The Limits of Cultural Pluralism: An Israeli Perspective

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ABSTRACT

The primary aims of this paper are (a) to examine the importance of cultural norms and what part they play in requiring us to tolerate others out of respect, and (b) to formulate some guidelines designed to prescribe boundaries to liberty and tolerance conducive to safeguard the rights of individuals and, in turn, democracy. I argue that a liberal democracy can interfere in the business of its sub-cultures when some cultural norms subvert the basic principles upon which a liberal society is founded. Here I address, *inter alia*, the issues of female circumcision, murder for family honour, and blood feuds. My argument is that practices that endanger human life or inflict severe bodily damage (both physical and psychological) have no place in a liberal society.

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I. Introduction

One of the problems of any political system is that the principles that underlie and characterize it might also, through their application, endanger it and bring about its destruction. Democracy, in its liberal form, is no exception. It advocates liberty and tolerance and at the same time acknowledges the need to set boundaries to free speech and, more necessarily, to freedom of action. If we refrain from introducing qualifications to democratic processes we face the danger of transforming tolerance into a self-defeating concept and, in turn, we might undermine democracy. This problem I call the 'catch' of democracy. Moreover, because democracy is a relatively young phenomenon, it lacks experience in dealing with pitfalls involved in the working of the system.

The primary aim of this paper is to explore some of the theoretical assumptions underlying a liberal response to threats posed by cultural groups whose norms entail offence or physical harm to others. I do this by examining the importance of cultural and ethnic norms and beliefs, and the part they play in the liberal-democratic framework which requires us to tolerate others out of respect. I proceed by formulating some guidelines designed to prescribe boundaries to liberty and tolerance conducive to safeguard the rights of individuals. I claim that a liberal democracy can interfere in the business of its sub-cultures when excessive norms subvert the basic principles upon which a liberal society is founded. That is, democracy has the right to curtail norms that do not respect and cause harm to other persons (who may live inside or outside of the given cultural community). Brute norms such as harsh forms of female circumcision and murder for family honour have no place within a democratic framework.

My agenda has two major objectives. The first is to press liberal thinkers to deal with real life situations. They speak of "conceptions of the good", "ways of life" and values according to which persons lead their lives without explaining what
practices may fall outside the tolerable realm. What does liberalism purport to include within the defence of neutrality? I examine this issue by addressing the questionable practices of female circumcision, murder for family honour, and blood feuds. I chose these issues because they are neglected issues. It is my intention to put them on public agenda, to evoke conversation and debate and hopefully to help people in need. I am not arguing that these issues are the most central issues. One could think of other concerns that arguably are more germane, more significant in terms of harms involved and number of people being affected by them. Nevertheless I think these practices deserve close attention and should be discussed by those concerned with human rights and the place of culture and religion in a democratic society.

The dilemma that cultural minorities pose for democracies throughout the world involves the notion of neutrality (a fashionable terminology which really amounts to speak of the boundaries of toleration) on the one hand, and the limits of pluralism on the other. Bearing in mind that neutrality proscribes any attempts on behalf of governments to force others to lead lives in which they do not believe, a question arises whether neutrality should prescribe governments to remain silent in the face of the abovementioned phenomena, suttee,3 or preventing abortions even when there is a danger to the life of the mother, or abandoning the elderly?4

The problem is, then, whether or not a place exists for every norm, that any culture appreciates or considers to be of importance, to endure within the framework of a liberal society. I should clarify that the term "culture" is employed here to mean a whole way of life - spiritual, intellectual and material. It is an ensemble of social practices that includes values, representation, classification, observation, participation, tradition and memories.

The common denominator of the practices that will be examined is that they are offensive to women. When one looks at rituals around the globe, it is almost always the case that women are being discriminated against: suttee, arranged marriage, female infanticide,5 as well as female circumcision and murder for
family honour are such examples. Women are required to pay a high price for the norm of male dominance. The three practices on which I wish to focus occur in Israeli life, but not only in Israel. Perhaps through this discussion a debate will be sparked in which responsible men and women of different cultural backgrounds would wish to take part. Such deliberations may help to bring about wider awareness that may have some positive bearing on the lives of the women concerned. I also hope it will promote discussion on the liberal theory of neutrality so as to specify what should be allowed in a democratic society and what should be outlawed. The theories of Rawls and Kymlicka will serve as a theoretical framework to tackle these issues and to examine their implications.

II. Cultural Norms and the Confines of Liberty

Rawls believes that the public culture of democracy is obligated to pursue forms of social co-operation which can be achieved on a basis of mutual respect. This co-operation involves the acceptance of common procedures to regulate political conduct. Citizens should be accorded equal respect in their pursuit of their idea of the good. Rawls's concept of justice is independent from and prior to the concept of goodness in that its principles limit the conceptions of the good that are permissible. Rawls's ideal polity would not be congenial toward those who believe that their personal conception of the good involves enforcing others to abide by it. It would exclude some beliefs, such as those that entail coercion of others, causing harm to others, or exploiting others. Mutual respect would enable social cooperation between individuals who affirm fundamentally different conceptions of the good. Thus, for instance, Rawls does not exclude religious groups with strong beliefs who may demand strict conformity and allegiance from their members, but he could not endorse the formation of a theocracy, for some people lack such intensity of religious belief.⁶
Some clarification is needed regarding to the term 'coercion'. When a given sub-culture in society denies some freedoms and rights to another group living in that same culture, we may feel that some form of coercion is being exercised. Rawls, however, seems to have no problem with such instances. For example, if a religious sect denies rights and liberties to its women members, that sect may continue doing so because it is assumed that all members of that group internalized the system of beliefs that legitimizes the exclusion of rights from women. It is further assumed that all members of that group conform to and abide by the particular conception of the good that guides and directs members of the said group. They do not feel that they are being coerced to follow a certain conception. Outsiders may claim that a whole-encompassing system of manipulation, rationalization and legitimization is being utilized to make women accept their denial of rights. But on most cases this view may only be the view of outsiders, not of the persons concerned. If at all, one may argue that women of that sect are experiencing a form of coercion that I would call internalized coercion.

Difficulties arise when some women in the said cultural or religious group fail to internalize fully the system of norms that discriminates against them. Upon realizing that they are being denied fundamental rights, they might wish to opt out of their community. If they are allowed to opt out, no question arises. If not allowed, then a case arises for state interference to overrule this individualistic, designated coercion that aims to deny them freedom to leave their community. I call this form of coercion designated coercion. Unlike the internalized coercion it is not concerned with a machinery aiming to convince the entire cultural group of an irrefutable truth; instead it is designed to exert pressure on uncertain, 'confused' individuals so as to bring them back to their community. Rawls does not elaborate on this form of coercion. I attempt to consider it in detail later in this paper.

Rawls's theory of justice as fairness is a moralconception that provides us with an account of the cooperative virtues suitable for a political doctrine in view of
The conditions and requirements of a constitutional regime. Rawls explains that to find a shared idea of citizens' good appropriate for political purposes, political liberalism looks for an idea of rational advantage within a political conception that is independent of any particular comprehensive doctrine and hence may be the focus of an overlapping consensus.\(^7\) Such a consensus, Rawls alleges, is moral both in its object and grounds, and so is distinct from a consensus founded solely on self- or group-interest. He acknowledges that such a consensus is not always possible. Indeed, we have little empirical reason to believe that all of the diverse conceptions of the good embraced by people provide the overlapping consensus of which Rawls speaks. Nevertheless, Rawls thinks that through this idea we may be able to show how, despite a diversity of doctrines, convergence on a political conception of justice may be achieved and social unity sustained in a long-term equilibrium, that is, over time from one generation to the next.

Thus, an acceptance of a concept of justice can be achieved in spite of differences, but some conceptions may have no place within a well-ordered society. Notwithstanding Rawls's recognition that culture and institutions may cause people to reject some convictions, and that the cultural context of choice is important in deciding ways of life, Rawls does not explicitly state that culture is a primary good. "Primary goods" are "things that every rational man is presumed to want"; criteria to be utilized by parties to assess principles of justice. The thought behind the introduction of primary goods is to find a practicable public basis of interpersonal comparisons based on objective features of citizens' social circumstances open to view, all this given the background of reasonable pluralism. The list of primary goods include rights and liberties, opportunities and powers, income and wealth, a sense of one's own worth, leisure time and certain mental states, such as freedom from physical pain.\(^8\) Rawls does not single out culture as a necessary social condition to enable people to pursue their determinate conceptions of the good life and to develop and exercise their moral powers. However, a close analysis of Rawls's argument for liberty as a primary
good could imply that it is also an argument for cultural membership as a primary
good. Rawls does not make this argument clear because his model of the nation-
state is quite simplified, on many occasions characterizing political community
without paying adequate attention to cultural differences and applying the concept
of political liberalism to society as if it were culturally homogeneous. He seems to
assume that opportunities and powers, leisure time and certain mental states, and
even "a sense of one's own worth", can be detached from cultural considerations.
He also appears to presume that only religious groups possess intensity of beliefs
and a set of conceptions that binds all members. Ronald Dworkin and Joseph Raz
appear to have the same simplified view.  

A more realistic picture of the state as we know it consists of a plurality of
cultures, whose freedoms ought to be secured by the liberal state. Looking
particularly at the European states, all of them, without exception, consist of a
variety of national, religious, or cultural groups. The happenings of wars,
imperialist inclinations and conquests, the industrial revolution, commerce
relationships, and immigration were the notable factors that made the idea of
culturally homogeneous society obsolete. In the last few years we witnessed how
national, cultural, and ethnic divisions have led to disintegration of states
(Czechoslovakia) and to bloody wars (Yugoslavia). National, cultural, and ethnic
memberships are significant in pursuing our essential interest in leading a good
life; therefore taking account of such memberships is an important part of having
equal consideration for the interests of each member of the community.  
The question, however, is whether a liberal democracy should allow every norm that
minority cultures adopt and promote. The concern lies with the limits of state
interference.
III. Interference in Affairs of Minority Cultures

a) Preliminaries

Will Kymlicka objects to excessive forms of intra-group interference which find expression, *inter alia*, in coercive assimilation, i.e., in forcing people to leave one culture in order to integrate into another. Kymlicka argues that people are bound to their cultural community, and that cultural structure is significant not just to the pursuit of our chosen ends and convictions, but also to our capability of pursuing them efficiently. He supports his arguments with historical evidence that demonstrates members of one culture reluctantly waive their cultural associations, even in the face of negative costs of membership. The affront minority groups feel when attempts are made to force them into another culture is grounded in the perception of real harm.\(^{11}\) This argument objects to forcefully taking members of one culture and transferring them to another, or of assimilating one culture by compelling its members to accept another. I have no disagreement with regard to either of these objections. Here I wish to address a different issue which is concerned with the question of whether liberal democracy should tolerate every norm that members of a cultural community bring with them, even if this entails that harm might be inflicted upon some members of that cultural community. Do cultural norms possess enough weight to allow things conceived to have no place in a liberal community? May culture supply reasons for the toleration of behavior that is regarded as unacceptable when evinced by other members of society who are not members of the considered culture?

These questions involve conflicting considerations. Respecting one culture could entail allowing members of that culture to show disrespect to some of its members. Not respecting others might amount in this context to denying a person the right to live as a free, autonomous human being. Suppose, for instance, that a cultural minority exhibits illiberal consensus with regard to women's role in
society. Thus its leadership proscribes women from driving cars or wearing trousers.\textsuperscript{12} My view is that if women who dislike this restriction can easily leave the community and enter the larger society, and if the minority group has some historical claim to local self-government, then this may mean that it would be wrong for us to coercively interfere and disallow that proscription. I reiterate that the precondition for the adoption of this attitude is that the women of this said community are not being subjected to what I called designated coercion. Were they to decide to continue their lives outside their cultural community, their community should honour their decision. With Kymlicka I further argue that if the illiberal culture has a valid claim to be self-governing, then coercive intervention should be restricted to cases of serious human rights violations. I closely reflect on this issue in the following discussion. Here I wish to clarify that by 'serious human rights violations' I refer to cases which involve the infliction of severe bodily damage (physical as well as psychological) and the endangering of life. The question of whether to interfere in the business of minority cultures in order to promote our liberal conception depends on many factors, including the severity of rights violations within the community, the extent of division within the community on the issue of restricting individual rights, the ability of dissenting group members to leave the community if they so desire, the existence of any treaty obligations (e.g. historical promises made to immigrant groups), the nature of the proposed interference, and so forth.\textsuperscript{13}

However, the fact that intervention in preventing cultural practices such as the above would be wrong does not mean that these practices are morally justified. On the contrary, from a liberal perspective these practices are unjust. But we do not have legitimate grounds to enforce our morality upon the group because no bodily damage is inflicted upon the women; because no straightforward designated coercion is employed (as distinguished from internalized coercion), and because of the historical claims for culture autonomy that the said group possesses. The case would be different if evidence shows that the women in the
said sub-culture feel that they are being coerced to follow a certain conception of the good and not be allowed to leave their community. In other words, the case would be different if women in the said sub-culture were subjected to designated coercion.

Let me push the issue further. The example considers the introduction of limitations by one sector of a cultural minority on the autonomy of another sector within that same minority. But should a liberal society tolerate all practices and norms so as to allow all members of society to follow their inclinations and beliefs without interference? My concern is now with two specific matters in which (1) autonomy is curtailed in an irreversible way by the infliction of bodily damage, and (2) cultural norms justify the taking of a person's life. If we believe that a case never exists for majority interference in the business of minorities, then we should tolerate things such as impending death upon oneself or upon others, widow burning, female infanticide, or female circumcision. Do these norms have a place in a liberal society?

Attempting to answer these questions, first we have to distinguish between cases in which one is inflicting pain or death upon oneself, and cases in which one is inflicting damage upon others. This distinction is made in the framework of the traditional liberal dichotomy between self- and other-regarding conduct. Here I follow the footsteps of John Stuart Mill. True as it is that almost no action could be absolutely personal, in the sense that it does not concern other members of the community, for no person is an island unto herself; nevertheless, if a given action primarily concerns the acting individual, Mill would categorize it as self-regarding and would argue against interference. Mill prescribed interference in another's self-regarding conduct when:

1. Doers are likely to harm themselves, and
2. sufficient grounds exist to believe that doers do not have an interest to do so, and
3. the circumstances are such that the time factor is pressing, and the opportunity to deliberate is denied doers.

Consider in this context the Jainas practice in relation to the dying. The practice permits a member of the community, under certain circumstances, to terminate his or her own life, or more accurately, to actively welcome impending death in a nonviolent manner. Thus persons in the late stages of their lives may decide that they want to die and undertake the vow of terminal fast. Another relevant conduct involves scarring parts of the body as part of initiation rites that is common in some African cultures. Following the liberal Millian tradition I would say that in these instances the liberal state has no strong case for interference. These customs of self-starvation and scarring should not be promoted and encouraged by the liberal state. On the contrary, the liberal state may express its objections and apply non-coercive means of persuasion to eliminate these practices; but since the sub-cultures possess historical claims and strongly believe in their traditional practices and norms, they should have a right to cultural autonomy.

The case is different when it concerns other-regarding conduct. Now the issue revolves around practices such as suttee, female infanticide, female circumcision, deserting the elderly, or murder for family honour. Should a liberal state tolerate these practices?

Fundamentally, the question is whether norms of the kind mentioned, which deny basic rights that everyone is supposed to respect, have a place in a liberal democratic society. True as it is that to forbid those cultural norms is certainly to interfere with the possibility of making, to use Kymlicka's terminology, "meaningful individual choice"; thus, for instance, burning one's widow might be considered as giving the man "meaningful individual choice". But, by the same token, suttee abridges the woman's right to seek meaningful choice for herself, and it contradicts the two basic liberal norms that I have underlined: it violates the requirement of not harming others and that of mutual respect for others as
enunciated by the Respect for Others Argument. Even if we recourse to Hindu terminology, this form of termination of life involves more than merely internalized coercion and it violates the basic principle of *ahimsa* (virtue of noninjury) towards all life. It "presents something of an embarrassment to Indians from across a broad spectrum". The practice of suttee is controversial, conceived to be repugnant even by Hindu members.

As for female circumcision, those who vindicate this practice view it as crucial to the continued survival of tribal groups as separate cultural entities and thus should be autonomous, free from state interference. In its severe forms, female circumcision involves inflicting physical harm, denying women the ability of full enjoyment of clitoral stimulation and orgasm, generating frustration that influences not only their sex lives but also their entire well-being as autonomous, imaginative human beings. It is argued (not only by feminists) that female circumcision is designed to maintain male control over women's lives, and that this practice denies the individual the ability of being a woman, of being a person. Moreover, research conducted in Africa, Asia, and Australia, where this norm is being practiced, has shown that many women become sterile as a result of the operation, and that it might cause grave infections, sometimes death. Female circumcision might also inflict physical damage to the babies. A question then arises why women consent to this practice. One answer is made in the framework that emphasizes the power of tradition. Another answer speaks of the inability of the young women to resist social pressures. A third answer resorts to practical reasoning: uncircumcised women are not considered suitable for marriage. Consequently many women are forced to undergo circumcision to avoid becoming social and economic outcasts. Let me review this practice in some further detail and explain what does it involve. I first describe this practice as it is performed in some parts of the world and then discuss female circumcision in Israel.
b) Female circumcision

Female circumcision is a way of preventing wantonness and preserving the virginity of a future bride. The rationale is to reassure the husband that he is the first and only man to do so. This is conceived to be essential both for the man's pride and status and the woman's respectability. The clitoris is considered to be ugly and threatening to the male organ and even endangering the baby during delivery. It is also believed that a woman's genitalia, if left uncut, will produce offensive discharges: an uncut woman is considered polluted and unclean. Some believe that this practice is instrumental to increase fertility. The most severe form of the practice of female circumcision is infibulation, or 'Pharaonic' circumcision, where virtually all of the external female genitalia are removed. A more moderate form of this practice is called 'Sunna' (also spelled 'Suna'), where a small part of the clitoris is cut off. There are a number of additional alternatives, involving different cuttings or scarring of the external female genitalia.

After the operation, the girl's legs are tied together and she is immobilized for an extended period varying from fifteen to forty days, while the wound heals. The practice can involve the use of one or more of a variety of instruments from kitchen knives, old razor blades, broken glass and sharp stones to scalpels used in local health clinics. These instruments are rarely sterilized prior to the operation, which is usually performed without anaesthesia by local midwives or elderly village women, with several women restraining the prostrate girl. To stop bleeding, the wounds are frequently treated with animal dung or with mud. The pain may last for weeks and may recur throughout life. A large number of circumcised women are afraid of sex, experience extreme pain from the act, and receive little, if any, enjoyment from sexual relations.

Typically, for those who experience the severe forms of female circumcision (which, to the best of my knowledge, is not being performed in Israel), the
operation results in severe pain, shock due to pain or hemorrhage, infection, damage to urethra and anus, difficulty urinating and menstruating, malformation and scarring of the genitalia, physical and psychological trauma with sexual intercourse, bleeding, increased vulnerability to the AIDS virus, difficulty in childbirth, increased risk of sterility and infant mortality. There is also the risk of death to the female from the direct effects of the operation. Thus, the operation, even on the condoning cultures' own terms, is dysfunctional.25

In some European countries (for example, France26, Sweden,27 Denmark,28 and England29) female circumcision is unlawful but is still being performed in African and Asian immigrant communities. From time to time news concerning this conduct break out and trigger some discussion. The British Medical Journal reported in its newsletter (volume 307 from 4 December 1993) that a Harley Street gynecologist has been struck off by the General Medical Council for agreeing to perform female circumcision. After finding Dr. Farooque Hayder Siddique guilty of serious professional misconduct the chairperson of the hearing, Professor Sir Herbert Duthie, told him: "The committee is appalled by your willingness to perform an abhorrent, illegal, and mutilating operation for which there were no medical indications". In France, the Aminata Diop case of 1991 attracted attention. This case involved a twenty-year-old girl from Mali who was about to be married. Before the marriage took place, her family and fiance insisted she be circumcised. When Diop refused to undergo this procedure, her father beat her and subsequently she fled from Mali to France and requested asylum as a refugee under the terms of the Geneva Convention.30 The French Commission for Appeals of Refugees recognized that the threat or practice of genital mutilation is a form of persecution and that Diop consequently fell within the definition of "refugee" set out in the Geneva Convention. Diop however was not granted this status for procedural reasons: Diop had failed to appeal for help from the Mali authorities and therefore had not exhausted local remedies.31
Undoubtedly, Pharaonic circumcision and other excessive forms of female circumcision are repulsive, alien to any humanistic thinking, and should have no place in society. The question is whether we should object to all forms of female circumcision, even when the girls appear not to object to this practice, and the harms involved might be smaller than the harm of state interference. From a western-liberal moral point of view, all forms of female circumcision may be viewed as morally detestable. But upon balancing the different interests involved we may come to conclude against state interference. The Israeli experience may serve as an example.

Female circumcision is being practiced in the southern part of the Gaza Strip (near the Egyptian border), and in some six Bedouin tribes in the south of Israel. Following the signing of the Oslo Accords on 13 September 1993 and subsequently of the Cairo Agreement on 4 May 1994, the authority in Gaza had been transferred to the P.L.O on 18 May 1994.\textsuperscript{32} From an Israeli perspective, the concern lies in female circumcision as it is being practiced in Bedouin tribes. All (or almost all) women of those tribes go through this practice. On most (if not all) occasions, they experience a very moderate form of circumcision. Physical exams of parental women show only a tiny scar on the labia. No findings were found to indicate that the Pharaonic version is being conducted in Bedouin tribes.\textsuperscript{33} The ceremony takes place between the ages 12 to 17, some time before the girl's marriage. Water and soap are used to clean the external genitalia. It is believed that urine functions like iodine to heal the wound.\textsuperscript{34} A razor is used to perform the circumcision, without anesthesia. Although the circumcision is conducted in poor hygienic conditions, the number of complications reported by hospitals is very low. Part of the reason being that the Bedouins conceive female circumcision as something private and consequently approach hospitals only as a last resort. More often than not they would not admit the cause of the infection and of the medical complications.
Female circumcision in Bedouin tribes is a traditional matter. Many Muslim men in those tribes hold uncircumcised women in contempt as immoral freaks. Bedouin women believe that this conduct contributes to their tidiness and purifies them. Women who did not undergo circumcision cannot be good bakers and cooks. According to the Bedouin folk, the bread uncircumcised women bake, the food they cook, even the tea and the coffee, are all "not good", "impure", "not tasty", etc.35 Most girls accept this belief and confirm to this practice. They do not feel that they are being coerced to perform it.36 Thus at most we can say that they are being subjected to what I termed internalized coercion, not designated coercion.

Female circumcision in Bedouin tribes involves a minor ritual procedure. The only possible harms resulting from this conduct might be lack of sexual satisfaction, an increased vulnerability to the HIV virus, and arguably psychological offense. To eliminate the possibility of infection and severe bleeding (few cases were reported) we may try to convince the old ladies performing this conduct to use sterilized knives instead of the instruments they use today (often razors but sometimes knives and even glass). The Bedouins will never allow this conduct to be supervised by external doctors, nor would they allow it to be performed in hospitals or to perform female circumcision at a very early age. We can also assume that they would not condone practicing circumcision in a later age employing anaesthesia so as to minimize suffering, physical as well as psychological. Since there are hardly any complaints, on the whole no complications, and the overwhelming majority of girls do not feel they are being coerced, we better leave the matter as it is and not interfere to try and stop it. The state should intervene only to help those girls who do not wish to go through this small operation, who feel that they are being coerced to undergo it (subjected to designated coercion). I am suggesting this restricted pattern of interference only because current data indicates that the possibilities of severe bodily damage (physical and psychological) and the risk of death are low, and I do
not think that we should hypothesize on the basis of it. It is almost impossible to refute hypotheses that suggest a very low risk, and we should not waste our time in trying to do so. The reader should not infer from this attitude that I see moderate forms of female circumcision as morally justifiable. I do not. From a principled point of view I find this practice morally repugnant. This is why I justify interference to help those who feel the same. But since in most cases no coercion (other than internalized coercion) is involved, and since I am not able to say that my value judgment should prevail over the Bedouins' (i.e. that my view that female circumcision is morally repugnant is truer than the power of tradition and the related notions that concern the woman's tidiness and her ability to cook), interference in the Bedouin cultural life seems to be more harmful than the performance of female circumcision in its existing form. One thing that the state can do is to offer to train the Bedouin women and grant them official authorization as circumcisers. The training will include, inter alia, studies of sterilization and methods to reduce pain and handling severe bleeding in case of emergency. The government could offer to pay the trained circumcisers for each circumcision as an incentive, as it pays maternity grants to women Bedouin who deliver their babies in hospital. Since offering this grant, the number of Bedouins preferring to deliver their babies in state hospitals has increased significantly. From this we may infer that the Bedouins may favorably view such a suggestion.

This solution may be adopted throughout the world wherever female circumcision is being conducted. Haim Belmaker recommended the World Health Organization to train medical-religious functionaries to perform a sterile minor incision and then declare the young girl circumcised. Such a practice could end the tragedy of mutilation while respecting tribal traditions. It is necessary, however, to evoke debate within cultures that perform female circumcision in which both men and women will take part, to continue research on this issue and review this tolerant suggestion from time to time in order to ensure that the recorded mild form of female circumcision is not being radicalized, and that no
significant harm, both physically and psychologically, is involved. The issue has to be put on the public agenda. Upon reaching the conclusion that the best interests of the circumcised girls justify state intervention (because, for instance, complaints about designated coercion are becoming frequent), then these interests should serve as a trump card to override tradition and cultural considerations. The current lenient attitude is suggested here only because it seems that the best interests of the girls are better served by abstention from interference.

In *Liberalism, Community, and Culture* as well as in his more recent essays, Kymlicka remains unclear as for practices such as female circumcision. In a personal communication he argues that such a practice does not have a place in a liberal society. Underlying his reasoning is the rationale of the rights of children and caring for those who are not able to defend their interests. Kymlicka asserts that the assumption of moral equality of persons rules out the idea that children are the property of their parents. Children are beings with their own moral status, whose interests must be considered equally by government.38 So the liberty of parents does not extend to treating their children in any way they please. Parents should not be allowed to inflict bodily damage upon their children as they should not be allowed to abuse them. Female circumcision should not be permitted as we prohibit torturing children, selling them into slavery or prostitution, or starving them. Children have rights that set limits on what parents (or governments) can do to them. The power of parents over children, therefore, is a trust, and if the trust is violated, the powers can be taken away by the state.

This line of reasoning rules out one common defence of female circumcision which holds that to prohibit the practice would violate the religious or cultural liberty of the parents. With Kymlicka I believe that, in case of excessive forms of female circumcision, this cannot be held as an acceptable argument since parental liberty is limited by the interests and moral standing of the child. Moreover, prohibition of harsh forms of female circumcision does not merely reflect Western hangups or squeamishness about sexuality. Notice that the two major
considerations emphasized are the fact that children are involved, and the degree of damage. Kymlicka explicitly writes that if the practice occurred after women reached the age of majority, and so happened with their informed consent, then the case would be different. Adults can waive their rights, and circumcision could be one example of that. But where children are involved, the government must decide whether the practice is acceptable on the basis of the best evidence available about its effect on the long term health and well-being of the children involved. This latter point brings me to the second consideration that Kymlicka stresses: it is not the fact of physical pain that troubles Kymlicka but rather the particular sort of mutilation involved, which dramatically undermines a woman's ability to enjoy basic goods of sexuality and intimacy. Kymlicka objects to physical mutilation only where clear evidence exists of serious and long-term harm to basic human goods.39 I would further argue that Pharaonic circumcision is not to be allowed in any age. Certain types of bodily harm cannot be consented to no matter what the age of the girl is. Here my view comes close to that of the English and Swedish criminal views which limit consent. If circumcision is not necessary for the patient's health, as maybe in the treatment of cancer, consent cannot serve as a defence.40

If we advocate the rights of children, similar reasoning may guide us to object to male circumcision as well. It may be argued that circumcision as such constitutes child abuse since it is medically unwarranted mutilation and disfigurement. To protect the rights of children, we should yield our paternalistic attitudes and postpone circumcision until the age of maturity; then males will decide whether or not they want to go through this ceremony. However, some major differences distinguish male from female circumcision. These differences soothe the objections raised against male circumcision.

To start with, excessive forms of female circumcision involve excising the clitoris, the female organ that is most analogous to the male organ. Excising a girl's clitoris is more like cutting off a boy's penis than removing his foreskin.
Second, whilst male circumcision is regarded as a religious initiation rite (in Judaism it symbolizes the covenant between God and Abraham), this is not true of female circumcision where "there is clearly no basis whatsoever in any religion for the practice."\textsuperscript{41}

Third, the consequences of female circumcision are entirely to the girl's disadvantage and there appears to be no medical reason for this operation. No medical expert disputes the argument that harsh forms of female circumcision inflict major harms, while many medical experts argue that male circumcision cannot be considered an infringement upon the health or rights of boys and young men as it implies no permanent damage to health.\textsuperscript{42} Some argue that male circumcision bears positive effects on those circumcised. The argument being that it lessen the possibility of infections and that it contributes to the cleanseness of the penis. This contention has been heard nowadays, saying that male circumcision is advisable in the age of AIDS because it reduces the chance of the HIV virus being transferred to sex-mates. On the other hand, those associated with the holistic view hold that every organ of the body has a function, the foreskin included, and that we should not interfere with God's creation. They maintain that the 'cleanseness of the penis' argument might had been true in certain eras but not nowadays, when we have baths and running water that enable us smooth procedures to keep ourselves tidy. Nevertheless, most experts agree that male circumcision does not involve long-term harms to those concerned; that no psychological damage is inflicted by this practice because the trauma occurs in a very early age; that the operation is being conducted in a sterile environment, thus the possibility of complications is very meager; and that the persons conducting the operation are well-trained and well-equipped to circumcise. Similar reasoning may guide us in the case of female circumcision. If a moderate form of female circumcision would have been conducted without resorting to coercion, preferably in a young age, in a conducive environment by well-trained and well-equipped persons, then there is a case against prohibiting female
circumcision. But the liberal state could not allow the extreme forms of female circumcision, nor could it allow this conduct being carried out by individuals who may have experience but lack some medical expertise, individuals who use kitchen knives, old razor blades, broken glass or sharp stones in performing the operation.

Now I wish to examine the limits of state interference in proscribing cultural norms by considering some further practices. These practices are arranged marriage for children; keeping children out of school; murder for family honour, and blood feuds. The first two issues are concerned with the rights of children and do not involve physical harm. The latter two practices involve murder or attempted murder. Murder for family honour mostly concern women. Men are the prime targets in blood feuds.

Kymlicka argues that practices such as arranged marriages for children under the age of sixteen or eighteen years old, and keeping children out of school so that they never learn to read or write, constitute serious harms to children. Since these practices seriously harm the ability of children to enjoy certain fundamental human goods and relationships, the state can and should intervene to prohibit them. ⁴³

I tend to disagree, endorsing a more restricted point of view. My disagreement evolves from practical considerations, and the line of reasoning I wish to pursue has principled as well as consequentialist dimensions. I am trying to establish a case for state intervention in a very limited range of cases that involves the taking of life, or a heavy risk to life. This view is endorsed as a matter of moral principle. No cultural claims should constitute a justification for the taking of life and as a barrier against state control aiming to save life. In other matters involving less serious consequences I submit that if the culture has historical claims (i.e. if the cultural group constitutes an autonomous community for years, with its own traditions and practices), and it does not coerce others to follow their norm, then the state should not interfere. The state could not practically control everything,
and it is better to limit its exercise to the most obvious and undisputed matters. If we allow the state to intervene also in other instances, claiming the right of children, we might pave the road for abuse on the part of the state. Let me demonstrate my fears by considering the behaviour of the Israeli establishment towards the Yemenite immigrants during the 1950s.

At that time, testimonials were brought before the two Chief Rabbis of Israel, Rabbi Herzog and Rabbi Uziel, that young women were encouraged to leave their older husbands. This action was made upon the assumption that teen-aged girls were forced to marry older people in Yemen. The problem was that on many instances no action was taken to verify whether or not girls preferred to live with their husbands. Social workers and advisors took the liberty in interfering in this delicate issue of marital matters without checking other factors beside the age of the woman. This factor, in their view, was the only significant consideration that justified intervention, aiming to break the marriage. This behaviour was a reflection of the then prevailing governmental attitude toward immigrants from Asia and Africa. The absorbing elite believed that the best of the people and the best of the nation required paternalism; that they have to show "the light" to the Yemenite immigrants, and that in due course these immigrants will thank them for this involvement. This was not the case. The immigrants conceived this paternalistic measure as an arrogant interference in their affairs which revealed ethnocentrism and misunderstanding of their norms. I must add that with all due appreciation of the sincere motives on the part of the establishment which brought about this involvement, I think it was done in a crude way that disrespected the feelings of the people concerned, and probably resulted on many occasions with more harm than good.

To conclude this issue: if the sub-culture has historical claims for autonomy, and the practice does not involve a risk of life or of grave bodily damage (physical and psychological), then cultural norms and codes should be respected by the
government. This provided that women in the sub-culture, young and old, have the opportunity of opting out and asking for divorce.

Similar view guides my reasoning in regards to the second issue raised by Kymlicka, preventing education from children. I am not condoning these cultural norms and my reader should not infer that I justify these norms by not advocating liberal intervention. I think, however, that parents have the freedom to impose their values on their children in this regard, especially when those parental values are based on strong and particular religious or cultural convictions. The United States Supreme Court endorsed this reasoning in Wisconsin v. Yoder (406 U.S. 205, 1972) where it upheld Amish parents' right to refuse to educate their children beyond the eight grade. The Court was not convinced that the Amish lack parental concern for the nature and upbringing of their children. The Court maintained that however strong the State's interest in universal compulsory education, it is by no means absolute to the exclusion or subordination of all other interests. Since the nature of the Amish tradition is pervasive, state intervention to prevent the Amish from withdrawing their children from public schools would amount in the destruction of religion itself. Thus I reiterate the point which sanctions intervention only when severe bodily harms (both physical and psychological) are being inflicted on defenseless groups within cultural communities. Broader avenues for intervention might entail more harm than good. While the road for abuses remains sealed when focusing on securing life, this might not be the case if we grant government wider opportunities for intervention. There is still a lot to be done in preventing murders and severe bodily harms and maybe intervention in this direction will have positive effects in reducing other harms.

Let me move on to consider the further issues involving murder for family honour and blood feuds.

c) Murder for family honour and blood feuds
Murder for family honour and blood feuds are being conducted in some of the non-Jewish communities in Israel, most notably in the Bedouin and Druze communities, sometimes also in the Christian community. On most occasions its victims being women perceived to be "misbehaving". Sometimes a mere rumor that someone tried to make a pass at a woman is sufficient to kill the woman, or the man, or both. Often, attempts are made (if at all) at establishing whether or not the rumor is substantiated, after knives are pulled out and the persons concerned injured or killed. In these communities, frequently honour is more important than life, and many women were assassinated because they were accused of not conforming to prevailing moral codes. Violation of the sexual norm by a married woman automatically calls for her murder. As for single women, accusation is always based on the breach of the norm that a girl or unmarried woman who has "sinned" must be punished by death unless she marries the partner in intercourse. The girl's father or brother is the one who takes the job of the executioner. By murdering their daughters or sisters the men prove the control that the natal family has over its women. The second reason why it is the father or brother who has to perform the act of murder is related to the mechanism of shame. A woman's important socialization period takes place within her natal family. By breaching the chastity norm she brings shame on those with whom she grew up.

I have tried to estimate the number of murders that are being committed in Israel on grounds of protecting family honour and blood feuds. Unfortunately, such phenomena have not been adequately researched. To the best of my knowledge, a small number of essays were published about these issues by two anthropologists and only incomplete data is available. The police has only partial information because until 1992 it did not classify murder cases according to their motives. At the least, in the past five years dozens of people were killed on grounds of family honour and blood feuds. But since the information is deficient, the data do not shed light on the magnitude of these phenomena. 'Al Fanar' (Lighthouse), a Palestinian feminist organization established in 1991,
arguably the most interested organization regarding these phenomena, relies on newspaper reports and on a personal communication network. This network tries to contest and to overcome the comprehensive network of silence that exists in the Muslim and Druze communities. Monah Abu-Dahash, speaker of 'Al Fanar', estimated that every year some forty women are killed in Israel for family honour.51

Kressel reported that between 1973 and 1977 at least 63 incidents of homicide for family honour occurred in Israel. You notice that Kressel speaks of "homicide for family honour" while I prefer to term the same phenomena "murder for family honour" for we are speaking here of cold blooded, premeditated murder of women who in most cases are unable to defend themselves. Kressel's main source of information was the Israeli daily press, not field work. Kressel's personal relationships with the Bedouin community did not assist him greatly in gathering material on this issue. He admitted that this number was not testimony to the full scale of the phenomenon.52

Kressel's findings show that most of the cases involved women accused, without proof, of associating with a man or men. Some of the women were killed because they were involved with a man in a non-sexual manner. One of them was a 13-year-old shepherdess who was attacked because she was observed holding hands with a shepherd boy.53 Victims were given no opportunity to make atonement, and no attempt was made to teach them a lesson. Girls were murdered even when they had fallen victim to rapists. The act of murder was always premeditated, not a spontaneous reaction or an emotional expression of anger.

In effect, the cultural norm denies women from enjoying sexual intercourse. The tendency is to treat the deviant as a victim of seduction or as "one who has had something done to her". Since honour concerns the kin group as a whole, planning is usually done by the group. The moral code dictates that the only visible way of restoring family honour is murder and that the correction of the sinful act is a private act performed within the family circle that sends a signal to
the public at large. It is not something that the public should interfere with. The
decision to put a death sentence into effect against a daughter and - in some
occasions - a son, depends on whether her/his degrading act was publicized and
on the status and the social prestige of the family. Murder can enhance prestige
and is like a planned investment in improving social status.\textsuperscript{54}

In this context I should add that, on some occasions, people are killed in order
to provoke a blood feud. A notion prevails of a hierarchy of blood. Resorting to
the Bedouin terminology, the blood of one person "is weightier" than another's
blood.\textsuperscript{55} The Bedouins rank life and decide who should they harm according to
the likely consequences resulting from such a murder. If the aim is to start a blood
feud, the target would be a powerful and respectful person. If the aim is only to
send a warning, someone who is less respected will be picked as the target.

This distinction between bloods is offensive to the liberal-Kantian belief that all
persons should be perceived as ends, not as means, and that all deserve equal
respect.\textsuperscript{56} The current situation in Israel in which cultural considerations override
the rule of law is also offensive to the liberal tradition. A connection of silence
surrounds the issue. Of the victims who escaped death, only a few were prepared
to testify against their families. On some occasions, the act of murder is disguised
as a suicide, and it needs some investigation to clear things out and resolve the
case.\textsuperscript{57} In this regard, Joseph Ginat observes a new trend in the Bedouin
community. He argues that recently Bedouin girls who are pregnant out of
wedlock have begun reporting their condition to the police. They do this in order
to prevent their agnates from taking any sanction against them. The girls reason
that if they are harmed, the police will have clear suspects to investigate. Ginat
presumes that this new attitude is due to the rapid sedentarization of the Negev
Bedouin. As Bedouin girls attend public schools and come into contact with
Jewish girls, they begin to recognize that Bedouin norms can be circumvented
now that they live in a wider society.\textsuperscript{58} However, when girls do not step forward
and acts of murder are committed, often the police show reluctance to interfere,
perceiving these crimes as "internal affairs" that have to be resolved within the community. *Ipso facto*, the result of this outlook might be that an offence against family honour (*intihak el-hurma*) serves as an adequate justification for taking life.

Israeli law neither reflects nor mentions Arab norms relating to family honour or blood disputes. If premeditated murder is proved, the courts of justice will sentence the murderer to life imprisonment. The Supreme Court had made it clear that both grounds do not constitute mitigating circumstances. However, while the Israeli legal system does not make any distinction between homicide performed for traditional reasons and homicide taking place under different motives, the Israeli administration does make such a distinction. It may be easier to commute a sentence or obtain an early release from prison in cases of crime for blood revenge or for reasons of family honour. Ginat writes the following: "The partial recognition by the state of traditional customs may indeed contribute to their continuity. But more probably the responsiveness shown limits the alienation of the traditional communities within the modern state."

I must demur and protest against this line of reasoning that legitimizes crime and perceives murder on equal terms with the fear of alienation on the part of the Bedouin community from Israeli society. Ginat shows more sensitivity to cultural norms than to human life. It also seems that by adopting this reasoning Ginat is more anxious to protect Israeli interests than securing fundamental moral codes and basic human rights. Alienation is bad for the Bedouins and it also goes against the interests of the State of Israel. The Bedouin protest that they are been discriminated against by the Israeli authorities, that their lands were unjustly confiscated by the government, and that they do not enjoy equal rights. These complaints are, on most occasions, just. They exemplify the existing gap between formal citizenship and full citizenship: the Bedouin are formally Israeli citizens but in practice discrimination and prejudice prevent them from enjoying full citizenship. Israeli leaders acknowledge that these complaints constitute enough
grounds for alienation. They do not want to add more fuel to these feelings and thus prefer to exhibit a lenient attitude toward inhuman crimes. The price to be paid appears to Ginat not a substantial one: the lives of some dozens of persons, all from the non-Jewish communities. I find this reasoning offensive and repugnant.

So the State of Israel does not mind that murder takes place in Muslim and Druze communities, and in these communities no powerful organizations exist to safeguard the most fundamental right: the right to live. Girls who flee from forced marriages or for fear because they betrayed their family honour are usually returned to their families by the police or turned over to one respectable personality, a sheikh, qadi, mukhtar or to a tribal chief. In most cases the solution these personalities recommend to the frightened girls is to return to their families and marry against their will; or they are murdered. Thus the regime reinforces the patriarchal tradition at the expense of women. Women are left unprotected and a crude rumor might be sufficient to end the life of one suspected of an indecent conduct. Activists of 'Al Fanar' explain that many of the forced marriages occur when fathers force their daughters to marry their first cousins. When the girl refuses to give in to such a marriage - "which is actually rape with the blessing of tradition" - she is liable to be thought of as dishonouring the family, and to pay for this with her life. The practice of marrying close relatives which accounts for 35 to 40 percent of all marriages among Palestinians, Arab and Bedouin, originates in the desire to retain control of family possessions. This despite its consequences of increased incidence of genetic diseases and the birth of large numbers of retarded children.62

'Al Fanar', to the best of my knowledge the only non-Jewish organization that tries to fight against murder for family honour, is powerless, small and with very limited capacities to be active. It has succeeded in attracting only a handful of Muslim women. Most women (and obviously men) view 'Al Fanar' as being a radical organization. A close reading of its founding platform explains why. It
says: "We will fight against any tradition, law or custom which discriminates against women or limits their active participation in all spheres of life - social, political and cultural". This is interpreted by many Muslims as a declaration of war on Arab social practices. The Muslim community on the whole conceives murder for family honour as conducive to safeguarding their tradition and exhibits more sympathy to the murderers than to their victims. Representatives of this view are Khatem Fares, deputy chairperson of the Druze Rame village in the Galilee, and Sheikh Nur el-Din Halabi, a qadi (judge) of the Druze Shari'a (religious law) court. Both of them justified the murder of Ichlass Ruth Kana'an by her own brother in July 1994. Ichlass was murdered after exhibiting independent attitudes and modes of behaviour. Her behaviour was conceived to be "too independent" by her family who tried to force her to adopt the traditional codes. After Ichlass refused, she was murdered. Khatem Fares was asked to reflect on this tragic affair and his words blatantly represent the traditional position characterizing many Arab males. Fares refused to term the event "a murder" and argued that Ichlass's deeds and words were akin to committing suicide and provoking her younger brother to kill her. It was the killer, according to Fares, who was the real victim of the affair. He also expressed the hope that the excellent youngster would not spend more than a year or two in prison and that he would be allowed "to continue his normal life". In turn, Sheikh Halabi asserted: "There is indeed a prohibition against killing but, on the other hand, one who does not protect the honour of his house is an infidel". Ichalass's brother, in Sheikh Halabi's opinion, is not a murderer and does not deserve to go to prison.

In the background material on 'Al Fanar', published by the organization, it is explained that one of the reasons for the preservation of the Palestinian patriarchal tradition, and particularly of its more backward aspects, is that it is a part of the Palestinian reaction to the national and cultural repression of the Israeli regime. The essence of this traditional-patriarchal conception finds expression in the preservation of the woman's inferior status. In many cases the patriarchal family
determines whom she will marry and when, whether she will continue her education, and whether she goes out to work. If she is allowed to work, she is frequently required to assign her wages to her husband, her father or to her brothers. The woman's "moral" behaviour determines her family's honour and good name, to which her personality, sexuality, behaviour, desires, and even her life are subordinated.66

During my research I established contact with several 'Al Fanar' activists. All were willing to assist me with information. One member of this organization asked me not to mention her name. Member women walk on very thin ice, raising their voice against the Arab patriarchal system and at the same time are careful not to galvanize angry people against them, who might conceive their activities as 'untraditional', as betraying their own people and culture. The Arab community, on the whole, is loyal to the moral code which respects the family that redeemed its honour. Honour is far more important then the life of the girl who shamed her family. Murderers who are always male are not subjected to punishment or banishment; on the contrary, Kressel argues that they gain in honour.67 Women, in some Israeli Muslim villages, are left unprotected. One 'Al Fanar' activist rhetorically asked a reporter during newspaper interview: "Could you imagine what is to be both a woman and an Arab in Israel?". She maintained that "to be a woman in Israel is to be constantly afraid of violence. To be an Arab means that no body cares".68

IV. Concluding remarks

The upshot of this discussion is that some constraints are substantive, as distinguished from contingent constraints. Substantial (or irrevocable) constraints are non-consequentialist constraints, prescribed by the most fundamental principles of liberalism: they present hard-and-fast restraints as a rule, urging that
some things lie beyond the ability of society to tolerate. Democracy cannot endure norms that deny respect to people and that are designed to harm others, although they might be dictated by some cultures. Some norms are considered by liberal standards to be intrinsically wrong, wrong by their very nature. Such are the norms prescribing discrimination on grounds that people are not able to change (sex, color, religion, race, ethnic affiliation, etc.). Such are also widow burning, female infanticide, harsh forms of female circumcision, and murder for family honour. The Muslim collective in Israel, whose bearers of honour are the patriarchs, sees its right and duty to restrain women's sexuality. If not oppressed, a woman's sexuality might bring misfortune upon herself as well as upon her close ones. But first and foremost upon the woman concerned. Women who are believed to go astray might be murdered. Israeli democracy has to play the role of an umpire both in the sense of applying just considerations when reviewing different conceptions and also in trying to reconcile conflicting interests, trends, and claims. This is a delicate task that demands integrity as well as impartiality: to refrain from identifying with one group rather than with the other; not to exploit its role for self-advantage; bearing in mind when making decisions the relevant considerations and demands which concern particular needs as well as society as a whole.

Democratic governments should not reject out of hand considerations deemed to be relevant and cling to neutrality when this policy is thought to contradict basic values and rules. Two fundamental rules should be accepted as binding. These are not to harm others and to respect others. We should strive that governments would grant each person equal concern and respect, and that governments secure each person's fundamental rights and liberties, first and foremost the right to life and the right not to be harmed by others, no matter whether the offender is a member of another community, of the same community, or of the same cultural minority. Stranger or relative, both should not put themselves above the law by resorting to cultural justifications. Women should
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not be left unsecured to suffer the whims of men.

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1. A shorter version of this essay was presented at the Queen's University of Belfast (3 March 1995) in an international conference on Nationalism, Culture and Minority Rights in the Middle East and subsequently published in Kirsten Schulze et al (eds.), Nationalism, Minorities and Diasporas: Identities and Rights in the Middle East (London: I.B. Tauris, 1996).

2. D. Phil., Oxon (1991). Senior Lecturer, Department of Communication, University of Haifa, Israel. Dr. Cohen-Almagor also teaches at the University of Haifa Faculty of Law and is a member of the Israel Press Council.

3 'Suttee' in Sanskrit literally means virtuous or good woman, but the term has come to refer to the immolation of a wife on her husband's funeral pyre or to the woman who performs that rite. According to Hindu custom, the Hindu wife who follows her husband to death fulfills her social and religious duty as a woman. She avoids the potent stigma of Hindu widowhood, destroys her own and her husband's sins, and attains the status of a benevolent goddess who blesses her family with prosperity and well-being. Cf. Holly Baker Reynolds, book review of Sati: Widow Burning in India, 12 Harvard Women's Law J. (Spring 1989), 277-286.

4 Various Eskimo tribes have recourse to suicide because of old age and a feeling that the individual's social usefulness is ended, to spare families the burden of caring for an unproductive member, to terminate a condition of serious illness, from remorse or unrequited love, in the face of starvation, and for other reasons. A close relative is usually asked to act as executioner, but if the relative refuses the individual has to take his or her own life or ritually appease the spirits who already anticipate his or her end. Cf. David Landy, "Death: Anthropological Perspective", in Warren T. Reich (ed.), Encyclopedia of Bioethics (N.Y.: The Free Press, 1978), Vol. 1, p. 224.

5 In some traditions, daughters constitute a drain on familial resources. With the development of amniocentesis and other techniques, it is relatively easy to determine the sex of a fetus. In a
number of Asian countries the use of amniocentesis to determine the gender of an embryo and the consequent abortion of female fetuses have become, in a modern version of the traditional female infanticide, increasingly common. See Laurence H. Tribe, *Abortion: The Clash of Absolutes* (N.Y.: W.W. Norton, 1990), at 65.


9 The concept of culture has been neglected by many theorists and thinkers. The term 'culture' itself, as we know and understand it today, i.e. as meaning a complete way of life - spiritual, intellectual and material - came into English thinking only during the days of the Industrial Revolution. Cf. Raymond Williams, *Culture and Society 1780-1950* (Harmondsworth: Penguin, 1971), pp. ii, 16-18.

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11 Kymlicka, Liberalism, Community, and Culture, p. 176.

12 The Druze religious leadership in Israel issued such a fatwa (religious decree) but then they withdrew it due to widespread opposition.


15 Kymlicka argues that Western revulsion in the case of scarring one's body as part of cultural rituals may reflect squeamishness. It seems hypocritical to him to object to scarring of certain parts of the body at the time when we in Western countries put great pressure on women to constantly shave all their body hair. I may add that if we allow tattooing so we should allow scarring, although scarring is probably more painful. The extent of pain is not the major consideration; rather, it is the fact that the act is performed by the person's own volition. The case would be different when it would concern inflicting pain on young children who conceive the scarring ceremony more as a torture than as a sign of maturity. Here substantive grounds exist for liberal interference to override cultural considerations.

16 This issue is not clear cut. Old Eskimos who leave their community and seek their death in the icy wastelands can be said to act voluntarily. It is unclear, however, whether the sense of obligation felt by them to seek death is not the result of social pressures to die.
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20 The anthropological analysis that concludes that female circumcision is needed to maintain tribal group identity is argued to be flawed. Postmodernists and feminists question the purported objectivity of the methodologies and theories used and articulated by anthropologists and ethnographers. Cf. Robyn Cenry Smith, "Female Circumcision: Bringing Women's Perspectives Into the International Debate", 65 *Southern California Law Review* (1992), 2449-2504.

21 Article 1 of the *Convention on the Elimination of All Forms of Discrimination Against Women* (1979) provides that "'discrimination against women' shall mean any... restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the... enjoyment or exercise by women... of human rights and fundamental freedoms in the political, economic, social, cultural... or any other field". G.A. Res. 180, 34th Sess., Supp. No. 46, Art. 1, at 194, U.N. Doc. A/34/180 (1980). This may be understood to secure the right of women to sexual and corporal integrity. Cf. Robyn Cenry Smith, "Female Circumcision: Bringing Women's Perspectives Into the International Debate", at 2494.

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25 In addition, female infibulation is no guarantee of a woman's virginity at the time of marriage: an unmarried woman can have sexual intercourse and then be re-infibulated just prior to marriage to disguise the fact from her husband. Cf. Stephen A. James, "Reconciling International Human Rights and Cultural Relativism: The Case of Female Circumcision", pp. 9-10.

26 French law was revised in 1984 to the effect that female circumcision is considered as criminal act. In addition, the French Penal Code ban all forms of physical abuse against children.

27 Sweden outlawed female circumcision in 1982 (law no. 316). Female circumcision (or genital mutilation) is given equal status to other forms of bodily injury. It can be equated with 'assault' or 'battery' as described in Chapter 3 under Sections 5 and 6 of the Swedish Penal Code. The practice is prohibited even if the woman has consented to the circumcision. See Gunnar Fahlberg and Ulrice Ekmaner, "Legislation on Female Genital Mutilation in Sweden", 1 Proceedings of the 10th World Congress on Medical Law (Jerusalem, 1994), 257-265.
Female circumcision is presumably illegal in Denmark under Section 245 of the general penal code which prohibits physical violence and the causing of damages to another's person or health.

England outlawed the practice by the female Circumcision Act of 1985. Prior to this Act this practice was seemingly unlawful under sections 18 and 20 of the Offences Against the Person Act of 1861.

The Geneva Convention of 1951 states that asylum should be accorded to persons who have a "well-founded fear of being persecuted for reasons such as race, religion, nationality, membership of a particular social group or political opinion."

Re Aminata Diop, French Commission for Appeals of Refugees, recours No. 164.078 (September 1991). See also Valerie Oosterveld, "Refugee Status for Female Circumcision Fugitives: Building a Canadian Precedent", at 278-279.

On female circumcision in Gaza see Soha Araf, "One of the Elders Opened My Legs...", Kol Ha'ir (Israeli local newspaper), 25 February 1994 (Hebrew).

I rely, inter alia, on testimonies of Professor Haim Belmaker, Faculty of Health Sciences at Ben-Gurion University, who conducted research on this issue, and of Dr. Michal Rambau who worked at Soroka Hospital in Beer-Sheva for four years. Dr. Rambau claimed she never saw the Pharaonic circumcision being conducted. There were very few cases of severe bleeding but, on the whole, the Bedouins cut only a small part of the clitoris. See also Abed Asali et al, "Ritual Female Genital Surgery Among Bedouin in Israel" (working paper, English); A. Asali, N. Khamaysi, Y.

34 Gideon M. Kressel, Descent Through Males (Wiesbaden: Otto Harrassowitz, 1992), pp. 208-211.


36 Yedioth Ahronoth, Israel's most popular daily newspaper, reported on one girl who ran away from home to escape both female circumcision and the planned marriage. The girl was quoted as saying that "I had lost confidence in all people around me. My loving mother became my Number 1 enemy. I did not trust my friends, nor my sisters. There were moments when I thought about committing suicide." The girl maintained that she heard horrible stories about circumcision from girls who experienced it, and that she believed the worst of those stories. When she approached her father as a last hope and he referred her back to her mother, she ran away to her sister who lived in the north of the country. She was fifteen-and-a-half years old at that time. This act of running away from her tribe constitutes a sufficient reason for homicide for family honour but luckily enough she gained the support of the northern Bedouin tribe and escaped the death penalty. Cf. Shlomo Abramowitz, "The Bedouin Girls Scream Silently", Yedioth Ahronoth, 15 May 1992, pp. 45-50 (Seven Days Supp.). As far as I can judge, this story is the exception rather than the rule.

37 Cf. Belmaker's letter in Newsweek (31 January 1994), 5C.

Kymlicka further notes that the goods denied to women are recognized as goods for men in the culture. Men are not expected to give up their ability to enjoy sexual relations. So it would not be accurate to say that "we" in the West are imposing our view of the good life on a culture which does not accept that view. It is rather that we are insisting that these goods not be arbitrarily denied to women in the culture through an act of genital mutilation that occurs before they are able to give their informed consent.


Kymlicka makes this argument in a personal communication addressed to me on 20 February 1994. In a more recent communication from 14 June 1994, made after reading a draft of this essay, Kymlicka writes that a liberal state should not intervene in cases of arranged marriages and illiberal educational practices if the subculture has a historical claim to autonomy and if exit is reasonably easy for dissenting individuals.

Archives of the State of Israel, G5543/3631, file 607 (II). See also G5543/3631, file 607 (III).

I should note that the terminology in use concerning immigration reflects the ideological perspective of the nation's decision-makers. The immigrants who come to Israel are called olim, meaning those who 'come up' because they are assumed to take part in the ongoing Zionist enterprise. The term has positive connotations, praising the initiative the ole has taken upon herself (or himself) by coming to Israel. A person who decides to leave Israel is labeled yored, a pejorative term denoting the fact that she or he decided to 'come down', i.e., going abroad. In Europe and North America no such value judgment is being made. The term commonly in use is neutral, speaking of the fact that one has decided to leave one's place and search for one's destiny elsewhere, without attaching to one's decision any normative conclusions.

Yoder prescribes wider boundaries for state intervention. The Court held that parental discretion may be challenged "if it appears that parental decisions will jeopardize the health or safety of the child, or have a potential for significant social burdens" (emphasis mine). Wisconsin v. Yoder 406 U.S. 205 (1972), at 234.


50 Here I acknowledge gratitude to Chief Superintendent Sara Mar-Haim, Investigation and Prosecution Division of the Israeli Police. She reported that in 1993 there were nine instances of murder for family honour, four attempts of murder on the same ground, and three additional attempts of murder on the ground of blood revenge. In 1992, there were six killings for family honor. In 1991 and 1990, at least 16 people were killed for this reason, eight in each year. Three additional cases of murder on ground of blood revenge were accounted for in 1990.

BTSELEM, the Israeli Information Center for Human Rights in the Occupied Territories dedicated one chapter (pp. 70-77) in its January 1994 Report to the issue of "morality, family honour, and collaboration". However, no practical conclusions could be derived from its data because no distinction is made between women killed on the ground of collaboration with the Israeli authorities, and women killed on ground of immoral conduct. It is reported that, on both grounds, at least 107 women were murdered between 1988 and 1993.

51 Cf. Aryeh Dayan, "Her father, her brother, her husband", *Ha'aretz* (Israeli daily), 13 September 1991, p. 5 (Hebrew). An 'Al Fanar' Report "Developments in the Struggle against the Murder of Women for the Sake of So-called 'Family Honor'" speaks of 20 to 40 murder cases annually.
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57 Some of these cases were mentioned to me in talks with three 'Al Fanar' activists.

58 Joseph Ginat, Blood Disputes Among Bedouin and Rural Arabs in Israel, pp. 135-136.


60 Ginat, Blood Disputes Among Bedouin and Rural Arabs in Israel, p. 27.

Cf. "What is Al Fanar?", p. 2. I am indebted to Manar Hassan for providing me this background material.

Cf. Aryeh Dayan, "Her father, her brother, her husband", *Ha'aretz* (Israeli daily), 13 September 1991, p. 5 (Hebrew).


Cf. 'Al Fanar' Report "Developments in the Struggle against the Murder of Women for the Sake of So-called 'Family Honor'", p. 3. Mawafak Tarif, the spiritual leader of the Druze community, was also asked to express opinion on this affair. He said that the leadership committee had a meeting regarding the issue and decided not to go into details. A statement was issued calling upon "the young men and women to return to God's religion and tradition, so that there would be neither problems nor crimes". *Ibid*. In a sense this statement justifies Ichlass' murder and sends a warning to Druze women not to move away from religion. Although the statement relates to "young men" as well, in practice only women are harshly punished for such 'sins'.

In "What is Al Fanar?", p. 1.
67 Kressel, "Sororicide/Filiacide: Homicide for Family Honour", p. 151. Joseph Ginat, in his comments on Kressel's article, contends that by killing a woman an individual does not gain honour, but restores it. Honour can only be gained through actions committed by a man himself. Furthermore, if murder is carried out to gain honour and honour is judged in terms of power, one would expect many more killings in order to gain power. The statistics do not bear out this interpretation. Cf. 22 Current Anthropology, No. 2 (April 1981), p. 153.