

## National Politics as International Process: The Case of Anti-Female-Genital-Cutting Laws

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Looking at power struggles primarily within national boundaries reifies the nation-state and misses larger issues of control in the international system. Using the example of female genital cutting (FGC), we consider the relative importance of local constituencies versus international normative influence in creating national policies. We find that the occurrence of anti-FGC legislation in countries where many individuals support the procedure, the timing and character of national legal action directed against FGC, and the uniformity of political action all lend weight to the importance of international norms. At the *national* level, we find (1) reform is often a top-down process in which national laws are developed to change rather than reflect local attitudes, and (2) African states tend to work around local communities by adopting bureaucratic policies to combat FGC (Western countries, in contrast, tend to adopt formal laws). At the *international* level, our findings suggest (1) the structural position of international actors influences whether they deploy assimilative or coercive reform strategies, (2) contradictions among international ideals limits Western hegemony, and (3) international ideals can simultaneously empower (by offering options) and disempower (by disengaging states from local constituencies) local individuals.

**S**ocial science literature tends to assume a link between national policies and local civil societies. Although that model may represent Western nations reasonably well, its extension to African nations and other countries in the Southern Hemisphere is often problematic.<sup>1</sup> Such analyses miss an important piece of the

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<sup>1</sup> For purposes of this article, "Western nations" are nations that were members of the Organization for Economic Cooperation and Development (OECD) as of 1980, i.e., Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey,

picture: the international context of national action. Increasingly, calls for democratic process coincide with calls for particular political outcomes, which may go against local majority sentiments. Examining the evolution of laws from power struggles *within* countries reifies the nation-state and misses larger issues of control in the international system.

An examination of the practice and policies of female genital cutting (FGC)<sup>2</sup> provides an interesting case to explore the importance of international culture in creating national policies.<sup>3</sup> FGC has generated many debates precisely because the issue juxtaposes the ideals of sovereign autonomy and local representation against an international definition of human rights. Due to the resulting moral quandary, national laws relating to the procedure are highly controversial.

In this article, we examine why countries adopt anti-FGC legislation. Assuming that laws reflect national culture and material conditions, one might expect female genital cutting to be legally condoned in countries where the practice is prevalent (see Kidder 1984:36–57). Instead, laws in these countries are exclusively directed at banning female genital cutting. Laws banning female genital cutting are also common in countries in which the practice is very rare (the United States, Great Britain, etc.). Rather than viewing each law as the end point of a national political struggle, we consider all anti-FGC laws as part of an international process.<sup>4</sup> We elaborate this process, exploring the strategies used by international actors to eradicate female genital cutting.

We adopt the perspective that laws are significant because of the transcendent principles outside the means-end relationship for which they stand (see Boyle & Meyer 1998; Gusfield 1963; 1986:166; Burke 1945; see also Fine 1993). Law is a key ingredient in the social construction of reality. For example, African countries' anti-FGC policies bolster the perception of an international consensus to eradicate female genital cutting (cf. Edelman et al. 1999) and are viewed as an invitation by international activists to work within countries to eradicate the practice (see El Dareer 1982:96). In this way, laws have real consequences in fuel-

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the United Kingdom, Canada, the United States, Japan, Australia, and New Zealand. In parallel, countries that we term "peripheral" are non-OECD countries. The "south," in this article, refers to African nations.

<sup>2</sup> Naming this practice is highly controversial. Both of the terms "circumcision" and "female genital mutilation" have been criticized as political. In our attempt to adopt a middle ground, we use the term "female genital cutting" broadly to include sunna, clitoridectomy, excision, and infibulation (see also Lane & Rubinstein 1996). "Cutting" is also the term used in much recent legislation.

<sup>3</sup> The toll taken by female genital cutting on women's lives has been discussed with sensitivity and insight in a number of articles (see Gunning 1990–1991; Gruenbaum 1991; El Dareer 1982).

<sup>4</sup> The "international community" in this context is nation-states, international governmental organizations (IOs), and international non-governmental organizations (NGOs) (see Boli & Thomas 1997; McNeely 1995).

ing eradication efforts, regardless of whether local individuals are actually prosecuted under them.<sup>5</sup>

## Theoretical Contributions

Our theoretical analysis is grounded in neo-institutionalism and status politics theory, which both see national political action as largely symbolic. For neo-institutionalists, assumed “universal” ideals make up the institutional framework of the international system and limit the range of national actions (Meyer, Ramirez et al. 1997). The ideals are universal in the sense that they are taken for granted, organize action, and have universalistic justifications. For example, in the modern period, much importance is attached to the democratic ideal of majority rule. Activists devote considerable resources to promote local representation in the developing world; democracy is typically viewed as the starting point for the rule of law within nations (Golub 1993; Carothers 1998). The special capacity of each state to represent and act for its citizens may even underlie the legitimacy of the sovereignty system (see Onuf 1995:44, 47). Majority rule is framed as a “universal” good. Justifications for the respect of human rights are likewise framed universally (see Donnelly 1989; Turner 1993). Socially constructed universal principles, such as these, form the basis of an “international culture.”

Status politics theory focuses on a slightly different, but closely related, issue: How does a dominant group, which takes certain values for granted, deal with others who challenge those values? When particular practices distinguish members of different cultures, then those practices may become symbols of social status, identifying a hierarchy of lifestyles (Gusfield 1963; 1986). Status politics theory predicts that moral regulation will occur when a dominant group feels its political order is threatened.

From either theoretical perspective, although nation-states are immersed in an international culture, the appropriateness of national action is often contested at some level. Neo-institutionalists would explain this contest by pointing to contradictions among the different “universal” principles (cf. Friedland & Alford 1991). For example, when the principle of majority rule contradicts the principle of minorities’ rights, numerous inter-

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<sup>5</sup> Recent demographic and health surveys from the Central African Republic, Egypt, Mali, and Sudan show little change in the attitudes of women toward female genital cutting despite the presence of anti-FGC laws (Carr 1997; see also Williams & Sobieszcyk 1997; Boyle et al. 2000). The percentage of women who favor the continuation of the practice corresponds closely to the percentage of women who were themselves circumcised in these countries. Keck & Sikkink (1998) suggest specific circumstances that could make anti-FGC laws more effective. Mackie (1996) suggests a delayed, but ultimately rapid, change in behaviors when attitudes opposed to the practice reach critical mass. For details on the implementation of anti-FGC policies, see Warzazi (1991), El Katsha et al. (1997), and United Nations Population Fund (1996).

pretations of a political systems' policies are possible. In a related vein, status politics theorists would be interested in the strategies used by international actors to make Western values appear universal. As an extension of status politics theory, we argue that parties formally linked to the international sovereign system of nation-states will emphasize majority rule and use "assimilative" strategies to bring reluctant governments into conformity with anti-FGC values or behaviors, while parties who operate more independently of the nation-state system will emphasize minority rights and "coercive" reform strategies.

Using the case of female genital cutting, the first contribution of this article is to extend status politics theory to explain how the international position of actors influences their reform strategies. Assimilative reform relies on the "legitimation" of the dominant values, while coercive reform requires "domination." Our argument is that, on the one hand actors who have a vested interest in the formal organization of the international system (for example, the United Nations) are likely to use deferential, assimilative reform strategies, such as funding conferences to discuss reform. On the other hand, actors who operate independently of the nation-state system, either because they are private individuals (feminist organizations) or they have power (the United States), are more likely to use coercive strategies, such as embarrassment and financial penalties, to bring about reform. These actors also make use of different "universal" ideals derived from the international system. Actors dependent on the nation-state system for their existence will embrace the ideals of local representation and cultural autonomy because those ideals tend to privilege the nation-state form. Actors who operate independently of the system are more likely to emphasize the ideal of universal human rights. The reform strategies and competing rhetorics of actors in different roles combine to create particular outcomes in national policies.

Our second contribution is to expand explanations of national lawmaking to specifically incorporate the international system. Two competing conceptions—emphasizing either local or international influence on states—suggest very different patterns of lawmaking. Of course, both conceptions hold some truth and have some historical justification (see, e.g., Ruggie 1993). Further, the accuracy of either conception is likely to vary across countries and issues (Thomas & Meyer 1984). We emphasize the dichotomy to highlight what we see as the problematic neglect of the international conception in understanding the process of national lawmaking.

Generally speaking, if laws are local creations, because every nation-state comprises unique local identities, unique laws will emerge from each local culture and power structure. According to this perspective, a person thoroughly understanding local in-

terests and power relationships can explain why laws are adopted and how various local publics are likely to respond to them. If, alternatively, international culture is the driving force behind national laws, then each nation-state will build its identity around commonly-held universal ideals. Under the latter scenario, laws will diffuse more rapidly and look more similar than under the former scenario. The meaning of the law for various local publics will be very different than under the local conception of control.

Empirically, the two different conceptions of nation-states lead to different predictions about anti-FGC laws. If nation-states are primarily constitutive of local societies, anti-FGC laws will be *least* common in countries where rates of genital cutting exceed 50% of the female population, because such laws will be opposed by a majority of individuals in those countries. The passage of anti-female-genital-cutting laws will also correspond to important local events, such as increasing immigration from practicing cultures. The language of anti-female-genital-cutting laws will reflect the unique character of each local culture. Finally, if national models of lawmaking adequately capture the lawmaking process, local activists will target national governments as opposed to international organizations to create anti-FGC policies.

In contrast, the opposite empirical circumstances will prove true if the international system plays a critical role in national lawmaking. That is, anti-FGC laws will be *most* common in countries with high rates of female genital cutting because those countries will be targeted by the international community. The laws will occur closely together in time and coincide with international events. The language of the laws will follow a common script; and local activists will target international actors to create anti-FGC policies. To test the usefulness of the two different conceptions of the nation-state, we focus on these four empirical examples as “crucial tests” of the importance of international influence.<sup>6</sup>

Although we expect to find considerable uniformity in national action with respect to female genital cutting, some variation in form and process is also predictable. Western laws may have more of an international focus than laws in African countries in reaction to the expansion of the liberal world to include practicing cultures. Western actions may be more legalistic, and

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<sup>6</sup> Our propositions are phrased in the form of “crucial tests”; that is, it is not possible for both an international norm and the related local constituency proposition to be true (Stinchcombe 1968). This method increases the efficiency of our analysis over simply relating empirical facts at random in the hope that some of the facts will be inconsistent with one of the perspectives. At the same time, this approach leaves room for the reformulation of theory so long as the new theory is consistent with all of the observations. For that reason (and because of the unique opportunity afforded by our qualitative approach), parallel to the rigorous test of our propositions, we introduce factual complexities so that we can consider the theoretical implications of our findings in their broadest sense.

Western countries may make more attempts to link formal political action with local sentiment. In countries where many women are circumcised, policies are likely to be more informal or bureaucratic. We expect to find this because popularly elected bodies, such as legislatures, are unlikely to support the policies in these countries. Countries on the periphery of the international system where female genital cutting is *not* practiced may well not be involved in the international process.

Our information on the history and nature of international organizing and local legal action related to female genital cutting comes from a wide array of secondary sources, including U.S. State Department Reports, United Nations (UN) publications, World Health Organization (WHO) reports, reports by various international non-governmental organizations (NGOs), books, and journals. We searched on Lexis/Nexis for all articles on female genital cutting in non-U.S. and U.S. newspapers. The search yielded over 600 articles whose primary topic was female genital cutting. We also perused local African newspapers from January 1991 to December 1998 to find stories on female genital cutting. Our goal was to test competing propositions in as many contexts as possible using all available data.

We define law or legal action broadly to include laws, regulations, and bureaucratic action. We address our question descriptively in order to develop a more complete understanding of the process that leads up to national legal action in different countries. Such an approach also allows us to problematize subtle variations, such as the character of legislation, which would be difficult to explore quantitatively.

## The History of Opposition to Female Genital Cutting

In this section, we describe the practice and background of female genital cutting. We then briefly explain the rise of opposition to the practice in the early 20th century and the recent interest of the international system in eradicating the practice.

### Female Genital Cutting

Although the precise origins of female genital cutting are unclear, the practice dates back to antiquity (Lightfoot-Klein 1989; Mackie 1996). FGC is deeply embedded in the culture of a number of central African nations, particularly those with ties to the Middle East through Islam.<sup>7</sup> FGC is practiced widely in 25 coun-

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<sup>7</sup> Whether FGC is required by Islam is a contested question (Boddy 1991). The practice predates Islam, does not occur in most Middle Eastern countries, and is not explicitly required by the Koran. Nevertheless, some powerful Islamic leaders advocate the practice, and, in Africa, its occurrence has coincided with Islam (see, e.g., Lancaster 1995).

tries (U.S. Department of State 1998).<sup>8</sup> Although the practice is currently prevalent primarily in African and Asian countries, female genital cutting was performed on white women in Western nations as recently as the 1950s, as a medical treatment for nymphomania and depression (Barker-Benfield 1976). In the modern era, the practice continues to occur in the West in small numbers, predominantly among certain groups of new immigrants.<sup>9</sup> The World Health Organization (1997) estimates that worldwide over 130 million women and girls have undergone some form of genital cutting.

Female genital cutting is typically delineated into three categories that vary by type of procedure (Toubia & Izett 1998). "Sunna" is the least invasive procedure and is most comparable to male circumcision. It involves the removal of the prepuce, or hood, of the clitoris. "Genital excision," or "clitoridectomy," is the removal of the entire clitoris and the labia minora, leaving the labia majora intact. Approximately 80 to 85 percent of circumcised women have undergone sunna circumcision or clitoridectomies. "Infibulation," the most extreme form of female genital cutting, is the excision of the clitoris, labia minora, and labia majora, followed by the sewing together of the raw edges of the vulva so that only a small hole remains through which urine and menstrual fluid may pass. Common complications from female genital cutting include shock, bleeding, infection, and—for infibulation—delayed problems such as menstrual pain, urinary tract infections, painful intercourse, and difficulties in childbirth. On rare occasions, complications arising from FGC can even result in death.

### Early Eradication Efforts

Although pockets of opposition to female genital cutting have existed for at least a century, organized international mobilization against the practice emerged only in the past 25 years. Early responses to female genital cutting stem from Western roots, with initial opposition in the first half of the 20th century instigated by Christian missionaries (Bibbings 1995).<sup>10</sup> For example, missionaries of the Church of Scotland mobilized against the practice among the Kikuyu of Kenya in 1906, but merely suc-

<sup>8</sup> The prevalence of female genital cutting varies significantly in these 25 nations. We include in this classification countries that report a rate of FGC affecting 50% or more of the female population. We also include countries that have no frequency data, other than the U.S. Dept. of State reports that FGC is "widespread" or "common."

<sup>9</sup> Note that genital cutting on Western children is widely practiced in the case of surgical sex assignment for children born genitally ambiguous. Many are critical of genital surgery on infants and children and relate this practice to FGC by referring to it as "intersex genital mutilation" (see, e.g., Chase 1998). For a discussion of literature, research, and activism in this field, see Preves (1998; 1999).

<sup>10</sup> For a detailed history of the practice itself, see Mackie (1996).

ceeded in politicizing the issue rather than decreasing its incidence (El Dareer 1982:92). Nation-states were not the central actors in the early campaigns against FGC because, in the early 20th century, Africa was not organized into nation-states but into a system of territories and protectorates. Local representatives of Western colonial powers governed these lands. The colonial powers had a tendency to create parallel judicial systems: one branch applied “native law” to local disputes and the other branch dealt with “modern” issues (Mamdani 1996). Colonial governments actively avoided interfering with local customs to minimize tensions with indigenous populations (El Dareer 1982:92).

Although most of the world was still completely unaware of female-genital-cutting rituals at mid-century, knowledge of the practice spread outside of the missionary community to some scholars (anthropologists) and some members of the emerging international community. The first time female genital cutting was openly discussed outside of Africa was in the late 1930s by the British Parliament (Murray 1974; 1976). The discussion was followed initially by an informal coalition consisting of the wives of British officials in Sudan and educated Sudanese men. In 1943, a formal educational campaign was launched by the British in Sudan, and in 1946, the colonial government passed a law forbidding the most extreme form of FGC, infibulation. As with earlier efforts in Kenya, the law merely politicized the issue and led to the collective and secret circumcision of many girls at once (El Dareer 1982:94–95). Overall, diffuse, local opposition began to wane in the late 1950s, having had little effect on rates of female genital cutting (Assaad 1980; Keck & Sikkink 1998). Its denouement coincided with the globalization of the nation-state system and a rise in international interest in female genital cutting.

### **International Mobilization**

Since World War II, there has been a remarkable degree of ideological convergence among nation-states, despite significant historical and economic differences (McNeely 1995). The international community has been at the core of this development—not primarily as a coercive actor (international organizations (IOs) are notoriously weak), but as an important source for “proper” national action and organization. The role of international society in the construction of international norms opposing female genital cutting is illustrative. Even though the international community barely touched upon the issue of FGC until 1975, from the inception of the United Nations until the late-1970s, IOs established elaborate guidelines to promote human rights generally.

The Geneva Assembly codified the discourse of universal human rights in 1948 with the adoption of the Universal Declara-



tion of Human Rights (UDHR) (Etienne 1995). Along with the International Covenant on Civil Rights and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, both proposed in 1966, the UDHR is said to constitute an “international bill of rights.” The UDHR focuses broadly on rights seen as essential to all humans, including the rights to health and individual autonomy, which are relevant in the discussion of female genital cutting (Smith 1995). Since 1948 there have been several conferences further detailing the means to protect and honor the rights outlined in the UDHR. In the 1950s, 1960s, and 1970s, the United Nations and its various subunits held a number of conventions and issued a number of declarations relating to issues of gender and human rights. The majority of countries in the modern world have signaled their receptivity to these various conventions and declarations.<sup>11</sup>

When the international community first took up the issue of female genital cutting, sovereign autonomy was at its peak, and there was no attempt to coordinate an eradication of the practice. The UN made no formal statement against the practice of female genital cutting until a 1964 conference in which FGC was condemned as a violation of human dignity and right to health (Boulware-Miller 1985). Functionalism characterized the rhetoric during this period. Political leaders made statements condoning female genital cutting’s “traditional benefits” (see Lightfoot-Klein 1989; Kenyatta 1962). Although the World Health Organization authorized studies of the practice during this period, it maintained its policy to not intervene in domestic politics without an explicit invitation from the state (El Dareer 1982:96; Berkovitch & Bradley 2000).

During the late 1970s, a wave of interest, linked closely to women’s and children’s human rights, prompted the international community to make female genital cutting an international concern and to take more concrete action against the practice (Assaad 1980; Etienne 1995; Boulware-Miller 1985).<sup>12</sup> Mobilization occurred on several fronts simultaneously. The year 1975 was declared the International Year of Women, and 1975 to 1985, the International Decade for Women. In 1975, a feminist organization in Burkina Faso (then Upper Volta), *Les Femmes Voltaiques*, began national radio broadcasts against the practice of female genital cutting (Boulware-Miller 1985). The Sudanese Obstetrical and Gynecological Society sponsored a local meeting to discuss female genital cutting in 1977 (Boulware-Miller 1985). Then, in 1978, perhaps in anticipation of the 1980 Convention

<sup>11</sup> Conventions, such as the Convention for the Elimination of All Forms of Discrimination Against Women, are binding for the states that have ratified them. Declarations, on the other hand, are non-binding statements of aspirations.

<sup>12</sup> Earlier attempts (in the 1920s and the 1940s) to eradicate the practice did not attract an international following (see Keck & Sikkink 1998; Brennan 1989).

on the Elimination of All Forms of Discrimination Against Women, international action against female genital cutting increased noticeably. Western feminists criticized the practice through journal articles and missives to international organizations (Brennan 1989:376–77). Western groups, such as Save the Children, the Fédération Internationales des Femmes de Carrières Juridiques, and Terre des Hommes, sent detailed information about female genital cutting to the Secretary-General of the UN (Boulware-Miller 1985). In 1978, France began to prosecute cases of female genital cutting as child abuse (Winter 1994).<sup>13</sup> International activism continues into the current period with IOs, nations, and the media constructing well-organized opposition to the practice.

### International Reform Strategies

Since the dominant values of the international culture require not only an eradication of female genital cutting consistent with the ideal of human rights but also a respect for sovereign autonomy, both neo-institutional theorists and status politics theorists would expect the international community to adopt a largely assimilative approach to reform. In other words, some recognition and level of respect for differing values is built into the dominant values of the international system. According to its initial formulation, status politics theory conceptualizes the use of coercive reform as primarily a matter of timing—coercive reform follows assimilative reform after a number of converts are won over and the position of the dominant group is solidified.

Even though we are in fundamental agreement with the original theory, we believe there may be another important determinant in the use of coercive reform—the structural position of the actors who employ the reform strategies. Actors whose existence depends on the international system of nation-states are the most likely to be deferential to national power arguments—sovereign autonomy, majority rule, etc. This group of actors includes international governmental organizations such as the UN. It also includes states whose existence is largely dependent on the legitimacy provided by the international system, particularly former colonies in Africa (Jackson & Rosberg 1982).

Actors who exist independently of the formal international system may be less deferential to national interests. Organizations such as Greenpeace, Amnesty International, and FORWARD are not dependent on national governments for their existence. They exist apart from, and to some extent in opposition

<sup>13</sup> In terms of the implementation of laws, it is important to note that France prosecuted cases of female genital cutting under its existing child abuse law, while other countries passed laws relating to FGC specifically. We discuss the implications of these differences in a separate article (see Boyle et al. 2000).

to, the formal nation-state system. Consequently, they are often openly hostile to national governments. These actors are more likely to engage in coercive reform than are actors embedded in the formal international system. Powerful nation-states are a hybrid category, with some ties to the formal international system but without the direct dependence of some former colonies. We expect that they will follow the original model of status politics theory, beginning with assimilative reform strategies but becoming more coercive over time. We now turn to a consideration of assimilative and coercive reform strategies with respect to female genital cutting.

### **Assimilative Reform Strategies**

Fundamentally, assimilative strategies seek to persuade nation-states to adopt the dominant cultural model by legitimating anti-FGC mobilization and delegitimizing support for female genital cutting. Assimilative reform occurs through a number of strategies that serve to legitimize the opposition to female genital cutting without threatening sovereign autonomy. One such strategy is to include African countries in international decisionmaking processes with respect to female genital cutting. Another assimilative strategy is to spur grassroots movements in the countries where female genital cutting is practiced.

Assimilative strategies of reform deferential to sovereign autonomy were explicitly adopted by international governmental organizations, such as the World Health Organization in the early 1980s. A typical strategy of these IOs was to promote grassroots organizing within African countries. In 1979, Africans and non-Africans met in Khartoum, Sudan, to attend the World Health Organization–sponsored Conference on Traditional Practices Affecting the Health of Women and Children. Recommendations emanating from the Khartoum Conference focused on education and on the perceived need for grassroots involvement in the movement to eradicate female genital cutting (Smith 1995). IOs also demonstrated empathy toward African perspectives. In this regard, Egyptian doctor, Nawal el-Saadawi, related her circumcision experience and spoke out against the practice at the 1980 Copenhagen Conference (Dullea 1980). Meanwhile, in a conference of international non-governmental organizations (NGOs) held parallel to the UN Copenhagen Conference, African women boycotted a panel on female genital cutting for being insensitive to African perspectives on the topic. Subsequently, the World Health Organization and UNICEF sponsored a consultative meeting in Cairo (Kouba & Muasher 1985). During the Cairo meeting, African and Asian delegates held the floor. Western members, with one exception, did not participate in the discussion. The one Westerner who did speak up was chastised.

Cumulatively, the 1979 Khartoum Conference, the 1980 Copenhagen Conference, and the 1980 Cairo Conference energized pre-existing African women's organizations and led to the creation of new African organizations: SWDO in Somalia, the Central African Republic Organization, *Le Mouvement Femmes et Societe* in Senegal, the Union National des Femmes du Mali and the Babiker Badri Scientific Society in the Sudan (Boulware-Miller 1985; Kouba & Muasher 1985). Marie Bassilli Assaad (1980) of Egypt, two Sudanese doctors—Asma El Dareer (1982) and Nahid Toubia—and other African women have written articles and organized educational campaigns to eradicate the practice of FGC. In sum, a sizeable opposition to FGC coalesced within African countries around 1979 (Bibbings 1995), and a coalition of international and intranational organizations was forged.

The World Health Organization brought Africans and Westerners together again in Dakar, Senegal, in 1984. This seminar resulted in the creation of the splinter organization, the Inter-African Committee on Traditional Practices Affecting the Health of Women and Children (IAC), derived from the pre-existing Working Group on Traditional Practices Affecting Women and Children (Smith 1995:82). The IAC receives funds from UNICEF, the UN's Population Fund (UNFPA), and the World Health Organization (as well as from international NGOs) (Smith 1995:53). The mandate of the IAC included initiating and supporting national committees in the African countries where female genital cutting is practiced and raising funds to support local opposition (Smith 1995:53). Overall, as expected, international governmental organizations attempted to develop an international consensus on female genital cutting, to get nations to act of their own volition, and to increase African mobilization (Brennan 1989).

### **Coercive Reform Strategies**

Although they were eschewed by UN organizations, coercive reforms emanating from private individuals, some international NGOs, and the United States appeared alongside the more assimilative reforms of the international governmental organizations.<sup>14</sup> One coercive strategy was linking financial aid to the eradication of female genital cutting, as with the 1996 U.S. legislation. This legislation makes U.S. support for loans from international financial institutions dependent on foreign governments carrying out educational campaigns against female genital cutting. The Secretary of the Treasury decides whether U.S. representatives to the lending institutions will oppose or support

<sup>14</sup> For an insightful critique of coercive reform from an African perspective, see Dawit & Mekuria (1993); see also Obermeyer (1999).

loans and grants to countries where FGC is practiced (Dugger 1996:1A; see also Sussman 1998). As expected, the coercive reform strategies of the United States respect sovereign autonomy to some extent, giving nations the ability to “opt out” of the reform if they are able to turn down international financial assistance.

A more subtle coercive strategy is the delegitimation of national governments as not truly representative of their citizens if they fail to pursue the international agenda. For example, feminists have condemned female genital cutting as unconscionable male domination over female sexuality (see, e.g., Daly 1978; Hosken 1981). Dorothy Stetson (1995) criticized governments in countries where female genital cutting is practiced as representing only male interests. And there is general consensus among Western feminist groups that nation-states act through omission: “Often the victim’s own government cannot or will not control the perpetrator; the state then also becomes a perpetrator” (Warren 1994:283). Similarly, activists and the media have resorted to the public embarrassment of governments that are thought to be insincere or moving too slowly in their fight to eradicate female genital cutting. American author Alice Walker wrote a fictional story to dramatize the effects of the FGC (1992) and later collaborated with Pratibha Parmar to produce a documentary film and book about the practice (1993). In addition, a CNN live filming of a 10-year-old Egyptian girl’s genital cutting in 1994 embarrassed the Egyptian government. These examples empirically support our prediction that individual activists and international NGOs would be the most likely to use coercive reform strategies. Overall, the proposition that the structural position of international actors influences the nature of their reform strategies is supported.

### **National Anti-Female-Genital-Cutting Policies**

The elaborate international structure, which began to take shape in the mid- to late-1970s, became an important backdrop to national action against female genital cutting during the past 25 years. In this section, we turn our attention to that national action in an explicit analysis of national lawmaking as an international process.

### **Local Majority Sentiments and Female-Genital-Cutting-Policies**

Theories of lawmaking that privilege the nation-state as the source of legal action would predict that those countries in which a majority of the families practice female genital cutting are the least likely to take legal action to eradicate the practice; popular support for the practice would discourage lawmakers from at-

tempting reforms. Contrary to this prediction, we find that local interests supporting female genital cutting tend not to be reflected in state policy. There are 14 countries in which a majority of the families practice FGC, and four of these countries, Chad, Côte D'Ivoire, Egypt, and Sierra Leone, have very vocal opponents to eradication efforts (U.S. Department of State 1998).<sup>15</sup> Although this opposition suggests local citizen support for (or at least dissensus over) female genital cutting, in every one of these countries, if a government exists, it is attempting to eradicate the practice (U.S. Department of State 1998). Table 1 provides a brief description of the particular national policies. Countries are listed in the order in which they adopted anti-FGC policies. As the data show, eradication efforts range from education campaigns to the passage of criminal laws.

Egypt's actions against female genital cutting exemplify the typical outcome in the 14 countries in which a majority of women are circumcised.<sup>16</sup> In Egypt, 97% of women have been circumcised; and 88% of women either think the practice should continue or have no opinion about its continuation (82% and 6%, respectively) (Carr 1997). Historical accounts are somewhat vague, but it appears that the first independent Egyptian administration (under Gamal Abdel Nasser) took symbolic action against female genital cutting.<sup>17</sup> The Health Minister issued a decree in 1959 forbidding infibulation and restricting the practice of other forms of circumcision to medical personnel (Assaad 1980).<sup>18</sup> It does not appear that the decree against female genital cutting was enforced under Nasser, and it was clearly never enforced by the subsequent administration of Anwar Sadat (Assaad 1980). Despite his personal adherence to Islam, Sadat's encouragement of more Western investment in Egypt and peace overtures to Israel put his administration in conflict with Islamic fundamentalists in the Arab world (e.g., Al Jihad and Jamaat al Islamiyah). The conflict between appealing to Western investors and demonstrating a commitment to traditional Islam has been inherited by the current Egyptian administration of Hosni

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<sup>15</sup> Most of these countries have local organizations that oppose the practice but represent the minority in terms of public opinion.

<sup>16</sup> For example, other countries with internal opposition to laws have experienced similar outcomes. In Chad, the government is cooperating with international NGOs to eliminate FGC through public awareness campaigns and seminars. A transitional government passed a law making FGC punishable as an assault in 1995, and the law was signed by Chad's president. In Côte D'Ivoire, the president of AIDF, an international organization, has enlisted the support of the country's president in the campaign against FGC, and the National Minister of Communications has been an active participant and speaker at seminars. The Ministry of Family and Women's Affairs in Côte D'Ivoire has launched a campaign against the practice, and the government passed a law banning the practice in December 1998.

<sup>17</sup> Unless otherwise specified, this information is derived from Metz (1990).

<sup>18</sup> This early, non-colonial action makes Egypt unique from other African countries with respect to FGC.

**Table 1.** National Anti-Female-Genital-Cutting Legal Policies, Ordered by Year When First Adopted

Country	Percentage of Women Circumcised	Year Legal Action Initiated	Anti-FGC Legislation, Regulation, or Bureaucratic Action
<i>France</i>	negligible	1982	Assault law.
<i>Sweden</i>	negligible	1982	National ban.
<i>Switzerland</i>	negligible	1983	National ban.
<i>United Kingdom</i>	negligible	1985	National ban.
<i>Belgium</i>	negligible	1988	Existing laws.
<i>The Netherlands</i>	negligible	1988	Child abuse law.
<i>Sudan</i>	90% of women in the north	1991	Health law (no criminal law); NGO & government educational campaigns.
<i>United States</i>	negligible	1991	Local bans beginning in 1991; national ban 1996.
<i>Austria</i>	negligible	1992	Existing laws applied.
<i>Australia</i>	negligible	1993	Child abuse law.
<i>Canada</i>	negligible	1993	Amendment to existing Criminal Code & Youth Offenders Act.
<i>Ghana</i>	15%	1994	National criminal law; five arrests in 1998; local NGO & governmental education campaigns.
<i>Chad</i>	60%	1995	Law adopted by transitional government and signed by president makes FGC theoretically prosecutable as a form of assault; active and sustained public education campaigns. Strong opposition to elimination.
<i>Djibouti</i>	as high as 98%	1995	Penal Code prohibition; no convictions thus far; UNFD campaign.
<i>Burkina Faso</i>	as high as 70%	1996	Penal Code prohibition; education plan; sensitization campaign.
<i>Central African Republic</i>	45–50%	1996	Ordinance against; awareness campaign.
<i>Egypt</i>	97%	1996	Health Ministry decree; NGO & government educational campaigns; enforcement of decree.
<i>Kenya</i>	50%	1996	Two presidential decrees ban FGC, but legislation was voted down in 1996. Prohibited in government hospitals and clinics.
<i>Cote D'Ivoire</i>	as high as 60%	1998	Law Concerning Crimes Against Women enacted in December; NGO campaigns. Strong opposition to eradication.
<i>Senegal</i>	5–20%	1998	The Council of Ministers approved legislation to ban the practice of FGM, and submitted it to the National Assembly in December 1998.
<i>Togo</i>	12%	1998	National law, but no prosecutions; seminars.
<i>Tanzania</i>	18%	recent	Government officials have called for elimination. Some local government officials have convicted and imprisoned persons who mutilated young girls; educational seminars.
<i>Benin</i>	5–50%	recent	Government cooperation with NGOs; action plan; no formal law.

<i>Cameroon</i>	“rare”	recent	Sponsored international workshop on eradicating FGM; government outspoken in opposition to practice.
<i>Eritrea</i>	95%	recent	Government discourages through education programs; no formal law.
<i>Ethiopia</i>	73–90%	recent	Government supports National Committee on Traditional Practices; educational campaign; no formal law.
<i>Gambia</i>	60–90%	recent	Health education; government supports eradication; no formal law.
<i>Guinea</i>	60–90%	recent	Illegal under Penal Code, but no prosecutions; Traditional Practices Affecting Women & Children NGO; 20-year plan to eradicate.
<i>Guinea-Bissau</i>	“widespread” among Fulas & Mandinkas	recent	Educational campaign; coordination with international NGOs. Efforts suspended after the outbreak of fighting in June 1998. No formal law.
<i>Mali</i>	93.7%	recent	Educational campaign; National Committee established to support NGO efforts; media access to proponents of eradication; no formal law.
<i>Mauritania</i>	25%	recent	Hospital ban; educational campaign; no formal law.
<i>Niger</i>	practiced by several ethnic groups	recent	Government firmly committed to eradication; cooperation with UN Children’s Fund; no formal law.
<i>Nigeria</i>	60–90%	recent	Cooperation with private groups campaigning for eradication; study commission (no report yet); no formal law.
<i>Uganda</i>	One tribe numbering less than 10,000 practices as high as 50% in rural areas.	recent	UNFPA educational program, supported by the government, has reduced the incidence by 1/3; no formal law.
<i>Liberia</i> (civil war)		recent	FGC undermined by disruption of villages during civil war; no formal law.
<i>Sierra Leone</i> + (civil war)	80–90%		Faction that is likely to assume power opposes the eradication of FGC; secret societies have circumcised women against their will; no formal law.
<i>Somalia</i> (civil war)	98%	1991	National law not enforced because there is no acting government; IO and NGO campaigns.

+ Countries following the double line have no policy currently in effect.

SOURCES: These data are taken from several sources (Bashir 1996; James 1994; Smith 1995; U.S. Dept. of State 1999). Much of this information comes from U.S. State Department reports, which are based on country reports from embassies in the local countries. Naturally, the emphasis on particular types of actions varies from country to country. We spoke with the State Department official who constructs the FGC portion of the reports, and were impressed by her meticulous attention to detail and her sensitivity to the different biases surrounding the issue.



Mubarak and frames the Egyptian political battles over female genital cutting.

Here, we highlight some of the most important aspects of the process leading up to the banning of female genital cutting in Egyptian public hospitals. As previously mentioned, in 1994, CNN internationally televised the genital cutting of a young girl in Cairo. The filming occurred while Egypt was hosting an international population conference, and thus maximized the level of international attention to the incident. After initially accusing CNN of trying to embarrass Egypt (and arresting the freelance reporter who arranged the filming), the government reversed its position and indicated its interest in passing legislation to make female genital cutting illegal (*Agence France Presse*, 12 Sept. 1994; *Deutsche Presse-Agentur*, 12 Sept. 1994). The government soon reversed itself again when the head of the Al Azhar University issued a religious decree supporting female genital cutting as a religious practice (Gauch 1996).<sup>19</sup> As a compromise, the Egyptian Health Minister established a policy of setting aside one day a week to perform circumcisions in public hospitals. The Health Minister told reporters that if people were allowed to come to hospitals, they would be convinced by doctors that female genital cutting is unwise and “go back home without insisting on the circumcision” (*Reuters World Service*, 4 Apr. 1995). Even though the Health Minister’s effort pacified Islamic fundamentalists, it outraged activists opposed to the practice. Five months after the Health Minister’s statement, the group Equality Now disputed his claim of reducing female genital cutting. The group argued that hospitals were performing circumcisions daily instead of once a week, that doctors were competing for opportunities to perform the procedure because of the fees involved, and that no advisory committees were present to dissuade parents against the practice (Gauch 1996; Mann 1995). The Health Minister reversed his position again and forbade the performance of female genital cutting in any government medical facility.

Despite domestic support for female genital cutting, the Egyptian government continues to take action to eradicate it. Egypt’s First Lady, Suzanne Mubarak, has taken an active role in speaking out against the practice (*Agence France Presse*, 20 Dec. 1996). A discussion of female genital cutting and its dangers has been added to the curriculum of the Egyptian school system. Television programs condemn the practice. In Egypt, the state appears to have been influenced more by the norm promoted by the international community than by the traditional beliefs of

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<sup>19</sup> Al Azhar University is the oldest and most prestigious educational institution in the Islamic world. Although the university has close ties to fundamentalist movements in Egypt and poses an increasing challenge to Mubarak’s administration, Mubarak and other leading politicians continue to fund it because ties to the university endow the government with a mantle of Islamic legitimacy (Lancaster 1995).

the majority of Egyptians. In this way, the Egyptian state is illustrative of other states in which female genital cutting is practiced by a majority of families.

In each of the other 14 countries, established governments have adopted formal FGC-eradication policies. Egypt's choice of a bureaucratic policy is representative of action in the other countries where female genital cutting is the norm. Because popularly elected bodies are unlikely to pass formal laws to eradicate the practice, bureaucratic solutions are more commonly employed. Egypt's motivation in adopting anti-FGC policies was clearly complex. It is impossible to know whether government officials truly support eradication efforts or are simply creating innocuous policies to appease the West. The fact that the Egyptian government viewed the press coverage as defamation at least suggests ambivalence toward the continuation of female genital cutting. The point of this article is that since *all* of the African governments reached the same conclusion in a very short period of time, when female genital cutting became counter-normative internationally, anti-FGC policies became a taken-for-granted acquiescence to the international norm—the national processes, although somewhat unique, were not independent. In other words, the Egyptian case demonstrates the powerful effect of the international anti-FGC norm on lawmaking, even in countries where there is substantial local support for the practice.

At the time of this writing there is no active government in Sierra Leone. At least one of the factions vying for control has indicated that it will support the continuation of female genital cutting if it gains control of the country. Whether this position would actually be maintained in a state context is a difficult question to answer. International pressure to modify the position would undoubtedly be very strong. There is also no existing government in Somalia. The former government had outlawed female genital cutting, and so the practice is still technically illegal there. However, it appears from our research that no active eradication efforts are currently underway. The fact that these two countries among the 14 are the only ones that do not currently have anti-FGC policies suggests that local culture is not particularly influential in motivating legal action.

The actions of other countries with anti-FGC laws are not inconsistent with a model of national law formation as an international process. In African countries where female genital cutting is practiced by less than a majority of women,<sup>20</sup> governments are

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<sup>20</sup> Among the countries in which FGC is *not* practiced by a majority of the families, there are 11 where FGC occurs at a measurable rate and two in which FGC is "rare" (Cameroon and Uganda).

currently taking clear public stands against the practice.<sup>21</sup> The consistent anti-FGC position of these states is not surprising from either a local or an international perspective because local majority opinion and international pressure probably coincide in these countries. Likewise in the West, where passing laws seems somewhat odd because of the extremely low numbers involved, morally based opposition to the practice has almost no counterweight. Consequently, the actions in these countries are consistent with both an international and a national explanation for local lawmaking.

The actions of a sizeable number of states with respect to female genital cutting are only explicable within the context of international relations. Local rates of female genital cutting are *not* a good predictor of whether a country has taken steps to eradicate it. In fact, the overwhelming majority of countries in which most women have been circumcised formally forbid the practice. A better predictor of action is structural: in nations where FGC is common, only those without an active government have failed to adopt eradication efforts.

### Events Prompting National Female-Genital-Cutting Policies

In this section, we address whether local or international events are more influential in the timing of anti-FGC policies. Despite a century of opposition to the practice, nation-states generally did not pass anti-FGC legislation until structured international opposition was in place (see Table 1). Overall then, recent legislation coincides with the emergence of opposition to female genital cutting at the international level. This is consistent with our argument that national lawmaking is part of an international process. Here, we consider that trend in more detail.

One of the first surprising findings for those who take a local perspective on national policy is that anti-FGC laws are quite common in Western countries where female genital cutting is practically nonexistent. A common assumption is that laws in Western countries were passed in response to a large influx of immigrants from practicing cultures. But the “responding to massive immigration” argument does not necessarily hold when examining rates of immigration from countries with high rates of female genital cutting. Take, for example, the United States, which passed a federal anti-FGC law in 1996. Although rates of migration to the United States steadily increased between 1955 and 1995,<sup>22</sup> African immigration comprised only a small propor-

<sup>21</sup> This statement excludes Liberia, however, where civil war has disrupted village life to such an extent that the practice has been largely discontinued without active state intervention.

<sup>22</sup> Note that there was a rapid increase in immigration between 1990 and 1994 due to a change in immigration policy.

tion of this populace shift. In fact, between 1985 and 1995, immigration from countries in which FGC is practiced remained well under 4% of total immigration (U.S. Department of Justice 1995). Among this small number of immigrants, the percentage who were actually at risk of the procedure was even smaller because most immigrants are male and perhaps have a more Western orientation than those who do not emigrate.

The legislative history suggests that the U.S. anti-FGC law did not pass sooner precisely because legislators thought the practice too infrequent to justify congressional action. In support of the legislation, its sponsor, Congresswoman Patricia Schroeder, stated that “over 100 million girls and women in the world have undergone some form of [female genital cutting], and I have received anecdotal reports that it is happening here” (*Congressional Record* 1995a). Later, the congresswoman suggested that “the problem in this Congress seems to be that Members still do not believe that such a brutal procedure happens in this country” (*Congressional Record* 1995b). It was only when a woman from Togo requested asylum in the United States to avoid female genital cutting that the United States acted to ban the practice (see *Congressional Record* 1996). At that point, the legislative history makes references to the anti-FGC laws of “many nations,” including the United Kingdom and Sudan, and the supportive position of the World Health Organization, UNICEF, and other international human rights groups (*Congressional Record* 1996). Neither a high level of female genital cutting nor tremendous increases in levels of FGC appear to have been key factors in the passage of anti-FGC legislation by the U.S. government. Instead, the dominant concerns were apparently setting the moral high ground in the international community and avoiding the embarrassment connected with the imprisonment of the asylum seeker.

Levels of female genital cutting appear not to have been a prime motivating factor for legislative action at the state level in the U.S. either. Preceding the federal ban (see Table 2), California, Delaware, Illinois, Michigan, Minnesota, North Dakota, Rhode Island, Tennessee, and Wisconsin outlawed female genital cutting between 1994 and 1996 (Dugger 1996).<sup>23</sup> (Table 2 ranks states by the number of refugees arriving from Ethiopia, Liberia, Somalia, and the Sudan from 1983 to 1995.)<sup>24</sup> The states that passed legislation before the federal ban are highlighted. The data indicate that these nine states do not have particularly high levels of refugee settlement relative to other states.

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<sup>23</sup> A discussion of the so-called “Seattle Compromise,” where hospital officials suggested the medicalization of a non-invasive alternative to FGC, is outside the scope of this article. For an interesting analysis of that case, see Coleman (1998).

<sup>24</sup> These are the only four countries among the 25 where FGC is practiced extensively that have a sufficient number of refugees to meet the Justice Department’s threshold counting requirement. In other words, refugees to the United States from the other 21 African countries prior to 1996 was negligible.

**Table 2.** U.S. States' Population Data, Ordered by Number of African Refugees arriving between 1980 and 1985 per 10,000 Population, and Number of African Refugees per 10,000 Population

State	State Population 1990 (000s)	Total African Refugees, 1983–1995	Number of African Refugees per 10,000 Population
South Dakota	696	852	12.24
Maryland	4,780	2,190	4.58
Washington	4,866	2,154	4.43
Virginia	6,189	2,520	4.07
Nevada	1,201	448	3.73
Georgia	6,478	2,341	3.61
Minnesota	4,375	1,495	3.42
North Dakota	638	216	3.39
Maine	1,227	395	3.22
California	29,758	9,057	3.04
Texas	16,986	4,473	2.63
Missouri	5,116	1,343	2.63
Arizona	3,665	785	2.14
Massachusetts	6,016	1,251	2.08
Tennessee	4,877	974	2.00
Iowa	2,776	547	1.97
Rhode Island	1,003	178	1.77
Colorado	3,294	539	1.64
New York	17,990	2,574	1.43
Oregon	2,842	385	1.35
Illinois	11,430	1,281	1.12
Pennsylvania	11,882	1,102	0.93
New Jersey	7,730	602	0.78
Utah	1,722	118	0.69
Ohio	10,847	645	0.59
North Carolina	6,632	389	0.59
Connecticut	3,287	187	0.57
Florida	12,938	690	0.53
Kansas	2,477	126	0.51
Michigan	9,295	457	0.49
Kentucky	3,686	111	0.30
Indiana	5,544	145	0.26
Wisconsin	4,891	125	0.26
Idaho	1,006	24	0.24
Oklahoma	3,145	61	0.19
Alabama	4,040	67	0.17
Delaware	666	11	0.17
New Mexico	1,515	23	0.15
Vermont	562	8	0.14
Louisiana	4,220	56	0.13
Montana	799	10	0.13
Nebraska	1,578	19	0.12
Mississippi	2,575	15	0.06
West Virginia	1,793	10	0.06
Wyoming	453	2	0.04
Arkansas	2,350	7	0.03
South Carolina	3,486	10	0.03
Hawaii	1,108	3	0.03
New Hampshire	1,109	1	0.01
Alaska	550	0	0.00

NOTE: States with anti-FGC legislation prior to 1996 federal legislation are highlighted.

The figures in Table 2 also illustrate that, in all U.S. states, the number of refugees from nations where FGC is practiced was quite small prior to 1996, the year of the federal ban on female genital cutting. The highest number of refugees, relative to the population of the state, was in South Dakota. There, refugees from Ethiopia, Liberia, Somalia, and the Sudan numbered 12 for every 10,000 in the population. Still, South Dakota did not legally ban FGC. The vast majority of states had less than four African refugees per 10,000 in the population, and in raw terms, most states had less than 1,000 refugees total from the four countries previously mentioned.

Prior to the passage of the Michigan legislation, reporters for the *Detroit News* attempted unsuccessfully to uncover any cases of female genital cutting in the city (McCann & Angell 1993). California legislation was based in part on reports that five women had required de-infibulation prior to childbirth in San Jose (California State Senate 1997), a very small number considering the size of the city. The legislative history of the California ban on female genital cutting refers to anti-FGC legislation in Sweden, the United Kingdom, France, the Netherlands, and Belgium, and international organizations, treaties, and conferences that oppose the practice (California State Senate 1997). Minnesota legislation followed the reporting of one case of FGC (Anderson 1994). Given the small number of immigrants and the even smaller number of reported incidents of female genital cutting, actual rates of immigration do not seem to be a precipitating factor in the passage of U.S. state anti-FGC legislation.

Continuing our analysis, if citizen interests were driving laws, we would expect the timing of anti-FGC laws to coincide with specific intranational disputes. Viewed as a group, these laws would occur sporadically. If, alternatively, international forces had a greater effect on laws, many national laws would be passed within a short period of time as the international community brought its resources to bear against the practice of female genital cutting.

The facts once again support the importance of international influence. Other than laws passed by colonial authorities and an obscure Egyptian decree, no national legislation preceded international organizing—specifically, the Copenhagen Conference in 1980. At that point, an interesting pattern develops. National laws occur in clusters, with the West acting first. France, Sweden, Switzerland, and the United Kingdom were the forerunners in the passage of anti-FGC legislation or the explicit application of existing legislation to the practice (see Table 1). When African nations did not immediately respond in kind, international instruments became increasingly specific in their opposition to female genital cutting. The International Conference on Population and Development in 1994 proposed the strongest language

opposing FGC in the history of the United Nations (Smith 1995:56): “Governments are urged to prohibit female genital [cutting] wherever it exists and to give vigorous support to efforts among NGOs and community organizations and religious institutions to eliminate such practices. . . . Measures should be adopted to eliminate and enforced to eliminate . . . [FGC].”<sup>25</sup>

In 1996, the United States passed its legislation that linked foreign aid to anti-FGC policies. Although a number of African countries had adopted policies or passed legislation prior to the U.S. legislation, complete uniformity in national policies (with the previously noted exceptions of Sierra Leone and Somalia) was achieved after the U.S. legislation was enacted.

The impact of the coercive reform strategy of the United States indicates that the adoption of uniform policies is often not entirely voluntary among nation-states. Hegemonic definitions of proper national action may spread through coercive action. Nevertheless, even under a scenario of direct pressure—in fact, especially under a scenario of direct pressure—the importance of the international community in understanding national legal action is critical. Overall, our findings that national legal action followed international organizing and that the West acted first, followed by practicing cultures, suggest an international pattern of activity.

### Phrasing of National Female-Genital-Cutting Laws

Next, we consider the language of national laws. In this regard, if nation-states were constitutive of their local citizenry, we would expect laws to be uniquely tailored to the specific situations of the countries that pass them. Colonial laws early in the century did indeed have this quality. So, for example, a 1946 law in the Sudan banned only one type of female genital cutting, infibulation:

Unlawful circumcision: 1. Section 284 A(I). Whoever voluntarily causes hurt to the external genital organs of a woman is said, save as hereinafter excepted, to commit unlawful circumcision. Exceptions: It is not an offense against this section merely to remove the free and projecting part of the clitoris . . . (El Dareer 1982:95).

Likewise, the 1959 Egyptian Health Decree specifically incorporated the local context:

Although Islamic Jurists, basing their arguments on verified *ahadith* have differed on whether *Khafd* is a duty, a *sunna*, or *makrama*, yet they have all agreed that it is an Islamic ritual and that Sharia law forbids total clitoridectomy. Therefore, the committee sees the necessity to proceed with the *Khafd* opera-

<sup>25</sup> The directness of the language is not surprising, as this was the conference that coincided with the CNN filming of a circumcision.

tion in the following order: (1) it is absolutely forbidden for other than doctors to perform the operation, (2) for those who want circumcision, the operation should be partial and not total clitoridectomy (Assaad 1980).

This language suggests that, at mid-century, local interests were active in tailoring legislation to address their own specific concerns.

If external forces are important, we would expect little variation or unique tailoring among national laws. Instead, national laws would follow a particular script that completely bans female genital cutting. Alternate scripts medicalizing the procedure or limiting the type of procedure, e.g., banning only infibulation, would be discouraged by the international community. This, in fact, describes modern laws. Although there was some discussion in the 1980s that making female genital cutting medically safe was a sufficient end, by the 1990s, the international community was only willing to accept a complete eradication of the practice. Consequently, anti-FGC laws do not medicalize the procedure and they do not distinguish among the different types of female genital cutting: they simply ban all forms of the practice. They differ only in how ambitious their reach: some ban FGC only for persons under 18 (the United States). Thus, the substance of the laws is the same;<sup>26</sup> only the breadth of their applicability varies.

The U.S. federal ban provides a specific example of the international anti-FGC script. The law is modeled explicitly after the United Kingdom's 1985 federal ban on female genital cutting (Bashir 1996). The explicit language in the 1985 British ban reads that under this act it is an offense to "excise, infibulate, or otherwise mutilate the whole or any part of the labia majora or labia minora or clitoris of another person" (Black & Debelle 1995:1591). The consequence for such action includes a fine or imprisonment for up to five years, or both (Black & Debelle 1995). In the U.S. language: "whoever knowingly circumcises, *excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person* who has not attained the age of 18 years shall be *fined under this title or imprisoned not more than 5 years, or both*" (18 U.S.C. §116, similar language is italicized). The similarity of this legislative language illustrates that the United States looked to the United Kingdom statute in devising the statutory wording. Similarly, in Australia, the legislative language banning female genital cutting was explicitly modeled after Canadian legislation (Ierodiaconou 1995, n 62). The importance of external forces is evidenced by marked similarities that characterize most of the laws passed both in the West and in African nations. The rhetoric surrounding the issue clearly treated national legal action as part of an international project. For example, laws

<sup>26</sup> An alternative, competing interpretation is that laws themselves are local products even when their language is similar.



banning the practice were frequently cited in the context of “International Statements Against FGC” (see Black & Debelle 1995; Ierodiaconou 1995; Hughes 1995).

### Central Actors in National Female-Genital-Cutting Policies

Finally, we consider the question of whether national or international actors are viewed by activists as the instigators of change. If nation-states were relatively autonomous local units, then the initial efforts to eradicate female genital cutting would be directed against national governments. If nation-states are actors who simply play by the rules of the international community, then efforts would be directed to the international community. In fact, we found that Western feminists and international non-governmental organizations (NGOs) interested in the issue bypassed local governments and appealed directly to citizens or directly to international organizations (IOs) to take action. Because we previously discussed these actions in the context of describing the history of international organizing against female genital cutting, we will only briefly highlight important trends here.

In the mid-1970s, local African groups concerned about changing FGC practices directed their attention specifically to African citizens (in local radio shows and seminars), but by the late-1970s, these groups and Western feminist groups began to direct their attention to IOs. For example, they sent detailed information to the UN Secretary-General. Further, when we looked at the national policies developed to eradicate FGC (see Table 1), we discovered many partnerships between IOs and nation-states. One example is Mali, where a national committee was formed to assist IOs in eradication efforts.

When we studied the empirical evidence, we discovered an important pattern in international/local relations. Keck and Sikkink (1998) describe a “boomerang” effect of international action: individuals confront national governments, but if their efforts are thwarted at the national level, they then turn to the international community to apply pressure. (This is termed a boomerang effect because pressure from below “comes back” to the state in the form of pressure from above). Our findings are generally consistent with this analysis, but suggest some subtle modifications. First, with respect to certain issues such as FGC, in many countries, local actors may not even attempt action at the national level. If actors believe efficacious outcomes are unlikely, they may bypass national governments altogether and turn directly to the international system. More important, our analysis addresses *why* local pressure often does not effect national change: actors in the international system rather than local citizens are often the constituents to which nation-states appeal.

There certainly are local movements against female genital cutting in African countries—it would be absurd to suggest otherwise. However, for some countries at least, it seems that movements are effective *not* because of their standing within local power structures, but because they tap into and support a discourse opposed to FGC at the international level.

### **Situational Variation among Nation-States**

Recapping the similarities in national action, we have discussed how international pressure, or at least avoiding international embarrassment, uniformly influences the adoption of national laws. A related finding for our case is that the action of all nations tends to be directed largely to an international audience. Further, activists from different countries use similar rhetoric that invokes the “universal” ideas carried by the international system: women’s rights as human rights, the unfairness of patriarchy, and the need to correct for the implicit lack of free will among Third World women.

Despite these similarities, variation does exist. Western countries were generally the first to adopt anti-FGC legislation, despite the small number of cases involved within their borders. Also, because of the small number of cases of female genital cutting in these countries, international pressure to pass laws was dramatically lower than that on some African countries. Among Western countries, former colonial powers were well represented in the group that passed laws: Belgium, France, the Netherlands, and the United Kingdom. Of the other Western countries, three (United States, Australia, and Canada) have strong historical ties to the United Kingdom. The political organization of these countries may also have played a role (cf. Boyle 1998). A full accounting of variation in international participation among Western powers is beyond our scope here, but it does seem that those with more historical links to the international system were over-represented among the trendsetters.

Countries on the “periphery” of the international system where female genital cutting does not occur appear not to be involved in the mobilization against FGC. These countries may have in fact adopted policies against female genital cutting that simply have not been discussed in the international literature, but a more likely scenario is that they are not actively involved in prohibition efforts. Explaining inaction is always difficult. These countries lack the resources to monitor all international issues, they have less “moral capital” than Western countries to lead campaigns for change, they may oppose the international efforts, and/or they may be busy dealing with culture “clashes” of their own. There could be any number of reasons why they are not involved in the international mobilization. Their absence from

the debates may be an indicator of how quickly anti-FGC sentiment became institutionalized within the international system. On one hand, it is assumed that people do not circumcise their daughters in modern countries, and that only those countries with female genital cutting in their past need to distance themselves from the practice. On the other hand, the absence of mobilization against FGC in most peripheral countries may also bring into question the true universality of international efforts.

A further key difference involves the character of national laws. Western countries tended to pass formal laws, while African countries were more likely to establish policy bureaucratically, through presidential or health minister decrees. African countries, by avoiding formal legislation, were better able to decouple local sentiment from their legal actions. This variation suggests that local concerns matter more in determining the *formality* of legal action to eradicate FGC than in the actual *adoption* of that policy goal. In sum, if local sentiment opposed eradication, legal action was less formal than if local sentiment supported eradication.

## Discussion

Our analysis makes two contributions to the sociology of law literature. First, we provide preliminary empirical support for an extension of status politics theory. We argue that the deployment of assimilative versus coercive reforms by powerful groups is dependent on the relationship of the group to the underlying structure being challenged by the reform. On one hand, international governmental organizations, like the United Nations and the World Health Organization, depend on the international system of independent nation-states for their existence. If independent nation-states did not exist, neither would these organizations. Consequently, in their attempts to eradicate female genital cutting, these organizations are very conscious of the ideal of sovereign autonomy. They use primarily assimilative reform strategies to convince countries that anti-FGC policies are in their national interest. On the other hand, non-governmental organizations operate outside the formal nation-state system and are sometimes antagonistic to national governments. Because these organizations are less interdependent with the nations they target for reform, NGOs are more likely to use coercive strategies to bring about change. In the case of female genital cutting, these organizations used public embarrassment and denigration to promote their agenda. Powerful nation-states adopted a middle ground, combining the two reform strategies.

The second important contribution of this article is to demonstrate that the policies of separate nation-states are not always the outcome of local political processes, but may well be one

component of a larger international process. The development of anti-female-genital-cutting policies in countries where many individuals support the practice, the timing and character of national legal action directed against female genital cutting, and the uniformity of political action all lend weight to the importance of international pressure in the adoption of anti-FGC policies. We found little variation in legislation against female genital cutting based on local mobilization and political organization. This fact implies that the ruling elites of countries are playing to a larger global community as much as to a local audience.

In a recent review, Ruth Buchanan (1997:372) suggested that the study of the international system carries a certain cachet that may cause it to rank higher than other law and society fields. She feared that this might cause scholarship to replicate the hierarchy that exists in the international system. The implication was that law and society scholars should not forget local cultures and individuals. The research discussed here bears on this issue. It suggests that, for some questions, focusing only on local actors can also lead to an incomplete explanation for phenomenon. For example, since all nation-states with an active government conformed to the anti-FGC norm, focusing on elite incentives to ban female genital cutting in one or two countries would have been teleological. Rather than privileging either the international or the local level, a careful multilevel analysis that considers the sources of identity construction—not only for individuals but also for organizations and states—seems essential.

Viewing national legislation as part of an international process has important implications for explaining both national and international action. At the national level, we find that reform is often a top-down process (see also Edelman 1964:172). For example, we found that although 97% of the women in Egypt are circumcised, the Health Minister has issued a ban on the practice in public hospitals and Suzanne Mubarak, the wife of the Egyptian president, is spearheading an effort to eradicate the practice. These findings suggest that national laws are developed to change rather than reflect local attitudes. Further, despite the consistency of legalization across countries, we did find important Western versus African variations in national strategies. In African countries, local communities figured into the process—but somewhat oddly—as an element that had to be “worked around.” These countries tended to avoid formal legislation that would involve representative bodies, and opted for more bureaucratic policies. Western countries, in contrast, adopted formal laws. This finding suggests an extension of institutional theory that incorporates variation in the manifestation of international ideals in different settings (cf. Grattet, Jenness & Curry 1998). Whether there is a consistent disjuncture between bureaucratic

policies and local culture in African countries is an important question.

Our findings have several implications for international actors and the international system as well. One implication is that the contradiction among “universal” ideals at the international level is important in instigating and achieving change (cf. Friedland & Alford 1991). Specifically, in the contest between democratic representation and human rights in the female genital cutting realm, the human rights ideal “wins,” as states adopt laws that prohibit the practice even when the laws do not reflect their local constituencies.<sup>27</sup> Nevertheless, the ideal of democratic representation continues to have an important effect on the process. This fact is evident in the deference that international governmental organizations give to the sovereign authority of nation-states. These organizations use primarily assimilative strategies: including African nations in the policymaking process, having Western countries “model” appropriate national action, and promoting local anti-FGC mobilization within African countries. Even though an issue may be resolved in favor of one universal ideal, other contradictory ideals do not disappear. Instead, they continue to operate as a constraint on both the means and the possible goals of reform.

Further, this research demonstrates a conception of power that contrasts with other recent conceptions (see, e.g., Silbey 1997:227–28)—one that recognizes the empowering possibilities of the global narratives. Power and exploitation exist on many levels in the world. Mary Daly (1978) links female genital cutting to patriarchal family, religion, and political structures that exploit women. At the same time, Leslie Obiora (1997; see also Gunning 1990–1991) links Western pressures regarding FGC to post-colonial imperialism. Although Western pressure forced African nation-states to adopt anti-FGC policies, many would characterize international mobilization against female genital cutting as *empowering* local women who did not want to undergo the practice (see a similar example from Merry [1995] on wife-beating). Thus, whether the international system stripped away power or provided power is a question open for discussion. In fact, it appears to have done both. This analysis provides evidence that research focusing on global narratives rather than particular agents does not have to ignore issues of power.

Finally, at the international level, our research supplements the recent analysis of international law by Dezalay and Garth (1996). Female-genital-cutting policies differ from international arbitration in important ways: national laws versus an international legal system; economic principles versus principles of

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<sup>27</sup> That these two ideals conflict has been clearly articulated in previous research (see, e.g., Soysal 1994; Obiora 1997).

rights; medical activists versus lawyers. Nevertheless, we find important commonalities across the two cases. Our findings support the privileging of Western, particularly American, perspectives over time. Both CNN and the U.S. Congress played important roles in shaping anti-FGC policies in African nations. Our findings also bolster Dezalay and Garth's suggestion that perceived neutrality and universality are important bases on which to build international doctrine. Western feminists, linking into universal ideas about human rights and providing a scientific rather than a political explanation for their interest, were able to gain the attention of international governmental organizations.

On one hand, the extent to which female genital cutting is representative of other international causes is, of course, open to debate. In general, the diffusion of international ideals at the nation-state level is well established (see, e.g., Finnemore 1996 [science ministries]; John W. Meyer et al. 1997 [environment]; Ramirez et al. 1997 [female suffrage]). Further, the case fits well within the status politics frame, which suggests that it should be comparable to other international disputes over morally charged issues. On the other hand, we recognize that links to sexuality and gender make female genital cutting particularly volatile (see Berkovitch & Bradley 1998; but see also Frank & McEneaney 1999). Fundamentally, this analysis suggests that the international community deserves significant attention not only from international scholars but also from scholars of national and comparative politics.

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