

# Women's Rights and Reproductive Health Care in a Global Perspective

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## Introduction

Reproductive health is a sensitive issue in international human rights dialogue and development cooperation, because it tends to get tangled with the wider spectrum of issues of international justice, such as women's rights, population policies, and cultural integrity. This article studies how the international human rights discourse can be used to justify the violation of the very same rights it is intended to protect in the case of women's health and reproductive rights. The article shows how women's rights can be deliberately ignored or fortuitously overlooked in the name of cultural autonomy and collective rights as well as by appealing to individual autonomy.

## The Quest for Global Human Rights Standards

The main problem in finding a globally accepted set of human rights standards intertwines with the debate between ethical universalism and relativism. This debate is particularly central in the field of reproductive health, because universal protection of individuals' rights, and such values as equality and personal autonomy, are usually the very basis for the improvement of women's health around the world. In general the universalist ethical stand demands that in medical decisions the primary guideline be the protection of individual rights and the priority of those rights over the promotion of the common good. In general this demand for the protection of individual rights is based on the presupposition that individuals are to be considered as autonomous moral agents (at least in most cases) who should have a chance to decide for themselves (whenever this is possible). The universalist position is based on the idea that all human beings are equal. Thus, they should be treated as equals despite their differences (whether we talk about random and natural differences, i.e., differences that the individuals cannot themselves choose but are born with—like gender, race and ethnicity—or whether we focus on the differences in people's choices concerning their values, ways of living, or cultural identities). The universalist approach to human rights is often challenged by the communitarian approach, which promotes collective rights in order to prevent cultural assimilation. In its alleged attempt to protect diversity of cultures, the collectivist human rights approach thus tends to interpret the ideal of ethical universalism as a form of Western individualism, which is then seen as a

threat to cultural autonomy. The result is then that the collectivist human rights approach appears to lead directly into cultural relativism.<sup>1</sup> Individualist and collectivist approaches to human rights, however, have a lot more in common than emerges on first consideration. Thus, the common polarization between them is misguided. In fact, they also face very similar problems with relativism in dealing their normative agendas.

The liberals are as much in danger of relativism as the collectivist communitarians.<sup>2</sup> The liberal concept of justice protects individuals' autonomy with informed consent in decision making, but sometimes this demand for the equal protection of autonomy may turn into a fear of paternalism.<sup>3</sup> Any type of interference in someone else's life is in itself seen as a violation of autonomy. The result is a relativist subjectivism, which ignores the social influence and community pressures in individuals' decisions and exaggerates individual autonomy. By regarding socially coerced decisions as independent choices, subjectivism degenerates universalist individualism into a relativist *laissez-faire* ethics.<sup>4</sup>

In the field of reproductive health a proper example of this can be found in the tradition of female circumcision (now more properly referred to as female genital mutilation, or FGM). Despite its harmful physical, social, and mental effects, this tradition is still widely practiced in various communities around the world, and sometimes it even exists in a traditional community within a modern, multicultural society. Although the main motive for this practice is the strict control in traditionally patriarchal communities of women's sexual and reproductive behavior and denial of women's special needs and rights, different cultures and communities present different rationalizations for this tradition. From the point of view of international human rights discourse, the main problem in efforts to eradicate the practice is that the members of different communities turn out to be the strongest supporters of this type of oppressive and harmful tradition. Thus, interference in such practices could easily be condemned as a human rights violation in itself,<sup>5</sup> either as a violation of collective rights or as a violation of individuals' autonomous choice.

Although it is sometimes difficult to estimate when the autonomy of the individual is properly respected in a pluralist world, at least in a multicultural societies we should be able to plausibly argue that immigrants who chose to leave their native country—for whatever reason—and to live within a liberal society should be ready to adopt the laws and social norms of their new homeland. Particularly if they left their country of origin because of its political intolerance or disrespect for individuals' life and rights, they should be more than ready to do away with the traditions that themselves violate individuals' integrity.

Finding a shared framework for ethical agreements, however, becomes more complicated when we cross national borders and are faced in practice with the communitarian claims that liberal individualism radically misinterprets our social life by ignoring the influence that our social ties have on our identities and choices. The point of such claims is that individualism *per se* is a cultural tradition and not any rationally universalizable way of life. This communitarian defense of tradition and social ties points out that

if particular ethical systems of different communities are to be globally respected and if the shared beliefs and traditions are part of our inviolable cultural identities, then the Western liberal tradition and its commitment to individual autonomy has no special position within other cultural beliefs. It has no universal right to try to assimilate other cultures into its particular, individualist set of values, which in themselves collectivist cultures see as a threat to social harmony, solidarity, and cooperation.

### **Feminist Bioethics: Respect for Difference versus Gender Segregation**

As noted above both approaches to human rights standards, the liberal and the communitarian one, face similar problems and can easily lead into a situation in which individuals' rights—and particularly those of women—can be grossly neglected or violated. This leaves many women and women's rights activists in a no-win situation: women's rights as individuals or as a group can be rejected either in the name of individual autonomy or in the name of cultural integrity. As the feminist critique of liberalism and communitarianism tries to point out, the only way to protect women's rights and improve their reproductive health is to pay more attention to the special needs of women.<sup>6</sup>

Feminist criticism of liberalism shows an interesting dilemma: whereas the universalist view requires that women be treated equally with men, the liberal presumption that all the people are born equal tends to justify structural inequality. In many developing countries and particularly in patriarchal societies men and women simply are not considered or treated equally. People are born in different economic and social circumstances, their access to resources differs, and they have different needs in different situations. The liberal attempt to be "blind to differences" and to treat everybody the same everywhere tends to disregard these differences and sometimes may even cause more problems than it generates solutions.<sup>7</sup> Liberal universalism tends to lead into gender—as well as cultural—assimilation. "Difference blindness" disregards the special needs that individuals—and particularly individual women—have in different circumstances.<sup>8</sup>

According to feminists the universalist concept of human rights standards is based on an illusionary, idealistic standard of normality. Thus, it tends to allow discrimination against those who do not fit into this norm.<sup>9</sup> Since these standards themselves are historically, even in the Western tradition, based on the experiences and the ideals of white men, a big part of humankind is excluded from them. These standards overlook many human rights violations that are perpetrated particularly on women (such as domestic violence, rape, and other forms of sexual and reproductive violence and coercion), because these types of violations have rarely been a problem for men. In fact, in practice some of the worst women's rights violations have come to be regarded as natural "cultural" privileges of men.<sup>10</sup>

The other main problem in promoting women's rights as well as women's reproductive health internationally is that human rights are primarily enforced by the states: the states have to agree on the human rights

standards, the states can set conditions for their implementation, and the states are in charge of their enforcement. In other words, while states are the ones recognized as violating human rights, they are simultaneously also the ones who are empowered to redress these violations. If certain customs and practices are considered a state matter and if certain actions are considered private rather than public, they are not easily captured by the international human rights net. Consequently, violations of the rights of individual women can actually sometimes be efficiently justified by the very same human rights standards that should be there to prevent these violations. Appeals to cultural identities, autonomy, and tolerance can be used to globally justify women's subordination by men not only by traditional communities but also by apparently democratic societies that claim to promote equality. In particular, multicultural societies that have the tendency toward laissez-faire ethics may end up fostering, even within their own borders, such local communities that do not respect individuals' rights—and often particularly women's rights. And it is not only traditional cultures that are to be blamed for the oppression of women, because many of the very same violations of women's rights practiced in these traditional cultures can be and often are justified and thus, in practice, are also protected by the international human rights standards themselves.<sup>11</sup> Women's rights and reproductive health go hand in hand because many human rights violations occur as a result of the neglect of women's special reproductive needs, which make women socially and physically more vulnerable.

What makes the protection of women's rights so problematic internationally is that the universalist premise based on the presumable natural equality of human beings tends to overlook this vulnerability of women. On the other hand, the feminist demand to take women's particular needs into account turns talk about women's rights into a talk about collectivist rights. This makes women's rights issues the same type of deviation from universal human rights issues as any other minority-rights or cultural-rights demand is. "Womenhood" and "femaleness" remain deviations from the ideal of humanity. Therefore, women still cannot automatically meet the universal standards of human rights.<sup>12</sup>

In this sense the feminist criticism of the abstract universalization of individual rights seems to coincide with the communitarian one. They also share similar problems. The feminists' focus on differences can easily lead us toward specialized situational ethics, which further separates women and creates its own particular moral standards and norms in every given situation. Within such a separatist and particularist ethical outlook once again we face the danger of relativism. Especially if it is mainly the gender difference that is emphasized, there is an evident danger that we may construct a distinct moral outlook, which cannot provide the normative basis for globally acceptable ethical guidelines. If feminist critique gives up ideals of common humanity in favor of emphasizing gender differences, we may again lose the universalizability of human rights. This would leave us once more with collective notions of women's rights, children's rights, minority rights, disability rights, and so on ad infinitum. In this case, the demand to protect women's rights may plausibly be seen to conflict with a competing demand

to protect patriarchal cultural practices, instead of properly taken to be a demand for protection of individual rights not only in a particular community but in all communities. After all, since from a relativist point of view, there are no universal moral standards, promoting women's rights can be seen as a foreign intervention in many patriarchal societies and thus rejected as an attempt at cultural imperialism and/or cultural assimilation.

### **The Contradiction of Relativism and the Quest for a Global Ethics**

The danger of relativism lurks around every corner. Its claim that there are no universal principles of justice that would apply to all cultures at once mandates that members of one society cannot legitimately interfere with the social practices and traditions of other societies.<sup>13</sup> The proponents of relativism tie universalization of values directly to Western individualist tradition and its tendency toward cultural imperialism. Those liberals who have adopted a subjectivist line of individualist reasoning tend to agree instinctively with this relativist view. They may not promote cultural rights as just, but they can just as efficiently justify suppressive practices and intercommunal inequality in the name of tolerance and individuals' autonomy. The result is then that all three ethical outlooks, which originally seem to be normatively quite diverse and competing with each other, suddenly support each other: collectivist, particularistic, and individualist ethical views appear to find an agreement within a relativist framework.

Ethical relativism is hence a strong and deceitful opponent in the quest for global human rights standards. If we take a closer look, however, we can see that relativism undermines its own justification by logically contradicting its own premises, thus opening a door toward a global bioethics. The main logical problem of relativist reasoning is that if it is to be considered as a plausible normative ethical stand, as first pointed out by Bernard Williams in his *Morality* (1992), it cannot altogether reject the ideal of universal values. In one form of cultural relativism, social collectives have moral priority, but behind this priority there is a presumption of universal respect for difference and choice. The whole idea of cultural or collective rights is based on the very same universal and rather liberal ideals of tolerance and autonomy in choices. In other words, whereas individualists demand universal respect for individual rights, cultural relativists demand universal respect for collective rights.<sup>14</sup>

Since according to the relativist argument, one set of values should not be considered superior to any other one, relativism in itself can provide justification neither for the collectivist nor the individualist ethical order per se. In the end, relativism then merely proves that neither the individualist nor the collectivist normative ethical outlook can in itself claim universal status. Simultaneously, however, it defends the absolutist idea that there are some types of moral rights that should be universally protected. Thus, even the communitarian claim for cultural rights is universalist. In addition it is based on such values as tolerance for difference and equality. The only difference is that communitarians promote these rights at the level of social

collectives rather than at the level of individuals, and the feminists tend to promote them as a bridge over the gender bias.

The self-contradiction of relativism actually provides the basis for universal rights. The main dispute is now whether these rights are individual rights or collective rights. The communitarian defense of cultural rights, however, has proven to be problematic. First, collective rights tend to conflict with individual rights, and within the communitarian framework there is no plausible way to solve the question of priority between individual and collective rights, which makes social entities right bearers. If social collectives are right bearers, individual rights can—and often are—systematically denied to or suppressed in particular groups of people in the name of the common good. Second, there is an evident problem in identifying the relevant social unit with the rights to be respected. At the same time, survival of a particular social collective with a certain set of values can just as easily be understood in individualistic terms: as survival of a certain persons and their having descendants with this set of values. Cultures characteristically change and develop in time. Since cultures are social collectives, and social collectives are always composed of individuals, they can act only through the actions of their components and claim their rights only through their individual members.

Thus, the whole concept of collective rights is built on false premises, because the development of cultures is also attained through the work, interaction, and ideas of the individual members of the culture, and in the end their demand for their particular rights.<sup>15</sup> If individual rights truly were equally promoted and respected, there would not be any need for special protection of minorities and other disadvantaged social entities. Promotion of collective rights does not mend the existing social injustices. Instead it opens the door to further suppression of individual rights in the name of the common good. In a manner of speaking collectivist rights tend to turn into privileges for certain groups in communities, whereas individual rights are there to protect all the members of different types of communities.

## **Conclusion**

The logical and practical impossibility of collective rights does not mean that we have to reject all collectivist values as such. Neither does it mean that all the features of individualism would in themselves be desirable. After all, although the logical invalidity of relativism opens up a door toward global bioethics, it does not directly provide us with an indisputable set of norms. Instead, it guides us toward shared values by showing that even if we were supporting relativism we would have to agree that there are some rights for autonomy, whether individual or collective, that we are ready to see as universal. Thus, there appears to be universal demand for tolerance and equality among different cultures.

Individualist liberals, however, should keep in mind that when individuals' autonomy and tolerance are promoted within a multicultural society, cultural identities are usually based on communitarian social structure. In other words, individuals tend to adapt to particular, already existing sets of

values and communal ethics. This means individuals often choose between the competing value systems per se instead of taking the trouble to critically evaluate different sets of values of different cultural traditions, choosing the morally most desirable values and practices and through this process building their independent and individual moral identity. When people choose value systems or cultural identities as such they choose collectively for their communities. When they choose different features from different systems they choose independently for themselves.

Collective rights may lose in their logical plausibility to individual rights. This, however, does not mean that collectivist cultures as a whole are somehow inferior to individualist ones. In fact, if we evaluate some practices within a particular cultural context against the ethical standards we now share, that is, tolerance and equality, we note that we have no basis on which to condemn an entire culture based merely on the existence of its particular less-desirable features or practices. Instead, we need to distinguish between "collective" and "oppressive" as well as between "individualist" and "individual-respecting," much as either individualist liberals or collectivist traditionalists may distrust such contrasts. If we talk about collectivism within a patriarchal community that oppresses women, usually women's rights to equal distribution to resources or to make decisions for themselves and for their children are denied. In a culture in which families are democratic and caring units of social cooperation, however, solidarity in allocation of scarce resources and shared responsibility in time of trouble may contribute to the health of individual members (men, women, children) of the community.<sup>16</sup> Whereas a community- or family-centered way of life is oppressive in patriarchal societies, in societies that are committed to equality, sharing one's duties and problems with others has positive effects on both public and individual health. By contrast, in an extremely individualist society, in which egoism and indifference replace social support, individuals' well-being may suffer as well.

In the quest for universal protection of human rights, the main challenge is to rise above the relativist trap and to promote individuals' rights with cultural sensitivity. All countries need to enforce laws that interfere with the practices that are unjust and cause harm to individuals. In the same manner international law has to recognize that not all traditions are equally acceptable. Enforcing law, however, does not mean disrespect toward a particular culture. Quite the contrary, treating everybody, whether as individuals or as representatives of wider social entities, the same in front of the law and by the law shows respect for equality and integrity among individuals and among nations.

## Notes

<sup>1</sup> The African Charter on Human Rights (or Banjul Charter) from 1984 included collective rights and social duties on its normative political agenda. Most African countries have followed the Banjul Charter rather than the UN Charter when adding the Bill of Rights in their constitutions, thus leaving room for the suffocation of the individual rights in the name of the common good or communal duties.

- <sup>2</sup> On the main point of communitarian argumentation, see Mulhall and Swift 1992; on communitarianism in medical ethics, see Kuczewski 1998; and on the African view, see Wiredu 1996.
- <sup>3</sup> On the liberal concept of justice, see Rawls 1971, 1994, as well as Kukathas 1992.
- <sup>4</sup> On problems of subjectivism, see, for instance, Hellsten 1999.
- <sup>5</sup> In general, however, it is now globally recognized that this practice is in general maintained by social coercion, pressure, and social subordination of women. Because of the direct physical harm caused by FGM, this particular tradition is now more and more widely considered to be a violation of human rights. In other words, it is legally justified to try to stop or change the practice of this cruel, culturally tied tradition. See also Hellsten 1999.
- <sup>6</sup> Cook 1995; Heise 1995; Jones 1999; McFadden 1992; Mlawa 1998; also UNICEF 1995, 4–54.
- <sup>7</sup> Let us take an example of how liberal promotion of the same standards everywhere and insensitivity to social influence can reinforce existing structural discrimination and injustice. One attempt to promote maternal health and women's position in a society has been to establish a system of maternal benefits. The idea of maternal benefits and child allowance is to secure women an economically more independent position. For such a proposal to succeed, however, the society in which it is adopted has to have already adopted the liberal concept of justice and has to be committed to enhancing women's rights. Although the idea in itself promises more equality to women, importing it and applying it directly to a male-dominated culture may create serious problems in practice. In a society in which patriarchal attitudes remain, providing maternity benefits can sometimes weaken rather than improve women's position: to get the benefits men pressure women to have more children, and the money is controlled by the men, making women more rather than less dependent. The practical conclusion might easily be that it is better not to promote women's rights in these societies, but to take an alternative approach to improve women's health. This conclusion, however, is a setback to international human rights protection as well as in the quest for a global bioethics.
- <sup>8</sup> Wolf 1999.
- <sup>9</sup> See, for instance, Wolf 1999.
- <sup>10</sup> MacKinnon 1998.
- <sup>11</sup> On the problems of the global protection of women and women's rights, see MacKinnon 1998; for factual examples, see McFadden 1992, Mlawa 1998.
- <sup>12</sup> MacKinnon 1998.
- <sup>13</sup> See, for instance, Hellsten 1999.
- <sup>14</sup> The internal controversy of moral relativism is explained in depth in Williams 1992.
- <sup>15</sup> The problem of cultural rights is discussed in more detail in Hellsten 1999, Kukathas 1992.
- <sup>16</sup> Cheng, Wong, and Yan 1998; Nakata, Goto, and Morita 1998. This collectivist, family-centered decision-making model is sometimes also called familism or communalism in Africa (see Wiredu 1996, 71–73, 114–119).

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