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## The First Cut Is (Not) The Deepest: Deconstructing "Female Genital Mutilation" and the Criminalization of the Other

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David Fraser\*

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*Deconstruction, as a ‘philosophy’ and as a strategy for the reading of texts, offers us the ability to engage in a politics and ethics of justice which seeks to recognize our responsibility to the Other. By ‘reading’ ‘female genital mutilation’ with this obligation in mind, this article attempts to deal with the prejudices and barriers to justice which present themselves to those of us in the West who seek an engagement with the Other. The article offers a warning and a reading of the ‘text’ of ‘female genital mutilation’ informed by our obligation to justice.*

*Can you bear to know what I have lost? I scream this at the judges  
in their stupid white wigs.*

Alice Walker

*... it's a secret, and it's a secret society. It's not to be revealed to  
anybody.*

Circumciser  
Gambia

*Introduction: Deconstruction and Mutilation*

Before the article begins, before we “cut” to the beginning, there are epigrams, the beginning of writing, writing a beginning. One, the first, speaks of a pain, unspeakable, unknowable to/by/in law, a pain which is illegal. The second speaks also of the unspeakable, the secret, the society to which we do not and cannot belong, an out-law society. They speak and write about “female genital mutilation”. They incorporate a corporeal practice, written on and about, around the body of the Other. Like this article, they inscribe themselves in and on the body of the Other, an act of speaking, of writing, of Law, of violence. Thus an article which incorporates the body of the Other in the body of the Law—a cannibalistic act of legalized violence.

Thus, an article about law and perhaps about justice, just an article, but a just article? Can one be just? Can one be just about justice? Hence, the

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epigrams. Appropriations of other texts, texts themselves about appropriation and justice. How appropriate? They precede the text. Written above, beyond and before the text but nonetheless written as text. They are a pre-text. They frame and limit the text, incorporating and limiting the text which follows. This limited incorporation,<sup>1</sup> by way of pretext, attempts to deal with the fundamental issues of justice which will come. They speak of the unspeakable, of pain and of secrecy and of law. They do not speak of justice, for justice must, for the moment, remain unspoken and forgotten.<sup>2</sup>

Thus, the absence of justice and of that which is missing from this article. A deferral which cannot be deferred but which must be deferred. A writing, a logistic deployment of the logos which limits that which cannot be limited, in Drucilla Cornell's phrase, "a philosophy of the limit",<sup>3</sup> a text which cannot name that which it seeks to name, which writes the unwritable unspeakable and which limits justice. A written intercession. A text as intercision, a cutting, an act of violence about and around another act of violence. A consumption of the body of the Other and of the body of the Law. Again a writing about a secret, unspeakable which must be written, spoken and deferred, an aporetic opening, unsafe, unsure, unsound, but not without sound, just or almost about justice. Not a simple juxtaposition, not merely a limited deployment of the silence and spoken of law and justice, of the opposition justice/injustice, but rather a division which limits and incorporates that which can neither be limited nor incorporated. An incorporation of the corporeal violence which passes just in silence. A failed limiting of the sound of the corporeal violence which is the secret society of injustice, an outlawed pre-text, cut off from justice, but all about and around justice. This, then, is the point of justice, the call to responsibility, to listen and to hear, a call of the mute to the deaf.<sup>4</sup>

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1. J. Derrida, *Limited Inc* (Evanston, IL: Northwestern University Press, 1988).

2. J.F. Lyotard, *Heidegger and "the jews"* (Minneapolis: University of Minnesota Press, 1990) at 3. "The Forgotten is not to be remembered for what it has been and what it is, because it has not been anything and is nothing, but must be remembered as something that never ceases to be forgotten. And this something is not a concept or a representation, but a 'fact' . . . namely, that one is obliged before the Law, in debt."

3. C. Drucilla, *The Philosophy of the Limit* (New York: Routledge, 1992).

4. The undecidable is not merely the oscillation or the tension between two decisions. It is the experience of that which, though heterogeneous, foreign to the order of the calculable and the rule, is still obliged—it is of obligation that we must speak—to give itself up to the impossible decision, while taking account of law and rules. A decision that didn't go through the ordeal of the undecidable would not be a free decision, it would only be the programmable application or unfolding of a calculable process. But in the moment of suspense of the undecidable, it is not just either, for only a decision is just. And once the ordeal of the undecidable is past (if that is possible), the decision has again followed a rule or given itself a rule, invented or reinvented

The key point of justice, in other words, is the question of responsibility, of our obligation to do justice and to be just in the simple face to face with the Other.<sup>5</sup> We are responsible for and to the Other as a deontological imperative, this is what it means to be just. But in this moment of responsibility we must run the risk of all judgment, that we can, or in the stronger case, must be wrong. In addition, as we accept our burden of responsibility to the Other, we efface her by assimilating *her* to our obligation. In other words, our responsibility to the Other, our duty to be just, compels us to accept the burden of injustice. We must decide, that is our responsibility. We must risk inevitable injustice, that is the nature of our obligation. With this responsibility comes the burden of self-examination. We must situate, as much as we can, our own textual and other political interventions in order that they can at least bear the appearance of justice, not a blind justice but a responsibility to and with the Other.

Thus, this article is being written in a context which, in the interests of justice, must be examined, explicated, interrogated, justified. It is being written in an institution which likes to describe itself as prestigious. A University in a settler dominion, fixed in its own heritage of conquest, domination, subordination, colonialism, independence, neo/post-colonialism. An institution whose primary function has always been to pursue and propagate a hegemonic world-view under the guise of "liberal" education. The institutional context then is one which oppresses and silences under the mantle of openness, which colonizes under the rubric of academic freedom and which instills in its members an idea/l of justice while perpetuating a whole series of oppressions and colonizations.

This is being written, then, in a place in which the subject/object of this essay has always been written. In the metropole, we write the "Third World".<sup>6</sup> A critical analysis, written in an institutional context such as

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it, reaffirmed it, it is no longer *presently* just, fully just. J. Derrida, "Force of Law: The 'Mystical Foundation of Authority'" (1990) 11 Cardozo L. Rev. 919 at 963. For a recent and critical opinion on deconstruction and justice see J. Balkin, "Transcendental Deconstruction, Transcendental Justice" (1994) 92 Michigan L. Rev. 1131.

5. In responsibility, which is, as such irrecusable and non-transferable, I am instituted as non-interchangeable: I am chosen as unique and incomparable. My freedom and my rights, before manifesting themselves in my opposition to the freedom and rights of the other person, will manifest themselves precisely in the form of responsibility, in human fraternity. An inexhaustible responsibility: for with the other our accounts are never settled. E. Levinas, "The Rights of Man and the Rights of the Other" in *Outside the Subject* (Stanford: Stanford University Press, 1993) at 125. See also, J.L. Nancy, *The Experience of Freedom* (Stanford: Stanford University Press, 1993).

6. The phrase "Third World" is itself an inscription which is inscribed within the discourse of its creation. In other words, "The Third World" is a creation of the metropolitan, imperialist and colonizing discourses which are here under critical scrutiny. This hegemonic discourse

this, must adopt a self-reflective stance. We must never lose sight of our position at the center of the creation of hegemonic inscriptions. The Other, of whom much will be written below, is forever absent from this institution and this discourse. This is written *around* the Other, in a place which is not her place, but not written in her place. The subject of the text is unwritten, unwritable, silent in this context. I can but note her absence. I can not, must not *present* her. That is my responsibility. Indeed, it is only by adopting such a deconstructively wary approach that we can, in fact, begin to respond to our responsibilities. Only by realizing our situation can we begin the task of constructing responsible discourses, of existing outside the incisions of the Law, but inside the “Third World”, at the cutting edge of the discursive matrix which surrounds “female genital mutilation”.

Yet the law/Law remains our fundamental obligation towards the Other. It is the Law of responsibility, the never exhausted obligation vested in alterity which calls us to listen to the voice of the Other in “female genital mutilation” as we look to transgress the boundaries and limits of the other law/injustice by locating the trace, the point of incision towards the Other. This is why our obligation and our responsibility to the Other is inexhaustible, because the gift of alterity is the gift of the Law, always circulating outside but in relation to, the possibility of extinguishing the debt in/through Law.

We cannot be sure there is a way of destructuring Law. You see, deconstruction cannot be transgression of the Law. Deconstruction is the Law. It’s an affirmation, and affirmation is on the side of the Law. . . . That’s why writing in a deconstructing mode is another way of writing Law. And this is paradoxical.<sup>7</sup>

It is in this paradox of the apparent impossibility of escaping Law, yet being obliged to attempt to fulfill our responsibility to the Other, that those of us in the metropole must confront the locus of our face-to-face with the Other. This locus, where we write, inscribe and confront the Other, is not, in the “Third World”, distant, strange and Other. Rather, we encounter the Other and our impossible obligation to her here, in the centers of knowledge production we call home. The issue of our responsibility is a question, finally and firstly, but never in the last instance, of the obligation of hospitality.<sup>8</sup>

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must however be confronted on its own terms if it is to be deconstructed. See V. Nesiha, “Toward A Feminist Internationality: A Critique of US Feminist Legal Scholarship” (1993) 16 *Harvard Women’s Law Journal* 190 at 190–91.

7. J. Derrida, “Women in The Beehive: A Seminar with Jacques Derrida” (1984) *subjects/objects* at 13.

8. See discussion below at note 178 and accompanying text.

It is this responsibility which is our historical duty to the Other.

The Western metropole must confront its postcolonial history, told by its influx of postwar migrants and refugees, as an indigenous or native narrative internal to its national identity . . .<sup>9</sup>

To situate ourselves thus will require a willingness and a desire to understand the contexts in which we construct and extend the circumstances and conditions which create, reproduce and expand the discursive practices which serve as the grundnorms for “our” debates and interventions in and around the topic of “female genital mutilation”. In addition to the primary and more obvious tropes of gender and sexuality, we must interrogate our understandings of culture, law, medicine, and more centrally those tropes which are most often either missing or marginalized in Western, metropolitan discussions of “female genital mutilation”, imperialist, neo/post-colonial constructions of “the Other”, in this case, “the Third World Other.”

We must somehow attempt to remember and respond to, even, or especially, in those moments when responsibility appears to us as the impossible call of the Other, the essential fact that it is in effect and in reality “our” world which creates a “Third World” in which US Marines occupy Somalia with a policy of “shoot to feed”, where General Mohammed Farah Aidid moves from being a “father” of his country, to a “war-lord” whose “gangs” of “thugs” “murder” UN soldiers. In Aidid’s transformation from a partner in negotiations to a man with a price on his head, hunted down by elite forces of the United States and then back once again into a partner in negotiations as the United States attempts to “extricate” itself from an imbroglio described by the State Department as a successful humanitarian mission,<sup>10</sup> we find a recent example of our complicity and participation in the construction of competing, mutually contradictory colonialist discourses which share, beneath their contradictions, a core—the “Third World”—as a place to be comprehended and conquered as the Other to the global discourse of Western intervention and imperialism. Indeed, the Somali “crisis” can itself be recast as an example of the complicitous silence of Western legal and political discursive interventions in the debate around our “responsibility” in relation to the horrors of “female genital mutilation”.

The most recent and authoritative sources estimate that “female genital mutilation” is a virtually universal practice in Somalia where almost four million women have been subjected thereto.<sup>11</sup> Moreover, it is

9. H. Bhabha, *The Location of Culture* (New York: Routledge, 1994) at 6.

10. See A. Shoumatoff, “The ‘War-lord’ Speaks” (4 April 1994) *The Nation* 442.

11. See N. Toubia, *Female Genital Mutilation: A Call for Global Action* (New York: Women Ink, 1993).

the influx of women from countries like Somalia into Western Europe, North America and Australia which has brought the practice to the attention of “the West” in a way never before experienced, with the accompanying media coverage and public awareness.

What is missing from the picture of “our” increased awareness, shock and horror, however, is any critical intervention into the surrounding debate of the ways in which the “problem” has always been, in fact, “our problem”. By this I mean that while it is the influx of immigrants and refugees into the West which has given rise to current debates and interventions, these very debates and interventions continue to take place all the while ignoring the complex facts and contexts which have given rise to the influx itself. It is as if these women just suddenly appeared on “our” doorsteps, instantly bringing to the fore the best of our charitable instincts to act on their behalf.

In fact, of course, the “refugee problem” is a Western problem, not because “they” are now here but because the problems of “refugees”, “civil unrest”, “civil war”, “tribal conflict”, etc. are the direct consequences not just of the colonial past but of the neo/post-colonial present, the great power struggles of the Cold War, the greed and exploitation of natural and human resources in the “Third World” by Western capitalists and their indigenous mimics, the sale and traffic in arms and military training of client states or regimes and last, but not least, the seldom discussed market politics in refugees themselves—area quotas, charitable intervention and withdrawal, the interdependency of charities, host and home nations’ governments, the United Nations etc. When women from Somalia (or anywhere else for that matter) arrive in the West, victims of “female genital mutilation” who may or may not wish to subject their daughters, nieces and granddaughters to the same practices, our responsibility to them can not arrive out of our Victorian charitable instincts towards the deserving poor, no matter how well-intentioned, but out of our duty to respond to the cries which we have ourselves created and then silenced. Why, then, does the fate of John Wayne Bobbitt’s penis attract “our” attention while neo/post-colonial outrages reach us only when, as in Burundi and Rwanda, the scale of human suffering reaches a critical, televisual mass? And only then to repeat and reinforce the colonial and imperialist fallacy of historical, deep-seated racial or tribal animosities, without reference to the realities of imperial colonialism, the passing of which is viewed with increasing nostalgia?<sup>12</sup> Back then, of

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12. An underlying message in the dominant textual and televisual images which inform ‘our’ understanding of current developments in places like Rwanda or Burundi is the idea of the ‘good old days’ of colonialism. The heyday of imperialist intervention is invoked daily as a

course, the natives knew their place. Now, Hutu and Tutsi massacre the Other, indistinguishable except in the con-text, the discursive lie, of neo/post-coloniality, of arms deals, of the geo-political written in the decomposing flesh of the “Third World” killing fields and graveyards.

The question then becomes at once more complex and simpler. We must contextualize our response so that it is responsive and responsible. We must, at the most basic and fundamental level, begin to escape the trap of the position in which we find ourselves, either as Western “white” feminists or as men, to escape the binds and double binds of chromatism and genitalism. We must begin to run the risk of error by acting in a “responsible” manner by listening and responding to the cries of silence which must by definition surround the question of “female genital mutilation”. We must seek to escape the discourse which seeks to surround the issue in the West with an amnesia about the colonial past, a silence about the neo-imperial present and an aggressive attempt to create and recreate an Other whom we must save.

It is not a solution, the idea of the disenfranchised speaking for themselves, or the radical critics speaking for them; this question of representation, self-representation, representing others, is a problem. On the other hand, we cannot put it under the carpet with the demand for authentic voices; we have to remind ourselves that, as we do this, we might be compounding the problem even as we are trying to solve it. And there has to be a persistent critique of what one is up to, so that it doesn't get all bogged down in this homogenization; constructing the Other simply as an object of knowledge, leaving out the real Others because of the ones who are getting access into the public places due to these waves of benevolence and so on. I think that as long as one remains aware that it is a very problematic field, there is some hope.<sup>13</sup>

It is thus in the problematics of a deconstructive ethical practice where we must encounter the possibilities of a political discourse in the West around and about the practice of “female genital mutilation”. It is in the wary recognition of the mutable problematics of the debate that our responsibility comes. There are several spaces, *lacunae*, *traces*, gaps in our search for justice. This is the *aporia* which arises out of the obligation

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time/place where ‘native’ brutality and ‘barbarism’ were subdued and attenuated by the mediating influence of ‘culture’. The ‘African’ is constructed for us as someone who has slipped back into ‘tribalism’ after gaining ‘independence’. See CNN everyday.

13. G.C. Spivak, “Questions of Multi-culturalism” in *The Post-Colonial Critic* (New York: Routledge, 1990) at 63. On the issue of representation and the corruption of Law, see J. Derrida, *Of Grammatology* (Baltimore: Johns Hopkins University Press, 1976) at 297. “As corruptive principle, the representative is not the represented but only the representer of the represented; it is not the same as itself. As representer, it is not simply as the other of the represented; the evil of the representer or of the supplement of presence is neither the same nor the other. It intervenes at the moment of difference, when the sovereign will delegates itself, and when, in consequence, law is written.”



and responsibility we have to the Other in the face to face. We must seek to do justice and to be just. But justice can never be done, finished. It is an unfinished and unfinishable project but a project to which we are called, compelled by and in the face to face. The *aporia* here delimits the impossibility of doing justice and compels us to do justice. This impossibility/obligation is the responsibility of the ethical. Thus, we are called to the world/word of justice by a Law of obligation. This is the legal duty to be just. It is a duty which we must assume, which we cannot assume lightly and which imposes itself on us, wherever we find ourselves.<sup>14</sup>

### 1. *Female Genital Mutilation—Discursive Practices and Responsibilities*

#### 1. *Medicalizing the Body of the Other*

Many others who have written about this issue in the various discourses of the Western metropolis (medical, anthropological, legal and political) have already offered detailed descriptions of the various practices and procedures which fall under the more general rubric “female genital mutilation”, as well as detailed studies of the practices in various countries and regions. I shall simply summarize them here in order to provide an introductory access to those issues of more primary interest in this essay, this attempt to hear the call of the *aporia* of justice.

In addition, I believe it is important in the current circumstances of the debate itself and of my personal and institutional privilege to limit “descriptions” of the practices in question in order to avoid, in so far as it is possible, the twin strategies of cold, “scientific” description on the one hand and horror on the other, so often deployed in metropolitan interventions. Each seems to rely upon a voyeuristic reduction of the Other to object which is symptomatic of the injustice in question here, an injustice which, in the descriptive practices of Western intellectuals, is never really “in question”.

The practices grouped under the title of “female genital mutilation” are generally of four types: 1—“circumcision” or sunna which involves the excision of the clitoral prepuce. 2—Excision which involves not only the prepuce but usually the entire clitoris and sometimes part of the labia minora. 3—Infibulation or Pharaonic “circumcision” which involves the removal of the mons veneris as well as the entire labia and usually involves the closure of the vaginal orifice. 4—Introcision involving the

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14. See J. Derrida, *Aporias* (Stanford: Stanford University Press, 1993).

cutting of the vagina or splitting of the perineum with the fingers or a sharp instrument.<sup>15</sup>

These acts are committed in a variety of countries, mostly in Africa, but the practice is also known among a limited group in India,<sup>16</sup> and is reported in some anthropological studies from parts of Brazil and more anecdotally in parts of Indonesia and Malaysia.<sup>17</sup> Female genital mutilation is often associated, even among those who practice it, with Islam, but it is neither part of accepted Muslim doctrine, belief or practice, nor is it part of the culture of the largest Islamic nations like Saudi Arabia. In general, then, it is safe to say that the practice of "female genital mutilation" is centered on those parts of the African continent which have significant numbers of believers in the Islamic faith but that it cannot itself be attributed to religious doctrine.

While there is much debate about the origins of the practice, as there is on the questions surrounding the explanations and justifications for its continuation and prevalence, the most important focus for the purposes of the current interventions in the West appears to be located around the trope of "culture". It is to this signifier that we must turn if our deconstructive project is to even begin to be responsive and responsible.

Western discursive interventions into the area of "female genital mutilation" have focused in recent years on the apparent conflict between metropolitan universalizations found in "feminist" or "human rights" analyses of the relevant issues on the one hand, and arguments based in critiques and applications of "cultural relativism" on the other. It is not my

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15. See J. Verzin, "Sequelae of Female Circumcision" (October 1975) 5 *Tropical Doctor* at 163; A. Mustafa, "Female Circumcision and Infibulation in the Sudan" (1966) 73 *J. Obstet. Gynaec. Brit. Cwlth.* 302; L. Lowenstein, "Attitudes and Attitude Differences to Female Genital Mutilation in the Sudan: Is There A Change on the Horizon?" (1978) 12 *Soc.Sci. & Med.* 417. H. Rushwan, "Female Circumcision" (April–May 1990) *World Health* at 24; M. Dirie, "A Hospital Study of the Complications of Female Circumcision" (October 1991) 21 *Tropical Doctor* 146; D. Gordon, "Female Circumcision and Genital Operations in Egypt and the Sudan: A Dilemma for Medical Anthropology" (1991) 5 *Medical Anthropology Quarterly* 3; L. Longo, "Sociocultural Practices Relating to Obstetrics and Gynaecology in a Community of West Africa" (1964) 89 *Am.J.Obst. & Gynec.* 470. More detailed interventions can be found in Toubia, *supra* note 11; F. Hosken, *The Hosken Report: Genital and Sexual Mutilation of Females* (Lexington, Mass.: Women's International Network News, 1982); O. Koso-Thomas, *Circumcision of Women: A Strategy for Eradication* (London: Zed Books, 1987).

16. See R. Ghadially, "All for 'Izzat'", (1992) 66 *Manushi* 17. It is important to note here that only one group, the Daudi Bohras, practices "female genital mutilation". The practice is unknown among other Indian Muslims. This should serve as a cautionary note against simplification and the creation of Western taxonomies like "Islam" or "India" in dealing with this or other questions. It is also worth noting that the practice apparently occurs among the Beth Israel or Falashas of Ethiopia, most of whom have now made their way to Israel. See Toubia, *supra* note 11, at 25.

17. See Toubia, *supra* note 11.

intention here to address the historical and polemical developments on either side of the issue. Suffice it to say that proponents on the former side of the question argue that “female genital mutilation” is a phenomenon which can be understood either as part of a more universal patriarchal oppression of women in general, and of female sexual independence in particular, or as an infringement of generally accepted international principles of human rights. For those on this side of the debate, arguments that the practices under question are deeply embedded in the cultures where they are found are simply a way of further ignoring the harsh and tragically real adverse effects of the practices on the women who are the victims of these “abuses”. For them, “torture is not culture”.<sup>18</sup>

On the other side of the debate, are those who adopt a position now characterized as “cultural relativism”. For them, claims to a universalizing frame of reference, be it “feminism”, “patriarchy”, or “human rights”, come almost invariably from the metropolitan center and are attempts to import imperialist concepts and constructs under an apparently neutral appeal to universal “human” values. Those who condemn “female genital mutilation” are condemned for their “Eurocentric” frame and their insensitivity to local, indigenous culture. They are, in other words, perpetuating colonialism under a new guise.<sup>19</sup>

## 2. *Culture and Justice—The Death of the Other*

What is striking about each of these apparently contradictory positions is not the seemingly basic opposition which characterizes their relationship, but the fundamental point of discursive commonality they share. Both discourses, with some notable exceptions,<sup>20</sup> are firmly rooted in the Western neo/post colonial tradition of the identity of the Other. Both the

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18. See A. Walker and P. Parmar, *Warrior Marks: Female Genital Mutilation and the Sexual Blinding of Women* (New York: Harcourt Brace, 1993) at 95 for the most powerful and well-known of these interventions. See also, A. Walker, *Possessing the Secret of Joy* (New York: Harcourt Brace, 1992) for a striking “fictional” account of the issues.

19. For the most recent interventions on these issues in the field of legal scholarship, see K. Brennan, “The Influence of Cultural Relativism on International Human Rights Law: Female Circumcision as a Case Study” (1989) 7 *Law and Inequality* 367; I. Gunning, “Arrogant Perception, World-Traveling and Multicultural Feminism: The Case of Female Genital Surgeries” (1992) 23 *Columbia Human Rights Law Review* 189; R.C. Smith, “Female Circumcision: Bringing Women’s Perspectives into the International Debate” (1992) 65 *Southern California L.Rev.* 2449; A. Funder, “De Minimis Non Curat Lex: The Clitoris, Culture, and the Law” (1993) 3 *Transnational Law and Contemporary Problems*; “Note, What’s Culture Got To Do With It? Excising the Harmful Tradition of Female Circumcision” (1993) 106 *Harvard Law Review* 1944. More generally, see N. Kim, “Toward A Feminist Theory of Human Rights: Straddling the Fence Between Western Imperialism and Uncritical Absolutism” (1993) 25 *Columbia Human Rights L. Rev.* 49.

20. See discussion below.

universalizing claims of feminist or human rights discourse and the claims to sensitivity to local conditions and traditions by the proponents of the cultural relativism position ignore the realities of the imperialist tradition which shapes the two discourses. The former seeks a global epistemological stance grounded in a contingent historical system of institutional practices and discourses which seek to efface the otherness of the Other, while the latter position seeks to recognize and remember the Other by granting her an absolute alterity.<sup>21</sup> Each in its own way shares in the legacy of the Western metaphysic of a logocentric discourse which is both willfully blind and deaf to the cries of the Other for an impossible Justice.<sup>22</sup> At the same time, on the level of the phenomenological or existential, each discourse tends to treat the concept of “culture”, in either its universalist or localist manifestations, as a static social structure which can be encapsulated, recapitulated and in fact, circumscribed in an equally static and non-contingent discourse. Each discourse, in its own way, freezes the Other in a frame of alterity/identity which creates a boundary—culture—which can not be transgressed because it is at once universal and unique.

Even a cursory examination of the literature which attempts to describe and capture the limits and excesses of the cultural practices in question quickly reveals the deconstructive moment in which the practices escape the logos and logistics of the non-contingent, un-self-awareness of the colonial discourses.

For example, in Lawrence Longo’s article on the practices of the Yoruba people,<sup>23</sup> the author offers the opinion that “much may be found to commend in some Yoruba practices”<sup>24</sup> but goes on to add that the practice of “female genital mutilation” is not one of them. According to Longo:

The physician must explain the rationale for rejection of harmful practices and assist the populace in appreciating more fully the advantages of scientific medical care. For this reason, this bilateral education process is the prerequisite to the success of any program of modern medicine.<sup>25</sup>

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21. See Derrida, “Force of Law”, *supra* note 4; Lyotard, *Heidegger and “the jews”*, *supra* note 2.

22. See e.g. K. Engle, “Female Subjects of Public International Law: Human Rights and the Exotic Other Female” (1992) 26 *New England L. Rev.* 1509 for an intervention that offers evidence of the effacement of alterity through the “recognition” of the Other. For some criticisms of Western feminist interventions into the debate which are in part similar to my own position, see V. Kirby, “On the Cutting Edge: Feminism and Clitoridectomy” (1987) 5 *Australian Feminist Studies* 35.

23. See *supra* note 15.

24. *Ibid.* at 474.

25. *Ibid.*

According to Longo, this “bilateral education process” requires the physician to acquire some knowledge of local practices to enable a better evaluation of “those practices that are valuable and should be encouraged, those that are detrimental and should be discouraged, and those that require further evaluation and how best this should be done within the framework of local beliefs.”<sup>26</sup>

Here we find a classic example not just of that which has given rise to many of the critiques gathered under the heading of “cultural relativism” but of the reduction of the Other to an object of knowledge and study. The “bilateral” education process is designed to function in a unilateral fashion, i.e. to allow the doctor to gain sufficient “knowledge” to determine, according to the standards of “modern medicine”, those local customs which fall inside or outside the parameter of an imposed “scientific” paradigm. In the worst, or most typical case, the local population are to become willing participants in a process whereby they are reduced to an object of study, to provide information which, always for their own good, will be used to allow them to be “given” the benefits of the modern world of Western medicine.

In the political economy of the neo/post-colonial intervention of Western medical knowledge in the “Third World”, knowledge flows in a limited circuit of production/reproduction, the sole purpose of which is to achieve the reality of an imperialist hegemony under the guise of increased sensitivity to local practices and customs. In this political economy, medical knowledge flows in these limited circuits as an economic function of exchange and the calculated circulation of commodity value (the Other as object of study, the world market in pharmaceuticals, the profession of anthropology, capitalism in the “Third World”, etc.) in the legal/libidinal economy of signifying events. We in the metropolitan center cancel our debt, we pay our obligations for colonial abuses through neo/post-colonial paternalism, and we forget about it. But we forget here about forgetting, about forgetting that we cannot forget. We forget and forego justice by reducing and inflating the Other to an object of knowledge. Our debt, our Law, is not one which can be forgotten or foregone under the rubric of medical knowledge, progress or human rights. Justice can not be forgotten and reduced to the economics of commodity circulation in the “Third World”. Rather justice, our obligation, our gift to/from the Other does not belong to the economy or to the present, but rather to the past and the future, to the

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26. *Ibid.*

deferred justice of the differend.<sup>27</sup> The “memory” of this debt, a debt which flows from colonization is a memory of the future, of a displaced alterity which calls us, but which we can neither fully heed or ignore. “The possibility of the impossible commands here the whole rhetoric of mourning, and describes the essence of memory.”<sup>28</sup>

To begin to escape to a possible deconstructive justice which can begin to account for our responsibility, in order to be responsible for our accountability, we must first escape from not only the political economy of interventions in the “Third World” but from its concomitant urge to charity towards the deserving poor and move towards the disruptive justice of the gift. This is the point at which we begin again to come face to face with our obligation to justice and to the dilemma of responsibility. To recognize the Other through the traditional Western ideals of charity or humanity is to deny her alterity. She becomes “just like us”. Our relationship with her is thereby limited to the terms of capitalist commodity circulation. Our obligation, justice, becomes a process of commensurability. Responsibility becomes commerce. What is required to be just is a new form of relationship which is not exhausted in commensurability or rendered impossible by incommensurability. A gift which is not rendered futile by its entry into mere commodity circulation.

If there is gift, the given of the gift, (that which one gives, that which is given, the gift as given thing or as act of donation) must not come back to the giving (let us not already say to the subject, to the donor). It must not circulate, it must not be exchanged, it must not in any case be exhausted, as a gift by the process of exchange, by the movement of circulation of the circle in the form of return to the point of departure. If the figure of the circle is essential to economics, the gift must remain aneconomic. Not that it remains foreign to the circle, but it must keep a relation of foreignness to the circle, a relation without relation of familiar foreignness. It is perhaps in this sense that the gift is the impossible. Not impossible but the impossible. The very figure of the impossible. It announces itself, gives itself to be thought as the impossible.<sup>29</sup>

To escape from the political economy of Longo’s knowledge production or from calls to “culturally sensitive” health care,<sup>30</sup> no matter how well-intentioned, in other words to begin an approach to the question

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27. For an explanation of this term, see J.F. Lyotard, *The Differend: Phrases in Dispute* (Minneapolis: University of Minnesota Press, 1988).

28. J. Derrida, *Memoires for Paul De Man* (New York: Columbia University Press, 1989) at 34.

29. J. Derrida, *Given Time: I. Counterfeit Money* (Chicago, University of Chicago Press, 1992) at 7. Derrida expands on the ethics of the gift in “Donner la mort”, *L’Éthique du Don*, J-M. Rabaté and M. Wetzel eds. (Paris: Métailié-Transition, 1992) at 11.

30. See B. Calder, “Female Circumcision/Genital Mutilation: Culturally Sensitive Care” (1993) 14 *Health Care for Women Int’l* 227.

which will in fact deconstruct the question itself in a quest for justice, some attempt must be made to place the question of “female genital mutilation” into contexts which are themselves at one and the same time more accurate and more contingent. “We” must, then, now begin to remember, to re-write, to re-inscribe the texts of “female genital mutilation” into responsible and responsive discourses, to heed the impossible call to the impossible, justice.

Many of the inquiries which would be necessary to even contemplate beginning this process are beyond the scope of this paper. Nonetheless, it must be remembered that the framework for a deconstruction of current discursive interventions in the field is already present in those same interventions. To fully examine the possibilities and contingencies involved in any quest to hear the unspoken, one should first hear that which is in fact spoken.

To take but one example then, of the text, “female genital mutilation”. In the Sudan, where the practice is often described as “universal”, “female genital mutilation” is not, in fact, universally practiced. In the southern part of that country, for example, the practice is not followed by the Nilotic groups except as a result of interaction and intermarriage with “Arab” groups.<sup>31</sup> To begin to enter into any discussion of the issue in this one country would require a sophisticated knowledge of the ethnography of the country, which in turn would require an awareness of the potential “Orientalist” origins of such ethnographic knowledges as well as a willingness to explore not only the “history” of the country with the same provisos, but the very idea that the “country” itself as a concept embedded in colonial aggression and the hegemonies of knowledge flowing therefrom.

Similarly, in relation to Somalia, which for a while at least, captured our attention in the West, studies indicate that while “female genital mutilation” is virtually universal, a variety of techniques are used, the practice changes according to ethnicity, geographical region, class and educational background etc. When these factors are combined with problems of “civil war”, starvation, the dislocations suffered as a result of these and other phenomena, the idea of a complete “understanding” of the issue of “female genital mutilation” in Somalia, either in terms of a dominant patriarchy or in terms of cultural sensitivity, begins to smack of absurdity and intellectual arrogance.<sup>32</sup>

Any attempt to understand the practice even in this limited area from a position informed by the trope of patriarchy, for example, would require

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31. Mustafa, “Female Circumcision and Infibulation in the Sudan”, *supra* note 15.

32. See Toubia, *supra* note 11.

an attention to the “fact” that in some cases at least, men do not support the practice while many women do,<sup>33</sup> as well as an analysis of the regressions effecting this study. Primarily here one would have to consider facts of the closer relationships existing with various forms of Western knowledges and ideologies in the urban centers among the educated, largely male elite as well as the important psycho-social factors of gender identity which are “internal” to women. At the same time, it would be equally important to consider the influence of a Westernized “feminism” among the female elite and the multiple ways in which all of these factors are interrelated and circulate in the textual interstices of the nation and of civil societies.

Even a wish to more fully understand the political economy of the practice in some parts of the world requires a sophistication which is absent from the current debates of the issue in the metropolitan center. For example, it seems clear that the obstetric and other complications which often follow these practices are a major issue in the current struggle to abolish “female genital mutilation”. But in addition to the individual traumata and tragedies which frequently follow these procedures,<sup>34</sup> health care in many areas of the world in which these procedures occur is often in a state of crisis. At the micro-level, hospital facilities are often over-burdened by an excessive number of patients suffering from the sequelae of “female genital mutilations”.<sup>35</sup> The “fuller picture” is even more complex. Obstetric and gynecological care in the “Third World” is a major international issue, of which “female genital mutilation” is but a part. While a great deal of focus in international fora in recent years has been centered on a campaign to eradicate “harmful traditional practices” such as “female genital mutilation”,<sup>36</sup> there is also now a turn to a greater and deeper contextualization of this and related issues. In recent times, for example, international organizations have been forced to turn attention away from policies of population control by contraception to take a broader approach to issues of health care in general, including prenatal care, education and women’s equality.<sup>37</sup> To begin to talk and write about “female genital mutilation” in such contexts might allow us to begin the difficult task of trying to hear and respond responsibly to the voices which speak not as some Eurocentricized “authentic Third World Woman”, but

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33. Lowenstein, *supra* note 15.

34. See *e.g.* Verzin, *supra* note 15.

35. See *e.g.* M. Dirie, “A Hospital Study of the Complications of Female Circumcision” (October 1991) 21 *Tropical Doctor* 146.

36. See *e.g.* *Forty-Sixth World Health Assembly* (12 May 1993) Geneva.

37. See S. Chira, “Women Campaign for New Plan To Curb the World’s Population” *New York Times* (13 April 1994) A1.



which speak because they are bound to speak within and by the binding boundaries of their position in the “Third World”, as subaltern voices of the Other, compelled within the libidinal/legal/political economies of neo/post-colonial capitalism.

Even these contextualized approaches, however, often remain mired in a limited approach to many of the underlying concerns which effect health care in the “Third World”. Very little is made in these broader debates, or in the more narrow ones surrounding “female genital mutilation”, of the fact that many of the sources of the problems can in fact be found in the history of Western imperialism. This means not only are we required by the call to justice to look at how deeply implicated in the creation of the “Third World” and its problems we are in an historical sense, but we must also begin, as we have so far failed to do, to examine the continuing impact of our practices of neo/post-colonial involvement in the political economy which informs the reality of existence for the majority of the world’s population today.

Therefore to examine the proposition that health care should be addressed in an holistic fashion and that poverty should be seen as a major underlying causative factor in many of the health issues in the “Third World”, if left at that level, does not offer an analysis of the impact and central role of the so-called world economy in the creation and maintenance of the base conditions for the perpetuation of that poverty and misery in the “Third World”. Such an analysis would have to investigate not just the traditional critical analytical categories of the creation of a lumpenproletariat and industrial reserve army but also issues as seemingly diverse as cultural imperialism,<sup>38</sup> the ecological destruction of much of the “Third World” and the role of international institutions like the IMF and the World Bank. These international organizations and their discourses impose structural reforms designed not only to further reduce the material base of wealth in many countries but to insure their complete integration into an international economy which is itself based in/on the perpetuation of fundamental imbalances in the distribution of wealth both on a national and international level. Such an analysis, outlined in a crude form here, would begin to make both universalizing appeals to the tropes of “human rights” or “patriarchy” or appeals to cultural “sensitivity” appear in their true light as themselves deeply and perhaps inextricably

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38. See A. Mattelart, *Mass Media, Ideology and the Revolutionary Movement* (Brighton: Harvester Press, 1980); A. Dorfman & A. Mattelart, *How To Read Donald Duck: Imperialist Ideology in the Disney Comic* (New York: International General, 1975); N. Chomsky & E. Herman, *The Political Economy of Human Rights* (Boston: South End Press, 1979).

implicated in the neo/post-colonial structures which they seemingly wish to criticize.

Further, in a turn on both the universalizing discourse emanating from the West and their relativizing metropolitan counterparts, a brief examination of an institution at once Western and universal, the Roman Catholic Church,<sup>39</sup> and some of its Protestant counterparts, would quickly reveal the complexity and interconnection of many issues. For example, we must interrogate the influence of missionaries in creating a climate in which it was acceptable both to denounce "traditional practices" as barbaric and to offer charitable assistance to the primitive natives.<sup>40</sup> These discourses now manifest and reassert themselves with disturbing, if somewhat more subtle, regularity in today's debates about and around "female genital mutilation". Additionally, Western attempts to "Christianize" the "Third World" must now be read and decrypted for the role they continue to play in the manifestations of the state of the cultural hybridity which is, in fact, the key element missing from metropolitan discourses about "female genital mutilation" today.

However, there is in this field, as in many others where it might be possible to interrogate more fully the interactions of such Western colonial practices as Christianity with the "local culture" in discourses surrounding "female genital mutilation", an unwillingness to enter into such inquiries or to recognize their relevance. The idea of seeing and reading "native Christianity" as a form of Western colonial hegemony which appears to dominate current critiques of religious imperialism, is a universalizing Western discourse, occasionally supplemented with a similarly Westernized and universalist critique of "patriarchy". This form of incomplete, and therefore inaccurate, critique results in a distinct failure to see the ironic and potentially liberatory textual possibilities and contingencies which might be unveiled by such an interdependent reading of the "two cultures".

By way of a brief example, before exploring the phenomenon of the *Western effacement of alterity in "female genital mutilation" in its other manifestations*, it is useful to note the contradictions which can result

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39. See E. Israelwicz, "Women's Education the Key to Controlling Population Explosion" *The Guardian Weekly* (15 May 1994) 3.

40. See J. Kenyatta, *Facing Mount Kenya* (New York: AMS, 1978, reprinted from London: Secker and Warburg, 1938) at 130. "The custom of clitoridectomy of girls, which we are going to describe here, has been strongly attacked by a number of influential European agencies-missionary, sentimental pro-African, Government, educational and medical authorities."

In 1990, the Kenyan government formally banned the practice. See "Kenya: Female Circumcision Banned, Task Force Formed" (Summer 1990) 16 *Women's Int'l Network News* 24. The current government of Kenya has often spoken out against the practice. See (Spring 1993) 19 *Women's Int'l Network News* 44.

from interventions based on a unilateral Eurocentric metropolitan reading of “female genital mutilation”. In colonial Kenya, Church of Scotland missionaries converted many to their faith. They then found themselves in the position of having to justify, in terms which they themselves had introduced into the discursive matrix, their opposition “as Christians” to the practices associated with “female genital mutilation”. It seems that the Kikuyu word *muiritu* was used in the translation of the word “virgin” as in the Virgin Mary. In Kikuyu, *muiritu* signifies a girl who has undergone the ceremonial process of “female genital mutilation” and who is therefore initiated but unmarried. As one author noted the situation was at least ironic:

So the native Christian is confronted with a puzzle. He finds the mother of Jesus extolled and blessed in the faith he has embraced; but she is described in the Bible as a young woman who has been initiated and circumcised. And now the missionaries tell him that female circumcision is wrong.<sup>41</sup>

Instead of analyzing the “culture” at play here in terms of an epistemologically pure category such as “imperialism” or “Christianity”, it is incumbent upon a deconstructive practice to seek to find ways of reading the practices in question here as complex sites of hybridity where the contradictory elements of “virgin” and “female genital mutilation” circulate in a “culture” where each term is actively engaged and lived, both as differend, and also as simply a part of a complex social structure where contradictions and disputed meanings are encountered. In this way, an engagement with the idea of “culture” as struggle might begin to be our possible responsibility.

### 3. *On Culture and the Struggle for Justice*

For both of the apparent opponents in the rhetorical, legal and political struggles over the phenomena described as “female genital mutilation” in the West, the point of contact and seeming disagreement, the fulcrum of the debate, is the concept of culture. On the one hand, we find claims that there is, in essence a human culture, transcending national or local specificities to encompass important and vital points of commonality, either to allow us to identify a common category of cultural “victim”—woman—or to name a category of protection or belonging—humanity—human rights. On the other hand, we find appeals to multiplicitious cultures, to the rich diversity of human experience. Putting aside the potential danger of grounding multiplicity (cultures) in a singularizing logos (humanity, human experience), one can be struck by the point at

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41. See J. Huxley, *Africa View* (London: Chatto and Windus, 1931) at 197.

which the two positions stop traveling in parallel lines and begin to intersect in a crucial way. For each discourse, grounded in the Western metaphysic of the present and of the Other, culture takes on an apparent insular aspect. If it is universal or local, it is nonetheless separate and distinct. There is no recognition that culture may actually be anything but a static epistemological category. For the metropolitan discourses which intervene and clash in the struggle over “female genital mutilation”, there is no idea of, no recognition of, however fleeting, the situation of culture as an amorphous arena for political, ideological, legal or more generally, discursive struggle.

This results not only in the analytical and consequential failures to take into account the internal and external contingencies and complexities on the “practical” contexts of issues surrounding “female genital mutilation”, but it also results in a more important omission, the forgetting of forgetting, the omission that is the failure to heed the cries and calls to/for justice.

Because each side in the metropolitan debate falls victim to the fallacy of “culture” central to its conception to the needs and requirements of “justice”, in each instance it fails in its self-appointed task. By appealing to either a Western or universal “culture” on the one hand, or to the specificity of local “cultures” on the other, these metropolitan discourses deny the Other, either by framing her as Same, thereby denying her alterity or by recognizing her as Other,<sup>42</sup> once again denying her alterity. In its own way, each Western discourse deploys the trope of “culture”, which it clearly believes to be the signifier which can lead to the *objet a*, or justice.<sup>43</sup> In this schematic reading of metropolitan emplotments of “culture”, “culture” in relation to the Other contains a hidden element in the signifying chain. That hidden signifier, or in Derridean terms, the trace, is the Other to whom we are called by our responsibilities under the Law, and whose presence is determined by the lack or absence of identity.

The deconstructive project which seeks the contingent path to the recognition of the unrecognizable, the possible presentation of the impossible, the gift of justice, must begin, then, with a reconceptualized “location of culture”.<sup>44</sup>

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42. See e.g. Engle, *supra* note 22.

43. See J. Lacan, “The Subversion of the Subject and the Dialectic of Desire in the Freudian Unconscious” in *Écrits* (New York: W. W. Norton, 1977) at 320; J. Lacan, “A Love Letter” in *Feminine Sexuality* (New York: W. W. Norton, 1985) at 149. For Lacan, the ‘*objet a*’ (autre-other) stands in relation to the (Autre-Other) as part of the object of desire and jouissance which are always experienced as a lack but which nonetheless have a transgressive function. For an introduction to the potential place of Lacanian theory in law, see D. Caudill, “Pierre Schlag’s ‘The Problem of the Subject’ and Law’s Need for an Analyst” (1993) 15 *Cardozo L.Rev.* 707.

44. See Bhaba, *supra* note 9.

This reconceptualization of culture, has, of course, already begun. Unfortunately, the fact that this reconceptualization has been ignored in most of the discursive practices surrounding “female genital mutilation” is itself another symptom of the more general malaise of political and ideological interventions in the metropolitan center around issues in the “Third World” and of their fixity on/in the ideological discursive hegemonies of the West. But the primary purpose of even the present intervention in the search for the possibility of justice is not to engage exclusively or even primarily in the politics of blame. Rather, its purpose is to seek points of incision where a possible exploration of justice in this context might tentatively be located.

Thus, the primary task of this reconceptualization on/in/around the tropes of justice and culture must be to seek to reorient the inquiry, again in a tentative and speculative fashion, but one nonetheless that wishes to be informed by the possibility of a manifestation of the impossible, towards a different deployment of “culture” and with it an emphasis on a reoriented understanding of the dynamics, not the stasis, of imperialism and neo/post-colonialism.

In other words, what we must seek is not just Homi Bhaba’s location of culture, itself perhaps somewhat static and hegemonic, but the tripartite interventionist strategy proposed by Edward Said. Thus:

First, by a new integrative or contrapuntal orientation in history that sees Western and non-Western experiences as belonging together because connected by imperialism. Second, by an imaginative, even Utopian vision which reconceives emancipatory (as opposed to confining) theory and performance. Third, by an investment neither in new authorities, doctrines, and encoded orthodoxies, nor in established institutions and causes, but in a particular sort of nomadic, migratory, and anti-narrative energy.<sup>45</sup>

This nomadic, contingent deconstructive politics of justice requires not just the wariness of which Gayatri Spivak warns,<sup>46</sup> but an awareness of the centrality, not of culture per se, but of the mutable arena of struggle over/through/in culture which is central to the historical experience of racism within the context of imperialism. The centrality of culture and struggle over culture under racist imperialist conditions refers not only to the “unilateral” experience of those oppressed and victimized by colonialism but also to the central role of culture in the experience of the racist colonizer. Fanon explains part of the phenomenon of cultural sites in the colonial experience:

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45. E. Said, *Culture and Imperialism* (London: Chatto and Windus, 1993) at 337.

46. See *supra* note 13.

The setting up of the colonial system does not itself bring about the death of the native culture. Historic observation reveals, on the contrary, that the aim sought is rather a continued agony than a total disappearance of the pre-existing culture. This culture, once living and open to the future, becomes closed, fixed in the colonial status, caught in the yoke of oppression. Both present and mummified, it testifies against its members<sup>47</sup>.

Culture, in this employment, then changes from a dynamic “democratic” process to a stasis associated with the subjugated status of the oppressed. The anti-colonial struggle becomes, in part, a struggle to at least maintain cultural practices which can be at one and the same time “traditional” and dynamic. The obvious danger is that the “national” struggle for and over culture will itself internalize the frozen status imposed by colonial conditions as “natural” and that as a consequence, the idea of culture as dynamic will be replaced with a naive appeal to the simple preservation of a now surpassed and in reality erased and effaced national culture,<sup>48</sup> which then exists as a practice of nostalgia and revisionism, the politics of forgetting disguised as the politics of memory.

For the colonizer, the strategy is not to eliminate but to stagnate, to exoticize “native” culture, to transform it from culture as experience to culture as object of study, as a phenomenon of the Other, reducible to anthropology and ethnography. At this level, colonizer and colonized appear to experience “culture” in incommensurable ways. But the heritage of colonialism is also the history of Diaspora, of the creation of new locales and sites in which cultures of the colonized and colonizer interact in ways which neither could have foreseen or understood. These new sites are in fact places where new cultural discourses are created which are the direct creation of the dialogic flow of cultural signifiers through and beyond the rigid and no longer impermeable categories of colonized and colonizer. The border is transgressed.<sup>49</sup>

In this way, cultures grow and mutate. “English” literature, then, becomes impossible, or at least different than it would otherwise have been, through the colonial experience.<sup>50</sup> Likewise, but in different ways, colonial cultures change as a result of the colonial experience and finally with the actual experiences of the diasporas, the metropolitan center is itself transformed.

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47. F. Fanon, “Racism and Culture” in *Toward the African Revolution* (New York: Grove, 1980) at 34.

48. See F. Fanon, “On National Culture” in *The Wretched of the Earth* (New York, Grove, 1968) at 206.

49. See discussion below, *infra* note 108 and accompanying text.

50. See Said, *supra* note 45.

This is not meant to suggest that imperialist aggression and colonization are “good”, nor that the diasporas which inevitably flow from this heritage are themselves purely of benefit to all concerned. Rather, it is merely to suggest that a dynamic, deconstructive intervention into the realm of culture will perhaps permit a better, but always contingent, approximation of the impossible. Once we have “reached” this stage, which can never truly be reached, then perhaps, our metropolitan interventions into the debate on “female genital mutilation” can take into account not only these factors but also render some homage or recognition to the location of this one practice in a complex web of local and other practices which themselves offer evidence of independence and interaction.<sup>51</sup>

## II. *Writing the Body of the Woman/Law: “Female Genital Mutilation” and Justice*

### 1. *The Body of the Law*

One of the most troubling yet fascinating aspects of the current legal and political debate surrounding the issue of “female genital mutilation” in the metropolitan center<sup>52</sup> is the apparent un-awareness of the tragic irony which might be found in calls for the criminalization of the phenomenon. Calls for the banning of the practice and the imposition of criminal sanctions on those who perform the procedures (and in some cases lawyers would argue of the person on whom the procedure is performed),<sup>53</sup> are made with increasing frequency and urgency. The sad irony is that these calls for the criminalization of acts in relation to women’s bodies occur in a world in which women’s bodies are themselves subjected to criminalizing sanctions by the very forces of the patriarchal state apparatus which is here being invoked to seemingly protect them. Thus, recent newspaper reports tell of women in India whose foreheads were tattooed with the word “pickpocket”. The police in the Punjab, where the incident took place, claimed that the women were tattooed by a mob which captured them in the act of stealing, but the Indian Court believed that the police had tattooed the women after they

51. See R. Devisch, *Weaving the Threads of Life: The Khita Gyn-Eco-Logical Healing Cult Among the Yaka* (Chicago: University of Chicago Press, 1993).

52. See below discussion at Part IV.

53. For example, there is relatively clear authority that a woman seeking an illegal abortion is an accessory to the offense. See *R. v. Price*, [1969] 1 Q.B. 541. There is equally strong grounds for arguing that in cases of “female genital mutilation” consent may not be a defense, in which case the “victim” could perhaps be charged as an accessory, all other factors (e.g. age) being considered. See *R. v. Brown*, [1993] 2 W.L.R. 556.

refused to aid in the search by security forces for “terrorists” in Amritsar.<sup>54</sup> Others carry reports of women gunned down as they awaited a bus in Algiers because they were bareheaded.<sup>55</sup> Yet another report indicates that one quarter of the female inmates at the Mulawa women’s prison in New South Wales have committed some acts of self-mutilation.<sup>56</sup> In each case, women’s bodies are mutilated, graphically inscribed, because of their criminalization. In this way, the process of criminalization becomes a way of writing the force of the law on the female body as if it were a text to be inscribed with a meaning flowing naturally from the criminalization itself. Now, metropolitan proponents of the criminalization of “female genital mutilation” wish to inscribe other female bodies, those of the practitioners, with the body of law in order to punish them for their part in another form of the physical inscription of the female body. At a tragic level, the response of the Western metropolis to the violence of the word which is the violence of the law operates in an un-self-reflective way and thereby ignores the fundamental and fundamentally legal and unjust commonality they share. The lack and the desire to fulfill this lack which, in Western phallogocentric cultures define the “woman”, here is simply reinscribed in a more subtle but equally pernicious fashion.

We then find the tragic and horrible act of violence against the young women, written figuratively and literally on her body by the law of the Father, written in her blood.<sup>57</sup> We also find competing calls for the Law of the Father to be deployed to write another form of sovereignty over the bodies of the female.

It is in such calls for the invocation of the full power of the text of the state/Law through criminalization that we again find the problematic of the Other inscribed in metropolitan interventions on the subject of “female genital mutilation”. For at the base of many calls for the criminalization of these practices are embedded fundamental assumptions of the recognizability of the Other and the non-commensurability of experience that we find, yet again, the two-fold and twice-told denial of alterity and justice.

For example, in Susan Bordo’s often devastating critique of the forces behind the social construction of the female body, there is a conscious

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54. See (1 May 1994) *The Guardian Weekly* 3.

55. See Y. Ibrahim, “Bareheaded, Women Slain in Algiers” *New York Times* (31 March 1994) A2.

56. See P. Totaro, “Inmates Turn to Bloody Activity” *Sydney Morning Herald* (23 April 1994) 8.

57. Or in the absence of blood. In either event, the Law of the Father will predominate. For a moving account of the way in which the absence of blood can still be written in Law, see N. Sadawi, “She was the Weaker” in *She Has No Place in Paradise* (London: Minerva, 1989) at 9.



effacement of the non-Western female body.<sup>58</sup> The Other, the non-Western body, is absent, as if the construction of the female body in popular culture did not and does not contain in the dominant portrayals of the acceptable female form any messages about race or the culture of imperialism. Indeed, in Bordo's world the phenomenon of the embodiment of colonial racism in the body of the colonized subject is not relevant in her construction of "Western Culture". Not for her any analysis of the myriad and complex ways in which the bodies of the colonized are, in the lived daily realities of their lives, chromatically inscribed in every aspect of their interactions with, in and around the imperial reality.<sup>59</sup> Of course, the construction of "blackness" is present in Bordo's work since she would not deny the effect and existence of racist discourse in "the West". For her, however, "Western culture" is in reality American culture. Her recognition of "race" comes about here simply as a result of the Other in America. But for the apparently immutable fact in Western/American culture of the Diaspora of the African slaves, the Other would not figure in our constructions of Western culture. In the end, there is no critique of the slave origins of "American" culture for Bordo, who remains concerned only with a single and singular alterity, woman, which is itself grounded in her own version of the politics of identity, exclusion and the effacement of the Other in neo/post-colonialism.

In this, Bordo's analysis is typical of the effacement of the Other who simply is never recognized. On the other hand, in those discourses which attempt to recognize the absolute alterity of the Other, the same process of effacement exists.<sup>60</sup> In the cultural relativity discourse, there is a marked tendency to equally ignore the sites at which the body of the Other, the "African Woman" for example, is again inscribed with Western tropes and signifying functions.<sup>61</sup> Again and again the Other, the "African" "woman" is effaced in the inescapably racist discourse of the West.

## 2. *Contaminations of Metropolitan Justice*

One of the principal ways in which metropolitan discourses on "female genital mutilation" are implicated in the colonial construction of the body of the female Other is to be found in their failure to offer a contextualized,

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58. See *Unbearable Weight: Feminism, Western Culture, and the Body* (Berkeley: University of California Press, 1993).

59. See F. Fanon, *Black Skin, White Masks* (New York: Grove Press, 1967).

60. See Engle, *supra* note 22.

61. It is beyond the scope of this article to map the myriad ways in which the Other is effaced. One example which has gained increased attention is the case of AIDS and the discourses which construct it as an "African" disease. See C. Patton, "From Nation to Family: Containing 'African AIDS'" in A. Parker, ed., *Nationalisms and Sexualities* (New York: Routledge, 1992).

deconstructive reading of the social circumstances in which the practices themselves occur or of the circumstances in which the colonial discourses are produced. One area of major concern and interest so far as “female genital mutilation” is concerned is the creation of tropes and signifiers to deal with the “fact” or “problem” of women’s fundamental role in the practices in question and in their deep insertion in cultural practices, which define, *inter alia*, gender roles and identity of which the metropolitan West and the mainstream feminist discourse which circulates there disapproves.

The reality of “female genital mutilation” is that in most, but not all, instances, the procedure itself is performed by women on women with the active involvement of the female members of the woman’s family or kinship group.<sup>62</sup> In many cases involvement of women is not simply part of the “cultural” practice or framework in a narrow sense but involves the acceptance and internalization of deeply-embedded cultural and religious beliefs.<sup>63</sup> It is thus important to engage in a careful and wary deconstruction of all of the elements which might constitute the textual background against which the practices of “female genital mutilation” occur. To take two brief examples, it must be noted that in many cases, for the women who perform these procedures, the income from these activities is an important, if not a sole, source of income. It is not possible to begin an analysis of women’s implication in the practices in question without a careful study of the political economy within global capitalism under and within which the practices occur, taking into account in particular the ways in which value and labour are themselves subjected to gendered divisions. Secondly, but at the same time, the context of these practices cannot be understood unless the “religious” nature of the phenomena is carefully examined.

While it is important, if not vital, to clearly underline, as most Western discussions now do, that the practice is not a part of the doctrine or approved dominant practices of the Islamic faith, in order to avoid the almost inevitable bigotry which comprises “our” construction of a monolithic and terroristic Islam,<sup>64</sup> it is also important to realize that no

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62. See *supra* note 15.

63. For a detailed and critical study of the role of women in some of these cultural circumstances, see N. Sadawi, *The Hidden Face of Eve: Women in the Arab World* (Boston: Beacon Books, 1980); F. Mernissi, *The Veil and the Male Elite: A Feminist Interpretation of Women’s Rights in Islam* (New York: Addison-Wesley, 1991). For a postmodern reading of the difference here, see L. Abu-Odeh, “Post-Colonial Feminism and the Veil: Considering the Differences” (1992) 26 *New England L. Rev.* 1527.

64. See A. Ahmed, *Postmodernism and Islam: Predicament and Promise* (New York: Routledge, 1992).

religion is limited to those doctrines or practices which have official approval. Religion in this sense becomes and is a highly complex, contextualized lived reality for those involved. If women practice “female genital mutilation” because they believe that it is either expressly commanded by their faith or because, more subtly, they believe that a variety of religious doctrines and practices about female sexuality, chastity, the family, marriage etc. in fact make the practice a necessity, then to claim that the practice must be eradicated because it does not stand up to official doctrinal scrutiny, is to make a claim which is unjust because it must be incommensurable with the lived “religious” reality of the women themselves. To assert an Islamic authority, from the outside, is to efface and erase the alterity of the Other.

Conversely, and/or at the same time, the “politics” of Islam further complicates any simple strategy of effacement through labeling. Arguments about theology are complex, controversial and need to be first understood on their own terms. However, they must also be understood, or at least read, in other terms as well. Thus, theological interventions on the question of “female genital mutilation” become more problematic when an examination of the context reveals a complex power struggle in which “religion” is but a part of the mix. For example, recent debates in Egypt have included legal action by a human rights group against a well-known Muslim cleric who declared that “female genital mutilation” is a duty recommended by the Prophet Mohammed.<sup>65</sup> The cleric in question, Sheikh Gad Al Haq, is the religious leader of Al Azhar University, the leading higher education center for Islam in Egypt. While this debate might at first blush appear to be a typical struggle between “domestic” human rights groups and “conservative” religious forces over the issue of “female genital mutilation”, the situation is more subtle and complex. Al Azhar University serves as a key site of so-called “Muslim fundamentalist” opposition to and foment against the “secular” Mubarak government, which, of course, has not hesitated to invoke other authorities within Islam to counter the University’s growing power and influence.<sup>66</sup> When the regional and international dimensions of “Islamic fundamentalism” are factored in, as they must be, the very ideas of “Islam”, “Egypt” or “female genital mutilation” no longer give, if they ever did, access to any epistemological safe harbour. At the same time, it is important to note<sup>67</sup>

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65. A. Sipress, “Cleric Sued for Backing Female Circumcision” *Sydney Morning Herald* (14 April 1995) 6.

66. J. Lancaster, “University Constrains Mubarak’s Power” *Guardian Weekly* (23 April 1995) 19.

67. See discussion below at Part IV.

that to claim that because this is part of present practice calls for its elimination are by definition indicative of a cultural insensitivity, is to seek to efface the Other in another way. Claims of cultural relativity in this context deny the complexity and mutability of culture and religion in much the same way as the claims they criticize.

However, metropolitan discourses on the subject of “female genital mutilation”, particularly those which seek to abolish and/or criminalize the practice, suffer from a much cruder form of injustice. These criticisms of the practices associated with “female genital mutilation”, when faced with the “fact” of women’s apparently free and voluntary participation in the practices, by way of reply, often resort to a simplistic universalizing signifier like “patriarchy” and a concomitant psychological explanatory mechanism—“false consciousness”. In more or less subtle explanations of the apparently contradictory phenomenon of the “femaleness” of the practices of “female genital mutilation”, Western feminists and human rights activists argue that women in the “Third World” are victimized by the cultural constructs of patriarchal discursive practices which operate in a hegemonic way to “force” women to “voluntarily” accept and participate in the discourses which enslave, torture and mutilate them.

Whatever grain of truth or even explanatory panacea may be found in the concept of “false consciousness” and its derivatives in the metropolitan discourses on this subject, they operate quite clearly to provide an explanation which satisfies Western interpretive practices and models while at the same time reducing the Other Woman to a doubly subservient and objectified status. Not only is She victimized by the patriarchal hegemony of her own culture, but she becomes an object, a sociological or anthropological topic of interest to be explained, “understood” and thereby effaced. The deployment and employment of “false consciousness”, “hegemony”, “internalization” and other constructs of Western disciplinarity is another tragic example of the erasure of the Other by turning her into an object explicable by reference to Eurocentric discursive tactics.

Virtually no attempt is made to place the practices associated with “female genital mutilation” into frames of reference which would permit the Other to speak of the complexities of her “identity”. How much recognition, however tentative and hesitant, is given by Western discourse here to the idea that “gender” itself may be subjected to a number and variety of cultural meanings? While there is in fact some recognition in postmodern interventions into the field of “gender studies” of the social constructedness and contingent nature of “our” understandings of “gender”, Western interventions into debates on the topic of “female genital mutilation” seem constantly to revert to a foundational norm of gender,

an irreducible core meaning among all the contingencies, beyond which we will not allow our conception of gender to escape. This logos of gender, identified and identifiable by the metaphysical presence of "Woman", especially in the political and legal interventions in the area of "female genital mutilation", is not uncoincidentally, symmetrical with the logos, the logistic border which we draw around "us" and "them". The limit, the unjust limitation placed on the call to justice, is precisely drawn around and within the "Third World", a place where gender cannot be allowed to speak or be heard unless it undergoes a translation which will make the Other commensurable and which will at the same time make the Other disappear under the guise of a violent pretense of Justice. Further, it is drawn around the physical inscription of the female Other body, a removal and an absence, greater than any "lack" of Western psychoanalytic theory and practice. It is the limit, the border, the boundary of a lack, the present delimitation of absence which so effaces the female Other of the "Third World" that she cannot even be recognized, reinscribed by her "sisters" except as the Other, lacking even the lack, more lacking, beyond desire, beyond desiring, justice.

Thus even when there is a recognition of the complexity involved in gender construction, the recognition must always involve a call to Western "justice".

Although infibulation can be seen as a means to control female sexuality and subordinating women, it is important to recognize that the act of infibulation determines the gender identity of women. After infibulation girls acquire a new identity: they have become virgins. They are now ready for marriage and able to give their husbands children. Girls who are not infibulated will probably not find husbands. In most cases they will become outcasts.<sup>68</sup>

Yet Van Der Kwaak concludes that the practice must be eliminated. This does not mean that she is "wrong" in her conclusion. Rather, it means that for all her attention to the complexities of gender identity, she ends by adopting what might be described as a Western frame. In fact, the issue

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68. A. Van Der Kwaak, "Female Circumcision and Gender Identity: Questionable Alliance?" (1992) 35 Soc. Sci. Med. 777. It is important to note that the concept of gender identity is extremely vital and complex. Not only must care be taken to avoid colonizing discourse and analyses, but it is crucial to place the issue in an appropriate context with consideration of culturally appropriate criteria, of which one is clearly the processes of identity associated with the "other" gender. Some ethnographic studies, for example, point to the fact that "female genital mutilation" or other physically intrusive and painful initiation rites often occur in cultures where some form of genital operation is also performed on the male initiate. See J. Brown, "A Cross-Cultural Study of Female Initiation Rites" (1963) 65 Am. Anthro. 837. It is important, therefore, to see "gender" as equally constructed in referential terms, reflecting the interdependency which marks all textual practices.

of gender identity in some countries is indeed more complex in relation to “female genital mutilation” than Van Der Kwaak’s Somali study indicates it may be in that country. In Egypt, for example, the practice appears to be less wide-spread and even among women who have undergone the procedure, there is striking evidence that issues such as gender identity, procreation and family life are more complex than reference to the centrality of “female genital mutilation” would permit.<sup>69</sup> Again, this does not mean that one is “wrong” and the other, the Other, is “right”, for we are speaking of/about justice, beyond right and wrong. Rather, it simply suggests the importance of always reading warily, of one’s obligation and responsibility to do so. It is our obligation here to read and to see and to hear “female genital mutilation” as a series of complex social practices and signifiers which circulate in many other practices and signifiers to produce mutable and mutating mutual social texts.

### 3. *Metropolitan Discourses and the Body of the Law*

But in addition to failing on the subtle analysis of the issues of “gender” as a colonial intervention in domestic discourses, Western interventions fail on another front. In their rush to condemn and criminalize the Other Woman, many participants in the Western debates around the issue fail to intervene from a perspective which offers a deconstructive, justice-inspired critique of the discourses and practices from which they themselves speak of “justice”. Nowhere is this more clear in the battle to intervene at the level of the appropriate and acceptable signifier to be invoked, deployed and employed as the sign of justice.

Without going into a detailed historical and semiotic analysis of the debate, it is readily noticeable to the reader that some refer to the practices in question as “female circumcision”; others use the technical, medical term “infibulation”; some invoke a seeming combination of the two, “female genital surgeries”; and finally, some choose what is now seen as the most “acceptable” term in Western discourse “female genital mutilation”. What is at stake in each deployment, each signifying debate, is clearly a battle over the characterization of a complex and nuanced set of social and cultural practices which will best capture the “reality” of what is “happening”. In other words, the terminological debate is occurring in the rhetorical sphere of political and ideological phenomenology. At the same time, the linguistic strategy is also to obtain and maintain a

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69. See N. Atiya, *Khul-Khaal: Five Egyptian Women Tell Their Stories* (Syracuse: Syracuse University Press, 1982).

canonical textual interpretive status, to define and to confine, to establish the boundaries and borders which in turn define strategies of exclusion and alterity.

Briefly, those who describe the question as dealing with “female circumcision” import into the debate the primacy of the “religious” character of the practice. Those who use technical terms like “infibulation” or the more generic “female genital surgeries” wish to bring to the fore the “medical” analogy which treats the practice from a more detached, apolitical and even scientific perspective. Finally, those who use the phrase “female genital mutilation” seek to shift the focus in two ways. First and most importantly, they want to invoke the harsh lived reality of the “victims” of the procedures. Second, they want to use the graphic “mutilation” to disarm the placating effects of the terminology deployed in the other cases. “Mutilation” stands in stark contrast to the noble, sacred connotations which follow from “circumcision”. It also belies and negates any idea that what occurs and is being spoken of is any way “scientific” or “surgical”. A necessary consequence of the double strategy behind the use of “female genital mutilation” is to underline and highlight the centrality of “gender” to the discourse. It is the “female” who is being “mutilated”. Her genitalia are the object, her gender and her sexuality are being targeted. Here we also in interesting ways return to the issue of women’s “complicity” in the practice. What is being targeted, written and inscribed graphically on the body of the women is the Law of the Father which describes, defines and delimits the female as that which is not, the sex which is not one—genitalia removed so that her defining lack can be graphically noted. Her only hope for definition, the only signifying function she can hope to fulfill, will now depend on the opening written by the man, to enter her and inscribe her only and fully as the bearer of his meaning.<sup>70</sup>

At the same time, however, to write female genital mutilation, rather than “female genital mutilation” as I have tried to do throughout this intervention in an attempt to defer the undeferrable moment of judging, is not only to rush to judgment with the universalizing discourse of a “law of the Father”<sup>71</sup> but it is also to forget a series of texts and practices which are submerged in the discourse here described but also subsumed under the rubric of “female genital mutilation”. In particular, the emphasis placed in many discussions in the metropolis on the idea of “sexuality”

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70. See L. Irigaray, *This Sex Which Is Not One* (Ithaca: Cornell University Press, 1985); L. Irigaray, *Speculum of the Other Woman* (Ithaca: Cornell University Press, 1985).

71. For a complex and nuanced expose of this problem, see G. Spivak, “French Feminism in an International Frame” in *In Other Worlds* (New York: Routledge, 1988) at 134.

may inadvertently import another level of Western imperialist discursive concepts without further problematizing and interrogating them, in a deconstructive turn to justice.

The idea of “female genital mutilation”, particularly as “mutilation”, carries with it in Western interventions ideas of sexuality, sexual pleasure and sexual freedom for women which may themselves be products of the cultural specificities of the feminist West. Even the medical literature on the subject begins to fall prey to this danger and in turn serves to support the unquestioning application of a universal ideal of sexual pleasure, choice and freedom. Thus, both feminist and medical interventions<sup>72</sup> place a certain emphasis on the real obstetric and gynecological complications and horrors which often follow the practices in question. These arguments are then extended to the issues of sexual dysfunctionality which can follow upon the closure of the vaginal opening and upon the “biological” fact that the sensitivity of the clitoris is the source of primary female sexual pleasure and climax. The removal of the clitoris which is common to many types of practices under the title of “female genital mutilation” then results primarily in the removal of the possibility of sexual pleasure for the woman. This is the primary strategy of patriarchal torture<sup>73</sup>: to deny, to remove, to excise, to/from the female body any possibility of sexual function not oriented towards male pleasure and recreation, to silence even the possibility of the unspeakable pleasure.

On this question there appears to be little debate, although it is not impossible to argue that the biological “fact” of the location of sexual pleasure in the clitoris is perhaps itself part of a more complex construction of biology, physiology and sexuality in the West than we are at present willing to consider. Arguments about non-genital sexuality from para- or quadriplegics would, for example, indicate that the understandable feminist focus on the clitoris as a site of domination and liberation is itself limited in its universal applicability, even to “women”. In this example, the characterization of female sexual pleasure as solely or primarily clitoral and the absence thereof as “mutilation” centers the signifier “mutilation” in a very particular world view. However, one area in which there is room for a deconstructive critique which is virtually absent from current interventions and calls for justice, is in the assertion, both explicit and implicit, that the physical pain, the trauma caused to the body, the sexual dysfunction and the physical impossibility of experienc-

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72. See *supra* note 15.

73. For an interesting reading of this issue in the metropolitan West, see M. Janssen-Jurreit, “Clitoridectomy the Western Way” in *Sexism: The Male Monopoly on History and Thought* (New York: Farrar Strauss Giroux, 1982) at 239.



ing sexual pleasure, or at least clitoral stimulation, climax, together result in serious psychological damage to the women who undergo the procedure.

Indeed, while the medical literature is somewhat ambiguous on the issue, it may well be the majority view that “female genital mutilation” does not in and of itself result in psychological trauma to the women.<sup>74</sup> Many of the manifestations of psychological or psychiatric disorders seem to come from women who have undergone the procedures and subsequently immigrated to the West. In such cases, particularly in circumstances of traumatic dislocation and the refugee status of life in Diaspora, it is extremely difficult to attribute mental or psychological disorders to a single source such as “female genital mutilation”. In addition, it sometimes appears to be the case that the psychological difficulty in question is not related to “female genital mutilation” in an isolated sense, but rather refers to its effects on sexuality and marital relations. Instead of focusing on the lack of female sexual pleasure as the primary “psychological” result in such cases, some women see themselves as sexual “failures” because the physical and psychic problems have an adverse effect on marital sexual relations. Thus, one woman explained her pain this way:

I’d like to be a complete woman but I’m not. . . . I’m not a complete woman because . . . Sometimes I’m afraid I’m not woman enough for my husband . . . that I can’t satisfy him.<sup>75</sup>

In such circumstances, it is not just problematic but is dangerous and unfair to offer a simple and singular causal response to the issue of the Other woman and to her sexuality as inscribed in “female genital mutilation” practices and especially in Western feminist or human rights interventions which seek to apply neo/post-colonial imperialist tropes to “her” “reality”.

This diagnostic difficulty is exacerbated when one begins to consider the possible influence of metropolitan frames of reference in the process of the diagnosis itself. Are concepts of psychological trauma and the etiology of “mental illness” universal concepts or do they flow from a clearly defined set of historical, institutional discourses situated within

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74. See Mustafa, *supra* note 15 at 304, who points out that there is no clinical evidence of psychiatric disorders attributable to the practice but who then argues that this might be attributable to the position of women in the culture, so that the absence of professional clinical symptoms may not be easily equated with the absence of trauma. See also, Lowenstein, *supra* note 15 at 418, who reports on the absence of evidence of psychological trauma, and Gordon, *supra* note 15 at 7, who states that “Evaluation of the immediate and long-term psychological impact of the operations has not been addressed. . . .” But see M. Badawi, “Epidemiology of Female Sexual Castration in Cairo, Egypt” (July–August 1989) *The Truth Seeker* 32.

75. SBS Television, *Act of Love* (The Cutting Edge, 29 June 1993) [broadcast].

the complex matrix of modernity in the West, of which the colonial tradition is a part?<sup>76</sup> If we work on the wary assumption that all of our frames of reference must themselves be subjected to a deconstructive scrutiny, then the psychological traumas apparently associated with “female genital mutilation” may well themselves be attributed to the position of women in the Diaspora and to the attitudes and significations of the metropolitan knowledges of the woman in the Diaspora. This does not mean that there are no adverse effects of “female genital mutilation” nor does it in any way diminish the lived reality of the woman in Diaspora. What it does is to interrogate our constructions of the trauma and pain as yet other symptoms of the sick and diseased object who is the Other. In other words, it suggests Other Words, a deconstructive appeal to self-critical, problematizing, reflexivity to re-place and to re-situate the neo/post-colonial imposition of meaning on/of the Other.

Without such a deconstructive, legal incision into the call for justice, “we” run the risk of simply perpetuating the metropolitan discourses of oppression, objectification and effacement. For example, in describing the psychological reality of the North African immigrant worker in France, Fanon focuses not only on “his” internal dynamic but on the way in which the “French” medical discourse creates “the Arab” and reduces him to a valueless object.

The pathology invented by the Arab does not interest us. It is a pseudo-pathology. The Arab is a pseudo-invalid. . . . The medical staff discovers the existence of a North African syndrome. Not experimentally, but on the basis of an oral tradition. The North African takes his place in this asymptomatic syndrome and is automatically put down as undisciplined (cf. medical discipline), inconsequential (with reference to the law according to which every symptom implies a lesion), and insincere . . .<sup>77</sup>

If we were to add to Fanon’s analysis even a cursory examination of the psycho-social construction of sexuality, the female, the Exotic Other etc., it would become clear to us that any rush to judgment in relation to problems of a psychiatric or psychological nature is bound to fall short of the requirements of hearing the unuttered and unutterable cries of the Other for justice.

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76. See M. Foucault, *The Birth of the Clinic: An Archeology of Medical Perception* (New York: Pantheon, 1973); M. Foucault, *Madness and Civilization: A History of Insanity in the Age of Reason* (New York: Pantheon, 1965).

77. F. Fanon, “The Problem of the Colonized” in *Toward The African Revolution* (1967) at 9–10. For a strong critique of Fanon’s construction of alterity, see R. Chow, *Writing Diaspora: Tactics of Intervention in Contemporary Cultural Studies* (Indianapolis: Indiana University Press, 1993) at 30.

But the turn in Western discourses to medical, psychiatric explanations and frames carries with it another more interesting turn in textual practice, this time away from these same frames. This turn away, to which I now turn, in an attempted return to the unheard and unheeded call to justice, is also deeply connected with the ideas and explanations based in the “false consciousness” type dismissals of the phenomenon of women’s central role in the practices of “female genital mutilation”. It is also deeply related to the arguments about and around the appropriate deployment of signifiers in the metropolis and in my decision to adopt what I believe to be the more self-limiting sign “female genital mutilation”.

As I have already argued, the move away from the medicalized phrases—“female circumcision”, “infibulation” etc., and “female genital surgeries”—is meant, in part at least, to contest the apparent objectivity and sterility of these medico-religious descriptives and to insert a counter-narrative which is in essence and in form, woman-centered. Yet there is a disturbing, although it must be noted again, not universal, tendency in such debates and deployments to ignore the centrality of the very discourses which are discarded not only in the construction of rhetorical devices which support arguments from the opposed point of view (*e.g.* the use of the psychological damage issue) but in the lived construction and oppression of women in the metropolitan centers as well as in the “Third World”.

In other words, medicine in general and “surgery” in particular are practices which have played and continue to play a key role in the graphic inscription of the Law of the Father on the female body. From the frequency of episeotomy and Cesarean sections in obstetrical practices to the role of cosmetic surgery to achieve and maintain some ideal of “beauty”, surgery continues to write the body of the law on the body of the woman. At the same time, traditional forms of psychiatric practice, particularly the Freudian practice of psychoanalysis<sup>78</sup> have been deeply integrated in the creation of the “female” not just in the realm of the isolated professional discourse but in the broad-based circulation of concepts and ideas/idealizations which form part of the collective conscious and unconscious. Indeed, the two domains share a common origin in the inscription of the female body with a complex set of social meanings, always largely signified by a tearing, a sundering, a ripping, a removal (of ovaries, of the “phallus”) which writes the woman as an absence, a lack, a mutilated (not) male.

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78. See Irigaray, *supra* note 70; N. Chodorow, *Feminism and Psychoanalytic Theory* (New Haven: Yale University Press, 1983); S. Garner, *The (M)Other Tongue* (Ithaca: Cornell University Press, 1985).

For example, surgery itself as a separate specialty within the medical disciplines originated in its modern form as a result of the extensive and almost exclusive use of the female body as its experimental site.<sup>79</sup> Woman, the Other of science and of medicine, has always been the object of surgery, reduced to that which is scientifically knowable.

Indeed, this reduction of Woman to an objectified alterity finds its most telling incarnation in the conjunction of surgery and psychological knowledges. In the second half of the 19th century, as surgery became safer and concern about mental instability, particularly of females, rose, "female genital mutilation" in the form of clitoridectomy became a common practice in the treatment of various "mental illnesses" (e.g. promiscuity) in women. Even after the practice fell into disrepute in England, it was still recommended in medical texts in the United States until 1925 and later still it was a recommended treatment for masturbation.<sup>80</sup>

Not only must appeals to medical concepts to support the elimination of "female genital mutilation" take into account these historical roots of current practices, but more importantly they must account for an apparent double standard in their treatment of "medical" or "surgical" "mutilations" as practiced in the "Third World" or on "Third World" women and their attitudes to the "mutilation" of women in the metropolitan center.

Thus while critics such as Bordo<sup>81</sup> analyze and decry the practices associated with plastic or cosmetic surgery and other constructions of the physicality of the female form,<sup>82</sup> their solutions to the problem and their analysis of the role and function of women in internalizing the values associated with the practices and in submitting to the practices, lack the degree of epistemological certainty and rhetorical fervour associated with political and legal interventions in the debates over "female genital mutilation". This double standard, which creates a doubling and an effacement of the Other woman, is symptomatic of the failure of Western discursive interventions in the construction of the female body in/of the "Third World" to engage in any critical self-examination.

By way of a brief example, Bordo offers a narrative about her intervention into a debate about plastic surgery. In addition to demonstrating how the media deal with discourses they do not understand, her

79. See A. Daly, *Women Under The Knife: A History of Surgery* (London: Hutchinson Radius, 1991).

80. See *ibid.* especially at 146–84. It is interesting to note that much of the controversy surrounding the procedure in England concerned not its appropriateness per se but the limits of its appropriate application.

81. See *supra* note 58.

82. See e.g. F. Mascia-Lees & P. Sharpe, *Tattoo, Torture, Mutilation, and Adornment: The Denaturalization of the Body in Culture and Text* (Albany: State University of New York Press, 1992).

story offers a cautionary tale about how “relativizing” and “equality” based arguments can in fact be deployed to silence a deeper social critique.<sup>83</sup> At the same time, however, Bordo reveals the deeper problematics of much Western discourse on the topic. In her intervention on the subject of cosmetic surgery, she is careful to tell us that she offered “. . . my cautions about the politics of female body transformation (none of them critical of individuals contemplating plastic surgery, all of them of a cultural nature) . . .”<sup>84</sup>

Her analysis and intervention from and as “someone who is frequently interviewed by local television and newspaper reporters”,<sup>85</sup> in other words, as an “expert” who has achieved this “status” by her involvement in the creation and circulation of discourses which gain their authority and expertise through their institutional situation in the University and their circulation and replication in the media. She is careful to limit her intervention to the “cultural”, perhaps out of concern for her less enlightened sisters who are contemplating cosmetic surgery, or from a concern to address the broader social issues which might otherwise be ignored in “popular” discussions of the issues or for any number of other reasons. At first blush, her qualification and reticence are to be admired. She can in no way be seen to be entering into any discourse which would either blame the victim or individualize a social phenomenon. On a closer examination, however, Bordo’s position becomes somewhat more problematic. She fails here to address an issue of some importance in the debate over the surgical and sexual graphic writing of the female body, “consent”, a hesitation which is not shared by some of her colleagues in their interventions on the issue of “female genital mutilation”. Moreover, Bordo cannot be excused for her decision on the grounds that she wishes to limit her critique to the real cultural level and therefore she need not address the issue of those who are in fact contemplating cosmetic surgery. By doing what she does Bordo offers a vision of the “cultural” which, while complex and seemingly contingent, is at base frozen in a static hegemony within which there is no room for political struggle or at least no room for any political struggle which might engage the “cultural” on any terrain Bordo finds unacceptable. Thus, there is no room in Bordo’s construction of “culture” and the politics of the creation of the female form therein, for those who are in fact considering cosmetic surgery. For some reason the explanations, situations and experiences of these women

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83. *Supra* note 58 at 259–60.

84. *Ibid.* at 259.

85. *Ibid.*

can play no role in either our “understanding” of the cultural practice of cosmetic surgery or in the construction of that or other cultural practices.<sup>86</sup>

In addition, Bordo offers no space within the “culture” for practices which graphically inscribe the body in an attempt to wrest political control over such practices away from dominant texts. For example, a recent upsurge in body piercing, including the piercing of female genitalia, can be read in this deconstructive light as such an attempt to re-eroticize the body of the Other in Western cultures. For Bordo, however, such practices can never escape from a hegemonic and one-dimensional “culture” which encodes and oppresses the female body at every turn. The “cultural” is then reduced to a phenomenon to be studied, created both by those who create the images and by those who create the academic discourses which analyze them. The female is at once reduced to a set of images produced in a purely external fashion and studied objectively by a careful and informed critique of the images and at the same time effaced as any other kind of participant in the “culture”. Bordo, in the end, does to her “own” culture what many analyses of “female genital mutilation” do to other cultures, she freezes it, dissects it, and removes all signs of life from it. She writes about culture and kills it ever so softly. Any strategy which offers a deconstructive reading of “female genital mutilation” must strive to situate itself and its discursive subject within a cultural frame which articulates not strictly patrolled and enforced boundaries but which creates, permits and encourages sites of leakage, of seepage, of fluid interchange between “cultures” and signifiers, which brings texts together—con-texts.

What Bordo forgets and foregoes, and what we must remember and through which our interventions must be mediated, is a series of similarities which can be found in cultural critiques dealing with the intersection of ideological and “surgical” practices around the idea of the centrality of the body of the Other. This set of similarities, for the sake of brevity and simplicity, as well as for the sake of the practical restraints which will always inform and delimit a deconstructive search for the unwritable sign of justice, results in a set of cultural practices and knowledges which must at one and the same time write the body of the Other and erase that body because of the sexual and ultimately legal challenge which that incorpo-

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86. I have made a similar criticism of Bordo elsewhere. See D. Fraser, “Madonna, Sex and the House of Lords” (1993) 3 *Australasian Gay and Lesbian Law Journal* 1. For a powerful critique of Bordo, see D. Kennedy, “Sexual Abuse, Sexy Dressing and the Eroticization of Domination” (1992) 26 *New England L. Rev.* 1309 at 1375.

ration of alterity poses to the possibility of our ability and desire to forget the impossible, unforgettable which is justice.<sup>87</sup>

#### 4. *Blind Justice*

More particularly, what is required in all readings which are deconstructively self-aware and therefore sufficiently wary and contingent in order to begin an analysis into appeals for justice, is a knowledge of the “anxiety” which must inform “our” discussions. This anxiety is itself manifested, I believe, not just in the political and legal debates which will be examined below, but even or especially in the choice and “deployment” of the signifier “mutilation”.

Not only does the signifier portray the “reality” of the practices in question and their effects, but I would suggest, however tentatively, it betrays and describes our collective psycho-social anxieties over all practices and texts which seek to inscribe the body and to efface or otherwise betray alterity and identity, or more precisely, the trace which lies between and around them. It is not coincidental that one can find a literal and deeper psychic inscription of a connection or trace which links castration anxiety, which is clearly central to some (male) concerns<sup>88</sup> about circumcision. Indeed, our apparent blindness to these connections and their implication for the debates around the topic of “female genital mutilation”, may in fact be more deeply understood as an Oedipal response—a self-blinding—to the deep fears with which we come to the practices in question. In fact, our blindness to blindness is itself a barrier which serves to assist in the forgetting of forgetting which is central to a deconstruction of our quest for “justice”.<sup>89</sup>

But there is at work here a different blindness, a blindness which contains a trace of justice, engraved like an image on a non-functional retina, an image of the impossible justice, of truly blind justice. It is not by accident that Alice Walker’s and Pratibha Parmar’s project on “female genital mutilation” is entitled *Warrior Marks: Female Genital Mutilation and the Sexual Blinding of Women*. Comparing her own blinding by her

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87. See P. Cheah, D. Fraser & J. Grbich, *Thinking Through The Body of the Law* (forthcoming) [hereinafter *Thinking Through*] for a series of essays dealing with various aspects of this and related issues. It is beyond the scope of this article to examine these other discourses which inscribe the body of the Other within Metropolitan signifying practices.

88. And female anxieties in a more complex, but perhaps even more central way. See Irigaray, *supra* note 70.

89. See S.L. Gilman, *The Case of Sigmund Freud: Medicine and Identity at the fin-de-siècle* (Baltimore: Johns Hopkins University Press, 1993) at 206. See also J. Derrida, *Memoirs of the Blind: The Self-Portrait and Other Ruins* (Chicago: University of Chicago Press, 1993).

brother when she was a child, Walker speaks and writes of the inscription on the body of the young girl “female genital mutilation” not as a tragedy but as a “warrior mark” from which she will learn the lessons of empowerment. From the mourning comes growth, from the blinding, insight.<sup>90</sup> For the process, act, text of mourning is the text of the impossible gift of the Other, of justice.<sup>91</sup> This insight/in-sight into justice in the present context takes on multiple aspects. The shared vision of the unseeable Other (God)<sup>92</sup> here becomes the key to justice and responsibility, blind justice, the ethical moment. “Blindness of the letter and by the letter. Here is a symbol: the blindfolded synagogue.”<sup>93</sup>

The memory here is not of the Oedipal fear of castration or of the blindness which is the loss of meaning, of the ability to write, inscribe, circumscribe, but the memory of the blind as witness to the unseeable Other,<sup>94</sup> the “warrior mark” as witness to the impossibility of memory and forgetting. The moment when mourning can become the shedding of the tears of the blind who have not forgotten the forgetting of the Other.<sup>95</sup>

It is important, then, not to forget about forgetting. This is the limit and the trace beyond/within the limit which circumscribes “our” project. This is also the trace and the limit which circumscribes our relations with the Other—a relationship which is marked by a connection ruptured in a violent and memorable way which is forgotten yet in some cases written as a memory, a trace of alterity on the body, circumscribed in circumcision. As a basic possible, impossible possible, we stand before law and justice, having committed the crime of the law, of writing, of speaking the blasphemous “truth” of “justice”, of attempting to uncircumscribe that which is graphically inscribed in the Other. Therefore,

. . . the denial I want constantly to oppose . . . in other words to the eternal survivress, to the theologic program or maternal figure of absolute knowledge for which the surprise of no avowal is possible, and this sentence says that ‘one always asks for pardon when one writes’, so as to leave suspended

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90. *Supra* note 18, at 18–19.

91. See Derrida, *Memoires for Paul de Man*, *supra* note 28.

92. See E. Levinas, “Dialogue with Emmanuel Levinas” in R. Cohen, ed., *Face to Face with Levinas* (Albany: State University of New York Press, 1986) at 21. “The interhuman is thus an interface: a double axis where what is ‘of the world’ qua phenomenological intelligibility is juxtaposed with what is ‘not of the world’ qua ethical responsibility. It is in this ethical perspective that God must be thought, and not in the ontological perspective of our being-there or of some supreme being and creator correlative to the world, as traditional metaphysics often held. God, as the God of alterity and transcendence, can only be understood in terms of that interhuman dimension. . . .”

93. Derrida, *Memoirs of the Blind: The Self-Portrait and Other Ruins*, *supra* note 89 at 18.

94. *Ibid.* at 112. Each time a divine punishment is cast down upon sight in order to signify the mystery of election, the blind become witnesses to the faith.

95. *Ibid.* at 127.



the question of knowing if one is finally asking pardon in writing for some earlier crime, blasphemy, or perjury or if one is asking for pardon for the crime, blasphemy, or perjury in which consists presently the act of writing, the simulacrum of avowal needed by the perverse overbidding of the crime to exhaust evil . . .<sup>96</sup>

Our search for the truth of “female genital mutilation”, our responsibility then, is inextricably entwined in our own matrix of crime, injustice and the Law in the search for an effaceable Other. Before turning to an examination of the processes which create and circulate law’s discourses, we must then “admit” our crime of forgetting, we must allow it to enter, to be admitted into the debate, we must confess the circumscription of all “our” interventions by and in the body of the Other. We must confess the anxiety which is inscribed in the “mutilation” of the Self in the Other. We must examine how our anxieties about the sexualized Other inform our discursive interventions, how they “mutilate” and “circumcise” that Other in our graven image. This is the blasphemy of injustice. It is perhaps then that we can join in an attempted recognition of the unrecognizable written on/in the body of the (M)Other, for in fact, we always speak of circumcision.<sup>97</sup> In this sense, we search the unfindable (M)Other in an attempt to recover identity and justice before the body of law which is the Father’s law of the body.

. . . or Mummy if you prefer, which cuts across everything, a synchrony running the risk of hiding what’s essential, that is that the restrained confession will not have been my fault but hers, as though the daughter of Zipporah had not only committed the crime of my circumcision but one more still, later, the first playing the kickoff, the original sin against me, but to reproduce itself and hound me, call me into question, me, a whole life long, to make her avow, her, in me.<sup>98</sup>

Now, if ever, is the time to turn to the inscription of the Other in the effacing discursive matrix of the Law. To seek justice with/out the Law.

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96. See J. Derrida, “Circumfession” in G. Bennington & J. Derrida, eds., *Jacques Derrida* (Chicago: University of Chicago Press, 1993) at 46.

97. *Ibid.* “Circumcision, that’s all I’ve ever talked about, consider the discourse on the limit, margins, marks, marches, etc., the closure, the ring (alliance and gift), the sacrifice, the writing of the body, the pharmakos excluded or cut off, the cutting/sewing of Glas, the blow and the sewing back up, whence the hypothesis according to which it’s that, circumcision, that, without knowing it, never talking about it in passing, as though it were an example, that I was always speaking or having spoken, unless, another hypothesis, circumcision itself were merely an example of the thing I was talking about, yes but I have been, I am and always will be, me and not another, circumcised . . .” *Ibid.* at 70–71.

98. *Ibid.* at 73–74. See also, L. Irigaray, *Et l’Une ne bouge pas sans l’Autre* (1979) at 21. “Et pourquoi me serait-il imposée d’autre blessure? N’avais-je déjà mes/tes lèvres? Et ce corps ouvert sur ce que jamais nous n’aurions achevé de nous donner. De nous dire. Cette faille de silence ou nous réenvelopper sans cesse pour renaître. Ou nous ressentir pour, encore et encore, devenir femmes, et mères.”

### III. *The Criminalization of the Other: Circumscribing the Law*

It is in Diaspora that the issue of “female genital mutilation” and the criminalization of the procedures associated with the phenomena has recently arisen. As the effects of the neo/post-colonial globe inscribe the “Third World” more and more graphically, diasporic communities have established themselves in “the West”—Europe, North America and Australia. In fact, the United States, Canada and Australia are the countries with the largest “refugee” populations. This invasion of the Other, with her cultural practices and heritage, has brought the differend between “them” and “us” to a heightened level of awareness. Although each country of “the West” has had varied experiences with Diaspora, what has been shared is a constant and consistent failure to interrogate the nature of Diaspora in the neo/post-colonial world in terms of the *aporia* of justice. This failure of critical self-examination is epitomized in “the West” by the example of Australia where the issue of “female genital mutilation” is currently giving rise to heated public debate.

In the last part of 1993 and the early months of 1994 there were strong calls for governmental intervention to outlaw “female genital mutilation” in Australia. Those seeking state action included Parliamentarians at both state and federal levels, lawyers’ groups, the Australian Medical Association and ordinary citizens. Thus, calls for the criminalization of “female genital mutilation” circulated in official and unofficial domains, in the professional discourses of law and medicine, and in the fora of popular, or at least Parliamentary, democracy. Even a cursory examination of these discourses and the interactions between and among them reveals the many ways in which “moral panics”<sup>99</sup> and criminalization as social discursive practices are created and circulate in a complex matrix of social meaning. Such an examination also reveals, I believe, the fundamental lack of self-awareness and blindness to the discourse of justice which characterizes not just this area but all metropolitan interventions in the “Third World”, especially when the “Third World” is found in the diasporic communities located in neo/post-colonial centers such as Australia. Let us turn to such a brief examination to uncover the forgetting which characterizes both “official” and “unofficial” discourses which lay claims to justice.

On 21 February 1994, the member for Adelaide, Ms. Worth, intervened in the House of Representatives (the lower House of the bicameral

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99. See S. Cohen, *Folk Devils and Moral Panics: The Creation of the Mods and Rockers* (Oxford: Martin Robertson, 1980).

Federal Parliament), to call for government intervention and action against “female genital mutilation” which she characterized in her opening comments as “the worst type of culturally acceptable assault”<sup>100</sup> and “this sickening practice”.<sup>101</sup> While condemning the practice and urging the government to live up to its obligations under international law and as the protector of all Australians, Worth nonetheless was forced to concede that the “practice of mutilation in Australia is shrouded in secrecy and evidence is mainly anecdotal. Documentation is limited . . .”.<sup>102</sup> This did not prevent her from relying upon such evidence and hearsay from unidentified social workers to support her call for action. In this she was joined by the member for Macquarie (Ms. Deahm) and the member for Moncrieff (Mrs. Sullivan) who also urged federal government action.<sup>103</sup> For Deahm, the issue is not one of culture per se but rather “[i]t is about patriarchy, as so many of these traditions are.”<sup>104</sup>

For Sullivan the problem is that because of the influx of immigrants the issue is now “Australian”.

While female genital mutilation is part of some cultures’ tradition, no-one is prepared to defend it publicly in Australia; nor are there any medical or religious grounds for it. However, the fact remains that an increasing number of Australian women and girls have to endure horrific lifelong emotional and physical scars as a result of this barbaric mutilation of their genitalia.<sup>105</sup>

This “national” focus is continued by the member for Lowe (Mrs. Easson) who offers what for her and our other representatives seems to be nothing more than a statement of the obvious.

Migrant settlement is a process of give and take. If Australia finds a certain folk custom to be repulsive, a migrant has the duty to give this custom away. This is the price to pay for our common good.<sup>106</sup>

These members are finally joined by Ms. Henzell (Capricornia) who specifically rejects the “cultural relativity argument”<sup>107</sup> and invokes the principle of equality as the basis upon which criminalization must be enacted.

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100. Australia Legislative Council, *Hansard*, (21 February 1994) at 892.

101. *Ibid.* at 893.

102. *Ibid.*

103. This is an issue of some importance since under the Australian Constitution, it is the States, not the Commonwealth government, who are vested with primary jurisdiction in criminal law matters.

104. *Ibid.* at 895.

105. *Ibid.*

106. *Ibid.* at 896.

107. *Ibid.* at 898.

It is not surprising, then, that we encounter here, in the federal Parliament, the same discursive strategies and metaphors which inform virtually all metropolitan debate on the subject of “female genital mutilation”. Here the final effect is to efface the Other by reducing her to an almost complete alterity while at the same time holding out the opposite, yet identical, fate of effacement through identity. The goal of objectifying the Other is begun in the choice of discourse itself, to reduce her to a “topic” to be discussed, an object who cannot speak or be heard but who must rather be “represented”.<sup>108</sup> The process continues along the now familiar path of deploying female genital mutilation, without any limiting restraining marks or traces, and is completed by the joint inscription of the debate in terms of the Eurocentric modernist construct of a decontextualized “equality” and then the writing, inscription of the debate in terms of limitation, of exclusion, of barriers to entry, (of infibulation) of the border between us and them, of the nation, in this case “Australia”, written, without borders of a just limitation, but simply Australia, its own limit. Here the Diaspora never truly raises the question of the border,<sup>109</sup> the presence of the Other in our midst, with her “folk customs”, even this characterization is bound to diminish and exclude her. The border does not interrogate itself, this is not the moment to inquire about, around, within the concept/construct/nation-Australia, not “Australia”. This is the time to close the border, to assimilate, to eliminate, to criminalize, to exclude and to include, but ultimately to efface. The border, the frame, the nation, are all super-inscribed, circumscribed within and without the text of the Other, a text which must, as it is written in/on the body of the Other/Law, be excluded, barred from entry. The question of the border, precisely, becomes the question/ing of the Law, of limits and of transgression. It becomes, in other words, the question in Other Words, the quest in/of/for justice, of the impossible, of the possible, the un-limited, the *aporia* of justice.

This is why the site of the *aporia* of justice, the impossible gift and obligation of our responsibility to/for the Other is always written in/on/around the boundary. Deconstruction, the Law of *aporia*, must always already transgress and incorporate. It patrols lines and sites of demarcation which cannot be limited or inscribed except in a tentative fashion because it is (un)limited by the haunting call of the impossible justice/Other.

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108. See Derrida, *Of Grammatology*, *supra* note 13.

109. See K. Tölögan, “The Nation-State and Its Others: In Lieu of a Preface” (1991) 1 *Diaspora* 87.

A plural logic of the aporia thus takes shape. It appears to be paradoxical enough so that the partitioning [partage] among multiple figures of aporia does not oppose figures to each other, but instead installs the haunting of the one in the other. In one case, the nonpassage resembles an impermeability; it would stem from the opaque existence of an uncrossable border: a door that does not open or that only opens according to an unlocatable condition, according to the inaccessible secret of some shibboleth. Such is the case for all closed borders (exemplarily during war). In another case, the nonpassage, the impasse or aporia, stems from the fact that there is no limit. There is not yet or there is no longer a border to cross, no opposition between two sides: the limit is too porous, permeable, and indeterminate. . . . Finally, the third type of aporia, the impossible, the antimony, or the contradiction, is a nonpassage because its elementary milieu does not allow for something that could be called passage, step, walk, gait, displacement, or replacement, a kinesis in general. There is no more path. . . . The impasse itself would be impossible.<sup>110</sup>

We find here the theme which returns again to haunt and infest Australian (and other metropolitan) debates about “female genital mutilation”—the national identity. Let us read and write it again, “If Australia finds a certain folk custom to be repulsive, a migrant has the duty to give this custom away. This is the price to pay for our common good.”<sup>111</sup>

#### IV. *Bordering on (In)justice*

Let us now read the ways in which the border guard lowers the barrier; let us hear the barking of the dogs as they sniff out potential intruders; let us listen to the siren calls of alarm as the intruder is sighted. But let us not yet speak of justice.

The diminutive and diminishing “folk custom”, something not of great importance, belongs not to the modern state, that which we seek to protect, but to the pre-modern “folk”. Hear and read the imperialist traditions of anthropology and ethnography as they come to the fore. But this is not merely a process of diminution, it is also one of exclusion—“repulsive”. Hear now the echo of the primitive and our civilized reaction to it. It repels us and we must repel it. No entry. The border is closed.

Who decides? The question is clear. No differend, no absence or impossibility of judging, no possible impossibility here—when Australia decides. No “Australia” here, open, tentative, aware of the possibility of memory or justice. Australia. And this Other, this Woman who would inscribe herself and Others with a text that is forbidden, she is not of, by or in Australia. Her passport, her passage through the barrier is restricted,

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110. Derrida, *Aporias*, *supra* note 14 at 20–21.

111. Australia, *Hansard*, *supra* note 100 at 896.

her status as Other confirmed by the Law which has written her body as Other and by the law of Australia, which/who stands now in judgment, no passage through the portal, something with which She is intimately familiar. The difficulty, the impossibility, of penetration, the pain associated with the impossible intercourse with the Law of the Father. Exclusion, inscription, infibulation. Law.

But there is hope, a visa is available within the vice of "justice", a vision, a gaze which will efface her rejection as Other but which offers to efface her again by recognizing her as identical. Justice is blind. It forgets about forgetting just as she must forget about herself by giving this custom away. She must make us the gift of self-effacement, it is after all "the price to pay for our common good."<sup>112</sup> But this is no gift at all. This is not an aneconomic circulation outside the circulation of commodities and surplus value.<sup>113</sup> This is a "price" to be paid for the common good. It is the price to be paid for the elimination of alterity. This is perhaps a greater barrier to entry than any "procedure". This is an entry tax, not a gift, on alterity. This is (not) the price of justice. This is the inscription of the body of the tax-payer,<sup>114</sup> a taxing women.

The tenor of debate in the Legislature of Australia's most populous state, New South Wales, is equally problematic. The charge towards an explicit criminalization<sup>115</sup> of the practices associated with "female genital mutilation" was lead by Franca Arena in the Legislative Council, the Upper House of the bicameral New South Wales Legislature.

Not only does the move to criminalize "female genital mutilation" have the support of both government and opposition but there is a heated battle between the parties to see who can be the first to introduce the legislation to concretize the rhetoric.<sup>116</sup>

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112. *Ibid.*

113. See *supra* note 105.

114. See generally J. Grbich, "The Taxpayer's Body: Genealogies of Exertion" in *Thinking Through*, *supra* note 87.

115. While it is beyond the specific and limited goals of this paper to engage in a detailed technical legal argument about the issues in question, it is important to note that it is quite beyond doubt that the procedures in question constitute assault causing grievous or actual harm. Because there is no real question, in the Australian context, of them being described as "acceptable" medical procedures, the "issue" of consent becomes moot and because of the level of harm caused to the body, "consent" is equally irrelevant to the legal context. See *R. v. Brown* (1993), 2 W.L.R. 556.

116. See "Move to outlaw female mutilation" *Sydney Telegraph Mirror* (10 February 1994) 3; and S. Kirk & B. Zuel, "Ban on female mutilation soon" *Sydney Morning Herald* (3 March 1994) 5. The position in Victoria, the second most populous state is similar. See M. Magazanik, "Wade may place ban on female circumcision" *The [Melbourne] Age* (17 February 1994) 6. At the federal level, a similar political consensus seems to exist. See A. Meade, "Move to

Arena proceeds to a description of “female genital mutilation” by characterizing it as “horrific stuff”,<sup>117</sup> whereupon she reads into the record a detailed narration of the procedures with the preface that this is “what female genital mutilation is all about”.<sup>118</sup> Anxious to deal with reactions which might label her statements as insensitive to Islam, she quickly points out that this is not an accepted practice in that religion. After all “[t]here may be some section of the Islamic religious community which uses the practice, but after all there are fanatics in every religion.”<sup>119</sup>

After insisting on Australia’s duty to end the practice “as a civilised society”,<sup>120</sup> Arena is joined in her own version of a crusade/jihad by another member of the Upper House, the Reverend Fred Nile of the evangelical Christian Call To Australia Party. Nile joins in by labeling the practice as “abhorrent” and “barbaric”<sup>121</sup> and then proceeds to efface the Other in a call to female purity in need of protection from the Law of the Father. “This issue affects us all. It could be your daughter, your sister, your grandchild married to a man who demands circumcision. Would honourable members allow it then?”<sup>122</sup>

Finally, we return to Franca Arena who, faced with the barbarians at the gates, musters all her tropes in one last action:

Above all, it is imperative that we protect our girls. Let us defend them, give them protection, self esteem and freedom from barbaric practices which have nothing to do with Australia, the Australian way of life—or, with the precepts of civilised society anywhere in the world.<sup>123</sup>

Inevitably and inexorably, the official discourse takes on and expands upon the dominant images and practices of the effacement of the Other and her reinscription as identity in the name of that which can be named, “civilised society”—Australia, not “Australia” and against that which cannot be named, the reality, the iterability of the inscribed Other. The problem of “female genital mutilation” is now an Australian problem, it is the problem, once again, of “us” and “them”.

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outlaw genital maiming” *Sydney Morning Herald* (22 February 1994) 5; S. Olsen, “7 years’ jail for female ‘ritual’” [*Sydney*] *Telegraph Mirror* (3 March 1994) 5; “Female genital mutilation ‘barbaric’, is the political consensus” *Canberra Times* (4 March 1994) 16. The publicity barrage continues. See e.g. J. Connell, “Increase in female mutilation confirmed” *Sydney Morning Herald* (4 October 1994) 11; D. Jopson, “Call for talks on female mutilation” *Sydney Morning Herald* (11 October 1994) 12; “Life for the world’s girls—nasty, brutish and short” *Sydney Morning Herald* (11 October 1994) 12.

117. Australia Legislative Council, *Hansard* (10 March 1994) at 464.

118. *Ibid.*

119. *Ibid.* at 465.

120. *Ibid.* at 475.

121. *Ibid.* at 476.

122. *Ibid.*

123. *Ibid.* at 478.

Our Parliamentarians are not alone, however, in the production of discourses which circulate at/around the heartland which is the border which must be defended at all costs. The medical profession, which continues to practice Cesarean sections, episeotomy, cosmetic surgery, and to oppose births with the aid of midwives and traditional birth attendants in Aboriginal communities,<sup>124</sup> has weighed into the debate, in a formal call from the Australian Medical Association, for the federal government to criminalize the practice in order to “respect the health, welfare and integrity of human beings, and women particularly.”<sup>125</sup>

At the same time, the other professional group noted for its long-standing interest in “women’s issues”—the lawyers—has also entered the fray. The Family Law Council of Australia issued a discussion paper on the subject at the end of January 1994. The Council made some attempt to deal with issues of cultural sensitivity in a type of contextualized manner but nonetheless reached the conclusion that a clear statement of law criminalizing the practice was required. In reaching this conclusion, the Council nonetheless found that:

There appears to have been no open inquiry into the incidence of female genital mutilation in Australia to date and information on the incidence of the practice in this country is unknown. The available evidence does suggest, however, that the population who come from countries which practise female genital mutilation is small and it is therefore likely that the incidence of the practice in this country is also minimal. The Family Law Council is interested in hearing from any person who has evidence, anecdotal or otherwise, of the practice of female genital mutilation in Australia.<sup>126</sup>

The effect of the Council’s intervention is obvious. The life of the Other is spoken, written in her absence. She can give testimony of her existence only if that testimony offers a confirmation of the denial of her alterity.

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124. See S. Voumard, “Aborigines denied traditional birth” *Sydney Morning Herald* (5 April 1994) 6.

125. See “AMA call to outlaw female circumcision” *Sydney Sun-Herald* (6 February 1994) 12; H. Signy, “Call for tighter law on genital mutilation” *Sydney Morning Herald* (8 February 1994) 11.

126. *Female Genital Mutilation, Discussion Paper* (1994) at 14. See also, M. Liverani, “Law Society Unequivocal on Female Genital Mutilation” (June 1994) 32 *Law Society Journal* (New South Wales) 68; and M. Watt, “Family Law Notes—Female Genital Mutilation” (June 1994) *Australian Lawyer* 48. The final report of the Family Law Council repeated the call for criminalization which has been accepted in principle by the federal Attorney-General. See B. Jones, “Lavarch to ban female mutilation” *Sun-Herald* (26 June 1994) 7. See also Queensland Law Reform Commission, *Female Genital Mutilation, Report No. 47* (September 1994). The Canadian Advisory Council on the Status of Women has adopted similar discursive positions. See *Recommendations to the Government of Canada on Female Genital Mutilation* (March 1994).



There must be an open debate, she must once again be split apart, torn asunder, opened up to the gaze of the Law of the Father. The reaction to this inscription was quick and virtually unanimous. The press, bolstered by the existence of a child protection case in a Melbourne Court in which the practice of female genital mutilation was at stake, joined in the heated calls for criminalization.<sup>127</sup>

Interestingly enough, it is only when the discourses of professional disciplinization operate together with the popular media that a state of moral panic sufficient to make the effacement of the Other through criminalization seems to operate. Indeed, it is safe to say that all these discourses must be seen to operate in an interconnected matrix in order to fully understand the ways in which they fulfill their signifying functions. A cursory examination of the sites of these discourses clearly reveals their symbiotic relationships, as Parliamentarians cite TV shows and newspaper articles and newspaper reporters cite Parliamentary offerings and lawyers' interventions. These sites become sites for the hegemonic construction of the Other. Without these interbreedings, the body of the Other does not become pregnant with meaning.

In Australia, it would appear, recent years have given rise to cyclical interventions by the print media on the subject of "female genital mutilation" but without the current hegemonic concurrence of forces which make criminalization a real possibility. In 1986–1987<sup>128</sup> and again in 1992,<sup>129</sup> newspaper stories have brought the issue into part of the public consciousness but without stirring professional and state interest to the level of recent and current activity.

The debate which began in Australia at the end of 1993, and which continues to this day, has managed to achieve a degree of hegemony to

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127. See H. Signy, "Call for tighter law on genital mutilation" *Sydney Morning Herald* (8 February 1994) 4; M. Easterbrook, "Get tough on female circumcision: lawyers" *The [Melbourne] Age* (11 February 1994) 4; M. Gunn, "Mothers fear action over female circumcision" *Weekend Australian* (4 December 1993) 9; A. Harding, "Call for ban on female circumcision" *[Melbourne] Herald Sun* (4 December 1993) 10; "Court monitors circumcised girls" *Sydney Morning Herald* (3 January 1994) 2; T. Pegler, "Court hears of genital surgery" *Sydney Morning Herald* (2 December 1993) 4.

128. See J. Fife-Yeomans, "Moslem Circumcision-For and Against: Mother sees no need to cry-Against our religion, says WA leader" *The West Australian* (3 March 1986) 3; P. Fraser, "Anger over accusations of barbarism" *Great Southern Herald* (3 May 1986) 1; J. Howard, "The unspeakable horror of female circumcision" *The Australian* (2 March 1987) 10; W. Tuohy, "AMA agrees baby girls are being circumcised" *The [Melbourne] Age* (20 February 1987) 6; "Circumcision of girl babies to be checked" *The [Melbourne] Age* (21 February 1987) 8; "Young Girls Die From Mutilation" *Daily News* (27 February 1987) 3; R. Dixon, "Female circumcision is child abuse: policewoman" *The [Melbourne] Age* (19 February 1987) 5; "Circumcisions upset Moslem" *The West Australian* (4 March 1986) 36.

129. See H. Pitt, "Customs and Excise: What is Female Circumcision and How Common is it in Australia?" *The Bulletin* (25 August 1992) 36.

which previous interventions, despite the marginal involvement of politicians, doctors and the police, could never aspire. The creation of hegemonic discourses of, about and within “Australia”, or Australia, in its neo/post-colonial guise continue unabated. A group called Women Lawyers Against Female Genital Mutilation has been formed and is actively involved in the criminalization campaign.<sup>130</sup> The popular press reflects the political obsession with the Other and her “unlawful entry” into “Australia”. Indeed, the same rhetorical strategies are deployed with a frightening frequency. A few recent examples will reveal the consistent reemergence of the themes of national integrity and the effacement of the Other.

Karen Kissane, writing in the *Melbourne Age*, sets the appropriately sensitive frame of post-colonial enlightenment when she writes:

Colonialism had many evils, but it shone a few lights in dark places, stopping some peoples from eating their enemies and others from leaving their girl-babies out to die. But ethnic arrogance has no place in multicultural worlds like today’s Australia. How, then, do we deal with minority-group traditions that the majority abhor, such as genital mutilation of little girls? How far should tolerance for diversity and respect for values of others stretch?<sup>131</sup>

Kissane’s response to her own query is obvious:

Genital mutilation should be criminalised if migrants are to get the clear message about how serious a practice it is.<sup>132</sup>

The tropes set out here for mass consumption are clear as is the discursive strategy informing such press interventions. As in the professional discourses of the politicians, lawyers and the doctors, the press here must act as guardians, standing at the gates of the Australian monolith to keep a strong and serious vigil against the subversive elements of alterity. For that is the danger of the Other. She is subversive, undermining and underwriting, offering a text which challenges the official version. Thus, in Kissane’s particular intervention, the evils of imperialism are dismissed in one predicate phrase while its benefits, i.e. the elimination of cannibalism and other clearly barbaric practices, are clearly detailed. “Ethnic arrogance” of the Australian is at once decried and dismissed as theoretically inappropriate and then practically and effectively employed as the primary textual attack aimed at the effacement of the Other. She is part of a “minority group”, without claim to “Australian” status. She can

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130. See D. Smith, “Painful truth about female circumcision” *Sydney Morning Herald* (3 December 1993) 11.

131. “We must set limits, for the sake of little girls” *The [Melbourne] Age* (3 December 1993) 16.

132. *Ibid.*

be accommodated by “tolerance” for “diversity” which can only “stretch” so far. The double strategy of effacement already encountered again and again manifests itself once more. “Tolerance” and “diversity” require a recognition of the Other as Other-effacement. But even this erasure of the Other can only go so far. Its elasticity is limited for we are again speaking of limits, of borders, of the nation which cannot define itself without exclusion and identity. The inelasticity of the tolerance is the refusal to be open to the possibility of the impossible, of justice. It is the unbroken hymen of the M(O)ther country, the limit of justice,<sup>133</sup> the point beyond which tolerance cannot, will not, be stretched, the breaking point at which “our” borders can not be circumscribed, torn asunder. As Kissane tells us, we are in fact dealing with “migrants”, strangers, intruders, subversives against whom the headline and the text trumpets, “We must set limits”.

Indeed, it is only by setting limits that the Other can be stopped and “justice” can be served, our laws and values must be accepted, we must dare to condemn<sup>134</sup> all that is foreign to our moral and ethical values. When these “barbaric” practices are being performed “here”, the subversion of Australia, the text which must exist without a hint, without a trace of/or subversion, must be protected.<sup>135</sup> For “we” know now, if ever there was any doubt that “[i]t is one custom which has no place here. The chief objective of any government should be to end female genital mutilation in Australia as quickly as possible.”<sup>136</sup> After all, these people come “from the various trouble spots of Africa”<sup>137</sup> and we cannot allow their problems to become our problems. The press in Australia has been consistent in its coverage of “female genital mutilation”. It has certified all of the truths necessary to efface and erase the Other: the benefits of colonialism, the barbarism of the Other, the dangers inherent in this barbaric subversion of the text which is Australia. Nowhere is the consistent replication of the metropolitan colonization of the text of alterity more evident than in one very particular example of writing the body of the Other.

“What attracts a man even more than sex”; “Valentine Bonus-Erotic Fiction”; “25 Bad Beauty Habits and ways to break them”; “8 sensational ways to wear a white shirt”; the February 1994 edition of *Australian Cosmopolitan* contains promises of each of these stories on its front cover and details on the inside. Unremarkable by traditional standards of

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133. See Cornell, *The Philosophy of the Limit*, *supra* note 3.

134. See K. Donnelly, “Daring to condemn” *Herald Sun* (8 December 1993) 16.

135. See M. Groves, “Worst kind of child abuse” *Sunday Herald Sun* (12 December 1993) 112.

136. See Editorial, “A test for multiculturalism” *Sydney Morning Herald* (24 February 1994) 14.

137. *Ibid.*

*Cosmo*. What is remarkable about the February 1994 edition of *Cosmopolitan* magazine is that it contains one more story—“*Sealed Section Our shocking report on female circumcision*”. Inside, eight pages of text and color photographs on “female genital mutilation”, including an excerpt from Alice Walker’s *Warrior Marks*.<sup>138</sup> What is important to note here is not yet another example of the production/reproduction and circulation of the same sets of metropolitan meanings in one more forum of the popular media but rather the forum in particular and the other messages which combine with and circulate in and around this particular production of “female genital mutilation” as a moment of discursive intervention in the metropole.

Here, the “mutilated” body of the black Other is situated in relation to an entire set of images of acceptable female beauty and form. What creates the starkness of alterity in the discourse on “female genital mutilation” here is its unquestioned relationship with the completely uninterrogated images and texts of *Cosmopolitan* which construct the Other of the Other, the natural beauty next to the preternatural beauty. The white-skinned, blue-eyed natural Australian beauty next to the mutilated barbaric form of the African Other. Again it is not simply the fact and facticity of the juxtaposed images and texts but the equally powerful textual fact that the texts are not questioned or even questionable. Their existence is legally binding evidence of the existence and concomitant effacement of the Other, here reduced in stark and contrasting terms to the object of the unquestioning gaze, reduced to the status of object to be examined, classified, understood and ultimately effaced not just in its alterity but in its comparison to the ur-text of beauty.

But the violence of the word and of the gaze does not stop here. In the *Cosmopolitan*, metropolitan text here, the reading strategy required, the only hermeneutic deployment available, is reinforced by the physicality of the text itself. *Cosmopolitan* leaves the reader with no choice, s/he must not only reduce the Other to the gaze, s/he must reduce her to a virtual/literal act of physical submission and of violation. The text and photographs are hidden from the gaze, locked away in a sealed section, pornographically isolated. The text, the body of the Other can be seen, interpreted, studied, subjected to the gaze, only through an act of literal and figurative violence. The binding, the boundary, the ligature of the body of the Other must be literally cut, torn, ripped. Access here is restricted, the border between us and the Other, a physical barrier. The strategy of reading the Other here can only ever be a strategy of violence, ripping, tearing asunder the text.

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138. See Walker & Parmar, *supra* note 18; See also (February 1994) *Cosmopolitan* 99–106.

The violence of the Western text of alterity in relation to “female genital mutilation” finds its ultimate and logical conclusion/embodiment in this issue of *Australian Cosmopolitan*. Yet the irony here seems to escape even the text itself, it effaces even its own hermeneutic limits. For here the text which condemns without hesitation, equivocation or room for doubt, in fact subjects the Other in her textual embodiment to the very process condemned by metropolitan critics of “female genital mutilation”. Here, the Other has quite literally been bound up, sewn, stitched, closed off, her sexuality, her body placed off limits, no access permitted. She can be seen, freed from this bondage only through the equally violent ripping, tearing, cutting, sundering of the text, of her body. The mutilation of the Other is completed only here, in the text of the final and literal “mutilation” of the body of the Other, in the text of Australia.

#### V. *Beyond the Boundary*

Yet it is perhaps here, in/on the text of the nation, in this case Australia, that we can somehow begin to sense, to be sensitive to, to be sensible about, our responsibilities to the Other, to justice. Here on the borderline where the Other is circumscribed, excluded and effaced, it is possible to begin to observe the trace of (an)other text, of justice.

For the text, “Australia” must itself contain the element of its own identity crisis, of its own deconstruction. As I have already pointed out, the neo/post-colonial super-texts which inform most, if not all debates in “Australia” on the subject of “female genital mutilation” are informed in a fundamental way by the deployment of the Self and the Other represented by these two elements “Australia” and “female genital mutilation”. What would happen, then, to the claims of an underlying stability which must be presumed to inhere in the texts for them to offer the meaning they are deemed to carry, if the ligature that paradoxically binds the opposition, were found to be undercut, severed, circumscribed by a trace which lives on the borderline at the heart of “Australia”? In other words, what becomes of “Australia” and of “female genital mutilation” when “Australia” is circumcised, circum-inscribed?

It is clear, to begin at the beginning of such a reading of the text—“Australia”—we must begin to interrogate the beginning, the origins of “Australia”, the original and the originary. Better yet, let us begin before the beginning, before the original, with the forgotten who can neither be forgotten, nor remembered: the Aboriginal. This is the beginning of injustice—the immemorial beginning, the pre-text of justice and of the forgetting which is injustice—the injustice of the “Aboriginal”. The original, the before and the after, the temporality of a passing, a linguistic

and a military conquest and hegemony which effaces the Other by naming her/him. In brief, the “Aboriginal”, the named Other of/at the European invasion/conquest. The naming which evades responsibility. Erased in her/his naming, incorporated by the injustice of legality from *terra nullius* to *Mabo*,<sup>139</sup> a limited justice, the very nature of injustice. The naming, the “Aboriginal”, a limited incorporation, the violence of the word, the word law—Australia—blasphemy—“Australia”—the crime of injustice, of writing, for which we must seek pardon, the gift of forgiveness.

This then is the exact point of incision, of inscribing the circumstances of “Australia”, of circumcising “Australia”. Of asking who can speak of “Australia”, when in fact they seek to speak of Australia, unlimited, universal. If we are to offer a deconstructive reading of “female genital mutilation”, let us begin and end, for the moment, warily, momentarily, under the proscriptive inscription of the trace marking Australia “Australia”.

I do not wish to offer here either a detailed reading of an “authentic” Aboriginality or of the ethnographic texts which have constructed competing visions. The former would be an injustice and the latter is unnecessary. Suffice to say that ethnographic constructions of issues of relevance here, especially of “gender”, are complex, mutable texts, the politics of which themselves largely await a deconstructive gesture.<sup>140</sup> At the same time, the deconstructive search for the call to/of justice can never find, or even search for, an authenticity beyond the same deconstructive gesture, for that too would constitute injustice. At the same time, again, before and after, it is important to note that the “Aboriginal” body, male and female, in many parts of “Australia” has always been the site for the literal graphic inscription of the law of belonging. Depilation, cicatrization, and fire ceremonies operate in different areas to mark the body.<sup>141</sup> The texts are many, “our” openness to hearing/reading them is the question of justice which informs this entire work.

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139. See *Mabo v. Queensland* (1992), 175 C.L.R. 1. In this case the High Court of Australia abandoned the doctrine of *terra nullius* and recognized a limited right to “native title”. The incorporation of the Other into the system of Law was accomplished through this process of “recognition” and the effacement of alterity which is the essence of such legal strategies. See D. Fraser, “This Land Is (My) Land, This Land Is (Your) Land: *Mabo*, Deconstruction and (In)Justice” (1993) [unpublished] for a tentative exploration of these issues.

140. For a careful study of the construction of discourses in relation to the issue of gender in recent years, see F. Merlan, “Gender in Aboriginal social life: A review” in R. Berndt & R. Tonkinson, eds., *Social Anthropology and Australian Aboriginal Studies* (Canberra: Aboriginal Studies Press, 1988) at 17.

141. For a brief description and introduction to the context and importance of these practices, see R. Berndt & C. Berndt, *The World of the First Australians* (Canberra: Aboriginal Studies

It is simply necessary and sufficient here to undermine and circumscribe the text Australia with the other text “Australia”, the text of the Other. Indeed, in the very text Australia, “female genital mutilation” is itself inscribed and written under erasure in the text of the colonizing text of ethnography, and of the ethnographer who inscribes and circumscribes his text with a border to interdict the Other and any intercourse between the Other and Australia which is not itself strictly regulated and written in the body/border of the text and the text of the body.

The classic and sufficient example in this case of the customs and excise control over the customs of ex/in/cision is the text *Ethnological Studies Among The North-West-Central Queensland Aborigines* by Walter E. Roth of Magdalen College, Oxford, published in 1897 by the Queensland Government Printer. The text itself then, the body of work, before it has begun, is described and inscribed with the imprimatur of authority, from the center of Empire and its institutional embodiment, Oxford, to the work’s status as a text of the government of the State of Queensland on/about “its” “Aborigines”. The corporeal weight and function is undoubted, official. This is an authentic text.

But the stamping of the guardtower function on the title page is not a sufficient limiting function. More border controls are subsequently necessary. The limits of Australia must be clearly written here in the body of the text of the law of ethnography, the writing of the people, the “Aborigines”, who, although they precede and exceed history and ethnography, must nonetheless succumb to the disciplinary corporeal incorporation at/in the discursive border. Thus, the last chapter, chapter XIII, must be reinscribed, the limits drawn and reinforced. The author’s note notes authoritatively, graphically inscribing the limits of the text, “The following chapter is not suitable for perusal by the general lay reader.”<sup>142</sup>

The Other is to be excluded even from the excluding view of the general lay reader. The inscription found in the Chapter title indicates the reason—the title—“Ethno-Pornography”. The evil influence, the public health danger, the high risk that the body politic might become infected

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Press, 1988) at 166–87. For more detailed studies of particular areas, see H. Basedow, “Anthropological notes on the Western Coastal Tribes of the Northern Territory of South Australia” (1907) 31 *Transactions of the Royal Society of South Australia* 1; G. Roheim, “Women and Their Life in Central Australia” (1933) 53 *Journal of the Royal Anthropological Institute* 207; B. Spencer & F. Gillen, *The Native Tribes of Central Australia* (London: Macmillan and Co. 1938); A. Lommel, “Notes on Sexual Behaviour and Initiation, Wunambel Tribe, North-Western Australia” (1949) 22 *Oceania* 158. While each of these works suffers from the disease of a traditional and Metropolitan disciplinarity, each also attempts to demonstrate the context and interrelations of the practices.

142. W. Roth, *Ethnological Studies Among The North-West-Central Queensland Aborigines* (Brisbane: Government Printer, 1897) at 169.

with/by the description of the sexual practices of the Other at the heart of Australia—"Australia"—is too much for the authorities and the author to risk. The porno-graphy, the writing of "harlots", must be kept to the professionals who possess the appropriate discipline.<sup>143</sup>

What is it then that Australia (and by logical extension, the metropole more broadly understood) might learn? What is the infectious disease against which the immunological barriers must be raised? It is the danger of "female genital mutilation" as an original and originating of "Australia". Here is Roth's description, with all its racist and colonial attributes left intact, of the ceremonial initiation among the Pitta-Pitta:

Two or three men manage to get the young woman, when thus ripe enough, all alone by herself away in the bush, and, throwing her down, one of them forcibly enlarges the vaginal orifice by tearing it downwards with the first three fingers wound round and round with opossum-string. . . . Other men come forwards from all directions, and the struggling victim has to submit in rotation to promiscuous coition with all the "bucks" present. . . . She has now attained the degree in which she is allowed to marry, and can henceforth wear the grass necklace, the human-hair belt, the opossum-string necklet, belt, &c.<sup>144</sup>

It is not difficult to note the problematic nature of Roth's "description". The "victim" must engage in "promiscuous" intercourse with the "bucks". It is little wonder that the general public must be barred from learning of this "animalistic" practice. This is for Roth beyond barbarism, it is a descent down the tree of evolution to a lower stage of development. But the process of subversion of the text of Australia need not be concerned here with these obvious difficulties in characterizing Roth's text as anything other than another text itself infected by the virus of colonial superiority. For a careful reading of Roth's study reveals more interesting facts, which can, for the purposes of interrogating the colonial text of Australia in general, be separated from the inherent biases of the imperial ethnographer.

For example, as Roth himself recognizes, the practice of the "female genital mutilation" in question occurs within the broader context both of the maturity/identity process of belonging and is only one of several stages in the process as a whole.<sup>145</sup> Moreover, males undergo similar initiation rites including in many cases intocision.<sup>146</sup> Again, this simply reinforces a contention that the process of characterizing events as

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143. See M. Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage, 1979).

144. *Supra* note 142 at 174.

145. *Ibid.* at 175.

146. *Ibid.* at 177.



“female genital mutilation” seriously risks imposing a reading on the text of the social practices in question which promotes and perpetuates the colonial, metropolitan practices which are what really inform the reading rather than any objective, universal truth about humanity, human rights or gender.

To return to an idea introduced earlier as a possible deconstructive point of incision in discussing these issues, one last point made in Roth’s problematic but emblematic text must be entered into the text here. The issue of male circumcision, or in this case of the more radical introcision, must again be interrogated as to its point of contact with the text of the exotic, erotic Other embodied and embedded in the metropolitan text of “female genital mutilation”. Thus Roth himself notes<sup>147</sup> an hypothesis according to which, that while “female mutilation” occurred first and was probably meant to allow simpler accessibility for men, the female “mutilation” underwent a social, hermeneutic transformation whereby it began to symbolize the woman’s suitability, experience and availability for copulation. Thereafter, the practice of male introcision could be explained as a form of mimicry by which men subsequently graphically exposed themselves as fulfilling the same criteria. While Roth’s textual reading is informed by a phallogocentric cultural world view, it nonetheless opens up other possible readings which would require us simply to place the practices relating to the female and male bodies as contemporaneous or to reverse the gendered presumptions of the Roth view and place the practice relating to women first in a context other than “patriarchy”. In other words, the text of the female body is the ur-text, the openness, the absence of the penis which is primary in Western, Freudian and post-Freudian readings of the textual female body (and to many readings of the concept of “mutilation”) is itself made absent as the female open-text is the foundational writing. In this case, the mimicry associated by Roth with the practice takes on a different meaning. Then, his etymological assertion that among the Pitta-Pitta and associated groups, the term used to describe an introcised penis, me-ko ma-ro, means the one with a slit or vulva, in such a deconstructive opening, literally and figuratively becomes an opening to the Other. The pre-text here can be radically re-inscribed, ex-cised, opened up to another possibility which places “female genital mutilation” in a con-text which requires a deconstructive willingness to re-open the inquiry into “injustice”.

Then, the text of “Australia” can come to serve as the trace of Australia, offering graphic proof, written in the body politic of the “Aboriginal” nation that the practice of “female genital mutilation” is not,

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147. *Ibid.* at 180.

in fact, written outside the nation, imported to destroy the society by acts of wanton barbarism. If it does in reality threaten the text—Australia—it does so from within and without, as the trace which destroys and creates the text. It, “female genital mutilation”, is the ab-original which itself borders and encircles as it escapes the original text—Australia—impossible, not yet the impossible. The *aporia* of/as the boundary. The boundless text.

#### VI. *Responsibility and Criminality— Hearing the Silent Call to Justice*

The question which is now asked is the question of justice. How do we respond to the various discourses circulating in and around the issue of “female genital mutilation” here in the metropolitan center and “out there” in the “Third World” without becoming instantly complicitous in the imperialist, neo/post-colonialist construction and effacement of the Other? In other words, how can we who work and function in the academic world of the West avoid our own complicity in the production of the same elite discourses which have created and imprisoned the Other and created at the same time the disciplinary and exclusionary tropes which circulate in and through popular culture in the denial of alterity through recognition and exclusion?

How do we resist the turning-into-propriety of oppositional discourses, when the intention of such discourses has been that of displacing and disowning the proper? How do we prevent what begin as tactics . . . from turning into a solidly fenced-off field, in the military no less than in the academic sense?<sup>148</sup>

The question of the deconstructive intervention in the debates around “female genital mutilation” then becomes the questioning of the deconstructive intervention into these debates and of the borders/boundaries/delimitations/demarcations of the incisive entries. Where is the point of incision which would allow for a circumscription of the text written in/on the body of the Other which will allow the trace of the call to justice to be heard? Where can we begin to respond to the call to justice? Where does our responsibility begin? It begins, in fact, in the fact of the writing of the body of the Other and in the rewriting of the body of the Other in the body of the Law. In other words, it begins in the injustice of the inscription and in the solidarities we sense as constituting “our” responsibilities to that text. At the same time, given the gift of the deconstructive gesture of justice, it also always begins with an interrogation

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148. Chow, *supra* note 77 at 17.

of the responsibilities themselves and of the ways in which the responses are dictated not by the texts themselves but by other inscriptions of/on the body of the law.

Our goal must be, “to set up a discourse that cuts across some of our new ‘solidarities’ by juxtaposing a range of cultural contradictions that make us rethink the currently dominant conceptualizations of the solidarities themselves.”<sup>149</sup> Thus the strategic and tactical interventions in response to our responsibilities must always themselves interrogate not only the text into which we intervene, “female genital mutilation”, but also the points of intervention themselves. Here, the primary point of intervention which must first come under scrutiny is the call to criminalization which informs the debate about “female genital mutilation” in the metropolitan center.

At its most obvious, the move to criminalization is a text underpinned by its inherent and then specifically articulated appeal to the principle of justice. The practice of “female genital mutilation” must be criminalized because justice and equality demand it. The barbaric has no place in the cultural and political center of the Law. But this call to criminalization is not beyond carrying the trace of its own undermining. The call to criminalization is a response not to a sense of responsibility to the call of the Other, to the memory which must not be forgotten, but rather it is a response to the forgetting of the Other. It is the originary and original violence of the Law and of the word.<sup>150</sup> It is a violent inscription of the body of the Other in the text of exclusion and discipline. It is the sovereignty over the body which again reinscribes the body of the Other, which marks her with the graphic stigmata of exclusion. The Law writes her as outside the text. It is a violent exclusion.

A brief examination of the English experience with the criminalization of “female genital mutilation” clearly demonstrates that despite the best intentions of many involved, the strategy of criminalization almost inevitably leads to the further entrenchment of the very injustices the mechanism is meant to combat.

The British decision to criminalize “female genital mutilation”<sup>151</sup> came about as the result of the combination of many of the phenomena which are currently circulating in Australia and elsewhere. Thus, we can find the historical legacy of British colonialism in the presence of diasporic communities in England, exacerbated by the occasional influx

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149. *Ibid.* at 25.

150. See Derrida, “Force of Law”, *supra* note 4; and R. Cover, “Violence and the Word” (1986) 95 Yale L.J. 1601.

151. See Prohibition of Female Circumcision Act 1985, Ch. 38.

of further “refugees” as the result of civil war, unrest, and economic and cultural devastation directly or indirectly caused by colonialism, neo/post-colonialist interventions and the creation of the “Third World” as an economic buttress to international capital. As a consequence of the disruptive arrival and presence of these diasporic communities, “female genital mutilation” became a phenomenon occurring in the metropole and a concern for metropolitan feminists as evidence of the colonial heritage in “Africa” came to their attention.

In these circumstances, “female genital mutilation” became a text treated in the professional discourses of the metropolitan center as doctors<sup>152</sup> and lawyers<sup>153</sup> began to define and limit the phenomenon to the boundaries imposed by their professional discourses. At the same time, the media began a campaign to bring the issue to the attention of the “English” public. Finally, as a result of this complex matrix of discourses circulating in the interpretive swirl surrounding “female genital mutilation” steps were taken to begin the process of criminalizing the procedures.<sup>154</sup> As events seem to amply demonstrate, the criminalization process cannot be understood, nor would it have “succeeded”, without a whole set of metropolitan assumptions about the female Other and the danger which is posed, not to her body where the most graphic and primary inscription occurs, but to the body politic if such textual practices as “female genital mutilation” are allowed to continue.

Indeed, it appears obvious from the reality of the various attempts to criminalize “female genital mutilation”, that the primary goal and effect of such a strategy can not help but be one of exclusion and virtual eradication of the female Other from the body politic, both literally and figuratively. Within the context of metropolitan discourses about and around “female genital mutilation”, for example, the construction of the nation, the boundary of which cannot be transversed or transcribed by the procedures in question, poses obstacles to the very goal of the criminalization process itself. Thus, the boundary is transversed, traversed, reinscribed in what might be described as the deconstructive process of “double invagination”, the folding of the phallogocentric discourse of neo/post-colonial imperialism back upon itself.<sup>155</sup> One of the

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152. See *supra* note 15 and accompanying text.

153. See K. Hayter, “Female Circumcision—Is There a Legal Solution?” (1984) *J. of Soc. Welfare* L. 323; T. Ogiamien, “A Legal Framework to Eradicate Female Circumcision” (1988) *28 Med. Sci.L.* 115.

154. See E. Sochart, “Agenda Setting, the Role of Groups and the Legislative Process: The Prohibition of Female Circumcision in Britain” (1988) *41 Parliamentary Affairs* 508.

155. See J. Derrida, “Living On: Border Lines” in H. Bloom, ed., *Deconstruction and Criticism* (New York: Seabury Press, 1979) at 97; and “The Law of Genre” (1983) *7 Glyph* 202.

developments of imperialist progress and technological advancement which both created the possibility of the imperialist enterprise and which makes its continuation possible, is the ready accessibility of relatively cheap and quick intercontinental travel. In our time and space, both time and space are contracted, making the geography of imperialism a simpler phenomenon.

In the context of “female genital mutilation”, this has two immediate and obvious consequences. First, it makes the Diaspora possible. The “refugee” can find herself transported from her “native” land to the metropole in a matter of hours. This means that the problem of “female genital mutilation” becomes a metropolitan problem in the real sense of the physical presence of the female Other within the national borders. The physical and technological progress of the imperialist center brings the issues of imperialism to the heart of the national text as never before. One hermeneutic result of this diasporic reality is not just the presence of the alien text written on the body of the female Other, but also the inevitable deployment of textual practices, such as the racist discourses which often accompany the presence of the Other at the center, as well as the circulation of all the discourses of effacement and exclusion which culminate in the process of criminalization. Faced with the weight of the constant barrage of the discourses of alterity which define her presence under the threat of absence in the Metropole, it becomes understandable if that alterity manifests itself both by a defiant rejection of the homogenizing impetus of the metropolitan culture and by a return to the “culture” from which she came in order not only to stave off the erasure of the racist but also to redefine herself in the face of the constant disruption of Diaspora, of the rupture of links with innumerable textual practices which have given context to the text of her life. At these stages, “female genital mutilation” might come to be seen as the text of the imperial center written defiantly on the body of the female Other. Thus, the struggle over and around “culture” which results in the colonial freezing of “culture” as folklore and ethnography and appeals to a nostalgic, non-existent and revisionist “past” from anti-colonialist “nationalists”, reasserts itself as the Diaspora becomes a different site of struggle.

At the same time as “progress” makes the presence of the subversion inevitable, the technology and geography of modern imperialism, make possible the escape of the text of alterity from the defining and effacing grapheme of the metropole. The exclusion of the practice of “female genital mutilation” through the violence of criminalization may simply result in the decision to return “home” so that the procedure can be performed. Thus, the body of the Other, with its inscription of alterity

escapes the borders and boundaries of the genre—nation—and returns to the native text, only to return to the metropolitan center to reinscribe by her presence the failures of all customs and excisory controls on the body of the female Other. The text of the metropole is turned on itself as the body of the female escapes all attempts to bind it to the boundaries of passport control.

The only possible reaction by the metropolitan state faced with the effacement of its binding boundaries and its attempts to control and efface the graphic inscription of alterity then appears to be a reinscription of the texts of criminalization and imperialism. In other words, these textual strategies are redeployed, the first by criminalizing attempts to escape from the binding boundaries of the text—nation—to carry out the inscription of “female genital mutilation”, and secondly, to engage in “international pressure” to ensure the abandonment of the practice in the “native country”. But as this latter practice enters the domain of national identity in the neo/post-colonial era, it will inevitably involve a complex set of discourses and deployments which may well serve to undermine the strategy by highlighting its imperial and imperialist roots since it has been, until now, apparently dominated by the dominant texts of those universalizing Eurocentric tropes which only a few years ago served as the philosophical justification of colonial exploitation.

At the same time, this move from the metropolitan center to internationalize the process of criminalization in relation to “female genital mutilation” has also served in part to encourage Diaspora and thereby to undermine the textual and territorial integrity of the metropolitan center itself. Thus, “Third World” women and their supporters are now beginning to claim refugee status in order to gain entry to the West as a result of their fears of “female genital mutilation”.<sup>156</sup>

Once again and simultaneously, it is necessary to interrogate more fully than I can here, the phenomenon of criminalization in this context. In many cases, the circumciser is a female relative or a senior woman in

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156. See V. Oosterveld, “Refugee Status for Female Circumcision Fugitives: Building a Canadian Precedent” (1993) 51 U.T. Fac. L. Rev. 277; T. Egan, “An Ancient Ritual and a Mother’s Asylum Plea” *New York Times* (4 March 1994) B16; Z. Kazure, Letter to the Editor, “Forced Circumcision is Alien to Nigeria” *New York Times* (9 March 1994) A14. The Canadian state has now taken this step and granted refugee status to a Somali woman seeking to protect her 10 year old daughter from “female genital mutilation”. See K.H. Farah et.al., Immigration and Refugee Board (Refugee Division) (10 May 1994) Decision T93-12198. See also, L. Monsebraaten, “Mother given refugee status to save daughter from sexual mutilation” *Toronto Star* (14 July 1994) A1. T. Fennell, “Finding new grounds for refuge” *Maclean’s* (8 August 1994) 20. At the same time, ‘international’ legal and political discourse attempts to deal with the ‘problem’ in traditional ways. See B. Crossette, “In Cairo, Pleas to Stop Maiming Girls” *New York Times* (11 September 1994) A4.

the community, a so-called “granny”. Even assuming that the criminalization works in the positivist sense, i.e., that the “granny” and the family members who are her accessories or co-conspirators are apprehended, tried and convicted, it then becomes important, if not vital, to ask, what is likely to have been achieved in such circumstances. It is unlikely that the procedure occurred in circumstances of ignorance of the law and even if it did, it is further unlikely that submission to the metropolitan criminal justice system will have the effect of convincing the “perpetrators” of the error of their ways.

There seems to be some recognition of this reality in France, where “female genital mutilation” is criminalized by the application of Article 312 of the Penal Code which deals with violence against children. While there is some evidence that the penalties imposed had been increasing (10–20 years, life imprisonment in the case of parents), a recent incident involving a couple from Mali resulted in a four-year suspended sentence.<sup>157</sup>

If the practice is carried out because it is a deeply ingrained and accepted cultural practice with implications for personal, family, group and gender identity, it is not particularly plausible to maintain that the process of criminalization will have an educative or deterrent effect. Nor can it be realistically suggested that newer theories of “reintegrative shaming” will be apposite.<sup>158</sup> This is true not simply because the formal criminal justice system is ill-equipped to deal with the intricacies required for such “shaming” to work but more fundamentally, in all likelihood, the participants in the crime are already integrated into the group, the violation of whose ethical and moral norms would in fact instill shame in them. Indeed, it was in compliance with these very norms that the procedure would have been carried out. In cases such as “female genital mutilation”, the differend at issue is real. “Reintegrative shaming” in circumstances such as this can be founded only in an homogenized ideal of the community into which reintegration is deemed necessary by the state. This is the assumption behind criminalization itself. It is the assumption of colonialism and imperialism.<sup>159</sup>

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157. “Girls mutilated” *Sun Herald* (15 May 1994) 10. These French decisions are not greeted with unanimous support however. See A. Gumbel, “Outrage at circumcision case result” *Guardian Weekly* (25 September 1994) 3.

158. See J. Braithwaite, *Crime, Shame and Reintegration* (Cambridge: Cambridge University Press, 1989).

159. See P. De Graaf, “The Poverty of Punishment” (1993) 5 *Current Issues in Criminal Justice* 13 at 25. Ethnocentricity is fundamental to republican criminology as the site of its application, the stipulated “ideal” Western style democracy where the general theory of shaming has evolved, and where reintegrative shaming in an “ideal city state” can take place, is culturally homogeneous.

If the process of criminalization will not succeed in achieving any real result beyond the further criminalization of mostly female members of "immigrant" communities, what is its function? The answer here seems clear. The primary purpose served by the criminalization of "female genital mutilation" in the centers of the metropolitan West is to emphasize the alterity of the "Third World" women. She must be seen to engage in practices which are barbaric and which have no place in "our" country. Her body is to be written in terms familiar to women even in the history of the colonial center. She is to be criminalized in her exoticism and her eroticism. The monopoly of the phallogocentric Law of the Father is to be maintained over the body of the Other who is woman. She is effaced as an object of legal intervention as she is effaced as not identical, identifiable. She is even less than Other-she is mutilated, her body is more impure than her Western sister. Her lack, the absence of the power of the Father, is graphically written and emphasized. She lacks even the lack. Her absence is virtually complete.

This interpretation seems to be borne out in the experience of diasporic communities in Britain since the passage of criminalizing legislation there. Although there has not been a single prosecution under the statute, this does not mean that the effects of criminalization as a Western discursive practice are not being inscribed on the bodies of the Other. Somali women in Britain, for example, are subjected to high levels of surveillance and interference by social workers who are trying to uncover the "truth" about "female genital mutilation". Newspaper and television stories on the subject result in increased levels of harassment and ostracism. Likewise, in Australia, the recent outbursts surrounding "female genital mutilation" and in particular the debate sparked by the Family Law Council's *Discussion Paper*, have been experienced by women in diasporic communities as yet more examples of exclusion, silencing and of racial violence against them as members of a highly visible minority.<sup>160</sup> In short, while criminalization has not resulted in the formal prosecution of the Other, it has created the background and legitimation function against which the Other can be surveilled, harassed and otherwise disciplined. The exclusion of the Other from the body politic, which is the essential immunizing function of criminalization, is perfected through the interstices of all other forms of metropolitan knowledge which here effectively circumscribe the body of the Other.<sup>161</sup> Despite this, however, "Australia" travels inexorably towards

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160. See N. Marshall, "Response to Family Law Council, Discussion Paper on Female Genital Mutilation/Circumcision" (March 1994) Ecumenical Migration Center.

161. See J. Flint, "Putting rites to wrong" *Guardian Weekly* (22 May 1994) 14.



criminalization<sup>162</sup> of the exotic Other, failing to hear cries for justice and substituting the deaf/blind act of Law.

Yet she speaks to us. The call to respond, in a responsible manner, to reply with and in justice, does in fact present itself in the metropolitan debates on the issue of “female genital mutilation”. Authors such as Toubia,<sup>163</sup> and organizations such as FORWARD, GAMS and CAMS<sup>164</sup> in England and France speak out as women directly affected by the practices, as “Third World” women. In Australia, against the orchestrated cacophony of the forces who cry out for the immediate effacement of the Other in the processes of criminalization, some dare to speak against the mainstream, against Australia and for “Australia”, for a process of inclusion, of education and for internationalization of the Metropolitan discursive intervention in the debates over “female genital mutilation”.<sup>165</sup> The goal here set by the women is to educate their communities away from the practices in question and to attempt to provide interventions which would also address some of the questions of the political economy of the “Third World” which render some women into a state of economic dependency on the continuation of the practice. Yet these women labour under great difficulties. They are a minority within a minority in the metropolitan center. Cut off in some cases from the support of family and friends, their experience of Diaspora is made worse by their double Otherness. At the same time they run the real risk either of being captured by the feminist mainstream opposition to “female genital mutilation” in the West and silenced into the status of identity and the colonization which is inherent therein, or else they are daily confirmed in their alterity by the ways in which they are represented in the political and media constructions not just of “female genital mutilation” but of their role in the issue.

Thus, women from the Horn of Africa who engage in the difficult battle to educate their communities in Australia are not truly consulted by

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162. See “Female Genital Mutilation” (September 1994) Queensland Law Reform Commission, Working Paper; and the *Crimes (Female Genital Mutilation Amendment) Bill*, N.S.W. 1994, the new s. 45 of the *Crimes Act*, creates a “new” offense punishable by seven years in prison. This bill was proclaimed in force in May 1995.

163. See *supra* note 11.

164. See Walker, *Warrior Marks*, *supra* note 18.

165. See “Project explains the harm of circumcision” *Canberra Times* (3 December 1993) 16; R. West, “Agency calls on media to back off on circumcision” *The [Melbourne] Age* (3 December 1993) 8; R. West, “Education better than bans, say African women” *The [Melbourne] Age* (17 February 1994) 6; S. Armstrong, “Female circumcision: fighting a cruel tradition” (2 February 1991) *New Scientist* 42; Z.M. Jama & A. Nielson, “Female circumcision: chink of light at the end of the tunnel” (May 1991) *New African* 31; A. Whyte, “Female Circumcision Exposed in Britain” (February 1991) 63 *Geographical Magazine* 16.

the Family Law Council or the AMA before these two powerful groups recommend, with the surrounding media uproar, the criminalization of the women involved in these practices.<sup>166</sup> But this confirmation of their status is confirmed by the way in which the effacement is itself written, reported. The story comes from Rosemary West “ethnic affairs reporter”. They are, as they must be “African” women. Here again the exotic Other is reduced to the status of object for the disciplining discourses of the metropolitan knowledge. Their “news” is not news of a “political” or “international” or even “local” nature. It is “ethnic” news with all of the exclusions and effacements carried in and through that classification. In the taxonomy of the media, these women clearly belong to a foreign and exotic genus.

Yet another barrier to hearing and responding to these calls for justice now reenters the scene. Here we must come face to face with the boundaries of the other taxonomies created by our positioning in the West and our relations within the current structures of Diaspora. To return to Rey Chow’s formulation, the deconstructive motive towards justice must also impel us and compel us to a rethinking of the dominant conceptualizations and solidarities within Diaspora and imperialism themselves.<sup>167</sup> First, we must resituate the women who struggle to end the practices of “female genital mutilation” in the West within the Diaspora. Such a siting further complicates the issue since it may serve to undermine the identification and solidarity associated with affiliation. The material and the ideological conditions<sup>168</sup> of these women in Diaspora in the West are manifestly different in a myriad of ways from conditions in the “Third World” nation from which they came. As I have suggested earlier, this does not mean that the Diaspora and the homeland live in complete isolation. It does suggest however that any claim to a “natural” or “inevitable” solidarity in its weakest form or a similarly characterized identity in its strongest form must be fully and explicitly interrogated just as we must always interrogate the relationship between Diaspora and the imperial center and the function of tropes of “gender”, “culture”, “religion” etc. in the interstices of Diaspora/imperial center/homeland.

Moreover, we must also carefully interrogate and reinscribe our understandings of the “Third World” itself. If the identity or solidarity of the Other in Diaspora with the Other in the “Third World” is to be

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166. See “Education better than bans, say African women” *ibid.*

167. Chow, *supra* note 77.

168. I do not mean to suggest here that ideology does not possess a materiality but rather that the two sites operate in different ways. See L. Althusser, “Ideology and Ideological State Apparatuses” in *Lenin and Philosophy* (New York: Monthly Review Press, 1971) at 97.

questioned, then the idea of a “Third World” as universally identical in its alterity must also be interrogated and disputed as it asserts its central signifying role in much of what passes as “internationalizing” the focus of Western feminism. As Vasuki Nesiah argues we “must explore the centrality, and simultaneously the deconstruction and fragmentation, of various identities, beginning with the logic that produces the category ‘women’.”<sup>169</sup> This would and will mean not only a careful study of our implication in the various knowledge production centers from which many of these identities and from which the category “women” still emanate, but equally a very close set of examinations of the real ideological and material conditions of the Other in her many concrete circumstances which are found in a heterogeneous “Third World” as well as a careful interrogation of the different material and ideological conditions of women in heterogeneous Diaspora. Then, appeals in education campaigns by women, both in the “Third World” and in Diaspora, to international human rights or feminist discourses can themselves be opened up to a deconstructive examination as we continue to attempt to breach the *aporia* and respond in a just way to the calls to newer and newer solidarities. This will enable us to simply begin to attempt to engage in different forms of the politics of alterity/justice.

When we can begin to interrogate the problems and dynamics of the interaction of gender identity and nationalism in the “Arab world” for example,<sup>170</sup> we might be able to construct deconstructive incisions into the practice of “female genital mutilation”. When we begin to derogate from the arrogant perception of a monolithic “Third World”, we might be able to examine the debates which occur in the metropolitan center but which also circulate in the various parts of the “Third World”. Then can we begin to see the implications of the fact that many women in those countries have no access to the means of mass communication/education which we take for granted even when we propose “education” as an alternative to criminalization.

In fact, what has to be interrogated here is not “female genital mutilation” but the entire matrix of the “Third World” and the quotidian involvement we all have in the continuation of the material oppression and construction of even more subtle and pernicious forms of oppression, domination and submission. When we learn that Somali women in

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169. *Supra* note 6 at 210.

170. See N. Hijab, *Womanpower: the Arab Debate on Women at Work* (Cambridge: Cambridge University Press, 1988); J. Tucker, ed., *Arab Women: Old Boundaries, New Frontiers* (Indianapolis: Indiana University Press, 1993); L. Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven: Yale University Press, 1992).

refugee camps guarded by US Marines and the United Nations, fleeing civil war and starvation still ensure that their daughters are infibulated, can we make a claim to be engaged in the process of remembering the Other, of seeking justice when we speak in terms of moral indignation against the “barbaric” practice of “female genital mutilation” and leave the issue of the enormity of US and other Western aid funds in arms and “population control” aside? What and whom are we forgetting then? At the same time, we must ensure a greater willingness to listen to the stories of the various struggles waged against “female genital mutilation” and to situate them in the broader geo-political context.

For example, in Eritrea, the practice of “female genital mutilation” has been dramatically decreased by the efforts of women and men of the Eritrean People’s Liberation Front who fought side by side for national liberation and for a re-invented “culture”. In a similar fashion, the struggle in the Sudan has been waged by women, many of whom are linked to the Sudanese Communist Party.<sup>171</sup>

The question now becomes one of interrogating and investigating the links between metropolis and “Third World”, between colonialism and anti-colonialist struggles which resulted in the stunted nationalism which thrives in the world of international capital circulation, and of the links with the construction of identity in terms of nation and of gender.<sup>172</sup> Then we can begin to begin the deconstructive project of listening to the body of the Other, not as absolute alterity nor as identity but as trace of the global linkages and solidarities which at one and the same time limit and impose possible interpretations and interventions but also make such interventions our responsibility in order to establish and to transgress boundaries, to remark the demarcation zones. For it is only when we begin to recognize the political imperative aporetically inscribed in these texts that politics and deconstruction, in other words, justice, present themselves as the ever present possibility. Thus, in attempting to hear the call of the Other’s body inherent in the discursive matrix of practices of “female genital mutilation”, we hear not the authentic cry of the “Third World” woman, the exotic Other in her authentic feminist reaction against a universal patriarchy and its corollary of organized feminism, but the cry of the aporetic repositioning of the woman Other in her re-

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171. S. Hale, “Transforming Culture or Fostering Second-Hand Consciousness: Women’s Front Organizations and Revolutionary Parties—The Sudan Case” in Tucker, *ibid.*

172. See generally I. Grewal & C. Kaplan, eds., *Scattered Hegemonies: Postmodernity and Transnational Feminist Practices* (Minneapolis: University of Minnesota Press, 1994); See also Parker, *supra* note 61.

interpretation of the reality in which she lives.<sup>173</sup> It is our responsibility never to forget to hear the call of this Other which/who is written in the materiality of her existence which we have created and which, therefore, we are responsible.

Hearing the call to justice, seeking to intervene in an act of interpretive and political solidarity, then becomes the deferral of identity and perhaps of justice itself. The union of self and Other, the deconstructive interrogation not just of the Other but more importantly of the forgetting of the Other, brings us then to a stage of mourning the impossibility of the impossible, of the constant circulation of the gift of justice, of its non-iterability. This trace of alterity which circulates and contaminates the debates on “female genital mutilation”, the absent present written on the body of the Other, calls us to a recognition of the two components of justice, temporality and plurality. As Levinas urges:

Relationship with the future, the presence of the future in the present, seems all the same accomplished in the face-to-face with the Other. The situation of the face-to-face would be the very accomplishment of time; the encroachment of the present on the future is not the feat of the subject alone, but the intersubjective relationship. The condition of time lies in the relationship between humans, in history.<sup>174</sup>

This union of self and other, of present and future, is constantly deferred, replaced, displaced, interrogated. Time and alterity circulate and circumscribe as the declaration of the impossible, the possibility of the impossibility, of the gift which is never given but which is offered in a displaced relationship with the libidinal and the political economy written on the body of the Other as “female genital mutilation”. In Lacanian terms it is *objet a*, in Derridean terms it is a circumcised justice, calling the memory of a relationship beyond or before alterity with the female Other. It is that which we have lost but which we seek to recover in this possibility of the impossible. We must decide, yet, already,

Decision cannot appear to itself as “good” insofar as it will have truly decided. . . . Every decision is made, by definition, in the undecidable. . . . I cannot decide without infinitely abandoning myself to the finitude of my singularity and thus I cannot, in the strike and cut of my decision, renounce appearing to myself as the “deciding” subject. This is also why my decision

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173. See P. Cheah, “Master Text/NeoColonial Globe: Kant’s Cosmopoliteia in Contemporary Cultural Studies” in V. Kirby, ed., *Shifting Ground: The Nature of Culture* [unpublished], 174. E. Levinas, “Time and the Other” in *The Levinas Reader* (Oxford and Cambridge, Mass.: Blackwell, 1989) at 45. Derrida’s reading of the face-to-face with the Other further problematizes the possibility of recognition i.e. of justice. See Bennington & Derrida, *Jacques Derrida*, *supra* note 96 at 302. See also, R. Bernasconi, “Levinas and Derrida: The Question of the Closure of Metaphysics” in *Face To Face with Levinas*, *supra* note 92 at 181; and L. Irigaray, “The Fecundity of the Caress” in *ibid.* at 231.

is identically, each time, a decision for relation and sharing—to the point that the subject of my decision can appear to itself as not being simply “me” (but also a “you” or an “us”) without it being any less singularly my own, if it is authentic. Yet it must be repeated that the decision does not appear to itself: in this way it decides and is decided.<sup>175</sup>

The responsibility which compels us to decide is a responsibility which compels us equally to be responsible for the asymmetry, for the *aporia* which accompanies every decision. Our obligation, like the gift from which it flows, can never be extinguished. “This essential asymmetry is the very basis of ethics; not only am I more responsible than the other but I am even responsible for everyone else’s responsibility!”<sup>176</sup> This is why we do not/cannot pay tribute to the women who struggle to end “female genital mutilation”. We cannot reduce the gift of justice, which they inscribe in their demands, to the circulation of commodities in the legal/libidinal economy. The circulation of the possible/impossible, the just unjust, the unjust justice, the just rather occurs in another phase, in another economy, the economy of the deterritorialized flow of the literal body without organs, the rhizomatic disorganized organization<sup>177</sup> of a life-giving cannibalism—the very cannibalism destroyed by “Western civilization”—the most appropriate appropriation in the world economy of “female genital mutilation”—where cannibalism becomes the only possible route to the impossible. The double bind of the “Third World Woman” consumes itself in the double invagination of justice. The body of the Other consumes and is consumed by the body of the Law. Other Law, the aporetic moment of the ultimate ethical face-to-face.

The question is no longer one of knowing if it is “good” to eat the other or if the other is “good” to eat. . . . One eats him regardless and lets oneself be eaten by him. . . . The moral question is thus not, nor can it ever be: should one eat or not eat . . . but since one must eat in any case and since it is and tastes good to eat . . . how for goodness sake should one eat well.<sup>178</sup>

The question of justice in neo/post-colonial Diaspora becomes one of hospitality.<sup>179</sup> How should we treat our guests? How should our hosts treat us? It is little wonder, then, that our relationship to/with/in diasporic alterity and irreconcilability and then back to the legal bind of Lyotard’s differend can now be described by Baudrillard in terms of the cannibalism

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175. J.L. Nancy, *The Experience of Freedom*, *supra* note 5 at 142.

176. E. Levinas, “Dialogue with Emmanuel Levinas” in *Face To Face with Levinas*, *supra* note 92 at 31.

177. See G. Deleuze & F. Guattari, *Anti-Oedipus* (Minneapolis: University of Minnesota Press, 1983).

178. J. Derrida, “Eating Well or the Calculation of the Subject” in E. Cadava, ed., *Who Comes After The Subject?* (New York: Routledge, 1991) at 114–15.

179. See discussion *supra* note 107 and accompanying text.

of the West in Diaspora. Food, starvation, consumption, death, anorexia nervosa, “female genital mutilation”, Somalia, Rwanda, Aboriginal/black deaths in custody, justice.

Japanese culture is thus a cannibalistic form—assimilating, absorbing, opening, devouring. Afro-Brazilian culture is also a rather good example of cannibalism in this sense; it too devours white modern culture, and it too is seductive in character. Cannibalism must indeed always be merely an extreme form of the relationship to the other, and this includes cannibalism in the relationship of love. Cannibalism is a radical form of hospitality.<sup>180</sup>

And it is this cannibalism, this devouring of the body of the Other, of “female genital mutilation”, that offers us the possibility of the impossible, justice. For the cannibalized operates in a new way, as a gift, as it inhabits the body, mind and spirit of the cannibal, the metropole. It is a “. . . viral, spectral presence in the synapses of our brains, in the circuitry of our rocketship, as ‘Alien’; in the way in which the Whites have caught the virus of origins, of Indianess, of Aboriginality, of Patagonicity.”<sup>181</sup> The possibility of the impossible, of justice, inhabits us all because as members of the cultural and political elite who produce and reproduce the canons of imperialism and of the otherness of “female genital mutilation”, we have cannibalized the body of the Other. The Diaspora and the colony are parts of our daily reality. But we must pause in our consumption because of the disarray, of the cacophony around “female genital mutilation”, of the inscription of this body of the Other in the proscriptions of the law, the differend, because people are now talking of justice for “female genital mutilation”, about reconciliation, we must be silent, we must stop the production of texts and proceed to the production of affect. We must rest, we must resist the artificial semiotic flurry, the sounds of legal discourse. We must let the Other come. As Avital Ronnell puts it, and this is the beginning and the end of my text:

A true ethics of community, be it located in cyberspace or among lovers, readers, artists, activists and so on, would have to locate a passivity beyond passivity—a space of repose and reflection, a space that would let the other come. Exposing oneself to the other, or to the other’s death, has nothing to do with action as such.<sup>182</sup>

Let us pause before we take dessert. Let us pause before our deserts. Let us just pause. Just us. Justice.

180. J. Baudrillard, *The Transparency of Evil* (New York: Verso, 1993) at 144.

181. *Ibid.* at 137.

182. “Support Our Tropes II: Or, Why in Cyburbia There Are a Lot of Cowboys” (1992) 5 *Yale J. of Criticism* 73 at 75.