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Hegemonic Human Rights and African Resistance: Female Circumcision in a Broader Comparative Perspective

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Hegemonic Human Rights and African Resistance: Female Circumcision in a Broader Comparative Perspective*

Elisabetta Grande

Abstract

The issue of Female Circumcision is usually discussed in the framework of extreme human rights violations victimizing **non western women**. This paper questions this approach by broadly comparing Female Circumcision with similar "cutting" **practices** routinely performed in Western societies. An integrative approach to comparative law is suggested in order to understand phenomena in context and to avoid ethnocentrism

KEYWORDS : Human Rights, Hegemony, Female Circumcision, Breast Augmentation, Male Circumcision, **Comparative Law**

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1. Introduction.

Many contend that the very notion of human rights is a western concept¹ and that the U.N. Declaration of human rights is the expression of its predominantly western **constituency**². These and similar approaches see the human rights discourse as part of a Western discourse or even a Western hegemonic discourse, affected by what Edward Said called positional **superiority**³.

The issue of female circumcision (hereinafter F.C.) shows in action the robustness of Said's critique. It is a **powerful** example of the double standard that affects much of the internationally dominant human rights discourse, whose proponents advocate the eradication of these practices. It also suggests the importance of conducting any work related to human rights from both the perspectives of "we" and the "others", "insiders" and "outsiders", "**Westerners**" and "**non-Westerners**", "**helpers**" and "helped", in a word from a broad comparative law perspective, in order to avoid ethnocentrism and cherish respect for difference⁴. A genuinely universal approach to human rights work requires a communication among cultures that can only be achieved following the lesson taught by both anthropologists and comparative law scholars: "participant **observation**"⁵ or "cultural immersion" are the keys for understanding and communicating. In this paper I claim that the international approach against F.C.

¹ See, among others, R. Panikkar (1982), "La notion des droits de l'homme est-elle un concept occidental? ", *Diogenes*, vol. 120, 87ff., also in English, "Is the notion of human rights a western concept? ", *Diogenes*, ibidem.

² See, among others, L.Nader (1999), "Num Espelho De Mulher: Cegueira Normativa E Questões De Direitos Humanos Não Resolvidas", *Horizontes Antopológicos*, Porto Alegre, ano 5, n.10, p.61ff, particularly par. 3: "Unresolved Issues"; A. GAMBINO, *L'imperialismo dei diritti umani. Caos o giustizia nella società globale* (Roma: Editori Riuniti, 2001); J. YACOB, *Les droits de l'homme. Sont-ils-exportables? Geopolitique d'un universalisme* (Paris : Editions Ellipses, 2004).

³ E. W. SAID, *Orientalism* (New York: Pantheon Books, 1978).

⁴ For a **powerful** argument in favor of a better understanding of F.C. "by constructing a synoptic account of the inside point of view, from the perspective of those many African women for whom such practices seem both normal and desirable", see R.A.Shweder (2000), "What about 'female genital mutilation'? And why understanding culture matters in the first place", *Daedalus*, vol.129 (4), par. 22. The argument is further expanded in R. A. SHWEDER , M. MINOW, H. R. MARKUS, *Engaging Cultural Differences: The Multicultural Challenge in Liberal Democracies*, Thousand Oaks, California: Sage Foundation, 2002.

⁵ As B. MALINOWSKI, *Crime and Custom in a Savage Society* (New York: Harcourt, Brace and Company, Inc.- London: Kegan Paul, Trench, Trubner and Co., Ltd, 1926) and other anthropologists would say (see P. BOHANNAN, *We The Alien. An Introduction to Cultural Anthropology*, Prospect Heights, IU: Waveland Press Inc., 1992, p. 37)

⁶ As Vivian Curran would say. See, V. Curran (1998), "Cultural Immersion, Difference and Categories in U.S. Comparative Law", 46 *American Journal of Comparative Law* 43.

has not engaged in a "dialogical dialogue"⁷, i.e. a dialogue among cultures that gives "them" and "us" a **third** eye, making possible a critical understanding of each one's attitudes, beliefs and practices; a dialogue that requires us to "look in the mirror from the **start**"⁸. Only a serious and comprehensive approach towards **all modifications** of **sexual** organs, **African and Western**, "theirs" as well as "ours", using a single, not a double, standard to evaluate all body modifications related to human sexual apparatus, will make the human rights discourse on sexual organs' modifications or mutilations (whatever we want to call them) less imperialistic, more effective and less assimilating. A more inclusive notion of **human** rights, a notion that includes "us"- the **Westerners**- as well as "them" -the "Others" -, serves, indeed, to reduce hypocrisy and gives credibility to the "human rights **spirit**"⁹.

Because of the current ethnocentric nature of human rights discourse, Western observers generally use a double standard in the evaluation of the various practices that **modify** the sexual apparatus. **In** this paper, I use the legal attitude of Italy and the United States towards these **kinds** of sexual "cutting" to show the importance of a more inclusive and self-mirroring perspective to sexual modifications. I will expose the double standard used in three different sexual organ modification practices, not only F.C. but also male circumcision (**M.C.**) and breast augmentation (B.A.). Similar legal reactions based on double standards are found everywhere in the western world.

This comparative work should offer the opportunity to reflect on the grounds we use to **justify** the different treatment reserved to F.C. when compared to other **modifying** practices concerning sexual organs. What makes F.C. a human rights' violation while **M.C.** and B.A. are considered acceptable and even respectable cultural practices? Trying to **find** the reason for singling-out F.C. as a human rights' violation, I will briefly address a number of issues, including health **concerns**, patient's consent (choice), sexual fulfillment limitation, and **beauty**-femininity requirements in different cultures. Comparing the different practices **from** these points of view, will allow me to argue for the abandonment of the

⁷ In the words of Raimundo Panikkar, cit. supra note 1 and of the school of the Laboratoire d'Anthropologie Juridique de Paris (for everybody see: C.EBERHARD, *Droit de l'homme et dialogue interculturel*, Paris: Edition des écrivains, 2002). See, moreover, T.TODOROV, *Nous et les autres* Engl. trans. *On Human diversity: Nationalism, Racism, and Exoticism in French Thought* (Cambridge, Mass.: Harv. University Press, 1993) and Tamar Pitch "L'antropologia dei diritti umani", in *I diritti nascosti. Approccio antropologico e prospettiva sociologica*, A. GIASANTI and G.MAGGIONI eds. (Milano: Raffaello Cortina Editore, 1995) 177ff.

⁸ As L. Nader would put it. See L. Nader, "Num Espelho De Mulher: Cegueira Normativa E Questões De Direitos Humanos Não Resolvidas", cit. supra note 2, 2.

⁹ L.Nader, "Num Espelho De Mulher: Cegueira Normativa E Questões De Direitos Humanos Não Resolvidas", cit. supra note 2, 23.

positional superiority that affects Westerners in their approach to sexual organ modifications and advocate the adoption of a single standard in the ethical and legal evaluation of cutting practices.

2. Some comparative data.

In describing the reactions that the legal system of my country (Italy) and that of this country (U.S.) have to three different practices that in various ways end up in **modifying** human sexual organs, let me consider the following three cases:

1) In Italy and the U.S., M.C. is routinely performed, for no therapeutic reason, in public hospitals right after the baby is born (in the second mentioned country to the extent of at least 60 % of the newborn male population ¹⁰) and it is a practice that the law **fully** accepts. M.C., as everyone knows, consists of removing the foreskin or prepuce, the natural sheath of skin that covers the penis. In the same two countries, however, F.C., even the less extreme of its forms, the so called *Sunnah* circumcision, is outlawed and criminally sanctioned¹¹. Sunnah circumcision, as very few would know, in its mildest expression is a largely symbolic circumcision that entails a small cut in the prepuce (the hood above a girl's clitoris). It removes no tissue and leaves only a small scar. It is far less **invasive** than M.C.. Nevertheless, proposals by doctors at medical centers in the two countries that sought to perform this light form of F.C. at parents' request (or even with the girl's informed consent) have produced a major uproar of the **anti-F.C.** movements and have been deemed unacceptable by the law itself. ¹²

¹⁰ J.P. ~~Warren~~, "NORM UK and the Medical Case against Circumcision: a British Perspective", in G.C.DENNISTON and M.F.MILOS (eds.), *Sexual Mutilations. A Human Tragedy* (New York and London: Plenum Press, 1997) 92.

¹¹ In may 2004, a new article (art. 583 bis), specifically targeting female circumcision, was included in the Italian criminal code punishing **whoever** commits it with a 6 to 12 years **imprisonment** sentence. The United States passed a law in 1996 that went into effect in April 1997 that made **performing** F.C. on a girl under age 18 a felony punishable by fines or up to a 5-year **prison** term.

¹² For details about the bitter debate that this **kind** of proposal entailed in both countries and for the tenacious support against the proposals given by the human rights international movement, see, for **Italy**, the discussion on the **website** <http://dex1.tsd.unifi.it/uragentium/it/index.htm?forum/mg/sunna.htm>; for U.S.A., see: C.M. **Ostrom**, *Harborview* Debates Issue of **Circumcision of Muslim Girls**, Seattle Times, **Sept.** 13, 1996; Ead., *Is Form of Circumcision Outlawed?—Procedure at Harborview Under Review*, Seattle Times, October, 14, 1996; *Hospital Won't Circumcise Girls*, Seattle Times, December **05**, 1996; see also A. RAHMAN and N.TOUBIA, *Female Genital Mutilation. A Guide to Laws and Policies Worldwide* (London and New York: Zed Books, 2000) 80 ff.

2) In Italy and in the U.S., B.A. surgery is a sexual organ **modifying** practice generously allowed by the legal system even on minors, who by giving consent can have their breasts augmented as long as they give consent together with but one of their parents. In the same two countries F.C., no matter how mild, performed on a minor is punished **as** a serious crime. Minors' and their parents' consent is no excuse, nor is their belief that the operation is required as a matter of custom, ritual, or religion. In Italy, the minor age of the recipient of F.C., no **matter** how strongly she consents, is an aggravating factor that increases the sentence to be imposed on perpetrators and their accomplices.

3) Finally, in Italy and in some U.S. States, but not at the Federal level (thanks to **African** immigrant women activists that strongly opposed a situation in which adult immigrant women would have been treated as legal minors), an adult woman, **i.e.** a woman over 18, cannot validly consent to F.C. surgery although she can consent to have her breast augmented.

A similar legal **framework** is nowadays found everywhere in the Western world, and consequently is starting its spreading march, as a token paid to civilization, in African legal systems. F.C. in fact, became the object of a massive attack at the international level since 1979, when the **WHO** (World Health Organization) sponsored the first Seminar on Harmful Traditional Practices Affecting the Health of Women and Children, in Karthoum, Sudan. The efforts in eliminating F.C. (**eradication** is the term employed) **earned** the support of the international community and F.C. was later framed as a human rights violation and addressed as such in many international settings. As a result many countries, **Western as well as African**, passed criminal laws specifically addressing F.C. within the mentioned framework.¹³

Yet, despite this "common core of civilized nations" the question remains: why is F.C. treated differently than other "cutting" practices? What **makes** only F.C. a human rights violation? On what grounds (other than cultural bias) can we **justify** the singling-out of F.C. among the different sexual organ **modifying** procedures practiced in the world?

¹³ For details on criminal legislation passed in recent times world-wide, see A. RAHMAN and N.TOUBIA, *Female Genital Mutilation. A Guide to Laws and Policies Worldwide*, cit. supra note 12, 61ff. and part II: "References".

Criminal laws addressing F.C. have generally not recognized circumstances in which a woman is deemed to have capacity to consent to undergoing the procedure. Only Canada, Tanzania and the United States have limited their prohibitions of F.C. to procedures performed upon a person under the age of 18.

3. Health concerns and the double standard.

The first answer that comes to the mind of an unbiased observer relates to health concerns. Does F.C. raises more serious health concerns than M.C. or B.A. procedures? It is difficult to answer this question without paying attention to the large variety of practices that the term F.C. involves. According to the WHO's classification, F.C. ranges from the very mild form of *Sunnah*, to the most radical practice of infibulation (also known as Pharaonic circumcision). According to the same source, however, the latter practice --which involves the complete removal of the clitoris, labia *minora*, and part or all of the labia majora, then suturing to narrow the vaginal *introitus*-- accounts for only 15% of all F.C.. *Sunnah* F.C. in its various forms (total or partial removal of the prepuce), excision (that involves excision of the prepuce with excision of part or all of the clitoris) – and clitoridectomy (excision of the prepuce and clitoris together with partial or total excision of the labia *minora*) account for the rest of the female circumcisions that are practiced in Africa (in 28 countries), as well as in some Middle East countries (including the Oman, Yemen, the United Arab Emirates) and some Asian countries (including Indonesia, Malaysia, Sri Lanka, and India -where a small Muslim sect, the Daudi Bohra, practice clitoridectomy).

Acknowledging that it is with a great approximation that we can address F.C. as a unitary category, it seems that many forms of F.C., with the sure exception of infibulation, if performed in the same non-septic, safe and hygienic setting of a good hospital, would not entail greater health risks in terms of short-term and long-term complications than M.C. or B.A. ¹⁴. Surgery routinely

¹⁴ Hemorrhage, pain, swelling, inflammation, infection, urinary retention, sepsis, gangrene, shock and death are immediate health risks connected with F.C. as well as M.C. In the United States, it is estimated that 229 babies die each year as a result of the complications of the sexual mutilation of routine foreskin amputation. Additionally, "in 500 suffer serious complications requiring emergency medical attention" tell us G.C.DENNISTON and M.F.MILOS, in G.C.DENNISTON and M.F.MILOS (eds.), *Sexual Mutilations. A Human Tragedy*, cit. supra note 10, in the preface of their book. The safer and more technologically advanced is the environment in which the practices are performed the lesser is their occurrence. For B.A. short term complications involve hemorrhage, infection, hematoma and all those risks associated with surgery. Long-term complications, i.e. complications that can occur after a successful surgery, seem to be averagely more serious for F.C. (where they include dermoid cysts; keloids, an overgrowth of collagenous scar tissue at the site of the wound; neuromas, benign tumors found in the scarred vulvar tissue that can cause severe pain during intercourse. Serious long-term complications, which incidence is however still unknown, are on the contrary related to the most extreme forms of circumcision, i.e. infibulation and those practices that require extensive suturing of the urethral and vaginal areas. Possible retention of vaginal fluid and blood and possible obstruction of urethral flow put in this case women at risk for chronic infections of the urinary tract and of the reproductive tract. Infertility can be a result of that. Pain during first intercourse experiences can also be very severe and women who have undergone infibulation are more at risk for childbirth complications during vaginal delivery than women who have not) than for M.C. (where they include possible

performed in our countries in case of congenital adrenal **hyperplasia**, i.e. cliteridectomy for those newborns who have been labelled "intersex babies" -- while incidentally raising the question regarding why we can blamelessly satisfy our social sexual taxonomy by a genital organ removal—, can prove at least the medical **point**¹⁵.

To be sure, health concerns today are serious in Africa in connection with F.C. (even if we **don't** know exactly how serious they are, due to the lack of data on the incidence of medical **complications**)¹⁶. Yet this is so because they are performed in unsafe, septic settings, with no appropriate instruments and techniques. Lack of hospitals in **Africa** and lack of **medicalization** of African practices, are indeed accountable for the discrepancies in terms of health risks among the different cutting practices. The big cleavage therefore, insofar as health risks are concerned, is not between F.C. on one side and M.C. and B.A. on the other, but between the South and the North of the World, i.e. between F.C. and M.C. on one side and **B.A.** on the other¹⁷.

formation of a bridge of skin between the circumcision scar and the surface of the glans, that may cause pain and deformity on erection; loss of the protection for the glans and the meatus; possible laceration, bleeding, and pain during **intercourse** due to the tight, foreshortened often sclerotic skin of the circumcised penis; pain during intercourse due to the **partner's** lack or minimal vaginal lubrication), but averagely (if we exclude the most radical forms of F.C.) less serious than long-term complications of B.A.. For **long-term** complications of B.A. see *infra*, note 47.

¹⁵ On "intersex babies" and on the routine alteration of their genitalia until very recently performed, see **Mireya Navarro**, "When Gender isn't a Given", *The New York Times*, September 19, 2004.

¹⁶ In reviewing the existing medical literature on female genital circumcision in Africa, Carla M. Obenneyer, a medical anthropologist and epidemiologist in the department of population and international health at **Harvard** University, concludes that the claims of the anti-F.C. movement concerning frequency and risk of medical complications following genital surgery in **Africa** are highly exaggerated and may not match reality. Obenneyer suggests that most of the published literature on the subject does not match minimum scientific standards and that widely publicized medical complications of African genital circumcisions are the exception, not the **rule**. See Carla M. **Obenneyer**, "Female Genital Surgeries: The Known, The Unknown, and the Unknowable", *Medical Anthropology Quarterly* 13(1): 79-106.

"The anti-FGM' advocacy literature typically **features** long lists of short-term and long-term medical complications of circumcision, including blood loss, shock, acute infection, menstrual problems, childbearing difficulties, incontinence, sterility, and death. These lists **read** like the warning pamphlets that accompany many **prescription** drugs, which enumerate every claimed negative side effect of the medicine that has ever been reported (no **matter** how infrequently). They are very scary to read, and they are very **misleading**", is on this point the comment of **R.A. Shweder**, "What about female genital mutilation? And why **understanding** culture matters in the **first** place", supra note 4, par.44.

¹⁷"The number of children who die as a direct result of traditional **sexual** mutilations is high. The number of children who almost die is higher. In one **study** of the penile mutilation practice

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If this is so, then why has the WHO and the international community tenaciously resisted any attempt to medicalize even the milder **forms** of **F.C.**, in light of the obvious consequence of enhancing the adverse effects of F.C. on African girls' and women's health^{1*}? A total ban on the performance of F.C. in public hospitals coupled with **criminalization**, results only in driving the practice underground, to the unsafe and unhygienic conditions of the traditional procedures. It moreover prevents parents from bringing their damaged daughters to a medical installation when things go **wrong after** a badly managed circumcision for fear of criminal sanctions.

Justifications for the desire to eradicate rather than medicalize F.C. practices seem therefore to go beyond, and at times even to disregard, health concerns. Other and more politically compelling reasons for banning F.C. than health womes need then to be detected, in order to explain why just F.C. and not also M.C. or B.A. is **framed** as a human rights violation.

(foreskin amputation in this instance) of the **Xhosa** tribe of Southern Africa, 9% of the mutilated boys died; 52% lost all or most of their penile shaft skin; 14% developed severe infectious lesions; 10% lost their **glans** penis; and 5% lost their entire penis. This represents only **those** boys who made it to the hospital" tell us G.DENNISTON and M.MILOS, in G.C.DENNISTON and M.F.MILOS (eds.), *Sexual Mutilations. A Human Tragedy*, **cit.** supra note 10, in the preface of their **book**, v.

¹⁸ WHO opposed resistance against all kind of **medicalization** of the practice since the **Karthoum** Seminar of 1979, striking down a suggestion **from** the medical participants for a milder **form** of the practice to **be** performed under hygienic conditions. **NGOs** and human rights activists successfully protested against medicalization of the practice to **be performed** just at a symbolic level not only in Seattle, Washington, and in Italy, but also in **the** Netherlands: see A. RAHMAN and N.TOUBIA, *Female Genital Mutilation A Guide to Laws and Policies Worldwide*, **cit.** supra note 12, 81. In Egypt, feminists and human **rights** activists protested a **1994** decree issued by the then Minister of Health, **Dr Ali Abdel** Fattah, that banned the practice of female circumcision outside of public hospitals, required physicians to discourage parents **from** having their daughters undergo F.C., and allowed the physicians to perform F.C. (that in Egypt **do not** take the form of **infibulation**) in hospitals if the patents insisted. The level of international pressure was so high that Egypt, through a complicated institutional dynamic, ultimately ended up yielding to it and **criminalized** F.C.. **On** this point see: A. RAHMAN and N.TOUBIA, *Female Genital Mutilation. A Guide to Laws and Policies Worldwide*, **cit.** supra note 12, 142. **On** the interaction of the international, the national and the local levels in this **case**, see: E. HEGER BOYLE, *Female Genital Cuffing. Cultural Conflict in the Global Community* (Baltimore, Maryland and London: The John Hopkins University Press, 2002), 2ff and chapter 6, exploring the connections between international pressure and national **standing** in the international system.

4. Sexual Pleasure and Control.

Anika Rahaman and Nahid Toubia's words in their work on female genital mutilation, are extremely illuminating: "Because the complications associated with FCFGM can have devastating effects upon a woman's physical and emotional health, this procedure can be viewed as an **infringement** of the right to health. But even in the absence of such complications, FC compromises the right to health. Where FCFGM results in the removal of bodily tissue necessary for the enjoyment of a **satisfying** and safe sex life, a woman's right to the 'highest attainable standard of **physical** and mental health' **has** been compromised (emphasis **mine**).¹⁹ Health **concerns** are here of a different nature than the one related to death, pain, physical suffering, discomfort and so forth. They relate to a specific issue: that of the sexual **fulfillment** limitation, purported to be entailed by F.C. practices. Through the book the concept is clarified. According to the two authors, "FGM is intended to reduce women's sexual desire, **thus** promoting women's virginity and protecting marital fidelity, in the interest of male **sexuality**"²⁰. A few pages earlier they express the same idea by saying that various forms of F.C. are "cultural practices that discriminate against women and that are meant to **control** their **sexuality**"²¹. Similar reasons to single out F.C. as a human rights violation are almost everywhere given in the human rights literature and clearly emerge **from** the **WHO's** perspective, according to which F.C. can be viewed not only as a health risk **but** also as a violation of women's rights²².

What makes F.C., addressed **as** a unified concept, a human rights violation seems therefore to be its understanding **as** a patriarchal practice meant to limit women's sexual fulfillment for the men's sake of controlling women's sexuality. This is why, according to the usual perspective in the international community, F.C. violates women's rights and why, even in the absence of health complications, the human rights community calls for its eradication.

¹⁹ A. RAHMAN and N.TOUBIA, *Female Genital Mutilation. A Guide to Laws and Policies Worldwide*, cit. supra note 12, 27.

²⁰ A. RAHMAN and N.TOUBIA, *Female Genital Mutilation. A Guide to Laws and Policies Worldwide*, cit. supra note 12, 6.

²¹ A. RAHMAN and N.TOUBIA, *Female Genital Mutilation. A Guide to Laws and Policies Worldwide*, cit. supra note 12, Preface, xiv

²² World Health Organization, *Female Genital Mutilation: An Overview* (Geneva: World Health Organization, 1998) 37.

5. A Western Selective Explanation of the Circumcision Rite.

In an essay on F.C., Obioma Nnaemeka recently wrote: "Ultimately, the circumcision debate is about the construction of the African woman as the 'Other'"²³

Invention and construction of the "Other" play, indeed, a very important role here. Studying the "Other" has been for more than a century the task of both comparative law scholars and anthropologists. In so doing, they learned how crucial it is for the seriousness of the endeavor to understand the "Other" from the inside. To abandon, as much **as** possible, your own theoretical lenses, your own mental categories, in order to gain the point of view of the "Other", has proven to be indispensable to prevent the distortion of the image you get and ultimately to prevent the construction of the "Other" for your own sake. "Cultural immersion" is the name that comparativist Vivian Curren gives to this working method today; half a century before anthropologist Malinowski referred to it as "participant **observation**"²⁴.

In its address of the issue of F.C., however, the international human rights **community** doesn't seem to have profited **from** this lesson. The result is a highly distorted image of **African** peoples lives and attitudes, together with the banalization and **decontextualization** of their practices, that ultimately determine a lack of critical understanding of our practices as well. A more holistic approach is thus required.

F.C. as well as M.C. need to be understood in connection with a **group-**centered socio-legal **structure as** opposed to the state-centered one. One needs to consider, in fact, that in Africa the modern state, both colonial and post-colonial, has been unable to defeat the social organization based on groups as well as their normative systems. The strong vitality of traditional group-based rules and the **need** for each group's legal system, constantly competing with other normative systems (other groups or the state), to assert itself as an autonomous ruling power, explain the existence of cultural group-imposed rules that tend to define who belongs to the group and who does not. By enforcing these **rules** upon its members, the group gains acceptance and legitimacy **as** an autonomous center in front of the state or others group systems. ✱

F.C. and M.C. thus exist and find a rationale in the cultural groupbased rules that define gender identity. Who can be **considered** a man or a woman in a given group, hence who belongs to it, and ultimately, in the absence of a principle

²³ Obioma Nnaemeka, "If Female Circumcision Did Not Exist, Western Feminist Would Invent It", in EYE TO EYE, WOMEN PRACTICING DEVELOPMENT ACROSS CULTURES, S.PERRY-C.SCHENCK Eds. (London, New York: Zed Books, 2001) 179.

²⁴ See supra notes 5 and 6.

of territoriality governing the application of the law, to whom will the rules of the group be applied, are the issues addressed through male and female circumcision in Africa. Gender in fact is not a given, is a socially constructed concept: this is so everywhere and very much so in all **African** traditional societies. There, **as** a common trait, circumcision, both male and female, serves the purpose of marking the divergence of sexes: by removing the clitoris (sometimes the labia too, sometimes only its hood) --viewed as the male part of a woman's body-- or the prepuce --viewed as the female part of a **man's** body-- circumcision removes the original and natural hermaphroditism of the human being, thus **marking the passage to gender identity**²⁵. Women and men cannot be such but for the circumcision rite, that of course takes different forms and different expressions in each different group. Moreover, to add robustness to explanations based on a common **function** one should give appropriate weight to the fact that all societies performing female circumcision also perform male **circumcision**²⁶.

In traditional societies, structured on groups and sub-groups, circumcision also plays a very important role in the sub-group formation and in the development of all the generational bonds (both vertical and horizontal), that are at the root of the social organization. Age **groups** of boys, who share the same circumcision experience, internalize a strong sense of solidarity; **as a group, they perform a variety of social and even legal functions.**²⁷ Similarly, F.C. strengthens

²⁵ See, among others: C. PASQUINELLI (ed.), *Antropologia delle mutilazioni genitali femminili. Una ricerca in Italia*, (Roma: Aidos, 2000); Ead., "La purezza è una ferita aperta", *Il Manifesto*, giovedì 6 luglio 2000; M. FUSASCHI, *I segni sul corpo. Per un'antropologia delle modificazioni dei genitali femminili* (Torino: Bollati Boringhieri, 2003).

²⁶ See R.A. Shweder, "What about 'female genital mutilation'? And why understanding culture matters in the first place", *cit. supra* note 4, **par.40**: "Surveying the world, one finds very few cultures, if any, in which genital surgeries are performed on girls and **not** on **boys**, although there are **many** cultures in which they are performed only on boys or on both **sexes**"; see also FGM vs. MGM in www.circumstitions.com/FGMvsMGM.html: "FGM is practiced only where MGM is practiced, with one exception (an African tribe that has **recently abandoned MGM**)".

²⁷ The **Karis** (i.e. all the boys **circumcised** at the same time) of **Bancoumana** (a little village 60 kilometers south of Bamako, Mali), for instance, not only have very special duty of solidarity among them (so that they have to take care of all the family or economical problems of each of them) but perform as a group the role of **tontigui**, i.e. a role similar of that of the prosecutor in our society. See A. Keita, "Au detour des **pratiques fonciers à Bancoumana: quelques observations sur le droit malien**", unpublished manuscript. For special legal and social duty performed by the age groups see, among others, M. GLUCKMAN, *The Judicial Process among the Barotse of Northern Rhodesia* (Manchester: Manchester University Press, 1954) or J.Kenyatta, *Facing Mount Kenya The Traditional Life of the Gikuyu*. (London: Secker and Warburg, 1938) 2: "The third principle factor in unifying the **Gikuyu** society is the system of age-grading (**riika**). As we have seen, the **mbari** (i.e. the family **group**) and the **moherega** (i.e. the clan) system help to **form** several **groups** of kinsfolk within the tribe, acting independently; but the system of the age-grading unites and solidifies the whole tribe in all its activities. **Almost** every year, thousands of Gikuyu boys and girls go through the initiation or circumcision ceremony, **and** automatically become members of

in various ways the bonds among women of the same or of different generations and becomes an important source of group solidarity, mutual aid, exchange and companionship, that in turn is the primary and most important form of resistance against male dominance²¹. The social bonds among women are intragenerationally strengthened, when same age women share -as a sub-group- the same emotional and educational experience of F.C. This bond is especially strong when girls of the same age experience a period of seclusion **from** the rest of the group, as part of the circumcision ritual ceremony. Bonds are intergenerationally strengthened between mother and daughter, grand-ma and grand-daughter, through their common emotional **participation in the circumcision ritual. A ritual, too often forgotten in the outsider's view, that is strictly controlled and performed by women. What goes on during a circumcision ritual is in fact much more than female circumcision: it is the expression and neutralization of intergenerational conflicts and antagonisms, but also the dissemination of women's culture from one generation to another**²⁹.

Female as well as male circumcision practices in Africa are therefore strictly related to a gender construction enterprise, they **are** imposed by a gender-identity cultural rule, that defines the standard for femininity and masculinity and that in turn is rooted in the legitimization and organizational needs of the group as a socio-legal structure.

However, ex post representations of this function, **i.e.** narratives about F.C. and M.C. that justify them, are various and different from place to place. For female circumcision they go **from** the belief that the clitoris is poisonous, and will kill a man if it comes in contact with his penis during intercourse, like among the **Bambara of Mali**³⁰, or that it is an aggressive organ and that, should the baby's head touch it during delivery, such a baby will die or develop a hydrocephalic

one age-grade (*riika rimwe*), irrespective of mbari, *moherega*, or district to which individuals belong. They **act** as one body in all tribal **matters** and have a very strong bond of brotherhood and sisterhood among themselves. Thus, in every generation the **Gikuyu** tribal **organisation** is **stabilised** by the activities of **the** various age-grades, of old and young people who act harmoniously, in the political, social, religious and economic life of the Gikuyu". For **the many** social and legal roles **performed** by the age-grade groups in the **Gikuyu** society go through **the** all book.

²⁸ On the dramatic importance of women's group solidarity in the struggle for resistance against male **dominance**, see **L.Nader** (1989), "Orientalism, **Occidentalism** and the Control of Women", *Cultural Dynamics*, **II, 3**, 1-33.

²⁹ See Obioma **Nnaemeka**, "If Female Circumcision Did Not Exist, **Western** Feminist Would Invent It", *cit. supra* note 23, 180.

³⁰ **S. Epelboin** and **A. Epelboin** (1979) "Special Report: Female Circumcision", *People*, **6 (1)**, 28.

head, like among some Nigerian people³¹. The **Mandingo**, like many other populations, believe that circumcision enhances **fertility**³²; in **rural** areas of Western Sudan female circumcision is believed to cure a "**worm disease**"³³; the **Tagouana** of the Ivory Coast believe that a non-excised woman cannot conceive. It is **often** argued that female circumcision maintains good health in women³⁴ and it is widely believed by women "**that** these genital alterations improve their bodies and make them more beautiful, more feminine, more civilized, more honorable" and the removal of the clitoris is positively associated with the "attainment of **full female identity**"³⁵. Female genitalia, in its natural state, is seen as ugly (as much of course as male genitalia before circumcision) and the clitoris, revolting. Cleanliness and hygiene feature consistently as justification for F.C., because the clitoris is seen as the source of bad odors and secretions. In many societies, an **important** reason given for F.C. is the belief that it reduces a woman's desire for sex, therefore reducing the chance of sex outside marriage.

Why, among all these various ex post explanations given for F.C., do we, Westerners, in order to describe, explain and attack it, pick just the last one? It obviously seems to us a more plausible explanation compared to the others; it also matches with the reason that made us clitoridectomize our women until as late as the first half of last century, when **erotomania** was supposedly cured by it. Yet, we never seriously addressed the following questions: isn't this nothing but a mere narrative, an ex post explanation, no more and no less realistic than all the others? Does clitoris removal really impair a woman's sexual **fulfillment**? Does it really reduce her sexual desire? Clinical studies on women's enjoyment of sex suggest that: WE DON'T KNOW. To be sure, the importance of the clitoris in experiencing sexual pleasure has been conclusively demonstrated. What we don't know, however, is to what extent the clitoris is necessary to sexual fulfillment and to what extent compensatory processes, of physiological and psychological origin, take place when the clitoris is removed. What we do know is that human sexuality is very complex, that anatomically there are many erotically sensitive parts in the woman's body, and that anatomy is only but one part of the human sexuality, because psychological and sociological aspects also play a very important role. While the correlation between female circumcision and lack of sexual satisfaction

³¹ O.Oduntan and M.Onadeko , "Female Circumcision in Nigeria", in *WHO/ EMRO Technical Publication: Seminar on Traditional Practices Affecting the Health of Women and Children in Africa*, Senegal, 1984, 98.

³² A. Worsley (1938) "Infibulation and Female Circumcision: A Study of a Little-Known Custom", *Journal Obstet. Gyn. of the British Empire*, 45, 690.

³³ A. DAREER, *Woman Why Do You Weep?* (London: Zed Press, 1982).

³⁴ O. KOSO-THOMAS, *The Circumcision of Women: A Strategy for Eradication.* (London: Zed Books Ltd. 1987) 9.

³⁵ R.A. Shweder, "What about 'female genital mutilation'? And why understanding culture matters in the first place", *cit. supra* note 4, par.30.

has been seriously put under attack by numerous studies proving that circumcised women do experience orgasms³⁶, some of them –working on circumcised woman- show that brain phenomena appear to be more important in producing or preventing orgasm, than such mechanical questions as exactly what anatomical structures are stimulated or how they are stimulated³⁷. Other studies reach the conclusion that while the clitoris tends to be reported as the most erotically sensitive organ in uncircumcised females, other sensitive parts of the body, such as the labia **minora**, the **breasts**, and the lips, are found to take over this erotic function in **clitoridectomized females**³⁸. It seems therefore **far from** established that clitoris removal necessarily reduces a woman's desire for **sex**³⁹ or entails a sexual fulfillment limitation, since sexual satisfaction seems always to be the result of physiological, psychological and sociological determinants⁴⁰. Experiencing the feeling of being socially integrated, of being **beautiful** according to the standards of the living community, or of having met the femininity requirements of your own society seems very important, **often** even more important, for sexual **fulfillment** than having the anatomical structure intact.

³⁶ See the literature reported in HANNY LIGHTFOOT-KLEIN, *Prisoners of Ritual. An Odyssey into Female Genital Circumcision in Africa*. (New York, London: Harrington Park Press, 1989) 82 and 91. Do also argue for the **compatibility** of F.C. with the enjoyment of sexual relations: C. Obermeyer, "Female Genital Surgeries: The Known, The Unknown, and the Unknowable", *cit.* supra note 16, and R. B. EDGERTON, *Mau Mau: An African Crucible* (New York: The Free Press, 1989) 40.

³⁷ See H. LIGHTFOOT-KLEIN, *Prisoners of Ritual. An Odyssey into Female Genital Circumcision in Africa*, *cit.* supra note 36, 90 ff. and literature herein reported

³⁸ U. Megafu (1983), "Female Ritual Circumcision in Africa: An Investigation of the Presumed Benefits Among Ibos of Nigeria", *East African Med. Jour.*, 40 (11), 793-800.

³⁹ M. Karim and R. Ammar, *Female Circumcision and Sexual Desire* (Cairo: Ain Shams University Press, 1965) studied circumcised woman in Egypt and found that female circumcision did not **seem** to decrease **sexual** desire. Megafu's study of the Nigerian Ibos, "Female Ritual Circumcision in Africa: An Investigation of the Presumed Benefits Among Ibos of Nigeria", *cit.* supra note 38, also concluded that the sexual urge is not necessarily impaired by removal of the clitoris. On **these finding** see H. LIGHTFOOT-KLEIN, *Prisoners of Ritual. An Odyssey into Female Genital Circumcision in Africa*, *cit.* supra note 36, 41.

⁴⁰ In her study on **infibulated** women **from** Sudan, carried on with full attention to methodological issues, H. Lightfoot Klein found that 90% of the 400 interviewed women claimed to regularly achieve or had at some time in their lives achieved orgasm. The majority of the women interviewed claimed to enjoy their sexual life. According to various Sudanese psychiatrist the author spoke to, "since an orgasm entails both a cerebral response and physiological responses involving muscle contractions, respiratory and vascular events, and so on, the physiological phenomenon is generally present but **damaged** or lessened in circumcised women. In compensation, (...) the cerebral component may be heightened", H. LIGHTFOOT-KLEIN, *Prisoners of Ritual. An Odyssey into Female Genital Circumcision in Africa*, *cit.* supra note 36, at p.90

Nor --apart **from** the most radical practice of infibulation, through which pre-marital virginity actually appears **insured**-- in the majority of the cases, can women's pre-marital purity and marital fidelity really be controlled through circumcision per **se**⁴¹. In an openly patriarchal society where women are expected to be faithful, this seems part of the narrative too.

Yet, focusing on the narrative of F.C. , more than on its deep roots, shifting the focus from its archeology to its possible --purported as necessary-- consequences, **from** causes to simply possible by products, serves a very important purpose: that of **firmly** distinguishing their cutting practices from ours.

6. Savage and Civilized Cutting.

"In these countries" (that practice excision) "men do not deprive themselves of opportunities to satisfy their sexual appetites, and in order to find satisfaction, claim that they require the erotic services of more than one woman. Excision is a destruction of erotic function. Mutilated women can never experience the beauties of this world in all its dimensions or realize all their corporeal abilities. This is **precisely** the goal of these societies: to **transform** these women into enslaved beings"⁴². Statements like this and like those discussed above are not rare in the literature. However, in over-emphasizing the connection between F.C. and the limitation or even the suppression of women's sexuality in the interest of male sexuality, they appear to arbitrarily reduce the meaning of F.C. to a cruel barbarian ritual, carried out against half of the population in the (short-sighted) interests of the other half (that would end up sexually dealing with **frigid** women, which in **turn** means carrying out a biological suicidal policy). They also clearly mark the contrast with M.C. and B.A., producing a feeling of "positional superiority" **that** distinguishes civilized from barbaric cutting practices.

In this narrow light, M.C. appears to be a substantially different practice than F.C.. And it is so, not because it entails lower health risks than many forms of F.C., but because it doesn't amount to a "castration" as F.C., but to the

⁴¹ Megafu, for instance, finds that premarital coitus among the Nigerian Ibos was on the rise in almost equal proportions among circumcised as well as uncircumcised women (U. Megafu, "Female Ritual Circumcision in Africa: An Investigation of the Presumed Benefits Among Ibos of Nigeria", cit. *supra* note 38).

⁴² See G.Zwang, "Functional and erotic consequences of sexual mutilations", in G.C.DENNISTON and M.F.MILOS (eds.), *Sexual Mutilations. A Human Tragedy*, cit. *supra* note 10, 71.

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contrary, it "enhances man's **masculinity**"⁴³, (and the argument is universally and objectively valid for distinguishing any M.C. –**Westerner**, African or anywhere practiced in the world – **from** F.C.). Nor does M.C. **carry** the social message of subordination that is generally associated with F.C. ⁴⁴, but on the contrary, it "affirms manhood **with** its superior social status and associations to virility"⁴⁵. Interestingly enough these arguments never face the medical fact that male circumcision also entails an anatomical reduction of sexual pleasure.

Moreover, framed as women's rights⁷ violations, **i.e.** as practices designed to subjugate women, **African** F.C. also appears ontologically **different from** Western B.A.. To be sure, the difference here does not relate to the sexual fulfillment reduction in anatomical **terms**: no one would in fact question that B.A. modifies or often even eliminates **breast** and breast nipples' sensitivity in women, breasts being an intrinsic part of her sexual organs- indeed a very important one for many **women**.⁴⁶ Nor does the difference between many forms of F.C. and B.A. relate to health concerns. In comparable medical settings, B.A. -which is indeed a quite invasive form of surgery- would probably appear even more dangerous to women's health than most F.C. practices.⁴⁷

⁴³ S.Fainzang (1985), "Circoncision, excision et rapports de dominations, *Anthropologie et Société*, IX (1), 124.

⁴⁴ See A. RAHMAN and N.TOUBIA, *Female Genital Mutilation. A Guide to Laws and Policies Worldwide*, cit. supra note 12, 21.

⁴⁵ Ibidem, 5.

⁴⁶ Masters and Johnson's 1966 report observes orgasmic response subsequent to breast manipulation only. "Physiologically, all female orgasms follow the **same** reflex response patterns, no matter **what** the source of sexual stimulation. An orgasm that comes **from** rubbing the clitoris cannot be distinguished physiologically from one that comes **from** intercourse or breast stimulation alone" they observe in the fourth edition of their Human Sexuality textbook, implying a strong functional analogy **from** the anatomical point of clitoris and breasts, see: W. MASTERS, V. JOHNSON, R. KOLODNY, *Human Sexuality* (New York: HarperCollins 1992), 81.

⁴⁷ Silicon implants have been associated with autoimmune **disorders** and for this reason banned **from** the market by FDA in 1992. However, signing a consent saying that she will participate in a research project, a woman can get today a silicon implant that will give her breast a softer and more **natural** look! Complications for B.A. range **from** those connected with the operation itself (hemorrhaging, infections, hematoma, and so forth) to long-term **complications**, like the hampering of a cancer detection through mammogram (according to J. Reichman, **M.D.** "depending on the way the mammogram is performed, there is a **25** percent to 35 percent decrease in the visible areas of breast tissue. The view may be further limited by **scarring around** the implant **and** hardening of the **implant**"—see her discussion on B.A. at the Today Show, reported in <http://implants.clic.net/tony/Corner/G/1359.html>), increasing the risk of getting infections, formation of hypertrophic or keloid scars in the incision, and capsular **contracture**, that is the hardening of the breast due to the body defense mechanism against the implant of a foreign object. The incidence of capsular **contracture**, is very high: about 60% of the women with implants have this problem, that in its most **extreme** form (grade IV) entails severe hardness, tenderness and **painfulness** of the breast. **Implant's** deflation and disruption, moreover, is a certainty, the question

The difference here holds in the illusion of "free choice" that we get from comparing by contrast "our" practice with "theirs". The image of African women as subjugated by men and as oppressed in their sexuality, contrasts so much with the idealized emancipation of Western woman that we immediately perceive our practices as profoundly different from theirs. "Our" consent to our cutting practices is a good one (even if given by a **minor** dreaming about having big breasts like her favorite actress, or having been told that she has "**micromastia**", i.e. the serious illness of having small breasts⁴⁸), because it is not forced upon us, yet it is given because B.A. would "improve the individual's self-image⁴⁹ or increase "women' **self-esteem**"⁵⁰. "**Their**" consent to their cutting practices, on the contrary, cannot possibly be **meaningful**, because "refusing to undergo FC/FGM may jeopardize a woman's family relations, her social life or her ability to find a spouse"⁵¹.

7. The Advantages of Integrative Comparisons

By putting F.C. seriously in context, we would have reached different comparative conclusions. By avoiding the **confusion** between F.C. narratives and F.C. **function** in its political and social context, we could have been able to recognize that all African cutting practices, F.C. as well as M.C., find their purpose in a gender identity rule, deeply rooted in the survival needs of the group as a socio-legal entity⁵². It is this identity rule that sets up femininity and

is when it will happen: so far we know that three percent of the women that **underwent** the **procedure** had implant leakage within 3 years and that averagely "there is a good chance that a woman has to **change** her implant **once** or twice **or** even more depending on how old she is". This means more **risks** linked to the new necessary surgery (**also because** at that point the **pectoralis** muscle is "very atrophic and virtually destroyed, as **M. D.M.** Persoff of the Department of Plastic Surgery at the University of Miami says, commenting in his **second** article the most common B.A. procedure: **the sub-muscular one—see** [/course-no-test.cfm](#)) and mental health problems connected with breast's deflation.

⁴⁸ **Micromastia** is a recurring term in cosmetic surgery literature.

⁴⁹ See Doctor **M. Persoff's** statement in a **four** articles' **course** on B.A. for nurses and medical **professionals** [/course-no-test.cfm](#)

⁵⁰ See Doctor **Reichman's** interview, **cit. supra note 47**.

On the "free choice" issue concerning B.A. surgery in U.S., see the **very** instructive field work conducted by **L. Coco**, "Silicone Breast Implants in America: A Choice of the 'Official Breast'?", *Kroeber Anthropological Society Papers, N. 77, Special Edition: Controlling Processes* (ed. **Laura Nader**), 1994, 103-132.

⁵¹ See **A. RAHMAN** and **N. TOUBIA**, *Female Genital Mutilation. A Aide to Laws and Policies Worldwide*, **cit. supra note 12, 25**.

⁵² This was pretty clear, yet, to the late **Jomo Kenyatta**, former President of Kenya, with a Ph.D. in anthropology under **Malinowski**. Arguing in favor of female circumcision among the **Gikuyu**, in

masculinity standards and that imposes itself on every member of the community and controls them all, males and females alike. Narratives about gender identity rules change according to the cultural context in which the rule is going to be applied. The more the context is openly patriarchal the more the rule is narrated in male chauvinist terms. Patriarchy however is not responsible for the existence of female cutting practices, only for making use of them: **African** systems would be patriarchal even if F.C. were not practiced and, however paradoxical, F.C. would still be practiced in many, perhaps all of its forms (yet with different associated narratives) even if the **African** systems were matriarchal. To stress the inseparability between patriarchy and F.C. therefore, prevents us **from** seeing that F.C. implies more than patriarchy and that its profound reasons, rooted in *gender identity*, are not different from those of our own practices.

To be sure, at the origins of all modifying procedures of our sexual organs, we can detect a gender identity culture rule that sets up standards for femininity or masculinity. No matter if they find their roots in the organizational and **legitimization's** needs of the group (as in Africa) or in the economic needs of the market (as in Europe and America)⁵³ or in the social needs of a modernizing society (as was the case for M.C. in early nineteenth century America⁵⁴), in the empowerment needs of the medical profession, or in the identification needs of a religious group, everywhere gender identity cultural rules control people's desires and attitudes towards cutting practices. The reasons why African people go through F.C. or M.C. are not very different **from** those that push Western women to have their breasts augmented, or make Western men have their penis circumcised. In all these cases, it is the urgency to meet masculinity or femininity requirements, determined outside the individual by **the** gender identity rule that

his book *Facing Mount Kenya* he expressed the concern that female circumcision's "abolition...will destroy the tribal" system. See J.Kenyatta, *Facing Mount Kenya. The Traditional Life of the Gikuyu*, cit. supra note 27, 135.

⁵³ See L. Nader, "Num Espelho De Mulher: Cegueira Normativa E Questões De Direitos Humanos Não Resolvidas", cit. supra note 2, 20; see also F. Hodges, "A Short History of the Institutionalization of Involuntary Sexual Mutilation in the United States" in G.C.DENNISTON and M.F.MILOS (eds.), *Sexual Mutilations. A Human Tragedy*, cit. supra note 10, chap.6. titled: "Corporate institutionalization of circumcision in the cold war era": "the lucrative circumcision industry (...) in 1986, was estimated to generate more than \$200 million annually" p.33; and chap. 6.8: "Since the 1980's, private hospitals have been involved in the business of supplying discarded foreskins to private bio-research laboratories and pharmaceutical companies who require human flesh as raw research material. They also supply foreskins to transnational corporations such as Advanced Tissue Sciences of San Diego, California, Organogenesis, and BioSurface, who have recently emerged to reap new corporate profits from the sale of marketable products made from harvested human foreskins. In 1996 alone, Advanced Tissue Sciences could boast of a healthy \$663.9 million market capitalization performance." at p. 35.

⁵⁴ F. Hodges, "A Short History of the Institutionalization of Involuntary Sexual Mutilation in the United States", cit. supra note 53, 17.

accounts for his or her (or **his/her** parents') "choice". From this perspective, **African** women's consent to their cutting practices is motivated by the same desire to enhance their self-confidence, personal well-being and social worth that motivates Western women to have their breasts augmented. It is the feeling of belonging that any-one any-where derives from having met the beauty and femininity (or masculinity) standards of their own society. In both cases, the price for refusing the cutting practice can be high in terms of social exclusion, either self-inflicted or produced by others. **And**, of course the greater, the social pressure is for undertaking the procedure (as when a medical concept like **micromastia** is invented in order to convince women to undertake the practice) the higher will be the price of social exclusion in case of **refusal**⁵⁵.

An observation of **African** cutting practices profiting **from** the concept of cultural immersion and requiring "us" to look in the mirror from the start, would allow us to **find** points of convergence and commonalities more than differences between "them" and "us". The opportunity to look at ourselves through "their" eyes, would have permitted "us" to gain a critical understanding about "our" practices as well. It would have therefore allowed us to seriously question such concepts as "Tree choice" when we deal with culture-imposed rules, and also forced us to challenge narratives about our own practices that exclude any control of men over women. "**Very** few women do it to please a male figure in their lives. When we say that, we are under-valuing a woman's concerns" contends one of the most popular American gynecologists⁵⁶. To **Africans**, on the contrary, B.A.

⁵⁵ **More** than ten years ago, Masters, Johnson and Kolodny, already described the **Euro-American social** pressure for breasts augmentation and its world-wide spreading in the following terms: "In American society, the female breasts have a special erotic allure and symbolize sexuality, femininity, and attractiveness. Prominent attention is devoted to the breasts in clothing styles, men's **magazines**, advertising, television, and cinema. This attitude is not **universal** by any means, and in some cultures little or no erotic importance is attached to the breasts. For example in Japan women traditionally bound their breasts to make them inconspicuous. Today, however, the westernization process has brought about changes in Japan and the breasts have become rather fully **erotized**. As the big-breasted female has become an almost universal sex **symbol—the** image **used** to promote everything from car sales to X-rated films—men and women have **been** bombarded **daily** with the not very subtle suggestion that a woman with large breasts has a definite sexual advantage. This has led to a number of **harmful** misconceptions. For example, **men** and women alike have come to believe that the larger a woman's breasts are, the more sexually excitable **she** is or can become. Another **fallacy**, still **firmly** subscribed to by many **men**, holds that the relatively flat-chested woman is less able to respond sexually **and actually** has little, if any **interest** in sex." W. MASTERS, V. JOHNSON, R. KOLODNY, *Human Sexuality*, **cit.** supra note 46, 55. Since 1992, the year in which their textbook was published, there has been a 300 percent increase in the number of breast augmentation each year (see Dr. Reichman's interview, **cit.** supra note 47). Approximately 1,500 minors **received** implants last year in America.

⁵⁶ See **Doctor** Reichman's interview, **cit.** supra note 47. **Doctor** Judith **Reichman** is medical **correspondent** of the Today Show and **author** of many best sellers on women's health issues. "Be **very** of the **patient** who wants the surgery to please her partner" says however a **cosmetic surgeon**,

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would probably appear as "a form of **patriarchal** colonization of the female mind and **body**, an unnatural phenomenon"⁵⁷, just as their **practices** appear to us. To be sure, **every** gender identity rule, although rooted in more fundamental social needs, when plunged into a patriarchal system, (even if less openly so, as the Western one) gets exploited for oppression!

Moreover, a "cultural immersed observation of African **F.C.** practices would have led us to differentiate among their large variety, thus preventing us from **essentializing** them into the most radical of its forms, thus constructing once again the "savage".

An "integrative comparison" (as R. Schlesinger, one of the fathers of the legal comparison, would call it)⁵⁸, as opposed to a comparison by contrast, finally can lead us to **observe** strong similarities among the ~~three~~ practices addressed in this paper. In this light M.C., B.A. and many forms of F.C. do not seem very different from each other. They do not seem different from the point of view of the health concerns they pose. All of them carry similar health risks when they are performed in similar settings.

Also, they do not seem very different from the point of view of the sexual fulfillment limitation they produce. All of **them** involve some reduction of sexual pleasure from an anatomical perspective, even M.C. that, contrary to common belief, entails a loss of the sensory input from the specialized erogenous tissue of the prepuce and a thickness of the surface of the gland that consequently loses sensitivity⁵⁹. How much one procedure as opposed to the other is comparatively more limiting is very **difficult** to assess. Human sexuality to a great extent has yet to be explored. All what we can safely state is that anatomy is only one part of human sexuality, because psychological and sociological **aspects** play a very important role too. Sexual pleasure, moreover, is a very subjective issue and generalization on this matter seems quite **improper**⁶⁰.

M.D. M. Persoff, author of a 4 articles course for medceu on breast augmentation, in his second article, addressing himself to other cosmetic surgeons (-no-test.cfm)

⁵⁷ L. Nader, "Num Espelho De Mulher: Cegueira Normativa E Questões De Direitos Humanos Não Resolvidas", cit. supra note 2, 20.

⁵⁸ R. Schlesinger, "Past and Future of Comparative Law", Lectio Magistralis, Laurea ad Honorem, Trento, march 8, 1995.

An integrative approach as opposed to an approach by contrast ~~seems~~, also, to emerge from Minow's theory of difference: see, M. MINOW, *Making AN the Difference. Inclusion, Exclusion, and American Law* (Ithaca, N.Y.: Cornell University Press, 1990) part. 94 ff..

⁵⁹ See on this subject: M.M. Lander, "The Human Prepuce", in G.C. DENNISTON and M.F. MILOS (eds.), *Sexual Mutilations. A Human Tragedy*, cit. supra note 10, 77ff, part. 89ff.

⁶⁰ Masters and Johnson (W. MASTERS, V. JOHNSON, R. KOLODNY, *Human Sexuality*, cit. supra note 46) never get tired of repeating these concepts through their all textbook. "Bear in

Finally M.C., B.A., and F.C. do not seem very different **from** each other with regard to the concept of "free choice". In all social settings, gender identity rules do not leave much room for "choice", whatever the dominant narrative says of the West.

8. Conclusions. The call for a Single Standard.

"Comparison requires comparative consciousness which steers away from comparisons that are only of a dichotomous nature, comparisons that draw on the differences between **us** and them as evidenced in the Eastern as well as Western discourses. We must also compare to find points of convergence and commonality. Dichotomies tend to stress the unique features of each in which the West not only appears to possess the highest standards of technological apparatus but it also is made to seem as morally and spiritually superior", **warns** Laura Nader⁶¹.

We should keep in mind her lesson. A perspective of the other that dehumanizes it, exaggerating single aspects of its culture to make it appear in the worst possible light, in short an *orientalist* perspective, while preventing us from gaining a critical perspective on ourselves, breeds resistance in **African** people and idealization of the inside culture in both parts. Both *orientalism* and its by-product, *i.e. occidentalism*, in this sense **operate** as controlling processes over

mind ...that the physiological **processes** of sexual response are not simply mechanical movements detached from thoughts or feelings **but** are part of the sexual involvement and identity of the whole person" and also **"The** degree to which one (sexual) experience is **'better'** than the other depend on your perspective **and on** your personal satisfaction" **they** say at p. 71 or "Orgasms vary not only for one person at different times but also for each individual. Sometimes orgasm **is** an explosive, ecstatic avalanche of sensations, while at other times it is milder, less intense, and less dramatic. **While** 'an orgasm is an orgasm is an orgasm,' one orgasm may differ **from** another just **as** a glass of ice water **testes** better and it is more **satisfying** if you are hot and thirsty than if you are cool and not thirsty **at** all. Different intensity of orgasms arise **from** physical **factors** such **as** fatigue and the time since **the** last orgasm as well as from a wide range of **psychosocial** factors, including mood, relation to **partner**, activity, expectations, and feeling about the experience. **For all these reasons, trying to define or describe orgasm is a difficult task because each individual's subjective experience includes a psychological as well as a physiological dimension** (emphasis added). Measuring intense muscular contractions during one orgasm does not mean that it is necessarily perceived as 'better than' another orgasm with less intense bodily changes. A milder physiological orgasm may be **experienced** as bigger, **better**, or more satisfying than a physiologically more intense one" they write at p.79, or yet "(...) not (...) **all** female orgasms feel **the** same, have **the** same intensity, or are identical satisfying. **As** discussed earlier, feeling and intensity are matters of perceptions, and satisfaction is influenced by many factors respectively" at p. 81.

⁶¹ L.Nader, "Orientalism, Occidentalism and the Control of Women", *cit. supra* note 28, 12.

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people since the image of the other serves the purpose of sheltering domestic culture **from** internal critique.

African women are subjugated, American and European are emancipated; F.C. serves the purpose of sexually enslaving African women, B.A. gives Westerners the opportunity to please themselves by becoming more feminine; F.C. eliminates sexual desire, B.A. **enhances** self-confidence and self-esteem... Formalistic human rights discourses tend to impart that lesson, a lesson much resisted by comparativists and anthropologists whose domain is context. Until that lesson has been imparted there is little hope for cross-cultural understanding, for a **non-hegemonic** approach to the other, and ultimately for the effectiveness of any policy aiming at the liberation from gender-identity culture and politics, imposed rules that make people "mutilate" their sexual organs.

How we, the Westerners, perceive others' **treatment** of their women-folk has always been a tool in ranking the level of civilization and development of foreign countries in order to decide **whether** or not to admit them into the family of civilized nations. A low ranking **operated** in the past as a justification for colonization, looting, and plunder. Is history repeating itself?