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Cultural Culprits

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Abstract

This paper draws from a longer Article that examines questions of agency, victimization, and cultural essentialism in U.S. asylum adjudication and cultural defense cases specifically, and in international human rights law more broadly. I explore the adjudication of FGC asylum claims based on “cultural persecution” that encode a racialized view of culture. I describe the historical trajectory of contemporary FGC claims through a detailed analysis of colonial anti-excision campaigns. I compare early 19th century anti-excision campaigns with contemporary maternal imperialism, as international law, UN agencies, and international financial institutions became more responsive to feminist concerns about eradicating FGC. Throughout the paper, I ask: who is dominating the legal, normative, and political arguments determining the classification of “culture”? How does victimization hide behind and reproduce power when it is associated with culture? Are cultural claims activating latent concepts of pathology, repugnance, or savagery? Where are these discourses being produced and consumed, and what are the relationships between the colonial past and the post-colonial present? In the particular case of FGC, do the respective limitations of universalism, medicalization, and criminalization also demarcate the problems of post-structuralist deference, laissez-faire liberalism, and relativism?

Cultural Culprits

In 2007, Olivia Nabulwala, a Ugandan national, sought political asylum in Minnesota on the grounds of sexual orientation and social group membership.¹ Nabulwala alleged that her parents and extended family were outraged by her lesbian sexual orientation, and arranged for her to be raped *en famille* to convert her into a heterosexual woman. In 2006, Khalid Adem, a 30-year old Ethiopian immigrant was convicted of genitally mutilating his two year-old daughter. Although Adem was convicted under Georgia's child battery statute, the practice of female genital cutting has been criminalized by federal statute in the United States since 1996.² Consonant with the U.S.'s condemnatory stance toward the practice of female genital cutting (FGC) in African countries, U.S. immigration authorities view individual opposition to FGC as a potential ground for granting political asylum to young women who seek refuge in this country.³ In 1996, Fauziya Kassindja was granted political asylum based on her fear of FGC and resistance to an arranged marriage with an older wealthy man.⁴ Most recently, a US court (after waffling on the issue of whether past FGC constituted an ongoing harm on par with forced sterilization), granted asylum to three Guinean women based on their experience of FGC.⁵ In these cases, "culture" – particularly "African culture"-- is on trial in US courtrooms. This culture is sweepingly condemned as primordial, misogynistic, homophobic--capable of inflicting unspeakable harms *on one's own children*. Such modes of viewing "African culture" are

¹ Nabulwala v. Gonzalez, 05-4128; 2007 U.S. App. March 21, 2007 (filed).

² 18 U.S.C. § 116 and 22 U.S.C. § 262K-2.

³ See, e.g. INS gender guidelines, adopted May 26, 1995 stating that "the INS joins the UN and Canada in recognizing that women may experience discrimination unique to their gender and that in some instances, such discrimination can meet the standards for refugee status".

⁴ *In Re Fauziya Kasinga* 21 I. & N. Dec. 357 (BIA 1996) (holding that FGM constitutes "persecution within the meaning of [the Act], and constitutes persecution on account of membership in a particular social group.")

⁵ Bah v. Mukasey, Docket Nos.07-1715-ag.

uncritically reproduced in the popular media, and richly illustrate the ways in which ideas about culture (like race) consolidate certain institutional practices.

This paper examines the ways in which questions of agency, victimization, and cultural essentialism are framed and acted upon in U.S. asylum adjudication and cultural defense cases specifically, and in international human rights law more broadly. My examination of “culture as culprit” is informed by larger concerns of institutionalizing feminist social activism in international modes of governance raised recently by Janet Halley and other feminist scholars applied specifically to asylum law⁶ Cultural and gendered essentialisms have become entrenched components of asylum law and advocacy, even as feminist activists claim victories in gender-based asylum cases. Asylum law is structurally dependent on victimhood and rescue: essentialism is key to the construction of “victims-saviors-and savages.”⁷

I began writing about the cultural defense to think critically about the issue of cultural essentialism in asylum law.⁸ The cultural defense enables newly arrived immigrants and indigenous groups within pluralist liberal democracies to submit evidence about practices and beliefs commonly held by members of their society that either explain or mitigate the reprehensible and/or criminal character of their actions. Cultural persecution claims indict certain practices that are commonly found within a geographic region/nation/ethnic group as inflicting harm on an individual that rises to the level of a specifically targeted human rights

⁶ Janet Halley, Prabha Kotiswaran, Hila Shamir, & Chantal Thomas, *From the International to the Local in Feminist Legal Responses to Rape, Prostitution/Sex Work, and Sex Trafficking: Four Studies in Contemporary Governance Feminism*, 29 HARV. J. L. & GENDER 336, (2006).

⁷ See Makau Mutua, *Savages, Victims, and Saviors: The Metaphor of Human Rights* 42 HARV. J. INT’L L. 201 (2001).

⁸ On race and essentialism in asylum claims, see Susan Akram, *Orientalism Revisited in Asylum and Refugee Claims* 12 INT’L J. REFUGEE L. 7 (2000); Gaurav Desai, *Isn’t Multiculturalism Bad for Asylum?* 41 TEX INT’L L.J. 507 (2006); Hope Lewis & Isabelle Gunning, *Cleaning Our Own House: “Exotic” and Familiar Human Rights Violations* 4 BUFF. HUM. RTS. L. REV. 123 (1998); Jennifer Coffman, *Producing FGM in US Courts: Political Asylum in the Post-Kasinga Era* 53 AFRICA TODAY 58-84 (2006); Charles Piot, “Representing Africa in the Kasinga Asylum Case” in Abusharaf, *FEMALE CIRCUMCISION*; Corinne Kratz, “Circumcision Debates and Asylum Cases: Intersecting Arenas, Contested Values, and Tangled Webs” in *ENGAGING CULTURAL DIFFERENCES*: (Richard Shweder, Martha Minow, Hazel Rose Markus eds., 309-343, 2002).

violation. The cultural defense is justified because culture is an irreducible social good and an intrinsic feature of individual identity that should not be surrendered in the assimilationist imperative. However, factored into the equation of culture as a social good are other foundational tenets of liberalism: autonomy, egalitarianism, and democratic participation. Despite the accommodations granted with regard to language, religious practices, education of children, and medical treatment, when it comes to practices like FGC,⁹ feminist critics denounce the cultural defense as a “euphemism for restricting or denying women’s rights.”¹⁰ Proponents of FGC may hold culturally endorsed motivations for modifying the genitalia of young girls, and their actions may be legal within their natal communities, but within liberal multicultural societies—and the global institutions in which they wield power-- FGC represents the limit of liberal tolerance for cultural diversity.

Cultural defense claims are routinely asserted in less notorious civil claims (e.g. child custody and divorce, medical treatment, employment discrimination cases) but they tend to assume greater visibility in criminal cases where their gendered practices are suspect: marriage by capture, child-parent suicide, spousal murder, under-age betrothal and marriage, and statutory rape. As Judge Pincus asserted in his acquittal of the defendant in *People v. Chen*,

Were this crime committed by the defendant as someone who was born and raised in America, or born elsewhere but primarily raised in America, even in the Chinese

⁹ My use of “female genital cutting” is intended to be as bland and clinically accurate as possible, given the polemical nature of the labeling of circumcision, and the diversity in the forms of genital modification. I follow Christine Walley’s observation that all existing usages are embedded within binary perspectives: *circumcision* signaling relativistic tolerance and *mutilation* implying moral outrage. (Christine Walley, *Searching for ‘Voices’: Feminism, Anthropology, and the Global Debate over Female Genital Operations* 12 CULTURAL ANTHROPOLOGY 405-438 (1997). The attitudes one demonstrates toward the practice of female genital cutting are premised on whether one uses “mutilation,” “circumcision,” “cutting,” “surgeries,” or “modification.” Within the US court system, no such subtleties are embraced. As Judge Reinhardt querulously objected in *Mohammed*, “We see no need for using initials rather than the full three word phrase. We are short neither of paper or ink. If it has any effect, it serves only to dull the senses and minimize the barbaric nature of the practice.” (*Mohammed* 789 n.2).

¹⁰ Susan Moller Okin, *Feminism, Women’s Human Rights and Cultural Difference* 13 HYPATIA 32 (1998), 36.

American community, the Court would have been constrained to find the defendant guilty of manslaughter in the first degree. But [Chen] was the product of his culture...the culture was never an excuse, but it was something that made him crack more easily. That was the factor, the cracking factor.¹¹

The invocation of “culture” as a “cracking factor” in U.S. courtrooms reinforces an already widely held assumption about the incommensurability of gender equality and non-western cultures--*i.e.* that non-western cultures are inherently more sexist, brutal, illiberal, and intolerant—and that these attitudes and practices are better left behind in the “old country” than in the land of the free. Culture is wielded in the courtroom as a monolithic, explicable construct that motivates people to “crack” – or act in certain ways.

The furor over the admissibility of cultural evidence in the courtroom—where all too frequently, the victims are women and children, raises concerns about internal power dynamics within ethnic minority or immigrant groups that potentially pit multiculturalists against feminists. Beyond gender concerns, the cultural defense is also assailed on constitutional grounds. Liberal feminists and social contractarians worry that the availability of a cultural defense violates equal protection principles, given that everyone (theoretically) is entitled to the same constellation of rights under American law. But one might reasonably argue that equal protection is largely illusory for immigrants in the criminal law, where class, national origin, English language proficiency, and phenotype make a profound difference in access to competent legal services, let alone justice. However, it is the interplay of the cultural norms of immigrants and refugees with American law that illuminates the tension between equal application of laws to crimes, and the crimes in a larger context of cultural intelligibility.

¹¹ *People v. Chen*.

I have no abiding interest in “defending the cultural defense” beyond reiterating that law is a deeply ingrained cultural construct that is raced and gendered even more so by the immigrant status of the defendant. Moreover, as Sarah Song and Cynthia Lee have both argued, the cultural defense is most successfully deployed when it reaffirms gender-biased and racist assumptions of mainstream liberal societies. Thus, my appropriation of the cultural defense departs in important ways from its conventional scholarly focus. The cultural defense cases address crimes that are committed *within* the U.S., while those fearing persecution seek protection from harms committed *outside* of the country. Nevertheless, both kinds of cases animate the same conceptual framework about “culture” as a monolithic set of norms and practices that prompt actions and behaviors that Americans denounce as deviant or persecutory. My interest here is twofold: first, to point out the ways that essentialist ideas frame and usher in cultural persecution and cultural defense claims; and second, to explore the ways that both of these genres of cases partake of and fortify a broader global imperialist narrative.

The issue of cultural essentialism in asylum jurisprudence inevitably entailed a renewed look at FGC—a task I approached with considerable reluctance. The practice of FGC has been exhaustively debated because it encompasses so many thorny issues in human rights: “the sacredness of the family, women’s rights as human rights, state obligations in the ‘private’ sphere, human sexuality, the West’s view of people in other cultures as ‘exotic Others,’ postmodern colonialism and cultural autonomy.”¹² Yet, the institutionalization of feminist human rights that was evidenced by (increasingly) favorable asylum decisions based on FGC, forced marriage, state-sponsored coercive sterilization, sexual orientation,¹³ and domestic

¹² ELIZABETH BOYLE, *FEMALE GENITAL CUTTING* (2005), 19.

¹³ See e.g. *Matter of Toboso-Alfonso*, 20 I. & N. Dec. 819 (BIA 1990). Victoria Neilson notes that since *Toboso-Alfonso*, more than 2,000 sexual orientation asylum applications have been filed. (Victoria Neilson, *Homosexual or Female? Applying Gender Based Asylum Jurisprudence to Lesbian Asylum Claims* 16 *STAN. L. & POL’Y REV.* 417 (2005) 418, n.5).

violence applications¹⁴ was intriguing, given the intense moral condemnation and counter-accusations of human rights imperialism that had characterized the debates around these issues during the 1980s and '90s.¹⁵ The Pyrrhic victory won by asylum advocates had to be tempered by a sobering realization that the approval of these claims was firmly embedded within a cultural essentialist framework—one which trafficked very easily in signs of victimization and racialization.

Feminist scholars have voiced concerns with regard to the insufficient questioning of cultural essentialism in portrayals of gender-based persecution, and its infelicitous appropriation in legitimating our various 21st century wars (terror, fundamentalism, drugs, crime, trafficking, AIDS). Indeed, while the institutionalization of women's rights as human rights authorizes the approval of gender-based asylum claims--and should be rightfully claimed as a success of the feminist movement--it should also be treated with a healthy degree of skepticism, caution, and ambivalence.

Janet Halley has coined the term "governance feminism"¹⁶ to describe the institutionalization of feminist human rights in legal settings, observing that, "as feminism accedes to governance.... [it] disappears into legal technologies that we recognize under other rubrics (universalism, American hegemony, technocratic best practices)."¹⁷ These are precisely the unintended effects of realist bargains that imperil global anti-racist politics. Critical scholars

¹⁴ The favorable grant of asylum is much lower in domestic violence cases. Gregor Noll suggests that the United States' own poor record on domestic violence makes it difficult to maintain a condemnatory stance toward other countries with similarly high rates of intimate battery. Gregor Noll, *Asylum Claims and the Translation of Culture into Politics* 41 TEX. INT'L L. J. 491, 495 (2006).

¹⁵ Leslye Obiora summarizes the contemporary campaign as a program of abandonment undertaken by Africans for Africans that builds on a tradition of dissent, subversion, and historical modifications to the practice of genital cutting (Obiora, "Afterword: Safe Harbor and Homage" in Abusharaf, *FEMALE CIRCUMCISION*, 239). Implicit in Obiora's description of past resistance is a refutation of the idea that African women were sado-masochists who needed an international outcry to confront the ravages of mutilation.

¹⁶ According to Halley, "governance feminism defines a wrong happening to women, and then either criminalizes that wrong with the goal of eliminating it, or decriminalizes women's participation in the "wrong" with the goal of liberating them in it." Halley et al, 420.

¹⁷ *Id.*, 422.

have probed the broader implications of feminist incursions in international human rights—whether in terms of wartime rape, gender and transitional justice, femicide, sexual and reproductive health, and the associated dynamics of migration and trafficking for sex work and domestic work. The impressive achievements of the feminist movement in inserting these issues into the security-sovereignist paradigm of human rights and foreign policy—indeed their simultaneity in international institutional settings—proves that women’s rights *are* human rights even if global sisterhood is a negligible proposition. But the charges of ethnocentrism, hyper-criminalization, and elite feminist monopolization within international law scholarship, advocacy, and institutional practice still smolder beneath the surface. Inderpal Grewal and Caren Kaplan have denounced the “hegemony of first world women’s groups to affect women’s lives worldwide by creating a common agenda that produced women as their subjects and as a target population.”¹⁸ Pragmatic feminists fight the battles in the rarefied ambience of global governance, often impatient with and offended by the interrogation of their motives and representational practices by more cautious or critical analysts. In the context of FGC, the rationale is that *mutilation* is a violative act, particularly when performed on young girls incapable of consent. Even though the strident tenor of the anti-FGM activists has become somewhat muted by dialogue with African activists and a chastened awareness of post-coloniality, most activists rely unflinchingly upon a universalist human rights paradigm to

¹⁸ SCATTERED HEGEMONIES (Inderpal Grewal & Caren Kaplan eds., 1994); See also, Chandra Mohanty, *Feminist Encounters: Locating the Politics of Experience*, in *DESTABILISING THEORY, CONTEMPORARY FEMINIST DEBATES* (Michèle Barrett & Anne Phillips eds., 74-92, 1992), (critiquing Robin Morgan’s assertions of global sisterhood for its generalizing about “woman’s experience” across cultures, its inattention to contemporary imperialism, and Morgan’s lack of self-reflexivity in her analysis of international female bonding.) Indeed, the early years of second-wave feminist internationalism were marked by the patronizing attitude of First World activists who assumed that Third World women were in need of benevolent protection, and made no attempt to distinguish between the foreign policies of the U.S. and Europe and the politics of the international feminist movement itself. This led to an impasse between First and Third World feminism, which contributed to the emergence of a rich discursive tradition of post-colonial feminism, but also fostered intransigence in global networking that was often co-opted by conservative nationalism.

guide their eradication campaigns against the constellation of practices labeled *female genital mutilation* or *female genital torture*.

My sense (as a former lower case g-feminist) is that while g-feminists need more critical social theory and less self-righteous unreflective action, there is fertile collaboration underway amongst the halls of governance, academia, and activist organizations.¹⁹ While it may seem as if upper-case G-feminists are a monolithic group of handmaidens in servitude to Bush-Blair hegemony, in fact, g-feminists are as diverse as their academic counterparts, and their institutional contexts are similarly varied. Positionality is intrinsic to the ways that g-feminists view their work and their imbrication in larger projects that shuttle between hegemonic governance, grassroots advocacy and institutional insurrection. None of this suggests that g-feminism should be exempt from critical interrogation, or remain comfortable with its too-easy accommodation of technocracy, bio-power, and propensity to duplicate hierarchies. Although two decades of mainstreaming is too short a period for any sustained analysis of social change, I agree with Halley that we should be vigilant against the annexation of feminist projects (in their plurality), and mindful of the power/knowledge effects that are part of the institutionalization process no matter how sincere, participatory, and empowering their agents profess to be.

In what follows I provide a longer historical backdrop of colonial interventions, which, as Gayatri Spivak famously stated were devised “to save brown women from brown men.” Positioned within a maternalist imperial paradigm,²⁰ these interventions have assumed a

¹⁹ See Carla Obermeyer, *The Health Consequences of Female Circumcision: Science, Advocacy, and Standards of Evidence* 17 MEDICAL ANTHROPOLOGY QUARTERLY 394 (2003) (using the methods of demography, epidemiology, and anthropology to analyze data on the health effects of genital cutting, and problematizing those data that do not conform to prevalent views of disproportionate health-associated risks that support the goals of anti FGM advocates).

²⁰ Susan Pedersen describes maternalism as “women’s activism over empire” that developed a framework for action “whereby educated and usually well-to-do women, drawing equally on their faith in women’s superior moral and motherly capacities and on a long experience of single-sex philanthropic work, sought to protect those women and children who were presumed to be less fortunate or more vulnerable.” (Pedersen, *The Maternalist Moment in British Colonial Policy: The Controversy over ‘Child*

cyclical pattern in the ecology of colonial and post-colonial human rights, framing the vulnerability of women's position as a legitimizing strategy for continued occupation and the broader violations of the rights of the population. I focus my historical analysis on the unsuccessful British interventions in Kenya to eradicate FGC beginning in 1906. I indulge in a longer comparative analysis to reiterate the repetitive framing of "culture as culprit" and the calls for rescue within the inherited normative and political universes of asylum, refugee and humanitarian law. And I regard asylum—the discretionary grant of sovereign protection as the paradigmatic example of post/colonial rescue and the contemporary extension of the maternal imperialist project.

Asylum has always been a tool of foreign policy, and with the insertion of feminist concerns into international lawmaking and governance, FGC became a logical target for inclusion in the pantheon of human rights violations against which women could seek protection. The grant of asylum for past or feared FGC is critical to the credibility of the US's condemnatory and punitive stance against the practice. The Female Genital Mutilation Act conditions the receipt of US development aid among debt-strapped African nations upon the adoption of criminal sanctions against FGC and the implementation of behavioral modification programs intended to eradicate the practice. My point here is to illustrate the ways in which culture is increasingly used as a proxy for race in the developing jurisprudence of refugee and asylum law. Ironically, the politically correct substitution of culture for race in the contemporary period is eerily reminiscent of the erstwhile colonial justifications for outlawing

Slavery' in Hong Kong 1917-1941 171 PAST AND PRESENT 161-202 (2001), 180. On the suffragist and abolitionist movements as historical precursors to contemporary transnational feminist advocacy, see MARGARET KECK & KATHRYN SIKKINK, *ACTIVISTS BEYOND BORDERS* (1998). On maternalism as an imperial strategy in Sudan and Kenya respectively see, JANICE BODDY, *CIVILIZING WOMEN*: (2007); and LYNN THOMAS, *POLITICS OF THE WOMB*: (2003). For a review of maternalism coupled with medical hygiene within the field of colonial studies, see GENDER, SEXUALITY & COLONIAL MODERNITIES (Antoinette Burton ed, 1999). On maternalism as class reproduction in Britain in the early 1900s, see Anna Davin, "Imperialism and Motherhood," and for maternalism in the Belgian Congo, see Nancy Hunt, "La bébé en brousse" in TENSIONS OF EMPIRE (Frederick Cooper & Ann Stoler eds., 1997).

“Repugnant customs that were so outrageous...as to create a sense of revulsion.”²¹ In sum, this Article explores the intersection of asylum claims based on “cultural persecution”-- that ultimately encode a racialized view of culture— with ethnographic approaches to the processes of identity formation, alterity and membership.

Far from a triumphalist review of successful asylum decisions upholding the formulation of improbable social groups,²² I explore the workings of the administrative state in rendering the “legibility” of cultural subjects through the adjudication of asylum claims alleging persecution based on cultural practices. I scrutinize the asylum process as a critical site for the production and deployment of culture as it relates to citizenship, state protection, and humanitarian intervention. As Gregor Noll has observed, culture and asylum “co-produce each other” throughout the legal proceedings with hearings, affidavits and pleadings that are “culture creating” rather than merely “culture evaluating.” Indeed, it is the administrative state, in the hands of bureaucrats, that both operationalizes and naturalizes “culture” through the decisions of immigration judges, interviewing asylum officers, consular officials, and a host of other low and mid-level agency workers within the asylum and refugee legal system. These bureaucrats are largely removed from academic conversations about culture and citizenship, yet their decisions are critical to enforcing decisions about refugee and asylum status, and, by extension, the effective enjoyment of citizenship.

Adem and *Nabulwala* raise important questions for multicultural debates concerning the internal vulnerability of sub-groups— notably women, children, and sexual minorities *within*

²¹ *In Re Kasinga* (recommending a standard of repugnancy that “shocked the conscience of the society from which asylum is sought” to guide judges in adjudicating FGM claims).

²² Persecution based on membership in a particular social group is a somewhat elastic concept, and is the enumerated ground on which most gender-based and sexual orientation claims rely. Because of the constant fear of being bound by too liberal an interpretation of the already broad category, courts seek to define the social group in very limited terms, while at the same time expanding immutability in the areas of sexual orientation and gender. As Charles Piot comments, because asylum law demands a social group analysis, and because the government fears being inundated with claims from similarly situated petitioners, lawyers often invent a “social group” category that fits only the applicant herself.

immigrant communities. The differentiated use of culture by feminists, universalists, and relativists (and the contested visions of “culture” that surface inside and outside of the courtroom) illuminates its multivalence. *Nabulwala* is part of an emerging trend in asylum jurisprudence that narrowly recognizes persecution on the grounds of sexual orientation as it is linked with social group membership.²³ Sexual orientation cases like *Nabulwala*’s perform a related though distinct function to *Adem* or *Kasinga*. Extreme African homophobia, as opposed to diffident acceptance (don’t ask don’t tell) distinguishes the United States as an enlightened, tolerant society vis-à-vis barbaric, intolerant Africa. Crackpot evangelical homophobia is still too marginal to de-center the genteel distaste of the heteronormative liberal elite. As Wendy Brown notes:

Tolerance in the West has come to symbolize an attitudinal hierarchy that defines and legitimates imperial state action in the twenty-first century.... In the mid-nineteenth through mid-twentieth centuries, the West imagined itself as standing for civilization against primitivism, and in the cold war years for freedom against tyranny; now these two recent histories are merged in the warring figures of the free, the tolerant, and the civilized on one hand, and the fundamentalist, the intolerant, and the barbaric on the other.²⁴

In another somewhat unrelated vein, Bonnie Honig points out the rejuvenating role that the “foreigner” plays in democratic debates.²⁵ Indeed, liberal democracy depends on new recruits to assuage the doubts about persistent poverty and racialized inequalities among the

²³ Victoria Neilson argues that lesbians tend to suffer private sphere persecution, whereas gay men are likely to suffer harm in the public sphere, particularly from police—thus conforming more closely to the Refugee Convention’s idea of political persecution.

²⁴ WENDY BROWN, *REGULATING AVERSION* (2006), 6.

²⁵ BONNIE HONIG, *DEMOCRACY AND THE FOREIGNER* (2001).

domestic poor. The claims brought by cultural refugees like Fauziya Kasinga, Olivia Nabulwala, and Salimatou Bah succeed because they appeal to the host nation's normative ideals of citizenship, tolerance, and individual autonomy while reaffirming widely held ideas about the differences between "our society and theirs." Women seeking refuge based on the cultural practices of their social group are racialized "others" whose rescue is effectuated without great monetary cost to the United States and with extraordinary political benefits. To paraphrase Achille Mbembe, Africa constitutes a powerful metaphor through which the West asserts its difference from the rest of the world—its apologetic concerns and its exclusionary and brutal practices towards others.

Let us take a minute to consider the life-story of Waris Dirie-- an influential African anti-FGM campaigner. By her own account, Dirie lived among nomadic livestock herders, "without clocks or calendars" in harmony with giraffes, lions, and zebras. Dirie is described by her biographers as having "disfigured feet from scars that she acquired trekking across the desert to escape from a forced marriage to a 60 year old man who bought her for the price of five camels." We now have the standard cast of characters in the dysfunctional African family: the predatory old man flush in cattle/camels/other appropriate ruminants adding rapaciously to his wife-stock, the desperately poor and despotic father who exchanges his beautiful prepubescent virgin daughter with the perverted old man, and the mute mother defenseless under the yoke of patriarchal tradition. Yet, Patriarchal Despot and Beatific Mom have influential and well-placed family connections outside of their pastoral idyll, for Dirie's uncle secured an ambassadorial post in the Somali embassy in London. At that point, Dirie fled to Mogadishu where she secured a passport (we assume now aided by clocks and calendars), and went to London to launch what appears to have been an extremely successful modeling and acting career. Dirie presents herself as the exotic desert flower—rather than say, an insider critic

of a misogynistic commercial fashion industry. Her latest book *Letter to My Mother* is couched in ethnographic banalities and “pop” psychology that shows a distancing between herself and her mother/culture, an acceptance and rebirth in a new culture—which is predictably, tolerant and advanced.

A strikingly similar level of objectification occurs in the courtroom during cultural persecution and cultural defense cases. A review of these cases and their progeny highlight the ways that notions of culture are ossified and castigated in exchange for protection. Immigrant communities that are susceptible to surveillance and hostility are no more protected or welcome in the United States by exercising their right of exit. The legal system granting relief to Salimatou Bah, Mariama Diallo & Haby Diallo—three Guinean women awarded asylum based on their experience of genital cutting—also acquitted four officers *of all charges* in the death of Amadou Diallo, the male Guinean immigrant who was fired on forty-one times as he cowered, unarmed, in the entryway to his Bronx apartment building. These types of inconsistencies reaffirm Sherene Razack’s observation that “while Muslim men have been the target of an intense policing, Muslim women have been singled out as needing protection from their violent and hyper-patriarchal men.”²⁶

The right of exit celebrated by liberal discourse reifies the only options available under dominant views of culture—exit or silence—leaving little room for negotiation within immigrant communities. Ironically, deliberation—the hallmark of enlightened democratic practice—is not an option in these cases since it is presumed that reason is the exclusive property of liberal, tolerant, culturally temperate societies. Corinne Kratz shows that media coverage of *Kasinga* was completely devoid of any mention of the practice of circumcision as contested and debated within African nations, despite the fact that the widely publicized

²⁶ SHERENE RAZACK, *CASTING OUT* (2008), 4.

asylum cases animate discussions within the countries whose circumcising “cultural traditions” are pejoratively reviewed. In all likelihood, if the media had included in their coverage the internal debates that occur in African societies, this would imperil the claim that African people are cultural automatons incapable of rational reflection on their actions. Ironically, it would vitiate the need for asylum within the United States if high incidence countries both adopted anti-genital cutting laws and proved modifications in the practice as a result of national policies and reflexive debate.

The asylum context brooks no ambivalent attachments: the realist logic is that people persecuted in one country seeking the protection of another simply do not deserve that protection if they demonstrate allegiance to the country (culture/religion) from which they flee. Protection is extended in exchange for *total* cultural repudiation. Given this scenario, the complex issues raised by balancing the needs of asylum clients for legal immigration status and protection with the goals of transformative anti-racist politics are implicit in the broader challenges of critically engaged, global feminist advocacy. Can the asylum process serve as an outlet that provides opportunities for dissent and undertake localized cultural negotiations given the geo-political disparities between asylee/refugee producing and resettlement countries? Can we separate the geopolitical tensions that underwrite the zeal with which lawmakers and practitioners embrace these cases that highlight a gaping chasm between our “culture and theirs” (given the apocalyptic prediction of a clash of civilizations)? Seemingly besieged by Islamic fundamentalism, and torn apart by divisive immigration debates, these cases act as a conduit for mainstream America’s cultural anxieties and (national) insecurities. As Leti Volpp has repeatedly shown, similar crimes are portrayed as cultural pathologies or individual aberrations depending on the ethnic status of the perpetrators.

The cases also highlight what Makau Mutua has called the need for “savages, victims and saviors” within the human rights movement. Within conventional understandings of refugee law, the “savage slot” filled by genocidal dictators depends upon the stateless victim who then appeals to the West for rescue. Asylum law still retains its commitment to state persecution, however the jurisprudence has largely shifted from the totalitarian state as persecutor to the state as accomplice in persecution. The positivist insistence on state-sponsored persecution for favorable asylum determinations is eroded not only by feminist insights about the slippery public/private dualism, but also by the eroding state itself. Today’s refugees and asylum seekers generally flee from Southern states characterized by their incapacity and economic non-viability – which render them evermore incapable of protection. The causes of state failure (a patronizing neologism) are varied and complex, but they do pose challenges for classifying the type of harms from which refugees and asylum seekers seek protection. The 1969 OAU Refugee Convention expressly attributes refugee status to anyone who, “owing to external aggression, occupation, foreign domination or events seriously disturbing public order...is compelled to leave his habitual place of residence in order to seek refuge in another place.” This expanded definition of a refugee recognizes the geo-political conditions producing refugee flows. Neither the OAU Convention nor the Cartagena Declaration has a gendered component – rather they are regional instruments of a neo-colonial and anti-imperial struggle that reflect their drafters’ attribution of particular kinds of threats to state security.

More than two decades ago, Hilary Charlesworth and Christine Chinkin noted in their critique of the gendered dimension of international law that,

In the major human rights treaties, rights are defined according to what men fear will happen to them, those harms against which they seek guarantees. The primacy

traditionally given to civil and political rights by Western international lawyers and philosophers is directed toward protection for men within their public life—their relationship with government... [t]hese are not the harms from which women most need protection.²⁷

Although Charlesworth and Chinkin's critique was targeted at an international legal apparatus unresponsive to recognizing women's human rights, two decades of concerted feminist mobilization within international institutions, tribunals, and legal education have certainly reoriented the hierarchy of *jus cogens* principles within the state-centricity of international law. This is not to suggest that the conditions that sustained an institutional resistance to women's human rights have changed as dramatically as the institutional compliance with gender mainstreaming. Nor is it to suggest that gender mainstreaming is tantamount to gender equality—the preferred institutional approach described recently by Charlesworth as a “bland bureaucratic method that deploys the idea of gender in a very limited way and allows the mainstream to tame and deradicalize claims to equality.” It does establish however, that feminist mobilization has indubitably changed the ways that the legal community addresses rape, FGC, forced sterilization, and intimate violence in adjudicating asylum claims. As a result of high-profile litigation strategies like those undertaken in *Kasinga*, feminist critiques, and organizing among resettled refugee communities, political asylum has been extended to women fleeing forced circumcision, sterilization, rape and sexual assault, and other forms of gender-based persecution in their home countries. This reflects a broader understanding of “politics” to encompass the activities and particular forms of persecution that more accurately account for gender and power relations in line with Charlesworth and Chinkin's observations cited earlier.

²⁷ Hilary Charlesworth & Christine Chinkin, *The Gender of Jus Cogens* 15 HUM. RTS. Q. 63 (1993), 69.

The recognition of these harms as human rights violations substantiates the claims of women who seek asylum in Western states. It also reflects, in a less noble narrative, the appropriation of certain types of claims to victimhood that raise the stature of asylum granting states as human rights saviors.

Critical approaches to human rights law repudiate the victimhood/agency dichotomy that characterizes the field. This coeval representation of the victim with the domestic animates two analytical problems. The first is a strong desire to attribute agency within the realm of individual action that only regards certain types of actions as agentive and rational. Second, the human rights system enables certain types of action to be represented as coercion (victimhood) and denounces other actions as expressions of false consciousness. The emphasis on agency is certainly preferable to the paternalistic portrayals of passive victims enduring the cruelties of their persecutors, but the dichotomous framework characterizes markedly ambivalent human action in situations of structural violence. This is most evident in the contexts of material support and trafficking for sexwork, but the victimhood/agency binary also contaminates the FGC debate. In the depiction of genital cutting for instance, endorsement or continued support for the practice is regarded as patriarchal child abuse, blind adherence to despotic tradition, or sheer stupidity. Plainly speaking, African parents who are capable of maiming, mutilating, and murdering their children are invariably cruel, backward, loathsome, or cowardly.²⁸ It is inconceivable that their resistance to enlightened eradication campaigns could be construed as *agency*.

From the perspective of those like myself extremely uncomfortable with the self-pronounced omniscience of the anti FGM global campaign, consent, contention, and agency are social facts that are bound up with the continued endorsement, adoption, and abandonment of,

²⁸ See Richard Shweder, "When Cultures Collide: Which Rights? Whose Tradition of Values? A Critique of the Global Anti-FGM Campaign" in GLOBAL JUSTICE AND THE BULWARKS OF LOCALISM (Christopher Eisgruber & András Sajó eds., 2005).

and modifications to the practice. But we are unduly constrained by the victimhood/agency dichotomy even as critics of the campaign. Over-agentivizing is just as pernicious as passivity, particularly when it privileges dissent and exit as the only permissible manifestations of agency. It also ignores strategic uses of victimhood narratives by applicants themselves who exploit the astonishing lack of knowledge about African cultures (and modernities) and frame their experiences in the agreed-upon script to gain asylum.²⁹ The agreed upon script naturalizes global asylum flows from the poverty-stricken, barbaric South to the affluent, tolerant North while ignoring the way that these flows depend on the profoundly inequitable global distribution of financial resources and the heightened risk of unauthorized presence in Europe and North America. And it stymies our recognition of the way that issues like genital cutting have galvanized discussions about gender, cultural integrity and poverty more broadly within countries and multicultural societies where the practice is debated. Clearly, the binary encompassed by victimhood/agency is analytically insufficient.

The global anti-FGM campaign marshals a powerful set of political arguments, financial resources, and institutional actors that can be recruited for multiple purposes in gender-based politics given the foregrounding of rights, consent, and bodily integrity in the debate. The contemporary anti-FGM campaign is a platform that can be wielded as an instrument of hegemonic governance as well as a means of local accommodation, resistance, and indifference. The “Third World” voices that are leading the campaign are discursively legitimate only to the extent that they address issues like FGC, domestic violence, or women’s legal rights within an aligned frame of poverty, underdevelopment, and geo-political hierarchies. While extolling “African voices and choices” in the campaign, contemporary activists have couched reforms and modification within the consortium of gender and development programs to posit

²⁹ See Michelle McKinley, *Life Stories, Disclosure and the Law* 20 POLAR 70 (1997).

women's economic empowerment as a fundamental criterion of abandonment programs. The emphasis is on abandonment, not eradication—as part of an integral approach to community health, development, and welfare.

The contemporary call for geopolitical equity, transnational dialogue, and cultural deference is a very different way of framing resistance to FGC from say, clitoral deprivation or female castration, especially when the interlocutors are elite women because of the association of these concerns with Western arrogance, and the potential collusion of African elite women in perpetuating Western hegemony.³⁰ This observation may unwittingly reaffirm hegemonic or oppositional tendencies by alluding to something called “Third World feminist discourse” which I instinctively regard as a suspect appellation with regard to voice and representation. With the caveat that any label that smacks of homogeneity and hegemony should be treated critically, “Third World feminists” cannot legitimately address genital cutting as ancient patriarchal mutilation without alienating themselves from the constituencies in whose name they purport to speak and whose welfare they seek to ensure. In the same way, US based scholars who identify as feminists of color-- (myself included)-- cannot look at these issues outside of the frame of racism and the perilous 21st century US imperialism nor can we ally ourselves unconditionally with the more intransigent interlocutors of “the” Western feminist position.

How then are we to navigate the complexities of human behavior, structural geopolitical realities, without reproducing the dichotomies of victims and saviors and their attendant essentialist and imperialist baggage? Infibulation, marital rape, intimate partner and family violence, and trafficking for sexual slavery are extreme manifestations of patriarchy, female

³⁰ See SALLY MERRY, *HUMAN RIGHTS AND GENDER VIOLENCE* (2006). At the international women's conferences of the 1980s and 1990s, which served as major networking outlets for feminist interventions in human rights policy and governance, it became clear that one of the few issues that transcended North/South divides was violence against women. This created an opportunity to cast female genital cutting as privately inflicted domestic violence.

dependence and the deprivation of sexual rights. However, they are also manifestations of the myriad ways that oppression is experienced and compounded by the systemic inequities of poverty, warlordism, insurgency and other humanitarian crises like politically induced famine and ethnic cleansing that structure the lives of displaced peoples, economically disadvantaged transmigrants, and asylum seekers. It seems flippant to ignore those structural realities to highlight the types of harms or construct a certain kind of victim with whom the public would sympathize—a perverse exercise in seeing the forest while ignoring the trees.

Throughout what follows, I raise a series of questions: Who is dominating the legal, normative, and political arguments determining the classification of “culture” as it relates to state protection? How does victimization hide behind and reproduce power when it is associated with culture? Are cultural claims activating latent concepts of pathology, repugnance, inferiority or savagery? Where are these discourses being produced and consumed, and what are the relationships between the colonial past and the post-colonial present? Finally: how do we achieve multi-cultural aspirations, when culture is demonized and used to demarcate difference? In the particular case of FGC, do the respective limitations of universalism, medicalization, and criminalization also demarcate the problems of post-structuralist deference, uncommitted laissez-faire liberalism, and effete relativism?

Maternal Imperialism & Colonial Governance: 1888-1950

The current focus on eradicating FGC through education and empowerment echoes an earlier wave of colonial campaigns to ban circumcision in African colonies.³¹ Indeed, the practice and its continued salience in the lives of African women and girls has been an enduring

³¹ The British did not try to ban excision in all the countries they governed. As Janice Boddy points out, the colonial anti-excision campaign in Sudan differed from the Kenyan efforts, principally because Sudan was not a settler colony. Colonial governance was a more masculine affair, with an emphasis on state-financed exploration into the interior, *Pax Britannica*, and military annexation.

concern for women's rights advocates, legislators, missionaries, health workers, policy makers, and scholars worldwide for the past hundred years. To explore the historical trajectory of the contemporary global anti-FGM campaign, I rely on Susan Pedersen's framework of maternal imperialism elaborated as "the activism of educated and well-to-do women over Empire that, drawing upon a long experience of single-sex philanthropic work, sought to protect those women and children who were presumed to be less fortunate or more vulnerable." I pay special attention to the international alliances of maternal imperialists involved in the campaign against female excision in Kenya (1928-1931), and to the kinds of discourses that were available and useful to advance their concerns. Predictably, these discourses were medical hygiene, Christianity, and the moral superiority of the British civilization, but these also alternated with abolitionist outrage, anti-Islamism and Orientalism, liberal internationalism and New Imperialism (formal support for a gradualist policy of self-rule under European tutelage), and an incipient transnational suffragism. I situate the period of activist campaigns against FGC studied here (1928-1931) within the trajectory of British settler colonialism in Africa, which began as a largely masculine endeavor and changed after the relatively late appearance of women on the continent after WW I. I compare this historical period of anti-excision campaigns with contemporary maternalism in the 1980s as international law and a specialized network of UN institutions became more responsive (albeit sluggishly) to feminist concerns about eradicating the practice, which led to the deployment of an indigenized maternalism in the 21st century.

After the Berlin Conference (1884-5),³² British maternal imperialists were determined to ensure the welfare of women and children who fell under their government's protection. The

³² The Berlin conference which was officially conducted in 1884-5 during which the European powers "scrambled for Africa" launched a new phase of state-led rather than private or corporate imperialism that had held sway in Africa under the auspices of magnates like Cecil Rhodes' British South Africa Company and his de Beers mining and diamond companies. State led imperialism is understood here as

maternal counterpart of British rule was vigorously executed by women like the Duchess of Atholl, Eleanore Rathbone, Lady Nancy Astor, Nina Boyle and other early public-spirited internationalists who were extremely concerned about the British mandate to safeguard and respect women's welfare. This maternalist era was heavily influenced by the previous interventions in India with respect to eradicating suttee and child marriage, but it differed in important respects to the Indian experience. First, the maternalists described here were more embedded within liberal internationalist networks at the League of Nations, and could avail themselves of robust transatlantic alliances with the venerable anti-slavery society that had successfully changed laws and policies surrounding the slave trade. Second, maternal imperialism at this point was also tied to the suffragist movement, which drew on the moral power of the abolitionist discourse within Britain to argue for women's needs and concerns at home and abroad.³³ Third, imperialism in Africa was a state-led, rather than a corporate endeavor, and European governments promoted an agenda of social reform to their constituencies--who increasingly clamored for popular representation, enfranchisement, and participatory citizenship at home. In short, the women who went to Africa either as missionaries or those parliamentarians who petitioned Whitehall to remedy the perceived plight of African women and children under British rule used some of the same discursive tools of their predecessors in India, but there were important differences in the international alliances which they mobilized, and in the liberal tenor of the League's interwar international humanitarianism. As Cooper and Stoler remind us, this was a period in which imperialism was

the concentration of ownership of industry and finance capital in the public sector of investor countries to open up "less developed" parts of the world for trade and investment.

³³ On the divisions between suffragists and maternal imperialists in their feminist politics, see Pedersen, *The Maternalist Moment*, 165.

publicly debated and justified in terms of capacity building for future self-governance in the European mold.³⁴

The chaotic African world order (suzerain despotism, sexual licentiousness) fared terribly in comparison to the order, prosperity, and liberation promised by the various administrative regimes instituted by the Europeans. As Lord Frederick Lugard noted in his definitive work on the Dual Mandate,

The subject races of Africa are not yet able to stand alone, and it would not conduce to the happiness of the vast bulk of the people—for whose welfare the controlling Power is trustee—that the attempt should be made...The task of the administrative officer is to make apparent to the educated native, the conservative Moslem, the primitive pagan, that the policy of the government is not antagonistic but sympathetic to his aspiration and the guardian of his natural rights.³⁵

My interest is neither in the sincerity or effectiveness of these policy goals (nor indeed with Lugard's crude evolutionism), but rather in the way they interfaced with and provided a discursive space to launch maternalist interventions like the campaign against female circumcision in the 1920s. How do the colonial legacies of women's advocacy around the practice of FGC endure in the present? How do maternal interventions collude with the imposition of medicalized orders and the control of reproductive sexuality, and how were those sexualized regimes ensconced within the imperialist mission?

As Christine Walley notes, "the tendency to understand female genital cutting in either/or terms (i.e. moral opprobrium or relativistic tolerance)" reveals that both sides are deeply invested in a "hardened view of 'culture' based on a rigid notion of difference that can

³⁴Cooper & Stoler, "*Between Metropole and Colony*," in *TENSIONS OF EMPIRE*, 31.

³⁵FREDERICK LUGARD, *THE DUAL MANDATE IN BRITISH TROPICAL AFRICA* (1926) Chapter X "*Special Problems: Methods of Ruling Native Races*." (193-197).

be historically traced to the colonial era.”³⁶ While not all critics agree upon the methodological tools used to attack the more pernicious forms of essentialism, (or the ways that class, sexual orientation, gender, generation, and birthplace complicate essentialism) three dominant signifiers converge in the debate about FGC. Both denouncers and defenders of FGC invoke essentialist, totalizing notions of “woman, culture, and race.” These are not terms that refer to some neutral, transparent reality; rather they are embedded within the context of a history of ideas and of Western institutionalized knowledge that give rise to certain practices that change over time. Today, “savagery” coded as race would appear ethnocentric as a basis for humanitarian intervention, but it was perfectly legitimate as a justification for rescuing vulnerable native women in the expansion of Empire within a period when ideas about the natural ordering of races dominated European and American thought. (Lately, we replace “fundamentalist Islam” as a fungible heathen category to justify the humanitarian rescue of Afghan or Iraqi women). How did these signifiers historically interact with each other to produce ideologies of colonial rule—*Woman* as wayward, childlike, sexually promiscuous, vulnerable, and remediable? Or *Culture* as empirically observable, and “uplift-able” through commerce, and religious tutelage? And *race* as determinative of savagery/enlightenment and hierarchies of difference that naturalized racial orders of subjugation?

Inquiries of this nature highlight how gender is implicated in colonial and post-colonial processes, and how sexuality and reproduction are often cast as national, public policy concerns.³⁷ Even the most cursory look at colonial and post-colonial campaigns against FGC demonstrates the inscription of larger political struggles onto the bodies of young women and girls. FGC was initially framed as a matter of public censure and humanitarian concern and

³⁶ Walley, 407.

³⁷ ANN STOLER, *CARNAL KNOWLEDGE AND IMPERIAL POWER: RACE AND THE INTIMATE IN COLONIAL RULE* (2002); Rosemary George, *Homes in the Empire, Empires in the Home* 26 *CULTURAL CRITIQUE* 95-127 (1993-1994).

then recast as colonial resistance and tribal cohesion in Kenya during the late 1920s-1950s by the incipient independence movement. Susan Pedersen addresses why the particular significance of *irua*, “the ritual unmaking and reworking of women’s bodies became so central to the construction of national identity.”³⁸ Pedersen uses the “female circumcision controversy” to look more broadly at sexual politics in African nationalism and British colonial policy, and how the female body became a metonym for the “woman question” in incipient nationalist movements. As Lydia Liu has noted, women as a “social category” developed in tandem with anti-colonial, nationalist struggles to become a “state category.”³⁹ Indeed, vanguard nationalist leaders addressed the “woman question” as part of the resistance movement in almost every colonial struggle, despite their marked anti-feminist politics after Independence. There is a wealth of feminist writing analyzing the gender politics of nationalisms (particularly with regard to nationalist civil wars or competing nationalisms outside of the West), the rising fundamentalist retrenchment of women’s physical mobility, and the reification of the spiritual realm with the domestic, womanly domain.⁴⁰ Building on the influential insights of Yuval-Davis and Anthias’s volume *Woman-Nation-State*, we are keenly aware of the inscription of political struggles onto women’s bodies, the feminization of the nation (i.e. the “motherland”) in the patriotic process of constructing and imagining political communities in Independence struggles and colonial encounters.

Ann Stoler has prodigiously demonstrated the “tense and tender ties” between the carnal and the public in the control of territorial politics and economies. As Stoler urges, we need to scrutinize the ways in which the organization of the domestic sphere interface with that

³⁸ Susan Pedersen *National Bodies and Unspeakable Acts: The Sexual Politics of Colonial Policy-Making* 63 J. MOD. HIST 647 (1991) 648.

³⁹ Lydia Liu, “*Female Body and Nationalist Discourse: The Field of Life and Death Revisited*” 37-62 in SCATTERED HEGEMONIES, at 41-2.

⁴⁰ Partha Chatterjee, *Colonialism, Nationalism, and Colonialized Women: The Contest in India* 16 AMERICAN ETHNOLOGIST 622-633 (1989) (On the reification of the spiritual with the domestic/feminine in the Indian nationalist movement).

of state policy – so that the intimate/domestic is seen as a charged site of the micro-politics of rule and power. Imperial administration required feminine trustees of the *domus* who could instill solid moral values into the retinues of houseboys, gardeners, and nursemaids who were incorporated in the colonial household. Rosemary George’s insightful study of the domesticated imperial realm reveals how British writers infused their instructional manuals for colonial wives with hierarchical management structures, daily surveillance routines and disciplinary regimes for the “child-like native staff” that replicated the masculinist-civilizing mission. One of the most popular instructional manuals, luminously titled “*The Complete Indian Housekeeper and Cook: Giving the Duties of Mistress and Servants, the General Management of the House, and Practical Recipes for Cooking in all its Branches* (1888) in fact referred to the household as the “unit of civilization where father and children, master and servant, employer and employed, can learn their several duties.”⁴¹ This benevolent moral tutelage would then have a diffusive effect throughout the broader population, to whom those holding executive posts had restricted access – thus, providing as efficient a method of racial subordination and panoptic governance as the Dual Mandate itself.

Of course, the maternal imperial sphere was not always coterminous with the “domestic” sphere. As pacification, exploration and developments in tropical medicine created a more favorable climate for women in Africa, we see an increased female presence on the continent – especially among settlers, administrator’s wives, and professional women. Upper-class wives, particularly those who were brought over to relieve their husbands’ sexual profligacy with local women were quickly charged with their own disciplinary mandate: to teach African women the finer points of childrearing, lactation, and hygiene. Maternalism,

⁴¹ Flora Ann Steel & Grace Gardiner, *THE COMPLETE INDIAN HOUSEKEEPER AND COOK* [1888] at 7, (1904). The imperial household was also dominant in popular theater as well: One remembers Mr. Banks remonstrating his suffragist wife and undisciplined children that “a British home is run with great precision” prior to Mary Poppins parachuting in to administer his empire.

which hitherto had been a sphere of charitable activism for genteel married women, became more inclusive of professional spinsters entering politics and the fields of pediatrics, public health, sanitation, and nursing. After WWI, intrepid unmarried women of modest class origins who were, “matured by the war and less fearful, left voluntarily for the colony.”⁴² British women in Africa intent upon holding the government to its avowed civilizing purpose, turned their reforming efforts to the domestic health and education of “native” women and children. In her review of “welcome packets” for colonial wives, Nancy Hunt recounts the propaganda used to glorify the drudgeries and perceived dangers of female presence in the colonies.

Accompanying their husbands in the course of long, fatiguing and monotonous journeys...deprived of comfort, living in the tent or in road-posts...they devote themselves benevolently and modestly to a highly humanitarian purpose of which they can be proud.⁴³

Consonant with the attention paid to the welfare of working-class women and children within England, maternalism provided a complementary space for activism and social reform (and its associated class hierarchies) in the virile management of the colonies.⁴⁴ And it was not long before the embodied customs, beliefs, and practices of female excision came within their purview and incited moral outrage.

⁴² Hunt, *La bébé en brousse*, 293.

⁴³ *Id.*

⁴⁴ The presence of white women in the colonies was hotly debated. Opposition to admitting women included the chivalrous “no place for a lady,” reluctance to give up the virility of the enterprise, and fears of women’s sterility in the tropics. By the 1920s, these fears had been replaced by the exigencies of taming sexual excess, repairing white male morality, and a policy preference for couples to settle in for the “long haul” and reproduce in Africa.

Maternal Imperialism: The “Female Circumcision Controversy”

Early missionary opposition to *irua* (clitoridectomy) in Kenya dates back to 1906, spearheaded by the Church of Scotland Mission (CSM).⁴⁵ The four primary mission groups in Kenya were the CSM, the Africa Inland Mission, the Church Missionary Society of the Church of England, and the United Methodist Mission.⁴⁶ All four missions apparently experimented with a number of strategies to discourage *irua*, although the CSM was by far the most rigid and doctrinally opposed to the practice. The strategies ranged from experimenting with promoting circumcision at earlier ages, encouraging partial as opposed to total excision of the *labia minora*, expulsion of circumcised girls from mission schools and denial of medical attention in mission-run health posts, to an outright ban on the practice among their congregants. These various strategies reflected a number of concerns that included preoccupation with low birth rates, high maternal mortality, and profound distaste for the public circumcision ceremonies during which non-marital sexual promiscuity was encouraged. (A latent anti-Islamism pervaded their opposition to circumcision as well, given its association with Arab influence.) For two decades, the missions tried these various tactics although it was in 1926, with amplified support for banning circumcision from Whitehall that they became more draconian in their tactics. Under the leadership of Dr. John Arthur, medical missionary and head of the CSM, the government authorized a ban on female (though not male) circumcision. Prior to 1926, British administrators sporadically expressed concern about the adverse health effects of *irua* and remarked that the practice impeded the progress of Christian conversion. Administrators contemplated regulations that would criminalize the practice. However, they seemed resigned to the continuation of the practice, convinced that their network of native chiefs would be ultimately

⁴⁵ CARL ROSBERG & JOHN NOTTINGHAM, *THE MYTH OF “MAU MAU”* (1966); Jocelyn Murray, “The Kikuyu Female Circumcision Controversy” Ph.D. diss., UCLA 1974.

⁴⁶ ROSBERG, 106-7.

responsible for discouraging *irua* rather than formal legislation.⁴⁷ This gradual eradication depended upon education and the acceptance of the Christian faith as pacification, cash dependency and increased settlement inexorably increased British presence in the Kikuyu territories. However, the CSM and its well-connected internationalist humanitarian supporters denounced the administration's devolutionary, laissez-faire approach. In 1926, Dr. John Arthur, the CSM's most vehement opponent of *irua*, was nominated to the government's Executive Council to represent "native interests." Facing increasing pressure from London, the government enacted the ban against *irua*, spearheaded by the CSM-maternal imperialist alliance.

In addition to enforcing the ban on *irua*, the CSM insisted that all its congregants renounce any association with the KCA (Kikuyu Central Authority): the proto-nationalist organization that would eventually assume a critical role in the Independence struggle. The CSM lost 90% of their Kikuyu converts in 1929, shortly after the mission imposed this restriction on political affiliation. Chiefs who had been recruited as native interlocutors to denounce the brutality and associated health risks of *irua* were reluctant to enforce the ban because popular resentment among their communities eroded their local base of authority. The council of chiefs

⁴⁷ As a colonial official reported, "Legislation against the operation would require the full support of the natives concerned...which cannot be expected until the natives have arrived at a much higher level of general development...the only means to discourage the practice are education in its widest sense and propaganda." (BODDY, at 254.) But British reformers in Sudan were not convinced by the value of propaganda, and wanted to push for criminalization. The eradication strategy they proposed was instructive both in terms of its methods and the high level of bureaucratic attention paid to the eradication mission itself:

"I've been discussing this morning with the Governor the possibility of making it a criminal offence & he thinks the way to do it is in 2 steps—1st step get the Govs. and DCs to wake up to your value, and get you and your sister buzzed around the Provinces & put you in contact with the big sheikhs as much as possible, 2nd step when everybody has been made to sit up and to want to stop it, we can tell the Native Courts to start treating it as an offence...[I]t seems to me simply a question of how far the Medical Services will help. Without continual investigation and supervision by the M.Is (Medical Inspectors) British and Sudanese, we should get no convictions and we might really only succeed in alienating the people from the licensed midwives.

Letter from Douglas Newbold, Governor of Kordofan, Sudan, to Mabel E. Wolff, First Matron of the Midwives Training School in Sudan, (reprinted in BODDY, 257.)

had their own sets of problems retaining control over the “young hotheads” of the KCA. Christian conversion accelerated the internal political split between more militant young Kikuyu members of the KCA and their elders, whose Chief Councils were regarded as collaborators with the British administration. The KCA’s politicization of *irua* came at a time when younger Kikuyu men needed to secure the acceptance of their more traditionalist elders, who had been resentful of the demands placed on their Christian faith. As Ronald Hyam points out, “female circumcision served both purposes [for KCA leaders], because it resolved their reputation with the conservative elders who had been looking with askance at the doings of these young hotheads.”⁴⁸

Kikuyu youth began singing satirical songs called *Muthirigu* that portrayed the ban on *irua* as a plot by missionaries and colonial administrators to steal their land and seduce uncircumcised girls. The songs were regarded as obscene and intolerably disrespectful to British authority and immediately banned as seditious. Punishment for defying the ban and singing *Muthirigu* included public floggings, expulsion from school, fines, and prison detentions.⁴⁹ The situation came to a head in 1929, when the British government fearing widespread civil unrest decided to distance itself from the campaign. Dr. Arthur was asked to resign his position on the Executive Council that year. In tendering his resignation letter, Dr. Arthur presciently warned Gov. Grigg that the KCA would ultimately use the ban on *irua* as a nationalist tool to further its ambitions for self-rule.

In January 1930, the situation continued to deteriorate with the murder of a female missionary who had been associated with the CSM ban. According to the coroner’s report, Ms. Harriet Stumpf appeared to have been choked and “mutilated” with a knife according to local custom, which caused her death. The coroner attributed this gruesome act to the “stand that

⁴⁸ HYAM, *EMPIRE AND SEXUALITY*, 195.

⁴⁹ ROSBERG & NOTTINGHAM.

certain missions had been taking against [*irua*] with the result that there have been conflicts with natives, most of whom are hostile, while agitators have been attempting to make political capital out of the situation.”⁵⁰ The missionaries’ anti-excision campaigns were particularly focused in their schools: refusing to admit “heathen” girls who had been excised or hiring teachers who were from families whose female members were excised. Prior to her death, Ms. Stumpf had apparently orchestrated the expulsion of those students from her school who supported or had undergone *irua*. Hostile natives circumcising and killing pious white women⁵¹ created an intolerable situation on the Dark Continent. In his communiqué with the Home Office, Gov. Grigg concluded grimly, “It is clear that this circumcision song and dance is being used to work those participating into a state of dangerous fanaticism.”⁵²

For nearly three years, opposition to the CSM ban on female circumcision became the *sine qua non* of nationalist opposition. Despite the existence of laws “on the books” that criminalized *irua*, anti-excision bans were quietly disregarded by most Kikuyu converts who no doubt tolerated the missionaries’ remonstrations as part of the benefits they accrued through their association with the Church.⁵³ It was only in 1929 when the CSM insisted upon a total repudiation of KCA membership that the mission lost its congregation and the above mentioned events escalated into the infamously labeled “female circumcision controversy.” What led the colonial government to enact this ban? And what alliances brought it about?

⁵⁰ Boddy, 241.

⁵¹ The murder or sexual assault of any white woman sparked punitive responses that were far disproportionate to the actual crime—no matter how gruesome. Missionary deaths were especially worrisome, since they were evidence that the kinder, gentler side of imperialism was not going according to plan.

⁵² Grigg to Colonial Office, 20 Jan. 1930, (reprinted in BODDY, at 241.)

⁵³ For an excellent analysis of the motivations and activities that pulled rural Kikuyu to the missions (including unmediated spiritual connection with God, protection from powerful chiefs, and colonial land grabs/land alienation, medical attention, and education) see, David Sandgren, *Twentieth Century Religious and Political Divisions among the Kikuyu of Kenya* 25 AFR. STUD. REV. 195-207 (1982).

John Comaroff reminds us that British missionaries were the “least potent whites in colonial theater, subject to authority of the government, lacking social and material resources. Their only weapons in the political arena were rhetorical potency and moral sanction.”⁵⁴ Given their indeterminate class position within settler society, CSM missionaries gradually recruited London-based humanitarian and suffragist groups to strengthen their campaign to outlaw circumcision among Kikuyu communities in Kenya’s central Province. While the Kikuyu communities were not the only practitioners of genital circumcision, they were targeted most aggressively by missionaries’ anti-excision efforts. Perhaps not surprisingly, the campaigns among the Kikuyu also coincided with the British settlers’ intensified land expropriation in the Central valley—increasingly encroaching on Kikuyu lands, imposing heavy taxation on lands and households, and engaging in coercive labor recruitment through the creation of “Native reserves.” The combined result of land shortage, heavy taxation, and concomitant cash dependency led to widespread resentment and civil unrest. The Kenyan situation was carefully monitored in Whitehall— anxious to limit the autonomy of British settlers⁵⁵—a task in which they were assiduously aided by native rights agitators among the British left.⁵⁶

Instrumentally, the CSM led female circumcision ban satisfied the need for propaganda that promoted British rule as a benign, uplifting and civilizing enterprise. Missionaries provided moral commentary on the status of colonial affairs, while garnering political and financial support for their work among upper class Conservatives and devout working class congregations in Whitehall, Exeter Hall, and British church halls. The Duchess of Atholl

⁵⁴ John Comaroff, “*Images of Empire, Contests of Conscience*” in *TENSIONS OF EMPIRE*, 163-197.

⁵⁵ The anxiety of the British government to curtail the authority of settlers in Kenya was related to their devastating losses in the protracted Boer Wars.

⁵⁶ See Diana Wylie, *Confrontation over Kenya: The Colonial Office and its Critics 1918-1940* 18 J. AFRICAN HIST. 427-447 (1977). The champions for native rights were “disgruntled Africa hands”—men with extensive experience in Kenya who were intent on exposing the errors and iniquities of British settler occupation. They tirelessly authored reports that were highly regarded by progressive groups who were troubled that British imperialism was not actually bringing civilization to its natives.

founded the “*Committee for the Protection of Coloured Women in the Crown Colonies*” after attending one of the CSM’s meetings at which the customary initiation rite of *irua* was described. The Duchess was reportedly outraged and revolted by the missionary’s presentation, wondering how “the British Government could countenance such brutal assaults on innocent victims in its colonies in the twentieth century.” Missionaries, elite maternal imperialists, and colonial administrators leveraged their respective connections, political capital, and on-the-ground proselytizing labors toward a common purpose that simultaneously fulfilled multiple functions under the capacious banner of Christianity, civilization and commerce.⁵⁷

The reformist views of early women internationalists of the Atholl-Rathbone vintage (intent on using British rule as an instrument of civilization for African and Asian women) and missionaries who provided the manpower for enacting their enlightened campaigns, varied considerably with those of nascent African nationalists, who had a degree of support in London from Labour party officials and anti-colonialist “native rights” agitators re-invigorated by their commitment to “native paramountcy” in the late 1920s.⁵⁸ The newly elected Labour government had campaigned on the platform of “Trusteeship” which articulated three principal objectives. The first was to preserve indigenous governing structures through indirect rule while gradually devolving governance to those powers as they demonstrated suitable self-governing capacities. The second goal was to develop local economies while promoting their

⁵⁷ I am not evaluating either the sincerity of the early internationalist women’s advocates, or their dedication to improving the plight of their less fortunate sisters. The vanguard of these movements clearly possessed an unshakeable devotion to their causes. Suffragists and abolitionists were profoundly influenced by Christianity, and frequently formed coalitions with missionaries based in the colonies. My larger intention is to scrutinize the timing of the CSM ban (when *irua* became a violation) in the context of struggles over land, oppressive poll taxes, and aggressive labor recruitment policies in the Central Valley.

⁵⁸ The Duke of Devonshire initially outlined the policy of “Native paramountcy” in his capacity as colonial secretary, recommending that “the interests of the African natives must be paramount, and that if and when, those interests of the immigrant races should conflict, the former should prevail.” See ROBERT GREGORY, SIDNEY WEBB AND EAST AFRICA (1962). The doctrine was later revived by Sidney Webb, colonial secretary of the Labour party from 1929-1931, coinciding with the “female circumcision controversy.”

benefits for native populations (necessary for creating consumers to buffer European economies as well as to ensure cheap sources of raw materials to satisfy European demands). And the third was to suppress all indigenous forms of abuses catalogued on the continent: cannibalism, child marriage, bride price, levirate, female circumcision, and, meriting utmost opprobrium, indigenous slavery.

The quest to eradicate African and Asian forms of slavery and forced labor was extremely compelling, both for Labour and for its international humanitarian allies. Abolitionism was pivotal for mobilizing moral support for the imperial effort—as it was for suffragism, international socialism, evangelism, and continental populism. As Gyan Prakesh has noted, the portrayal of indigenous labor arrangements as iniquitous slavery was expedient in elevating the labor recruitment practices of British imperialism as modern *waged* labor—even when those labor practices were more oppressive than the ones they purportedly replaced.⁵⁹ Indeed, the rhetorical appeal of Emancipation was powerful, and provided a semantically loaded discourse for both progressive and conservative groups. Abolitionism resonated with the working classes, elites, and middle class advocates who perceived Emancipation in largely religious terms. The working classes interpreted imperial labor recruitment practices within the prism of their own grim Dickensian experience: as an advanced stage of wage labor from pre-capitalist vassalage, positing waged earnings as a universal right. And as John Comaroff argues, religious supporters saw the conversion of pagan enslaved Africans into a free, industrious yeoman peasantry within their evangelical, non-conformist mandate.

Conservative parliamentarians who were committed to the uplift of vulnerable populations within the Empire also adopted anti-slavery rhetoric. Reminding the House of its commitment to abolition, maternal imperialists used the anti-slavery platform to galvanize

⁵⁹ Gyan Prakesh, “*Terms of Servitude: The Colonial Discourse on Slavery and Bondage in India*” in *BREAKING THE CHAINS* (Martin Klein ed., 1992 132).

interest in their concern over eradicating *irua*. As Susan Pedersen points out, the Atholl-Rathbone alliance astutely used Labour's avowed commitment to native paramountcy to argue that the concern for equality should extend to equality *between* and among the races: that it should also "protect Black women from barbaric practices."⁶⁰ Indeed, similar to the uproar over *suttee* in the previous century, this "repugnant" native practice became a pressing political priority of the colonial administration, international humanitarian agencies, and internationalist societies as the British expanded their presence in Africa. In his ethnography *Facing Mount Kenya*, Jomo Kenyatta described a conference on African Children held in 1931 during which,

[s]everal European delegates urged that the time was ripe when this "barbarous custom" should be abolished...That it was the duty of the Conference, *for the sake of African children*, to call upon the Governments under which customs of this nature were practiced to make it a criminal offence for anyone who should be found guilty of practicing the custom of clitoridectomy.⁶¹

Kenyatta aimed to convince his supporters in London of the importance of *irua* for "native rights" and to defuse some of the combustible association of the KCA with sedition and *irua* in the minds of potential allies in the Labour party and among the British left. Note that Kenyatta's visit coincided with the Atholl committee's assiduous fact-finding into the medical harms and associated risks of *irua* that was underway in the winter of 1929. Kenyatta in fact testified about the cultural importance of *irua* to Atholl's committee. As an LSE trained anthropologist, Kenyatta was able to mediate between those audiences genuinely concerned about "native rights" and those who felt ambivalent about the CSM ban. Kenyatta's insistence on native rights and cultural nationalism was well received by men on the British left and those

⁶⁰ Pedersen, *Maternalist Moment*, 656.

⁶¹ Jomo Kenyatta, *FACING MOUNT KENYA* (1938) [1965] 132-33.

who were nominally committed to the Trusteeship platform, though Kenyatta's testimony was roundly rejected by Lady Atholl and her committee.⁶²

Kenyatta's cultural essentialism highlights the romanticism of and nostalgia for gender relations in a pristine revisionist past, uncorrupted by European settler colonialism. Neither aperture (the founding father vis-à-vis the maternal imperialist) created a particularly favorable—let alone *emancipatory* space for women. One depicts pre-colonial gender relations as the ideal, presuming a return to those relationships in an independent Kenya. The other regards culture as culprit, which must be extirpated and replaced by feminine Christian conventions. The controversy itself illuminates myriad ideas about the place of women in national life: what that "nation" would be, and what role women should play within it.

In her study of the female circumcision controversy, historian Lynn Thomas carefully avoids a direct attribution of circumcision to the struggle for Independence. Thomas does situate adolescent girls as central actors in the process of performing these cuttings on themselves or on each other.⁶³ As Thomas notes, while circumcision is always depicted as something happening to young girls, the "female circumcision controversy" demonstrated the girls' active participation and support for the practice. Thomas rejects the conventionally held view that the "female circumcision controversy" proved women's resistance to colonial policies. Indeed, this type of causal analysis elides the fact that any attempt to impose sexual Occidentalized orders generally faltered⁶⁴—that it was as precarious an undertaking as colonial administration itself. One reasonably wonders what subversive strategies would have been adopted to resist the meticulous genital inspections of squadrons of missionary personnel, had Dr. Arnold's plan come to fruition. Would young girls have compliantly spread their legs for these regimented inspections? Would the missionaries have indulged in one of their classic

⁶² Pedersen, *National Bodies*.

⁶³ THOMAS, 131.

⁶⁴ See Burton, *GENDER, SEXUALITY & COLONIAL MODERNITIES*.

innovations of creating the “indigenous vaginal inspector” by training “local” women (converted Kikuyu townswomen to be sure— who would then train their rural compatriots) to ensure compliance with prescriptive gynecological health dictates? However risible these scenarios may seem, it is the arrogant self-confidence with which they were conceived (and the earnest reformism that gave rise to them) that speaks volumes about the fate of these types of campaigns. Perhaps the most striking feature of the female circumcision controversy is the extent to which it completely ignored women’s investment and power over the reproductive domain within which *irua* played a critical symbolic role. Indeed, the concerted orchestration between anti-excision campaigners in London and Nairobi was almost exclusively reliant on male interventions on the ground, eclipsing the fact that *irua* was an affair controlled by women. The drama over FGC appears to work with a pre-ordained script: new voices and actors performing stock roles in a series of melodramatic Acts that culminate in flurries of consciousness raising activity, histrionic transatlantic insults, proselytizing and clinical campaigns that in Janice Boddy’s apposite phrase “train minds and colonize bodies” and (largely ineffective) administrative measures that are more responsive to the pressures exerted by global institutional networks than to the socially endorsed practices of local populations. To what end?

**Repugnant Practices and Civilizing Missions:
Imposing the Rule of Law through Health**

The colonial campaigns in Kenya to eradicate *irua* highlight two continuing features of the contemporary anti FGM campaign: The first is that the campaigns were caught up in broader cultural conflicts over the terms and scale of “modernity” and “Westernization” (via missionization in the past and “globalization” in the present). And the second is the medicalization of the eradication discourse that continues to be a powerful framing for the contemporary campaign. This medicalized framing exploits the same putatively benign

discursive spaces of maternal imperialism, which are then used instrumentally to smuggle in totalizing ideas about motherhood, womanhood, and modernity.

According to Elizabeth Boyle, medicalization, or “the right to health” provides a more neutral discourse for implementing international interventions than a human rights framework that is at least rhetorically challenging to the powerful institutional framework of national sovereignty.⁶⁵ It was under a right to health platform that the contemporary anti-FGM campaign was re-launched in the 1980s. The 1980s campaign conformed to the developmentalist policies of the WHO and other specialized organizations within the UN, and a consortium of non-profits and religious groups that had ongoing maternal health, nutrition, and family planning programs in Africa. Boyle contends that the right to health had limited traction with feminist insistence on viewing female genital *mutilation* as a violation of universal human rights, expressing in the denunciation process some of the same sentiments of the imperial maternalists in terms of moral outrage, disgust, patriarchal bondage, and female oppression. Boyle recounts that the more muted, neutral right to health became untenable to the anti-FGM campaign, because it merely medicalized the practice—unwittingly endorsing it instead of eradicating it.⁶⁶ However, as Richard Shweder disingenuously asks: isn’t the concern over FGC largely based on its insalubrious side effects?⁶⁷ If we remove the medical risk to childbirth, neonatal mortality, fistula, hemorrhage, painful intercourse, and the myriad ills that are associated with genital cutting-- acknowledging in the process that many of these dire health indicators result from structural adjustment programs *imposed by our financial institutions* that severely limit the access of poorer Africans to health services-- are we only left with our

⁶⁵ BOYLE, 43.

⁶⁶ *Id.*, 55. The dilemma for the contemporary anti FGM campaign continues to be the medicalization of genital cutting by professional nurses and health workers rather than its abandonment.

⁶⁷ Shweder, “*When Cultures Collide.*”

moral squeamishness about a cultural practice that other women engage in?⁶⁸ Can we look at the global anti-FGM campaign as distinct from, or as an integral part of a larger set of neo-liberal financial arrangements that have had devastating effects on publicly funded health, education, social security, pension, and sanitation programs in debt-strapped (and often war-weary) African countries?

Shweder raises interesting points about whether the focus on health is pretextual for continued cultural imperialism. Shweder asks whether it is justifiable to spend as much on eradication programs when the global community could dedicate a portion of those funds to health programs designed to make the practice safer—if our real concern were in fact, safety.⁶⁹ Carla Obermeyer posits that the data do not support the dire health outcomes of non-circumcised vs. circumcised women, once SES factors are controlled for in the statistics. When wealthy women--whose husbands and families are extremely invested in tradition and their safety-- give birth under sterile conditions or with skilled caregivers, the maternal health outcomes are apparently no different between circumcised and non-circumcised women.⁷⁰ Moreover, the data also do not substantiate more harmful neonatal conditions caused by pelvic obstruction once again controlling for age at first parturition.⁷¹ This raises questions about whether the real culprit is poverty or culture. To reiterate: can these cultural claims be separated from the neo-liberal policies and structural adjustment programs of which they form part? As illustrated by the “integral” approach of the contemporary abandonment programs, NGOs are pursuing their programs within the rubric of development initiatives either as an

⁶⁸ *Id.* On reducing maternal and neonatal health risks by symbolic vaginal pricking, see, Obiora, *Bridges and Barricades*. See also, Doriane Lambert Coleman, *The Seattle Compromise: Multicultural Sensitivity and Americanization* 47 DUKE L. J. 717-84 (1999) for an analysis of a domestic confrontation between the right to health and a rigid insistence on prohibiting a publicly funded hospital’s engagement in symbolic (i.e. minimally invasive) circumcision on newborn girls.

⁶⁹ Shweder, “*When Cultures Collide*.”

⁷⁰ Personal communication, Dr. Audrey Garrett.

⁷¹ BODDY, 314-316.

opportunistic source of funding for “development” or because the negative health outcomes cannot be isolated from other poverty-related determinants of health.

Michel Foucault alerted our attention to the various ways in which the development of the modern clinic facilitated the growth of administrative regimes that could regulate, contain, and discipline the “diseased” (however their pathologies were defined). In colonial medical missions, these “hygienic compounds” obviously enhanced the disciplinary power of the mission’s horticultural objective to cultivate a pure Christian mind, body, and spirit. The tenor of the missionaries’ denunciations moved from the “barbaric” to the “unhealthy” over the course of their campaign. Tactically, the CSM and its allies raised the specter of health concerns over barbarism in the 1920s, which imbued their efforts with the credibility and *neutrality* of medical science. And yet the lurid depictions of genital cuttings were a compelling subtext for the campaigns, especially when combined with the spectral consumption of African genitalia by prurient Victorian audiences. In the commissioned reports and Lady Atholl’s fact finding sessions, we see the almost pornographic display of modified African genitalia to “sickened” British audiences who at one point condemned the effects of excision on maternal and infant mortality as “racial suicide.”⁷²

The missionaries’ move to medicalize the practice and the subsequent emphasis on health was causally related to the dual function of mission health post—itsself a less altruistic enterprise of providing maternal health care to the native population and more an insurance policy of ensuring the healthy reproduction (and increased survival) of the native workforce. Dr. Arthur was an experienced medical missionary, and the CSM adopted a settlement model that had major medical facilities within its compounds. Medical testimonies resonated with an audience already convinced about the low health standards of Africans (and obsessed with

⁷² *Id.*, 235.

African genitalia) that were directly repugnant to European ideals of hygiene and medicine. Moreover, the medical tone was more effective at incorporating those “Africa hands” staffing the upper echelons of the colonial administration who balked at the missionaries’ sermonizing tenor.

The exposure of British audiences to the health risks involved with *irua* also functioned in a parallel manner to the contemporary “yuck-how-could-they-do-that factor” that Richard Shweder describes.⁷³ Undoubtedly, the clinical voice had greater probative appeal when coupled with scientific racism and eugenics that were the *au courant* epistemological paradigms of the period. As Pedersen points out, the early campaigners relied heavily on medical missionaries like John Arthur because the “maternalist” voice could not legitimately express concern for sexuality. Their presentations were focused exclusively on maternal and child health, domestic sanitation and hygiene. Ultimately, Pedersen concludes that the maternal imperialist crusade to end circumcision was stymied by Victorian constraints on female sexuality: neither Atholl nor Rathbone had a language outside of medical hygiene to marshal sustained support for the ban among their parliamentary colleagues. Male colonial administrators (who may have been loath to assimilate the technicalities of African women’s genitalia) decided on a compromise that criminalized excision beyond the clitoris that would be enforced by their cohort of Paramount chiefs. This was anathema to both the CSM and Atholl, given their staunch opposition to the entire practice. But, as Pedersen points out, Atholl was caught in a maternalist paradigm that could only be mobilized to improve reproductive health outcomes.⁷⁴ Given his rigid evangelism and tendentious positions on native land rights, Dr.

⁷³ The medicalized eradication strategy defines the hallmark features of genital cutting campaigns, persisting into the current anti FGM campaign (See Shweder, “*What about Female Genital Mutilation.*” For the now-dated “yuck factor” see Fran Hosken, *THE HOSKEN REPORT: GENITAL AND SEXUAL MUTILATION OF FEMALES* (1994); LIGHTFOOT-KLEIN, *PRISONERS OF RITUAL*, (acclaimed as a travelogue/personal odyssey of a Western woman’s encounter with African patriarchy).

⁷⁴ Pedersen, *National Bodies*.

Arthur was not popular among either colonial administrators or settlers. The latter were the least committed to expending any resources on eradicating *irua*, staunchly convinced that it was dangerous and futile for meddling London do-gooders to interfere with the “deeply held customs of a savage black race.”⁷⁵ When the political situation deteriorated, it was clear that Atholl would have to withdraw her proposal, and her Parliamentary colleagues prudently suggested that she move onto a less controversial topic in her crusade for colonial rescue. In the debacle of the circumcision controversy, Lady Atholl, Eleanore Rathbone, and Nina Boyle dedicated themselves assiduously to the reviled practice of bride price and widow inheritance in Africa.⁷⁶

Decades later, with the rise of clitoral signification and female embodiment, the discourse shifted not completely away from health, but with a newly invigorated focus on clitoral deprivation. Thus, Fran Hosken, a tireless crusader in the anti FGM campaign attributed the *real* purpose of female genital cutting as an “attempt to reduce or extinguish sexual pleasure and keep women under male sexual control.”⁷⁷ The deprivation of sexual stimulation via clitoral excision was a persuasive vehicle for promoting the eradication of FGC on a gyno-centric human rights basis. However, the sexual fulfillment/liberation argument was not as compelling to ears beyond Western audiences. The campaign-- lacking the “buy-in” of African women and participation of the protean “grassroots/local” sector to credibly rebut charges of human rights imperialism-- fared no better than Lady Atholl’s cultivated proselytizing efforts. Indeed, in adopting the view that FGC was symbolic of women’s subordination and sexual deprivation, Western women implicitly assumed that no-one [in her

⁷⁵ Id, 661.

⁷⁶ BODDY, 256.

⁷⁷ THE HOSKEN REPORT, 4.

right mind] would voluntarily choose to undergo the practice.”⁷⁸ When presented with evidence that older girls often actively embraced and requested the practice, and that mature women often re-infibulated or re-modified their genitalia in post-partum procedures, and (more importantly) presented with gynecological data that clitoral excision was not *a priori* constitutive of diminished sexual pleasure, the argument switched awkwardly from the clitoral into one of informed consent and children’s diminished capacity. This was a more legalistic, policy-oriented and maternalist human rights framework that worked expeditiously with the medicalized “right to health.” My sense is that we are currently between the biomedical (neutral but powerful and immune to contestation) and the clitoral/castration, (strategically retaining the yuck factor and the protective groin clutching reflex to drive home the mutilation effect) but with the partnerships of institutional actors and African professionals and activists in the campaign, the maternal framing has a deferential cultural overtone. Take for instance, a policy statement issued in 1995 by key institutional players in the anti FGM campaign:

We must work from the assumption that human behaviours and cultural values, however senseless they may look to us from our particular personal and cultural standpoints, have meaning and fulfill a function for those who practice them. People will change their behavior only when they themselves understand the hazards and indignity of the harmful practices and perceive the new practices proposed as meaningful, functional, and at least as effective as the old ones.⁷⁹

⁷⁸ BOYLE, 46.

⁷⁹ Joint Statement on Female Genital Mutilation, World Health Organization/UNICEF/UNFPA/UNDP 1995. The final statement issued two years later, with a host of other UN agencies, including *inter alia*: UNESCO, UNAIDS, UNIFEM, UNECA, and UNHCR has no mention of the “senseless values.” (See, Joint Statement, http://www.un.org/womenwatch/daw/csw/csw52/statements_mission/Interagency_Statement_On_Eliminating_FGM.pdf) last viewed June 22, 2008. These kinds of emendations are telling for organizations extremely anxious to portray themselves as harmonious global beehives.

What follows is my attempt to show how these three discourses: the maternalist, the medical, and the universalist fit together, and how an indigenized maternalism has emerged as “the” dominant respected voice within the contemporary anti FGM campaign. In doing so, my aim is not to recount in detail the well-documented strategies or politics of the contemporary anti FGM campaign, but rather to identify the campaign as constitutive of certain types of g-feminist interventions that are profoundly influenced by their colonial past. In short, my aim is not to take sides with a frankly tiresome moralizing debate, but rather to show how it animates arguments and attitudes about culture that shape Western understandings of the practice long before the asylum cases brought by African women reach a US court. These cases become part of the arsenal of geo-political and ideological tools for perpetuating Western hegemony in a polarized yet interdependent world. As mentioned earlier, asylum cases alleging persecution on the basis of future and past FGC are essential to the credibility of the US’s condemnatory position within the global anti-FGM campaign. However, the present case law and the critiques that give rise to it, build on erstwhile notions of culture, and ideas of Africans as automatons ruled by an oppressive culture and/or religion. Indeed, as Wendy Brown writes, “culture is what nonliberal peoples are imagined to be ruled and ordered by...We have culture, while they are a culture. We are a democracy while they are a culture.”⁸⁰ When we refer to ourselves as cultural subjects, we mean (for the most part) our autonomous ability to indulge in artistic creation, express a preference for a type of cuisine or taste in music—not the “submission to a harrowing practice that has existed for millennia.”⁸¹ Contemporary “othering” is strikingly similar to the colonial discursive strategies that positioned Kikuyu women under the yoke of a barbaric, repulsive practice. The international community continues to regard African customs

⁸⁰ BROWN, 150.

⁸¹ Celia Dugger, “A Refugee’s Body is Intact but her Family is Torn” September 11, 1996, NEW YORK TIMES.

as static and culturally complicit that must be abolished as a precondition for the full realization of women's rights and empowerment.

By way of summary and transition, I focused in detail on the colonial campaign rather than the current one because even the best contemporary compilations devote little attention to the antecedents of current actions—reflecting it seems, a reluctance to confront the repetitive patterns of the past and present. Disciplinary boundaries undoubtedly account for the degree of attention to past campaigns. Ethnographic studies often focus on the historical antecedents of local cultural practices while socio-legal scholars devote their energies to the interface of state behavior in institutional settings, and the generation of human rights norms in assuring compliance with global anti-FGM policies.⁸² Both approaches are valuable, but I suspect that the divergence in disciplinary optics may partially explain why we continually act in ways that we suspect are ineffective, but nonetheless perceive as preferable to inaction in the face of violation.

Conclusion

The current aperture in US asylum jurisprudence, building as it does on the global anti-FGM campaign and the institutionalization of women's human rights offers an attractive set of arguments for African women—elite and non-elites—to use in social protest. The campaign is well funded, and offers alternative opportunities to those who join forces with it to attract funds for their employment, upward mobility, and economic survival. On the African continent, this is no small feat. The campaign also imbues a sense of modernity and autonomy to women who are attracted to the West, not least because “the West” invokes images of cosmopolitan freedom, technological progress, and economic advancement. To governing elites, the campaign's powerful sponsors, notably WHO, the UN agencies, international financial institutions, and G-8

⁸² BOYLE, 7.

donor agencies, promise necessary aid dollars for maternal-child health programs contingent on legal measures to eradicate genital cutting. True, the adoption of these reforms is in response to direct international pressures with less regard to local sentiments, but the money promised as a condition of these reforms is critical to the government's tenure. In sum, the anti-FGM campaign brings together a powerful and appealing set of arguments for social change. As a transnational social movement, it is strikingly similar to the anti-slavery movement of the early 19th century, which provided a normative politics for freedom and social justice to a variety of other groups (suffragists, Christians, and internationalists). Today's maternalist voice largely accepts the demise of FGC—hence the emphasis on abandonment-- but insists that this is as a result of African initiatives rather than the Western campaign. This insistence on African agency is seen in many feminist battles fought over the bodies of African women and it seems reasonable for those who support "African voices and choices" to abide by those terms. As I have described, the primary interlocutors in this particular struggle have been well-meaning British matrons, cultural nationalists with suspect gender politics, and G-feminist reformers. We have ample evidence that FGC is being debated and that milder, safer, and symbolic forms are being adopted when other incentives are offered as compensation and as changes weave their way (along with the Internet, Bollywood, and *banlieu* hip hop) in and out of Africa. Now, eradication initiatives are offered in conjunction with a broad gamut of community health and income generation projects, and are subject to other indicia of human development. As we know, "development" also ushers in related dynamics of social stratification and modernities. The caveats always remain: when is it time to intervene, and when is intervention used as a subterfuge for other battles?

In sum, there are reasons to be both critical and supportive of the anti-FGM campaign. There are other reasons to be hesitant about humanitarian hawks using feminist concerns to

justify military occupation. During a radio broadcast to the nation on November 17, 2001 US First Lady Laura Bush claimed, "Because of our recent military gains in much of Afghanistan, women are no longer imprisoned in their homes. They can listen to music and teach their daughters without fear of punishment. The fight against terrorism is also a fight for the rights and dignity of women."⁸³ Certainly the liberation of Afghan women does not truly express the objectives of the invasion and the installation of the Karzai government. As Lila Abu-Lughod has commented on the First Ladies interviews,

what was most pressing to me was why the Muslim woman in general, and the Afghan woman in particular were so crucial [for mobilization] in this War on Terrorism.... there was the blurring of the very separate causes in Afghanistan of women's continuing malnutrition, poverty, and ill-health, and their more recent exclusion under the Taliban from employment, schooling and the joys of wearing nail polish.⁸⁴

In closing, I urge those concerned with the long term implications of raising the culture flag to consider the rejuvenation of Kant's call for cosmopolitan "hospitality": an unconditional extension of safe haven with possibilities for respectful dialogue about contested notions of culture without requiring acceptance or conversion to any particular side. This would not require a retreat from impassioned advocacy. It would nonetheless acknowledge that the humanitarian imperative to provide asylum is cheapened through realist deals that demand cultural condemnation, and in the long run, exacerbate geo-political tensions that drive refugee flows. Although lawyers, anthropologists, feminist and post-colonial critics disagree on the more insidious effects of essentialism and the persecutory nature of genital cutting, we

⁸³ November 17, 2001, "Laura Bush Delivers Radio Address"
<http://transcripts.cnn.com/TRANSCRIPTS/0111/17/smn.23.html>.

⁸⁴ Lila Abu-Lughod, *Do Muslim Women Really Need Saving?* 104 *AMERICAN ANTHROPOLOGIST* 783-790 (2002); 784.

converge on the rights of all to safe haven—hospitality—in the Kantian sense of the word. Hopefully, we can use our points of convergence to work towards consensus on the greater harms of cultural condemnation.