

***Multisectoral
Academic Training Guide
on Female
Genital Mutilation/Cutting***

Directoras

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MULTISECTORAL ACADEMIC
PROGRAMME TO PREVENT
& COMBAT FEMALE GENITAL
MUTILATION / CUTTING

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1.2. Multiculturalism and human rights

Cristina Santinho (*ISCTE-IUL*)

'Female genital mutilation is not tradition. It's not culture. It's a crime.' This statement was part of a campaign against FGM/C that was launched in Lisbon in July 2016, bringing together, in partnership, the Portuguese government and the government of Guinea-Bissau.

It continues, 'Female genital mutilation is a form of physical and psychological violence and a violation of [the] human rights of girls and women. To say no is a right and a duty (P&D Factor 2016).'

It is tempting to approach FGM/C from the angle of human rights, to use them as dissuasive elements when people are confronted with the potential punitive application of penal law (Mutua 2002), but we must remember that FGM/C is a cultural practice – it would be risky not to – with political, economic and religious implications, as well as those related to gender and power (Boyle 2002).

To keep a balance between individual human rights and multiculturalism with regard to FGM/C in a global world, where merchandise, people, knowledge and practices circulate, it is necessary to take into consideration the following aspects:

1. Human rights are frequently depicted as Western moral values and associated with political impositions historically rooted in colonialism.
2. Human rights have also become a concern for non-Western countries, but it is important to understand if they are in fact implemented in local contexts and in what way(s).
3. Some institutional interventions develop a racist bias by labelling FGM/C a barbaric practice that belongs to 'backward' cultures, in which the role of women is constantly relegated to a subordinate position. We should note that analogous situations in Western contexts, resulting from social pressure concerning aesthetics, make women undergo surgical procedures like augmentation or reduction of the grand labia, clitoral reduction, vaginal tucks, or, on other levels, anorexia.
4. The application of human rights should strive to safeguard human dignity. This implies a detailed ethnographic work, looking for the social, symbolic and economic significance of FGM/C, instead of demonising those who practise it. This will be an opportunity to create an intercultural dialogue that is introspective and profound, and respects that dignity.
5. Considering the aspects related to globalisation, culture should be perceived as being in constant transformation and not essentialised.

In an attempt to overcome relativist positions that deny the mere possibility of universalism, Parekh claims that the fact that human beings grow up and live within a culturally structured world does not mean that they are determined by their culture, in the sense of being unable to critically evaluate its beliefs and practices (Parekh 2000, 336). According to this vision, some kind of moral universalism –relatively minimal and consistent in its fairly general abstract concepts, such as human rights– is perfectly compatible with multiculturalism (ibid. 133-34).

1.3. Androcentrism of human rights

Magaly Thill (*URJC*)

As phenomena that regulate individual behaviours and social relations in a specific context, laws reflect the socially regulated models of men and women embedded in each society and their relations with each other and with the group. Feminist legal theory has highlighted how the principle of universality of human rights, as endorsed by modern philosophers (initially applicable to white male landowners and later extended to every human being), was in fact flawed (MacKinnon 2006). The principle of non-discrimination on the basis of sex, anchored in the *Universal Declaration of Human Rights*, as a result of women's demands to be included in the international system of rights and freedoms, did not bring the revision of the allegedly neutral, but, in reality, masculine subject (Facio and Fries 1999).

Criticism arose among feminist scholars about how international conventions on human rights reaffirmed the dichotomy between private and public spaces, without recognising rights that are of special importance to women, namely: sexual and reproductive rights, the right to equality in the sphere of intimacy and family, the recognition of reproductive work, and the right to be free of gender-based violence (Charlesworth 1994).

After several decades of organised activism and advocacy, feminist demands finally came through, when, triggered by the United Nations General Assembly's ground-breaking *Convention on the Elimination of All Forms of Discrimination against Women* in 1979 and several international conferences on the situation of women, the governments of the world acknowledged that 'women's rights are human rights' in the Vienna World Conference on Human Rights (1992) and adopted the UN's *Declaration on the Elimination of Violence against Women* (1993) and its *Beijing Declaration and Platform for Action* (1995).

Feminist critical theory of law has pursued a redefinition of human rights that would make possible women's real participation and reflect their needs and wishes – a new pact of citizenship that considers women the subjects of rights,