[Editors' Note: December 1998 marks the 50th anniversary of the Universal Declaration of Human Rights. On December 11th, The Washington Post (p. A52) reported President Clinton’s public announcement of a Genocide Early Warning Center as well as a new interagency group to monitor U.S. compliance with human rights treaties; new Immigration and Naturalization Service guidelines to make it easier for children to file political asylum claims; and increased funding to organizations that treat torture victims. At the ceremony, Mrs. Clinton spoke out against the treatment of women in Afghanistan who are not allowed to work or attend school. "We must all make it unmistakably clear this terrible suffering inflicted on the women and girls of Afghanistan is not cultural, it is 'criminal.'"]

Today, cultural relativism is experiencing a period of critical self-examination within the field of anthropology.

Cultural relativism asserts that since each culture has its own inherent integrity with unique values and practices, value judgments should be withheld or suspended until cultural context is taken into account. What members of one culture might view as strange and bizarre in another culture (for example, polygamy, body tattooing, or strict dietary laws) can be understood best within that culture’s context. Theoretically, anthropologists always should be observers and recorders not evaluators of other peoples’ customs and values.

While some anthropologists would still agree with this view, others, both inside the field and outside, especially in the arena of human rights, are challenging this concept.

It is important to state at the outset that universal human rights and cultural relativism are not philosophically or morally opposed to one another. The terrain between them is fluid and rich.

Anthropology’s Role in Human Rights
Historically, anthropology as a discipline declined to participate in the international dialogues that produced conventions regarding human rights, mainly due to philosophical constraints stemming from cultural relativism. This meant that anthropology’s voice was not included in the drafting of human rights statements such as the United Nation’s “Conventions for the Elimination of All Forms of Discrimination Against Women” (1979) or the "Rights of the Child" (1989).

The world has changed since the Executive Board of the American Anthropological Association decided in 1947 not to participate in the discussions that produced the Universal Declaration of Human Rights (1948), used subsequently as a foundation for opposition to authoritarian and politically repressive regimes. Since then some anthropologists have been active in cultural survival and human rights of threatened groups.

As I explained in my article in The Chronicle of Higher Education, anthropologists "are in a unique position to lend knowledge and expertise to the international debate regarding human rights." And, in fact, anthropologists have spoken out against reprehensible practices such as genocide. They have testified in U.S. courts against government rules that impinge on the religious traditions or sacred lands of Native Americans. But there are other
human rights issues, from domestic abuse to female circumcision to culturally based forms of homicide, about which anthropologists have remained silent. Thus, anthropologists have not built up accumulated experience in the area of human rights informed by cultural relativist considerations (1995:B1-2).

This article is an attempt to lay out some of the basic issues and considerations in this arena, looking at the intersection of cultural relativism and the human rights issues that have gained more public awareness than ever before.

The Limits of Cultural Relativism
Cultural relativism may be taken to extremes. Some argue that since cultures vary and each culture has its own unique moral system, we cannot make judgments about 'right' and 'wrong' in comparing one culture to another. Thus, one cannot reject any form of culturally acceptable homicide—for example, infanticide, senilicide, or 'honor' killing of women in Mediterranean and Middle East societies for alleged sexual misconduct—on moral grounds because cultural acceptance or condemnation are equally valid. This extreme relativist position is actually a form of absolutism with which few anthropologists would agree. Anthropologists did not defend Nazi genocide or South African apartheid with cultural relativist arguments, and many have been critical of relativist defenses especially of Western practices they see as harmful, such as cultural institutions emphasizing violence.

The truth about our complex world of cultural difference is that moral perplexity abounds. The ability to accept that another person's or culture's position with which one disagrees is nevertheless rational or intelligible lays the basis for discussion of differences.

Relativism can be used as a way of living in society with others. An egalitarian relativist sees all human beings as moral agents with equal potential for making ethical judgments. Though moral judgments in and of themselves are not scientific, they can be socially analyzed. That is, relativism and universalism in cultural values or practices (including international standards of human rights) need not be opposed morally, but they can be discussed, debated, and assessed by the social sciences, including anthropology.

Relativist Challenge to Universal Rights: Islamic Societies and the West
In the conflict between cultural relativism and universal rights, one area where there is a seeming clash between cultures and a war of words is where the West meets the Islamic world. The highly politicized context of this oppositional discourse and occasional real warfare reminds us of another kind of cold war between the U.S. and the Soviet Union. The subjective perceptions of morality and immorality, of right and wrong, on both sides can be so powerful that objective discourse and cultural negotiation may seem impossible.

Islamic governments from Iran to Afghanistan to Sudan have claimed cultural and religious immunity from international human rights standards. For example, the perceived Islamic responsibility to protect women by restricting their activities has been asserted in defense of public morality. This stand has been criticized in the context of Western human rights and feminism. Islamic philosophers and political activists may deny that a woman can be a head of a family or a head of state. Their position violates international standards of women's rights and human rights, particularly as outlined in the United Nations 1979 "Convention on the Elimination of all Forms of Discrimination Against Women." Muslims in several states, however, have disregarded the advice of these religious figures when they made Benazir Bhutto Prime Minister of the Islamic Republic of Pakistan and Tansu Cillar and Sheikha Hassina the respective heads of state in Turkey and Bangladesh. Western nations actually have proportionately fewer female heads of state and may be accused of hypocrisy in their finger pointing at the Islamic world.

During the Fourth World Conference on Women held in Beijing in 1995, positions on women's rights expressed by some Muslim activists diverged from the majority feminist view. Debates over sexual and reproductive health and over sexual orientation as universal rights of women met with opposition not only from Muslim nations, like Iran and Egypt, but also from the Vatican and other Catholic representatives at the conference. In the end, disagreements were aired that proved not to be destructive and there was frank acknowledgment that reasonable persons (and by extension, cultures) could disagree. This is a relativist solution to different views about "universal rights" of women. But consensus was achieved on a host of other
issues, including: 1) opposing all forms of violence against women, 2) opposing female genital mutilation, and 3) identifying rape during armed conflict as a war crime, and, in certain cases, a crime against humanity. Relativism expressed with respect to the religious sentiments of some delegates eased the negotiated terrain and permitted dialogue that achieved consensus on many other points while allowing reasonable difference to be asserted on other matters.

**Universal Rights Challenge Relativism: Female Circumcision**

One of the most culturally and emotionally charged battlegrounds where the cultural relativist confronts the advocate of universal human rights is the issue of female circumcision or FGM (female genital mutilation)*. Female circumcision is the removal of all or part of the clitoris and/or labia. The issue of female circumcision has set Western feminism against African cultural traditions and Islam, and has pitted Muslim against Muslim and African against African. Despite female circumcision's prevalence in African Islamic societies, it is also found in some non-Islamic, African contexts and is rare in Islamic contexts outside Africa. There is no consensus among Muslim scholars or among African Muslims about whether female circumcision is mandated by religion. Religious interpretation in the Sudan as early as 1939 determined that female circumcision is only "desirable" (manduh), and not compulsory (Fluehr-Lobban, 1987: 96), while in 1994 the late Grand Sheikh of Al-Azhar Islamic University in Cairo, Gad al-Haq Ali Gad al-Haq, called female circumcision "a noble practice which does honor to women." His chief rival, the Grand Mufti of the Egyptian Republic, said that female circumcision is not part of Islamic teaching and is a matter best evaluated by medical professionals (Philadelphia Inquirer, April 13, 1995, section A-3).

I have previously written about confronting my own personal struggle between cultural relativism and universal rights regarding female circumcision in the Sudan (Fluehr-Lobban, 1995):

For nearly 25 years, I have conducted research in the Sudan, one of the African countries where the practice of female circumcision is widespread, affecting the vast majority of females in the northern Sudan. Chronic infections are a common result, and sexual intercourse and childbirth are rendered difficult and painful. However, cultural ideology in the Sudan holds that an uncircumcised woman is not respectable, and few families would risk their daughter's chances of marrying by not having her circumcised. British colonial officials outlawed the practice in 1946, but this served only to make it surreptitious and thus more dangerous. Women found it harder to get treatment for mistakes or for side effects of the illegal surgery.

For a long time I felt trapped between my anthropological understanding of the custom and of the sensitivities about it among the people with whom I was working, on the one side, and the largely feminist campaign in the West to eradicate what critics see as a "barbaric" custom, on the other hand. To ally myself with Western feminists and condemn female circumcision seemed to me a betrayal of the value system and culture of the Sudan which I had come to understand. But as I was asked over the years to comment on female circumcision because of my expertise in the Sudan, I came to realize how deeply I felt that the practice was harmful and wrong. In 1993, female circumcision was one of the practices deemed harmful by delegates at the International Human Rights Conference in Vienna. During their discussions, they came to view circumcision as a violation of the rights of children as well as of the women who suffer its consequences throughout life. Those discussions made me realize that there was a moral agenda larger than myself, larger than Western
culture or the culture of the northern Sudan, or of my discipline. I decided to join colleagues from other disciplines and cultures in speaking out against the practice.

The Anthropologists' Dilemma
The sense of paralysis that kept me from directly opposing female circumcision (FGM) for decades was largely attributable to my anthropological training grounded in cultural relativism. From a fieldworker's standpoint, my neutralist position stemmed from the anthropologist's first hand knowledge of the local sensitivities about the practice, along with the fact that dialogue was actively underway in the Sudan leading in the direction of changes ameliorating the practice. While I would not hesitate to criticize breast implants or other Western surgical adjustments of the female body, I withheld judgment of female circumcision as though the moral considerations were fundamentally different. My socialization as an anthropology undergraduate and graduate student, along with years of anthropology teaching, conditioned a relativist reflex to almost any challenge to cultural practice on moral or philosophical grounds, especially ones that appeared to privilege the West. However, I realized that a double standard had crept into my teaching. For example, I would readily criticize rampant domestic violence in the U.S. and then attempt to rationalize the killing of wives and sisters from the Middle East to Latin America by men whose "honor" had been violated by their female relation's alleged misdeeds, from flirtation to adultery. Of course, cultural context is critical and the reading of cultural difference our stock-in-trade. One may lament the rising divorce rate and destruction of family life in the U.S. while applauding increasing rights for judicial divorce for Middle Eastern women. At times relativism may frame and enlighten the debate, but, in the end, moral judgment and human rights take precedence and choices must be made.

What changed my view away from the conditioned relativist response was the international, cross-cultural, interdisciplinary dialogue that placed female circumcision on a level of such harm that whatever social good it represents (in terms of sexual propriety and marriage norms), the harm to the more basic rights of women and girls outweighed the culturally understandable "good." Moreover, active feminist agitation against female circumcision within the Sudan has fostered the kind of indigenous response that anthropologists like, so as not to appear to join the ranks of the Western feminists who had patronizingly tried to dictate the "correct" agenda to women most directly affected by the practice. Women's and human rights associations in the Ivory Coast and Egypt, as well as the Sudan, have also called for an end to female circumcision, while the Cairo Institute for Human Rights reported in 1995 the first publicly acknowledged marriage of an uncircumcised woman. In other words, a broad spectrum of the human community has come to an agreement that genital mutilation of girls and women is wrong.

The Changing U.S. Legal Context
Beyond these cultural and moral considerations is a changed legal environment in the U.S. and elsewhere. The granting of political asylum by the U.S. government in 1996 to Faiziyaa Kasinga, a Togolese woman who argued that her return to her country would result in the forcible circumcision of her daughter and thus violate her human rights, was a turning point. Prior to this decision, articles had appeared in American law journals arguing for the U.S. to follow the examples of France and Canada and "legally protect" women and girls at risk by criminalizing female circumcision and by extending political asylum. Authors also argued against the cultural relativist or traditionalist justification for female circumcision. Typical customary cultural arguments in defense of female circumcision include: it is a deeply rooted practice; it prevents promiscuity and promotes cleanliness and aesthetics; and it enhances fertility. Defenders of the practice, female and male, African and Western, inevitably invoke cultural relativism and ethnocentrism. Opponents argue that while the morality and values of a person are certainly shaped by the culture and history of a given society, this does not negate the philosophical theory that human rights, defined as the rights to which one is entitled simply by virtue of being human, are universal by definition. So, although human behavior is necessarily culturally relative, human rights are universal entitlements that are grounded in cross culturally recognized moral values. In response to the relativist argument, Rhoda Howard writes that the "argument that different societies have different concepts of rights is based on an assumption that confuses human rights with human dignity" (1986:17). Further, for non-anthropologists, especially moral philosophers and legal practitioners, evocation of relativist arguments as a 'defense' or excuse for violence,
injustice, or other social ills is patently offensive. "Cultural values and cultural practice are as legitimately subject to criticism from a human rights perspective as a structural aspect of a society. African 'culture' may not be used as a defense of human rights abuses" (Howard, 1986:16).

There is nothing particularly African, Sudanese or Nigerian about violence or injustice. This is true of violations of human rights whether they are in the form of arbitrary arrest, detention and torture inflicted by the state, or female circumcision imposed by custom. Moreover, many African progressives have taken an active role in evaluating the contemporary legitimacy and relevance of cultural practices arguing for the retention of useful traditions and the abandonment of practices that inflict harm or injury. Ethnic scarification has all but disappeared among peoples for whom this practice was routine only a few generations removed from the present day. And the fact that female circumcision is an ancient custom found in many diverse cultures does not legitimate its continued persistence (Lawrence, 1993:1944).

Beyond the standard of harm evoked in this argument, it is increasingly evident that attempts to justify the control of female sexuality—whether using aesthetics, cleanliness, respectability or religious ideology—are increasingly being questioned and rebuked in different cultures and cannot be sustained as a justification for the continuation of a harmful practice.

Anthropologists' Expert Testimony
I had the opportunity to offer expert testimony in an Immigration and Naturalization Service (INS) case involving application for asylum and withholding of deportation for a Nigerian family. The case revolved around the issues of Muslim persecution of Christians and the fear of female circumcision for the two young daughters of the parents, the wife having already undergone circumcision. My testimony involved responding to questions about female circumcision from the attorney for the Nigerian family and the judge. I was examined and cross-examined especially on the issue of the probability that the girls would be circumcised in their home community in northern Nigeria even if the father and mother opposed this.

Interestingly, after the 1996 Kasinga case, the U.S. State Department issued guidelines to the INS and its courts suggesting that uncircumcised girls would not be at risk if their fathers opposed the practice. I explained that on the basis of my knowledge of the practice in a comparable African Muslim context, female circumcision is the province of female kin. There is no assurance, given the influence of extended family ties, that the girls would be protected on the strength of their parents, or just their father's, opposition. The matter of the state protecting the girls was moot given its lack of interest in regulating matters of "custom" and Nigeria's poor human rights record. Even in the Sudan, where female circumcision has been illegal since 1946, there has been little or no enforcement of the law. I was not asked if I believed that female circumcision is a violation of human rights, women's rights, or the rights of the child. At a subsequent hearing, the mother, who had been circumcised as a child, testified about her fears of her daughters' forcible circumcision or, if no circumcision were performed, of their inability to be

(Continued on page 16)
married in Nigeria as they would be socially unacceptable women. These arguments persuaded the judge in 1997 to suspend deportation and to consider a positive case for asylum for the family.

"Avoidance of Harm" Key Standard

Harm may be considered to take place when there is death, pain, disability, loss of freedom or pleasure that results from an act by one human upon another (Gert, 1988:47-49). It is the notion of harm done to individuals or groups that can be used to explore the terrain between universal rights and cultural relativism. When reasonable persons from different cultural backgrounds agree that certain institutions or cultural practices cause harm, then the moral neutrality of cultural relativism must be suspended. The concept of "harm" has been a driving force behind the medical, psychological, feminist, and cultural opposition to female genital mutilation.

Avoidance of harm has been the key concept in the development of ethical guidelines in medical and biological research and also in federal regulations regulating research in the behavioral sciences (Fluehr-Lobban, 1994:3). Philosophers have also refined concepts of harm and benefit; however, the discussion more frequently occurs around the prevention of harm rather than the promotion of benefit.

Even the most experienced anthropological field worker must negotiate the terrain between universal rights and cultural relativism with caution, to avoid the pitfalls of scientific or discipline superiority. The anthropologist is capable of hearing, recording, and incorporating the multiple voices that speak to issues of cultural specificity and universal human rights, as some have done admirably (Dwyer, 1991). When various perspectives are taken into consideration, still in the end a judgment may have to be made when harm is a factor.

Case Study: Domestic Abuse

The concept of darar in the Arabic language and in Islamic family law translates as harm or abuse and is broadly applied in Islamic law (Shari'a) and specifically in three different cultural settings which I have studied, in Sudan, Egypt and Tunisia (Fluehr-Lobban, 1987). Darar comes from the same root as that which is used to describe a strike or a physical blow. However, darar in Muslim family law as a ground for divorce has been interpreted to include both physical harm and emotional harm, the latter usually described as insulting words or behavior. It is probably most clear to make a determination between human rights and cultural practice when physical harm or abuse is taking place. It is simpler to stand against physical abuse of women within a marriage. Indeed, Western ideas of physical and mental cruelty as grounds for divorce mesh well with the concept of harm as reflected in "talaq al-darar," divorce due to harm or abuse. A woman who comes to court, alleges harm, proves it with her own testimony or that of witnesses, and is granted a divorce is probably a woman who has experienced the abuse for some time and is using the court, as women often do in Muslim settings, as a last resort.

The divorced husband often does not acknowledge the harm, as is frequently the case with abusive husbands in other countries where the "right" of a husband to discipline a wife is a cultural norm. A relativist position might attempt to split the difference here between the cultural "right" of the husband to discipline a wife and the wife's right to resist. Moreover, the relativist's position would be upheld by cultural institutions and persons in authority, judges for example, with the legitimate right to enforce the norm of "obedience" of wives. My own research shows that wives have often "disobeyed" their husbands and repeatedly fled from abusive domestic cohabitation (Fluehr-Lobban, 1987:120-25). Historically, the frequency of such cases in the Islamic courts led to practical reform favorable to abused wives whereby "obedience" orders to return to their husbands were issued a maximum of three times only. Ultimately, in the Sudan and in Egypt the "house obedience" (Bayt al-ta'a) law was abolished, largely due to feminist agitation and reformist political pressure.

The cultural "right" of a man to discipline, slap, hit, or beat his wife (and often by extension his children) is widely recognized across a myriad of different cultures throughout the world where male dominance is an accepted fact of life. Indeed, the issue of domestic violence has only recently been added to the international human rights agenda, but it is firmly in place since the Vienna Conference of 1993 and the United Nations Beijing Women's Conference in 1995. This relatively new dialogue intersects at a point where the individual rights of the woman clash with a potential cultural defense of a man practicing harm, and is a dialogue that anthropologists could inform and enrich tremendously.
by their first hand knowledge of community and family life. Violence against women, against children, against people, is not acceptable on moral grounds nor is it defensible on cultural grounds, although an examination of its many expressions and facets is very useful knowledge for both social science and public policy. The future development of a cross-cultural framework analyzing domestic violence would serve both scientific and human rights work.

Conclusion
The terrain between universal rights and cultural relativism can be puzzling and difficult to negotiate, but the use of the idea of the “avoidance of harm” can help anthropologists and others map out a course of thinking and action. We are coming to the recognition that violence against women should be an acknowledged wrong, a violation of the basic human right to be free from harm that cannot be excused or justified on cultural grounds. Likewise, children in every culture have the right to be free from harm and to be nurtured under secure and adequate conditions. Understanding the diverse cultural contexts where harm or violence may take place is valuable and important, but suspending or withholding judgment because of cultural relativism is intellectually and morally irresponsible. Anthropologists cannot be bystanders when they witness harm being practiced upon any people they study.

Anthropologists can aid the international dialogue enormously by developing approaches to universal human rights that are respectful of cultural considerations but are morally responsible. For anthropologists a proactive interest and participation in human rights is desirable. Areas of human rights that might come to our attention in our work include cultural survival, rights of indigenous peoples, defense against ‘ethnic cleansing’, or interest in the rights of women and children and persons in danger of harm. Instead of the more usual negative reaction to public disclosure of gross violations of human rights, anthropologists could position themselves to play an “early warning” role that might prevent or ameliorate harm to human beings. Simplistic notions of cultural relativism no longer need impede the engagement of anthropologists in international human rights discourse.

In this spirit anthropologists could be among the best brokers for inter-cultural dialogue regarding human rights. We have moved beyond the idea of a value free social science to the task of developing a moral system at

the level of our shared humanity that must at certain times supersede cultural relativism. Reassessing the value of cultural relativism does not diminish the continued value of studying and valuing diversity around the globe.

Anthropologists can lend their knowledge and expertise to the international discussion and debates regarding human rights by playing a brokering role between indigenous or local peoples they know first-hand and the international governmental and non-governmental agencies whose policies affect the lives of people they study. Anthropologists also can write or speak out about human rights issues in public media where their expertise might inform positions taken by human rights advocacy groups, or decisions made by governments or other bodies that affect the well-being of people they study. If they choose, they can provide professional advice or offer expert testimony where culturally-sensitive matters intersect with human rights issues, such as with female circumcision, or with a cultural defense or justification of domestic violence. In these and other ways anthropologists can engage with human rights issues without the limitations that cultural relativism may impose.

References


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