

# **FEMALE CIRCUMCISION: RELIGIOUS PRACTICE V. HUMAN RIGHTS VIOLATION**

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## **I. INTRODUCTION**

[1] The international community must establish a balance between upholding religious beliefs and promoting human rights. Female circumcision is practiced worldwide. To some, it is a religious ritual and to others, a human tragedy. This dichotomy of opinion concerning the practice creates conflict in the international community between those who adhere to the tradition of female circumcision and those who promote human rights by attempting to prohibit the practice. By allowing this conflict to continue, neither opponent wins: restrictions on religious freedoms and violations of human rights occur simultaneously. The international community must compromise. Those opposed to female circumcision must recognize that the practice is a type of religious and cultural belief. Meanwhile, practitioners of female circumcision must become more informed about the procedure's potential health risks and possible alternatives to the extreme forms of the practice.

[2] I learned of female circumcision before and after I traveled to Africa, but never while I was there.<sup>2</sup> How do you, as a visitor, approach your guest with a matter so personal? Myself,

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<sup>2</sup> Throughout the summer of 1998 and as an undergraduate student at the Pennsylvania State University, I conducted summer research in East Africa. It has been over three years since my return from Africa. However, as most of its visitors would explain, you leave Africa, it never

well, I passed at any opportunity. Had the women I came in contact with, Fatma, the young girl who befriended me in Lamu, or Mama Dida, the wife of our professor, experienced female circumcision? Most likely. What were their opinions about the practice? I would not know.

[3] In contrast, the rest of the world's opinion about female circumcision is readily available. To the international community, the religious practice of female circumcision is a form of torture, subjecting girls, ages two to fourteen, to a painful, unsanitary procedure that may cause infection or prevent childrearing.<sup>3</sup> Feminists criticize the practice as degrading to women, depriving them of self and sexuality.<sup>4</sup> Authors, such as Alice Walker, write novels about female circumcision, convincing readers that the effects the practice has on fictional characters imitates reality.<sup>5</sup> This religious and cultural bias has encouraged the international community to restrict

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leaves you. I am reminded daily of my trip: whether it is the treasures which adorn my room or a smell, an indescribable smell, that transports me, barefoot, to a street in Mombasa or a beach in Lamu. I was a student, a white student who had never been out of the United States, conducting summer research in Kenya. Thinking back, the first few days and weeks were almost comical. I was an American citizen, who was used to walking down my American streets with confidence. After all, it was America, a place I was familiar with. However, once I got to Africa, the unpaved, dirt-in-your-face streets did not look the same. At first, I naively thought it was because they were just physically different. While that has something to do with it, the reason my American confidence was gone went much deeper. I was on someone else's streets---streets that had different cultures, different traditions, and different beliefs. These African streets possessed a subtle confidence of their own. I could hear the street's confidence amidst the horns of the mbutu (a form of transportation equivalent to a taxi and prominent in major African cities) in Mombasa and overpowering the bell, calling the men to prayer, in Malinda. This confidence calmly stood beneath me, reminding me that I was not at home---I was on someone else's turf. My American confidence was gone; it meant nothing there.

<sup>3</sup> See HANNY LIGHTFOOT-KLEIN, PRISONERS OF RITUAL: AN ODYSSEY INTO FEMALE GENITAL CIRCUMCISION IN AFRICA 179-81 (1989).

<sup>4</sup> *Id.* See also Leonard Kouba & Judith Muasher, *Female Circumcision: An Overview*, 28 AFR. STUD. REV. 95 (1985); NAHID TOUBIA, FEMALE GENITAL MUTILATION: A CALL FOR GLOBAL ACTION (1993).

<sup>5</sup> The main character in Ms. Walker's novel, *Possessing the Secret of Joy*, Tashi, is an African woman who was circumcised as a young adult. This work of fiction traces the emotional and

all forms of female circumcision under the International Covenant of Civil and Political Rights,<sup>6</sup> the Women's Convention,<sup>7</sup> the Committee on the Elimination of Discrimination Against Women,<sup>8</sup> and the Convention on the Rights of the Child.<sup>9</sup> Several individual nation-states have also banned female circumcision, including the United States, which punishes violators with a five-year prison sentence.<sup>10</sup>

[4] This note will first describe female circumcision: what it is, where it is practiced, the reasons it exists, and the health risks the practice may create. Next, the note will examine the international community's opinion of female circumcision and how the allegations the world has made about the practice has created a bias against female circumcision and the people that adhere to it. The note will then address the international and domestic legislation prohibiting the practice of female circumcision. The language of these documents suggest that the international and domestic communities are confident that prohibiting female circumcision does not substantially interfere with the freedom of practicing one's religion.

[5] The note's primary purpose is to encourage the creation of a balance between promoting human rights and practicing female circumcision. This can be achieved through educational programs for women focusing on the burdens and benefits of circumcision. With this

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physical effects the practice had on Tashi's adult life, ultimately forcing her to return to her native land and murder the woman who performed the circumcision on her. ALICE WALKER, POSSESSING THE SECRET OF JOY (1992).

<sup>6</sup> 999 U.N.T.S. 171 (1979).

<sup>7</sup> G.A. Res. 34/180 (1979).

<sup>8</sup> See General Recommendation No. 19, U.N. Doc. A/47/38 at 1 (1992).

<sup>9</sup> 28 I.L.M. 1448 (1989).

<sup>10</sup> 18 U.S.C. § 116 (2000).

knowledge, women are empowered to make their own decisions concerning female circumcision.

[6] In addition, the clinicalization of female circumcision is possible. Medical doctors can perform mild forms of the procedure in clinical settings, allowing the religious belief to be practiced in a controlled and sanitary atmosphere. Furthermore, the note challenges the opponents of female circumcision to read articles and attend lectures to better understand the practice, specifically its history, its different forms, and the women who practice it. These outlets allow opponents of female circumcision to recognize that prohibiting the practice interferes with fundamental religious beliefs and that if the practice is prohibited to protect human rights, the restrictions should be held to the strictest scrutiny. Ultimately, the international community must walk down someone else's street and learn more about female circumcision before condemning it and recognize that it is judging different cultures, different traditions, and different beliefs from its own.

## II. FEMALE CIRCUMCISION: AN EXPLANATION

[7] Although female circumcision is a traditional worldwide practice,<sup>11</sup> it is particularly prevalent in Africa, where circumcision occurs in approximately twenty-six countries and affects

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<sup>11</sup> Practices of female circumcision have occurred in recent times in Australia, Asia, Latin America, America, and Europe. LIGHTFOOT-KLEIN, *supra* note 3, at 179-80; *see also* RAQIYA HAJI DUALEH ABDALLA, *SISTERS IN AFFLICTION: CIRCUMCISION AND INFIBULATION OF WOMEN IN AFRICA* 13-17, 72-75 (1982).

an estimated 80 to 110 million women.<sup>12</sup> Because the practice influences such a substantial amount of women in Africa, the rest of the world has focused its attention on the continent attempting to solve the “female circumcision problem.” However, in order to develop an informed opinion about the practice, it is critical to understand what female circumcision is, the potential health risks the practice involves, and female circumcision’s roots in African religion and culture.

### **A. What is Female Circumcision?**

[8] Within the African context, there are four main forms of female circumcision. The mildest form consists of a ritualized marking of the female genitalia where the clitoris is pricked to draw a few drops of blood.<sup>13</sup> The next group of surgeries, a form Muslims refer to as *sunna*, involves the cutting of the clitoral hood or outer skin.<sup>14</sup> The third and more radical form of female circumcision is known as excision or clitoridectomy.<sup>15</sup> Under this procedure, the entire clitoris and all or part of the labia minora is removed.<sup>16</sup> The most extreme form of female genital

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<sup>12</sup> The exact number of women affected is unknown. Press Release, World Health Organization, Female Genital Mutilation: World Health Assembly Calls for the Elimination of Harmful Traditional Practices (May 12, 1993) (on file with the Rutgers Journal of Law and Religion).

<sup>13</sup> This mildest form of female circumcision is has a strictly symbolic connotation.

<sup>14</sup> Minority Rights Group, Report No. 47, Female Circumcision, Excision, and Infibulation: The Facts and Proposals For Change, at 3 (1980). Translated in English, “*Sunna*” means tradition. *Id.* *Sunna* is most comparable to male circumcision and many suggest that it serves the purpose of hygiene and cleanliness. For a discussion of the comparison between male and female circumcision, see Alison T. Slack, *Female Circumcision: A Critical Appraisal*, 10 HUM. RTS. Q. 437, 441 (1988).

<sup>15</sup> Minority Rights Group, *supra* note 14.

<sup>16</sup> *Id.*

surgeries is infibulation,<sup>17</sup> which cuts the clitoris, labia minora and often the entire medial part of the labia majora.<sup>18</sup>

[9] In rural African areas, female circumcision is traditionally performed by an old woman of the village.<sup>19</sup> In more urban African cities, the procedure may be conducted in a hospital.<sup>20</sup> The age at which female circumcision occurs varies from just after the birth of the child, to seven years of age, to adolescence.<sup>21</sup>

## **B. The Debate Over the Name**

[10] Critics of the practice argue that the term “female circumcision” inappropriately mislabels the more extreme forms of female genital surgery, specifically, clitoridectomy and infibulation.<sup>22</sup> Many of these critics utilize the phrase “female genital mutilation” to describe all

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<sup>17</sup> *Id.* Infibulation is the form of genital surgeries that presents the most significant health risks and hazards. *Id.* See *infra* notes 27-32 and accompanying text for a discussion concerning the health risks associated with infibulation.

<sup>18</sup> After this form of circumcision is performed, the two sides of the vulva are stitched together, leaving a small opening for the passage of urine or menstrual blood. The woman’s legs are then bound together from hip to ankle and she can be kept immobile for up to forty days, allowing scar tissue to form. *Id.*

<sup>19</sup> Minority Rights Group, *supra* note 14. Female circumcision is usually not performed by the mother of the girl and men are rarely, if at all, present during the procedure. *Id.*

<sup>20</sup> *Id.* See *infra* notes 99-103 and accompanying text for a discussion concerning the practice of female circumcision in a hospital setting.

<sup>21</sup> Minority Rights Group, *supra* note 14. The age at which female circumcision is performed depends most on the geographical location of the child in Africa. *Id.* For example, a child born in Ethiopia would most likely be circumcised at birth. However, a child born in Egypt may not be circumcised until the age of seven. *Id.*

<sup>22</sup> See Eugenie Anne Gifford, *The Courage to Blaspheme: Confronting Barriers to Resisting Female Genital Mutilation*, 4 UCLA WOMEN’S L.J. 329 (1994); see also Hope Lewis, *Between*

forms of female genital surgeries, insisting that any irreversible removal of a healthy organ or tissue is inherently mutilative.<sup>23</sup> Two problems arise when instituting the phrase “female genital mutilation”. First, the phrase inaccurately describes all forms of female genital surgeries as mutilative. The symbolic pricking of the clitoris and the *sunna*, both mild forms of the practice, are better described as circumcisions.<sup>24</sup> In addition, identifying an African religious and cultural practice as mutilative is offensive.<sup>25</sup> Indigenous African groups, themselves, prefer to employ the term “female circumcision” when referring to female genital surgeries.<sup>26</sup> To more accurately describe the procedure and to respect those people who practice it, the term “female circumcision” will be used throughout this note to describe female genital surgeries.

### **C. Potential Health Risks**

[11] The practice of female circumcision carries with it potential health risks and consequences.<sup>27</sup> The actual number of deaths resulting from female circumcision is

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*Irua and “Female Genital Mutilation”: Feminist Human Rights Discourse and the Cultural Divide*, 8 HARV. HUM. RTS. J. 1 (1995).

<sup>23</sup> Gifford, *supra* note 22.

<sup>24</sup> Circumcision literally means cutting around.

<sup>25</sup> See Kay Boulware-Miller, *Female Circumcision: Challenges to the Practice as a Human Rights Violation*, 8 HARV. WOMEN’S L.J. 155, 164 (1985) (characterizing the United Nations’ use of the term “mutilation” as reflecting intolerance).

<sup>26</sup> These groups include the Premier Group des Femmes D’Afrique.

<sup>27</sup> Note that these health risks vary according to the type of female circumcision performed. The mild forms of the practice, including the symbolic pricking of the clitoris and the *sunna* create few if any health consequences to women in Africa. The extreme forms of female circumcision, specifically clitoridectomy and infibulation, can cause serious physical harm to the women the procedure is performed on. In addition, the limited resources of the smaller rural African communities heightens a woman’s chances of injury. These communities lack the proper

unavailable.<sup>28</sup> Immediate health consequences may include shock, gangrene, and accidental damage to the urethra.<sup>29</sup> More long-term effects involved with female circumcision include scarring, urinary tract infection, and infertility.<sup>30</sup> Complications with childbirth are almost unavoidable for infibulated women.<sup>31</sup> To give birth, the scar, caused by infibulation, must be reopened, resulting in increased blood loss and extreme pain.<sup>32</sup>

#### **D. The Meaning of Female Circumcision:**

[12] Africa encompasses innumerable social groups, each possessing different foundations for their religion, culture, and tradition. Because of this, the reasons for practicing female

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medical equipment to perform the circumcision. Surgeries have been performed without anesthesia and with unsterile instruments, increasing the pain of the surgery and the chance of infection. Furthermore, rural African communities are not equipped with the transportation necessary to reach a hospital in the case of an emergency. Not only is it unlikely that a community such as this has a car or telephone to contact the hospital, but the road system may also be unreliable or inexistent.

<sup>28</sup> Some argue that the unrecorded deaths are a result of communities concealing the deaths resulting from circumcisions from strangers and health authorities. Minority Rights Group, *supra* note 14, at 5. A country's unstructured health care system also results in inaccurate or unreported deaths. *Id.*

<sup>29</sup> See MAHID AL DIRIE, FEMALE CIRCUMCISION IN SOMALIA: MEDICAL AND SOCIAL IMPLICATIONS (1985).

<sup>30</sup> *Id.*

<sup>31</sup> Minority Rights Group, *supra* note 14, at 5. When any form of the surgery is performed on a girl at infancy, there is little, if any, interference with childbirth. However, infibulation causes severe complications with childbirth when the surgery is performed on young women and adults.

<sup>32</sup> *Id.* Other complications involved with childbirth include perineal lacerations, anterior episiotomies, and prolonged labor, causing fetal distress. *Id.* Due to the lack of recorded documentation, information regarding the number of infections and fatalities during childbirth for both the infibulated women and the newborn child is unavailable.



circumcision vary among Africa's geographical locations and social orders.<sup>33</sup> Despite these differences, a commonality exists among these African groups and their reasons for practicing female circumcision: Islamic and other African religions are one of the primary foundations of female circumcision in Africa.<sup>34</sup>

[13] The sources of the Islamic faith are found in the Qur'an, the Hadith, the consensus of the entire Islamic community, and the ijihad.<sup>35</sup> There is no reference to female circumcision in the Qur'an.<sup>36</sup> However, the Prophet Mohammed's Hadith contains several references to the practice.<sup>37</sup> Furthermore, a number of non-recorded, religious fables describe the early foundations of female circumcision in Africa.<sup>38</sup>

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<sup>33</sup> For example, the Mandingo, Massai, and Swahili, inhabitants of East Africa, believe that female circumcision makes the body fertile and prepares it for an assigned place within the social order. World Health Organization, Seminar On Traditional Practices Affecting the Health of Women and Children, 158 (Taha Baasher et al. eds., 1982). The Bantu and Sudanese of northern Africa practice female circumcision for purification purposes. *Id.* In other areas, female circumcision is a status-confirming badge, and as some women describe it, similar to a tattoo or ear piercing. *Id.* Academic resources also provide an explanation for the practice of female circumcision, including proper feminine hygiene, maintenance of virginity and prevention of rape, and the need for differentiation between the sexual identities of the genders. Gifford, *supra* note 22, at 341. In several African regions, it is not unusual for members of the community to view the uncircumcised as outcasts. *See* Seminar on Traditional Practices, *supra* at 162, 165.

<sup>34</sup> Islam is generally practiced in the sub-Saharan, the eastern coast, and the northern regions of the continent. Paul Jason Ford, *Female Circumcision* (1999), at [www.vanderbilt.edu/ans/philosophy/students/FordPJ/intro.htm](http://www.vanderbilt.edu/ans/philosophy/students/FordPJ/intro.htm) (on file with the Rutgers Journal of Law and Religion).

<sup>35</sup> The Qur'an is the Muslim scripture, the Hadith is the teaching of the Prophet Muhammad, and the ijihad is the Islamic scholars' interpretations of Islamic law. Immad-ad-Dean Ahmad, *Religion and Female Genital Mutilation, A Summary of Remarks to the Ethiopian Community Development Commission*, at [www.minaret.org/fgm.htm](http://www.minaret.org/fgm.htm) (on file with the Rutgers Journal of Law and Religion).

<sup>36</sup> *Id.*

<sup>37</sup> Um Habibah, a woman who performed female circumcisions on slaves said to Mohammad that she would continue the procedure "unless it is forbidden or you [Mohammed] order me to

[14] In addition to the Islamic religion, other African religious groups practice female circumcision.<sup>39</sup> Some Christian groups promote traditional customs and support female circumcision as a link to Africa's past.<sup>40</sup>

[15] Several religious scholars argue that female circumcision is practiced under the mistaken belief that it is dictated by African religion.<sup>41</sup> These religious leaders consider Mohammed's teachings and fables concerning female circumcision as lacking sufficient credibility.<sup>42</sup> In addition, some of these scholars interpret passages in the Qur'an to oppose female circumcision.<sup>43</sup>

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stop doing it." Mohammed replied, "Yes, it is allowed. Come closer so I can teach you: if you cut, do not overdo it, because it brings more radiance to the face . . ." In addition, Mohammed is recorded as speaking of female circumcision to women, saying: "Cut slightly without exaggeration ." *Female Genital Mutilation, In Africa, the Middle East, and Far East, at [www.religioustolerance.org/fem\\_cirm.htm](http://www.religioustolerance.org/fem_cirm.htm)* (on file with the Rutgers Journal of Law and Religion).

<sup>38</sup> Many African traditions and histories are orally passed from generation to generation. Ford, *supra* note 34.

<sup>39</sup> Abbie J. Chessler, *Justifying the Unjustifiable: Rite v. Wrong*, 45 BUFF. L. REV. 555 (1997), available at [www.cirp.org/library/legal/chessler](http://www.cirp.org/library/legal/chessler). One story, explaining the origin of female circumcision in Christianity, involves Abraham, Sarah, and Hagar. According to the story, Sarah forces Abraham to circumcise Egyptian born Hagar. God commands Abraham and Sarah to circumcise themselves because of their actions. Christians that adhere to female circumcision interpret this story as God's acceptance of the practice. Ford, *supra* note 34.

<sup>40</sup> The Bible, like the Qur'an does not specifically mention female circumcision. Chessler, *supra* note 39.

<sup>41</sup> *Female Genital Mutilation, supra* note 37. A well-known Islamic scholar, Sayyid Sabiq, considers all hadiths concerning female circumcision as non-authentic. *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Some scholars reason that Allah created the clitoris for the sole purpose of generating pleasure since there is no instruction in the Qur'an or in the writings of the Prophet Mohammad that *require* that the clitoris be surgically modified. *Id.* Furthermore, these scholars maintain that the Qur'an promotes the concept of a wife being given pleasure by her husband during sexual

[16] Some African communities also maintain that female circumcision is not a religious requirement of Islam.<sup>44</sup> More specifically, a December 1997 high court ruling in Egypt held that there is no substantive evidence that female circumcision is mandated in the Islamic religion.<sup>45</sup> Rejecting the argument that the practice is promoted by Islam, the court reasoned, “Circumcision is not an individual right under Sharia [Islamic law] . . . There is nothing in the Qur’an that authorized it.”<sup>46</sup>

[17] Contrary to the conclusions of religious scholars and the rulings of religious courts, the tradition of female circumcision continues today in Africa. Women seem to accept female circumcision’s religious origins without question.<sup>47</sup> Thus, regardless of the debate concerning whether African religion truly dictates the practice of female circumcision, a majority of the people in Africa believe it does. The fact that African people are willing to risk their health and, in some instances, their life by practicing female circumcision in furtherance of their religion can not be overlooked.

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intercourse and that female circumcision may reduce or eliminate a woman’s pleasure during intercourse. *Id.*

<sup>44</sup> The African communities that have ruled that female circumcision is not a religious requirement are few in number.

<sup>45</sup> Ford, *supra* note 34.

<sup>46</sup> *Id.* Egypt is viewed as one of the foremost experts on Islamic law and the country’s interpretations of the Qur’an are highly respected in the Islamic community. *Id.* The ruling cannot be appealed. *Id.* International organizations praised the ruling. Specifically, UNICEF Executive Director Carol Bellamy, reacting to the Egyptian court decision, stated: “The recognition that female genital mutilation cannot be justified under Islamic law is an enormously important element in making the case for the abolition of this cruel, ritualized form of violence against women and girls . . . the clarity and authoritativeness of this decision is a dramatic affirmation of the rights of women and girls that will reverberate far beyond Egypt.” *Id.*

<sup>47</sup> Gifford, *supra* note 22, at 343.

### **III. FEMALE CIRCUMCISION AND THE REST OF THE WORLD: THE CREATION OF BIAS**

[18] Despite the religious and cultural evidence describing the origins of female circumcision and ignoring the African people's religious justifications for the practice, the rest of the world has established its own reasoning to explain the practice of female circumcision. The Western world and notably Western feminists argue that female circumcision was instituted and continues to be practiced in Africa to promote patriarchy and to control women's sexuality.<sup>48</sup> These allegations concerning female circumcision have created a bias against the practice and the people that adhere to it.

#### **A. The Patriarchal Explanation**

[19] Patriarchy is defined as "a structure that constrains agency and determines behavior", and is used to explain the universal devaluation of women in society.<sup>49</sup> The concept asserts that the patriarchal social structure survives because, historically, women are restrained by men from advancing in society.<sup>50</sup>

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<sup>48</sup> See generally, Gifford, *supra* note 22; L. Amede Obiora, *Bridges and Barricades: Rethinking Polemics and Intransigence in the Campaign Against Female Circumcision*, 47 CASE W. RES. L. REV. 275 (1997). The Western world refers to Europe and the United States.

<sup>49</sup> Obiora, *supra* note 48, at 301.

<sup>50</sup> *Id.*

[20] In the female circumcision context, the West argues that the practice reinforces the patriarchal social structure in Africa.<sup>51</sup> The West asserts that female circumcision is practiced in Africa to prove a man's masculinity and virility by achieving the difficult act of penetrating a circumcised woman.<sup>52</sup>

### **B. The Sexual Control Theory**

[21] The sexual control theory is also used to explain the practice of female circumcision in Africa.<sup>53</sup> Suggesting that female circumcision is practiced to weaken a woman's sexual desires, the West argues that this type of sexual control renders women vulnerable to male domination.<sup>54</sup> The Western world maintains that in polygamous societies in Africa, a husband, fearful that he will be unable to sexually satisfy all of his wives, promotes circumcision to eliminate his wives' sexual desires and control infidelity.<sup>55</sup> It is additionally argued that female circumcision prevents women from achieving orgasm, ultimately preventing sexual satisfaction.<sup>56</sup>

## **IV. INTERNATIONAL AND DOMESTIC LEGISLATION BANNING THE PRACTICE OF FEMALE CIRCUMCISION**

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<sup>51</sup> *Id.* at 302.

<sup>52</sup> *Id.*

<sup>53</sup> Gifford, *supra* note 22, at 345.

<sup>54</sup> *Id.*

<sup>55</sup> Obiora, *supra* note 48, at 301.

<sup>56</sup> *Id.*

[22] The practice of female circumcision is strictly limited by international and domestic legislation with the purpose of protecting human rights. The international community promotes human rights globally. Domestically, the United States government continually attempts to balance the rights proscribed in the United States Constitution with the culture and beliefs of its citizens. When applying these international and domestic agendas to female circumcision, the limiting of the practice is justified to protect the human rights of the global community. To this end, the prohibition of female circumcision is viewed, both internationally and domestically, as *not* substantially interfering with the freedom of practicing religion.

#### **A. The International Human Rights Perspective:**

[23] Language supporting an international commitment to the protection of human rights can be found as early as 1948,<sup>57</sup> when the United Nations Charter proclaimed the purpose of the United Nations: “[t]o achieve international co-operation . . . in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”<sup>58</sup> Under Articles 55 and 56 of the Charter, all signatory members pledged “to take joint and separate action in cooperation with the Organization for the achievement of the purposes”<sup>59</sup> of the United Nations, including the promotion of “a universal respect for, and

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<sup>57</sup> The International Human Rights Movement began during the Second World War “with the realization of the enormities of Hitler and the shock of the Holocaust.” LOUIS HENKIN ET AL., HUMAN RIGHTS 274 (1999). The human rights outlook of the United Nations was developed and institutionalized within a mere three year period following the war. THE UNITED NATIONS BLUE BOOK SERIES, THE UNITED NATIONS AND HUMAN RIGHTS 1945-1995, 5 (1995).

<sup>58</sup> U.N. CHARTER art. 1, para. 3. The United Nations’ Charter was signed in San Francisco on June 26, 1945. THE UNITED NATIONS BLUE BOOK SERIES, *supra* note 57.

<sup>59</sup> *Id.* at art. 56.

observance of, human rights and fundamental freedoms for all.”<sup>60</sup> To this end, the Charter proscribes several powers and methods aimed at creating enforcement mechanisms throughout the international community to ensure that the human right goals of the Charter are met.<sup>61</sup>

[24] Notably, although the term “human rights” is the focus of the Charter, the term itself is not defined in the document. It was not until December 10, 1948, with the proclamation of the Universal Declaration of Human Rights that the meaning of the term was more appropriately expanded.<sup>62</sup> The Declaration defines human rights as the inherent dignity of every human person that is inalienable and imprescriptible.<sup>63</sup> Furthermore, human rights are defined as universal, acquired at birth by “all members of the human family whatever the political, jurisdictional or international status of the country or territory to which a person belongs.”<sup>64</sup> The Declaration creates certain limitations on the exercise of human rights “solely for the purpose of securing due recognition and respect for the rights of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.”<sup>65</sup>

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<sup>60</sup> *Id.* at art. 55, para. c.

<sup>61</sup> Article 13, concerning the General Assembly, Article 60, concerning the implementation of international cooperation in the economic, social and human rights fields, Article 62, defining the functions of the economic and Social Council and Articles 76 and 87, concerning the trusteeship system were all enacted to enforce the human right provisions of the Charter. THE UNITED NATIONS BLUE BOOK SERIES, *supra* note 57, at 6. In addition, the Charter created and empowered specialized groups to address the international concerns involving human rights. *Id.* at 13. These groups include the Commission on Human Rights, the Commission on the Status of Women, and the Subcommission on Prevention of Discrimination and Protection of Minorities. *Id.* at 13-16.

<sup>62</sup> G.A.Res. 217 A(III), (1948).

<sup>63</sup> THE UNITED NATIONS BLUE BOOKS SERIES, *supra* note 57, at 24.

<sup>64</sup> *Id.* at 25.

<sup>65</sup> *Id.*

[25] The Universal Declaration of Human Rights does not specifically address human rights violations and cultural and religious practices, including the practice of female circumcision. However, the Declaration is utilized by subsequent United Nations' conventions and human rights legislation to support the abrogation and prohibition of female circumcision in the international community.<sup>66</sup>

#### 1. The International Covenant on Civil and Political Rights:

[26] The International Covenant on Civil and Political Rights (hereinafter, ICCPR) was adopted in 1966 and effective in 1976.<sup>67</sup> The ICCPR required all signatory member States to fulfill two objectives: 1) “to promote the realization of the right to self-determination in all their territories,” and 2) “to respect that right in conformity with the provisions of the United Nations Charter.”<sup>68</sup> The civil and political rights the ICCPR protects are often referred to as negative rights because they are freedoms that a state can uphold by simply leaving the individual alone.<sup>69</sup> However, under the ICCPR, the civil and political rights of the international community are not

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<sup>66</sup> See The International Covenant on Civil and Political Rights, 999 U.N.T.S. 171 (1966); The Convention of the Elimination of All Forms of Discrimination Against Women, GA Res. 34/180 (1979) (hereinafter “ICCPR”); The Committee on the Elimination of Discrimination Against Women, General Recommendation No. 19, Violence Against Women, U.N. Doc. A/47/38 at 1 (1992); and The United Nations Convention on the Rights of the Child, 28 I.L.M. 1448 (1989).

<sup>67</sup> THE UNITED NATIONS BLUE BOOK SERIES, *supra* note 57, at 38. Today, more than 120 states are parties to the ICCPR. *Id.*

<sup>68</sup> *Id.* at 39.

<sup>69</sup> Henkin explains that a signatory state is obligated to not only respect the rights of peoples within its territory, but also the rights of those not within its territory but nevertheless subject to the State's jurisdiction, whether because they are nationals of the state or residents temporarily outside of the territory. HENKIN, *supra* note 57, at 323.



absolute. Some of the rights the ICCPR defends require the state to take action by instituting laws that safeguard human rights.<sup>70</sup> Article 18(3) of the ICCPR addresses the political and civil right of the freedom of religion, stating that the freedom to practice religion is subject to the limitations “prescribed by law and necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”<sup>71</sup>

## 2. The Convention on the Elimination of All Forms of Discrimination Against Women:

[27] In 1979, international concern regarding gender-based discrimination resulted in the adoption of the Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter, “Women’s Convention”).<sup>72</sup> Article 1 of the Women’s Convention defines discrimination against women.<sup>73</sup> The primary purpose of the Women’s Convention is to eliminate these discriminations by creating equality between men and women and ensuring the freedom of women’s rights universally.<sup>74</sup> Overall, the Women’s Convention envisions a type of

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<sup>70</sup> *Id.*

<sup>71</sup> This passage of the ICCPR is interpreted to include the practice of female circumcision.

<sup>72</sup> G.A. Res. 34/180 (1979).

<sup>73</sup> Discrimination is defined as:

[A]ny distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Women’s Convention, *supra* note 72, at art. 1.

<sup>74</sup> As of April, 1999, 163 countries had ratified the Convention. However, the Convention has attracted numerous reservations, whereby signatory states modify the terms of the treaty to meet

human rights for women in which “the enjoyment of civil and political rights is indivisible from the realization of economic, social and cultural rights.”<sup>75</sup>

[28] The Women’s Convention requires signatory members to institute affirmative steps to modify cultural patterns that impair the enjoyment of the rights of women. Specifically, Article 5(a) requires member states “to modify the social and cultural patterns of conduct . . . with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”<sup>76</sup>

### 3. The Committee on the Elimination of Discrimination Against Women:

[29] The Committee on the Elimination of Discrimination Against Women (hereinafter “CEDAW”), a committee established by the Women’s Convention to monitor signatory states’ compliance with the Convention’s guidelines, interpreted the Convention to prohibit any type of violence against women and to require signatory states to take affirmative measures to prevent and punish any such violence.<sup>77</sup>

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their own historical, cultural, and religious attitudes. HENKIN, *supra* note 57, at 362-63. In fact, the number of reservations on the Convention has been said to potentially exclude most, if not all, of the terms of the treaty. *Id.* For a list of reservations to the Convention *see Id.* For a further discussion on the effects of the reservations to the Convention *see also* Belinda Clark, *The Vienna Convention Reservations Regime and the Convention on Discrimination Against Women*, 85 AM. J. INT’L L. 281, 317 (1991).

<sup>75</sup> HENKIN, *supra* note 57, at 360.

<sup>76</sup> Women’s Convention, *supra* note 72, at art. 5, para. a. The international community views this article of the Women’s Convention as specifically applying to the practice of female circumcision. This is a specific example of how the patriarchal and sexual control theories, advocated by Western feminists and discussed *supra* has influenced international law.

<sup>77</sup> See U.N. Doc. A/47/38 at 1 (1992); HENKIN, *supra* note 57, at 360.

[30] In 1992, CEDAW adopted General Recommendation No. 19, concerning violence against women.<sup>78</sup> The Committee first expanded upon the Convention’s Article 1 definition of discrimination against women by explaining that discrimination includes gender-based violence.<sup>79</sup> The Committee then listed several fundamental rights and freedoms of women as interpreted from Article 1 of the Women’s Convention.<sup>80</sup> The Committee specifically addressed female circumcision, identifying it as a form of violence against women.<sup>81</sup>

#### 4. The Convention on the Rights of the Child:

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<sup>78</sup> CEDAW, *supra* note 77.

<sup>79</sup> Defined by CEDAW, gender-based violence is violence directed against a woman “because she is a woman or that affects women disproportionately,” including acts that “inflict physical, mental or sexual harm or suffering . . . and other deprivations of liberty.” *Id.* at para. 6.

<sup>80</sup> These include the right not to be subject to torture or cruel, inhuman or degrading treatment or punishment and the right to the highest standard attainable of physical and mental health. *Id.* at para. 7.

<sup>81</sup> The CEDAW states

Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as . . . *female circumcision*. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to *deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms*. While this comment addresses mainly actual or threatened violence the underlying consequences of these forms of gender-based violence *help to maintain women in subordinate roles and contribute to their low level of political participation and to their lower level of education, skills, and work opportunities*.

*Id.* at para. 11. (*emphasis added*).

[31] The Convention on the Rights of the Child<sup>82</sup> (hereinafter CRC) requires nations to abolish traditional practices that may jeopardize the health of children.<sup>83</sup> Three additional CRC articles are interpreted to prohibit the practice of female circumcision on children.<sup>84</sup>

##### 5. The Conflict Between International Law and the Practice of Female Circumcision:

[32] The international community erroneously believes that it can eradicate female circumcision through the implementation of international law that prohibits the practice. The international covenants and conventions discussed above fail to address two key issues concerning female circumcision. First, these documents do not implement enforcement mechanisms to ensure that the rights the documents protect are not being violated.<sup>85</sup> Even if international legislation did require a policing body to govern the practice of female circumcision and to implement remedial measures against violators, these international covenants and conventions would still be difficult, if not impossible, to enforce in rural African communities.

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<sup>82</sup> 28 I.L.M. 1488 (1989). The CRC was adopted by the United Nations in 1989. THE UNITED NATIONS BLUE BOOK SERIES, *supra* note 57, at 522.

<sup>83</sup> Article 24(3) reads: “States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.” CRC, *supra* note 82, at art. 24, para. 3. According to the Convention’s drafters, the article’s scope encompasses female circumcision, specifically, the term “harmful traditional practices” is meant as a prohibition on female circumcision. Chessler, *supra* note 39.

<sup>84</sup> These articles include: Article 19 proscribing child abuse, Article 16 providing children with privacy, and Article 37 prohibiting the torture or cruel, inhuman, or degrading treatment of children. CRC, *supra* note 82.

<sup>85</sup> Although the Universal Declaration of Human Rights, discussed *supra*, describes enforcement mechanisms, the language of the ICCPR, the Women’s Convention, CEDAW, and the CRC fails to address the implementation of any enforcement body. Chessler, *supra* note 39.

[33] Furthermore, the international legislation concerning female circumcision is contradictory. The same documents that promote self-determination and individual freedom restrict international citizens from choosing to practice female circumcision.<sup>86</sup> The international legislation governing female circumcision protects human rights while simultaneously promoting the freedom to practice religion without offering guidance concerning which right, human or religious, should be given preference over the other.<sup>87</sup>

### **B. The United States' Domestic Legislation and Female Circumcision:**

[34] Female circumcision is also practiced by members of certain religious groups within the United States.<sup>88</sup> As a result, the United States government enacted legislation limiting the

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<sup>86</sup> Compare the language of Article 18(1) of the ICCPR and art. 5, para. a of the Women's Convention.

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

ICCPR, *supra* note 66, art. 18 par. 1. Member states are required to eliminate "all practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women." Women's Convention, *supra* note 72, at art. 5, para. a. Consider that the "practices" referred to by the Women's Convention, although foreign to some of the world, may be accepted by a small part of the world. The international law governing human rights fails to address that inconsistency.

<sup>87</sup> Donna J. Sullivan, *Gender Equality and Religious Freedom: Toward a Framework for Conflict Resolution*, 24 N.Y.U.J. INT'L L. & POL. 795, 816.

<sup>88</sup> The religious groups in the United States that practice female circumcision are primarily native Africans now residing within the United States.

practice of female circumcision in the country.<sup>89</sup> The statute permits exceptions to the general rule for surgical operations necessary to the health of the person on whom it is performed.<sup>90</sup> The Congressional findings accompanying the statute ultimately reveal that the United States government believes that it is not violating a person's freedom to practice religion by prohibiting the practice of female circumcision.<sup>91</sup>

### **C. The Effects of International and Domestic Legislation on Female Circumcision:**

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<sup>89</sup> 18 U.S.C. § 116(a) states “[w]hoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined . . . or imprisoned not more than 5 years.” In addition to the United States, Britain and Sweden have explicitly outlawed the practice of female circumcision. Chessler, *supra* note 39.

<sup>90</sup> These exceptions are listed in 18 U.S.C.A. § 116 (b):

A surgical operation is not a violation of this section if the operation is--

- (1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or
- (2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

Note that 18 U.S.C.A. s 116(c)reads: “[I]n applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.”

<sup>91</sup> Section 645(a) Div. C of Pub.L. 104-208. The Congressional findings state that 1) female circumcision results in the occurrence of physical and psychological health effects that harm the women involved, 2) female circumcision infringes upon the guarantees of rights secured by Federal and State law, and 3) female circumcision can be prohibited without abridging the exercise of any rights guaranteed under the Freedom of Religion Clause of the Constitution or under any other law. *Id.*

[35] International and domestic legislation attempts, unsuccessfully to eradicate the practice of female circumcision.<sup>92</sup> Instead of eliminating the practice, female circumcision legislation disregards citizens' freedom to practice religion and forces the practice to occur underground.

[36] Both international legislation and the United States Constitution protect the freedom to practice religion.<sup>93</sup> Yet, on both an international and domestic scale, female circumcision, a practice with religious origins and foundations, is prohibited. The international and domestic communities focus on female circumcision as a violent act that reinforces male domination and deprives women of their sexuality. Specifically naming female circumcision as a religious practice that violates human rights, these communities permit the limiting of this form of religion in order to protect the public safety, order, and health of all citizens.

[37] In addition, prohibiting female circumcision has only encouraged the practice to occur secretly, avoiding detection by authorities.<sup>94</sup> Legislation restricting the practice of female

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<sup>92</sup> Despite legislation prohibiting the practice, the number of female circumcisions performed annually has not decreased. Obiora, *supra* note 48, at 290.

<sup>93</sup> Article 18(1) of the ICCPR reads

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

ICCPR, *supra* note 66. The First Amendment of the United States Constitution states "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. CONST. amend. I.

<sup>94</sup> Obiora, *supra* note 48, at 288. For example, the Egyptian government has attempted to end the practice of female circumcision since 1959, but its legislation restricting female circumcision has only encouraged the practice to occur in "back-street shops and clinics." FREEDOM OF RELIGION AND BELIEF: A WORLD REPORT 34 (Kevin Boyle and Juliet Sheen, eds. 1997).

circumcision is not ending the practice. Instead, female circumcisions are forced to be performed in more rural, unsanitary areas, increasing the possibility of health risks and deaths.<sup>95</sup>

## **V. WALKING DOWN SOMEONE ELSE'S STREETS: CREATING A BALANCE BETWEEN HUMAN RIGHTS AND THE PRACTICE OF FEMALE CIRCUMCISION**

[38] Female circumcision is a foreign concept to most of the world outside of Africa. We read about the procedure, its possible side-effects, and, ultimately, we don't understand it. Instead of learning more or listening to different opinions about female circumcision, we categorize it as inhumane, disregard its religious values, and ban the practice altogether. Unequivocally condoning female circumcision is also not the solution. The substantial health risks involved in the procedure, specifically clitoridectomy and infibulation, have the potential to cause serious injury and, in some situations, death to the women and children affected by the practice. Allowing female circumcision to continue in this manner enables restrictions on religious freedoms and violations on human rights to occur simultaneously. It is, therefore, important to create a balance between promoting human rights and preserving the religious practice of female circumcision.

[39] This balance between human rights and religious beliefs cannot be achieved through legislation restricting the practice of female circumcision. The international and domestic prohibition of female circumcision has not eliminated the practice, but rather has forced it to occur in secret, unsanitary areas, increasing the possibility of health risks and death to women

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<sup>95</sup> Obiora, *supra* note 48, at 288. This same argument is made against illegalizing abortion in the United States.



and children. Viable alternatives to prohibitive legislation exist. African women can be educated about the effects of female circumcision, specifically the most extreme forms of the practice that can cause permanent damage to the female organs. In addition, the clinicalization of female circumcision is possible. At the request of the parents, the mild forms of female circumcision could be performed in a hospital, directly after the birth of a female child. This ensures that a religious and cultural tradition can be practiced under the supervision of a medical doctor. Furthermore, female “circumcision through words” can be encouraged.<sup>96</sup> Under this alternative method, circumcisions are performed spiritually rather than physically.

[40] The most plausible remedy to the conflict between human rights and religious beliefs, however, is to promote an international understanding of female circumcision. This understanding can be achieved through disseminating information internationally about female circumcision, challenging people to learn about religious and cultural beliefs before labeling them as a human rights abuse and prohibiting them from being practiced.

#### **A. Change Through Education:**

[41] Authorities claim that education is the single most important factor concerning female circumcision.<sup>97</sup> Visits by educational groups to African locations, in both the city and rural

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<sup>96</sup> Dr. Ceasar Chelala, *New Rite is Alternative to Female Circumcision*, San Francisco Chronicle, Sept. 16, 1998, available at [www.fgm.org/chelala.html](http://www.fgm.org/chelala.html) (on file with the Rutgers Journal of Law and Religion).

<sup>97</sup> Obiora, *supra* note 48, at 362. For example, African groups, such as the Inter-African Committee (hereinafter “IAC”) consisting of men and women from several African countries, distribute information to local African communities, fostering awareness about the health risks involved in female circumcision and possible alternatives to the practice. *Id.* The IAC believe that what counts in the final analysis is “a coordinated long-term and continuing effort to educate the people involved and to teach them on their own terms.” *Id.* Crediting groups like the IAC, female circumcision, an issue traditionally entombed in silence, is gradually being addressed in

villages, should occur. These educational groups should bring with them and communicate to their students knowledge concerning the operational procedures involved in female circumcision, the different forms of the procedure, and female circumcision's potential health effects.<sup>98</sup>

Through education, the African woman is empowered with the knowledge to make the decision concerning female circumcision herself.

### **B. The Clinicalization of Female Circumcision:**

[42] Harborview Medical Center, a United States hospital located in Seattle, considered the possibility of accommodating the cultural needs of Somali families by conducting the mildest form of female circumcision on their newborn daughters.<sup>99</sup> Fearful that the proposal would violate the United States legislation limiting the practice,<sup>100</sup> Harborview eventually abandoned the idea.<sup>101</sup>

[43] The point is that some medical doctors are willing to perform mild forms of female circumcision in clinical settings. The combination of trained physicians and advanced medical

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African rural and city areas. *Id.* Note that it is important that these educational groups have primarily African members. The local African communities will be more welcoming and will learn more from teachers that are familiar with and can relate to the subject matter.

<sup>98</sup> The IAC educates its students through critical consciousness. *Id.* at 361. Critical consciousness includes assessing the personal burdens and benefits of circumcision and determining how or if the practice fulfills the individual's interests. *Id.*

<sup>99</sup> Leslie Miller, a doctor at Harborview, described the procedure as "a symbolic blood-letting on the prepuce or hood of flesh above the clitoris" and "demonstrated that the procedure would be far less than what is currently done in male circumcision of newborn infants." Obiora, *supra* note 48, at 365. The doctor compared the procedure to ear-piercing or cosmetic surgery, as opposed to medical surgery. *Id.*

<sup>100</sup> *See* 18 U.S.C. § 116.

<sup>101</sup> Obiora, *supra* note 48, at 366.

science and technology renders the practice of female circumcision more sanitary, limiting adverse health consequences to women and children. Somalia is one of several countries that have clinicalized female circumcision.<sup>102</sup> The *sunna* circumcision is performed in Somalia under sterile and anesthetic conditions, drastically decreasing the possibility of casualties.<sup>103</sup> Clinicalization permits female circumcision to be practiced in a controlled atmosphere.

### **C. Circumcision Through Words:**

[44] Circumcision through words encourages female circumcision to occur spiritually rather than physically.<sup>104</sup> This form of female circumcision includes a weeklong program of counseling, training, and informing young women about the coming of age.<sup>105</sup> Throughout this week, adolescent girls are instructed on the basic concepts of anatomy and physiology, sexual and reproductive health and hygiene, and are counseled on gender issues, respect for adults, and self-esteem.<sup>106</sup> On the final day of the celebration, a ceremony is performed in front of the entire community signaling the girls' passage into womanhood.<sup>107</sup>

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<sup>102</sup> *Id.* at 370.

<sup>103</sup> *Id.*

<sup>104</sup> This form of female circumcision is practiced in rural communities in Kenya and Uganda and is called *ntanira na mugambo*, literally meaning circumcision through words. Chelala, *supra* note 96. Since it was initiated in August 1996, approximately 300 women have undergone this new rite. *Id.* Circumcision through words grew out of the collaborate efforts of a Kenyan group, Maendeleo Ya Wanawake Organization, and the Program for Appropriate Technology in Health (hereinafter PATH) in an attempt to prevent the health complications associated with the practice of female circumcision from occurring. *Id.* PATH is a nonprofit international organization focused on improving the health of women and children in developing countries. *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

[45] Circumcision through words is a valid alternative to international and domestic legislation entirely prohibiting female circumcision.<sup>108</sup> Spiritual circumcision and the educational value the procedure carries with it allows women to practice their religion without risking their health.

#### **D. Restraints on Education, Clinicalization, and Spiritualization:**

[46] The education, clinicalization, and spiritualization of female circumcision are not infallible alternatives to the practice. African countries, specifically more rural areas, are engrossed in poverty. African governments and its citizens are more concerned about basic human needs and survival than they are about the education and clinicalization of female circumcision. Additionally, the gross economic, social, and political inequalities prevalent throughout the continent may restrict the availability of educational programs and clinicalization to only upper-class members of society.

[47] Furthermore, implementing the clinicalization and spiritualization of female circumcision may meet some resistance. African citizens may complain that these alternatives reduce the practice of female circumcision to an empty ceremony, void of its traditional religious roots.

#### **D. Understanding Female Circumcision:**

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<sup>107</sup> Chelala, *supra* note 96.

<sup>108</sup> Circumcision through words is increasingly accepted as a substitute to traditional circumcision among members of the African communities. *Id.* Spiritual circumcision is practiced by the Sabiny, a tribe of farmers in Uganda, and is promoted by the elders of the clan. *Id.* Due to their work in supporting spiritual circumcision, the Sabiny elders received the 1998 United Nations population award in July 1998. *Id.*

[48] The most plausible and effective solution to the conflict between the religious practice of female circumcision and human rights, is promoting an international understanding of female circumcision.<sup>109</sup> The international and domestic community must be aware of the history of female circumcision, the number of women that practice it, and its different forms. Ultimately, the world must recognize that the legislation prohibiting female circumcision is substantially interfering with a person's freedom of religion.

[49] This understanding can be achieved through articles and lectures published internationally, challenging people to learn about religious and cultural beliefs before labeling them as inhumane and prohibiting them from being practiced. This understanding may encourage the international community to recognize that female circumcision is a religious and cultural practice that, if prohibited to protect human rights, should be held to the strictest scrutiny. In addition, it may encourage the international community to seek alternative recourses to the legislative prohibition of female circumcision, including the education, clinicalization, and spiritualization of the practice.

## VI. CONCLUSION

[50] I returned home, learning so many lessons from Africa. One of these lessons was that we, as Westerners, have large egos. The most powerful countries in the world walk into the weakest ones, demanding that they do things the "right" way. Possibly, the West should reflect

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<sup>109</sup> It should be noted that promoting this international understanding of female circumcision should be done in combination with educational, clinical, and spiritual programs concerning female circumcision.

on what the “right” way is. It took just a walk down someone else’s street for me to realize that all the streets in the world were not mine.

[51] The conflict concerning female circumcision does not need to continue. Legislation prohibiting female circumcision is not the solution. The international community must challenge itself to learn more about female circumcision. Africans must become more aware of the alternatives to the practice. The correlation of these two events will create a balance between protecting religious beliefs and promoting human rights.

Female Circumcision: Who Speaks for the Indonesian Female Circumcision? *Ethnologia Actualis*, 16(2), 43–65.

<https://doi.org/10.1515/eas-2017-0004>. Female circumcision: challenges to the practice as a human rights violation. *Harvard Women's Law Journal*, 8(Spring), 155–178. Google Scholar. Cultural, religious and medical aspects of the practice of female circumcision in villages in Central Java. *Community Medicine News*, 34(9), 329–336. Google Scholar. This includes, amongst others, female genital mutilation, the circumcision of young boys for religious reasons, early childhood medical interventions in the case of intersexual children and the submission to or coercion of children into piercings, tattoos or plastic surgery. [The only reason "for religious reasons" is specified is that non-religious infant male genital cutting is almost unknown in Europe. Any hesitancy in challenging these practices as human rights violations will delay still further their elimination. Another quoted reason for dropping "traditional" in this context is that there are contemporary harmful practices, both new and emerging, which cannot accurately be described as "traditional" but are nonetheless condoned within a culture or community. Your genitals, your rights. If someone was not circumcised as an infant and decides later on in life that they would like to be, adult circumcision is a relatively straightforward outpatient procedure. But infants cannot choose for themselves or give consent. Female genital mutilation is defined by Merriam Webster as "a procedure performed especially as a cultural rite that typically includes the total or partial excision of the female external genitalia and especially the clitoris and labia minora." This barbaric practice is performed on young women as a way to prepare them for marriage and help them stay "clean". According to Global Citizen, an estimated 200 million women and girls all over the world have been mutilated; 44 million of those girls are 15 years old or younger. They believe female circumcision to be mutilation; it is strictly forbidden. The Current Pro-Circumcision Argument. Without religious or racial prejudice, we affirm this basic human right. We recognize that the foreskin, clitoris, and labia are normal, functional parts of the human body. Parents and/or guardians do not have the right to consent to the surgical removal or modification of their children's normal genitalia. Physicians who practice routine circumcision are violating the first maxim of medical practice, "Primum Non Nocere" ("First, Do No Harm"), and anyone practicing genital mutilation is violating Article V of the United Nations Universal Declaration of Human Rights: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment".]