child. However, like the UN Charter, these are not binding upon member states: they are Declarations, not laws, nor even Conventions. Other major non-governmental organizations are also committed to health issues, such as the World Health Organization (WHO), and Amnesty, but only CEDAW is concerned primarily with women's health violations which are often given less attention than other forms of abuse by the other two organizations (Bunch, 1991; Kim, 1993: pp.82-85).

The international recognition of female circumcision as a human rights violation has been, and continues to be, difficult to achieve for several interrelated reasons.

First, establishing women's rights has not itself been easy: the Women's Commission, created in 1946 by ECOSOC, has traditionally had less power than the Human Rights Commission. For example, although they were both created the same year, the Human Rights Commission was granted the authority to investigate rights violations in 1967 and the authority to make recommendations on specific complaints in 1970, while the Women's Commission was not granted the same powers to review discriminatory practices that violated women's rights until 1984 (Kim, *ibid.*: pp.78-81).

Second, once given these powers, the Women's Commission remained disinclined to bring up marriage laws or practices like female circumcision because of what was perceived as their private or social, as opposed to public or political, context. This only began to change in 1990 when over one hundred countries acceded to CEDAW. Before

this time. many states refused to take steps toward the eradication of traditional practices that violated women's rights on the grounds that many of these practices represented a domestic and not an international affair. Western feminists have contested these grounds, taking them up in their battle against the traditional separation between the public and the private in Western legal institutions and popularizing sayings like "the private is political" or that "women's rights are human rights" in order to change these institutional arrangements which they believe perpetuate injustices suffered by women within the private sphere of many nation-states. These criticisms have undoubtedly been fruitful, especially in Western states where traditional sex roles have been undergoing substantial revision for the past few decades, but they still encounter resistance at the international level. When it comes to a Convention like CEDAW, for example, not only have those states where discrimination against women is the most severe refused to sign treaties that would protect "women's rights" (e.g. Somalia), but the states that **have** signed on to them also invoke their "right" to claim reservations (Vienna Convention on the Laws and Treaties. May 23 1969, art. 2 (1)(d), 1155 UNTS, 331).

Although women's rights have achieved formal international recognition, many non-Western states still do not adopt Conventions like CEDAW without reservation. For example, Egypt, Libya and Bangladesh reserve the right not to apply article 2 of the Convention- on creating policies that will eliminate discrimination against women- on the grounds that it conflicts with Islamic law (the Shari'a). This practically defeats the whole purpose of signing on to an international Convention, the aim of a Convention (as opposed to a Declaration) being to lead to a ratification of the legislature of member states such that they then become bound by an "international law". Even traditionally more liberal states have reservations regarding several of the articles that would pertain to traditional practices affecting women: of the one hundred and some states that are parties to the Convention, forty-one have substantive reservations (Kim, *ibid*: p.79); that's

nearly half of the signatories! For instance, Egypt, Iraq, Brazil, Bangladesh, Korea, Tunisia, Turkey, Mauritius, but also Ireland, Luxembourg, the UK and France have reservations regarding article 16, which stipulates that discrimination against women should be eliminated in all matters affecting marriage and family relations.

This brings me to the third and most complex reason for international reluctance to condemn a practice like female circumcision as a human rights violation: its cultural and economic context. Like other oppressive means of maintaining gender inequalities, female circumcision is often bound up, not only with a history and a culture, but with an economy. Female circumcisions are different from, say, torture or assault (to which they are often compared from the human rights point of view) because the "victim" herself may not want the practice discontinued both for personal and economic reasons e.g., so that she and her children may continue to enjoy full social status and economic security as women (Gruenbaum, 1988: p.311; Lightfoot-Klein, 1990: p.84; McLean, 1980: Abdalla, 1982: p.51). The mid-wife who performs the operation may not want to abandon the practice either, as she may find herself in the unique situation of economic independence (Gunning, 1991: p.222). Gunning also points out that, even in those African societies where women may want female circumcision abolished, this does not take precedence over more pressing social problems affecting women: "... poverty, scarce land and water, heat and dust storms, and generally bad health care. The surgeries do not head the list of wrongs that need to be righted to improve the status of women" (ibid.: p.225; c.f. Bouleware-Miller, 1985: p.163; Lightfoot-Klein, 1990: p.85).

In comparison to the negative health effects that they will suffer as a result of circumcision, these factors may not seem to amount to a substantial reason for continuing

with the practice from the human rights advocate's point of view²⁵; but they are real reasons from the affected parties' point of view. Let it suffice for now, as an example of how these reasons might affect international decisions and actions, to focus solely on economic considerations.

It is hardly necessary to emphasize the international importance of national socio-economic stability. It is because of the primacy of this stability in all countries that the right to non-interference was invented. This right is stipulated, among other international documents, in the first article of the International Covenant on Economic, Social and Cultural Rights (drafted simultaneously with the International Charter of Rights) as the "right to national self-determination", which includes the right of nations to determine their own social and cultural development. Developing countries still have recourse to this right in order to protect the laws and customs that form an integral part of their national identity from international intervention. In the case of female circumcision, a human rights issue enters into conflict with what is perceived within some countries as a cultural tradition. The state is therefore permitted to withdraw its support from a Convention, or support it partially by claiming reservations, thus overriding the woman's rights and freedoms where they conflict with traditions. Even if the state's representatives did agree to accept accountability for certain traditions as violations of women's rights, the state remains sovereign when dealing with the violation at both the national and international levels: it alone has the authority to reform legislation and to follow up with penalties when laws are broken, and it alone has the authority to present claims of rights violations in the International Court of Justice (Smith, 1992: p. 2498).

²⁵ Some cultural relativists even go so far as to argue that there are "legitimate" reasons, i.e. closer to objectively valid than purely subjective reasons, based for example on the socio-historical incommensurability of different legal traditions and institutions (chapter 3 goes into more depth on the issue of the "validity" of cultural norms in relation to the facts of cultural pluralism and incommensurability).

But, as I suggested in the conclusion of chapter 1, it may not be the state's right to non-interference that alone poses an obstacle to the universalization of human rights. The inability of the UN to enlist the financial support of its members in order to actively deal with rights violations has also been a real obstacle. There has obviously been a steady increase in external pressure from human rights organizations to get countries to conform to their evaluation of traditional practices that are oppressive of women. The 1993 World Conference on Human Rights may in fact be aptly praised for having put "unprecedented emphasis on eliminating violence against women as a human rights violation" (Sullivan, 1994: p.155). However, even during a conference such as this one where the very purpose was to establish an effective program of action to deal with the violation of women's rights at the international level, the fact remains that, "for the most part, governments failed to integrate women's human rights into the Declaration and Programme of Action as a whole" (ibid.: p.155). The causes of this failure, according to Sullivan, stemmed from the general reluctance to attend to technical assistance and advisory services, including "the allocation of resources for the Center for Human Rights and for human rights activities in the context of other UN programs; and the integration of human rights concerns into the full range of UN activities, including peace-keeping and peace building, development and humanitarian assistance" (ibid.: p.159).

One cannot help but wonder if the idleness of member states with respect to programs of action does not attest to their real priorities: their own economies, an interest that would conflict with the commitment to "universal rights" in the same way that individual acquisitiveness conflicts with a moral commitment to universal equality. Just as it is easier to articulate this commitment than to follow through with equitable actions, so too is it easier to define rights than to follow them up with effective programs for their implementation.

The failure to develop mechanisms to aid in the eradication of female circumcision

can thus at least be partially attributed to the failure to accommodate, at the international level, the actual juncture between an abstract commitment to human rights and a concrete commitment to economic and social realities. So, although only circumcising cultures are actively responsible for the violation of human rights, non-circumcising cultures, in failing to financially support programs that would help diminish these violations, are at least passively responsible for delaying the universal application of rights declarations.

Without the financial assistance necessary to eradicate female circumcision gradually and at various social levels, there is little doubt that the practice will either continue in many African countries or that the costs of phasing them out will be borne by women, the very party whose rights are at issue. This is because, without the advent of other social changes pertaining to women's status (accessible education, work and health care), their survival and happiness will continue to depend on traditional notions of what constitutes their human worth and integrity, such as their safeguarded virginity and/or chastity. Women are unlikely to challenge the "rightness" of their circumcision in those countries where they have neither any interest in nor any familiarity with the human rights discourse, or where they have no other means of subsistence than through the work and protection of their fathers or husbands (Toubia, 1985; Lightfoot-Klein, 1989; Dorkenoo, 1980). Neither is change likely to be initiated by the circumcisers themselves who continue to reap the financial benefits of their profession. In some regions of Burkina-Faso, for instance, the circumciser's profession is passed on from one generation to the next such that an entire family's subsistence may be at stake if the profession disappears (ECOSOC Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/1991: p.34). This is not to suggest that women "want" to continue with female circumcision, but that they live in social conditions where their choices regarding the practice may be limited due to economic disadvantages.

Other economic factors that were identified by the UN Sub-Commission as being

linked to women's continued allegiance to female circumcision included: the existence of dowries (*ibid.*: section 35), the prevalence of son preference, a patrilineal system of inheritance (*ibid.*: sections 39 and 42), and men's higher economic value as workers in traditionally agricultural societies (*ibid.*: section 48). In countries where marriage continues to be seen as a wise "career move" (Gunning, 1991: p.215), it is no wonder that the eradication of female circumcision may be perceived by women as more of a social and economic threat than as an advantage. All women who are affected by the practice are likely to suffer economically if the reforms pertaining to marital relations have not themselves been supported by all community members. And this requires that the economic reasons listed above cease to exist, a change that can only be effected gradually, at the grass-roots level and with financial support given to health, work and education programs.

Granted that the eradication of female circumcision is fraught with economic problems for which various organizations must take responsibility in order to establish effective programs of action, there is another significant problem with the application of human rights to circumcising cultures which lends the whole issue another dimension: the cultural embeddedness of this practice in traditional social values or some other shared ethics.

It was because of the socio-cultural context of female circumcisions that the first UN Sub-Commission assigned to investigating them decided to adopt a culturally sensitive approach to their analysis as a potential human rights violation. Spokespersons were invited from Eastern and Western Europe, Asia, Africa, and Latin America in order to represent a wide variety of cultural attitudes toward the practice. Even representatives of those states that had not yet denounced the practice as a human rights violation were invited to participate in the working group. The result, as Katherine Brennan states, was a "balancing process which weighed the cultural function of female circumcision against

the harmful consequences" (Brennan, 1989: p.389).

Since its first meeting in 1985, the working group for this Sub-Commission focused primarily on educational as opposed to punitive measures as a means of eradicating female circumcision. Although most participants agreed that the practice should be regarded as a human rights violation, they did so, not because of any agreement on a moral norm by which to judge the practice, but because the practice was regarded as being "at variance with new standards defined by various international instruments relating to human rights" (Report of the Working Group on Traditional Practices Affecting the Health of Women and Children, UN Doc. E/CN.4/1986 at 21, quoted by Brennan: 390). This is not the same as saying that female circumcision is morally "wrong"; for it is simply to concede that the practice violates certain beliefs about humanity that are the foundation of secular law according to which the transgression of basic rights is "wrong". The amoral, or strictly empirical, nature of the agreement should be clear enough.

Similarly, although nobody argued that female circumcision should not be phased out, this agreement was reached mostly in acknowledgment of the fact that social institutions are currently changing in a way such that the practice is being phased out (more hygienic and less painful methods of intervention via hospitals, fewer rites associated with the procedure, etc.). Nobody urged that these changes be stopped; on the other hand, nobody argued for changes that hadn't yet been either legally or empirically initiated. The moral and religious beliefs underlying the practice were all treated with considerable discretion. The patriarchal control of women, for example, was not taken up and openly criticized by the Sub-Commission, for to have denounced it in connection with a "tradition" would have been to challenge the legitimacy of the beliefs and values that form an integral part of many of the circumcising communities. Again, this type of imputation was avoided by the working group, not for diplomatic reasons (e.g. out of

respect for- or "tolerance of"- others' points of view), but because it would have made it look as though some moral consensus existed among the working group members, whereas this was not the case (Gunning, *ibid.*: p.244; c.f. Brennan 1989: p.382).

Finally, the purpose of the working group of the Sub-Commission was not to investigate female circumcision as a "human rights violation" (which can only be done after member states have denounced the practice as such) but to try to reach some consensus on how, in those countries where it has been denounced, it might be eradicated in a humanitarian way. To discuss the latter question it was not necessary to reach any moral consensus.

The unusual deliberative process used to discuss female circumcision at the international level is a reflection not only of the fact that it is a "woman's issue" (and, like all women's issues, has only recently begun to gain international attention), but of the fact that it is a woman's issue that cannot be resolved without giving due consideration to the factors behind its status as a cultural tradition, something which is not always the case for other women's rights violations, e.g. war-rape or torture. In deciding not to treat female circumcision according to the customary approach (for which the liable state's representatives would need to have already denounced the practice as a human rights violation), the working group of the Sub-Commission judiciously avoided criticism that could have been interpreted as a form of cultural imperialism. But it also avoided any definition or legitimization of its own approach. This cannot help but make its recommendations appear as somewhat compromising both to the moral commitments articulated in the international covenant on human rights and to those parties representing states that have still refused to claim any liability for the practice as a rights violation.

ii) The need for a culturally sensitive approach

In a recent article on the subject, Nahid Toubia (1994) reviews some of the steps that have been taken toward eradicating the practice of female circumcision. Recognizing that the debate over female circumcision has, until now, emphasized mainly the health risks associated with the practice (for the economic and cultural reasons mentioned above), she concludes that, since many doctors and human rights activists no longer need to be convinced that this practice represents a violation of women's rights, "from now on, the question should never be whether the practice should be abolished or not, but how it can be abolished sensitively and effectively, without hurting those who already suffer from it" (ibid.: p. 134; c.f. Bouleware-Miller, 1985). This might seem to be a fairly basic proposition, but it raises the very crux of the issue at hand.

As was mentioned above in the context of the Sub-Commission's discussion of female circumcision as a rights violation, understanding the cultural factors underlying gender specific practices that are physically harmful or oppressive is indispensable to determining how they can or should be changed without also causing social, psychological and economic oppression to befall those who are affected by them. It is relatively easy to say why a practice is offensive from a certain point of view (e.g. the doctor's or the human rights advocate's); it is quite another to actually understand the practice from an internal point of view (e.g. the patient's or the layperson's); yet this is what is actually essential to its "sensitive and effective eradication". Karen Engle, for example, is critical of the fact that the problem of female circumcision has been approached mainly as a health issue; first, because phrasing the problem in terms of health risks is, she believes, a rhetorical device that has been used to support an already formed opinion on the problem (i.e., that the practice represents a violation of women's health and/or corporal integrity, usually formed without having even consulted the women who defend it); second, because this strategy is used "...despite the United

Nations own research on 'traditional practices affecting women and children', which indicates that women who oppose clitoridectomy within those cultures where it is practiced rarely cite health as a reason" (1992: p.1515).

Taking into account all of the non-medical factors that may explain why those who undergo circumcision are not necessarily in favor of its eradication seems to me to be an integral part of both adequately assessing the practice and figuring out how to eradicate rather than just condemn it. One might even question the legitimacy of an approach that proceeds to the condemnation and eradication of female circumcision as a "rights violations" without having first taken these factors into account. Is it legitimate or even effective to call for the eradication of a cultural tradition without having fully understood the psychological, social and economic implications of this and without having begun to implement social alternatives for those who will be directly affected by the proposed institutional changes? In order for the debate over female circumcision to have any applied consequences, it must be adapted to cultural circumstances and its terms transposed from the medical and legal realm to the applied ethical realm.

There is no intellectual arrogance intended here: everyone is entitled to regard a practice as morally intolerable, and there is certainly nothing to prevent the attempted eradication of such a practice when a consensus has been reached among those who have the authority to act on their opinions. This is democracy: moral and legal decisions need not reflect the full range of possible opinions, nor even "the truth" if it exists. In order for decisions to be fair, however, they should reflect judicious decision-making procedures and competent institutions. In the case of female circumcision, where there seems to be a cultural gap between the parties who make decisions and the parties who are affected by them, there may indeed be a need to sort through some of the more complex socio-historical issues that are part of taking effective and democratic action toward a desired end, in this case, the eradication of female circumcision.

It is surprising that a full understanding of the cultural implications of female circumcision should only come after their quasi-universal condemnation. This neglect of the cultural dimensions of the issue is not only ineffective, but arguably unethical. Even the UN Sub-Commission seems to have come to a partial recognition of this.

The purpose of the rest of this chapter is to highlight and discuss some of the issues that underscore the need to adopt an approach to female circumcision that is, like the current UN approach, more culturally sensitive than what may have first been thought necessary from a secular or universalistic point of view.

B. Some cultural variables affecting a moral assessment of female circumcision

i) Introduction: what's in a name

In so far as excision and infibulation both involve the removal of the skin, flesh and nerves responsible for genital stimulation, to refer to them as "circumcision" invites an inaccurate comparison to male circumcision. As Hosken remarks:

While the male operation removes a small piece of skin that has few nerves, the female operation, correctly called excision, removes the entire organ of the clitoris, and frequently, adjacent structure, often damaging arteries, the urethra, the perineum, and even the rectum. (1979: III/2, p.1)

Hosken in fact suggests that, if excision and infibulation are the female equivalent of a genital operation performed on males, it is not circumcision but "castration" (ibid.: II/2, p.1). But this is not entirely accurate either, for although the vulva and clitoris may be the most physiologically equivalent to the penis, castration implies the removal of one or more of the reproductive organs (for a woman: the ovaries, uterus and vagina) while, for a "circumcised" woman, these are all left intact. This is not to imply that the consequences of the female form of "circumcision" are not more serious than the male form, on the contrary: by forcibly preventing the loss of virginity of an unmarried woman and by permanently altering her sexuality to make it "purely" reproductive, excision and infibulation are psychological as well as physical manipulations. It is as an attempt to control feminine sexual identity, to model a woman's purity, duty or nobility on her ability to procreate (ovulate, be penetrated and give birth), that female genital manipulations are potentially reprehensible.

As we have seen, it is because rights advocates believe that a woman's overall well-being is sacrificed to promote these qualities that they regard female circumcisions as violations of a woman's right to health and insist on referring to them as "genital

mutilations". They also urge that, because circumcisions permanently alter the appearance of a woman's genital and her psychosexual potential, they violate her rights to corporal and sexual integrity (Slack, 1988: p.486; Bouleware-Miller, 1985: pp.172-4). According to this point of view, even a hygienically performed female circumcision would be a "mutilating" practice because of its debilitating effects on a woman's physical and psychological integrity.

Nevertheless, as Toubia points out, breast reductions and implants, electrolysis, deveining, liposuction, face and other "lifts", bleaching, epilation, body piercing and tattooing, as well as genital manipulations such as vasectomy, hysterectomy, tubal ligation, sex "changes" and cosmetic genital reduction (including removal of the labia!) are all legally performed in both Europe and North America (Toubia, 1994; c.f. Gunning, 1992: p.211). These manipulations are also intended to permanently alter a woman's bodily integrity and psychosexual potential, so shouldn't they too be called mutilations? Perhaps a woman born with missing or altered sexual organs and nerves should be called genitally mutilated as well. Obviously, this kind of labeling would most likely be considered an insult to the dignity and integrity of those who tolerate their unusual condition: to mutilate implies both physical and psychological scarring, and the intention, not only to permanently alter, but to permanently wound or harm, whereas, as I also suggested in the preface, this does not appear to be the intention of parents who have circumcised their daughters. It is for this reason that, even though "female circumcision" may be a misleading term, I will continue to refer globally to the various forms of female circumcision (clitoridectomy, excision and infibulation) as "female circumcision" (or, as it is also commonly abbreviated now, as "F.C."), preferring this term to "female genital mutilation" which, without communicating anything more specific about the procedures than the traditional term "circumcision", also expresses an *a priori* value judgment of the meaning, purpose and effects of the procedures generally,

whereas this depends both on the type of F.C. performed and on cultural norms, as I hope to demonstrate in the remainder of this chapter.

In saying that female circumcision need not be called "mutilating", I am not denying that circumcised women suffer a number of serious medical complications throughout their entire lives. It is for this reason that I prefer "F.C." to the term "genital surgery", suggested by Gunning (1991: p.193 n.15): medical complications are caused by female circumcisions **not** being surgically performed. Among the potentially adverse physical effects of non-surgically performed F.C. are recurring pelvic and urinary infections, cysts and abscesses, dyspareunia (painful intercourse), difficult childbirth, and uterine prolapse (the descent of the uterus into the vagina during prolonged labor). Because of the unhygienic and sometimes careless conditions under which female circumcisions may be performed, women could also be put at a higher risk of contracting the AIDS virus than uncircumcised women. All of these potential complications are not subject to cultural variations as much as they are to, say, variations in the quality of medical care available within a given community; and the best way to eliminate them would be to legalize circumcisions as "surgeries", leaving their criminalization to situations where they are not performed under sterile conditions (e.g. a hospital). Since the purpose of F.C. is not to produce adverse physical effects such as infection, this compromise should satisfy both adherents to the practice and those who object to the practice from the point of view of health: if F.C. were hygienically and painlessly performed, it would in fact no longer be a violation of the "right to health".

As we have seen, however, our own Criminal Code conveys judgments of F.C. that condemn it for reasons other than those pertaining solely to health. Female circumcision is not even condemned primarily on the grounds that it is "mutilating" or "maiming", but on the grounds that it is a form of sexual "assault" or "abuse". It is in fact because it is practiced on children (who, in our culture, cannot give their legal

consent until the age of eighteen) that F.C. has been criminalized. As adults, women may be legally "mutilated" if they so choose. So even if sexually oppressive fantasies still underlie a woman's desire to self-mutilate in our culture, it is not a crime for a third party to assist her in accomplishing what she desires as a mature adult. As long as mutilations are performed hygienically and on consenting adults, they are not considered assault. It is only when they are carried out on children that mutilations become "criminal". So it would seem to be the idea of what constitutes "legal" consent that is the real issue behind the criminalization of F.C.

But what of other forms of "mutilation" performed on a child before she reaches the legal age of consent, e.g., tonsillectomy or male circumcision? They have been legalized and the health risks diminished so that they can be performed surgically, although it is unlikely that any child would consent to these mutilations without persuasion, or force (which, performed without anesthesia, is probably the case of the ritual male circumcision or "bris"). One might argue that when the child reaches the age of reason, he or she will appreciate the adult's initiative and that, furthermore, the adult has the child's best interests in mind (e.g., her health). Fair enough; but then the issue has become one of the parents' reasons to impose their will on a child, of what adults view as reasonable practices, the issue of whether or not they have socially acceptable reasons to justify the mutilation of their children. A circumcised woman might also express gratitude for her parents' having seen to her circumcision as a child, just as someone might express this in the case of her removed tonsils or his circumcised penis (the ages at which all three operations are performed are also comparable: although some girls may be circumcised, like males, on the eighth day after birth, many are usually about seven or eight years old when circumcision is performed, and sometimes with their own consent).

What parents are allowed to do to/for their children is a cultural variable. In our

own culture, where legal institutions were invented to bridge the public and private spheres of social life, parental authority is formally limited; they have a legal obligation to educate their children whereas, in other cultures, children may be kept from school and even sent to work for the family's survival. However, what parents are lawfully allowed to impose on children in their own homes is still a personal matter even within our culture: not only male circumcision, but other forms of initiation and indoctrination are not considered "abusive" even if they may be performed against a child's will and before the age of legal consent. The relationship between abuse and consent is thus also defined by cultural norms.

It is because of the cultural context of adults' moral standards, or even standards of what is normal, healthy and desirable, that a moral assessment of F.C. is problematic. By highlighting some of the possible cultural variables that may affect a woman's relationship to her mind and body, I propose to show that these in turn should affect an assessment of the effects of female circumcision on a woman's overall well-being. Among the factors that I propose to study in this chapter include the circumcised woman's experience of her own sexuality and how this is supported by her community, the meaning of ritual and the limits of pain.

ii) Sexuality

Frigidity, anxiety and depression have been listed by Koso-Thomas among the adverse effects of female circumcision (1994: p.27), effects that she attributes to a circumcised women's fear of sexual activity or even of just being touched. But other reports contradict these findings. However, the relationship between F.C. and psychological trauma is not that easily verifiable, let alone a static correlation, as I hope to establish in this section.

To begin with, some reports cast doubt on the observation that a woman's sexual

drive and pleasure are permanently frustrated by F.C. For instance, it has been suggested that, if circumcision is performed early enough, a girl may compensate the loss of her clitoris and labia by developing greater sensitivity in other erogenous zones, "transferring" her sexual responsiveness to these areas (Lightfoot-Klein, 1989: pp.87-8). The pituitary gland that regulates sexual drive is certainly left intact in the brain. Furthermore, a circumcised woman may not know any other sexual experience with which to compare her own; or she may place other values above sexual satisfaction, such as spiritual purity, physical chastity or emotional security (Gruenbaum, 1993: p.115; Toubia, 1988: p.102; Bouleware-Miller, 1985: p.167).

Lightfoot-Klein interviewed many Sudanese women who, even after having undergone the most drastic form of F.C. (infibulation) nevertheless reported full emotional and sexual satisfaction with their husbands. This is supported by some, but not all, of her colleagues findings on the same issue (Slack, 1988: p.454; Passmore Sanderson, 1981: p.42). Lightfoot-Klein attributes the discrepancies to the interviewers' own cultural and psychological biases, or their lack of insight into others'. For example, where "indifference" to sex has been reported among, say, Sudanese women, she suggests that the interviewee might have been saying what was culturally appropriate: in Sudanese culture, a woman is expected to act completely passively as a sexual partner and must express her need for sex through ritual activities, such as taking a smoke-bath that perfumes her body and living quarters with the smell of sandalwood, rather than by verbally asserting her own desire (Lightfoot-Klein, 1989: pp.87-90). To attribute the alleged sexual indifference to a loss of libido or sexual feeling might therefore be an inference of the interviewer.

Critics of F.C. may sacrifice empirical observation to what they consider to be more urgent: making a political statement. Fran Hosken (author of the Hosken Report) and Alice Walker (film maker and author of Warrior Marks) have both been criticized

for having portrayed F.C. in a way that is either too ethnocentric or too superficial to allow an in-depth analysis of how women are affected by it. Although Hosken accomplished some ground-breaking research on the topic of F.C., her information was gathered from the statements of foreign diplomats or other spokespersons (usually men) rather than from women, and although Walker wrote a book where she recounts her cinematographic exploration of the subject, her film has been criticized for "sensationalizing" F.C. By contrast, Lightfoot-Klein (An Odyssey) and Brooks (Nine Parts Desire), having spent several years living within the culture, clearly developed intimate relationships with the women they were studying. Because of problems relative to disclosure on the topic of F.C., close interpersonal relationships are practically a prerequisite to good information gathering.

Still, it may be argued that, although a more intimate or "sensitive" approach may be the preferred means by which to acquire and interpret women's own perceptions of their sexuality after F.C., medical facts should also be allowed to speak for themselves. The problem is that there is no way to isolate women's sexual experience in order to gain access to less subjective data about the degree of their sexual arousal and responsiveness, except perhaps by hooking them up to electrodes during sexual intercourse Master's and Johnson's style. However, this is a method that the sexually demure women of circumcising cultures are unlikely to agree to use. It is also a method that gauges nervous and glandular, rather than cognitive or emotional, responses, and it certainly does not gauge satisfaction, which is a broad qualification for which the testimony of women, when gained in confidence and accompanied by evidence to adequately support an interpretation of this testimony, should at least partially suffice.

Lightfoot-Klein is herself convinced that women who have no external genitalia can still have intense sexual experiences, including orgasm; she even cites studies by Master and Johnson, Money, Ogden, Otto and Verkauf that confirm that orgasm can be

elicited without clitoral or vaginal stimulation (ibid.: pp.83-87). Surely, when a woman has an infection or suffers pain as a result of sexual activity, she will not be able to enjoy her sexuality fully, if at all; but in the case of a healthy circumcised woman, we need not, according to Lightfoot-Klein, assume that sexual fulfillment is absent from her life.

For her part, Lightfoot-Klein concludes that:

In my own study it was quite clear that an impressive number of women gave the appearance of being lusty, sexually fulfilled women, in addition to the statements that they made [...and...] exhibited a relaxed body posture, smiled and laughed readily and heartily, asked questions, and in general gave evidence of enjoying the exchange of information (ibid.: p.84).

In order to access detailed and meaningful information, the anthropologist, sociologist or doctor investigating women's attitudes toward their sexuality in a foreign culture must somehow "enter" that culture. If she has not lived there or cannot adopt some of the cultural norms that would enable her to penetrate a culture (e.g. by wearing a veil), she must use her intelligence and imagination in order to both gain access to usually closed circles of contacts, and learn how to communicate with circumcised women, and eventually be taken into their confidence on the sensitive matter of their sexuality.

Gunning suggests that the outsider can take certain steps toward, not "overcoming" her own cultural centrisms, but acquiring a clearer picture of her own boundaries in relation to someone else's. She suggests a three-pronged approach to "the other": recognizing "interconnectedness" by looking at your own and the other's historical contexts, taking an "in-depth look" at how the other sees herself within it, and searching for analogues of cultural practices that you challenge from within your own context (1992: p.205). Gunning's "world-traveling methodology" adopts and applies a certain form of cultural relativism that, she believes, allows her to evaluate female circumcision more objectively than if she were simply approaching the practice as an outsider; she conducts

a point-by-point analysis of the advantages of this methodology over other more traditional approaches. The main weakness of her own approach, however, is that it appears to be inspired and justified by the author's own sentimentality: she practically makes a moral conversion a prerequisite to engaging in her world-traveling methodology, as though one could modify contempt for certain values by sheer will-power, through invoking "respect" or by attempting to metaphorically "speak" a foreign discourse (ibid.: p.203); she even makes "playfulness" a condition for successfully achieving authentic cross-cultural understanding (ibid.: p.204). In fact, I doubt that Gunning has raised or explicitly solved the epistemological questions that are important to defining and communicating the scope and limits of her approach to this issue.

iii) Security

Although the loss of sexual interest, appetite and fulfillment due to F.C. cannot be fully ascertained from interviews and observation alone, perhaps other reasons for depression or feelings of dejection can be. Psychological instability due to circumcision may be easier to track in relation to the loss of community support than in relation to the (oppressive) way women may be perceived and expected to behave within a circumcising community. For instance, female members of the Zahr cult in Sudan have the misfortune of living in a community where any adverse reactions to circumcision are interpreted as a personal jinx to be exorcised by the local healer (Lightfoot-Klein, 1989: p.138). If traditional healing methods are unsuccessful and the woman's difficulties persist, she may be perceived as a freak and be ostracized. A circumcised woman might also suffer rejection because of the emission of offensive odors as a result of haematocolpos (the retention of urine and menstrual blood), or she may be rejected by a husband who wants to take an uncircumcised wife or experience an uncircumcised mistress, foreigner or prostitute.

Social rejection may in fact be more likely to cause circumcised women emotional distress than their physical "condition", which is the norm among women members of a community where F.C. is the norm²⁶. But even reactions to the loss of community support are difficult to assess without projecting our own psychological makeups and expectations onto circumcised women. Although the social institutions affecting gender-related practices seem to be continuously evolving in every culture, individual attitudes toward misogynous practices do not. For instance, even when circumcision may no longer draw unequivocal support across a culture, it may continue to be seen by men as something which ennobles their daughters and wives and, by women, as something that affords them a social and psychological security that outweighs the sacrifice it demands (attitudes toward virginity may be analogous in our culture). So even in the case of misogynous practices, their meaningfulness, when enforced by ritual, may obscure rational reasons to oppose it.

Richard Wollheim conceives of the meaning of ritualistic actions not in relation to reasons and purposes (which can be made explicit by the agent) but in relation to desires and mental states, both of which, according to him, constitute their implicit "intentionality". It is this which, according to Wollheim, makes the agent's ritual activity meaningful (Wollheim, 1994: pp.1-21). On this view, circumcision rites would remain meaningful, not because they reflect some sort of cultural homogeneity, but simply because they have sustained their desirability and "intentionality" among individual members of a given community.

With respect to female circumcision, however, it might be argued that the

²⁶ The community support that is often cited as a means of coping with the trauma of the procedure does not appear as strong as it was in more traditional societies and, as a result, a woman's anxiety over being circumcised may have increased as communities have grown out of traditions related to the practice; but I will discuss this in more depth below.

intentionality of the practice cannot possibly be regarded as expressing a woman's desires and mental states. Women are singled out by their excision and infibulation; even if men in these communities may be subject to male circumcision, they are not oppressed by it to the same degree as women, neither from the damage done by the excision (which cuts off more nerve-endings in women than in men, even in its most "superficial" form, clitoridectomy), nor from the way it alters their sexual identity (more substantially for women than for men, as discussed in the introduction to this chapter). Couldn't it be argued that female circumcision is just a means of perpetuating a brutal and degrading violation of a woman's body, and that, if there is any "intentionality" expressed through female circumcision, wouldn't it be, not so much relative to women's desire for inclusion in a community, but to men's contempt for, and even their desire to exclude, women?

Proponents of this point of view might also add that, if the "veil of ignorance" (Rawls, 1971: pp.136-142) were put on men in circumcising cultures, they might begin to empathize with the pain women endure as a result of F.C. and even see the lack of community solidarity expressed through this rite: if they were women, they might just want to eradicate female circumcision. But we already know that women themselves often claim to want the practice continued; so, if men were women, then -given the same circumstances- they would probably want exactly what women do (c.f. Williams, 1984: p.89). It may be another thing to determine what people would want in **different** circumstances, e.g., if women's survival were not dependent on their husbands' or fathers'. But we can experiment with this possibility without the imposition of a theoretical veil: given, moreover, that social conditions are unlikely to ever meet the conditions necessary for men and women to engage in reflections on justice from an "original position", this kind of thought experiment seems too abstract to yield any conclusive recommendations regarding the culturally situated individuals that constitute our preoccupation here. At least we cannot assume that F.C., given a cultural context that we cannot just

theoretically "lift", need involve forcing the subordination of one group to another in the same way as, say, apartheid does when it is imposed and enforced by an élite. What must I think be acknowledged is that the segregation of women, even when enforced by painful means, need not be interpreted as "unjust" (or even as "harmful" or "degrading") to them when they themselves consider it a significant part, if not the locus, of gender identity.

One might argue that to respect this "locus" is a romanticization of F.C. as a "cultural tradition", that all acts of violence could be similarly poeticized in relation to the aggressor's "desires and intentions" and that there are, or should be, moral limits to what can be embraced as meaningful for all human agents regardless of sex. It is for this reason that some critics of circumcision rites suggest that there must be other less painful means of attaining the same type of "meaning" and that, in cases where a person's physical integrity is significantly compromised, a substitute ritual should be considered. In the urban parts of some circumcising cultures in Africa, circumcision has in fact been replaced by a relatively harmless operation that symbolizes circumcision but only involving something equivalent to a pin-prick of the genitals; in other countries, anesthesia is being used more often. On the other hand, the female members of many circumcising communities often resist bringing about a change whose effects on their daughters they are not able to predict. As Lightfoot-Klein notes, women who are "against" F.C. but who cannot leave their cultures will usually have the circumcision carried out on their daughters when the time comes for them to make a decision (see her appendix 1, Interviews with Women, 1989: pp.247-277). They know that "it will be the... uncircumcised woman... who suffers psychologically, unless she has another very strong identity to substitute for the community identity which she has lost" (ibid.: p.84; c.f. El Dareer, 1982; Baasher, 1979).

So it may be naive to believe that substitutes for circumcision would be adopted by a circumcising community without other social changes related to gender relations

having already taken place within that community, e.g. the acceptance of doctors' or other outside authorities' advice and opinion on matters pertaining to female sexuality. Those who perform F.C., even when they are better informed about the risks directly related to the practice, may not be motivated to abandon the practice just because it presents a risk to the health of their community members. The risk of health problems, of pain and suffering, may not be perceived as "reasons" to deter traditional practices; as we saw above, complications resulting from genital operations may be attributed to forces outside of the individual, such as sorcery, transforming a woman's physical struggle with illness into a spiritual battle with the invisible²⁷.

In the past, feminist advocates of the eradication of F.C. have been quick to disseminate their ideas in foreign cultures without having taken into account the ideas and opinions of those women whose well-being they had claimed to represent. Not only did this result in a patronizing and coarse attitude toward the women addressed, but as a result of their having been relegated to the phantom-like status of what Karen Engle calls "the Exotic Other Female" (Engle, 1992), women from non-Western countries have refused the aid and boycotted the conferences of Western feminists who appeared unwilling to take their non-Western experiences, values and priorities into account. This was the case in 1980 during an NGO Forum held in Copenhagen and led by two Western feminists who wanted to eradicate circumcision: Fran Hosken and Awa Thiam (Saurel, 1981: pp.274-86; Bouleware-Miller, 1985: pp.170-76; Gunning, 1992: p.225). Without having devoted more attention to the question of how it might have been possible to bridge theirs and "the Other's" attitudes to gender-related practices, these culturally

²⁷ That spiritual warfare is the source of human affliction is also believed by certain communities within our own culture, especially among "born again Christians" or Jehovah's Witnesses; disease and even just "bad luck" are considered as having a spiritual as opposed to a physical origin and should thus be combated through intercessory prayer rather than through artificial means of intervention like medication or surgery.

insensitive crusades against F.C. simply failed to gain the support of women affected by the practice, thus also failing their own strategies of eradication.

In cultures where individuals do or should assume pain as a matter of course, self-perceptions may be deeply altered such that self-centered preoccupation with physical well-being do not have the priority they do in more individualist cultures; it is in fact because the linear (temporal) structure of rites of passage create and/or enforce certain foundational cognitive structures (e.g. those that are basic to one's experience of "selfhood") that functionalists and structural-functionalists have tended to believe that rites of passage are powerful and irreversible determinants of identity within tribal cultures (Vizedom, 1976). But a more complete discussion of the anthropological point of view is reserved for chapter 3.

iv) Pain and harm

Pain may play a vital role in establishing a sense of solidarity within a community; because self-deprivation can induce sublime experiences in the individual, it is often ritualized to precede spiritual communion. In our own culture, fasting and self-flagellation have been encouraged to provoke encounters with the divine; because asceticism to the point of self-inflicted pain breaks the boundaries of the ego, it has been perceived as a kind of self-transcendence²⁸.

As a means of sublimating self-centered desires, pain may thus appear to lead to an end beyond the individual and be promoted as a way to achieve spiritual enlightenment. When pain is no longer viewed as an absolute evil, when it becomes part of the dialectics of desire or a means to self-liberation, it is not surprising that the body,

²⁸ In his book The Culture of Pain (1991), David Morris explores various uses of pain and its relationship to the sublime in Judeo-Christian culture (pp.126-35 and 198-223).

and particularly sexuality, becomes the object of sado-masochistic fantasies, and that pain-inflicting rites become endowed with their own "intentionality". As Jean-Paul Sartre has contemplated in some depth, by transgressing my own physical limits, I can transform myself into pure object, thus emptying the ego of its empiricity and enhancing my sense of "freedom" (*L'Être et le Néant*, 1943: pp.429-63). Anthropologists have also assumed that the cultural appeal of painful rituals must be linked to their eliciting what Van Gennep named a "liminal" or threshold experience. From both the anthropological and phenomenological points of view then, circumcision rites may elude a moral evaluation of them as "harmful" or "bad" because they have an internal dialectics that make them incomparable to indiscriminate acts of violence or to premeditated and intentionally evil acts such as torture.

Nevertheless, without other elaborate practices to contextualize the tradition, it would seem as though female circumcision should have lost much of its psychological thrust as a rite of passage. Many critics contend that, because of changing societal hierarchies in a developing and dynamic "Third World", the anthropological interpretation of female circumcision as a rite that transmits significant cultural values no longer holds. They argue that, if ever circumcision had a purpose other than to oppress and confine women, it has now become an empty ritual, devoid of the functions that would make it a meaningful cultural practice (*Report of the Working Group on Traditional Practices Affecting the Health of Women and Children*, UN Doc. E.CN.4/1986: 13; Kim, 1993; Smith, 1992).

For example, Koso-Thomas describes how social evolution has affected circumcision initiation rites as practiced by the Bundo and Sande societies of Sierra Leone. Modernized in 1928 by Sir Milton Margai, the first Prime Minister of Sierra Leone, the rite has gradually lost many of its traditional aspects: more sterile conditions and antibiotics have been introduced, educational functions are disappearing, the training

period of the girls has been reduced from two years to a week or two, and families cannot afford to keep the girls in initiation schools for very long. Also for financial reasons, girls are being circumcised younger (they are less demanding recipients of gifts). For her part, Koso-Thomas concludes:

[women] championing many of the cultural practices adopted by their communities do not **realize** that some of the practices were designed to subjugate them, and more importantly, to control their sexuality and to maintain male chauvinistic attitudes (Koso-Thomas, 1989: p.1).

She contends that it is not ritual which leads a woman to endorse F.C. but her compliance to demands made upon her by men (who may perceive it as an effective means of controlling sexual appetite; *ibid.*: p.24). Critics of the practice who have not themselves experienced F.C. also tend to attribute women's continued allegiance to it to "peer pressure" or to "false consciousness" due, for example, to the psychological "castration" of women in patriarchal societies (Lightfoot-Klein, 1989: pp.70-80; Daly, 1978: pp.163-65).

Although these "explanations" of women's allegiance to F.C. acknowledge some of the psychological leverage of the practice as a cultural norm, they are oversimplifications of their continued impact on women that may both under-state the tenacity of current support of the practice and over-state their own aversion to its physical and psychological consequences. As opposed to the superficial alteration of one's status or appearance through conformity to the dress and behavioral codes of one's "peers", what is distinctive about a so-called "liminal experience" is precisely that it is believed to precipitate a modification of self-consciousness such that one has a sense of passing from "stranger" to "member" of a community (Turner, 1969). This is considered a permanent and more or less irreversible modification of the psyche. It is for this reason that, even in the absence of good reasons or old rituals to enforce F.C. as a tradition, a

circumcised woman may have a totally altered sense of her identity from a non-circumcised woman and will thus continue to promote the practice despite the pain her own children will have to endure.

Many studies suggest that cultural factors play a significant role in setting pain thresholds among human beings²⁹. Even when we do not consider pain a "good" or when it is argued that pain is merely a transgressive good (as opposed to a "real good"), we might place other values above avoiding pain, such as loyalty or moral integrity (notably in the case of resistance to torture) that would distinguish indifference to pain in certain situations from pure sadism or masochism. One might even regard pain endurance as a means of demonstrating possession of a socially esteemed quality such as bravery or leadership or, as is often the case of circumcised women, pride and strength.

In the case of a tradition, the agent might not be able to articulate a rational justification for tolerating pain in the same way that she might if she were deliberately choosing pain as a means to another end: she might feel ambivalent or confused about what she actually "wants". This is not to say that physically painful traditions that consolidate one's membership in a group, such as scarring, tattooing and piercing, are not painful or feared. They may be both, and yet desired, with or without long-standing cultural traditions to enforce them as a rite of passage. This constitutes one of the obstacles to moralizing traditions: they pit the individual against the group, or more precisely, pit her desire for individuation against her desire to conform, and most people

²⁹ See, for example, "Influences on Biocognitive Structures and Styles of Information Processing" in The Psychobiology of Consciousness (Davidson, 1980). The work of several researchers confirms that, although sensation thresholds may be comparatively similar at lower levels (e.g. in response to mild stimulation), the upper thresholds (i.e. pain thresholds) vary considerably from culture to culture (ibid.: pp.37-39). Cultural norms would therefore appear to influence the underlying information processes that structure behaviour in response to physiological stimuli.

given the choice will almost always choose the latter³⁰.

Even in an individualist and pain-avoiding culture such as ours, one still finds that people will endure rather than walk away from situations that provoke anxiety (a form of pain that can be acute) in order to respond to a cultural cue to conform. The vast numbers of professionals on Prozac or some other "serotonin reuptake inhibitor" would in fact seem to attest to the fact that even when social relationships become intolerable, most people choose to accommodate them by changing themselves rather than leave or change the situation, even when accommodating them (e.g. with drugs) may be more dangerous to their own health in the long-run.

I am not suggesting that anxiety-inducing traditions are endorsed for positive reasons; but I am suggesting that the "choice" of whether or not to conform to them may not consciously arise, or that one might feel only ambivalence toward them, because in some way one's identity depends on assimilating the norms they promote. Ambivalence may even be heightened in an individualistic culture where the rituals designed to confirm group membership require some expression of singularity, the paradoxical display of an "individual" striving to belong to a community based on recognition and approval of her distinguishing characteristics. Anxious anticipation in these situations

³⁰ Conformity did not become the subject of systematic investigation until after the second world war, and the findings were shocking. For example, Solomon Asch discovered that a large majority of people went along with the opinion of others even when it was contrary to the evidence of their own eyes. In his experiment, the participants had a very simple task; to compare the length of one line to the length of three others where it was obvious at a glance which of the three was of the same length. Set up so that all others present would choose the wrong line, his experiment got 76% of the participants to agree with the majority against their own better judgment! (Baron and Byrne, 1994: p.34) Another famous experiment conducted by Stanley Milgram discovered that the majority of people would obey instructions to continue even when it created moral conflict. Encouraged to proceed with an experiment that apparently produced more and more painful shocks on an invisible but audible participant (actually an actor moaning and then screaming in pain), 65% of participants gradually went "all the way" on the fake shock-producing apparatus, pressing the last lever on the series marked 450 volts (ibid.: p.378-9).

obscures the limits between dread and desire and, thus, rationality. This is a cross-cultural phenomenon.

In foreign cultures, as in our own, painful rituals may thus be accommodated by individuals simply in order to avoid the conflict that would arise if they were to challenge traditions, the conflict that accompanies individuation apparently being in general more difficult for the ego to bear than physical pain. Who is to say what is morally right for a person to do in such a situation?

v) Crisis and rage; the limits of pain

When painful rituals such as female circumcision preserve their psychological function, their intention can I think be said to be relative to socially accepted norms, whether these norms are rational or equally easy to assimilate by all community members, or not. What is cross-culturally essential to the meaning and purpose of rituals would thus seem to be not their relationship to an individual's well-being or some other "good" (for this is culturally variable), but others' approval of them. From the point of view of those who still observe female circumcision as a rite of passage, for example, pain may not even be regarded as an undesirable by-product, especially when it is manifestly the cause of social gains: the "improvement" of one's appearance or social status, for example. The respondents to Koso-Thomas' questionnaire even claimed that the experience had an overall "uplifting" effect (1979: p.14).

So, rather than emphasizing the damaging effects of pain-inflicting rites such as F.C. from the point of view of physical health and integrity, what must, I think, be emphasized is that, even when it can be interpreted to have meaningful desires and intentions (whether or not it is still considered a rite of passage), some forms of irreversible mutilation have repercussions that retroactively displace or even undermine the original intentionality from which the meaningfulness of the action was derived.

Women who have undergone some form of F.C. often claim that they suffered less physical pain during than after circumcision (as a result of later complications due to, for example, infection). They seem to have become numb to the excruciating pain they had suffered as children and even to the loss of certain sexual organs. Making an exception for the possibility that the girl may not have suffered or lost "that much" in certain cases (for, according to Lightfoot-Klein, the younger she is, the less likely she is to suffer and the more likely she is to compensate for anything lost; *ibid.*: p.36, 62, pp.140-154), this numbness might be attributed to the sense of security and "support" that the girl had derived from parents, older women, other girls and community members. Like someone who, without previous training, walks painlessly over hot coals, the girl might have put "mind over matter" and anaesthetized herself to the physical pain and to the painful thought accompanying the realization that something is being taken from her that she will not be able to recover. It is possible. But it is also possible that the physical and psychological trauma suffered by the girl was so intense that it had to be forgotten or otherwise "repressed", retroactively numbing her pain and grief such that they no longer resurface when she recalls the experience, if she can even recall it. Among circumcised women who have gone outside of their own cultures and have started to question F.C., feelings of rage and outrage do seem to resurface, suggesting that even a strongly supported sense of community may have a limited influence on individuals. They often begin to perceive F.C. as an undesirable tradition and no longer want to have it performed on their girl children under these new circumstances.

Whether circumcision is actually experienced, due to the force of tradition or other social factors, as less physically and psychologically painful than what might be assumed, or whether the pain was in fact "buried" because it was too hard to cope with at the time, is a question that must be pursued in more depth, if it can be answered at all. What is important, I think, in the absence of this information, is to acknowledge that it is possible

to recognize pain and the permanent loss of some part of one's self as unacceptable or to be enraged against those who were responsible for having imposed the separation and for having inflicted the pain. This recognition constitutes the first steps toward questioning, and thus modifying, pain-inflicting traditions "from the inside". But to take these steps is to enter a crisis, a point of no return that anyone should be cautious about provoking in someone else, e.g. through coercion (by creating punitive laws that conflict with the desire to conform to traditions) or persuasion. It is not always possible to recover from such a crisis: defense mechanisms can be undone, pain can't; nor can the ego always be repaired when its defenses collapse. Survivors of sexual abuse, for example, are so threatened by the pain of remembering their experience that the memory is often automatically repressed, shut down to protect the ego. Unrepressed memories can cause so much grief that the individual may blanket herself in a depression that could last a lifetime. Not that the expression of anger or blame should be censured by those who have not experienced female circumcision or who have survived it but challenge it, or that sexual education cannot help undermine ignorance and complicity; but "outsiders" are not by themselves likely to dissuade, let alone aid, emotionally or financially, someone who does not, cannot or will not recognize the oppressiveness of F.C. (at least they are no more likely than, say, pro-life activists are to dissuade or aid a woman seeking an abortion). Furthermore, what is the point of urging a woman to liberate herself or her female offspring from an oppressive practice that she does not recognize as such? What is the motivation really? To convert her? Does it make no difference that women might endure additional grief upon recognizing, only after the fact, that they have suffered something that they can now do nothing about, or that they may be socially ostracized for their action if they can do something about it (e.g. for other women)?

I think that it is as hard to change oppressive cultural practices as it is to change parental influence, especially when authority and consent remain only an adult's

privilege. For example, as was discussed with respect to the issue of consent (chapter 2/iii), it is not possible to do (or enforce) what is best for children without privileging our own moral ideas as adults, themselves acquired by cultural osmosis since childhood. We may come to consciously challenge this influence, but we may not; and even if we do, we can only undo the mold of upbringing slowly, our early affective experiences having constituted the very foundations of, or the model for, our current sense of self. And this creates a cycle that is not easy to break. Since, however, one's identity is not carved in stone but in the malleable substance of self-consciousness, cultural influence remains to some degree reversible. This is probably why some women do come to challenge oppressive practices like F.C. when they go "outside" of their cultures and families of origin, even if only metaphorically; but they may not, nor perhaps "should" they, within a culture or family where this tradition has not yet been challenged, or where resistance to them has been psychologically repressed.

It is for this reason that, as an alternative to criminalizing F.C., I think that it is preferable for this procedure (so long as it is hygienically and surgically performed) to be made reversible. This would mean not removing anything from a child's body that cannot at a later time be recovered and enjoyed with impunity; and, in the case of infibulation, making the sutures removable when it is considered culturally appropriate for a woman to engage in sexual activity, e.g. after marriage. Perhaps some would argue that this would also reverse, or defeat, the purpose of this tradition which is to irreversibly secure a child's membership in a cultural community. Indeed, it is hard to abolish male circumcision for the same reason. It must however be granted that the anthropological justification of circumcision as a "threshold experience" comes to naught in the case of an eight-day old child who is too young to appreciate the passage from "individual" to "group member", let alone be conscious of her "self". At least it would have to be conceded that to enforce the irreversible removal of something from a child's

body at this age has more to do with parents' than children's sense of cultural membership, although this may well prevail in the end.

C. Conclusion

As feminist insights spread, more women are likely to feel less secure in their gender roles as traditionally defined; and this may lead them both to recognize their own physical and psychological oppression as symbolized by F.C. and to challenge the practice or seek help in eradicating it. This is already happening in some parts of the world, especially among immigrant communities. In the meantime however, in traditional cultural setting the link between female circumcision and a positive sense of feminine identity remains strong enough for men and women to oppose eradication of the practice, and this despite the loss of traditional cultural paraphernalia to enforce this link.

Rights advocates have reacted strongly against the anthropological rationalization of oppressive traditional practices in non-Western countries as being in any way a "meaningful" part of national, group or tribal identity. However, as we have seen, even the UN has had to admit that female circumcision is a cultural tradition that eludes the usual approach to rights violations.

Disagreement over the universality of rights constitutes one of the core issues in the ongoing debate between cultural relativists and moral universalists, sometimes labeled "essentialists" by their opponents because of the recourse to a definition, used to support the universal application of moral principles, of what is essentially human and what is not.

One of the main criticisms directed by cultural relativists toward, for example, a liberal defense of women's rights is that it tends to "essentialize" women: the problem with the liberal point of view is, they say, that it may lead to idealizations of gender relationships that, like androcentric idealizations, reify conceptual categories instead of reflecting the actual diversity and dynamism of women's multi-faceted needs in

relationship to their (patriarchal) cultures. Furthermore, this essentialization does not appear to facilitate bringing about social changes relative to gender. For example, as we have seen, although the origins of female circumcision may be patriarchal in nature, to criticize them for this reason may not lead to a reasonable and defensible strategy of eradication. To elicit a critical response among women living in a circumcising culture, it would seem necessary to appeal to them based on an understanding of the viable and available critical processes that have already taken root within their culture. An effective strategy cannot succeed behind the backs of women, i.e. without having acquired their support or incorporated their opinions and attitudes and certainly not without having accessed the necessary information to determine where (socially and historically) they are coming from, and why and how their ideas about female circumcision should be modified.

On the other hand, liberal feminists may hold that cultural relativists prematurely reject the universalizability of an "essentialist" emancipatory approach without having considered some of the actual similarities between different cultures. In a paper where she hopes to make a case for applying a Rawlsian type theory of justice to third world problems, Moller Okin takes up the charge of essentialism and attempts to establish the universal applicability of her own theoretical point of view. She takes her reader through a point-by-point "comparative analysis" of the living and working conditions of Western and non-Western women, concluding from her data that the woman's situation in developing countries is for the most part "similar to but worse" than Western women's, the thrust of her analysis being to establish that Western feminist critiques are just as relevant in the "third" as in the "first" world. She concludes her defense of liberal feminism by asserting that "*committed* outsiders may often be better analysts and critics of social injustice than those who live within the relevant culture" (p.32).

Now it may be true that an outsider has a point of view that might generate novel

insights due to, for example, an insider's lack of objectivity; yet it seems obvious that Okin herself, in drawing exclusively upon Western models of justice, has made no particular effort to incorporate "outside" frameworks of analysis in forming her own critical opinions: so why shouldn't non-Western women draw only on non-Western theories of justice to justify their critical points of view? One might argue that Moller-Okin, as a liberal feminist, is committed to women whose rights have been neglected by traditional points of view and that, without voicing this commitment, justifications for their oppression will perpetuate themselves unchallenged by more liberal insights. But this does not validate her opinion, nor does it explain how women's different and competing opinions over the same issue might be bridged, whereas it is this which is necessary if feminist insights are to be put into practice by women themselves.

The debate between universalists and relativists is reminiscent of the ongoing debate between communitarians and individualists: relativists tend to be communitarians (i.e. they place group solidarity above individual differentiation) and universalists tend to be individualists (i.e. they place individual autonomy above group cohesion). I think, however, that universalists and relativists should agree that "false consciousness", if consciousness can be false, may be firmly rooted in an identity that a person cannot just abandon to fulfill ethical recommendations as perceived by outsiders to her community. Let us illustrate this with respect to female circumcision.

Koso-Thomas has observed that there is a "strong negative attitude towards other women searching for a way to help their suffering" (1994: p.14). Among the factors contributing to the resistance against attempts to eradicate F.C., she blames "mystical and ritualistic" beliefs. This observation is repeated in a table where she studies the interrelationship between the problems and causes of female circumcision. Here the reader finds that Koso-Thomas again names "misguided religious doctrine and traditional beliefs" as the primary cause of allegiance to the practice. Now despite these

observations, her otherwise detailed proposal of a twenty-year plan to eradicate female circumcision omits to consider how this "primary cause of resistance" should be dealt with (ibid.: pp. 69-96). Her "top-down" approach to education and health care works out the articulations of her strategy at the institutional level, which is a strength of her proposal, but, like other liberal critics who may only name "false consciousness", she does not suggest how to remove what she herself has identified as the principal cause of resistance to the eradication of F.C., viz. traditional beliefs. Instead, she focuses on the health education and health care of those who already seek them.

The inability to explore the principal cause of resistance to social change is, I think, the principal cause of the futility of a traditionally liberal approach to cultural conflict. A liberal approach purports to be engaged in the process of social transformation but, without taking cultural identity seriously as a determinant of social behavior, it fails to be applicable to cultural conflict in any concrete sense. It would therefore seem necessary to grant a margin of relativism with respect to issues of social conflict whose origins are reflective of cultural diversity.

Various causes influence those who endorse circumcision, some of which can be made explicit as "reasons" and some not. We have already seen that there does not always appear to be a rationale behind the practice that influences women's allegiance to it as a "tradition". In fact, the reasons listed by Koso-Thomas are not "reasons for the practice" per se but some of the determinant factors that contribute to its support among women, just as cultural beliefs that affect anyone's dispositions are not "reasons for" but are "coextensive with" the expression of her cultural identity, or her culturally influenced desires and aversions. It is for this reason that the attempt to correct the misconceptions that enforce certain beliefs (i.e., the misconception that circumcision improves fertility; Koso-Thomas, ibid.: pp.5-14), may actually be powerless when it comes to changing non-rational reasons for women's current allegiance to F.C.. These

reasons seem rather to be related to social approval and identity, the desire to belong to, or just the fact of belonging to, a community.

In this chapter, I have explored several cultural factors that suggest the limitations of a blanket moral condemnation of F.C., factors that would justify the UN Sub-Commission's approach as more appropriate than the approach usually taken with respect to what are considered rights violations. However, it is necessary to delve deeper into some of the theoretical issues raised by this conclusion, particularly into the issue of what it means to grant that culture may have some bearing on the application of supposedly universal moral principles. Perhaps the universalism of liberal morality needs to make some explicit concessions to the thesis known as "cultural relativism". Chapter 3 explores this issue in detail, the purpose being to explicitly define the scope and limits of an applied ethics that professes "cultural sensitivity" to the issue of female circumcision.

CHAPTER THREE: RELATIVISM

And it really doesn't matter if I'm wrong

I'm right

Where I belong I'm right

Where I belong.

[Fixing a Hole; Paul McCartney/ John Lennon]

A. Introduction

The previous chapter emphasized cultural factors that justify a "culturally sensitive" approach to female circumcision even when the practice may also be considered a violation of human rights. Although it was concluded that the attempt to apply human rights universally may be both inappropriate and ineffective in the case of F.C., the scope and limits of an alternative approach to the practice has not yet been defined. It was however suggested that a traditional liberal approach may have to make certain concessions to cultural relativists on the issue of F.C. This chapter will explore the nature of these concessions in more detail, the purpose being to circumscribe an applied relativism that might also provide the UN approach to F.C. with a legitimate foundation for its own "cultural sensitivity".

This chapter traces, in chronological order, the various theses that have come to be identified with "cultural relativism". By indicating how the empirical diversity of cultural values came to be interpreted by anthropologists as factual data, I will first show how the universalization of human rights was disputed on the basis of purportedly scientific reservations. Anthropologists rallied for "tolerance" of culturally-based moral diversity. They supported a prescriptive relativism that has remained theoretically and practically entangled with cultural relativism ever since. Via the findings of anthropological and related disciplines, the chapter thus begins by illustrating how a prescriptive relativism has been recommended by so-called "cultural relativists".

Next, it will be shown that the attempt to derive a prescriptive relativism from the "facts" of cultural relativism faces a dilemma: even if one concedes that moral norms are in some way "relative to" culture, there is still a gap between this empirical claim and any claim about the inherent validity of such norms. It will be argued that the facts of relativism cannot of themselves prescribe "tolerance" of culturally-based moral diversity;

for the reason that they simply fail to provide an evaluative framework by which to appreciate, or prioritize, cultural values. It will be concluded at this point that, even when theories of culture do establish a culturally immanent evaluative criterion, they still do not yield a legitimative framework by which to justify the passage from cultural "facts" to moral "values", from theory to practice.

Upon first inspection, it will thus appear that only an evaluative framework that provides some absolute criteria of what is "good" or "right" for human beings is capable of justifying the relativist's call for tolerance of culturally diverse moral norms. The positions of two liberal thinkers who have attempted to reconcile moral universalism and tolerance in this way will be outlined at this point in the chapter. But then it will be asked whether these legitimative frameworks can be supported independently of the authors' own normative frameworks. It will be answered that a liberal defense of tolerance fails, as much as the prescriptive relativist's did, to bridge cultural facts with moral values. The difference between the two failures will be shown to be that, where prescriptive relativists provided no legitimative framework by which to defend culturally internal moral judgments, tolerant universalists never quite manage to transcend their own normative perspective, failing to be relativistic in any meaningful sense.

After studying two final approaches to the reconciling absolutism and relativism, the solution to the dilemma will be shown to lie in a practical flexibility that relativizes moral absolutes while not abandoning the commitment to moral values as such. Finally, some suggestions as to how these theoretical reflections apply to female circumcision will be outlined.

The chapter is both rather abstract and lengthy. The details of some theories are omitted for the purpose of rendering this chapter more succinct and more amenable to a classification that maintains the distinction between universalism and relativism. As a result, the views chosen for examination overlap more often than what may be conceded.

B. Human rights: historical background

The eighteenth and nineteenth centuries were a time of philosophical and economic renewal in Europe and the United States. It was within the context of the formation of nation-states, the dissolution of feudal society and the rise of capitalist economic structures that the notion of man's inalienable natural rights was born.

As advocated in the English Petition of Rights, the American Declaration of Independence and the French Declaration of the Rights of Man and Citizen, human rights represented a definitive liberation from mercantilism and royal absolutism. They challenged the political and economic restrictions imposed by an oppressive (monarchical) government and sought to entrench certain minimum freedoms on the basis of an inviolable covenant between the people and a new (liberal) government.

Built into this covenant was a vision of civil society as an association freely contracted between the state and its citizens. It was a vision inspired by political theoreticians such as Grotius, Locke, Hobbes, Rousseau and Montesquieu who believed that everyone was born entitled to such things as life, liberty and property, and that these so-called "natural" rights of ownership existed prior to political association as a man-made institution. A sphere of private interests was delineated by this concept of natural rights and was now thought to be secured, by way of a declaration, against state interference.

Ideally, the legal mechanisms invented to check state control over private rights and property provided a basis for liberal democratic institutions. In the words of John T. Wright:

In elevating the rule of law to a position superior to the state, circumscribing state activity vis-a-vis the individual, and grounding the legitimacy of the state upon a consensual base, the groundwork for a democratic ethos was laid. (1979: p.21)

Nevertheless, liberal democracies would not become a reality until government assumed a more regulatory role with respect to social and economic inequalities, until an electoral democracy was created and social welfare legislation introduced. This was independent of the creation of rights, a process that would not begin to happen until the present century. As C.B. MacPherson remarked in The Life and Times of Liberal Democracy (1977): while liberalism might mean "freeing the individual from the outdated restraints of old established institutions" and need not therefore preclude democratic principles, in the context of the Industrial Revolution, it meant endorsing class and gender-divided society and free-enterprise capitalism (ibid.: p.21).

The gross material discrepancy that had existed between the aristocracy and "the people" would not be eliminated with the institutionalization of rights but merely displaced within a society increasingly stratified by capitalist economic structures. Economic stratification and colonization occurred simultaneously and both social processes seemed to have been tolerated, if not actually mandated, by liberal states, although they clearly entailed a disavowal of the "universality" of rights. Rights ceased to exist where economic expansion began. During modernization, "savages" of the Third World, women, and the working class were not entitled to rights. Rights were reserved for those who owned property and sought to use without restriction the autonomy that they had already acquired. Rights were a privilege of the new élite of industrial society.

It is for this reason that Pollis and Schwab, in one of the first books to have critically situated individual rights with respect to so-called "collective" rights (a term coined in the 70s), recall that the individualist tenets behind a rights discourse were developed more in response to the growing disaffection of a rising middle class than as a solution to moral and political injustices. Because the doctrine of inherent rights suited in particular the economic interests of the bourgeoisie, Pollis and Schwab claim that it served primarily as an "explanation of" and "justification for" laissez-faire capitalism,

endorsing the aggressive and individualist survival strategy of capitalist entrepreneurs (Pollis and Schwab, 1979: p.3).

Having naturalized the view that private property and autonomy were the keys to individual happiness and prosperity, the modern state promoted social structures that disregarded and eventually destroyed traditional ways of life. As Jack Donnelly writes:

The rise of a monetized market economy based on largely unlimited private property rights gradually destroyed the social bases of traditional communities and created separate and distinct individuals....And at roughly the same time, the modern state, both as an autonomous social actor and as an instrument of the newly ascendant bourgeoisie, was creating new institutions and practices that enabled it to invade the lives and threaten the dignity of a rapidly increasing number of people in new and increasingly ominous ways. (1989: p.64)

Elevated to the status of law, popularized and accepted as the legitimate basis of Western states, liberal institutions would generate a new community, or an "imagined community" in the now famous words of Benedict Anderson (1983). This community would eventually become "the nation" and would ultimately be attributed its own sphere of property and the corresponding right to self-determination.

It is surely remarkable that the pre-twentieth century economic and social structure of class, race and gender-divided society was the breeding ground, if not the *raison d'être*, of individual rights. This, as Donnelly points out, hardly constitutes a novel insight today (1985: p.51). The critical question today is whether or not human rights, the fruit of an imaginary dichotomy that hypostatized and defined human interests in terms of an inalienable private sphere, have not simply absolutized the ideals of an élite over and against the fragmented ideals that are constitutive of human diversity.

Despite the apparent novelty of "communitarianism", the varied nature of individual and collective loyalties, projects and desires has never ceased to nurture misgivings about the universalizability of liberal institutions and values. The economic

and social instability endured by Europe and the United States at the end of the nineteenth century was a direct consequence of industrialization and the formation of nation-states. In spite of its wide appeal, liberalism would ultimately take the blame for new forms of social conflict, including class tensions (due to the exploitation of the working class by the bourgeoisie), international tensions (due to the political and economic threat posed to England, France and Spain by the industrialization of the entire Western world and the unification of the United States, Germany and Italy), and cultural tensions (due to massive migration and to the resistance of more traditional communities to modernization) (c.f. Hobsbawm, 1990: p.109). Accompanied by the growing body of knowledge of other civilizations, scepticism about the merits of liberalism motivated, among other things, the anthropological thesis known as "cultural relativism". In this century, it continues to thrive alongside the commitment to moral universals as embodied in the notion of "human rights".

C. Cultural relativism: the anthropological thesis

Cultural relativism, as a theoretical and political position, first emerged in anthropology as the antithesis of Victorian British thought and in particular, according to Hatch (1983), as the converse of three prevalent themes:

1) the assumption that the universe was meaningful (Hatch, *ibid.*: p.14).

Because the Victorian world-view was continuous with Christian thought, the belief in an overall design of the universe was still a conspicuous element of even purportedly scientific theories such as Herbert Spencer's "synthetic philosophy". The supplanting of a transcendental framework of understanding by an immanent one and the corresponding change in locus of meaning from the spiritual to the natural realm did not yet entail forsaking the conviction that meaningfulness was implicit in human relationships and in the universe generally.

2) a "strong sense of human self-importance" (*ibid.*: p.17).

This theme conserves another element of Christian thought, namely, teleological anthropocentrism, an interpretation of the universe, not only in terms of a design, but of a design tailored to the ends and purposes of man. Hatch cites the work of natural scientists and theologians such as Fénelon, Lyell, Hutton and Agassiz whose reflections on the ends of the plant and animal kingdom clearly situate *homo sapiens* as their sovereign master.

3) the glorification of modern industrial society (*ibid.*: p.19).

This theme was grounded in the secularization of yet another Christian belief: the belief in a "Great Chain of Being", a natural empire in which man was supposed to hold an unrivaled position. Extended to include the non-natural realm of politics and technology, the chain analogy took for granted the Enlightenment ideal of progress, conceived along ethnocentric lines that hailed the white man's technological

achievements which were regarded as superior to those of the dark-skinned "savages" of Australia, Africa, and America. As a function of the degree to which intelligence was cultivated as practical reason, i.e. for the purpose of mastering the natural environment, a society was thought to be classifiable along a now racially polarized chain.

These three themes converged to form the first explicitly "anthropological" theory called "evolutionism"³¹. According to this theory, culture was something that was man-made as opposed to natural, i.e. artificial but synonymous with "civilization" and present to varying degrees in human society according to its stage of evolution. Nineteenth century anthropologists such as Edward B. Tylor, Lewis Henry Morgan and James Frazer thought that a race of people could be graced with more or less of an affinity for "culture". They rated culture as "low" or "high", depending on the deemed amount of civilization (sophistication, taste or even intelligence) that particular practices were thought to embody (Hatch, *ibid.*: pp.24-26).

Although cultural evolutionists may have been, in a sense, "descriptive relativists" (Spiro, 1992: p.128), they were by no means the normative relativists that we have come to associate with anthropology today. Cultural evolutionists held an interpretation of cultural diversity that delivered a stratified view of the world and man's place within it—a rationale for colonialism whose theoretical foundations consisted in hardly more than a glorified cultural bias. According to Jenks, cultural evolutionary theory provided "a fillip to the technological triumph of culture over nature, through the transformation of found-object into product; and the grounds for anthropology as a way of understanding the world" (Jenks, 1993: p.31). This anthropological view would not outlive the

³¹ Although Hatch does not make the distinction, this theory is not synonymous with a naturalistic evolutionism such as Charles Darwin's. The evolutionism described here, the one that relativists will criticize, is more specifically an anti-naturalistic theory in that it assumes moral progress alongside evolution.

nineteenth century.

In light of the national and international tensions mentioned in the previous section, critics challenging the foundations of modernization started to come forth from a variety of disciplines. Socialist concerns with justice and equality were introduced via political theorists such as Marx and Dewey (Mark, 1973: p.36). The Enlightenment commitment to rationality and autonomy vacillated with the theories of Freud, Weber and Durkheim who all gave plausible accounts of human behavior in terms of the symbolic, unconscious and irrational affective forces of human agency. In the United States, a pragmatist view of human reality (particularly about human beliefs and the nature of truth) emerged in the work of William James, and a general scepticism about the merits of American political and economic theory pervaded the social analyses of Charles Beard and Thorstein Veblen (Hatch, 1983: pp.26-32; Mark, 1973: p.101).

The *zeitgeist* of early twentieth century Western thought is now often said to have been captured by the so-called "Boasian revolution" in American anthropology. Through the professionalization of a discipline that situated itself at the cross-roads of science and social studies, a critical position known as "cultural relativism" was born.

Hatch describes the new anthropological paradigm as primarily "an assault on evolutionism" (ibid: p.39), i.e. on an anti-naturalist evolutionism fashioned "grand theory" rather than science and based on the belief in the overall superiority of modern civilization. This assault was two-fold. It entailed a critique of the evolutionist theory of "independent invention" according to which the invention of cultural items was thought to follow a pattern of advance that progressed in stages according to some universal laws (ibid: p.41). It also challenged the way evolutionists situated cultural variation within a historical context rather than one of externally grounded racial, moral or intellectual differences (ibid: pp.46-7).

More precisely, the anthropological critique was implicit in the Boasians' "pattern

theory" of culture: a theory that explained the appearance of similar cultural traits in terms of diffusion rather than evolution. According to new ethnographic data, the passing on of cultural practices, symbols or values appeared to be linked to such extrinsic factors as a common linguistic heritage and the empirical proximity or remoteness of one cultural community to another. The data seemed to suggest a randomness behind the assimilation of like traits, a randomness that pattern theorists understood to support a theory of enculturation as an historical process rather than as a realization of some natural design. However, the assimilation of like traits could not have been based solely on randomness. To account for the emergence of any particular cultural direction (or pattern), there had to be some alternate source of cultural orientation. This Boas's followers attributed to a drive toward integration, an inner motor that preserved a specific cultural "genius". It was called "cultural selectivity" (ibid: p.43), a term that contrasted neatly with natural selectivity.

Pattern theorists also disputed the Victorian belief in "moral progress". They argued that, although there might be a selection of cross-culturally comparable traits, and although this process might not reflect the external (natural) laws of selection, there are no grounds to conclude that the process must therefore follow the ascendant course of a spiritual design. There need not be internal (moral) laws that regulate enculturation. Because the "pattern" of cultures was attributed to random forces and their "diffusion" to unconscious or non-rational modes of assimilation (such as language acquisition) rather than to models of agency that privileged Western logic and rationality, anthropologists were in a good position to argue that it wasn't "civilization" that was being cultivated at different rates, but entirely different cultures. Practices could be incorporated and sustained in unique ways and not in accordance with some shared moral or rational criteria. There is no cross-cultural teleology by which to measure moral progress, the pattern theorists argued; each culture, as an historical particular, simply

travels "in its own direction" (ibid: p.46).

Against the ethnocentrism and imperialism that infused Victorian thought and on the basis of new empirical data furnished by ethnography, pattern theorists thus advanced two main claims. First, they contended that there were many different *kinds* of cultures and not different *levels* of one type of culture (viz. "civilization"). Second, they challenged the evolutionist's criteria for classifying (stratifying) cultural artifacts: the success and value of different cultural inventions (except perhaps for technological ones) could not be evaluated with respect to ideals derived from Western standards of progress. It was these two claims- call them cultural pluralism and incommensurabilism³²-that constituted the "cultural relativism" of Boas and his disciples.

It was not only the new ethnographic data that incited Boasians to adopt cultural relativism as their new anthropological paradigm. It was also their aversion to the moral partiality of their predecessors. Moral objectivity was even considered by some pattern theorists as the veritable key to securing the credibility of anthropology as a "science". As Hatch explains, "Whereas evolutionists were thought to lack objectivity in that they used their own cultural values as universal standards. Boasian relativism was conceived

³² The word "incommensurabilism" is borrowed from Thomas Kuhn and Paul Feyerabend and is often used with respect to the "different worlds" created by paradigmatic shifts. To say that two worlds are incommensurable is to say that the conceptual schemes of each cannot be compared according to some common measure and that, therefore, there can be neither "advancement" of one system of thought over another, nor "progress" with respect to independent items (ideas, or in the case of culture, artifacts). As Ian Hacking explains:

"We owe incommensurability to Kuhn and Feyerabend. The idea is that disparate systems of thought are not mutually expressible. Kuhn has tended to make the idea fit commonplace situations while Feyerabend emphasizes the extreme. Thus Feyerabend's favourite example of incommensurability is the break between the cosmologies of archaic and classical Greece. Kuhn, in contrast, comes back to the idea of 'no common measure' in the original meaning of the word, and applies it to more every day 'advances' in knowledge (...) Both writers once suggested that incommensurability should be understood in terms of schemes and translation. Incommensurability meant that there would simply be no way of translating one scheme into another. (Hollis and Lukes eds., 1982: p.59)

as a manifestation of scientific detachment because of its rigid exclusion of value judgments" (1983: p.47).

This position will subsequently be referred to as "nonobjectivism" although there are various competing notions of what objectivism, and consequently nonobjectivism, actually means³³. It is also important to distinguish between "objectivity" and "objectivism". The former is a non-philosophical qualification of the empirical *source* of one's truth-claims, and is the opposite of subjectivity and prejudice (a qualification that need not deny that each successive claim to objectivity is itself open to being retroactively revealed, in light of new information, as both prejudiced and subjective); the latter consists in the absolutist claim that there are *universal* truths, in this case moral truths, that exist independently of one's context of judgment, i.e., one's culture. As Margolis says, a nonobjectivist striving for objectivity would insist that:

³³ Originally, as Margolis reminds us, objectivism was introduced by Husserl to critically designate "all forms of cognitive privilege, critique, apodicticity, and adequacy that fell short of phenomenological correctives- in particular it was applied to the work of all forms of reasoning modeled on the practice of Galileo, Descartes, and Kant." (Margolis, 1991, p.166). Others, such as Richard Bernstein, also cited by Margolis, take objectivism to mean "the basic conviction that there is or must be some permanent, ahistorical matrix or framework to which we can ultimately appeal in determining the nature of rationality, knowledge, truth, reality, goodness or rightness" (ibid., p.166). Still others claim that objectivism in morality can entail making either a metaphysical claim "that true moral judgments describe a subject matter that is independent of the thoughts and feelings of finite, sentient beings" or an epistemological claim "that at least some moral judgments can be supported by evidence that any knowledgeable and rational individual would have to accept" or both (Arrington, 1989: p.193). On Arrington's reading, nonobjectivism in moral theory would have to be distinguished from moral nonobjectivism for the simple reason that, according to him, there is no such position as moral objectivism to which it could be opposed. There is only metaphysical or epistemological objectivism. But these distinctions are too convoluted to be that useful right now so, for now, we will go with a reading of objectivism that is the most simple: a position that, due to concerns related to scientific objectivity, favours a historical, culturally particular interpretation of the source of moral standards over an ahistorical, universal one. This version, in addition to being straight-forward, also has the merit of being consistent with pattern theorists' incommensurabilism, i.e. their "different directions" approach to standards of progress.

... human reason can never overcome its historical setting or horizon. In this sense it can never achieve what objectivism requires...the contemporary champion of objectivity sees that historicizing science and human reason precludes the simple confidence of the objectivist (1991: p.33).

Therefore, it is in principle possible for nonobjectivists to urge objectivity as the Boasians did. What they are urging is "value-free" or morally neutral anthropology.

Nevertheless, while pluralism and incommensurabilism were advanced by anthropologists primarily as empirical claims involving no more than a "relationalized"³⁴ reading of cultural artifacts (including moral norms) as "relative to" their particular historical contexts, the concomitant aspiration to moral neutrality also introduced what would turn out to be a loaded epistemological claim, viz. the repudiation of universal and allegedly objective standards of moral judgment (c.f. Hatch, 1989: p.39). Having challenged the objectivism of their predecessors and in light of their contemporaries' desire to universalize human rights, it would prove impossible for anthropologists to avoid taking a stand on applied and theoretical questions of legitimization. Understandably so: if there are many different types of culture (pluralism) each yielding its own measure of progress (incommensurabilism), and moreover, if moral standards are not universalizable as objective "truths" for all cultures (nonobjectivism), then is it not also impossible, and perhaps "wrong", to prescribe what is "good" or "right" for humanity as a whole?

During the drafting of the first International Declaration of Human Rights in 1947, the American Anthropological Association published a "Statement on Human Rights"

³⁴ Margolis (1991) uses this term to distinguish "cultural relativity", i.e. the relativization of truth-values to cultural contexts, from relativism proper. I will, however, continue to refer to various interpretations of cultural relativity as "cultural relativism" even though the latter may not necessarily involve the kind of claims that Margolis would call relativistic in the "robust" sense. My distinction is more akin to the distinction between, say, rationality and rationalism.

that used the new anthropological paradigm to argue against the imposition of Western moral norms via a "rights" rhetoric (American Anthropologist, 1947: pp.539-43). By ignoring the deep historical and cultural differences between the First and Third Worlds, the universalization of rights, it was thought, both posed a serious threat to cultural freedom and denied the empirical fact of cultural relativity.

It was thus that the debate between human rights advocates and cultural relativists was irrevocably launched. Most anthropologists now held that cultural relativism compelled "tolerance" with respect to divergent ideals and conventions. As Herskovitz observed in Man and his Works (a work published the same year as the "Statement on Human Rights"):

Cultural relativism is a philosophy which, in recognizing the values set up by every society to guide its own life, lays stress on the dignity inherent in every body of custom, and on the need for tolerance of conventions though they may differ from one's own...[T]he relativistic point of view brings into relief the validity of every set of norms for the people whose lives are guided by them, and the values these represent (quoted in Hatch, 1989: p.86)

So it was that cultural relativism came to be equated not only with both fundamental empirical claims regarding the relativity of moral norms to culture and the epistemological claim regarding the non-objectivizability of moral truths, but also with the normative claim of the inherent "validity" of cultural norms and the subsequent moral and political obligation of outsiders to tolerate them! It was this latter obligation that transformed cultural relativism into a "prescriptive relativism" (Nickel, 1987: p.69) that has been at odds with liberal individualism until this very day. Over the past fifty years, cultural relativism has often been invoked as a position that privileges collective values over individual ones; a position that is often claimed by developing countries to support their reservations with respect to international conventions in the name of tolerance for their collective or cultural rights (or for so-called rights of "solidarity"). Clearly, if this

is what cultural relativism entails, then it could support a defense of state rights; rights that pose the same potential threat to individual freedom as no rights at all. Hence the suspicion that a prescriptive relativism may be more reactionary than liberal in spirit (c.f. Donnelly, 1990: pp.46-7).

In order to prevent confusion between the different kinds of relativism discussed, a brief summary of the various types of relativism that are latent in the anthropological thesis known more generally as "cultural relativism" follows. This summary will enable referral to different types of relativism without need for qualification each time. It will also prove more useful than the general term "cultural relativism" in distinguishing the different claims that contemporary relativists have made.

1) Boasian or traditional cultural relativism: makes an empirical claim about the facts of cultural pluralism and incommensurability; espouses nonobjectivism as a second-order claim.

2) Prescriptive relativism: same as above but prescribes "tolerance" of culturally relative moral norms, whether on the basis of a morality or on the basis of a theory of culture.

3) Moral relativism: consistent with Boasian relativism but is non-prescriptive; treats moral values as culturally relative facts themselves; used synonymously with moral skepticism (c.f. note 35).

4) Applied relativism: any theory that attempts to apply the empirical claims of cultural relativists to the normative claims of moralists.

Boasian relativism is the foundation of all the subsequent types of relativism listed above. The distinctions between the other types hinge on *how* the facts of cultural relativism tie in with moral questions; hence, the fourth type which includes the second, the third, and possibly an alternative type of relativism, i.e., a form of relativism that would be neither prescriptive nor morally relativistic. Such an alternative would neither

relativize first-order moral values as cultural artifacts nor universalize them as pancultural truths. It would argue from a second-order perspective that we, as cultural relativists, can step back from moral conflict and appreciate that it cannot always be resolved by applying one set of moral values. But such an alternative would not entail that we just abandon our own moral values altogether. In fact, if such a form of applied relativism were articulated in theory, it would justify the non-punitive, culturally sensitive approach to discussing F.C. such as the approach taken by the members of the UN Sub-Commission (some of whom are clearly opposed to F.C. for moral reasons). Finally, it would strive to break the deadlock between moral universalists and cultural relativists on this kind of applied ethical issue in that it would not force an either/or choice between moral absolutism and cultural absolutism which, taken to their respective extremes, lead to cultural imperialism and moral reactionism. It would be an applied relativism that would be more congruent with how individuals actually deal with moral conflict in a contemporary multicultural setting when they are motivated by and committed to listening, understanding, helping and possibly changing the world for the better through intercultural dialogue.

D. Tolerance: a challenge to relativism

Disregarding for now the question of whether a call for tolerance is compatible with the commitment to universal human rights (which constitutes the subject of the next section), let us take a critical step back and study the supposed connection between cultural relativism and tolerance of culturally-based moral divergence. What, if any, are the evaluative limits implied by the facts of cultural pluralism and incommensurability? What are the consequences of these limits for the universal application of moral principles as embodied in "human rights"? A disciple of Boas, Alfred Kroeber, would soon argue that cultural relativism could not be readily equated with a tolerance prescription as Herskovitz and others may have once thought. The repudiation of ahistorical evaluative frameworks, he claimed, was not tantamount to the repudiation of moral universals in any way.

Kroeber interpreted language and culture as expressions of a network of interconnected and persistent patterns that, he thought, wholly determined the realm of social organization and individual behavior, including allegiance to collective moral values (Kroeber and Kluckhohn, 1952: pp.332-340). He also held that cultural phenomena were as analyzable and measurable as the components of any organic structure and that, therefore, there was no reason why anthropology should not eventually develop a "natural history" of its own (ibid.: p.345). As he and Kluckhohn explain:

All cultures constitute so many somewhat distinct answers to essentially the same questions posed by human biology and by the generalities of the human situation [...] The facts of human biology and human group living supply, therefore, certain invariant points of reference from which cross-cultural comparison can start..." (ibid.: pp. 348-9)

Although Kroeber was committed to the elucidation of linguistic and behavioral patterns as proof of the relativity of cultural phenomena to cultures as historical

particulars, and although his cultural determinism was even stronger than Boas's, his belief in the essential likeness of all human beings would ultimately fortify his loyalty to moral universals. Evidently he perceived no contradiction between relativism in theory and universalism in practice, or any doubts held in the area were mollified in the affirmation that there was "a similarity between cultures, which in some way transcends the fact of relativity..." (ibid.: p.349). Like Talcott Parsons' later theory of social structure, Kroeber's moral universalism co-existed awkwardly with his cultural "essentialism" (Jenks. 1993: p.38), prompting him to have recourse to the same values and, arguably, the same type of objectivism that had ignited the Boasian revolution from the start.

This regression was no fault of Kroeber's. Although the cross-cultural data provided by ethnography yielded evidence to support the ideas of cultural pluralism and incommensurability (against the old idea of their being only one type of culture: Western civilization), it did not amount to a comprehensive theoretical position from which to claim the inherent validity of other cultures' moral norms. For this reason, cultural relativists like Kroeber could make prescriptions that contradicted the tolerance recommended by theoreticians such as Herskovitz. Nothing linked Boasians' central claim (cultural relativity) to their central exigency (tolerance of culturally relative moral diversity). Anthropology thus lacked an immanent criterion by which to systematize the horizontal facts of pluralism in relationship to each other or to their own normative frameworks rather than in relation to the observer's own externally imposed normative system.

In compensation for this theoretical lack, the British anthropologists Radcliffe-Brown and Malinowski took what they called a "functionalist" approach to social structure (Radcliffe-Brown) and culture (Malinowski).

In the functionalist view, culture was thought to be analogous to an organism that, like any living entity, was endowed with its own adaptive morphology or "structure" (Jenks, *ibid*: p.39). Because a vital function was attributed to specific cultural beliefs or practices as integral parts of each culture, and because individual cultures were taken to be hermetic and self-sufficient systems, this view promoted the holism that was apparently necessary to evaluating cultural artifacts solely in relationship to their own normative frameworks. Functionalists devised a "cross-cultural standard for evaluating institutions" (Hatch, 1989: p.72) that would stand in opposition to Kroeber and Kluckhohn's pancultural standard. Malinowski emphasized individual and biological needs more than Radcliffe-Brown (who was primarily concerned with social structure), yet both argued that cultural institutions were "good" or "useful" only in relation to the quasi-instinctual tendency of each culture toward self-preservation or homeostasis.

Here, potentially, were immanent criteria by which to evaluate the norms of other cultures without introducing one's moral views as an outsider. Nevertheless, these criteria, cultural coherence and stability, depended on a model that personified culture to the point of depersonalizing social agency. They formalized cultural structure in a manner that disallowed accounting for cultural change or radical discontinuity (such as a revolution) other than as aberrations. The functionalist model might have therefore been able to account for the stability of "traditional" cultures, but it leaned toward such an abstract representation of culture that traditions themselves seemed devoid of the very processes that made them living artifacts. Because functionalist analysis is applicable only to norms and institutions that are reified within cultural "structure", it is an analysis that fails to explain cultural differentiation. Functionalists may have provided the theoretical grounds by which to repudiate culturally external recommendations that threatened to change traditional institutions through the imposition of foreign norms; however, by deriving these grounds from a model that evacuated the particular spatio-

temporal processes of cultural differentiation, they failed to establish the validity of culturally internal norms or change. (c.f. Arrington. 1989: pp.198-9, and Michael Schmid's critique of Parson's functionalism in Munch and Smelser. 1992: pp.109-112). What the functionalist defined as "good" or "useful" disregarded individual agency and the creation and dissolution of norms, and therefore did not construct an evaluative link that could account for their "vitality".

The penchant for abstract explanations of cultural behavior was also at the heart of "structuralism". Structuralism as pioneered by Lévi-Strauss did not focus on the specificity of cultural meaning systems as manifestations of a unique historical or personal process. Instead, it emphasized the spatio-temporal matrix provided by culture as a metaphorical expression of man's collective destiny. As Jenks summarizes:

Particular cultures, then, are [according to structuralists] socio-historically specific transformations of an unconscious, universal and immanent rule system. The determinism is diffused through the specificity of transformations (...) [such that] we are in fact looking past the transitory representations that make up modern culture back to Descartes' positioning of 'man' at the hub of the universe and then returning through Kant's location of that 'hub' within the a prior continua of space, time and inevitably *causality*. (1993: p.63)

Although structuralism (as opposed to functionalism) provided an account of social action, invention and transformation, these phenomena were articulated in terms of an unconscious process that was thought to work across space (synchronically) and time (diachronically) in every human mind and within every cultural context.

Structuralism is sometimes described as posing the ultimate challenge to the modernist reading of cultural values as couched in an ahistorical moral consciousness. This is why it is usually considered a precursor of what is now known as "post-modernism" insofar as it entailed:

the systematic rejection of the most basic premises of modern European philosophy: the celebration of the self and subjectivity, the new appreciation of history, and most of all the already flagging philosophical confidence in our ability to know the world as it really is. It was, in a phrase, the wholesale rejection of the transcendental pretense (Solomon, 1988: p.194)

Despite this, structuralists still aspired to the kind of objective truths that were the ultimate goal of modern science. This can be remarked in the work of Piaget or Chomsky. While the meaning of language or culture may have been treated as relative and variable, the cognitive structures underlying them were interpreted as emblematic of the universal relationships of linguistic or other behavior to immutable "rules". Like the static relationships established by the functionalist approach, these relationships were devoid of meaning that could link "transitory" phases with the particular dimensions that endow them with moral significance. Even Lévi-Strauss's use of Saussure's concept of "difference" would juxtapose and identify, in an dispassionate way, the various elements working together to sustain a particular cultural identity as an abstract "system":

This concept [difference], introduced by the linguist de Saussure, becomes central to structuralism. for structuralism (at least Lévi-Strauss's variety) distinguishes between the *possible* permutations of a system of elements, and the *actual* deployment of any element in a system of differences. It is worth emphasizing that, for Lévi-Strauss, the *meaning* of these elements (whether sounds or cultural concepts) is not of significance; it is only the place in the system that counts (it is as if the brain can only dictate relations, while meaning is something added and inevitably subjective). (Solomon, *ibid.*: pp.197-8)

With the branching out of anthropology into social structural and cultural anthropology, functionalism and structuralism attempted to provide an "all-encompassing theoretical framework" (Jenks, 1993: p.38) by which to systematically investigate cultural artifacts, including moral values relative to culture. However, in replacing a historical model of culture with a biological/unconscious one, these new disciplines sacrificed

explanation to analysis and social criticism to cultural determinism. While culturally internal standards of validity may have thus been vindicated at a theoretical level, they ceased to tie in with practical questions. This was due to the fact that spatio-temporal particulars of individual agency were evacuated as part of a systemic treatment of "culture". As such, the holistic approach that marked the birth of these new disciplines could not provide the evaluative criteria necessary for making culturally relative moral prescriptions. It was an approach that could be used to make a case against the imposition of foreign and potentially oppressive norms as much it could be used to make a case for the tolerance of a potentially oppressive status quo.

Furthermore, the universalism that was so repulsive to Boas and his disciples would, through these related disciplines, end up preying once again upon the fertile empirical data uncovered by ethnographers. Whether it was due to the impact of the Second World War or to the renewed interest in "scientific" generalization (Hatch, 1989: p.106, c.f. Solomon, 1993: p.194), cultural studies would not undermine universalism as much as they would bury it within the deeper structures of form, function, space and time. The moral relativism that seemed latent in the Boasian Revolution thus never came to pass. The new paradigm, in the post-war context, was more likely either to be disavowed as a "moral embarrassment" and rejected in favor of moral absolutes (Hatch, *ibid*: pp.104-116), or be re-absorbed by increasingly "post-modernist" trends that would not contribute to a case against moral absolutism, but would oppose traditional conceptions of morality in favor of generalized moral scepticism³⁵.

³⁵ Stating that a call for tolerance can't be justified on the basis of cultural relativism is by no means intended to discredit a prescriptive relativism in favour of moral relativism (or scepticism). On the contrary, in as much as moral relativists and sceptics treat moral values as empirical facts, they have no contribution to make to the kind of debate being discussed here, namely, a debate about the practical implications of cultural pluralism and incommensurability. This debate assumes that when moral values are theorized as relative to culture, they remain more than just "fact". To perceive from a "God's eye view" (Margolis, 1991: p.64) that morality is relative to

Cultural relativism, as an empirical thesis, has the potential to alter perceptions and judgments of foreign cultural practices that are radically different from our own. Nevertheless, it would seem that social sciences are not going to deliver criteria by which to develop an applied thesis from this empirical one. Post-Boasian theories of culture may have represented an improvement on their predecessors' anthropological theories, but did not overcome the theoretical lacunae of Boasian relativism which prevented anthropologists from justifying the type of prescriptions that, from a purely "scientific" point of view, they had once deemed necessary.

It will be recalled that Boasian relativists seemed either to support their own purportedly cross-cultural standards of moral judgment (e.g., Kroeber and Kluckhohn), in which case they appeared to regress to the type of normative claims made by nineteenth century anthropologists, or to repudiate these standards in favor of culturally internal ones (e.g., Herskovitz and Benedict), in which case they appeared to arbitrarily convert cultural relativity into prescriptive relativity. What emerges now is that even a holistic theory of culture cannot claim the legitimacy of prescriptions with respect to moral conflict arising from cultural diversity. Prescriptions are the application of moral principles and, in defending them, one must demonstrate either that they do not have culturally relative limits or that an applied relativism is limited due to the nature of moral beliefs.

An argument for relativizing culturally external moral judgments, or for tolerating

culture may be to claim cultural relativity as an empirical truth, but it is a truth articulated from an epistemic perspective; a second-order truth claim that does not annul my empirically situated being, for I am not God. The assertion that "morality is relative to culture" or that cultural relativism is applicable to morality is not the same as the relativization of morality in a way that would suspend or dismiss those dimensions of one's moral principles that give them moral value. Even if moral relativism were a tenable position (the possibility of which is irrelevant to this thesis), it would not be the only option of an applied relativism, given that moral values are in fact values.

culturally internal ones, is distinct from an argument for a theory of culture based either on the evidence of cultural pluralism or on the evidence of culturally relative norms of moral progress. This is a fairly standard objection to relativism:

The relativist invalidly derives an ethical thesis that all moral values are relative from the factual thesis that societies and individuals have different moral beliefs. Disagreement and diversity over moral beliefs never entail that one ought to obey only the rules of one's society, that no moral belief is true for all human beings, or that no moral belief pictures objective facts. (Arrington, 1989: p.200)

Even when the internal homogeneity of diverse cultures may be alleged in theory (as it was by functionalists), it still fails to provide the grounds necessary to maintain that, in practice, cultural members *should* obey their own moral rules. Establishing the coherence between cultural norms and cultural structures is not interchangeable with establishing the claim that the "rules of one's society" are morally binding, or that "no moral belief is true for all human beings". These claims require an independent evaluative framework by which to validate other cultures' moral norms or by which to argue that culturally external moral judgments must be made relative to culturally internal ones.

Boasian relativism did not provide an evaluative framework by which to go beyond moral neutrality and defend the perceived "limits" of an applied universalism. It was due to this, and not to any other, theoretical lacuna that cultural relativism failed to substantiate "tolerance" of cultural diversity and left itself open to adopting antithetical claims as well as claims that evacuated the problem of morality altogether.

The problem with developing a prescriptive relativism is that cultural pluralism and incommensurability, as facts, do not yield reasons to "tolerate" different value systems. Even if they could, a moral leap of faith (the conversion of an "is" into an "ought") would collide with the very nonobjectivism that was meant to be secured by

adopting cultural relativism as a new paradigm in the first place! Herskovitz was therefore wrong. Tolerance did not follow from a theory of cultural relativism, at least not any more than universalism (or intolerance) did. Both require that value be ascribed to facts: something that relativists cannot consistently concede. As Arrington continues:

Frequently a relativist concludes that people ought to obey the rules of their society or group without realizing that this is in fact an absolutist thesis. This position, therefore, is incoherent. Sometimes the relativist inconsistently derives the claim that one should be tolerant of those that disagree with one on moral issues- another absolutist thesis- from the claim that no set of moral beliefs is more correct than any others. (ibid: p.201)

Arrington is right. Behind the Boasians' call for tolerance lies an absolutist claim: a moral commitment to a particular aspect of culture, such as internal coherence or integrity, whose theoretical justification was not forthcoming from anthropology even as the discipline yielded ever more holistic explanations of cultural meaning systems.

The possibility that the facts of relativism do not oblige recognition of cultural diversity and respect for cultural autonomy may still exist, but now it would seem that such an obligation can only be accommodated within an evaluative framework like the one traditionally provided by liberal theory: a concession to the facts of relativism that is moreover hardly challenged anymore today. During the post-colonial era, cultural imperialism lost its credibility as a morally or politically tenable position and, since then, a people's right to self-determination, i.e. to "freely determine their political status and freely pursue their economic, social and cultural development", has been formally adopted as Article 1 of the Covenant on Human Rights. Because the Boasian Revolution contributed to the collapse of cultural monism and imperialism, it has, in retrospect, been assimilated as a "liberal" contribution to the philosophical remodeling of the current political agenda.

One may therefore conclude that, in spite of both salient anthropological findings

and regardless of the apparently universal support for cultural autonomy, it is not obvious that one can just apply the facts of cultural relativism to morality or to extend cultural relativism to include ethical principles, without contradiction or circularity. This practical impasse is reminiscent of one confronted by "communitarians" who appeal to collective rights in order to protect the collective values of different cultural communities. Honoring cultural over individual rights and cultural autonomy over individual freedom may provide a way to avoid respecting only rights that privilege one particular view of the self (a traditionally "Western" view), but it does not help reconcile competing claims to the right to individual protection. Moral criteria are still required to differentiate these claims; the very type of criteria that communitarians fear will reflect abstract "liberal" values.

The communitarian emphasis on collective identities suffers from the same weakness as the relativistic emphasis on cultural meaning systems. Collectivizing identity gives more weight to values that are indissociable from membership in a particular cultural community. It may challenge the allegedly empty values attached to liberal institutions but, as Will Kymlicka suggests, it "does not yield a justification for the measures that are needed to protect cultural membership" (Kymlicka, 1989: p.221). Let us digress a little here to better demonstrate the connection between Kymlicka's critique and my own.

Kymlicka argues that, without a morality of justice and equality that stands apart, as legitimative discourse, from the shared meanings that constitute our membership in a culture, a communitarian theory fails to do justice to the very issues (such as cultural membership) that it claims as its central concern. He illustrates this with respect to the issue of protection for minority cultures. He shows that Walzer's (communitarian) theory of justice, while it professes on the one hand to be grounded in respect for cultural membership, on the other identifies "culture" with a political community whose

decisions may not, and most likely would not (given the culturally heterogeneous countries that compose our world), reflect the shared meanings of its constitutive historical communities. Furthermore, as Kymlicka claims, if it is the historical community that embodies "the real world of common meanings, the place where language, history and culture have produced a collective consciousness" (ibid.: p.222), then it would not be cultural membership that is protected at all but merely some artificially homogeneous political entity! According to Kymlicka, Walzer's theory, in assigning power to the political, over the historical, community, leaves "entirely unanswered the question of whose understandings are held to be authoritative in making that decision" (ibid.: p.223). We know all too well the types of abuses that loom when political authority is in the exclusive hands of those whose understanding of cultural unity takes precedence over, or is even in direct conflict with, the survival of cultural minorities (c.f. Kymlicka, ibid.: p.224). Even in a democratic society, it may happen that the political community does not share the values of its minority communities or may simply lack any commitment to cultural membership. In such a case, as Kymlicka also points out, a theory of justice such as Walzer's that professes to be centrally concerned with the right to cultural membership, but that avoids the type of legitimative claims that are necessary to substantiate this right, "leaves the defense of minority cultural membership to the vagaries of majority sentiment about the value of such goods as diversity and autonomy" (ibid.: p.233). Clearly some attempt to ground the (moral) value of cultural diversity and autonomy must accompany the commitment to cultural membership if the latter is to be other than just a new political medium for the suppression of cultural difference.

Finally, Kymlicka also shows that, even when communitarians like McDonald and Taylor supply an argument in defense of the rights of minority cultures as historical communities, the grounds they advance for doing so seem to come out of the blue,

suggesting "some independent claim by the community itself to equal treatment" (ibid.: p.241). Now insofar as such a claim invokes principles of a moral nature (such as *respect* for a group's chosen form of life, or *concern* for the survival of different communities), it will inevitably depend on the personification of groups as a collective identity to which we can attribute expression of an internal will, "voice", preferences or intentions, some expression of what constitutes "well-being". As Kymlicka concludes, groups "have no moral claim to well-being independently of their members- groups just aren't the right sort of beings to have moral status. They don't feel pain or pleasure. It is individual, sentient beings whose lives go better or worse, who suffer or flourish, and so it is their welfare that is the subject matter of morality." (ibid.: p.242).

Kymlicka's critique of communitarianism is similar to my critique of the attempt to derive, from a theory of cultural relativity, any principles that can be applied to moral conflict arising from cultural diversity. In fact, I think that, in situating a collective entity above the only "beings" capable of making moral claims, a communitarian theory of justice confronts the same impasse as a relativistic theory of culture. By repudiating the possibility of moral principles that are independent of culturally internal value judgments, neither the communitarian nor the cultural relativist can possibly ground the measures required to promote cultural membership or diversity of moral values.

Given these criticisms, it would seem that an argument for tolerance of cultural practice is easier to derive from a model of universal value than one that relativizes with culture. This puts the theoretical ball back in a liberal court for the time being. Our candidates for an applied relativism have thus been narrowed down to ones that can provide some limits whereby to avoid a generalized tolerance prescription while providing a theory of value that also accounts for the facts of cultural relativism. An applied relativism can do this by not grounding its truth-claims in a normative framework that cannot be generalized from culture to culture. The problem, as we shall

see. is to find criteria by which to evaluate culturally internal value judgments that are compatible with a culturally independent evaluative framework.

E. The limits of tolerance: a challenge to morality

Granted that only a moral theory can provide some evaluative criteria by which to recommend tolerance of culturally-based moral diversity, what is the difference between this kind of prescriptive relativism and plain old moral universalism? This question pertains to the scope of an applied relativism and how any limits can be legitimized in theory. If we concede that the value of a cultural practice (such as female circumcision) is relative to cultural membership, and if we both respect this membership and endorse a certain degree of cultural diversity, then as outsiders for whom this practice has no value (or only negative value, e.g., as a violation of human rights), on what grounds are we entitled to "press a negative external judgment" (Donnelly 1989: p.115)? After moving quickly to the substance of Hatch's and Donnelly's attempts to reconcile moral universalism and cultural relativism, this section will distinguish these from a similar approach to the question (Arrington's) with the difference that it is an approach that tries to develop a more "relativistic" reconciliation, one that is actually closer to the one that Kymlicka proposes.

Hatch claims that it was not the call for tolerance per se, but the unconditional nature of this call, that constituted the fatal weakness of cultural relativism. Although he concedes that cultural relativism represented a definite "improvement" (1989: pp.51 and 65) on mere descriptive relativism (which did not, in the 19th century, preclude cultural imperialism), Hatch thinks that anthropologists may have gone "too far by giving indiscriminate approval to every foreign practice" (ibid.: p.85).

Since Hatch maintains that the real issue for cultural relativists was always one of "human freedom" (Hatch, ibid.: p.38; pp.98-101), he feels justified in concluding that where freedom appeared to be compromised by certain cultural practices, anthropologists should have insisted that tolerance too have its limits. Because Hatch

claims that the motivation behind the anthropologist's call for tolerance was essentially a commitment to freedom, he suggests that an applied relativism should have been explicitly mediated by a cross-cultural moral condition, namely: "that people ought to be free from illegitimate coercion" (ibid.: p.98).

Whether or not Hatch is right about the motivation behind the Boasian Revolution, he argues that his moral standard has the merit of being consistent with what, in his opinion, constituted the real improvement on the universalism of the colonial era (promoting respect for culturally variable forms of self-determination) while not leading to the inevitable extreme of moral relativism: the apparent willingness to comply with "cultural" justifications of violent or despotic behavior. The last chapter of Hatch's book is in fact dedicated to elucidating the "humanistic principles" (ibid.: p.134) that he believes are necessary to recovering cultural relativism as a legitimate prescriptivism. A humanistic relativism, he says, should strive to promote well-being by opposing both coercion (abuses of power) and those forms of human suffering that stem from a lack of material conditions adequate for a good life (ibid.: p.135). It is by adopting these general moral principles, Hatch concludes, that cultural relativism can be reconciled with a call for tolerance in a way that strikes a balance between two undesirable extremes: cultural imperialism and moral relativism.

Similarly, Donnelly maintains that only a "weak cultural relativism" is able to hold "in check" the excesses of both radical universalism and radical relativism. Radical universalism, he contends, "cannot be justifiably maintained" (1989: p.111) because it requires giving "absolute priority to the demands of the cosmopolitan moral community over all other ('lower') moral communities" (ibid.: p.110), that is, it facilitates moral imperialism. On the other hand, he claims that if "all rights rested *solely* on culturally determined social rules, as radical cultural relativism holds, there could be no human rights, no rights one has simply as a human being" (ibid.: p.112).

The latter position, he argues, is "morally indefensible today" because it both ignores the universal concern for personal dignity and freedom which is at the basis of all political institutions and denies the "cross-cultural consensus" actually achieved with respect to human rights (ibid.: pp. 112-14). As he explains:

...although the processes of sociopolitical individuation and state-building were first played out in Europe, they are increasingly the rule throughout the world. The structural basis for a society of equal and autonomous individuals is thus being universalized despite its historically particular and contingent origin. (ibid.: p.70)

Because Donnelly takes the normative consensus achieved with respect to universal rights as "logical and necessary" (ibid.: p.60) in the socio-economic context of contemporary society, he does not deem it necessary to establish the link between this consensus and any real moral or political legitimacy. Consensus, historical facts and "statistical regularities" (ibid.: p.117) constitute an important and recurring feature of Donnelly's "argument" regarding the practical limits of relativism (c.f. ibid.: p.60, pp.62-5, pp.121-2).

According to Donnelly then, not only is respect for dignity and autonomy best expressed in terms of (the traditionally "Western" concept of) basic human rights but human rights standards are in today's world as much a fact as cultural diversity is. On this basis, Donnelly, like Hatch, rejects the idea that relativism and universalism are mutually exclusive concepts and asserts rather that one can endorse a "weaker" or "stronger" form of relativism depending on how concessions are made to universal principles (embodied--for Donnelly-- in "human rights"). He perceives no contradiction in requiring that a "strong cultural relativism", i.e. a position that holds that "culture is the *principal* source of the validity of a moral right or rule", accept "a few basic rights with virtually universal application" (ibid.: p.109).

The problem with adapting relativism to universalism in the manner of Hatch and Donnelly, is that this adaptation is only a compromise, imparting justice to neither relativism nor universalism. Granted Hatch's criticism that cultural relativists seem incapable of providing the moral foundations necessary to grounding their own tolerance prescriptions. Hatch himself makes no attempt to qualify his own moral posture. How does the weakness of the first option recommend the second? How does it justify the repudiation of moral relativism? As for Donnelly, he does not qualify his moral standards other than by an appeal to historical "facts" or consensual agreement. The truth is that both fail to provide the legitimative framework necessary to support their moral principles in a way that is consistent with both the concessions made to cultural relativism and with a moral argument that establishes some limits to what one can or should tolerate.

It is even rather curious that Hatch and Donnelly refer to their respective positions as "relativistic", being primarily concerned as they are with avoiding potential "abuses" and "excesses" (the immorality) that they believe a more radically relativistic position would invite. It is not clear how giving priority to their own moral concerns is compatible with the argument they advanced for conceding anything to cultural relativism. Both Hatch and Donnelly acknowledge the relativity of values to culture and both criticize moral imperialism but, in the end, they maintain the legitimacy of a non-relativized point of view with respect to what they consider basic, well-founded moral principles. Let us demonstrate this in more depth.

Donnelly divides moral judgments into those whose value framework lies inside of the cultural framework of the practice in question and those whose framework lies without, labeling them "internal" and "external" judgments. He follows Weber in distinguishing four "ideal types" of evaluative controversies (ibid.: p.115), i.e. four distinct cases that depend on "moral importance" of a cultural practice from both the

culturally internal and external points of view; the hardest case being one where the questioned practice represents morally important issues on both sides. He maintains that "one's moral responsibilities as a member of the cosmopolitan community" (ibid.: p.114) must, in difficult cases (the fourth "ideal type"), take precedence over culturally internal evaluations. The only difference between his "weak" relativist and the moral imperialist is that the former would refuse to press an external value judgment when an issue is of no moral importance! In cases where an issue is of great importance, no difference can actually be drawn between the weak relativist and the imperialist. Membership in one's own moral community, according to Donnelly, obliges external over internal value judgments in hard cases (ibid.: p.115).

A weak version of "cultural relativism" may aspire to be more "humanistic" than radical relativism and more circumspect than full-fledged moral universalism³⁶, but it really only side-steps the conflict at the heart of tolerating cultural diversity. It is a version laden with confusion and self-contradiction because it both acknowledges cultural relativism and endorses its own normative absolutism, as in the passage:

...moral judgments (at least as they are typically understood in the West) are by their nature universal, or at least universalizable, *even though we know that moral values and particular judgments are at least in part historically specific and contingent.* (Donnelly, ibid.: p.115; my emphasis)

If moral judgments are universal in scope, then why reflect on the conditions that might legitimize disapproval of questionable cultural values? What distinguishes moral righteousness from blatant self-righteousness or moral conviction from intolerance? Is Donnelly denying that an outsider should attempt to identify and comprehend beliefs

³⁶ Like the approach of human rights advocates at the international level, this position in fact represents an improvement on mere "cultural relativism" because of its deliberate sensitivity to or awareness of the facts of cultural diversity.

that are constitutive of alien values? It would seem so:

...our moral precepts are *our* moral precepts. As such they demand obedience of us (...) And no matter how firmly someone else, or even a whole culture, believes differently, at some point we simply must say that those contrary beliefs are wrong. Negative external judgments may be problematic, but in some cases at least they seem not only permissible but also demanded. (ibid.: p.116)

Although Donnelly's and Hatch's version of an applied relativism advances basic moral principles and protects them from the criticism that has been directed toward relativistic (or communitarian) arguments for "tolerance", it fails to be grounded in a legitimative framework. We thus rediscover in these arguments for an applied "weak" relativism the kind of arbitrariness that was immanent in the communitarian's or prescriptive relativist's commitment to tolerance. The difference between the two positions is that, where tolerance could not be prescribed without the conversion of an "is" (cultural relativity) into an "ought" (to tolerate), the limits of tolerance cannot be defended without the conversion of an "ought" (my moral precepts) into an "is" (not relative)! How can an "ought" ever justifiably become an "is"? Donnelly never offers an argument substantiated independently of his own normative framework. He does not demonstrate how the declaration of moral precepts as "right to me" is compatible with tolerance of cultural difference or even with a defense of measures used to promote cultural diversity. Furthermore, he does not furnish a culturally independent principle that could hold promise of resolving competing moral claims, particularly when all human beings, by the principle of reversibility, would presumably also be entitled to press their own value judgments on issues that are morally important to them.

Nevertheless, there is something intuitively appealing about Hatch's and Donnelly's absolutist approach to morality. How can we relativize value judgments when this means canceling out our own beliefs? How can we relativize morality when

we consider the espousal of external points of view to be immoral? If relativizing value judgments means stepping outside of beliefs that constitute our own evaluative framework, then we confront a paradox³⁷. Consider a commitment to individual rights: if relativizing value judgments with respect to cultural practices implied that rights advocates adopt a moral position that is consistent with culturally internal value judgments, then, in cases of rights violations, the advocates would be sympathetic to cultural practices they believe are "wrong". Relativizing value judgments to one's evaluative framework should not have to entail abandoning a commitment to individual rights or other moral principles.

Donnelly is therefore correct in saying that a commitment to rights must at some point conflict with the call for tolerance of practices that violate rights. As Donnelly says: the beliefs that support such practices must simply be viewed as "wrong" when they are contrary to my own³⁸. Culturally relative moralities may therefore conflict at times, but it is still not clear that this conflict stems from limits that moral values impose on the scope of applied relativism. This conflict could also stem from the culturally relative limits of moral values. As liberals committed to one particular set of moral standards, it is therefore necessary to go the further step and attempt to disprove that moral value can also be relativized. Otherwise, the liberal commitment to rights remains susceptible of being submerged in purely relativizable objections to other standards.

³⁷ This is not necessarily true of other types of judgments: I can evaluate a material object from different points of view without abandoning the beliefs about the empirical world that inform all of my judgments about it. This is what makes moral judgments different from factual statements.

³⁸ This relates to the perceived weakness of Gunning's "world traveling methodology" studied in chapter 2/A/ii.

F. Reconciling relativism and morality: relativizing absolutes

Having criticized "prescriptive relativism" on the basis that it did not provide evaluative framework for its own prescriptions, section E of this chapter discussed two attempts to introduce basic moral principles in defense of a limited or "weak" cultural relativism that presumed no endorsement or tolerance of foreign morality. "I cannot tolerate what I think is morally wrong" was, in a nut-shell, the thesis defended by Hatch and Donnelly. However, it was concluded that a legitimated framework for such a moral absolutism was not actually provided independently of the authors' own (culturally relative) evaluative frameworks. As a result, we now find ourselves back at square one and having to renew the attempt to reconcile cultural relativism and morality.

Up to this point, the relationship between culture and morality has been modelled on a dichotomous relationship (a form of relationalism; c.f. n.34) that has polarized the debate between cultural relativists and moralists such that all attempts to resolve the problems posed by foreign cultural practices have been forced to privilege one or the other side of the dichotomy. The debate is deadlocked. To break this deadlock, it is necessary to eliminate the apparent mutual exclusiveness between the moralist's and relativist's points of view, between espousing moral values and endorsing cultural relativism. This is why we will now turn to Arrington's conceptual relativism, a meta-ethical theory that claims to provide a legitimated framework for moral absolutism that is compatible with cultural relativism (Arrington, 1989: pp.248-55). As we shall see, Arrington's theory does not actually defend the kind of moral absolutism that Hatch and Donnelly would resort to in defense of applying their own evaluative frameworks against others'; but it does establish that moral commitments are compatible with cultural relativism, that we can speak a moral language while still being relativists.

Arrington wants to establish that relativism can be applied on all fronts except the

moral one. He, like Hatch and Donnelly, wants to prove that morality is not vulnerable to relativism. However, Arrington will proceed by legitimizing the form rather than the content of moral principle such that what is "absolute" about morality will not turn out to be merely its own culturally relative evaluative framework. It is thus that his theory looks like it might not have to privilege one or the other side of the above-mentioned dichotomy.

Arrington distinguishes moral absolutism from an objectivist thesis that would attribute independent status to moral claim. He thinks that one can be both a nonobjectivist and a moral absolutist. An abbreviation of his somewhat complicated explanation follows.

Moral absolutism claims that a moral proposition is "true". Epistemological absolutism claims that it is "true" for all "rational" (human) beings. Metaphysical absolutism claims that it reflects a moral "law" that exists independently of human beings (Arrington, *ibid*: p.194). Only the last two are objectivist theses insofar as they attribute an independent status to moral claim (as consistent with what is rational or what is moral law; both of which suppose an objective framework outside of the moral claim itself). The reason that Arrington believes that a nonobjectivist can still be a moral absolutist is because moral absolutism does not need to espouse either epistemological or metaphysical absolutism. According to Arrington, what is true or binding about morality is neither the (empirically and historically relativizable) content of moral propositions nor their (usually God-given) relationship to some context-independent truth. The binding aspect of morality is, he argues, contained in the very *concept* of morality itself.

Despite the distinctly Kantian ring of his position, there is something novel in Arrington's defense of moral absolutism: he perceives its inherent reversibility, the fact that entirely different sets of principles can be defended and universalized under the

concept "morality". This is why he, unlike Hatch or Donnelly, has reason to call his position a relativistic one. He does not even attempt to defend tolerance (ibid.: pp. 254-5.), for he believes that it is only the content of the concept of morality, and not its form, which is culturally variable. This is, furthermore, why he calls his version of relativism a conceptual rather than moral relativism:

Different people, cultures, or societies mean (or at least may mean) different things by 'morality'. Each judges persons, actions, and events in light of- relative to- the rules and ends definitive of its concept of morality...Faced with the reality of other so-called moralities, we are reduced to saying something like "*This is morality! This is what we must do.*" At the same time we should acknowledge that others may mean something different by the term 'morality' and consequently may behave differently. We may not approve of the way they behave and indeed may bitterly oppose it; we may think their so-called moral behavior decidedly immoral. *But we cannot say that they have made an error or engage in irrational behavior- they are simply different, and their lives revolve around a different concept of morality.* (ibid.: p.256; my emphasis)

Without attempting to claim or deny the legitimacy of culturally internal value judgments on the basis of facts outside of their own evaluative framework, Arrington submits that "Neither reason nor empirical evidence requires that we adopt or reject a concept, certainly not one as basic as the concept of morality" (ibid.: p.257.) Although he says that to be a moral absolutist is "to believe that some propositions about how all human beings should behave are true", this does not, in Arrington's view, preclude admitting that "there is nothing independent of [moral propositions] that can be appealed to in order to determine if they are justified or not" (ibid.: p.255). Arrington might not disagree with Donnelly that the rejection of contrary views on morally important issues is necessary. He would, however, further claim that in "our moral talk" (ibid.: p.258), there is no true or false; no objective basis upon which to maintain that contrary beliefs are actually "wrong" (ibid.: p.259).

Arrington thus distinguishes moral truths from epistemological ones. He argues that, while moral truths are not grounded on epistemological truths, all human beings must nonetheless accept that what is "true" about moral propositions is not relativizable.

Arrington's approach is interesting and important. There is, however, a problem with his distinction between moral and epistemological absolutism. He goes to fantastic lengths to establish a difference between the two. He distinguishes as such:

Moral absolutism: a moral proposition is "true" in the sense of binding (or in the more familiar sense of Kant's moral "duty")

Epistemological absolutism: all rational beings would have to accept moral propositions only on pain of error or irrationality.

Presumably, Arrington thinks that by denying that moral absolutism implies the second claim, he can avoid the kind of criticism that is attendant on an Enlightenment approach to morality. Arrington does not succeed, however, in avoiding a more serious theoretical difficulty attendant on his nonobjectivist defense of moral absolutism: the linking of moral propositions to "truth". The distinction he draws between true-rational and true-binding moral propositions is not sufficient to distinguish his moral absolutism from the thesis that morality is binding only in the sense of the arousal or expression of a *noncognitive* affective state³⁹.

³⁹ In fact, Arrington's distinction between the epistemological and moral dimensions of moral propositions is identical to the distinction drawn by Kant in his Third Critique between the speculative and practical points of view: the former, says Kant, can only articulate rational injunctions that, although they may be true or false, are only conditionally (rationally) so, whereas the latter, because it determines the moral will (because it is binding), is neither true nor false but constitutes the unconditional condition of morality itself, presenting itself as a "fact of reason" without which morality would not even exist. From this, Kant concludes like Arrington that empirical evidence and rational evidence are not what compel a moral subject; duty is. The problem with Kant's morality begins here, i.e., not from the fact that he was a "rationalist", but from the fact that he equated moral duty with a noncognitive affective state that he could not reconcile with his moral absolutism other than by supposing a transcendental (objectivist) link between the subject and her "supersensuous" moral consciousness. To distinguish moral

Arrington introduces the notion of conceptual relativism; a notion that relativizes "true moral propositions" to the non-relativizable "concept of morality". He maintains that what makes moral propositions true-binding is nothing outside of the concept of morality itself.

Arrington states that a moral cognitivist attributes some truth-value to moral judgments (ibid.: p.199). In order to endorse a form of moral absolutism that is consistent with his nonobjectivism, however, Arrington must deny that these judgments, even though absolutely binding or "true", are expressions of any particular state of affairs. He therefore tries to convince his reader that a moral proposition "binds" the moral subject through the "rules" provided by the concept of morality just as grammar binds the use of language. Arrington attempts to establish that the concept of morality, to which particular moral propositions are relative, can provide a non-relativizable link between moral propositions and their truth-value. He does this by emphasizing the "moral grammar" provided by the concept. Arrington thinks that the in-built moral grammar of the "concept" of morality provides a link between what he calls the "descriptive" and "normative" elements of moral proposition because it contains the non-evaluative *grounds* for asserting evaluative meaning. As an example, Arrington says that the function of the moral proposition "it is wrong to tell a lie" is, like any moral proposition's function, "to define morality, to define the morally relevant dimensions of life". Moral propositions thus merely provide the *a priori* rules for "talking and thinking about morality" (ibid.: p.275.) He attributes the so-called descriptive function of moral proposition to its "grammar", and not to its normative character (the content of a moral proposition, e.g. that it *is* wrong to tell a lie), because he claims that it is only in

absolutism from transcendental subjectivism, to safeguard both nonobjectivism and nonsubjectivism, it is therefore essential that Arrington furnishes a criterion of "true-binding" that does not relativize moral propositions to feelings and beliefs as Kant did.

conjunction with the concept, which identifies the moral "rule", that a moral proposition derives its truth-value. The problem is that Arrington ends up depriving moral propositions of what lends them moral (as opposed to some other) value. The problem is less that Arrington's moral absolutism rings Kantian than it is that his concept of morality rings hollow. More so even than Kant's "fact of reason" because it is treated as "talk" with an inclusive "moral grammar" (ibid.: p.269) rather than as a veritable cognitive "mover" with felt repercussions on one's moral consciousness.

Let us consider Kymlicka's theory in parallel. This will illustrate the problems associated with a culturally relativistic theory that attempts to isolate elements of "value" that are nonrelativizable⁴⁰.

Just as Arrington attributes what is binding about moral propositions to the non-evaluative grounds provided by the "concept" of morality, Kymlicka attributes to the "structure" of a cultural community (historical and linguistic); the non-chosen *context* that is essential to making meaningful choices. It is crucial to grasp that Kymlicka makes a distinction (similar to Arrington's descriptive-normative one) between the linguistic and historical dimensions of culture as a (descriptive) "structure" and the current and contingent dimensions of its (normative) "character" (Kymlicka, 1989: pp.166-7.) Both Kymlicka and Arrington privilege the former as constitutive of "value". It is this value which serves to distinguish what is "binding" about moral propositions

⁴⁰ Although Kymlicka discusses the value of cultural membership and not the truth-value of moral propositions, and although his theory is deliberately less theoretical than Arrington's, he goes about legitimizing this value in a way that is similar to Arrington's. Kymlicka attempts to establish that the structure of culture to which particular choices are relative also provides the non-relativizable link between those choices and the value of cultural membership. He does this by emphasizing the "context of choice" provided by the structure (Kymlicka, 1989: p.166). Because we are attempting to establish what distinguishes the value of culturally relative choices or propositions from relativizable (normative) values while not reducing them to empirical facts the way a moral relativist would do, Arrington's and Kymlicka's theories are equally important at this point in the chapter.

or what is "meaningful" about cultural choices in a way that doesn't relativize them to any particular evaluative framework or cultural structure. This is why both theories are equally important and relevant to developing an applied relativism that does not abandon "value".

Both the concept of *my* morality and the structure of *my* cultural community, as distinct from the moral evaluations and cultural choices that make them *mine*, seem to deprive *my* assertions and choices of the very elements (their normative dimensions or character) that inform and describe each as a *moral* assertion or *cultural* choice! How can the binding element of morality or the meaningful nature of culture not depend on moral (or cultural) character, and remain constitutive of its "value"? Isn't this like relating moral propositions or cultural choices to one's cultural (or moral) clothing rather than the cultural soul, the very expression, of one's cultural identity (or of one's morality)? It would be tantamount to saying that what is constitutive of being French is *speaking* French, whereas this does not qualify (define or describe) what makes my culture or moral language *different* from yours.

The inherent problem of both Kymlicka's and Arrington's theories is that they absolutize the concept of morality (or the structure of culture) without being able to show that it is binding or meaningful by virtue of being constitutive of value. It seems impossible to derive "grounds for assertion" or descriptive elements from the concept of morality (or the context of choice) without also suggesting an evaluative meaning. A demonstration of this with respect to Arrington's conceptual relativism follows.

Arrington says that:

Designating a basic and irreducible domain of experience, 'morality', like 'color', can only (or only for the most part) be defined in terms of its determinate features... What remains to give substance to the notion of morality are the specific moral dimensions. (1989: p.286)

But how does the concept of morality, as comprised of rules, incorporate what lends moral propositions their "specific moral dimensions" if, as Arrington also says, a grammatical rule is merely "a proposition about words" (ibid.: p.291), and not about "meaning"? Arrington even specifies that it is not the concept of morality that provides the substance of a moral proposition, but its function "in our activities and midst the attitudes and feelings we bring to these activities" (ibid.: p.292).

He also says with respect to specific moral injunctions:

If this is so, then it is as an obligation that a moral proposition has a "function" that we can, as Arrington says, both "understand" and apply, i.e. that binds us in some real way. The binding or true elements of a moral proposition are therefore dependent on feeling. As he states even more clearly, a moral proposition "has a kind of necessity attaching to it: one cannot deny it and still understand what morality is all about" (ibid.: p.291).

Finally, Arrington ventures to say that "It is easy enough to take 'It is wrong to tell a lie' as telling us both how to apply words and how to behave and feel" (ibid.: p.292). Perhaps so, but not by his theory. If it is the concept of morality *as an obligation* that constitutes the link between the words and the behavior and feeling, then Arrington is conceding that what is binding about morality is a felt obligation and not just its indeterminate "concept". The latter remains empty, or non-binding, unless it is also being "grasped" (noticed, felt, deployed) as an obligation.

Doesn't Arrington do just as Kant did? i.e. introduce *Deus ex machina* (but without the whole transcendental machine) a reconciliation between the form and content of moral propositions that, insofar as it occurs in the (fact of) "obligation", presents itself behind the formal concept as that which is the real cause of moral, belief, feeling and action.

Arrington appears to have surreptitiously introduced noncognitivism in order to save true-binding at the expense of true-rational (he does this in order to save "true"

while not falling into a form of epistemological absolutism which, as a nonobjectivist, he would have had to admit was relativizable.) Yet without a doubt, something that is binding by virtue of a noncognitive reason is only relatively true. Furthermore, "obligations" may not convey only one particular type of "moral feeling"; not all "obligations" are equally compelling. The obligation "not to kill", for example, feels quite different *to me* than the obligation "not to lie". An obligation can also be compelling to different degrees as dictated by a varying environment, e.g. the obligation "not to lie" *feels* different in different situations, i.e. among family or friends, or enemies.

Between Arrington's epistemological nonobjectivism, his moral absolutism and his conceptual relativism, noncognitivism seems to be creeping in the back door, contaminating the concept of morality with relativizable content.

The only way for Arrington to save his relativism would be to admit that the descriptive content of a moral proposition (what it tells us to do) is not independent of its evaluative meaning. However, then the distinction between the descriptive and normative elements of moral propositions disappear and thus, according to Arrington, fail to ground moral claims in some context-independent truth-value. Arrington might object that I have misunderstood how his "concept" of morality embraces both the descriptive and normative dimensions of a moral proposition, i.e., that what is binding about a moral obligation, its "necessity", was not intended to be understood as any different than the logical necessity of applying any type of rules. After all, Arrington compares learning a moral language to a child's learning the color language. He thinks that the rules of moral grammar are acquired like the rules of color grammar, that they become explicit while "teaching the meaning of color words, explaining their meaning, and debating whether their application is correct" (ibid.: p.281).

If it were true that learning a moral language were analogous to acquiring a color

language, then the necessity of applying the rules of moral grammar would have less to do with affect than what has been alleged; and I would be wrong about Arrington's introducing noncognitivism. But then his conceptual relativism would, I think, be even worse off with respect to what he had set out to accomplish: to isolate what is distinct about moral absolutism. Even if Arrington's conceptual relativism were promoting an absolutism that was binding only by way of logical necessity (as opposed to both rational necessity, or some other type of non-rational, i.e. affective, necessity), it would still seem to miss isolating what was absolute about morality in favor of isolating what was absolute about concepts generally. It does not account for the difference between learning moral rules and being a moral person. A child's assimilation of the rules of her school or home (her culture) may be distinct from what she believes as "right" or "wrong". She may learn that she should not do X, Y, or Z, but she may entertain quite different opinions on whether it is actually "wrong" to do them even once they have been acquired by their own kind of logical necessity.

On Arrington's theory of moral absolutism, whether regarded as a cognitivist theory or not, nothing would seem to distinguish moral propositions as articulated by the psychopath, computer or chimpanzee (all of whom can assimilate rules) from the same propositions articulated by a moral being. Distinguishing the truth-value of moral propositions from their culturally relative context by way of the "concept" of morality may have saved moral truths from being relativized in the same way as empirical facts (which is what the moral relativist would do) but at the same time moral truths would now seem devoid of what is specific about their value for human beings. Arrington's theory might therefore have spared moral absolutism, but it is divorced from the actual value of morality. Arrington may be right that we all have a moral language (for then we couldn't all be moral beings), but the universal condition of our moral talk appears to have nothing to do with the value of a given moral proposition which does remain

relative to its normative content, specifically at that juncture between moral feeling and a sense of obligation. That conceptual relativism does not ground moral language in value is a disappointment, even hard to understand, given the author's obvious commitment to the preservation of the domain of moral experience as distinct from other facts of social life. Yet Arrington's attempt to provide a meta-ethical framework to support moral absolutism represents an improvement on a theory of morality that derives its absolutism from its own normative framework. In fact, that is why his conceptual relativism succeeds in surmounting the dichotomy mentioned in the introduction to this section: Arrington demonstrates that it is **not** necessary for moral propositions to be "true" in an absolute sense in order for them to be binding! It is not necessary, in order to defend moral propositions as binding or true, to pit morality against culture as an "absolutism" (and versus relativism).

Nothing of the substance of our moral languages need be sacrificed if moral absolutism gets absorbed into to relativism. Moreover, if it were possible to absolutize morality, there would be no room for the possibility of questioning or changing moral values; and this represent a definite loss. If, for instance, I regard female circumcision as a practice that violates a moral proposition binding my own conscience (e.g. the proposition that it is wrong to deprive a human being of bodily integrity), it would not strengthen my position, or change my feelings, to be claim that my proposition was "absolute" because the same would be true of the moral propositions that may support my opponent's point of view! I would also be denying that moral opponents sometimes change (re-evaluate) their positions, thereby disallowing the opportunity for discussion. So, even from a strategic point of view, it seems better to admit that the value of moral propositions (or whatever it is that makes them seem absolute to me) is itself relativizable. In this manner, I could admit both that no moral propositions are absolute, and that their being relative is of no consequence to their having "moral"

value!

Let us now return to the more concrete criticisms advanced by Kymlicka at the end of section D. As should be clear now, Kymlicka wants to establish that the value of cultural membership is relative to the "structure" of culture rather than to its changing cultural "character". Kymlicka's theory of the value of cultural membership was intended to illustrate how a liberal theory of values is consistent with the traditionally communitarian commitment to "culture". His theory of the value of cultural membership enables him to claim that, from a liberal point of view, one's "cultural context" should be considered a primary good for individuals. Ironically, the value of cultural membership defined in more relativistic terms is going to turn out to be more individualistic than on Kymlicka's "liberal" reading.

Both Kymlicka's and Arrington's theories are "culturally relativistic". They both recognize that the content of one's moral norms is in some way relative to one's being a member of a particular cultural community. Nevertheless, they both try to extract from the formal structure of moral norms as "choices" or "propositions" some value distinct from normative content. Both theories attempt to validate norms (propositions or choices) that are culturally relative in a way that would imply that they are not absolutely relativizable either. This implies that they be in some sense "absolute" regardless of the fact that they may contradict each other as far as their content goes. Since absolutism would be applicable to all propositions or choices equally, as binding or meaningful, their content would be equivalent and reversible, i.e. relative to the universalizable relationship in which they stand to their formal structures.

The attempt to retain something absolute from norms that are also in some way relative to culture as proposed by these theories is significant; for relativists need not be moral relativists. There is something about moral claims that makes them different from plain facts and that is their **value** for individuals. The problem with Kymlicka's

and Arrington's theories of relativism is that they appear to derive this value from something that stands in an inflexible relationship to the individual that holds a moral proposition as "true" or a cultural choice as "meaningful". They do not illustrate **how** the concept of culturally relative moral norms or the context of culturally relative choices, as the formal structure to which the normative content of propositions and choices is relativized, can be extracted from particular cultural choices and moral propositions without also depriving them of what makes them have values in the first place. How, I asked, can the form of a proposition or choice be "fused" with the normative content of what is asserted, with a moral proposition or a cultural choice, if not by way of those affective dispositions that characterize their immediate value for the individual who is asserting them? As we saw with Arrington, they cannot be: the substance by which the descriptive and normative elements of a proposition are "fused" falls clearly on the side of affect. It is affect that makes moral propositions "binding".

Now, although what is constitutive of values need not be relativized to culture in the same way as communitarians or cultural holists would have it, it does not appear possible to claim that they have any more than only a "relatively absolute" value. There are advantages to be gained in making this distinction. Let us explore what they are in relationship to Kymlicka's theory.

Kymlicka thinks that it is important to distinguish the "historical" from the "political" aspect of a cultural community. Like Afshari (studied in chapter 1/B/iii), he fears that, when the latter is embraced as the locus of "cultural identity" (as in Walzer's theory), political leaders will use the right to protection of "culture" as an excuse to oppress cultural members. This is true; it has surely been the case in Iran. However, in the case of individual allegiance to traditional cultural practices, the distinction between the historical and the political may still be too "communitarian" to protect cultural identity. To imagine the individual as a member of an historical community

is to ascribe to her a "collective consciousness" (Kymlicka, 1989: p.222) that really exists nowhere in her individual consciousness; it is to situate the individual within something that is not situated within herself. for-although her own feelings and beliefs may have been influenced by "culture", she is not just a slice of her cultural community. Cultural communities are not homogeneous across the individuals that comprise them.

Although Kymlicka might have successfully constructed a defense of cultural membership that is consistent with a liberal commitment to "freedom of choice", it is not clear that it is the value of this membership alone which is pertinent to her making a meaningful choice. This does not mean that it is necessary to submit against Kymlicka (or Afshari) that the political community should be treated as the locus of cultural identity, or that changes in traditional practices (the "character" of a cultural community) should be prevented to protect a person's sense of cultural identity. It can be conceded, as Kymlicka remarks, that "Protecting people from changes in the character of the culture can't be seen as protecting their ability to choose" (ibid.: p.167). On the other hand, it must also be conceded that preventing individuals from espousing traditional views or practices (those that are constitutive of their cultural "character") cannot be seen as facilitating the expression of their cultural identity or enhancing their sense of freedom.

Joseph Margolis contrasts the traditional relativist's (his "relationalist's") conception of history and language against what he claims to be a genuinely relativistic one: a "monadic" conception. Such a conception, he says, would not reject the view that "narratized histories have truth-values or truth-like values in precisely the same sense in which all other enunciative or assertoric discourse does" (ibid.: p.181). It is in this sense that his version of relativism, like Arrington's or Kymlicka's, remains distinct from a moral relativism that effaces the distinction between cultural facts and

absolute (truth or truth-like) values. Margolis yet maintains that:

things that intrinsically possess historical "natures" do so in virtue of possessing intentional properties open to interpretation and open to change as a result of interpretation- so that such things may be said to have (narratizable) histories and to lack (fixed) natures. (Margolis, *ibid.*: p.181)

Like Kymlicka, Margolis would therefore attribute to cultural structures (to the history and language of a culture as a "narrative" shared by all cultural members), the context or ground of making particular choices. but he would leave this context open-ended in its relationship to "intentionality". Although this relationship might provide the value of one particular set of intentional properties or values at one given time, they cannot provide the grounds for absolutizing their intentionality or values at any given time. Margolis might therefore agree with Kymlicka that cultural choices are not "relative to" culture as a whole in the traditional relativist's sense, but he would not claim that it is via their compatibility with historical or linguistic structure that they are binding, meaningful or truth-bearing for individuals.

Finally, the purpose of Kymlicka's attempt to theorize the value of cultural membership, the purpose of his distinction between the normative and descriptive elements of "cultural community", was to argue for the preservation of the historical as opposed to the political community and to show moreover that a defense of the value of cultural membership can be made consistent with liberal tenets (especially with the commitment to "freedom of choice"). In a sense then, Kymlicka's defense is preoccupied with the fate of cultural communities whereas I am more preoccupied with the fate of their individual members; and I have in fact taken his argument out of context to make my own points. Then again, I do think that cultural choices are about individuals more than groups and about affect more than freedom.

G. Conclusion: what follows for the debate over female circumcision

This chapter delved into the theoretical and practical problems related to female circumcision being a "cultural practice" that eludes a universalistic moral assessment. Without summarizing the whole chapter (which I will do in the general conclusion of the thesis), I will simply outline how I think an applied relativism, circumscribed by a critical process of elimination, applies to this practice. Let us first focus on how this version of relativism draws on some of the theories studied in this chapter.

First: based on the "facts of relativism" underscored by anthropology, an applied relativism takes cultural incommensurability and pluralism as its starting point for reflection on the moral value of female circumcision as a cultural practice. Sympathetic to the Boasians' claim that ethnographic data is relevant to a moral assessment of cultural practices, it is sensitive to the fact that individual allegiance or opposition to F.C. is affected by many cultural variables. An applied relativism therefore recognizes that competing claims with respect to the value of this practice cannot be resolved by recourse to one purportedly universal set of values such as the UDHR.

However, second: while an applied relativism is consonant with a communitarian or other theory of culture that emphasizes the profound influence of culture on individuals, it does not endorse prescriptive tolerance as a solution to the moral conflict that has arisen due to female circumcision. This is because to recommend tolerance of this practice is to introduce a moral claim that does not follow from either of these theories, not any more than intolerance or moral universalism and imperialism do. Furthermore, it recognizes that cultural members may not hold the same views of circumcision as representatives of their respective cultural (historical or political) communities. An applied relativism is therefore critical of a model of culture that forgets that there is no homogeneity across a culture and that cultural practices cannot be

evaluated without a theory of their value in relationship to individuals. A communitarian or holistic theory of culture is an inadequate model for assessing the influences affecting individual values and choices in the case of F.C.

However, third: an applied relativism can also recognize that the weaknesses of an argument for relativizing moral claims to culture do not add up to an argument for absolutizing them in relation to the individual. It attempts to provide an alternative to the choice between tolerance and intolerance, between espousing or rejecting a liberal evaluative framework on the issue of F.C. An applied relativism need not pose culturally relative moral conflict in absolutist terms: in fact, any reconciliation between relativism and morality that takes one set of moral values as an absolute standard for assessing any practice simply fails to be relativistic. Nevertheless, it may be acknowledged that only an absolutist theory can account for the commitment to any *one* moral point of view on a cultural practice. (This was acknowledged in the section on Hatch and Donnelly). An applied relativism yet questions the legitimacy of an absolutist theory of morality, i.e., one that sets some limits to what can be morally endorsed from one's own evaluative point of view. It asks whether it is possible to legitimize any one evaluative framework: but it does not question the fact that individuals tend to absolutize their own moral evaluations, whether legitimate or not.

Finally: an applied relativism, although it questions the legitimacy of moral absolutism, sides with moral absolutists in viewing the *value* of moral propositions or cultural choices as distinct from that of other types of propositions. However, it does not, in the manner of Kymlicka or Arrington, attempt to legitimize this value in relation to some fixed conceptual or cultural framework. It denies that "cultural character" is just a contingent aspect of one's cultural identity rather than its veritable expression and that the "binding" elements of morality are reducible to elements that exclude affect. An applied relativism acknowledges a shifting "space" between *narratives* (including those

preserved by cultural histories and moralities) and their *value* for individuals. It thus regards moral absolutism as illegitimate even though it may be true that we may well be moral absolutists when we disregard questions of legitimacy and become inflexible with respect to our moral values.

In the case of female circumcision, this version of an applied relativism may not resolve the issues of the debate, but it does explain why the universalism of liberal institutions is self-defeating when trying to foster a critical dialogue with respect to foreign cultural practices that are deemed harmful or unnecessary. It also makes explicit those guiding principles of fair and productive debate while not falling into the aleatory categories of a liberal discourse. I will focus on just Kymlicka's theory here as an illustration.

Kymlicka's theory of the value of cultural membership confirms the value of language and history for cultural members; he would not therefore recommend depriving Muslims of this aspect of their culture. What would he recommend with respect to a cultural practice such as female circumcision? According to Kymlicka's theory, the choice to perform F.C. expresses what he calls the normative "character" of Muslim culture. He would not therefore consider this cultural practice as constitutive of the value of a woman's membership in Muslim community. Regarding any recommendations affecting how we should deliberate over this particular cultural practice, however, Kymlicka's theory remains silent. This is unfortunate because questions pertaining to the changing cultural character of a community are important questions.

This version of relativism, on the other hand, still has something to add about a cultural practice such as female circumcision that expresses a culture's "character".

First: because it views this character both as constitutive of the value of cultural membership and as relative to an individual's affective relationship to the cultural norms

and institutions that inform her choices, it would oppose any attempt to substantiate the claim, based on a theory such as Kymlicka's for example, that "it is not necessary to preserve F.C. being as it is a mere expression of the normative character of Muslim culture". It is a relativism that should appeal to those who recognize that the identification of an individual's cultural identity with only the "structure" of her culture, like the identification of culture with only the political community, also has the potential to provide a cultural élite with an excuse to oppress cultural members.

Conversely: an applied relativism of this kind would not justify any coercion with respect to maintaining F.C. as a cultural practice because, even if it acknowledges the binding nature of a moral opinion influenced by cultural values, it provides no basis upon which to claim this opinion as morally righteous.

Finally: a relativism of this sort is consistent with the commitment to democratic principles in that it justifies maximizing the opportunities to modify moral opinions of repressive cultural traditions such as F.C.. It is a relativism that, rather than trying to convert, leaves room for the space where conversions take place. It acknowledges that individuals can challenge a cultural practice like female circumcision even in cultures where patriarchy or misogyny have been ingrained for millennia. This kind of relativism does not therefore doubt the possibility for spontaneous and unpredictable change on the subject of allegiance to F.C.. It might even view this as self-liberating.

Basically, there are three different facets to an applied relativism such as the one circumscribed by this thesis, three ways in which I think an applied relativism is useful to the current multi-layered debate over female circumcision. In conclusion, I propose to separate and define these facets one by one, and then illustrate how they might be applied specifically to F.C.

First, applied relativism is a critical position with respect to the debate between

cultural relativists and moral universalists. These two positions have been an inherent part of discussions over F.C. precisely because they are informed by the anthropological and moral views that first sparked debate over foreign cultural practices about a century ago. But we have come a long way since then. Applications of the UDHR are not so neat and tidy as either position would hold in abstractum: today, rights don't just get applied cross-culturally by die-hard advocates, nor does intercultural dialogue just get curtailed with a wave of the cultural relativist's hand. The truth is that intercultural negotiation is ongoing, and that this negotiation is not just a matter of balancing universalism against relativism (two forms of absolutism), or of interfacing two moralities that will never see eye to eye. Solutions are usually sought by integrating economic, social and even health concerns, not by foregrounding where the conflicting parties disagree. So what does this say about the way intercultural moral conflict is portrayed by the debate between universalists and relativists? I think it says something about a lacuna about the terms of the debate itself. And what does an applied relativism have to say about this? Precisely that to oppose moral universalism and cultural relativism is the *wrong* way to pose the issues discussed when intercultural moral conflicts arise today. *How* it demonstrates this constitutes the second facet.

Second then, an applied relativism quits the terms of the debate as staged by universalists and relativists and argues, from a meta-ethical point of view, that there is unquestionably something called "moral language" and that people use it when they engage in moral debate, whether intercultural or not. However, it maintains that, as much as all human beings are moral beings, as much as morality is a universal concept, the *values* that are constitutive of moral propositions are not universal. It is a position that recognizes that values differ from culture to culture, from person to person intraculturally, and even intrapersonally over time, and as such the relationship between moral values and culture is relativizable. That is why it is an applied *relativism*.

Nevertheless, it does not regard moral values as a component of culture that can be relativized as cultural artifact. Therefore, while an applied relativism rejects moral absolutism, it also rejects moral relativism which doesn't actually engage with the issues at stake in intercultural moral debate; and that is why it is an *applied* relativism.

Third, as a position that is both relativistic and applied, it draws a fine line between what should and shouldn't be left out of a progressive moral debate over cultural issues. Applied relativism proposes that we step back from our moral judgments in intercultural debate. This is not recommended as a strategy intended to seduce our opponents into seeing things our way, but rather as an alternative to foregrounding moral difference in an unprogressive and potentially violent fashion which, presumably, is not the object of debate any more than stalemate is the object of exchange.

Some might argue that it is possible to engage in the type of intercultural dialogue recommended by an applied relativism while still maintaining universal moral commitments. For example, it is possible to both acknowledge and be sympathetic to the cultural reasons that influence adherents to F.C. while still being committed to the liberal values that condemn it. This raises two issues. First, the question of whether any universal values are consistent with an applied relativism; and second, if they are, how the motivation for applying relativism as dialogue is different from a universalistic moral commitment, or from the purely strategic choice to engage in dialogue as a means to a moral end, e.g., the eradication of F.C.

With respect to the first question, the answer is short and simple: yes, one can maintain one's own moral values during intercultural dialogue and still be an applied relativist; this would in fact be perfectly consonant with the non-relativistic margin that distinguishes this position from moral relativism. Actually, the moralist's commitment to intercultural dialogue is better accounted for by an applied relativism than by an applied universalism; for applying universals does not require dialogue. For example,

a Kantian moralist may think that she can engage in intercultural dialogue out of respect for all others, or because she values the dignity of every individual life; these are universal principles that do not conflict with the desire to listen and discuss different moral values. That is true. But where does the desire to listen to such differences come from; how does this tie in with universal respect? If listening to difference is founded on the belief that we are all cut from the same moral fabric and thus equally worthy of respect, it may in fact be turning a deaf ear to the expression of genuinely different moral values. Individuals are not cut from the same moral fabric; that is the point behind attempting to take the facts of cultural relativism into account in the first place!

With respect to the second question, an applied relativist approaches morality, not from a Kantian universalistic perspective, but from an overt recognition of the fact that moral talk is sparked at different times for different individuals; that it is relative to culture and context. Given this starting point, the applied relativist will know that, in order to keep any meaningful moral debate going, she will have to avoid foregrounding her own moral priorities and instead try to understand that they may not be shared, and even that others may not see the same set of issues as "moral" issues at all.

Of course, in the absence of any commitment to Kantian universalism, a person may have no desire to keep the moral debate going. This is what universalists often hear, and fear: that in the absence of any universalistic commitments, people will be all too happy to simply ignore, or even suppress, other people's moral views. But that would be a form of despotism, not dialogue, and as such has nothing to do with the kind of applied relativism we are defining here (in fact, relativism of this kind would not be any more attuned to moral differences than Kantian universalism). Nevertheless, applied relativists need not be moral universalists in order to be committed to dialogue. They may have a wide range of motives for wanting to keep moral debate going. They might be motivated by curiosity (to satisfy the desire to understand other people's point of view and the rich

context that supports it). They might be motivated by self-interest (since they are equally vulnerable to the imposition of others' moral values). They might also have a genuine altruistic desire to help others (a desire which need not flow from Kantian impartiality, but from a partial, situated desire to help particular others). As I have tried to show throughout this thesis, the problem with the female circumcision debate is not that liberal human rights advocates want to harm or offend, but rather that their absolutist approach has made it difficult if not impossible for them to actually help the people they wish to.

For all these and other reasons, people will want to continue moral debates, and so have good reasons to adopt applied relativism.

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This form of relativism takes a more subversive approach with respect to cultural traditions that oppress women. It maintains focus on the relativizability of culturally-based morality and provides a framework for listening to difference by keeping its own moral values in check. It is therefore less abrasive than a more liberal approach that, when absorbed by current ideologies and political discourses, may itself become exclusive and oppressive. Furthermore, there is no contradiction between being an "applied relativist" and being committed to helping circumcised women (when they ask to be heard and helped) to overcome the fears and reasons preventing them from challenging the culturally defined boundaries that may have once been essential to their identity. The appeal of this kind of relativism with respect to the practice of F.C. is that it encourages engaging with circumcised women from their own perspectives rather than dictates how they should act or react when confronted with issues that may challenge

their culturally-based gender identity. This approach avoids "essentializing" by not attributing universal (immutable) qualities to any woman's current perspective and values.

Unlike a reconciliation between relativism and morality by way of a second-order legitimization that favors moral absolutes, this version of an applied relativism also relativizes the relationship between these absolutes and the changing influences that are constitutive of their value at any given time. Because it is a position that maintains relativism even at the (second-order) level of legitimizing moral value, it can admit the potential for radical change on the strongly held moral opinions such as the ones currently fueling moral opponents on the subject of female circumcision; whereas legitimative frameworks that absolutize value do not.

This kind of applied relativism would therefore be consistent with what is actually happening in the international debate over F.C. In a sense, it justifies the UN's current approach to the issue, although it does not endorse its starting point (to eradicate female circumcision on the grounds that it constitutes a violation of a universal moral principle).

With respect to the difference between this kind of applied relativism and something like "emotivism"; although an applied relativism cannot deny affect, or something like it (as the relativizable margin that surrounds all seemingly absolute values), it need not deny the distinction between first and second-order frameworks of analysis, or between the non-reflexive and reflexive points of view. It would, however, view them as only temporary (relativizable) distinctions; but this would not exclude admitting that the criticism such distinction brings to moral discussions are necessary to moral discourse taking any shape in the world. Dogma is sometimes useful; and it can be the product of an analysis that is not driven by "preference". This kind of relativism would simply regard as impossible the quest to find something in "the second-order" (cultural "structures" or the "concept" of morality) that might provide an absolute criterion for "the first-order", the connection between the first and second order being

itself an analytical creation and not a fact fixed indelibly in the human psyche, or elsewhere. Although all frameworks of analysis may be relative and variable, an applied relativism can therefore, and unlike emotivism, assert that the attempt to legitimate "morality" remains an important part of how we establish the rules that correspond to various culturally relative moralities and of how we temporarily define our cultural structures. In fact, without the attempt, emotivism also remains a form of absolutism.

Resolution of conflict:

The human race, from a global perspective, is one of magnificent diversity. Within this diversity, unavoidably, exists conflict. In the absence of a universally recognized "God" or "Creator", whose single voice resonates clearly and recognizably in the hearts of *all* worldly inhabitants, a true moral absolute cannot be established. A resolution of conflict that satisfies every individual simultaneously is an impossibility. In the metaphorical language of nature, equilibrium is the only place where sharply opposing forces (conflicts) may find peace. To find a dynamic consensus of the most mutually agreeable kind, all relevant forces of opinion must be brought together and allowed to stir and stabilize. The greatest impediment to this is our inability to be open-minded with regard to our morality, to recognize that nothing is absolute; we must respect and be considerate of opposition in acknowledgment of *our* need for the same courtesy. In our search for satisfaction, patience and compromise are the only viable avenues.

THESIS CONCLUSION

Chapter one of the thesis defined female circumcision and then, in a discussion of the origins of this practice as a "Muslim tradition", established a cross-cultural continuum between the origins of this tradition and the misogyny introduced by monotheistic culture. Having attempted to exonerate Muslim religious culture from imperialistic-type criticisms of the origins of F.C., the chapter ended with a study of two Muslim authors' critical approaches to this and other oppressive traditions still practiced in the Islamic world today. It was concluded that, although it may be true that political leaders have used "Islam" to mandate oppressive practices, the secularization of religious law may not represent a form of emancipation for those individuals who still regard the sacred texts and language of Islam, as a religion, as essential to their cultural identity: not only would secularization fail to denounce the real culprit responsible for oppressive mandates (the political despot), but the value of ("authentic") cultural practices may not be as easy to extricate from religious traditions as advocates of secularization might think. In the case of female circumcision, it was suggested that "tradition" might play a very significant part in this practice's having value for Muslim, and other, women adherents.

Chapter two outlined the history of female circumcision as a "violation of human rights" and how it has been treated within the international legal, moral and political context provided by the Universal Declaration of Human Rights. After a summary of the plight of rights advocates seeking international aid in the eradication of F.C., part A indicated some general problems with respect to the international treatment of this practice as a violation of women's rights. It was concluded that the main dilemma confronting those who seek to eradicate female circumcision on moral and legal grounds boils down to the ethical and epistemological question of how far to press international or national norms against reservations claimed on the basis that the practice represents a "cultural tradition". Part B of this chapter enumerated in more detail some cultural

variables affecting an assessment of F.C. according to one set of moral norms; among some of the issues considered for cultural variability were the issues of physical and sexual health, personal security within a culture and consent. Objections to the meaning and "intentionality" of painful rites were also considered, especially with respect to the psychological limits of internalizing cultural reasons for compliance with pain, and how the potential for a crisis affects recommendations based on a universalistic ethics.

Chapter three went "back to the drawing board" in order to study, in theory, how cultural relativism has affected and continues to affect the universalization of a moral discourse via institutions such as the UDHR. After providing some historical and conceptual background to the decades-old debate between rights advocates and cultural relativists, the chapter went on to detail some of the practical solutions provided by both relativists and their opponents in response to the problems generated by the question of "tolerating" culturally-based moral diversity. With respect to the question of tolerance (the question of "how far does one relativize culturally external moral judgments?"), moralization of the problem was first found to be unavoidable, for even the non-universalistic tended to weave moralistic concerns into her culturally relative recommendations. Even when "culture" was taken as a fixed structure and attributed an intentionality of its own, cultural relativists failed to legitimate any criteria by which to evaluate cultural norms and institutions, tending furthermore to reify "culture" in a way that no longer reflected the dynamism of the individual actors that confer upon cultural structures their very meaningfulness and vitality. Nevertheless, when it was suggested that only a moral theory could claim to provide the kind of framework necessary to evaluating cultural norms, this framework was itself found to be relative to normative, rather than culturally independent, evaluative criteria. And when some "truth" was sought independently of this first-order framework in order to protect moral absolutes from being relativized in the same way as other beliefs, it too tended toward a reification

of "true" that did not reflect the actual cognitive components that seemed to make moral propositions "binding" on or valuable to individuals. It was therefore concluded, as it was concluded for those who sought to relativize the morality of cultural norms to the fixed structure provided by cultural institutions, that moral propositions are as mutable in their relationship to absolutes as the living individuals that hold them.

Although arguments for tolerance must (paradoxically) be sought, not from cultural relativism, but from moral theory, the question "how far do we relativize?" (the scope of an applied relativism) cannot be delimited by moral value; what makes moral values "true" is itself a relativizable claim open to interpretation. This does not mean that moral or cultural norms do not have "values". It does however mean that they too are relativizable. As for relativism, it cannot recommend "tolerance" any more than it can recommend intolerance, for both moralize in a way that contradicts the "truth about relativism"⁴¹; what makes moral values true or seemingly absolute is in fact relative and open to ongoing interpretation. With respect to the debate over female circumcision, neither relativism nor universalism offers a permanent practical solution. Reconciliation requires both the acknowledgment of opposing moral commitments and the endorsement of the non-coercive attempt of liberal democracy to engage in open discussion.

⁴¹ This is the title of Margolis's book (1991).

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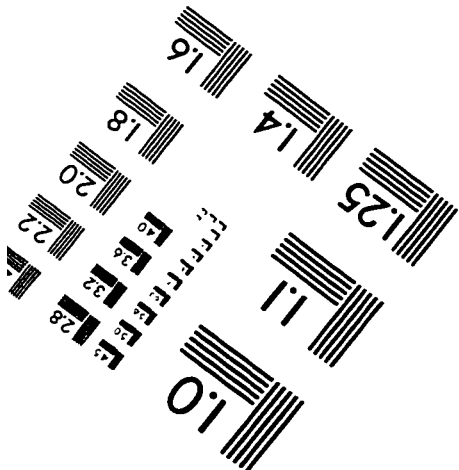
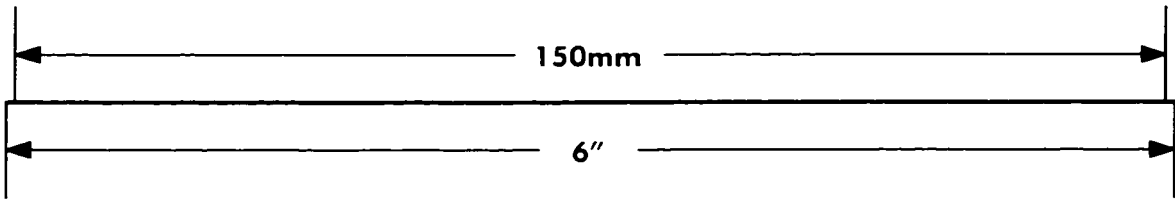
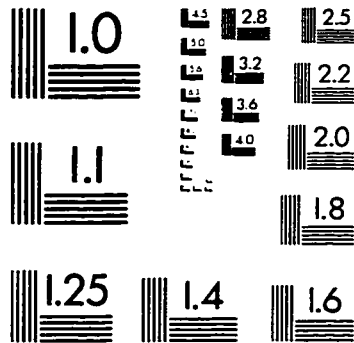
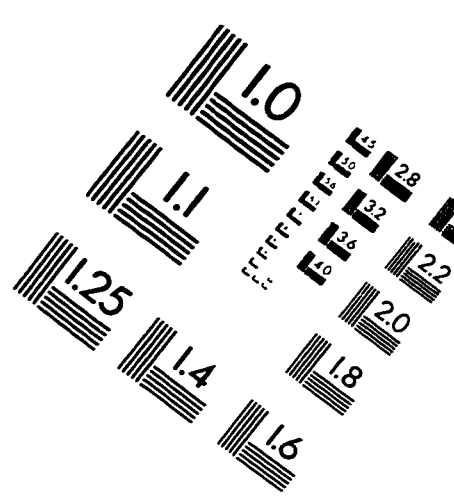
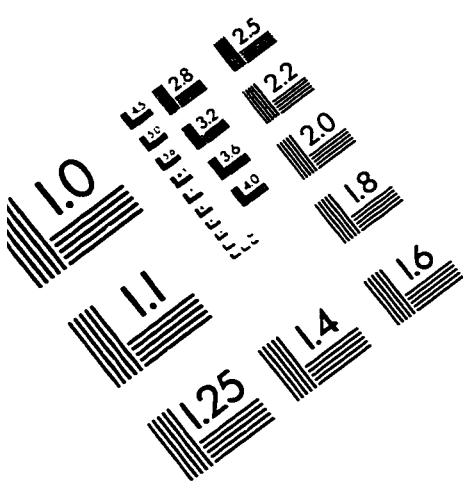
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