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Between *Irua* and “Female Genital Mutilation”: Feminist Human Rights Discourse and the Cultural Divide

Hope Lewis*

We are transformed, individually, collectively, as we make radical creative space which affirms and sustains our subjectivity, which gives us a new location from which to articulate our sense of the world.¹

Wherever you are in the world and you are in trouble, one of those sisters will come to your aid.²

I. INTRODUCTION

“*Irua,*”³ or traditional female genital surgery ("FGS"),⁴ implicates the most private aspects of individual female physical and cultural iden-

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3. "*Irua*” is a Kikuyu word for traditional initiation ceremonies associated with the clitoridectomy of girls and the circumcision of boys within that Kenyan ethnic group. See *JO MO KENYATTA, FACING MT. KENYA* 129 (1965). See also Robyn Cerny Smith, *Note, Female Circumcision: Bringing Women’s Perspectives into the International Debate,* 65 S. CAL. L. REV. 2449, 2460 (1992) (discussing the role of "*Irua*” in Kikuyu culture); Kay Boulware-Miller, *Female Circumcision: Challenges to the Practice as a Human Rights Violation,* 8 HARV. WOMEN’S L.J. 155, 170 n.89 (1985). The term "female circumcision" is commonly used by English-speakers in those parts of Africa where ritual surgery is practiced on girls or women. See *NA HID TOUBIA, FEMALE GENITAL MUTILATION: A CALL FOR GLOBAL ACTION* 9 (1993).

4. Isabelle Gunning and other Western commentators have used the terms "female genital surgeries" or "female genital operations" in referring to the practices. See Isabelle R. Gunning, *Arrogant Perception, World-Travelling and Multicultural Feminism: The Case of Female Genital Surgeries,*
Accordingly, African women who have undergone FGS have the most significant stake in determining whether and how the practice is treated in public international law. However, the serious public and private health consequences of FGS have aroused concern in cultures in which FGS is not traditionally practiced. Some Western feminists, for example, have placed FGS on the international human rights agenda, posing a challenge to traditional distinctions between "public" and "private" spheres of international legal obligation.  

A recent escalation in Western media attention paid to FGS has raised the stakes in the debate over the implications of FGS for cross-continental women's rights. While the practice has been practiced as a matter of tradition in at least 25 countries in Africa:  

In Somalia, Djibouti, the northern part of the Sudan, some parts of Ethiopia, Egypt and Mali, infibulation is practiced. Excision and circumcision exist in the Gambia, the northern part of Ghana, Nigeria, Liberia, Senegal, Sierra Leone, Guinea, Guinea Bissau, Burkina Faso, parts of Benin, Côte d'Ivoire, parts of Tanzania, Togo, Uganda, Kenya, Chad, Central African Republic, Cameroon and Mauritania.

Outside Africa, a certain form of female circumcision exists in Indonesia, Malaysia, and Yemen. Recent information has revealed that the practice exists in some European countries and Australia among immigrant communities.


Rhoda Howard notes that FGS “has received much attention in the Western press and among Western feminists since about 1979, largely as a result of the work of Fran Hosken.” Howard, supra note 4, at 66. See also Katherine Brennan, The Influence of Cultural Relativism on International Human Rights Law: Female Circumcision as a Case Study, 7 Law & Ineq. J. 367, 376 n.47 (1989).

In the United States, increased interest in FGS is attributable in part to recent fictional and
cultural feminist approaches to human rights. This Article explores the ambivalence and tension in feminist discourse about the involvement of Western feminists in a human rights-based, cross-cultural effort to eradicate FGS. This tension has special implications for feminist discourse that reflects perspectives that are both “Western” and “African.” Can African American feminists appropriately and effectively apply international human rights legal standards to FGS?


FGS is the subject of a substantial body of legal, sociological, and anthropological literature that explores in some detail the variety of practices performed and the complex social and political contexts in which they occur. It is not the purpose of this Article to repeat that scholarship. The significant English-language works that discuss FGS in detail include the following: RAQIYA H.D. ABDALLA, SISTERS IN AFFLICTION—CIRCUMCISION AND INFIBULATION OF WOMEN IN AFRICA (1983); NAYRA ATIYA, KHUL-KHAAL: FIVE EGYPTIAN WOMEN TELL THEIR STORIES (1982); G.J. BARKER-BENFIELD, THE HORRORS OF THE HALF-KNOWN LIFE: MALE ATTITUDES TOWARD WOMEN AND SEXUALITY IN NINETEENTH CENTURY AMERICA (1976); Bruno Bettelheim, Symbolic Wounds: Puberty Rights and the Envious Male (1959); Asma El Daries, Woman, Why Do You Weep?: Circumcision and its Consequences (1982); Marjorie Hall & Bakhtia Amin Ismail, Sisters Under the Sun: The Story of Sudanese Women (1981); Fran P. Hosken, The Hosken Report: Genital and Sexual Mutilation of Females (1982); KENYATTA, supra note 3; Olayinka Koso-Thomas, The Circumcision of Women: A Strategy for Eradication (1987); Hanny Lightfoot-Klein, Prisoners of Ritual: An Odyssey into Female Genital Circumcision in Africa (1989); Nawal El Saadawi, The Hidden Face of Eve: Women in the Arab World (1980); Lillian Passmore Sanderson, Female Genital Mutilation: Excision and Infibulation: A Bibliography (1986); Awa Thiam, Black Sisters, Speak Out: Feminism and Oppression in Black Africa (1986); Touibia, supra note 3; Warrior Marks, supra note 2. See also Karen Engle, Female Subjects of Public International Law: Human Rights and the Exotic Other Female, 26 NEW ENG. L. REV. 1509 (1992).

9. In the attempt to simplify a complex set of identities, I intend the category “Western feminists” to include African American feminists throughout, although I also argue that African American feminists have some cultural relationship to the category of “African feminists.”
argued here that a critical approach to the application of human rights law need not dictate a "relativist" human rights discourse that resists cross-cultural engagement.\textsuperscript{10} Nor should such a "universalist" black feminist perspective necessarily demand support for legal sanctions that threaten imprisonment of well-intentioned immigrants who continue to practice FGS in the West.\textsuperscript{11} This Article instead argues that discussions about black feminist human rights approaches to FGS must address the unavoidable conflicts associated with serious struggle on an important human rights issue, and seek to create opportunities for cross-cultural solidarity.

Part I of this Article examines the controversy over FGS terminology as a mirror of the deeper substantive debates over how FGS should properly be viewed. Part II assesses the justifications advanced to support the involvement of Western feminists—including African American feminists—in cross-cultural efforts to address FGS through human rights law. That section also discusses the theoretical tensions in human rights jurisprudence that have shaped feminist discourse on this subject. Part III describes the concerns voiced in African feminist discourse with regard to cross-cultural eradication campaigns. Part IV focuses on the tensions faced by African American feminist scholars who have analyzed human rights approaches to FGS. Part V concludes that a deepened understanding of the complexities and contradictions in the FGS controversy could lead to a more fruitful engagement between African American and African feminists\textsuperscript{12} who support the eradication of FGS, although it is unlikely to culminate in a universally acceptable resolution to the debate.

A. What's in a Name? Terminology as Substance

The feminist human rights controversy over FGS is reflected in the disagreement over the terms used to describe it. The World Health

\textsuperscript{10} One African American feminist human rights scholar, Isabelle Gunning, has applied an explicitly cross-cultural approach to her analysis of FGS as a human rights violation. She elaborates a "world-travelling" approach to cross-cultural human rights discourse. Such an approach, she argues, would be more respectful of African women than traditional universalist discourse, although it may be inconsistent with the enforcement of certain types of human rights laws. See Gunning, supra note 4, at 194.

\textsuperscript{11} France, which remains the only Western nation actively to prosecute FGS practitioners as violating domestic criminal law, recently sentenced to jail the mother of a child who underwent FGS. See Bronwen Winter, Women, the Law and Cultural Relativism in France: The Case of Excision, 19 SIGNS 939 (1994); Marlise Simons, France Jails Woman for Daughters' Circumcisions, N.Y. TIMES, Jan. 11, 1993, at A8; Rone Tempest, Ancient Traditions vs. the Law, L.A. TIMES, Feb. 18, 1993, at A1; Helen Pitt, A Knife in Any Language, GUARDIAN (U.K.), Mar. 3, 1993, at 9.

\textsuperscript{12} I hope that such efforts at deepened understanding also could lead to fruitful engagement on this issue between other Western feminists and African feminists.
Organization (WHO) has adopted specific clinical terms to identify the three predominant forms of FGS:

1. **Circumcision proper**, known in Muslim countries as *sunna* (which means "traditional"), is the mildest but also the rarest form. It involves the removal only of the clitoral prepuce.

2. **Excision** involves the amputation of the whole of the clitoris, and all or part of the labia minora.

3. **Infibulation**, also known as *Pharoanic circumcision*, involves the amputation of the clitoris, the whole of the labia minora, and at least the anterior two-thirds and often the whole of the medial part of the labia majora. The two sides of the vulva are then stitched together with silk, catgut or thorns, and a tiny sliver of wood or a reed is inserted to preserve an opening for urine and menstrual blood. The girl's legs are usually bound together from ankle to knee until the wound has healed, which may take anything up to 40 days. 13

The cultures for which FGS is traditional have their own names for the practices. Jomo Kenyatta, a pan-Africanist leader and anthropologist, introduced Western readers to the Kikuyu term "irua," which refers to the initiation of both boys and girls into adulthood. 14 *Irua* rituals involved surgery as well as educational and socialization rites aimed at strengthening ethnic and sub-group identity. 15

The current terminological controversy stems primarily from the Western search for an appropriate English-language term for FGS rituals. "Female circumcision" was initially the most common term used by English-speaking Westerners and Africans. 16 The term "circumcision" emphasizes the initiatory and religious dimensions of FGS rituals.

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14. Kenyatta, supra note 3, at 3, 134; Cerny Smith, supra note 3, at 2449 n.3.

15. Cerny Smith, supra note 3, at 2449 n.3.

16. For examples of the use of the term "female circumcision," see Touibia, supra note 3, at 9; Asma M. A'Haleem, *Claiming Our Bodies and Our Rights: Exploring Female Circumcision as an Act of Violence, in Freedom from Violence* 141 (Margaret Schuler ed., 1992); WHO CHRON., supra note 13, at 32; Cerny Smith, supra note 3, at 2451 n.7 (rejecting the term "female genital mutilation" because it defeats "the purpose of this Note, which is to communicate, not to alienate"); Boulware-Miller, supra note 3, at 170 nn.88—89; Brennan, supra note 7, at 367 n.1; Alison T. Slack, *Female Circumcision: A Critical Appraisal*, 10 Hum. RTS Q. 437 (1988).
and draws a parallel to the widespread rite of male circumcision as practiced in the West and the Middle East. The term's euphemistic character may also reflect both African and Western unease with public discussion of sex and genitalia. Many feminist human rights activists and scholars argue that the term "female circumcision" is misleading, in that most forms of male circumcision are far less invasive and physically damaging than FGS. Further, because the term "male circumcision" generally is not thought to implicate human rights, the term is not regarded as useful by those who seek to define FGS as a human rights violation.

The term "female genital mutilation" ("FGM") has been adopted by human rights activists in the West and, more recently, in Africa, both to emphasize the physical pain caused by the practices and to

17. See Boulware-Miller, supra note 3, at 170 n.89. Much of the human rights literature on FGS states that African women are loathe to discuss FGS in public because of cultural taboos and their lack of education about reproduction and sexuality. See, e.g., Hosken, supra note 8, at 15, 25; Slack, supra note 16, at 459–61. Such generalizations obscure the fact that traditional education in sexual function and health is a central part of the private initiation process among some groups that practice FGS, and that many cultures treat the public discussion of sexual function as taboo.

18. But the phrase might be misleading primarily to people from non-practicing cultures; members of practicing groups might well be aware of the physical distinctions between the form of FGS and the form of male circumcision (if any) they practice. Toubia notes:

"Male circumcision is the cutting off of the foreskin from the tip of the penis without damaging the organ itself. The degree of cutting in female circumcision is anatomically much more extensive. The male equivalent of clitoridectomy (in which all or part of the clitoris is removed) would be the amputation of most of the penis. The male equivalent of infibulation (which involves not only clitoridectomy, but the removal or closing off of the sensitive tissue around the vagina) would be removal of all the penis, its roots of soft tissue, and part of the scrotal skin."


20. The term "female genital mutilation" appears in: Hosken, supra note 8; Warrior Marks, supra note 2; Toubia, supra note 3, at 9; Association of African Women for Research and Development (AAWORD), A Statement on Genital Mutilation, in 1 THIRD WORLD—SECOND SEX 217 (Miranda Davies ed., 1983) [hereinafter AAWORD].
stress what some construe as the intentional infliction of harm.²¹ Many Africans have voiced objections to the term “female genital mutilation” because it implies a deliberate attempt by practitioners to hurt or disfigure members of their own families and communities, and because they believe it may thus elicit inappropriate reactions from those who misconstrue its purposes.²²

Recognizing the political ramifications of FGS terminology, some human rights scholars have attempted to describe the practice in a culturally “neutral” way.²³ However, no nomenclature can be value-neutral.²⁴ Clinical terms like “surgeries” or “operations” distance readers from the physical trauma experienced by the children affected, and may misleadingly imply the use of antiseptic, anesthetic surgical techniques intended to correct a disease or disfigurement.²⁵

This Article uses Isabelle Gunning’s term, “female genital surgery” because it permits comparison, where appropriate, between traditional types of FGS and “modern” forms of surgical modification of women’s bodies that are not generally subject to human rights scrutiny.²⁶ Describing a traditional practice as “surgery” can both heighten Western awareness that practicing cultures often conceive of FGS as a health measure and highlight the fact that Western surgical practices are themselves informed by cultural influences that frequently go unrecognized.²⁷ Just as there is no single, all-encompassing “solution” to the

²¹. An alternative interpretation of the use of “mutilation” is that it focuses attention on damage to the health and well-being of survivors instead of on the culpability of the practitioners.

²². Boulware-Miller notes that “[r]epresentatives of the Premier Groupe des Femmes D’Afrique strongly opposed use of the term ‘genital mutilation’ at the Copenhagen Non-Governmental Organization Forum, yet many non-Africans believed that the euphemistic term ‘circumcision’ obscured the seriousness of the operations.” Boulware-Miller, supra note 3, at 170 n.89.

²³. In contrast, Western practices—including ear- and body-piercing, male circumcision, tattooing, or cosmetic surgeries—are physically invasive, yet are rarely described as “mutilations.” See Gunning, supra note 4, at 213–15.


²⁵. Using clinical terms specific to particular forms of the practice, such as “clitoridectomy,” “excision,” or “infibulation,” may have a similar effect, although they have the virtue of differentiating among the various types of FGS. “Clitoridectomy,” like “excision,” generally refers to practices that involve removing the clitoris only. See Engle, supra note 8, at 1510 n.2.

²⁶. This Article does not intend to imply that traditional FGS usually occurs under clinical, antiseptic conditions, or to imply that the author subscribes to its continued practice. I do not.

²⁷. Several feminists draw analogies between FGS and common forms of elective surgery in the United States intended to fix culturally perceived “problems” (i.e., facelift, liposuction,
feminist controversy over FGS, there is no one term that is appropriate in all contexts.

B. Human Rights Discourse and the Struggle for Primacy

The conflict over terminology parallels the complex, shifting stakes in the battle over FGS as a violation of international human rights standards. Human rights scholars have generated a substantial and growing body of literature on the potential role of human rights law in the eradication of FGS. Most of this work adopts feminist perspectives, arguing that FGS should be eradicated as a violation of the human rights of women. However, this literature reflects deep conflicts about whether international human rights systems should foster cross-cultural engagement in order to eradicate FGS.

The feminist analysis of FGS as a human rights violation is complicated because FGS exists at the “intersection” of complex cultural, gender, and racial questions in human rights jurisprudence: If FGS is a patriarchal violation of the fundamental human rights of women, how


For materials that address the issue of FGS and international human rights law, see Efua Dorkenoo & Scilla Elworthy, Female Genital Mutilation: Proposals for Change (3d ed. 1992); Touba, supra note 3; Hosken, supra note 8; Kosoko-Thomas, supra note 8; El Dareer, supra note 8; Katarina Tomasevski, Rightsing Wrong, in Women and Human Rights 84 (1993); Boulware-Miller, supra note 3; Brennan, supra note 7; Engle, supra note 8; Gunning, supra note 4; Slack, supra note 16; Cerny Smith, supra note 3; Funder, supra note 24; Valerie Oosterveld, Refugee Status for Female Circumcision Fugitives: Building a Canadian Precedent, 51 U. Toronto Fac. L. Rev. 277 (1993); Judith S. Seddon, Possible or Impossible?: A Tale of Two Worlds in One Country, 5 Yale J. L. & Feminism 265 (1993); T.B. E. Ogiamien, A Legal Framework to Eradicate Female Circumcision, 28 Med., Sci. & L. 115 (U.K.) (1988); K. Hayter, Female Circumcision—Is There a Legal Solution?, J. Soc. Welfare L. (U.K.), Nov. 1984, at 323; Note, What’s Culture Got to Do with it? Excising the Harmful Tradition of Female Circumcision, 106 Harv. L. Rev. 1944 (1993).

Karen Engle provides a useful critical survey of certain theoretical approaches to FGS among Western feminists. See generally Engle, supra note 8.

Kimberlé Crenshaw discusses the concept of “intersectionality” in the context of the failure of legal doctrine and theory to take into account the relevance of both race and gender to the experience of black women. See Kimberlé Crenshaw, Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics, 98 U. CHI. LEGAL F. 139 (hereinafter Crenshaw, Demarginalizing the Intersection of Race and Sex); Kimberlé Crenshaw, Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color, 43 STAN. L. REV. 1241 (1991) [hereinafter Crenshaw, Mapping the Margins].
should international law respond to the fact that FGS is practiced by women on women and girls? Does “universalism” obscure the efforts of powerful states and international institutions to violate African rights to self-determination and the preservation of cultural identity? Is “cultural relativism” a smokescreen that enables governments and non-state actors to legitimize the oppression of women? Is the international human rights system accessible to women affected by FGS, or is it merely a collection of irrelevant theoretical constructs?31

These intersecting questions pose particular challenges for African American feminists active in the discourse on FGS. Often critical of mainstream Western feminist theory,32 African American feminists have articulated the need for black feminist scholarship33 that places the needs and goals of black women at the center, rather than at the margins, of feminist thought.34 Support for the political and cultural
solidarity of black women in the pursuit of their own well-being and the well-being of their communities is an important aspect of this black feminist scholarship. Yet many black women find that solidarity of opinion on the human rights implications of FGS is not easily achieved. African American feminists often find themselves in a “no woman’s land” between their experience as black women in the West and their identification with the experience (real or imagined) of black women in Africa.

Some African feminists argue that, because African American feminists are also “Western” feminists, their involvement in efforts to eradicate FGS is inherently imperialist and Western in method and orientation. They argue that black feminists in the West should recognize that human rights are culturally based and that the elimination of FGS must be handled by only African women. Nevertheless, other African feminists argue that, although black feminists are products of many different cultures, their shared histories and goals include issues around which they can usefully organize.35 They view the FGS concerns of black feminists outside of Africa as having a special relevance beyond the general concerns expressed by other Westerners.

II. FACING OUR RESPONSIBILITIES: WESTERN FEMINIST DISCOURSE ON FGS

I feel that my own personal sense of dignity and worth as a woman and human being is under attack by these mutilations, inflicted on helpless children for no other reason than that they are female. I cannot tolerate this. I find it impossi-
ble, indeed absurd, to work for feminist goals, for human rights, for justice and equality, while ignoring senseless attacks on the essence of the female personality, which these operations represent . . .

I also believe that there is a fundamental obligation on the part of all of us who have access to information, and who are aware of the biological and sexual facts, to share what we know, and to make this knowledge available to all who need it so desperately: we must face our responsibilities, and we have an obligation to act.36

The concerns Fran Hosken, a leading Western anti-FGS activist,37 has outlined in the passage above are her personal reasons for cross-cultural activism on FGS. The concerns she expresses resonate in much of the Western feminist human rights discourse on FGS.38 First, most anti-FGS writings identify an ethical obligation for those from non-practicing cultures to act because of the damaging physical and psychological consequences of FGS for large numbers of women. Second, the discourse seeks to legitimize the position that certain traditional practices—like FGS or forms of domestic violence39—are, or ought to be, a violation of international human rights standards.40 Finally, the discourse tends to frame the role of cultural outsiders as one of “en-

36. HOSKEN, supra note 8, at 14.
37. Fran Hosken identifies herself as a journalist and an urban planner by training. HOSKEN, supra note 8, at 30. She became the leading Western anti-FGS campaigner after learning of the practice on a trip to Africa in 1973. Id. at 14. She publishes a newsletter on FGS and other topics (WIN News) and lobbies governments, international institutions, nongovernmental organizations, and individuals to support anti-FGS activities. The Hosken Report is, arguably, the most comprehensive work on FGS available in English. It is therefore widely cited by Western and African scholars, as well as by international institutions. However, as discussed below, Hosken also takes highly controversial positions about the roots of the practice and the motives of those who defend it or reject Western intervention. See Gunning, supra note 4, at 200–01 (discussing negative responses to Hosken’s attitude toward Africans).
38. In discussing the variety of positions “Western feminists” have taken on the nature and appropriateness of Western feminist involvement in the campaign to eradicate FGS, I primarily rely on the following sources: Slack, supra note 16; Cerny Smith, supra note 3; Funder, supra note 24; LIGHTFOOT-KLEIN, supra note 8; Brennan, supra note 7; Boulware-Miller, supra note 3; Gunning, supra note 4; HOSKEN, supra note 8. In addition, I rely on Karen Engle’s critique of Western feminist approaches to FGS. Engle, supra note 8.
39. Katarina Tomasevski correctly notes that “[o]ne could easily argue that there are some modern practices that may be as harmful to women as traditional practices—some even more harmful. The detrimental effects of modernization are increasingly addressed by human rights organizations, particularly those working on indigenous rights; thus modern practices that are harmful to women are likely to be placed on the human rights agenda in the near future.” Tomasevski, supra note 28, at 84.
40. See Funder, supra note 24, at 67 (discussing distinctions between “public” and “private” in international law and challenging the inviolability of “culture” as an adequate defense to rights-based critiques).
lightenment,” which entails exposing and challenging the patriarchal underpinnings of FGS.

A. Humanitarian Concerns

The most broadly shared basis of support for Western feminist activism is the serious impact of FGS on the health and well-being of large numbers of women and girls. The descriptions of FGS and its complications are deeply disturbing for good reason. It is often horror at the pain and health risks that galvanizes so many Westerners to support strong and immediate action to eradicate FGS. Certainly, the graphic descriptions of the nature and physical consequences of infibulation, the most severe form of FGS, evoke highly emotional responses:

The little girl . . . is immobilized in the sitting position on a low stool by at least three women: one of them with her arms tightly around the little girl’s chest; two others hold the child’s thighs apart by force . . . .

Then the old woman takes her razor and excises the clitoris. The infibulation follows: the operator cuts with her razor from top to bottom of the small lip and then scrapes the flesh from the inside of the large lip . . . .

The little girl howls and writhes in pain, although strongly held down. The operator wipes the blood from the wound and the mother, as well as the guests, “verify” her work, sometimes putting their fingers in . . . . The opening left for urine and menstrual blood is minuscule.

Then the practitioner applies a paste and ensures the adhesion of the large lips by means of an acacia thorn, which pierces one lip and passes through into the other. She sticks in three or four in this manner down the vulva. These thorns are then held in place either by means of sewing thread or with horsehair . . . .

[T]he little girl is then tied up from her pelvis to her feet . . . . The operation lasts from fifteen to twenty minutes according to the ability of the old woman and the resistance put up by the child.

41. See Hosken, supra note 8, at 14–15.
42. The literature on FGS also makes use of illustrations and photographs comparing unaltered female genitalia to the genitalia of girls who have been infibulated. See, e.g., Toubia, supra note 3, at 10–11; Slack, supra note 16, at 441–42; Lightfoot-Klein, supra note 8, at 34–35.
In support of the urgency of their efforts, feminist advocates of global activism also cite the strong medical data documenting the immediate and long-term damaging effects of clitoridectomy and infibulation.\textsuperscript{44} The range of physical effects resulting from FGS varies with the form of surgery, but the physical complications of the most severe forms—clitoridectomy and infibulation—can be disabling or life-threatening.

Common complications of clitoridectomy include uncontrolled bleeding,\textsuperscript{45} infection,\textsuperscript{46} extreme pain,\textsuperscript{47} urine retention,\textsuperscript{48} shock,\textsuperscript{49} damage to the urethra or anus,\textsuperscript{50} and keloid scarring.\textsuperscript{51} Clitoridectomy also can lead to the development of a neuroma.\textsuperscript{52} The trauma associated with the shock of the initial surgery or of subsequent physical complications can also increase the risk of psychological disorders.\textsuperscript{53}

The long-term physical complications of infibulation can be even more serious and extensive than those associated with excision because

\begin{itemize}
\item Such effects may also extend to the children the women bear. The Minority Rights Group notes that the region of FGS practice "corresponds strikingly with the pattern of countries which have the highest child mortality rates (more than 30% for children from one to four years of age). These levels reflect deficiencies of medical care, of clean drinking water, of sanitary infrastructure and of adequate nutrition in most of the countries." DORKENOO & ELWORTHY, supra note 28, at 11.
\item Clitoridectomy may involve the severing of the clitoral artery, resulting in high pressure bleeding. If bleeding is not adequately controlled, either at the time of the procedure or later, the child may bleed to death. TOUBIA, supra note 3, at 13.
\item As in any surgical procedure, infection to the wound can result from the use of unsterilized instruments and hands or from the contamination of the girl's bodily wastes during her recovery or at some later time. Touibia notes that clitoridectomy commonly results in localized infection at the surgical site and may carry a high risk of generalized infection (septicemia). Id.
\item Where FGS is performed without the use of anesthesia, the child suffers extreme pain because the area cut away is rich in nerve endings. The pain can itself lead to shock, which sometimes results in death. In traditional contexts, most FGS procedures are performed without modern anesthetics, although in recent years, there have been some efforts in both traditional practicing cultures and in the West to "modernize" FGS through the use of local anesthetics or general anesthesia at modern medical facilities.
\item Furthermore, some groups practice traditional forms of anesthesia, such as having the girls bathe in very cold river water prior to the surgery and applying compresses intended to soothe and heal the wound. See THAM, supra note 8, at 83; KENYATTA, supra note 3, at 138–41.
\item The pain and swelling associated with FGS may initially result in difficulty in passing urine. Urine retention can result in urinary tract infection or harm to the kidneys. See TOUBIA, supra note 3, at 14.
\item Id.
\item Such injury can result from practitioner error in cutting unintended areas as the girl writhes in pain. Id.
\item Koso-Thomas defines a keloid scar as "a sharply elevated, irregularly shaped, progressively enlarging inelastic scar due to excessive collagen formation in the skin during connective tissue repair . . . ." KOSO-THOMAS, supra note 8, at xiii. In some cases, scar tissue may proliferate at the site of any form of FGS in a manner that makes it difficult for the affected girls or women to walk, run, or move around.
\item A neuroma is a painful benign tumor that can develop on the remaining nerve ending. See DORKENOO & ELWORTHY, supra note 28, at 8.
\item See TOUBIA, supra note 3, at 17–19.
\end{itemize}
of the greater amount of surgical alteration involved and the repeated surgical openings and restitchings that may be performed throughout an infibulated woman's life.\textsuperscript{54} The artificial closure inhibits the elimination of bodily wastes, thereby creating an additional risk of chronic infection and dysmenorrhea (painful menstruation).\textsuperscript{55} Infibulation also may cause serious complications for both mother and child due to prolonged labor.\textsuperscript{56} The infections and scarring associated with the severe forms of FGS can make sexual intercourse painful (dyspareunia) and may also reduce women's pleasurable sensation during sex.\textsuperscript{57} Whether FGS contributes to the transmission of the Human Immunodeficiency Virus (HIV) in practicing regions remains uncertain.\textsuperscript{58} The extreme physical consequences of FGS have led many Western feminists to conclude that they have an ethical responsibility to take personal or collective action to prevent FGS whenever possible.\textsuperscript{59}

\section*{B. Theoretical Questions: The Status of FGS as a Human Rights Violation}

International institutions, Western governments, and Western nongovernmental organizations, have focused on protesting violations of individual civil and political rights that directly result from state action.\textsuperscript{60} Female genital surgery differs in several key respects from the

\begin{itemize}
  \item \textsuperscript{54} In Somalia and northern Sudan, for example, infibulated women are traditionally cut open with a knife at the time of marriage and each time they deliver a child. They are then partially re-sewn. According to Lightfoot-Klein, "recircumcision" appears to be a relatively recent phenomenon that originated among educated urban women in the Sudan sometime in the last 50 years. \textit{Lightfoot-Klein, supra note 8, at 98.}
  \item \textsuperscript{55} \textit{See Dorkenoo & Elworthy, supra note 28, at 8.}
  \item \textsuperscript{56} Injury to the mother or baby could occur because of long or obstructed labor. \textit{Id. at 9; Lightfoot-Klein, supra note 3, at 713.}
  \item \textsuperscript{57} Infibulated women are also at greater risk of developing vesico-vaginal fistula as a complication of childbirth. Vesico-vaginal fistulas are ruptures of the vagina and urethra, which cause urinary incontinence. \textit{Toubia, supra note 3, at 713.}
  \item \textsuperscript{58} \textit{See Dorkenoo & Elworthy, supra note 28, at 8. But see Lightfoot-Klein, supra note 8, at 80-102 (discussing interviews with infibulated women who report enjoyment of sexual activity).}
  \item \textsuperscript{59} Toubia notes that "there is no evidence that FGM is a major contributor to the spread of HIV infection, although it is conceivable that use of the same needles or cutting instruments among children, some of whom are HIV positive, could cause transmission." \textit{Toubia, supra note 3, at 13. See also Dorkenoo & Elworthy, supra note 28, at 9. Others see FGS as a primary vehicle for HIV transmission among Africans in regions where the practices occur. See \textit{Recent Developments: Empowering Women to Stop AIDS in Côte d'Ivoire and Uganda}, 6 Harv. Hum. RTS. J. 210, 215 (1993).}
  \item \textsuperscript{60} The descriptions most often used by human rights activists and scholars, as well as by the media, have involved infibulation, the most extreme form of FGS. Toubia estimates that approximately 15% of the women who undergo FGS experience infibulation. \textit{Toubia, supra note 3, at 10.}
  \item \textsuperscript{60} For example, political detention and torture by government representatives are widely recognized as acts that violate both treaty-based and customary international human rights law. \textit{See International Covenant on Civil and Political Rights, opened for signature Dec. 16, 1966, arts. 7 & 9(1), 999 U.N.T.S. 171, 6 I.L.M. 368 [hereinafter ICCPR]. On the other hand, economic,
rights infringements that have formed the focus of traditional human rights advocacy efforts. First, FGS practitioners are private citizens operating without express state sanction. Second, FGS is generally performed with the "consent" of the parents of minor girls, at least some of whom are aware of the attendant health risks. Third, FGS is generally performed by females on other females. Finally, FGS has both deep cultural roots and powerful political implications for practicing groups. Therefore, feminist human rights activists have had to give careful thought to the formulation of a legal framework that respects the unique features of FGS, while still rendering it a violation of existing human rights standards. Two elements of this jurisprudential framework are discussed below: the role of the international human rights system in meeting the needs and goals of women, and tensions between the appropriateness of universalism or cultural relativism in promoting the well-being of women.

1. Women's Rights as Human Rights

The integrationist approach to international human rights challenges human rights advocates to accept a coherent or integrated theory of human rights—one that represents the rights of both women and men . . . . For them it is because women are human, not just women, that their human rights should be protected . . . .

Those who call for reconceptualization, on the other hand, embrace women's differences from men, through their call upon women to define their own rights.61

Feminist scholars have challenged as artificial the distinction in traditional human rights law between the violation of rights through direct governmental action in the "public" sphere and the violation of rights through less direct state participation in, or countenancing of, abuses perpetrated by individuals in the "private" sphere.62 These scholars argue that the public/private distinction rests on the patriar-
chal notion that the promotion of human rights in public realms dominated by men deserves higher priority than the drive to further respect for the human rights of women in the private spheres of home and family. Feminist activism and scholarship in this area have developed several techniques to promote the recognition of women’s rights as human rights. These include calling attention to state-sponsored human rights violations with a special impact on women (for example, rape as a form of torture of women political prisoners), advocating recognition of refugee and asylum claims based on gender-based persecution, and arguing that human rights violations that take place in the context of home or community (such as domestic violence, dowry-related deaths, and FGS) should be placed on the international legal agenda.63

Several Western feminist scholars also argue that FGS violates the standards set out in the major international human rights instruments. This approach states that FGS violates internationally recognized human rights such as the right to equal protection and nondiscrimination,64 the rights of children,65 the right to corporal integrity,66 the right to life, the right against torture,67 and the right to health.68 These

63. See Engle, supra note 8, at 1521; Funder, supra note 24, at 421.
64. The Charter of the United Nations obligates member nations to cooperate, on an international basis, in “promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.” U.N. CHARTER art. 1, ¶ 3. Article 26 of the ICCPR provides for the right to equality, equal protection under the law, and freedom from sex-based discrimination. ICCPR, supra note 60, at art. 26. Article 5 of the Convention on the Elimination of All Forms of Discrimination Against Women provides that “State Parties shall take all appropriate measures: (a) to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.” Convention on the Elimination of All Forms of Discrimination against Women, opened for signature Mar. 1, 1980, art. 5, pt. 1, 1249 U.N.T.S. 14 [hereinafter CEDAW].
66. The right to liberty and security of the person is protected under Article 3 of the Universal Declaration of Human Rights, G.A. Res. 217A, U.N. Doc. A/810 (1948), and Article 9 of the ICCPR, supra note 60.
arguments rely on expanding the traditional interpretation of public sphere human rights doctrine to ban the private practice of FGS.59

It can also be argued that FGS need not be traceable to direct state action in order to be cast as a human rights violation. Female genital surgery, spousal abuse, dowry-killings, and other forms of intrafamily abuse can be viewed as violations of the human dignity of women, even in situations where state responsibility is less apparent. Instead of straining to fit FGS under standards that were created in patriarchally constructed legal systems, some argue that women should be empowered to define the sources of their own oppression, including FGS.

2. Universalism or Cultural Relativism

While the call for integration or reconceptualization of women's rights as human rights is of relatively recent origin, human rights scholars have wrestled with a related but broader question since the founding of the United Nations: Should outsiders make ethical judgments about behavior in cultures different from their own?70

From its inception, some cultural relativists expressed concern that the U.N. human rights system would be used to impose Western cultural values on societies subject to political or economic domination.71 They argued that cultural behavior should be judged only through culturally specific, rather than universal, norms and values.72
Moreover, a number of critics argued that the international human rights system embraced Western liberal concepts of human rights to the exclusion of non-Western ideas and beliefs.73 Finally, many critics have argued that Western governments have employed human rights concepts selectively—using human rights violations as the rationale for diplomatic and military intervention in some cases, while ignoring gross violations of human rights in countries that were strategic allies.74

In addition to defining human rights differently, Western and non-Western societies differ as to the level of priority accorded to particular types of human rights. For example, Western liberal human rights scholars have prioritized civil and political rights over economic, social, and cultural rights, while the opposite is true among African human rights scholars.75

traditional norms, such as religious texts, in ways that are consistent with international human rights standards); RENTELN, supra note 31 (arguing that "tolerance" itself is a cultural value and therefore may justify intervention).


75. Scholars have categorized human rights into "generations": first generation rights are civil and political and vest in individuals; second generation rights are economic, social, and cultural and are often described as collective rights; and third generation rights are those that require broader international economic and political cooperation to achieve, such as the right to development or the right to a clean environment. Burns H. Weston, Human Rights, in Human Rights in the World Community 12, 17–20 (Richard P. Claude & Burns H. Weston eds., 1992). The U.S. government, among other Western governments, has tended to prioritize "first generation" rights, while African governments often focus primarily on second and third generation rights. See Mutua, supra note 73, at 1–3 nn.5–8.
Human rights universalists argue that fundamental human rights standards must apply across cultural and national boundaries in order to have force and meaning. They argue that the international community has an obligation to protest human rights violations wherever they are perpetrated; it is this belief which has formed the basis of the international human rights system.

From the perspectives of non-practicing cultures, the primary ethical basis of universal concern about FGS is that it involves the infliction of great physical pain and the risk of life-threatening complications for infants and children, whose well-being is of special legal and moral concern in both practicing and non-practicing cultures. Awareness of cross-cultural concern for the well-being of children has led many Western human rights activists to emphasize in graphic terms the painful and physically damaging consequences of FGS for girls as a way to overcome relativist objections to condemnation of the practice. Using similar reasoning, certain groups have focused on "the right to health" and health education as the most appropriate human rights approach to FGS because it is believed to cause the least offense to practicing cultures. However, efforts to cast FGS as a violation of universal values related to health and child welfare raise several troubling contradictions. First, many cultures condone practices that are physically painful or create health risks to children where the procedures are believed to be medically or socially necessary. Second, defenders of FGS may suspect that the "health" approach masks Western imperialism in a more palatable guise. Finally, critics point out that a health-based approach may result in reforms whereby FGS would continue to be performed, but under hygienic conditions and with...
To avoid this, many Western feminists argue that FGS must be defined as a human rights violation, regardless of the conditions under which it is performed.81

C. Challenging Culture as Patriarchy

Torture is not culture.82

In order to make the . . . mutilated women visible on the human rights and international theory agendas, it is necessary to examine what goes on under the epithet "culture" so that it can no longer be invoked in order to define a sphere of existence immune to (western) human rights criticism.83

To address FGS as a human rights violation, Western feminists have had to face both the gender politics of international human rights and the tension between universalism and cultural relativism. In doing so, the discourse has argued first, that the cultural bases for the practice are misguided or based in ignorance; second, that FGS somehow falls outside the domain of "culture"; or third, that "culture" itself is a patriarchal construction vulnerable to challenge. To sustain these arguments, Western feminists have had to examine the origins of FGS and the modern justifications for its continued practice.

There is no single explanation for the practice of the many forms of traditional FGS.84 Different ethnic groups identify different motivations or point to a mixture of rationales.85 Female genital surgery is most prevalent in predominantly Islamic countries in Africa, but it is

80. Id. See also Engle, supra note 8, at 1515 n.17; Hosken, supra note 8, at 47, 287.
81. See, e.g., Engle, supra note 8, at 1521; Barbara Crosette, Cairo Visitors Hear Plea To End Genital Maiming, N.Y. TIMES, Sept. 11, 1994, at A10.
83. Funder, supra note 24, at 417. In arguing for the legitimacy of non-African critiques of traditional practices such as FGS, Funder states:

[It is precisely a logic external to the societies being considered, both Western and Third World, which must be applied in order to change the human rights abuse of women, because such abuse flows logically from the structure of all societies. That is to say, the social science studies which reveal the effects of patriarchy should not be called upon to justify maintaining any particular culture.

Id. at 467.
84. Carol P. MacCormack, Biological Events and Cultural Control, 3 SIGNS 93 (1977).
85. For example, the Sudanese respondents to Asma el Dareer's survey identified the following reasons (not necessarily in order of predominance): tradition, religion, cleanliness, better marriage prospects, greater pleasure for the husband, preservation of virginity and prevention of immorality, less harmful than pharaonic circumcision (among those groups practicing sunna and "intermediate" circumcision), and increased fertility. El Dareer, supra note 8, at 66–76. In Olayinka Koso-Thomas’ survey of women in Sierra Leone, the following reasons were identified (in order of importance): tradition, social identity, religion, marriage, chastity, female hygiene, prevention
also found among groups that practice Christian, Jewish, and African religions. While a few Muslim religious leaders continue to promote the practice of FGS on religious grounds, historians suggest that FGS pre-dates Islam, and that its origins in other religious traditions are unclear. There are few references to FGS in early religious texts and much of the oral history of practicing cultures has been lost, deliberately obscured during colonialism, or remains unexamined. There is some evidence that infibulation may have been practiced as a means of controlling reproduction among slaves in ancient Rome, but there are no clear links between this practice and the emergence of FGS elsewhere in the Middle East and Africa. Despite the difficulties of ascertaining the origins of FGS, Western feminist scholars have addressed several culturally based justifications for the practice.

1. “Unjustified” Justifications

Although not coextensive with Islamic Africa, the modern scope of FGS correlates with regions of Africa in which Islam predominates. Some defenders have defined FGS as a religious requirement, giving rise to the allegation that cross-cultural feminist opposition to FGS shows a lack of respect for religious freedom. Western feminist discourse often makes the point that FGS is neither required nor explicitly

of promiscuity, fertility enhancement, pleasing husband, maintaining good health. Kos-Thomas, supra note 8, at 46.

86. See Touibia, supra note 3, at 32.
87. See Dally, supra note 27, at 160 (noting the exclusion of FGS from many modern gynecological and medical history texts).
88. Kouba and Muasher note:
The term “infibulation” is derived from the Latin fibula which means a clasp or a pin. The Romans, to prevent sexual intercourse among their slaves, fastened a clasp or fibula through the labia majora of women and through the prepuce of men. Female slaves were thus prevented from childbearing and commanded higher prices on the slave markets. Kouba & Muasher, supra note 13, at 96-97.
The sometimes tense relations among Africans of Arab ethnic origin and non-Arab groups are evidenced in the controversy over the terms “pharaonic” circumcision and “Sudanese” circumcision. Kouba and Muasher note that after the practice of infibulation spread into northern Sudan from Upper Egypt, the Sudanese referred to the practice as “pharaonic circumcision,” although evidence of its origin in Egypt is unclear. On the other hand, Egyptians sometimes term the practice “Sudanese” circumcision. Id.
89. Anthropologists note that the practice pre-dates Islam in certain regions. See Engle, supra note 8, at 1509 n.1. See also Touibia, supra note 3, at 31-32; Thiam, supra note 8, at 60, 73-74; Hall & Ismail, supra note 8, at 42, 91-92.
90. See Lightfoot-Klein, supra note 8, at 42; Slack, supra note 16, at 457-59; Hosken, supra note 8, at 56. Some Islamic leaders have voiced forceful opposition to the practice of FGS. See Lightfoot-Klein, supra note 8, at 169-70. Hosken notes that leaders of Christian, Jewish, and indigenous African religions have been slow to condemn FGS. Hosken, supra note 8, at 56-58.
recommended under Muslim law ("Shari'a"), although a few religious leaders continue to contest this. The absence of clear textual dictates, however, does not automatically undermine the religious motivations of FGS practitioners. Religious "requirements" may be based on interpretations by individual religious leaders or on longstanding custom, rather than on the commands of authoritative texts.

Some groups describe FGS as a process parallel to male circumcision, in that the surgeries remove "male" portions of the female genitalia, while male circumcision removes "female" aspects of male genitalia.

This belief is accompanied in some regions by the concern that the unexcised clitoris is "unclean" and could be harmful to the girl's future spouse or to her children during the birth process.

Some Western feminists label such justifications historical anachronisms based on myths about women's bodies and sexuality. They argue that greater access to education about the human body could expose the falsehood of these beliefs, without threatening the cultural mores of practicing regions. This approach neatly fits into a "health education" strategy but does not explain how Western women would gain the legitimacy needed to affect the redefinition of African women's attitudes toward FGS.

91. See Hosken, supra note 8, at 56; Lightfoot-Klein, supra note 8, at 42; Slack, supra note 16, at 457-59.

In discussing a "hadith," a saying of the Prophet Mohammed recorded after his death, Toubia notes that "when Mohammed was asked what he thought of female circumcision, his answer was, in essence, an attempt to deter the practice: He is said to have told his listeners to circumcise, but not to destroy (or mutilate), for not destroying the clitoris would be better for the man and would make the woman's face glow. Many people believe this describes a male-type circumcision where the prepuce is removed, with the object of making the clitoris even more sensitive to touch." Toubia, supra note 3, at 31-32. See also Thiam, supra note 8, at 60, 73-74.


The Western feminist literature often implies that practicing groups would cease the practice once aware that FGS is not explicitly required by Islamic religious texts. However, the role of religious tradition in perpetuating cultural practices is complex. Most religious traditions include the observance of practices that are not explicitly required by sacred text but have come to be recognized as significant to believers and religious leaders.

93. The Minority Rights Group ascribes this belief to the practicing groups in Mali, Kenya, Sudan, and Nigeria. See also Dorkenoo & Elworthy, supra note 28, at 13; Slack, supra note 16, at 447-48.

Some groups believe that if not excised, the female genitals will grow to abnormal size. Slack, supra note 16, at 447-48. Gunning analogizes this belief to the modern Western medical practice of "correcting" "third gender" or hermaphrodite children to reflect consistent male or female differentiation. Gunning, supra note 4, at 39. See also Anne Fausto-Sterling, How Many Sexes Are There?, N.Y. Times, Mar. 12, 1993, at A29.

94. See Toubia, supra note 3, at 35, 37; Ironically, while Western media attention has largely focused on the cruelty to children associated with FGS, some groups appear to practice it in an effort to protect unborn children.

95. See, e.g., Hosken, supra note 8, at 15, 25; Slack, supra note 16, at 459-61 (noting the valuable cultural roles of myth, but advocating education to dispel myths).
2. Exposing the Patriarchy Behind Culture

The most controversial segment of the discourse on Western feminist involvement in the eradication campaign is whether FGS is based on the sexual subordination of women by men. Some Western feminists argue that “cultural” justifications, such as initiation into adulthood, merely serve to perpetuate male control over women’s physical and intellectual autonomy. Among many practicing groups, women who have not been subjected to FGS are viewed as “unclean” and may be considered unsuitable for marriage and thus excluded from a vital source of socioeconomic support.\(^{96}\) The fact that women perform the operations in the traditional context, or that some girls look forward to initiation is largely attributed to false consciousness,\(^{97}\) or to social pressure. Several Western feminist texts have pointed out that many justifications for FGS explicitly relate to modifying the behavior of women: eliminating “promiscuity,” ensuring virginity at marriage,\(^{98}\) making rape more difficult for an assailant,\(^{99}\) increasing the sexual pleasure of the husband,\(^{100}\) increasing the sexual pleasure of the wife,\(^{101}\) and making it easier to maintain celibacy for contraceptive reasons.\(^{102}\)

Western feminists who hope to “enlighten” African women risk replacing patriarchal oppression with Western cultural oppression. In an effort to avoid this trap, Western feminist rights discourse often draws analogies between traditional FGS and oppressive practices that have occurred in the West. Of particular significance is their discussion of the practice of FGS by surgeons who used clitoridectomy, excision, and infibulation to “cure” women who masturbated, or who were “promiscuous” or “aggressive,” in nineteenth- and twentieth-century

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96. See DORKENOO & ELWORTHY, supra note 28, at 14.
97. See Hosken, supra note 8, at 5, 8, 14, 17; Slack, supra note 16, at 471; Gunning, supra note 4, at 208, 220 (discussing the tendency to attribute the support of some African women for FGS to false consciousness).
98. Excision is believed to reduce or eliminate a girl’s sexual desire, whereas infibulation is believed to make it impossible for girls to engage in sexual intercourse that cannot be detected by their families. The “purity” of a prospective bride reflects on the reputation and honor of the entire family and may be an essential element in the payment of bride price. KOSO-THOMAS, supra note 8, at 14.
99. Infibulation does not actually prevent rape—it merely makes rape physically difficult and more physically damaging to the victim of rape than if she were not infibulated. Binaifer Nowrojee, Seeking Refuge, Finding Terror, AFRICA REPORT, Nov.-Dec. 1993, at 44 (reporting on rapes of Somali women in refugee camps).
100. A number of men interviewed by Hanny Lightfoot-Klein disagree with the notion that the infibulation of women provides their husbands with greater sexual pleasure and argue that the reverse is true. LIGHTFOOT-KLEIN, supra note 8, at 279–88. See also KOSO-THOMAS, supra note 8, at 34–42.
101. See, e.g., THIAM, supra note 8, at 84–85 (discussing Jacques Lantier’s contention that French doctors operated on European women for similar reasons).
102. Some members of the Yoruba group in Nigeria practice 18-month periods of abstinence after the birth of a child. See DORKENOO & ELWORTHY, supra note 28, at 13.
Europe and America. Such surgery was “elective” and could be lucrative for doctors who performed it. In some cases, the surgical techniques were perfected on African American slaves or freedwomen and on working-class European women. G.J. Barker-Benfield notes that the practice continued in the West until the late 1930s.

Some Western feminist literature cites the explicit focus on sexual control of women in nineteenth- and early-twentieth-century Western versions of FGS as evidence that similar motivations perpetuate the practice in Africa. Several Western feminist scholars also analogize traditional FGS to modern elective cosmetic surgery or to the high incidence of medically unnecessary radical hysterectomies performed in the United States.

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103. See generally, Barker-Benfield, supra note 8; Dally, supra note 27, at 159–84; Hosken, supra note 8, at 231–56; Slack, supra note 16, at 461–62; Gunning, supra note 4, at 205–11.

One author notes that the physician identified as bringing the practice to England, Dr. Isac Baker Brown, might have been responsible for “several hundred or perhaps several thousand such surgeries” as part of his private practice, and later, through the “London Surgical Home” he founded. Edward Wallerstein, Circumcision: An American Health Fallacy 173 (1980), cited in Lightfoot-Klein, supra note 8, at 179. The practice of clitoridectomy was taken up by American surgeons, and the practice continued, sometimes in combination with the unnecessary removal of healthy ovaries, until the 1930s. Barker-Benfield, supra note 8, at 89, 120–121. Lightfoot-Klein cites Wallerstein as estimating that clitoridectomy and similar operations also “numbered in the thousands.” Lightfoot-Klein, supra note 8, at 180.

104. Fran Hosken argues that private physicians in 19th-century England and the United States found clitoridectomy to be a quite lucrative operation. She states: “It was discreetly kept quiet, of course, by all involved; thus records are scarce.” Hosken, supra note 8, at 251. Note that in this context, “elective” was a misleading term, in that husbands or fathers were more often the decisionmakers rather than the women themselves.

105. See Dally, supra note 27, at 20–34; Barker-Benfield, supra note 8, at 101–02. Dr. J. Manion Sims, the first U.S. surgeon who performed FGS, developed some of his surgical technique through repeated practice in operations to repair vesico-vaginal fistula on a group of African women who were slaves. Dally, supra note 27, at 20–34. See also Gunning, supra note 4, at 207; Barker-Benfield, supra note 8, at 96 (noting that a slave named Anarcha was operated on thirty times). Dally argues that Sims’ experimentation on slave women was not intended to be sadistic. Dally, supra note 8, at 26–34.

106. Barker-Benfield, supra note 8, at 120–21. See also Dally, supra note 27, at 159–84.

Surgeons also infibulated women in order to prevent pregnancy or infidelity, in much the same way that the “chastity belt” (a metal or leather girdle into which the woman was locked, leaving only a small hole for the passage of excrement) previously had been used. Women thus encased often suffered complications similar to women who are surgically infibulated. See Hosken, supra note 8, at 249–50; Mary Daly, African Genital Mutilation: The Unspeakable Atrocities, in Gyn/Ecology 153, 155 (1990).

107. See, e.g., Hosken, supra note 8, at 251–57.

108. See Slack, supra note 16, at 463. But Slack goes on to argue that “the frequency of cosmetic surgery in the United States cannot be compared to the frequency of circumcision in Africa.” Id. at 463–64. See also Gunning, supra note 4, at 213 n.100 (critiquing Slack’s discussion of cosmetic surgery as “voluntary”).

109. See Dally, supra note 27, at 212, 217–24; Gunning, supra note 4, at 204 n.88; Barker-Benfield, supra note 8, at 286, 294. See also The Boston Women’s Health Book Collective, The New Our Bodies Ourselves 598 (1984) (noting that the number of hysterectomies among women of color is twice as high as among white women and that these procedures are often abused as a form of sterilization for poor women of all ethnic backgrounds).
There are also isolated instances of FGS practice in the modern West. The contemporary practice of deliberate surgical mutilation is not masked by claims of medical necessity or tradition. As recently as the late 1980s, a U.S. gynecologist, Dr. Burt (also called “Dr. Love” in the media), performed a form of genital mutilation on nonconsenting women for the explicit purpose, he claimed, of increasing the sexual pleasure of the women and their husbands.110

III. THE MAIN ACTIVISTS: AFRICAN FEMINIST DISCOURSE ON FGS

A. Survival and Liberation

In the black woman’s experience, it is crystal clear that survival and liberation are synonymous, and that she must be the main activist in the struggle to ensure both.111

African feminists who vocally reject FGS have set their own agendas and responded to Western feminist criticism in a number of ways. Many do not repudiate all non-African attention or activism surrounding FGS. Instead, some support Western feminist involvement in the international campaign to eradicate FGS, but criticize Western hypocrisy in the elaboration and implementation of universal human rights standards.112 Others, true cultural relativists, reject both Western participation and a “universal” system of human rights standards.113 De-
spite the divergence of views, a common theme runs throughout much of the African feminist literature: the survival and liberation of African women through their own activism.\footnote{114}

For many African feminists who oppose FGS, the control of their own physical well-being and that of their minor daughters is at stake:

I have no memory of being excised or infibulated as the operation was performed when I was very young . . . .

As soon as I was conscious of being excised and infibulated, I felt a deep sense of outrage . . . . I had no intention of letting myself be cut open with a knife on my wedding day . . . . I first applied to doctors and then to midwives, only to meet with a refusal each time . . . . One doctor had no hesitation in saying, “You want me to make it easy for you to gat about?” He almost threw me out of his consulting room.

Day by day, I grew angrier and more rebellious. I saw how strong social pressure could be . . . . Finally, on the evening of the wedding I had to make the best of a bad job and let myself be cut open.\footnote{115}

Everyone tries to persuade me that it must be done to my daughter, saying that no one will marry her, but I tell them I don’t care. Let her get old enough to decide what she wants for herself. In a year or so I will have a party for her and pretend that I am going to circumcise her. I will buy her new clothes, paint her hands with henna, and call in the midwife, exactly as I would if I were to have her circumcised. Then I will pay the midwife to do nothing, and tell everyone that it has been done . . . .\footnote{116}

\footnote{114. See Thiam, supra note 8, at 13, 77, 87, 125–26; AAWORD, supra note 20, at 219; Touba, supra note 3, at 47. Many African anti-FGS activists have criticized the Western assumption that there is no indigenous resistance to FGS. In response to a series of New York Times editorials and letters to the editor on FGS, Berhane Ras-Work, the head of the Inter-African Committee on Traditional Practices, criticized Western ignorance of African efforts to confront problems associated with FGS:}

\footnote{The motives behind this mobilization [against FGS] could be genuine human concern about the “poor Africans.” But at the same time those who are dealing with the problem and who are familiar with the situation cannot help asking whether or not the writers have cared to inform themselves about the efforts that Africans are making to deal with the problem.}


\footnote{115. Thiam, supra note 8, at 64–65.}

\footnote{116. Lightfoot-Klein, supra note 8, at 133.}
African women not only have engaged in acts of personal resistance, but they also have participated at the forefront of public efforts to confront FGS. Many of these activists are health professionals who have treated women suffering from FGS side effects. For many years, they have studied FGS and have spoken out against it as a violation of the rights of women.\(^\text{117}\) Two of the most prominent of these professionals are Nawal El Saadawi, a leading Egyptian feminist organizer and physician, and Nahid Toubia, a Sudanese surgeon. Professionals like Saadawi and Toubia have combined their training in Western medicine with their understanding of the unique political and cultural perspectives of the communities from which they come to educate others and advocate the eradication of FGS on an international level.\(^\text{118}\)

Other activists include Awa Thiam, a Senegalese political activist, who advocates a cross-cultural feminist approach to eradication.\(^\text{119}\) Her 1978 book *Black Sisters, Speak Out* is an explicit African feminist condemnation of FGS and other traditional practices.\(^\text{120}\) At the same time, Thiam also criticizes the failure of Western discourse to place FGS and other traditional practices in their proper cultural and political contexts.\(^\text{121}\)

African women living in immigrant communities in the West also have played a significant role in publicizing and confronting the issue of FGS. Stella Efua Graham\(^\text{122}\) a Ghanaian nurse, worked with the London-based Minority Rights Group to place FGS on the U.N. agenda as a human rights violation.\(^\text{123}\) Efua Graham (now known as Efua Dorkenoo) directs FORWARD International (Foundation for

117. For example, Esther Ogunmodede published an early article favoring the eradication of FGS in 1977, and she continues to participate in local eradication efforts. See Esther Ogunmodede, *Circumcision—How Much Longer Will We Allow Our Girls to be Brutalized in this Barbaric Way?*, DRUM, Nov. 1977, at 15–16, cited in Hosken, supra note 8, at 269. Dr. Henriette Kouyate has campaigned against FGS in Senegal since 1955 and is now the general secretary of COSEPRAT, the Senegalese National Committee on Traditional Practices. See Warrior Marks, supra note 2, at 291. Asma M. A’Haleem, a Sudanese feminist, has advocated the use of legal measures to help eradicate FGS. See A’Haleem, supra note 16.

118. Saadawi was one of the first African women to describe her own FGS experience in the English-language literature in *The Hidden Face of Eve*, See El Saadawi, supra note 8, at 7. Toubia recently published a historical analysis of the cultural, political, medical, and legal issues surrounding FGS. See Toubia, supra note 3.

119. See Thiam, supra note 8. Thiam also started the Commission for the Abolition of Sexual Mutilation. See Warrior Marks, supra note 2, at 141–42.

120. AWA THIAM, LA PAROLE AUX NEGRESSES (1978), translated as Thiam, supra note 8.

121. Id. Interestingly, in a recent interview with Alice Walker, Thiam cited with approval Fran Hosken’s efforts to internationalize feminist concern about FGS. See Warrior Marks, supra note 2, at 290.

122. Graham later changed her name to Efua Dorkenoo. See Donu Kogbara, *One Woman’s Campaign Against Genital Mutilation*, Ms., July/Aug. 1993, at 18.

Women's Health, Research and Development), the most active non-governmental organization outside Africa working specifically on FGS.\textsuperscript{124}

As for organizational support, the Association of African Women for Research and Development (AAWORD) is active both in inter-African eradication efforts and in resisting the domination of Western feminists and other human rights activists over FGS discourse.\textsuperscript{125} The Inter-African Committee on Traditional Practices, a network of indigenous anti-FGS organizations, coordinates eradication efforts throughout Africa.

There are many other African women in practicing regions who have organized against FGS. Some Western feminist texts, however, fail to recognize this participation or suggest that it is merely the result of Western feminist influence.\textsuperscript{126}

\textbf{B. Challenging Imperialism: Image and Reality}

\textit{1. The Practice of FGS}

While we do not challenge Jacques Lantier's description . . . . [h]is account of the way excision and infibulation are practiced, far from giving us essential information about the characteristics of the tribe in question, reinforces our impression of the cruelty associated with these operations, which constitutes . . . a basis for their condemnation.\textsuperscript{127}

Although African feminist activists, physicians, and scholars have rarely challenged the accuracy of the descriptions of the serious physical consequences caused by FGS,\textsuperscript{128} they object to the manner in which international human rights discourse defines and describes FGS. For example, a number of African women have objected to certain graphic photographs, slides, and other media as disrespectful of the women and girls involved.\textsuperscript{129} They argue that this disrespect perpetuates the his-

\begin{itemize}
\item \textsuperscript{124} See \textit{Warrior Marks}, supra note 2, at 241–42; Gevins, supra note 2, at 244; Kogbara, supra note 122, at 18–19; Toubia, supra note 3, at 26.
\item \textsuperscript{125} See AAWORD, supra note 20, at 217–20; Boulware-Miller, supra note 3, at 175–76.
\item \textsuperscript{126} Brennan credits external influences as the cause of indigenous activism against FGS: "More recently . . . a movement against female circumcision has sprung up within the practicing cultures for the first time, kindled by the strong rhetoric of Western feminists and other critics." Brennan, supra note 7, at 379 (emphasis added). See also Koso-Thomas, supra note 8, at xi.
\item \textsuperscript{127} Thiam, supra note 8, at 58 (discussing Jacques Lantier's description of an infibulation).
\item \textsuperscript{128} Kenyatta is one of the few to argue that the physical complications described by Western groups result from improper practitioner technique or rarely occur. Kenyatta, supra note 3, at 147.
\item \textsuperscript{129} The members of AAWORD protested what they felt was a sensationalist Western approach at the Non-Governmental Organization Forum held in Copenhagen in 1980. See
\end{itemize}
torical use of African women's bodies as objects of Western public display without regard for the privacy or human dignity of the women involved.\textsuperscript{130} In addition, they object to the tendency in Western human rights literature to treat infibulation as the primary form of FGS, either for purposes of simplifying discussion of a complex set of practices or for eliciting more widespread condemnation of the practices.\textsuperscript{131}

African feminists reject some Western feminist portrayals of African mothers and traditional practitioners as callous or even cruel.\textsuperscript{132} They argue that many mothers in practicing regions are very concerned about the pain associated with the practice and refuse to witness the initiation process, and that parents and health workers from many cultures often adopt a stoic appearance when they believe that a child's painful medical or surgical procedure is for her or his own good.\textsuperscript{133}

2. Sources of Information about FGS

Although there is little disagreement that the practice of FGS is widespread, African feminists claim that the empirical data on FGS is inconclusive or insufficient.\textsuperscript{134} Reliable data on the nature and scope of FGS is difficult to obtain and the methodology of information-gathering is fraught with the potential for misinterpretation. Female genital surgery is most often performed in private, in rural areas, and among

\begin{quote}
Boulware-Miller, supra note 3, at 171-72. See also Brennan, supra note 7, at 377; Gunning, supra note 4, at 200-02.

130. Several black feminist scholars have cited the treatment of Sarah Bartmann, the "Hottentot Venus," as an example of the West's portrayal of African female bodies as exotic, sub-human objects. See Gunning, supra note 4, at 199-200; Hill Collins, supra note 32, at 168-69.

131. See supra note 59.


133. Janice Boddy's description of an infibulation is an example of a text that humanizes practitioners because it depicts their expression of concern for the child's well-being:

The girl lies docile on an angarib . . . . Several kinswomen support her torso; two others hold her legs apart. Miriam thrice injects her genitals with local anesthetic, then, in the silence of the next few moments, takes a small pair of scissors and quickly cuts away her clitoris and labia minora . . . . I am surprised there is so little blood. She says that hemorrhage is less likely to occur at sunup, before the child has fully risen . . . . She removes a surgical needle from her midwife's kit . . . . and threads it with suture. She sews together the girl's outer labia leaving a small opening at the vulva. After a liberal application of antiseptic the operation is over.

Women gently lift the sisters as their angaribs are spread with multicolored . . . . bridal mats.

\textit{Janice Boddy, Wombs and Alien Spirits} 50 (1989). Boddy notes, however, that the use of anesthesia and antiseptics developed after post-1969 governmental reforms, which resulted in better training of midwives, the outlawing of the most severe forms of FGS, and the increased availability of anesthetics and sterilizing materials. \textit{Id.} at 51.

134. See, e.g., Touibia, supra note 3, at 22; Kouba & Muasher, supra note 13, at 99. See also Gunning, supra note 4, at 200.
\end{quote}
those who see it as an extremely intimate family matter. Therefore, it has been particularly difficult to gather accurate or comprehensive data.

Much of the Western (and African) literature on FGS cites Fran Hosken’s work as the primary source for data on the nature and scope of FGS in Africa. Hosken, a journalist and urban planner by training, has performed extensive interviews with the affected women, nurse mid-wives, and religious and political leaders, but also has been the focus of much resentment among African women and men for her efforts. Another Western feminist researcher, Hanny Lightfoot-Klein, conducted a series of interviews in the Sudan, but reported a great deal of resistance to her work in Kenya. Even surveys conducted by African women from practicing regions have met resistance, thus requiring researchers to build relationships based on trust with the people surveyed.

There are a few studies of FGS among specific ethnic or national groups. Asma El Dareer’s study on the incidence of FGS among Sudanese women is widely cited as the most comprehensive indigenous study. But these surveys have been few and far between, with little material support for the researchers. Both the Inter-African Committee and the U.N. Special Rapporteur on Traditional Practices have called

135. Fran Hosken was commissioned by the WHO to prepare a worldwide survey on FGS for its conference on traditional practices held in 1979. See Hosken, supra note 8, at 18. Hosken notes that her survey “is based on an extensive literature search and field work all over Africa,” and on estimated data. Id.

136. Although recognized worldwide as the Westerner who has compiled the most comprehensive report on FGS, Fran Hosken has been strongly and widely criticized inside Africa for her strident condemnation of FGS as a manifestation of patriarchal oppression and ignorance. See Boulware-Miller, supra note 3, at 171–72 nn.97–103; Brennan, supra note 7, at 376 n.47, 377 n.50. This distrust and opposition is not directed solely at Hosken’s perceived insensitivity. Even African women attempting to gather information about FGS often meet resistance. See WARRIOR MARKS, supra note 2, at 160; Koghara, supra note 122, at 18, quoting Efua Dorkenoo (“A big myth is that I can do what I do without incurring too much resentment . . . . People think I can get away with speaking out because I am not white”).

137. See LIGHTFOOT-KLEIN, supra note 8, at 17.

138. See KOSO-THOMAS, supra note 8, at 43 (on initial resistance of women in the Sierra Leone secret societies to talk with others about FGS).

139. See TOUBIA, supra note 3, at 22 (noting that El Dareer directed the first national survey in the Sudan in 1979); EL DAREER, supra note 8; Hosken, supra note 8, at 33. On the history of FGS among Sudanese women, see HALL & ISMAIL, supra note 8, at 91–101.

Olayinka Koso-Thomas surveyed women in western Sierra Leone on FGS and related practices. See Koso-Thomas, supra note 8, at 18–61. Ehigie Ebomoyi has studied FGS in two local communities. See Ehigie Ebomoyi, Prevalence of Female Circumcision in Two Nigerian Communities, 17 Sex Roles 139 (1987).
for more comprehensive studies. Finally, African feminists argue that it is necessary to make information gathering about FGS (as well as the general health status of African women) a priority so that the issue is addressed effectively in a culturally specific context.

3. FGS in Cultural Context

A primary concern expressed in African feminist texts is the tendency among Western human rights activists to essentialize the motivations for practicing FGS as rooted either in superstition or in the passive acceptance of patriarchal domination. In rejecting these characterizations, African feminists seek to recapture and control the representation of their own cultural heritage.

Some African feminists who reject Western interference still find Jomo Kenyatta’s anthropological defense of irua influential:

The real argument lies not in the defence of the surgical operation . . . , but in the understanding . . . that this operation is still regarded as the very essence of an institution which has enormous education, social, moral, and religious implications, quite apart from the operation itself . . . . Therefore the abolition of the surgical element in this custom means to the Gikuyu the abolition of the whole institution.

The real anthropological study, therefore, is to show that clitoridectomy, like Jewish circumcision, is a mere bodily mutilation which, however, is regarded as the conditio sine qua non of the whole teaching of tribal law, religion, and morality.

Many Kenyan women who joined resistance movements against British colonialism also resisted efforts to eradicate FGS because they believed that the eradication attempts would westernize, and therefore control them.

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141. Toubia states, “We must get exact information on prevalence, physical and psychological effects, and religious requirements. Most of all, this information must be accessible to a broad range of people and disseminated on a wide scale.” TOUBIA, supra note 3, at 43.

142. See LIGHTFOOT-KLEIN, supra note 8, at 167–68, 172; HOSKEN, supra note 8, at 282; WARRIOR MARKS, supra note 2, at 248–51.

143. KENYATTA, supra note 3, at 128.

144. See THIAM, supra note 8, at 73, 81; Gunning, supra note 4, at 224.
Although supportive of Kenyatta’s call for awareness of the cultural context in which FGS occurs, Awa Thiam nevertheless rejects his defense of it as an essential source of cultural and political cohesion:

The fact that some Black intellectuals insist on maintaining the “barbaric” practices of their ancestors, including excision, may well . . . stem from a concern to recover their essence, their specificity . . . . But this return to one’s roots is only a reaction to the colonialism which sought to destroy everything which identified the African as such: self-defence, we might say. But what determines this particular reaction? Let people react, but don’t let them mutilate women! 145

Another troubling tendency in Western feminist literature is the assumption that African women who support FGS await the awakening influence of more militant Western feminists. On the contrary, some African women actively resist male efforts to modify or eradicate FGS. 146

The African feminist literature on FGS emphasizes the importance of the cultural context in which FGS occurs and the complexity of justifications for its continued practice. It contends that Western feminist discourse fails to ask the questions that would help place its patriarchal aspects in a broader context: Are boys initiated at the same time as girls? Are the risks and consequences of initiation rituals for boys as life-threatening and long-lasting as they are for girls? What socioeconomic purposes does FGS serve for a particular group? Are there alternative ways of fulfilling those purposes or challenging their necessity? If so, how should domestic and international actors identify and support those alternatives? Finally, do domestic and international actors contribute to the continuation of harmful traditional practices?

4. Relationship to Other Forms of Oppression

[T]o fight against genital mutilation . . . without questioning the structures and social relations which perpetuate this

145. THIAM, supra note 8, at 83.

146. Cultural anthropologist Janice Boddy describes how a group of Sudanese women resisted male efforts to adopt a less invasive form of FGS:

While realizing that it is less hazardous to health than pharaonic circumcision, they continue to oppose it on aesthetic and hygienic grounds . . . . Several women I questioned . . . made their feelings graphically clear: each depicted sunna circumcision by opening her mouth, and pharaonic, by clamping her lips together. “Which is better,” they asked, “an ugly opening or a dignified closure?”

BODDY, supra note 133, at 51–52. Other explanations offered by African female defenders of FGS include the desire to reduce their interest in sexual relations, the desire to be identified with the group of females considered most powerful, and resistance to colonialism and other forms of external oppression. See Gunning, supra note 4, at 221–24; THIAM, supra note 8, at 66, 82, 84–85.
situation is like "refusing to see the sun in the middle of the day."\textsuperscript{147}

A final source of significant conflict over the status of FGS as a human rights violation is the failure of Western feminists to address the health complications and effects of FGS in the context of other important social, political, and economic issues associated with the health of African women.\textsuperscript{148}

AAWORD and other African feminists have argued that basic needs like adequate health care facilities, support for health care training, access to public education for girls, and access to clean water often are not treated as human rights concerns of the same urgency as the eradication of FGS.\textsuperscript{149} They further argue that Western economic exploitation enables the continued occurrence of FGS.\textsuperscript{150} They charge that although Western feminist discourse often concerns itself with the adoption of "sensitive" approaches to the eradication of FGS, it rarely concerns itself with the participation of feminists, as Westerners, in the exploitative economic and social institutions that arguably perpetuate FGS.\textsuperscript{151}

IV. AT THE INTERSECTION OF "WESTERN" AND "AFRICAN": THE CHALLENGE FOR AFRICAN AMERICAN FEMINISTS

A. Relationship and Responsibility

I wrote my novel as a duty to my conscience as an educated African-American woman. To write a book such as this, about a woman such as Tashi, about a subject such as genital mutilation, is in fact, as far as I am concerned, the reason for my education. Writing it worked my every nerve, as we say in African-American culture about those areas of struggle that pull from us every last shred of illusion. I know only one

\textsuperscript{147} AAWORD, supra note 20, at 219.

\textsuperscript{148} Marie-Angelique Savane, a former president of AAWORD, formulated an influential critique of Western concern about FGS, arguing that Western apprehensions about the health of African women did not appear to extend to the detrimental effects of neo-colonialism and inequitable development. See Savane, supra note 113, at 37-39.

\textsuperscript{149} AAWORD, supra note 20, at 219. For a general treatment of the social and economic status of African women, see MINORITY RIGHTS GROUP, WOMEN IN SUB-SAHARAN AFRICA (Edda Ivan-Smith et al. eds., 1988).

\textsuperscript{150} AAWORD, supra note 20, at 219. For an excellent discussion of the connections between "public" economic and social underdevelopment and "private" violations of women's rights, see Romany, supra note 6, at 122-23.

\textsuperscript{151} In fact, Hosken strongly condemns the attempt to relate the continued practice of FGS to economic underdevelopment. See Hosken, supra note 8, at 16-17, 282.
thing about the "success" of my effort. I believe with all my heart that there is at least one little baby girl born somewhere on the planet today who will not know the pain of genital mutilation because of my work. And that in this one instance, at least, the pen will prove mightier than the circumciser's knife. Her little beloved face will be the light that shines on me.

The work of African American "womanist" Alice Walker, more than that of any other African American feminist, has increased the scope and urgency of the international campaign to educate and organize against FGS. The widespread publicity surrounding the publication of Possessing the Secret of Joy, Walker's fictional account of the impact of traditional female genital surgeries on one African woman and her family, followed by the documentary and companion book Warrior Marks, has made the issue of FGS more accessible to a Western audience.

As the above quotation illustrates, Walker expresses unequivocal opposition to the continued practice of FGS. Her objections generally reflect some Western feminist apprehensions: humanitarian concern for the physical effects of FGS and identification of FGS as a form of patriarchal control rather than legitimate cultural expression. In addition, Walker expresses a heightened sense of special responsibility and "duty" that arises from her status as an educated African American woman. Her connection to African women who undergo FGS is perceived to stem from her status as a woman who herself has suffered "a patriarchal wound," and as a black woman who shares cultural influences with women in Africa.

Because of Walker's popular status as an African American womanist oracle, some Westerners and Africans attribute greater legitimacy to her positions on FGS than they might to those of other Westerners. Her fiction is critically acclaimed for creating particularly sensitive portrayals of the lives of African American women.

152. Alice Walker, The Light that Shines on Me, RADCLIFFE Q., Sept. 1992, at 5. See also WARRIOR MARKS, supra note 2, at 25.
153. Alice Walker defines a "womanist" as "[a] black feminist or feminist of color." ALICE WALKER, IN SEARCH OF OUR MOTHER'S GARDENS xi (1983).
154. WALKER, supra note 7.
155. In the film and accompanying book, Walker describes having been blinded in childhood by her brother's toy gun. She describes her wound as "patriarchal" because her parents gave the toy weapon to her brother because of a culture that encourages boys to be violent. WARRIOR MARKS, supra note 2, at 15-19.
156. Although Walker's novels have received both popular and critical acclaim, her work has also spurred intense debate in African American communities because of her portrayal of negative images of relationships between African American men and women. Some critics argue that these images are given disproportionate coverage by mainstream publishers and feminists. See, e.g., HILL
Initially, some activists perceived Walker, an African American feminist, as an ideal ambassador between the cultural divide of white Western feminists and African feminists. Following the success of her novel, Walker produced the documentary and companion book, *Warrior Marks*, with feminist filmmaker Pratibha Parmar. Some observers applauded the film’s sensitive presentation of FGS through dance as informative and moving. Others, in contrast, felt that the film drew too direct an analogy between FGS and Walker’s own “patriarchal wound” and charged that it insensitively and inaccurately portrayed the older women who perform FGS as uniformly cruel and inept.

These responses illuminate the complexities underlying the larger human rights debate between universalists and cultural relativists. They also illustrate the danger of making uncritical assumptions about one’s ideology based solely on (her) race or gender. Although some Africans appreciate and praise Walker’s participation in the campaign against FGS, others find aspects of her work to be imperialist or underinformed. Some African Americans have expressed discomfort at the critique of African practices by “one of our own” as disloyal or inappropriate given the negative images of Africa that already pervade the Western media.

The expected diplomatic resolution between African and Western feminists may yet occur, but Walker’s efforts and the corresponding reactions reveal another complex layer of conflicts and opportunities.

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157. See Judith Seddon’s discussion of her discomfort at writing an article on FGS as a white Western woman. Seddon, supra note 28, at 268. See also Slack, supra note 16 (describing her encounter with a family struggling over the question of FGS).

158. The film debuted in the United States in New York, and special screenings were held in over a dozen major cities.

159. For a summary of Parmar’s work in filming the lives of women of color, see Warrior Marks, supra note 2, at 89–98.

160. In the film and book, Walker discusses her belief that her patriarchal wound resulted because her brother deliberately aimed the gun at her. She expresses her anger and confusion at her family’s subsequent references to the incident as “the accident.” See Warrior Marks, supra note 2, at 15–19.


162. A number of African anti-FGS activists cooperated in the making of Warrior Marks. See Warrior Marks, supra note 2.

163. See Dawit & Mekuria, supra note 132.

for cross-cultural feminism. As these responses indicate, gender and racial connections alone will not resolve the tensions between different groups of feminists.\textsuperscript{165}

1. Personal Concerns: Dropping the Scholarly Veil

As a novelist, poet, essayist, and filmmaker, Walker is able to move easily between personal experience, literary structure, and political agenda in her work. It is, in part, Walker's ability to express the personal in her writing that gives it such power and creates such controversy. The conventions of traditional legal scholarship reject the inclusion of explicit discussions of personal experience.\textsuperscript{166} Nevertheless, African American feminist human rights scholars seem uncomfortable with maintaining a veil of objectivity when writing about FGS.\textsuperscript{167}

FGS raises a number of concerns in African American social and political discourse on African traditional practices as well.\textsuperscript{168} Ironically, the "status of African women" and "women in development" are now popular focal points of Western political science discourse.\textsuperscript{169} Although

\footnotesize
\textsuperscript{165} The late poet Audre Lorde addresses a similar problem of negative imagery in her powerful response to radical feminist Mary Daly's attack on FGS. Lorde objected to Daly's treatment of African women solely as objects of oppression, without seeking a deeper understanding of the complexity of black women's experiences:

[(I)t was obvious that you were dealing with noneuropean women, but only as victims and preysers-upon each other .... Your inclusion of African genital mutilation was an important and necessary piece in any consideration of female ecology, and too little has been written about it. To imply, however, that all women suffer the same oppression simply because we are women is to lose sight of the many varied tools of patriarchy.


\textsuperscript{166} There is a growing movement that challenges tradition and explicitly adopts personal narrative and "storytelling" techniques. See, e.g., DERRICK BELL, \textit{AND WE ARE NOT SAVED} (1987); PATRICIA WILLIAMS, \textit{THE ALCHEMY OF RACE AND RIGHTS} (1991); Cheryl Harris, \textit{Whiteness as Property}, 106 HARV. L. REV. 1709, 1710–14 (1993); Caldwell, supra note 34.

\textsuperscript{167} I share this view, and my reaction is not unique. For discussions of personal views of FGS in the Western feminist human rights literature generally, see Fran P. Hosken, \textit{A Personal View, in} \textit{HOSKEN}, supra note 8, at 14–24; Slack, supra note 16, at 437; Seddon, supra note 28, at 268. For African feminist writers' personal reflections on FGS, see EL SADAAWI, supra note 8, at 8; EL DAREER, supra note 8, at iii; ATIYA, supra note 8, at 110.

\textsuperscript{168} My own involvement in cross-cultural discussions about FGS as a source of international concern began when I had the opportunity to research women's human rights issues through the Women's Law and Public Policy Program. I did so as a member of the staff of TransAfrica Forum, an African American research and educational organization that takes a pan-African approach to U.S. foreign policy. The project was to expand the organization's work on cross-cultural human rights issues affecting black women. These issues often included violations of the economic, social, or cultural rights of black women, including the right to health. Female genital surgery was one of the more controversial topics in discussions among the African, African American, and African Caribbean people who worked with TransAfrica Forum. Some of the concerns reflected in those discussions are set forth in the following two paragraphs of text. However, this Article does not purport to elaborate all of the opinions discussed. Furthermore, none of the opinions expressed in this Article necessarily reflects the policy of TransAfrica Forum or of TransAfrica.

\textsuperscript{169} The most significant early work in the "women in development" movement was ESTER BOSERUP, \textit{WOMAN'S ROLE IN ECONOMIC DEVELOPMENT} (1970). See generally Mary Roodkowsky,
much of this literature identifies the significant socioeconomic barriers to improving the status of African women, some of it nevertheless tends to adopt an imperialist tone or to exclude the voices of African women entirely.170

At the other extreme, African American feminists often experience great difficulty in reconciling themselves to a strict cultural relativist view of FGS. It seems more appropriate that African American feminists work with Africans and other peoples of the African diaspora to reclaim, place in context, and critically analyze human rights issues that affect them, rather than remain silent, especially on those issues that carry extra baggage with regard to race, ethnicity, or gender.171 Still, the troubling question for African American feminists—and Western feminists in general—remains how to avoid inappropriate criticism, intentional or not.

The two leading human rights articles by African American feminists on FGS discuss the personal ambivalence of the authors as Western women of color writing about human rights-based approaches to FGS.172 Kay Boulware-Miller, one of the first Western feminists to analyze FGS in the context of human rights scholarship, describes her concern:

My initial response to this issue was ambivalent and confused. As a woman, I felt rage that the practice helped solidify and preserve society by the violation of female bodies; as a Black, I felt a perverse pride that an African tradition had managed to hold its own amid invasive values of beauty, morality, and self-worth; and as mother of a little girl at the age of most who are circumcised, I felt threatened by a vividly-imagined, but never-to-be-known loss.173

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171. There are also strong criticisms of the prevalent view that human rights discourse is a construct solely of Western liberalism. See Francis M. Deng, A Cultural Approach to Human Rights among the Dinka, in HUMAN RIGHTS IN AFRICA: CROSS CULTURAL PERSPECTIVES, supra note 31, at 261; Lakshman Marasinghe, Traditional Conceptions of Human Rights in Africa, in HUMAN RIGHTS AND DEVELOPMENT IN AFRICA, supra note 4, at 32-45. For a critique of Western liberal approaches to human rights, see HUMAN RIGHTS: CULTURAL AND IDEOLOGICAL PERSPECTIVES, supra note 19.

172. See Boulware-Miller, supra note 3; Gunning, supra note 4.

173. Boulware-Miller, supra note 3, at 176 n.121.
Isabelle Gunning’s more recent and comprehensive article recounts more extensively her uncertainty about the appropriate response to the human rights implications of FGS:

My own personal journey in grappling to understand genital surgeries has involved several permutations. I first learned of genital surgeries years ago when I was in college. On the one hand, I was horrified and frightened. The problem was presented as one that was exclusively borne by my “African sisters.” But being an African-American woman . . . I could not just totally dismiss it as the barbaric practice of those “others.” I also could not identify the complex connectedness between myself and African women (other than that “my people” were doing this). Therefore I chose the “ignore it” option . . . . [As] I have revisited the subject with a stronger sense of the African community and the women’s community in the global sense . . . I at least managed to place my reactions into a somewhat feminist framework that understood the practice as one of patriarchal domination. Yet my own desires to fit the practice neatly into a feminist version of the category “human rights violation” led me toward an arrogant attitude that ultimately rendered those African feminists already engaged in a struggle within their cultures over the practice as either invisible or as stereotyped victims with a great need for yet another Western (if racially correct) savior.

My own feeling now is that culturally challenging patriarchal practices like genital surgeries require a complex vision of independence and connectedness. The distance that arrogance involves must be bridged, but the interconnectedness built must be both complex and preserve independence.\footnote{174. Gunning, supra note 4, at 197–98.}

Gunning and Boulware-Miller’s personal reflections indicate that these feminists consider themselves to be physically, politically, culturally, or emotionally “related” to African women and children. That sense of connectedness legitimizes their desire to eradicate FGS.

African American feminists have experienced the impact of structural sexism, racism, and classism in their own cultures. As African American women raised in cultures suffering the adverse effects of those forces, both Boulware-Miller and Gunning recognize the importance of the preservation of cultural traditions and feel initial distrust for “outsiders” who would challenge those traditions for ulterior, or even altruistic, motives.\footnote{175. See Boulware-Miller, supra note 3, at 176 n.121.}
understand the choice of some African women to defend the practice of FGS or to reject the manner in which some non-Africans have shaped the discourse of the eradication campaigns. Their belief in cultural self-determination leads them to resist prescribing solutions for others who do not want their help. At the same time, many African American feminists—as illustrated by the Gunning and Boulware-Miller texts quoted above—also feel a special sense of frustration that the continued practice of FGS puts millions of their “sisters” at psychological and physical risk.

Do these concerns leave any room for respectful, cross-cultural engagement among African and African diaspora feminists on the issue of FGS? While the debates over cultural relativism and cultural imperialism continue, female genital surgeries are practiced upon millions of black children and women, leading to illness, or even death. What, then, should be the response of black feminists to this form of human rights violation?

African American and other black feminists encounter a variety of international, regional, and domestic human rights approaches to FGS from which to choose. These approaches are discussed in the next section.

B. Black Feminist Perspectives: The Potential and Limitations of Human Rights

The tensions in the personal responses of African American feminists to FGS are reflected in their reactions to the variety of legal approaches adopted to contend with the issues posed by FGS.\textsuperscript{176}

1. Indigenous African Legislative Approaches

African American feminists may choose among a variety of human rights-based strategies for the eradication of FGS that are consistent with black feminism. For example, some universalist approaches require governments to meet their international human rights obligations by developing and strongly enforcing domestic laws criminalizing FGS. This approach prioritizes the protection of the individual girl’s or woman’s right not to undergo a harmful procedure over the group’s right to preserve a particular cultural tradition.\textsuperscript{177}

Historically, European colonists used religious coercion, the denial of educational access to circumcised girls, and criminal legislation to

\textsuperscript{176} I do not discuss in detail the full ramifications of the institutional international responses to FGS; rather, I provide a brief background of the legal context in which feminist discourse has been conducted.

\textsuperscript{177} See A’Haleem, supra note 16.
eradicate FGS. Today there are a variety of modern legislative campaigns to criminalize FGS in countries where it is traditionally practiced. Efforts to pass legislation against FGS in Kenya were largely rejected until 1982, when President Moi issued an official statement against FGS after the deaths of fourteen girls from complications of excision. The Egyptian government recently has attempted to limit the forms of FGS that are practiced and to regulate the manner in which they are performed. The Sudanese government enacted legislation outlawing infibulation, but exempted excision on the theory that it would replace infibulation, and that both forms would eventually disappear altogether. The Ghanaian government recently passed legislation criminalizing FGS as well.

The fact that modern penal legislation is associated with the history of colonialism poses a significant barrier to the successful enforcement of these laws, and is a significant factor in the polarization of views in modern feminist discourse on FGS.

178. Much of the anti-FGS activity was spearheaded by the wives of colonial administrators. These efforts were often clumsy and misguided, leading to the underground practice of FGS or to local uprisings. For a discussion of the influence of British authorities in the enactment of early legislation in the Sudan, see Hall & Ismail, supra note 8, at 92-93. The memory of imperialism and the consciousness of neo-imperialism remains an important source of indigenous resentment at efforts to make FGS the subject of domestic and international human rights law. See Slack, supra note 16, at 462-63.


180. See Dorkenoo & Elworthy, supra note 28, at 11; Slack, supra note 16, at 477; Gunning, supra note 4, at 227. Legislation banning FGS in Kenya was not actually passed until 1990. Touibia, supra note 3, at 46. More recently, there have been reports of forced or threatened mutilations of adult women by individuals opposing modernization. See Horace Awori, Kenya: Men Perpetuating Female Genital Mutilation, INTER PRESS SERVICE, Mar. 17, 1993; Kenya: Attorney General Calls for Campaign Against Female Circumcision (BBC Summary of World Broadcasts, May 6, 1993); Toni Y. Joseph, Scarring Ritual, DALLAS MORNING NEWS, Apr. 18, 1993, at 1A.

Other African political leaders who have issued statements against FGS include Presidents Abdou Diouf (Senegal), Thomas Sankara (Burkina Faso), and Mathieu Kerekov (Benin). See Kosos-Thomas, supra note 8, at 106.

181. See Touibia, supra note 3, at 45-46. Both Gunning and the Minority Rights Group write that the legal status of FGS in Egypt is unclear; although many educated elites believe the practice has been explicitly outlawed, no such official legislation exists. See Gunning, supra note 4, at 228; Dorkenoo & Elworthy, supra note 28, at 11.

182. The Minority Rights Group notes that "[a] law enacted in 1946 allows for a term of imprisonment up to five years and/or a fine. However, it is not an offence (under Article 284 of the Sudan Penal Code for 1974) 'merely to remove the free and projecting part of the clitoris.'" Dorkenoo & Elworthy, supra note 28, at 11. See also Al Haleem, supra note 16, at 152 (critiquing the Sudanese law). The current status of Sudan's legal prohibitions are unclear under the present Islamic absolutist regime. According to Touibia, the law prohibiting infibulation "was omitted from the 1991 legal revisions, as were many other laws, making their current status unclear." Touibia, supra note 3, at 45.


184. See Gunning, supra note 4, at 228.

185. See WHO Chron., supra note 13, at 34; Slack, supra note 16, at 479; Kenyatta, supra
2. Individual Rights Approaches

On the international level, Boulware-Miller has critiqued several individual rights-based approaches to FGS by exposing the cultural implications for African women.186 She addresses the tension underlying the argument that FGS violates the individual right of women to sexual and bodily integrity, for example, by noting:

African women may perceive the right to sexual and corporal integrity to be an imposing and judgmental approach because its Western feminist advocates often ignore the cultural influences that perpetuate the practice. Western feminists are considered culturally insensitive by African women, who would prefer to view female circumcision within a socio-economical and political context rather than as a violation of their sexuality or physiology.187

She further argues that “to challenge female circumcision as a violation of the rights of the child suggests that women who permit the operation are incompetent and abusive mothers who, in some ways, do not love their children.”188

Boulware-Miller is most hopeful about the prospects of a “right to health” approach, in which practicing groups are educated on the health risks associated with FGS and their access to quality health care resources are increased. She states that international attention to the threat to health may be viewed as less culturally imperialist than other individual rights-based approaches.189 The World Health Organization now advocates international and domestic efforts that are based primarily on public health education.190 Nevertheless, Boulware-Miller and others express concern that this approach does not go far enough

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186. Boulware-Miller identifies and critiques several individual rights approaches: the rights of the child, the right to sexual and corporal integrity, and the right to health. Boulware-Miller, supra note 3.
187. Id. at 170–71.
188. Id. at 166.
189. Boulware-Miller predicts: “Whether the right to health approach is developed independently by African women or is used to unify the efforts of international groups, its success seems likely in light of its persuasive political and cultural appeal and the existing health conditions in African countries.” Id. at 176.
190. The World Health Organization (WHO) initially refused to take a formal position on FGS, arguing that the issue was beyond its “competence.” Tomasevski, supra note 28, at 84. WHO’s reluctance to become involved on this issue continued for decades, despite requests for information by the U.N. Economic and Social Council and by representatives from practicing nations. Beginning in 1979, however, WHO began sponsoring a series of seminars and conferences on FGS and other “traditional practices affecting the health of women and children” and
because it implies that FGS is more acceptable from a human rights perspective if it is performed by physicians with anesthesia under antiseptic conditions.\textsuperscript{191}

Boulware-Miller expresses pessimism about the ability of international human rights organizations to address effectively the eradication of FGS because of the lack of international consensus on the issue and the low priority given to FGS in African countries with scarce resources.\textsuperscript{192} She acknowledges, however, that “international organizations provide a forum within which national groups and governments can discuss new proposals and methods to attack the practice.”\textsuperscript{193}

3. Cross-Cultural Consensus-Building

A third approach, most closely identified with Gunning, relies on international human rights fora as a source of space for the creation of consensual human rights norms prior to attempting domestic sanctions such as criminalization.\textsuperscript{194} Because the priority is on consensus-building, the relatively weak enforcement mechanisms under the international human rights system are viewed as “strengths.”\textsuperscript{195} This approach emphasizes a slow, grassroots process of health education and norm-creation that is intended to lead to gradual abandonment of the practices. It prioritizes collective context and consensus over state control in preventing individual harm.

Gunning sees such a contextualized approach as an essential starting point toward cross-cultural understanding. She advises those who would engage in cross-cultural dialogue to take a three-pronged approach:

1) be clear about the boundaries and ramifications of one's own will and interests, i.e., understand one's own historical context;
2) understand how as an outsider one impacts on the “other's” world and is perceived by the “other,” i.e., see yourself as the other woman might see you; and
3) recognize the complexities of the life and circumstances of

\textsuperscript{8} See Hosken, supra note 8, at 42 n.1.

\textsuperscript{191} This practice seems to be growing among those with access to modern hospitals or trained nurse midwives and in immigrant communities in the West. See Boulware-Miller, supra note 3, at 174; WHO Chron., supra note 13, at 35 (discussing WHO's rejection of "medicalization"); Gunning, supra note 4, at 241.

\textsuperscript{192} Boulware-Miller, supra note 3, at 162–63.

\textsuperscript{193} Id. at 163.

\textsuperscript{194} Id. at 163. See also Gunning, supra note 4, at 241.

\textsuperscript{195} Gunning, supra note 4, at 241.
the other woman, i.e., see the other woman, her world and sense of self through her eyes.\textsuperscript{196}

Gunning argues that Westerners who adopt a respectful, “world-travelling” approach could assist in the creation of cross-cultural consensus regarding human rights norms, including norms that address FGS. Like Boulware-Miller, Gunning initially criticizes the potential role of international human rights law and institutions with respect to FGS, but ultimately concludes that their notoriously weak enforcement mechanisms could be a potential strength.\textsuperscript{197}

Gunning sees the primary role of the international human rights system as encouraging consensus-building across a cultural divide. Her article is generally supportive, for example, of the cautious (some might say overly culturally sensitive) role played by members of the U.N. Sub-Commission on the Prevention of Discrimination and Protection of Minorities in considering whether to treat FGS as a human rights violation.\textsuperscript{198} The Sub-Commission attempted to address the cultural sensitivities of practicing groups, while keeping FGS on the international agenda as an object of concern and study.\textsuperscript{199} Western members often remained silent in discussions of FGS, apparently in an effort to maintain cultural sensitivity.

Gunning’s focus on consensus-building and “world-travelling” dialogue implies that recent efforts among women’s national, regional, and nongovernmental organizations to increase official U.N. focus on women’s rights may be fruitful ones. As discussed in Part III above,\textsuperscript{200} local women’s organizations have been organizing eradication campaigns for many years. The Inter-African Committee on Traditional Practices, a permanent regional institution for sharing information and strategies on eradication, was created at the 1984 WHO conference. The Com-

\textsuperscript{196} Id. at 193–94.
\textsuperscript{197} Id. at 241.
\textsuperscript{198} Id. at 242. In 1981, the Minority Rights Group prepared a groundbreaking report on FGS and requested that the Working Group on Slavery of the U.N. Sub-Commission on the Prevention of Discrimination and Protection of Minorities consider the human rights status of the practice. See Brennan, supra note 7, at 379 n.61.
\textsuperscript{199} See generally Brennan, supra note 7 (discussing the impact of cultural relativism on the deliberations of the Sub-Commission). These efforts eventually led to the appointment of Halima Embarek Warzazi, a Moroccan woman, as Special Rapporteur on Traditional Practices. Her final report recommended that the U.N. Commission on Human Rights sponsor periodic regional conferences on FGS and other traditional practices. Final Report by the Special Rapporteur, supra note 140, at 36. For comments praising Warzazi’s appointment, see Boulware-Miller, supra note 3, at 164 n.57. Gunning describes the Sub-Commission’s activities as an “auspicious beginning,” although she argues that aspects of the Sub-Commission’s approach were “oversimplified” and that a “long-term dialogue” is required. Gunning, supra note 4, at 242–48.
\textsuperscript{200} See supra part III.A.
mittee's mandate is "(a) to initiate and support the creation of national bodies capable of handling the issue of female circumcision and other traditional practices; (b) to encourage action-oriented research to identify harmful traditional practices with a view to elaborating strategies for their elimination." Both Western and African nongovernmental organizations are largely responsible for placing the issue onto the legal agendas of the United Nations and other regional fora.

In apparent response to widespread publicity on FGS and greater cross-cultural activism on women's rights issues by nongovernmental human rights organizations, U.N. bodies and official conferences recently have adopted resolutions and declarations explicitly condemning FGS as a violation of human rights, thereby sanctioning international participation in eradication efforts. For example, the final declaration of the U.N. Population Conference held in Cairo in 1994 included a statement on FGS: "Governments are urged to prohibit female genital mutilation wherever it exists and to give vigorous support to efforts among nongovernment and community organizations and religious institutions to eliminate such practices." The Declaration on the Elimination of Violence against Women, adopted by the General Assembly in 1993, recognizes FGS as a form of violence against women, and therefore as a barrier to "the enjoyment by women of human rights and fundamental freedoms":


202. Although efforts to formalize U.N. attention on FGS extend as far back as 1952, when the Commission on the Status of Women expressed concern about the practice, the United Nations did not immediately act against FGS. Boulware-Miller, supra note 3, at 164 n.56. Twenty nongovernmental organizations (NGOs) formed a Working Group on FGS in 1977. Tomasevski, supra note 28, at 86. NGOs continue to follow different approaches to FGS. Whereas Equality Now, a human rights organization focusing solely on women's rights as human rights, has called for increased UNICEF funding for research and education on FGS, Human Rights Watch has not addressed the issue in its annual report because of reports by local activists that "a more overt role by Human Rights Watch at this time could be counterproductive to local efforts." See Equality Now, supra note 135; Rosenthal, Female Genital Mutilation, supra note 7, at A27.


Violence against women shall be understood to encompass, but not be limited to, the following: (a) Physical, sexual and psychological violence occurring in the family, including battering, ... dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women.

4. Integrated Approaches

"Integrated approaches" to eradicating FGS constitute the fourth category of eradication efforts. Integrated approaches combine domestic legal and nonlegal approaches, international standard-setting, and technical assistance and monitoring, with grassroots health and education campaigns in order to eradicate FGS. This mixture of techniques, rather than universalist condemnation and "enlightenment" or exclusionary rejection of Western influence, appears to be the most promising basis for cross-cultural Western and African feminist activism on FGS.

Feminists from both Africa and the West have argued that the adoption and widespread ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is the most promising U.N.-based effort that focuses specifically on gender-based violations of human rights. CEDAW broadly defines "discrimination against women" and specifically requires states that are parties to the Convention to take action to address traditional practices that are harmful to women. The Committee responsible for CEDAW's implementation has issued specific recommendations to state parties on their responsibility to address violence against women in general, and FGS in particular.

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206. Declaration on the Elimination of Violence against Women, supra note 204, at 3.
207. See Marsha Freemen, Women, Development and Justice: Using the International Convention on Women's Rights, in OURS BY RIGHT, supra note 8, at 93.
208. Article 1 broadly defines "discrimination against women" to mean "any distinction, exclusion or restriction made on the basis of sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." CEDAW, supra note 64, at art. 1, pt. 1.
209. Article 5 provides that "State Parties shall take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women." Id. at art. 5, pt. 1.
The Committee on the Elimination of All Forms of Discrimination Against Women (Committee) has recommended that state parties take an integrated approach to eradicating FGS that would include collecting and disseminating information, supporting national and local women's organizations, funding educational programs, integrating FGS into national health policies, inviting assistance from international bodies, and reporting on progress.\(^{211}\)

Substantially similar integrated approaches have been recommended by the Special Rapporteur appointed to study FGS by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities;\(^{212}\) by Efua Dorkenoo of FORWARD;\(^ {213}\) and by the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children.\(^ {214}\) This approach has received support from both Western and African feminist human rights activists.

The integrated approach of CEDAW includes a number of elements that take account of the concerns of both Western and African feminists discussed above. It establishes an international context of concern and focus, but prioritizes African feminist activism. It recognizes that African women in practicing regions are themselves taking action to identify and combat practices that are harmful to them, but that such action needs the support and encouragement of their local governments. The recommendation also states that the measures must be

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\(^{211}\) Specifically, Committee Recommendation Number Fourteen urges the following: (a) The collection and dissemination by universities, medical or nursing associations, national women's organizations or other bodies of basic data about such traditional practices; (ii) The support of women's organizations at the national and local levels working for the elimination of female circumcision and other practices harmful to women; (iii) The encouragement of politicians, professionals, religious and community leaders at all levels, including the media and the arts, to co-operate in influencing attitudes towards the eradication of female circumcision; (iv) The introduction of appropriate educational and training programmes and seminars based on research findings about the problems arising from female circumcision; (b) [The inclusion] in national health policies of appropriate strategies aimed at eradicating female circumcision in public health care. Such strategies could include the special responsibility of health personnel, including traditional birth attendants, to explain the harmful effects of female circumcision; (c) [The inviting of] assistance, information and advice from the appropriate organizations of the United Nations system to support and assist efforts being deployed to eliminate harmful traditional practices; (d) [The inclusion] in their reports to the Committee under articles 10 and 12 [of CEDAW] of information about measures taken to eliminate female circumcision.


\(^ {212}\) See Final Report by the Special Rapporteur, supra note 140.

\(^ {213}\) See WARRIOR MARKS, supra note 2, at 241.

\(^ {214}\) See KOSO-THOMAS, supra note 8, at 107.
consistent with the nature of the practices ("appropriate") as well as effective.\textsuperscript{215}

Although it seems promising, the approach taken by the Committee's Recommendation is not without significant limitations. First, because of the weakness and complexity of enforcement mechanisms under U.N. human rights systems, Recommendation Number Fourteen could effectively be irrelevant to the daily lives of grassroots African women.\textsuperscript{216} Moreover, despite having been widely ratified, CEDAW is also the subject of the largest number of substantive reservations of any of the major human rights treaties.\textsuperscript{217}

CEDAW also shares the weakness of all other human rights instruments—its enforcement depends on the political will of the state parties to the Convention. Furthermore, by creating room for non-African dialogue with African women by recommending that state parties invite assistance from U.N. organizations, the recommendation seems to assume that the assistance and advice of international organizations generally will be benevolent. Many African women would object to such an assumption, given the problems they have experienced with the implementation of international aid policies. Such assistance is subject to manipulation and coercion based on donor country political priorities, as well as the inept implementation of projects that appear to benefit consultants from donor countries more than the women they are meant to serve.

Finally, the recommendation fails to address the need for data collection, education, and organizing activities to reflect important aspects of the lives of African women other than FGS. This poses the most serious area of conflict, yet greatest opportunity, with respect to cross-cultural work on FGS. It is relatively easy to argue that educational and economic opportunity for women will aid in the eradication of FGS. The integrated approaches, however, fail to consider fundamental

\textsuperscript{215} See Report of the Committee on the Elimination of Discrimination Against Women, General Recommendation No. 14; Female Circumcision, supra note 210, at 80.

\textsuperscript{216} See Gunning, supra note 4, at 256-38. The Committee has been praised for its members' professionalism and for its active approach to following up on reporting and other requirements under CEDAW. There is currently no mechanism, however, for raising individual complaints under CEDAW. See Andrew Byrnes, The 'Other' Human Rights Treaty Body: The Work of the Committee on the Elimination of Discrimination Against Women, 14 YALE J. INT'L L. 1 (1989).

\textsuperscript{217} These limitations are part of the broader problem with CEDAW: implementation. The Convention has been widely ratified by many countries, including those in which FGS is practiced. TOUBIA, supra note 3, at 45. Funder notes, however, that at least 41 of the state parties have made substantive reservations to CEDAW, particularly with respect to settlement of disputes "over the interpretation or application of the Convention." Funder, supra note 24, at 422. See also Belinda Clark, The Vienna Convention Reservations Regime and the Convention on Discrimination Against Women, 85 AM. J. INT'L L. 281 (1991).
questions of domestic and international economic and political restructuring that also may be relevant to FGS.218

V. CONCLUSION: SOLIDARITY AND SUBJECTIVITY

A media campaign in the West will not stop genital mutilation. Westerners and those of us living in the West who wish to work on this issue must forge partnerships with the hundreds of African women on the continent who are working to eradicate the practice. Neither Alice Walker nor any of us here can speak for them; but if we have the power and the resources, we can create the room for them to speak, and to speak with us as well.219

The energy surrounding cross-cultural feminist discourse on FGS has centered largely on the universalism/cultural relativism dichotomy underlying the question of whether Western feminists should help eradicate FGS. This perhaps insoluble question remains important for the philosophical and cultural anthropological underpinnings of human rights jurisprudence. For the variety of women who adopt black feminist perspectives, the “right” approach often lies in our own intellectual and intuitive perceptions of morality. But how are those perceptions to be shared, challenged, and influenced? More energy should be directed toward creating space for asking different questions: for instance, how could feminists engage in more constructive discussion and activism on FGS? The social, economic, and political conflicts that underlie the conflict over Western feminist involvement on FGS are as deeply rooted as the cultural basis of the practice itself. The discussion must be restructured to expose these conflicts in order for progress to be made on this issue.

This Article does not propose a resolution of the tensions and conflicts over approaches to FGS. Rather, it suggests three important aspects of restructuring cross-cultural engagement on the eradication of FGS: first, the clarification of the contexts in which FGS occurs; second, the need for pragmatic, action-oriented, approaches to human rights law that take account of context; and third, building fluid coalitions within and beyond existing human rights institutions and structures that better meet the needs and goals of black women. It is time to ask different questions than those that have been at the center

218. Boulware-Miller notes that FGS died out in Eritrea during the Eritrean People's Liberation Front's civil war with the Ethiopian government. Boulware-Miller, supra note 3, at 168 n.77. Ethiopian girls were said to join the rebel initiative in an effort to avoid FGS. She notes that the practice did not return “[e]ven in the parts from which the army retreated . . . .” Id.

219. Dawit & Mekuria, supra note 132.
of most feminist discourse on this subject. Although such a restructured engagement provides a basis for consensus and solidarity, it also creates a basis for necessary conflict.

A. Image and Context

We have to learn to understand that women in a male-dominated society still come together. Through rituals, they build sisterhood—sisterhood which lasts for a long time . . . . It is a wonderful example of a woman’s power base . . . . There is great potential in the powerful networks of women which exist in Africa. Because when girls are initiated together, they are sisters for life. Wherever you are in the world and you are in trouble, one of those sisters will come to your aid.220

A serious barrier to constructive cross-cultural engagement with respect to FGS is that the African women and children who are most affected by FGS are almost unrecognizable as whole human beings in much of the popular media and in some anti-FGS campaigns.221 Human rights discourse often states that millions of women and girls are affected, but gives very little information about the lives of those women and girls beyond their experience of FGS. Their screams of pain caused by FGS are described, but other sources of pain, joy, or support in their lives are rarely identified. Individual practitioners and defenders of FGS may well deserve some condemnation for their behavior, but they should be judged as complex individuals and as active members of their families and communities. More importantly, further attention should be directed toward positive, empowering roles of initiation among women and how those aspects might be retained even after FGS is eradicated.222

African American feminists who also have experienced the damaging impact of negative stereotyping could insist on the prioritization of information that would clarify these incorrect images. For example, they could support the work of African women, trained in modern medicine and possessing direct knowledge of traditional practices, in helping both Westerners and Africans separate myth from fact.223 They

221. Gunning describes the importance of a cross-cultural attempt to “recognize the complexities of the life and circumstances of the other woman, i.e., see the other woman, her world and sense of self through her eyes.” Gunning, supra note 4, at 194.
222. See Gevins, supra note 2, at 248; WARRIOR MARKS, supra note 2; Gunning, supra note 4, at 218–24.
223. The publicity generated by Walker’s efforts has created space for African activists to speak in Western fora. Efua Dorkenoo, the head of FORWARD, participated in a recent tour of U.S.
could ask whether and how African American feminist scholars could assist in the process of norm creation and clarification.\footnote{Although a great deal of work remains to be done in breaking down cross-cultural barriers between African American feminists and African feminists, there have been and continue to be significant efforts to cross the cultural divide. See, e.g., Peggy Antrobus, An International Perspective on Self-Help, \textit{VITAL SIGNS}, Oct./Nov./Dec. 1994, at 24.}

Engaging in efforts to support African women in clarifying their own images in the West need not entail the adoption of an uncritical attitude toward FGS. Instead, it requires African American feminists to prioritize the role of African women in practicing areas in defining their own experiences of FGS, but leaves room for African American feminists critically to engage African women and to be critically engaged in return from our own complex standpoints.

\section*{B. Time for Action}

Is it not time for Black women to assume the imperative task of speaking out and taking action? Should they not confer upon themselves the right to do this, not impelled or guided by heads of puppet patriarchal governments, but by the urgent desire to end their wretched situation as a force for production and reproduction, overexploited by capital and the patriarchal system?\footnote{THIAM, supra note 8, at 13.}

Gunning has argued that international human rights enforcement mechanisms should go no further than supporting the creation of opportunities for cross-cultural consensus-building.\footnote{Gunning, supra note 4, at 240-41.} But if one accepts the evidence of the serious harm that FGS inflicts on millions of women and girls, it is difficult to treat FGS as an unfortunate but sacrosanct cultural practice that is the subject of continual studies and U.N. resolutions, but never action. On the other hand, Gunning also correctly identifies the significant dangers associated with the use of the human rights concept as a political expedient by Western powers.

How then, can black feminists actively address the responsibility they feel for the well-being of others while avoiding the pitfalls of cultural imperialism and discrimination against ethnic groups whose traditions are unfamiliar? It is not possible to achieve both goals completely. Many black feminists, however, like some of their non-black peers, share the intuition that the importance of the problem obligates them to choose respectful engagement, rather than respectful isolation.
1. Domestic Legislation in the West

Despite evidence that cultural perceptions of female genital mutilation are changing in countries where it is common, some may argue that prohibiting the practice within our own borders is culturally imperialistic. I cannot agree. Imposing certain values on people living in this country is our prerogative. There are a number of practices that immigrants are required to leave at home when they move here.\textsuperscript{227}

Black feminists must address the fact that FGS is a human rights issue in the West.\textsuperscript{228} Some Western feminists, for example, advocate the introduction of domestic legislation that criminalizes the practice of FGS among immigrant communities in the West.\textsuperscript{229} The United Kingdom passed the Prohibition of Female Circumcision Act of 1985, which makes the practice illegal under most circumstances.\textsuperscript{230} In France, the practice of FGS has been officially interpreted to violate existing penal provisions against child abuse.\textsuperscript{231} France is the only Western country that has prosecuted and imprisoned those who perform or pay for FGS.\textsuperscript{232}

A bill that would outlaw FGS in the United States has been introduced in the U.S. Congress.\textsuperscript{233} It would criminalize FGS and impose


\textsuperscript{228} Efforts at domestic legislation have not always been intended to eradicate FGS. Recently, African women activists in the U.K. organized to protest the introduction of legislation by a Kenyan-born female member of the London’s Brent Council to legalize FGS. See Pitt, supra note 11, at 9.

\textsuperscript{229} Sweden was one of the first Western countries to adopt domestic legislation in 1982. Toubia, supra note 13, at 715.

\textsuperscript{230} The Act allows FGS to be performed when it is “necessary for the physical or mental health of the person on whom it is performed,” but no criteria for determining necessity have been established. Toubia, supra note 3, at 46. Toubia also notes:

\begin{quote}
[In the United Kingdom, anti-FGM legislation is supplemented by the Children’s Act of 1989, which provides for investigation of suspected violations of the FGM prohibition, as well as removal of a child from her home in extreme cases where there is no better way to protect the child. The Children’s Act also enables the courts to prohibit parents from removing their child from the country to have the operation performed elsewhere.
\end{quote}

Id. at 46.

\textsuperscript{231} Although France has not enacted specific legislation on FGS, it considers the practice a criminal offense under Article 312-3 of the French Penal Code. Dorkenoo & Elworthy, supra note 28, at 11.

\textsuperscript{232} Dorkenoo & Elworthy, supra note 28, at 11. French feminists have long been particularly active in the Western eradication campaign, in part because of France’s colonial ties to many practicing regions in Africa.

\textsuperscript{233} H.R. 3247, 103d Cong., 1st Sess. (1993). The bill was introduced October 7, 1993, by Representatives Patricia Schroeder and Barbara Rose Collins. See Schroeder, supra note 227; Mary
fines or imprisonment for violations, but also would require that immigrants from practicing regions be informed that FGS is illegal in the United States.234

Should black feminist activism on this issue take the form of calls for aggressive enforcement of criminal sanctions or against efforts to legalize the practice in the West?235 Should it instead expose and critique the racism and sexism involved in the implementation or enactment of such domestic laws?236 How should African American feminists address the question of the "medicalization" of FGS in the West? What sanctions should be imposed on formally licensed health professionals who profit from the continuation of the practice?237 Do any of the proposed legislative efforts reflect a serious commitment by the state and the international community to place political and economic priority on the general health and well-being of black women and girls?

2. Aid Conditionality

Some activists have urged that U.S. foreign assistance law should explicitly condition aid on the degree to which recipient countries engage in efforts to eradicate FGS.238 Since 1989, the U.S. State Department has included information on the practice of FGS in the human rights reports on which Congress relies with regard to aid, trade, and other foreign policy decisions.239

The use of aid conditionality raises troubling and important questions. Should African American feminists support proposals to condition aid on a government’s FGS policies, potentially cutting the already grossly inadequate international aid to Africa? If so, should conditionality turn on the criminalization of FGS or on whether governments adopt policies that reflect a good-faith “integrated” approach? If not, should aid be better targeted to the women’s groups who are working on grassroots campaigns to eradicate the poverty, illiteracy, and lack of health care under which the practice of FGS can flourish?

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235. See Pitt, supra note 11, at 9; WARRIOR MARKS, supra note 2, at 155–56.

236. See Tempest, supra note 11, at A1.

237. Although the surgeries might be performed under more antiseptic conditions and with the use of anesthesia, they still have severe short-term and long-term consequences. The motivation of economic gain supports the view that the practice in professional contexts could be a state-licensed violation of human rights.

238. See, e.g., Rosenthal, Female Genital Torture I, supra note 7, at A15; Rosenthal, Female Genital Torture II, supra note 7, at A33.

239. See Final Report by the Special Rapporteur, supra note 140, at 31.
3. Gender Asylum

Finally, cross-cultural black feminist participation may play a significant role in the development of gender asylum law and policy. The fear of being subjected to FGS has been the basis of claims for asylum in the West. The most notable case has been that of Aminata Diop, a Malian woman, who requested asylum from the French government on the basis of her refusal to undergo FGS. Although Diop was allowed to remain in France, she was not granted political asylum on the basis of her objection to FGS. In Canada, the Immigration and Refugee Board granted refugee status to Khadra Hassan Farah, a Somali who feared that her minor daughter would be subjected to FGS by force if they returned to Somalia.

The efforts of Lydia Oluloro, a Nigerian citizen, to seek asylum in the United States also received significant media attention. Oluloro requested asylum based on her fear that her two daughters would be forcibly subjected to FGS if they returned with her to Nigeria. Her deportation was suspended on humanitarian grounds because it would result in "extreme hardship." Nonetheless, the basis of Oluloro's claim was strongly objected to by some Nigerians living in the United States.

In light of the outrage expressed in the West over the practice of FGS, African American feminists could ask why there has only recently been progress in efforts to make fear of, or opposition to, FGS a basis of gender asylum. What guidelines should black feminists in the

240. See Oosterveld, supra note 28, at 277; Warrior Marks, supra note 2, at 255.
241. According to her lawyer, the French government feared that setting such a precedent would result in a flood of African immigrants requesting asylum on that basis. Upon appeal of the decision, the French Commission for Appeals of Refugees recognized that FGS may be a form of persecution under the Geneva Convention; however, because of a technicality, Diop was granted asylum on a basis other than the threat of undergoing forced FGS. Warrior Marks, supra note 2, at 255.
244. See Jill Lawrence, Gender Persecution New Reason for Asylum, L.A. Times, Mar. 27, 1994, at A14; Sally Jacobs, Persecution Based On Sex is Viewed as a Cause for Asylum, Boston Globe, Apr. 8, 1994, at 1; Dimitra Kessenides, Finding the Right Strategy to Stop a Deportation, Am. Law., June 1994, at 35.
245. See, e.g., Zubair M. Kazaure, Forced Circumcision is Alien to Nigeria, N.Y. Times, Apr. 9, 1994, at 20; Uche Okoronkwo II, Barbaric Ritual?, Time, Apr. 11, 1994, at 10 (letter to editor).
246. The French government initially denied the asylum request of Aminata Diop on the grounds that this would open the floodgates to African women refugees. "On appeal, the French Commission for Appeals of Refugees recognized that the threat or practice of genital mutilation is a form of persecution and that Diop consequently fell within the definition of 'refugee' set out in the Geneva Convention." Oosterveld, supra note 28, at 279.
West support in regard to the development of gender asylum policies in fulfillment of international human rights obligations?

An ineffective theoretical condemnation of FGS may be just as objectionable as a draconian, imperialist attempt to coerce the eradication of FGS. The engagement in active conflict on these issues at least removes FGS from the realm of a theoretical debate over whether Westerners should ignore an exotic cultural practice and forces us to confront the question of how human rights law and policy could impact the lives of women on a day-to-day basis.

For black feminists and other concerned people in the West, developing a deeper understanding of context creates greater responsibility for the protection of human rights, not an abdication of responsibility.

C. Building (Fluid) Coalitions

Finally, black feminists must strengthen and expand the coalitions and networks they have built to express cross-cultural solidarity. Many of the African women characterized by Western media and scholarship as rigidly opposed to Western involvement in the eradication of FGS actually have advocated coalition work. For example, Assitan Diallo, a Malian activist, explains her feelings about non-African involvement:

> For my part . . . I want to collaborate with them. But I don’t think I can be in the same group with them to fight something in my own country, because I will feel, “Here they go again, colonisation.” But I love being asked by people working on female circumcision, “What are the specifics in Mali?” And suggesting to me, “Why don’t you do that in Mali?” Suggesting means that I can say no, or yes . . . . They can also say to me, “You know, people do circumcision in France and we French people want to fight against it.” I want them to allow me to say, “I’m suggesting you do it this way, because these people are from my country, and I think this will be better.” Again, I’m suggesting something, not imposing it on them. That’s the kind of working relationship I want . . . .

Diallo envisions a truly cross-cultural and multi-directional “working relationship” on the human rights of women; her vision does not imply a one-way transfer of knowledge from the West to the Third World. Instead, Diallo’s Westerners also may learn from advice or criticism from the developing world with regard to human rights. A multi-directional discourse creates opportunities for both solidarity and

247. Gevins, supra note 2, at 247.
conflict. It will not necessarily lead to easy, comfortable answers for those who participate in it. The need for engagement, however, is apparent.

Efforts at cross-cultural cooperation and coalition-building within and outside of existing domestic and international legal structures already have begun. Women have taken positive advantage of opportunities to express themselves on human rights issues outside of the often sterile bureaucratic atmosphere of official U.N. human rights or other legal institutions. Grassroots women's organizations have made use of the spaces created by official institutional action to reformulate the issues and restructure the debates. The End of the U.N. Decade on Women Conference in Nairobi, Kenya, in 1985 was just such a galvanizing event. Amidst significant conflict over official policy positions and declarations, there was also unprecedented contact and coalition-building among women across class, racial, cultural, and other divides that has ongoing ripple effects. Women's nongovernmental organizations were able to shift the agenda of the Vienna World Conference on Human Rights in 1995 and the Cairo International Conference on Population and Development in 1994 to focus explicitly on the rights and needs of women. Local and regional activists who had survived violence and other violations of their rights took center stage in defining their own goals.

Women already have made use of existing human rights institutions to create new spaces for dialogue. Perhaps within these spaces new questions and pragmatic approaches will reshape old debates among Western women, African women, and those in between.

248. For example, a group of feminist scholars of color, Development Alternatives with Women for a New Era (DAWN) advocates the creation of alternative approaches to "development" that prioritize the needs and goals of women of color. See DAWN, supra note 52.

Another example is the National Black Women's Health Project, an organization of African American women concerned about all aspects of the health of black women. See Antrobus, supra note 224, at 24.

249. See CHARLOTTE BUNCH & NIAMH REILLY, DEMANDING ACCOUNTABILITY: THE GLOBAL CAMPAIGN AND VIENNA TRIBUNAL FOR WOMEN'S HUMAN RIGHTS (1994) This form of activism also will influence the Fourth U.N. World Conference on Women in Beijing, China, in 1995.