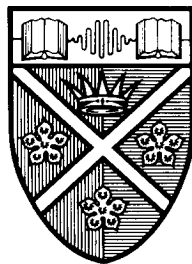


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*LEGISLATING AGAINST FEMALE
CIRCUMCISION: SOCIAL REFORM
OR PLACEBO POLITICS*

Elise A. Sochart

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LEGISLATING AGAINST FEMALE CIRCUMCISION : SOCIAL REFORM
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Copies of the Prohibition of Female Circumcision Bills and Act reproduced with permission of the Controller of H.M.S.O.

1. INTRODUCTION

As most serious observers of the legislative process are aware, proceedings "on the floor" of Parliament are but the tip of the iceberg. They may tell us little about how or why an issue arrived on the political agenda; the reasons for the particular policy response contained in the bill; or indeed about the nature of the bargaining and negotiations which may have preceded the introduction of the legislation. In many respects the Parliamentary "arena" may be of merely symbolic significance (Richardson and Jordan, 1979), yet on some occasions, for particular types of issues, Parliament may achieve greater significance (Jordan and Richardson, 1982).

It is always difficult to trace, with confidence, the precise origin of a particular issue, or of a particular piece of legislation. In this case, however, there can be no doubt that Lord Kennet succeeded in placing what had been a gradually evolving issue, firmly on the "formal" political agenda - the issue being the practice, in Britain, of the mutilation of the female sexual parts, known generically as "female circumcision".

As is often the case, particular individuals play a key role. In this case Lord Kennet was a central actor in the long process by which the legislation finally reached the Statute Book on 16 July 1985, as the Prohibition of Female Circumcision Act (Elizabeth II, 1985, Ch. 38). He first took up the cause in Parliament by introducing in March 1983, as a Private Members Bill in the House of Lords, the first Prohibition of Female Circumcision Bill. He was much involved at every stage of the subsequent legislative process - although it was accorded to Mrs. Marion Roe, Conservative MP for

Broxbourne, to present, in the House of Commons, the bill which did eventually reach the Statute Book in July 1985. (see Appendix 4) In the presentation of this Bill, Mrs. Roe was supported by Mrs. Ann Clwyd, Labour MP for Cynon Valley; Mr. David Crouch, Conservative MP for Canterbury; Mr. Clement Freud, Liberal MP for Cambridgeshire North; Ms. Jo Richardson, Labour MP for Barking and Mrs. Ann Winterton, Conservative MP for Congleton - thus underlining the fact that the legislation had all party support.

Certainly this case-study is unusual in that it deals with an issue of great personal, moral and political sensitivity. Indeed all those involved in this particular piece of legislation were, from the outset, in agreement with the principle that the practice of female circumcision was abhorrent and should be prohibited in Britain. The highly controversial emotive and sensational nature of the practice which the Bill set out to prohibit - allied to the equally highly controversial, protracted and chequered career (in the face of such apparent consensus on the issue) which each successive attempt at legislation encountered within the three Parliamentary sessions (1982-83; 83-84; 84-85) - suggests that this particular case-study may be rather unique and atypical of the general bulk of legislation.

Yet even this rather unique legislative initiative does not preclude it from being used to illustrate the procedures and aspects common to the passage of all legislation and policy - such as the need to secure the support of professional groups, and the involvement of a rather wide network of interests. (see Appendix 5)

In particular, it is intended to examine in some detail -

- a. how a problem reaches the political agenda - the emergence of issues.
- b. how support and opposition is developed both within and outside Parliament - the techniques of persuasion.
- c. the influence of the media - much depends on the climate of opinion.
- d. how interest/pressure/spokesman groups can influence legislation - "the rule is that affected interests have the right to be consulted". (Jordan and Richardson, 1982, p. 91).
- e. the ultimate power of the Government of the day to succeed in carrying through their wishes by their constitutional right to arrange the timetable and by the judicious use of other parliamentary conventions - "conventions delineate the flow and strength of political power in constitutional relationships" (Judge D. 1984).
- f. the degree to which the legislation may have merely been a means of allowing the Government "to be seen" to be dealing with the problem - in effect a form of "placebo" legislation which succeeds in removing the problem from an already over-crowded agenda and from the public interest. (Richardson and Jordan, 1979).

2. The Practice and Implications of Female Circumcision

Before discussing the processing of the issue in the above terms, it is necessary to explain the actual practice and implications of female circumcision and how it came to the apparently unwilling attention of the Western world.

"Sexuality remains for many of us an obscure area, mixed with cultural taboos, loaded with anxiety and fear. This is one of the reasons why the subject of genital mutilations provokes violent and emotive reactions, both from those in the West who are shocked and indignant, and from those in Africa and the Middle East who are wounded when the facts are mentioned, and prefer to minimise the quantitative importance of the practice." (Minority Rights Group, 1980, p. 3).

The following facts and quotations are taken mainly from the Minority Rights Group Report No. 47. FEMALE CIRCUMCISION EXCISION AND INFIBULATION: the facts and proposals for change The Minority Rights Group (MRG) is an international research and information unit registered in Britain as an educational trust. In order to further its principal aims of securing justice for minority or majority groups; preventing the violation of human rights; and fostering international understanding, the MRG commissions and publishes reports on specific problems, in order to promote greater public awareness and understanding of the subject.

There are three main types of mutilations carried out under the term 'female circumcision'....

1. SUNNA (the only true form of circumcision) - this involves the cutting away of the clitoris.
2. EXCISION - the cutting away of the clitoris and of all or part of the labia minora.
3. INFIBULATION - the cutting away of the clitoris, labia minora and at least the anterior two-thirds and often the whole of the medial part of the labia majora. The two sides of the vulva are then pinned and sewn together, thus obliterating the vaginal introitus except for a very small opening. These operations are done with special knives (in Mali, a saw-toothed knife), with razor blades (in the Sudan with a special razor), or with pieces of glass.

In Africa these operations are traditionally performed by "old women" of the village (Gedda), traditional birth attendants (Daya), or even, on occasion, village barbers.

In recent years in countries such as Egypt, the Sudan and Somalia there have been reports of female circumcision being performed by qualified nurses and doctors - and in other countries some mutilations are carried out in hospitals in urban areas. The age at which the mutilations are carried out can also vary from area to area - from a

few days old, to seven years old, to adolescence - and in some areas are performed just shortly before marriage.

Except in hospitals, anaesthetics are never used. There can be immediate complications such as haemorrhaging in which death can only be prevented if blood transfusions and emergency resuscitation are available. Since the operation tends to be concealed from the authorities, only a very small proportion reach hospital in time, if at all. There can also be long-term medical complications, dependent on such factors as the severity of the mutilation, the prevailing and on-going hygienic conditions, the skill of the operator, and the struggles of the child during the operation.

It is also necessary to examine and consider the motives for, and functions of, the custom of female circumcision within their original historical/geographical/cultural and sociological context - as without doing so, it would be impossible to reject the criticism of unwarranted interference based on ethnocentric judgement.

It would appear that the practice of female circumcision (infibulation and excision) was widespread in the pre-Islamic era, in Egypt, Arabia and the Red Sea coasts. Today, the countries in which genital mutilation is practised number more than twenty in Africa - forming an uninterrupted belt across the centre of the African continent, then expanding up the length of the Nile.

According to the MRG report, there are four main groups of reasons given for the custom and practice of female circumcision - psycho-sexual; religious; sociological and hygienic - each group of reasons being at odds with biological facts.

- (i) Psycho-sexual - the most frequent reason given for the practice of female circumcision (excision) is that it is believed to protect a woman against her over-sexed nature, saving her from temptation, suspicion and disgrace whilst preserving her chastity. In Somalia the association of mutilation with pre-marital chastity is so strong that a non-excised girl, regardless of her virginity, will stand little or no chance of marriage - and may even be forced to leave her community. But if the intention of the operation is to diminish a woman's desire, from a medical point of view, desire is a psychological attribute and therefore what has been diminished is not desire but sensitivity of the clitoris.

If the reason given for infibulation is to provide proof of virginity and to prevent immorality then in practical terms it has been pointed out that re-infibulation (if one can stand the pain) can easily be done to look like the original, whereas a ruptured hymen is more difficult to repair.

- (ii) Religious - excision and infibulation has frequently been carried out in the genuine but mistaken belief that it was a required Islamic custom. The Mufti of the Sudan, Skeikk Ahmed El Taher reviewed the subject in 1946 and stated that there was no implicit obligation - but in many countries the Moslem population still consider a non-excised women to be "impure" in a religious sense - indeed in Mali the word for excision is Seli-ji (ablution).

In 1979, in Cairo, at a seminar organised by the Family Planning Association, a commission of religious leaders emphasised the absence of religious foundation for the custom.

- (iii) Sociological - excision and/or infibulation were practiced in areas such as Northern Sudan, Kikuyu in Kenya, Tagonora in the Ivory Coast and Bambara in Mali as part of the initiation rites marking the entry into adulthood, accompanied by traditional songs, dances and chants to teach the young girl her future duties. Gifts, new clothes, special food, a great deal of attention and a new and higher status of "marriageable woman" were conferred upon the girl.

But today, in many of these societies the mutilation takes place at a far earlier age; the ceremonial aspects have dwindled and there would no longer appear to be any functional or symbolic value to the operation as there had once been in traditional society. Thus the physical pain and the psychological damage caused by the mutilation is now far greater and harder to bear.

- (iv) Hygiene and aesthetics - in Egypt, Somalia and the Sudan, uncircumcised girls are considered "unclean" - the aim of infibulation is to produce a smooth skin surface and certainly when questioned about the operation, most women insisted that it made them "feel" cleaner. Yet having described the operation it is obvious that infibulation clearly has the opposite effect.

3. Emergence of Issues

As immigrants began to arrive in Britain from her former colonies in East and West Africa it would be strange indeed if the practice of female circumcision were not to be found in Britain. Of specific relevance and interest to the British public, the British political agenda, the British Government (especially the Ministry of Health and Social Security) and therefore the purposes of this paper, is the fact that infibulation is reported to affect nearly all of the female population of Somalia - and Britain in 1983 had a relatively well-organised, closely-knit immigrant Somalian community of approx. 5,000 people. (see below)

The Anti-Slavery Society for the Protection of Human Rights (A.S.S.) had for many years been campaigning against the practice of female circumcision in Africa. The ASS concentrated on the health aspects of the practice, and attempted, through women's organisations in Africa, to provide appropriate educational material in order to develop a change in attitude towards the practice at grass-roots level. As the issue began to emerge in Britain, the ASS did feel that legislation to prohibit the practice in Britain would act as a statement and example to the rest of the world.

It has only been in the last few years that the subject of female circumcision has begun to be discussed openly. Indeed it has been asserted that a "conspiracy of silence" has surrounded the subject, preventing discussion and action at both national and international levels. In 1958 the World Health Organisation (WHO) was asked by the Economic and Social Council of the United Nations (ECOSOC) to consider the subject. The Twelfth WHO Assembly (1959) declined to do so on the grounds that "the ritual operations in question are based on

social and cultural backgrounds, the study of which is outside the competence of the World Health Organisation".

Although in July 1961 WHO did adopt resolution 821 II (XXXII) (put forward once again by ECOSOC) calling for a study on the subject of female circumcision, nothing happened for nearly twenty years. In 1975 Fran P. Hosken, by profession an architect/planner and international journalist, founded the Women's International Network (WIN) and published and edited WIN News. In this quarterly journal she took up the issue of female circumcision. Using her professional and academic contacts, she mobilised people in the Western World to write to WHO expressing their concern about the practice of female circumcision. Persistent lobbying was certainly instrumental in stimulating WHO to sponsor the 1979 Khartoum Seminar on "Traditional Practices Affecting the Health of Women and Children."

After the WHO Seminar, at which ten African countries participated and recommended the "adoption of clear national policies for the abolition of female circumcision", discussion began to take place on the international scene. UNICEF, WHO and other agencies and commissions of the UN began to debate the matter.

Reports of genital mutilations now began to appear from many unexpected parts of the world. Women in Sweden were shocked by accounts of mutilations performed in Swedish hospitals on daughters of immigrants - indeed it had been at the insistence of the Swedish public, that the Swedish delegation had raised the subject of female circumcision at the 1980 World Conference of the United Nations Decade for Women held in Copenhagen. By 1982, legislation prohibiting female circumcision in Sweden had been passed (S.F.S. 1982 : 316 1:7:82).

4. Setting the Agenda in Britain

In 1980, the MRG report on the subject of female circumcision (edited by Scilla McLean) was so successful in stimulating interest on the subject that the Womens Action Group on Excision and Infibuation, (WAGFEI) was set up under the auspices of the MRG. The group was co-ordinated by Stella Efua Graham from Ghana, a trained nurse, and Scilla McLean. The group, composed of African and Arab women, met in the offices of the MRG and their main aim was to promote education on female excision and infibulation, by encouraging nationals, from the countries where the practice existed, to commence research and health education projects in order to combat the practice. Between July 1981 and March 1982 WAGFEI presented evidence on the prevalence and practice of female circumcision (especially in Somalia) to the UN Sub-Commission on the Protection of Minorities, and also to the Commission on Human Rights.

Like the A.S.S., WAGFEI recognised that "media-hype" might make it more difficult for the countries concerned to accept or understand the interest shown by the Western World. Indeed Jomo Kenyatta had made resistance to the elimination of excision one of the planks of his national liberation campaign - portraying female circumcision as a symbol of community/national identity, and any efforts of elimination as colonial attempts to weaken and destroy traditional society. (Kenyatta, 1975).

However, WAGFEI began to recognise the need for African women to educate the Western public by presenting the subject in the right context. Their members began to give lectures - in November 1981 to the Oxford African Society and on Irish Radio's programme 'Women

Today'. In March 1982 they addressed the Liverpool University Conference on Women and Development and in April 1982 an article entitled "Female Torture" written by Stella Efua Graham, appeared in The Guardian's Third World Review (2:4:82). Thus by 1982 the subject had become topical in the women's movement in Europe.

In May 1982 the first step was taken which would eventually set the issue of female circumcision firmly on the British political agenda. Having read the MRG Report Lord Kennet and his wife, Elizabeth Young, wrote to Stella Efua Graham offering their support to WAGFEI and requesting any further information available.

In June 1982, Lady Kennet sent a donation to WAGFEI, and Lord Kennet, after consultation with Ben Whitaker the Director of MRG, tabled two Parliamentary Questions for Written Answer.....

1. "To ask Her Majesty's Government what bi-lateral or multi-lateral aid programmes supported by them positively educate people against the practices of female circumcision, excision and infibulation and whether any relevant programme in the relevant countries deliberately refrains from doing so."

Lord Belstead, Minister of State Foreign and Commonwealth Office replying stated that "On a bilateral basis Her Majesty's Government have no specific projects to educate people against these practices. Multilaterally, the United Kingdom supports the World Health Organisation, the United Nations Childrens Fund and the International Planned Parenthood Federation, all of which regard female circumcision as an unnecessary and dangerous practice... I am not aware of any programme deliberately refraining from disseminating information on the subject."

2. "To ask Her Majesty's Government whether medical and nursing people who are trained in this country and likely to serve in countries where the custom of female circumcision, excision and infibulation exist, receive any teaching on the subject, and if so what."

Lord Treigarne, Junior Health Minister, replying stated that "Doctors and nurses are trained in this country primarily to meet the needs of patients in this country where the practice referred to by the noble Lord are deprecated unless performed for purely

medical reasons. For doctors and nurses going overseas who require training specifically related to these practices, it would have to be arranged specially."

From this date on it is fair to claim that the process of "agenda-setting" had begun - "the process by which conflicts and concerns come to receive governmental attention and thus the potential for action by the public sector". (Nelson, 1978, p. 19).

Throughout 1982, Lord Kennet became more involved with promoting the aims of WAGFEI. Through a "snowballing" process, contact was made with those most intimately affected by female circumcision in Britain. For example the Somali Women's Association (SWA), part of the Somali London Community and Cultural Association (SLCCA), headed by Shamis Dirir, provided Lord Kennet with a greater insight into the prevalence of the practice of female circumcision in Britain.

Lord Kennet had discussions with representatives of MRG, WAGFEI, SWA, ASS and The Commission for Racial Equality (C.R.E.) and came to the conclusion that there was a growing need to make the practice of female circumcision in Britain an offence. He also made contact with the medical profession to consider their views on the subject.

5. Influence of the Media

Several other events in 1982 also served to promote greater public and political concern and awareness. Just as Lord Kennet was leading up to political debate on the practice, so too, public debate was fostered by media-coverage of certain events of significance. In this case, the sexual nature of the issue meant that media attention was likely to widen debate and that the issue would, as a result, acquire greater political salience.

For example, The Times of July 24th, 1982, carried a report from Paris, that a three-month old girl, whose parents were from Mali, had bled to death in Paris as a result of an excision performed by a friend of the family. The Times of October 6th 1982, published a further report of yet another Malian in Paris who had been found guilty of "involuntarily wounding his three-month-old baby by cutting off her clitoris".

On October 10th 1982, an article appeared on the front page of The Observer naming a Harley Street doctor, Dr. Sunit Ghatak, who had admitted to The Observer that he had carried out the operation/mutilation on two of his patients - both of whom had come from Nigeria to have the operation carried out in a private London Medical Clinic. Dr. Ghatak estimated that although he personally carried out about one clitoridectomy a year, at least a dozen a year were carried out in London - (although other estimates put the number far higher.)

Dr. Ghatak also stated that he did not encourage the operation "because there is no medical reason or advantage. But if someone comes in because of suffering, depression and all that - then we do it." One of his two patients had been brought by her husband because she had not conceived and the couple believed it was because she had not been circumcised. The other patient was brought because both she and her husband felt that she had had to have her first baby delivered by caesarian section because she had not been circumcised as a child. Yet many British doctors, faced with the dilemma of delivering babies of women who have been infibulated, tend to do so by caesarian section rather than cut open the stitches and then face the demand for "re-

infibulation", seen by the family as "repair to damage". Dr. Ghatak did say that "if the Royal College of Obstetricians (RCOG) asked him not to carry out any more such operations..... he would have to take the request seriously."

The article also stated that in September 1982 President Moi of Kenya had decreed a nationwide ban on female circumcision after fourteen girls had died following the operation. This was indeed a major step forward considering the stance of his predecessor President Jomo Kenyatta.

The Observer article emphasised that, (a) female circumcision was banned in Kenya and the Sudan and yet was not illegal in Britain, (b) the Royal College of Obstetricians (RCOG) described it as "barbaric, futile and illogical", (c) the British Medical Association (BMA) considered it "ethically unacceptable", (d) although not illegal, the Department of Health and Social Security (DHSS) had said that "disciplinary action could be taken by the General Medical Council (GMC) against practitioners who carry out this operation for non-medical reasons", (e) UN officials had been "shocked to learn yesterday that such operations were being carried out in London."

This article, mentioning as it does, the BMA, GMC, RCOG and the DHSS, introduces another group of political actors with an interest in this issue - the largely self-regulating groups of the medical profession, as well as the responsible Department - the DHSS. Thus we see that the issue of female circumcision carried with it a somewhat extended policy network - varying from "outsider" groups to well established "insider" groups representing the medical profession.

Like all Ministries, the DHSS has to rely greatly on professional associations for technical expertise and information within their specific fields. Thus, after many years of consultation, the RCOG (along with the BMA and GMC), could be considered one of the "insider" interest groups forming part of the relatively closed medical "policy community" associated with the DHSS. Given their long-standing "clientele" relationship with those officials actively concerned in all health-related policy issues, it is reasonable to assume that the advice given by any/all of these "insider" groups would carry great weight in matters affecting medical practices, morals and ethics. It was always likely that the 'medics' would be regarded as the inner core of the larger network of groups which might be consulted by Government on this particular issue.

The Observer article also led to a question being asked in the House of Commons by Mr. William Hamilton, Labour MP for Fife Central. Mr. Hamilton asked the Secretary of State for Social Services "whether he will introduce legislation to make unlawful the practice known as female circumcision." (H.C. Deb. 9/11/82, c. 132). In reply Mr. Kenneth Clarke stated "I fully share the abhorrence of this practice which has been expressed by a number of representatives of the medical profession..... Unethical practices by doctors are a matter for the General Medical Council to consider, and we have written asking the Council, what action, if any, it proposes to take.... We shall consider urgently, in the light of its reply, whether any additional steps are needed." Thus, just as Mr. Hamilton was playing a typical "scavenger" role in picking up this issue, so too the Minister's response was equally typical - that this might be a matter best left to a largely self-regulating profession to deal with.

The Observer followed up this article with others, and in the last few months of 1982 articles and letters on the subject appeared in The Guardian, The New Statesman, The Times, The Economist, Newsweek and also several local (mainly London) newspapers.

In December the RCOG issued a brief statement on the subject of female circumcision.

"...The Fellows and Members of this College find the practice abhorrent and wish to condemn it even though it is a very infrequent occurrence here. The College has no jurisdiction over the way in which doctors practice medicine, including its own Fellows and Members. Instead of pressing for legislation to make the operation illegal, because there are legitimate medical reasons for it, including malignant disease, the College has chosen to bring pressure to bear, in such a way as is possible, on an individual basis."

It is interesting to note that both the ASS and WAGFEI had been trying for over eighteen months to get a statement on the subject from the RCOG - yet after only two months of media coverage and enquiry, a statement, although very bland, was produced, once there appeared to be a threat to self regulation.

6. The Techniques of Persuasion/Orchestration of Support.

By January 1983, Lord Kennet was preparing a draft version of a Bill to be put before the House of Lords. To this end he sought advice and support from all those actively concerned in the matter both inside and outside Parliament.

Lord Kennet had many colleagues with relevant practical medical knowledge whom he could consult regarding the drafting of his bill - and throughout the opening months of 1983 he particularly consulted and received the support of Lord Rea, (Labour) M.A., M.D., M.R.C.G.P.,

D.P.H., D.C.H. and Baroness Cox, (Conservative) B.Sc., M.Sc., S.R.N., at the time, Director, Nursing Education Research Unit, University of London and Director, Centre for Policy Studies. It is interesting to note that all-party co-operation on the subject was already forthcoming.

Lord Kennet also wrote to the DHSS seeking its advice and communicating his intention to introduce a bill to prohibit female circumcision. He also invited attendance of a departmental representative at a meeting being held on February 9th to discuss the proposed bill. Supporters of the bill from all parties in the House, representatives of the Royal College of Nurses (Rcn), the RCOG, as well as representatives of the A.S.S. and MRG/WAGFEI, attended the meeting, but the Department did not send a representative.

However, Lord Trefgarne, Joint Parliamentary Under-Secretary for State, DHSS, did write to Lord Kennet, stating "On balance our view is that the control of this practice is probably best left to the medical profession itself, rather than being tackled by legislation. We have raised the matter with the General Medical Council which is, I understand, now considering it". This is a good example of "the strong desire to avoid action that might challenge well-entrenched interests" (Jordan & Richardson, 1982) and also of a style which generally dictates that "policy initiatives/amendments are 'cleared' with.... the client groups outside the bureaucracy." (ibid. 1982).

Outside Parliament, the medical interest groups - the RCOG and the BMA - had issued statements condemning the practice of female circumcision (for non-medical reasons). The ethnic sectional interest groups, WAGFEI and SWA, had widened their network with the

support of the Minority Rights Group and the Anti-Slavery Society and had acquired influential political champions of their cause at both central and local government levels. Through the support of Lord Kennet they had acquired access to the formal political arena and to the legislative machinery. Through the support of the Women's Committee of the Greater London Council (GLC) (there was a large Somali community in the Borough of Tower Hamlets,) a resolution had been passed to make a GLC grant of £1,761 to WAGFEI and to communicate the GLC's condemnation of both the practice and teaching of genital mutilation in Britain to the DHSS and the BMA.

The British press had already shown an interest in the subject. In December 1982, Lord Kennet learnt from the A.S.S. that a BBC production team was making a documentary "Female Circumcision in the Sudan". Lord Kennet contacted the producer of the film and, on discovering it was due to be screened on 3 March 1983, decided to introduce his bill for First Reading the day before, and to use the press conference he was holding to announce his bill to also draw attention to the programme the following day - thus maximising public interest in the issue.

Thus the presentation of the Bill (for First Reading), sponsored by Lord Kennet (SDP) and supported by Baroness Cox (Conservative), Baroness Ewart-Biggs (Labour), Lord Rea (Labour Cross-Bencher), Baroness Seear (Liberal), and Baroness Vickers (Conservative), was reinforced by the screening of the BBC documentary which shocked many people who had previously been unaware of the practice. This set the climate of opinion, both inside and outside Parliament, firmly in favour of legislation to make the practice of female circumcision in Britain an offence.

Debate commenced once more in the columns of the national press and also in the columns of the specialist medical publications including The British Medical Journal, Doctor, Lancet, Nursing Mirror and Nursing Times. The issue was now perceived as relevant, not only to doctors, but also to nurses, midwives and health visitors all of whom could be involved in the issue. There were thus early signs that the number of groups interested, or potentially interested, in what had seemed an obscure issue might be unmanageable, and that any legislation might reflect the need to gain the support of certain key groups at the expense of others. A paradox began to emerge whereby the needs of placing what might be thought to be an esoteric issue on the agenda, and keeping it there, necessitated the mobilisation of as many interests as possible, yet the larger the network of groups involved the more likely it was that the issue might be difficult to 'close' in a manner satisfactory to the reformers (Heclo, 1978).

In Parliament eighty-nine members signed a House of Commons Early Day Motion (No. 359 Female Circumcision), which appeared on 16th March 1983....

"That this House congratulates the British Broadcasting Corporation on showing the film "Female Circumcision".... and calls on Her Majesty's Government through the United Nations, World Health Organisation and the European Commission to give the strongest possible support to bring this offence against human rights to an end and to make it illegal for doctors practicing in the United Kingdom to carry out female circumcision on girls living in the United Kingdom or brought to the United Kingdom from abroad."

As the date for the Second Reading of the Bill in the House of Lords approached (April 21st) which would then allow full scale debate on the broad principles of the Bill, Lord Kennet continued to consult

and orchestrate support from all interested parties both inside and outside Parliament.

Letters of public support arrived at Lord Kennet's office, and he advised each correspondent to write to their MP about the matter and/or to the Secretary of State for Health and Social Security. Many voluntary and professional organisations including the National Council of Women of Great Britain, (NOW) The Fawcett Society, and the Josephine Butler Society, also wrote to Lord Kennet conveying their members distress at the thought of the practice of female circumcision/genital mutilations being performed in Britain - and all applauded Lord Kennet's legislative initiative and offered their support. Thus publicity not only guaranteed the issue's place on the political agenda - but also served to extend the policy network in the manner suggested by Heclo (1978, p. 105-106) - "More than ever policy-making is becoming an intramural activity among expert issue-watchers, their networks, and their network of networks".

On March 24th Rustam Feroze, President of the RCOG, issued a statement in response to the Draft Bill. While stating that the RCOG gave "full support to any measures which will help eradicate what it regards as a repugnant and unnecessary procedure", (my emphasis) it added the rider that "it is seriously concerned at the effect that the Bill, as drafted, will have on normal medical practice." Fourteen normal procedures were cited that would, under Lord Kennet's Bill, require two practitioners to certify them as being medically necessary and would also necessitate complex notification, documentation and administration which would, in the opinion of the RCOG, "interfere with the proper practice of medicine." The final paragraph stated "The Council of the Royal College of Obstetricians and Gynaecologists

is opposed both to the practice of female circumcision on traditional grounds and to the Bill in its present form."

Meanwhile, among the other medical interest groups, the BMA, The Royal College of Nursing (Rcn) and the Royal College of Midwives (RCM) appear to have accepted and supported the broad principles of the Bill. The humanitarian interest groups namely the A.S.S, MRG, the Fawcett Society and the Josephine Butler Society supported the Bill as did the National Council of Women (NOW) and the National Federation of Womens Institutes, as well as ethnic minority sectional interest groups such as WAGFEI and SWA.

Within the House of Lords there were many members already aware of, and concerned about, the practice of female circumcision, through their professional careers. The medical interests of Baroness Cox and Lord Rea have already been mentioned. To their names must be added Baroness Seear, through her role as President of the Fawcett Society (a society formed in 1866 in order to campaign for equality between the sexes), and the Baronesses Gardner, Jeger, Masham, Trumpington and Vickers would have a special interest in the issue as, amongst other relevant experience, each had served a period as U.K. delegate to the UN Status of Women Commission. Outside the women's movement, Lord Hatch of Lusby had been declared a prohibited immigrant and deported from Sierra Leone in 1962 on account of an article he wrote in The New Statesman stating that female circumcision still took place in that country. Lord Brockway, a strong advocate of colonial freedom, while supporting the African demand for independence in the 1950s, had had to face the moral dilemma caused by Jomo Kenyatta's stance on female circumcision.

Lord Kennet also instituted a computer search regarding members special interests. Resulting from the search, 104 of those listed as having special interests in, and/or professional career experience of, medical, childrens, womens and immigration issues were sent a letter with a copy of the draft Bill and the original Press release.

The Second Reading took place on April 21st 1983. (Hansard, Lords Vol. 441, Col 673-697). While moving "that the Bill be now read a second time" Lord Kennet made mention of the "reservations" of the RCOG about the procedures set out in the Bill, but stated that the President of the RCOG and officers of the BMA had agreed to meet with him in order to discuss how the Bill could be improved. From this meeting, amendments could be introduced at the Committee State of the Bill. Lord Kennet again invited the DHSS to attend these meetings.

Lord Trefgarne, Joint Parliamentary Under-Secretary of State, DHSS, on behalf of the Government stated that "...the Government would, I fear, be unable to accept the Bill in its present form". He added, "the requirement to obtain a second opinion when legitimate operations are to be performed, and to give notice of these operations would in our view represent a serious interference with legitimate medical practice". It is to be noted that this is the same view expressed in the RCOG statement of 24/3/83 - a sign perhaps of the "symbiosis between bureaucrats, groups and policy professionals ... matched by the desire of politicians to reach consensus and avoid conflicts." (Jordan & Richardson, 1982, p. 10).

Lord Treigarne did however acknowledge the case for a firm statement, enshrined in legislation, which would put the illegality of the practice of female circumcision for ritual and cultural reasons,

beyond any possible doubt. In essence therefore "the Government was not opposed to the Bill at this stage and was prepared to participate in further discussions - but would not "guarantee time for the Bill in another place".

Although all those participating in the Second Reading accepted the broad principles and commendable intentions of the Bill, there was tacit acknowledgement that there were 'justifiable' criticisms of the finer details of the Bill. Nevertheless, it was agreed that the Bill should go to a Committee of the Whole House.

However, there had been a particularly intriguing contribution made during the Second Reading by the Lord Chancellor, Lord Hailsham. Speaking in his capacity as Lord Chancellor, on a matter of legal issue, and not as a member of the Government, he gave as his interpretation of the Offences Against the Person Act 1861 that anyone participating in the practice of female circumcision, unless for legitimate medical reasons, would be guilty under Sections 18 or 20 of the Act, of unlawful and malicious wounding or grievous bodily harm. When pressed for further clarification, the Lord Chancellor reiterated his belief that "in all circumstances except fairly rare cases where there are medical indicators this practice is already against the criminal law. Anyone who participates in it is liable to prosecution and severe custodial punishment, whatever the General Medical Council or anybody else may say."

This interpretation of the legality or illegality of the practice of female circumcision in Britain was certainly quite different from that previously offered on behalf of the Government in the House of Commons in November 1982 - and gave rise to further press coverage.

In the House of Commons on 28 April 1983, in reply to a written question by Mr. Clement Freud asking "The Secretary of State for the Home Department if he will state the number of people prosecuted under Section 18 of the Offences Against the Person Act 1861 for carrying out the practice known as female circumcision since 1960" - the Written Answer provided by Mr. Mayhew was "the information collected centrally does not separately identify cases involving female circumcision". Lord Kennet had in fact contacted Mr. Freud before the Second Reading, as he had been informed that Mr. Freud might be interested in taking up the Bill in The House of Commons.

7. Consultation /Negotiation outside the House - Debate within the House

Throughout April, Lord Kennet communicated with the BMA, RCOG, Rcn, RCM and the DHSS in an attempt to refine the wording of the Bill and satisfy the criticisms of those concerned. On April 7th the BMA wrote to Lord Kennet offering their assistance in amending Section 2 "in order to ensure that the Bill's purpose is carried out effectively." The BMA also wrote to the DHSS confirming their position on Lord Kennet's Bill. The Association stated that -

"It is unacceptable to the BMA that a woman should be able to come to this country and obtain or undergo a mutilating operation which may be illegal in her country of origin. While we believe that there are drafting problems with Section 2 of Lord Kennet's Bill we wish to encourage the Government strongly to ensure that adequate time is made available for the Bill's consideration. We hope that any amendments put forward by the Government will be co-operative and constructive; reinforcing the purpose of the Bill, rather than diluting its impact in any sense."

Lord Kennet produced a revised Bill by the end of April and again attempted to arrange a meeting at which representatives of the

BMA, RCOG, Rcn, and DHSS could be present. This meeting, scheduled for 27 April, fell through for one reason or another. However, Lord Kennet sent his revised draft, incorporating the amendments that he proposed to move in the Committee Stage of the Bill, to the President of the RCOG (and to all those mentioned above).

After considering the revised draft, Rustam Feroze, President of the RCOG, wrote to Lord Kennet on 27 April, 1983 stating:

"... my College is not opposed in any way to a Bill to prohibit female circumcision on cultural, traditional or ritual grounds, although we are not convinced of the necessity for such a Bill in the United Kingdom. However, we are still concerned about the revised Bill. If a woman wishes to have part of a hypertrophied labium minora trimmed on psychological grounds we cannot see the necessity for two consultants in psychiatry to certify that the operation is necessary, nor would we feel it to be so in the case of pruritus vulvae which might have no obvious organic cause and may have a psychological cause. We would prefer therefore to see Clause 2(1)(b) deleted.

We cannot see why doctors recommending and performing operations on the vulvae, which are standard medical practice and have nothing to do with ritual female circumcision, should have to notify such operations to the Chief Medical Officer (or Secretary of State). We submit therefore that Clause 3(1)(a) should be deleted from the Bill.

Finally we think that it would clarify the intent of the Bill to add to Clause 1(1)(a) after 'any person' the words 'for ritual, cultural or traditional reasons'".

Lord Kennet replied that he was prepared to meet the suggestion on 3(1)(a) but would find 2(1)(b) more difficult to agree - and did not mention the suggestion as to Clause 1(1)(a).

The Bill was due to enter the Committee Stage for debate on 10 May. On 9 May the Prime Minister announced that a General Election would be called for June 9th and that Parliament would be dissolved on 13 May. It was obvious therefore that there would not be time for the Bill to pass through all its stages in both Houses and that it

would "fall". Despite the extreme bad luck of an election being called, Lord Kennet nevertheless continued to maintain some kind of momentum for his reform.

Thus, on 10 May, 1983 the Bill entered Committee for debate (Hansard/Lords/Vol. 442 col. 439-456) and the opportunity was taken to address some of the specific difficulties. Lord Hunter of Newington moved Amendment 1 on clause 1, to insert after 'person' on Page 1, line 7, 'for ritual, cultural or traditional reasons' which he felt would make it quite clear that "this is something quite different from normal medical practice." Indeed this wording had been suggested by the RCOG in a letter to Lord Kennet dated 29 April 1983. Lord Kennet, while acknowledging that "the amendment of the noble Lord, Lord Hunter of Newington is of course the reason for the Bill" (my emphasis), felt that it was still preferable to "define an action that was to be illegal unless certain defined persons declared positively that it was for the health of the patient" rather than placing the onus on the courts to decide whether or not the reason for a particular operation was enjoined by the culture or tradition of the patient. Lord Hatch also opposed the amendment as he considered the Bill, as drafted by Lord Kennet avoided "any ambiguity and any cultural offence" (my emphasis). Lord Treigarne, on behalf of the Government, tended to support the amendment proposed by Lord Hunter as he felt that it would then avoid the need for the "draconian policy arrangements" contained in Clause 2 and Clause 3. On balance, as most subsequent speakers also tended to feel it wrong to put the onus of decision on the Courts, Lord Hunter withdrew his amendment.

When discussion turned to Clause 2, Lord Kennet moved an amendment to replace "two registered medical practitioners, not being

members of the same practice" by "a registered medical practitioner". This would certainly appear to be an amendment due to consultation with the RCOG. Indeed, Lord Kennet referred to the discussions he had had (between the Second Reading and the Committee Stage) with the various medical bodies and the Government, and stated that he had accepted the view of the RCOG on the matter. The RCOG had also felt that this clause did not offer protection to midwives who might be faced with emergency cases of child-birth requiring episiotomy - but Lord Kennet felt that as "cut" did not appear in the Bill (episiotomies require cuts to be made and then sewn up) then midwives were not affected. In meeting some of the Royal College's objections, Lord Kennet appeared to recognise that this particular group might be able to act as a 'veto' group and could defeat the whole Bill.

Lord Treigarne stated that Clauses 2 and 3 were the ones "giving the Government the greatest difficulty" but that the amendment was "a significant improvement", although he also was not sure if midwives were adequately protected. Thus once more we see shared reservations/perception between the Department and the RCOG. On Question, the Amendment was agreed to.

Amendment No. 5, moved by Lord Kennet, was to insert "or two consultants in psychiatry are of the opinion that the operation is necessary for the mental health of that person." This was the first introduction of the 'mental health' aspect of the issue. Lord Kennet stated his misgivings over his own amendment as he was not convinced that it was right. He also expressed his disappointment that the Government had not put forward an amendment of their own to be considered. Lord Kennet's disappointment was understandable,

especially as Lord Trefgarne gave the Government view that "in certain circumstances described by Lord Kennet a formalised requirement for a consultant psychiatrist to be involved is not necessarily appropriate", (the same view as the RCOG). Again, the sheer necessity of "squaring" key groups seemed to be at the forefront of the practicalities of legislating on this issue.

Baroness Jeger voiced the opinion that this amendment was like "scoring an own-goal" in that it broadened the circumstances whereby female circumcision might be permitted. In the event, as Lord Kennet felt that the Government and Committee were unhappy about the amendment it was, by leave, withdrawn. The discussion was, perhaps, an early warning that the hopes of the reformers were likely to be modified greatly in the face of counter group pressure, supported by the Government.

Turning next to Clause 3, an amendment to leave out paragraph b altogether, was moved by Lord Kennet, who agreed with Lord Trefgarne that the clause was "too draconian". However, it must be noted that although Lord Trefgarne said, "I find this amendment something of an improvement" he qualified it by also stating "I do not think that it goes far enough". No doubt this sentiment would also have found support from the RCOG.

The Report was then scheduled to be Received on 12 May. However, as the Report was not called before the House until 9.25 p.m. on 12 May, Lord Kennet consulted the Front Benches of the three other parties in the House, and individual Lords who were interested in the Bill. With their agreement, he asked the Government Chief Whip to move the Report to the next day as "last business" of the House.

The Government Chief Whip gave his assent - stating - "Obviously this Bill cannot get anywhere tomorrow is as convenient as tonight". This assent could not therefore be taken as a sign that the Government was trying to be particularly helpful, or assisting the passage of the legislation as such. On 13 May the Report stage was taken and Lord Rea moved an amendment to Clause 1, to insert 'for non-medical reasons' after 'person'. "I understand the problem in using the words 'for ritual, cultural or traditional reasons'... from the point of view of both interpretation by the court and also that it could be interpreted as revealing an attitude in this country which is intolerant of other cultures, although in this case everyone will agree that no-one should tolerate this particular custom". (My emphasis) However, on debate the amendment, was by leave, withdrawn. Turning next to Clause 2, Amendment 2 moved by Lord Kennet was, to insert 'or for the rectification of abnormality' after 'person' (line 22). After some debate this amendment was agreed to.

Both Lord Rea's and Lord Kennet's amendments were alternative attempts to phrase legislation which would limit the circumstances under which any form of female genital mutilation could be carried out without also affecting the legal position of operations which were considered genuinely necessary in the opinion of the medical profession. Apart from the problems involved in drafting legislation which would be acceptable in both technical and practical terms, another difficulty facing Lord Kennet at this stage was that the Government, while not opposing the Bill, had not yet decided what its attitude was on specific issues - as Lord Trefgarne stated "(the) difficulty that the Government find themselves in now, is that we have not been able to reach a definitive view on these matters."

Various other amendments were either not moved or withdrawn during the Report stage, after which Lord Kennet moved "that this Bill be now read a third time". Lord Treigarne stated "I think I would not wish to leave your Lordships under any misapprehension that the Bill passing ... is actually passed with Government approval.... we agree with the principle.... but we have considerable reservations about some of the provisions of the Bill."

Lord Hatch or Lusby asked "can the noble Lord, the Minister assure the House that during the next four weeks his department will do some work on the Bill so that the measure can be moved speedily through the House with the Government's consent and with the principle to which the Government agrees put into practical textual form to enable it to be passed from this House to the other place with the Government's blessing."

Lord Treigarne replied "As for the time taken to reach a Government view on the matter, the consultation has to go a good deal wider than within my department. Ministers have to reach a collective opinion on the matter, not only in accordance with the views of their officials, but also having regard to the views of a wider range of professional and other opinion." Clearly, the Government was determined that any reform should first be cleared by those of the "affected interests" whom it regarded as important. Whilst the reformers no doubt found this frustrating, it was entirely predictable for two reasons. Firstly, groups like the RCOG would have to be involved in the actual implementation of any legislation. This was bound to give them something approaching veto status. Secondly, the Government had a wide range of dealings with such groups. The question of how to deal with the issue of female

circumcision was but one (very small) issue amongst many. In a system of "exchange relationships" (Jordan & Richardson, 1982) it was unlikely that the Government would wish to take the risk of disrupting existing relationships for the sake of this one issue.

In one sense, Lord Trefgarne's reference to the Government's need to consider the views of a wide range of "professional and other opinion outside the department in the country at large" might have been seen as an encouraging sign for those seeking reform. Yet this acceptance that "governments should consult and seek consensus" (Jordan & Richardson, 1982, p. 2) can be "used to disguise what may be termed 'inner-circle negotiation' involving a very limited range of groups who 'matter'. (ibid) This is especially likely where clientelism has developed and where the onus is left on department officials to decide who 'matters'. In practice, the minister's assurances were also something of a warning to those seeking policy change - to the effect that this Government was unlikely to want to introduce any change if it did not have the broad support of the 'key' professional groups.

Eventually the Bill was passed and in theory 'sent to the Commons.' What then might be drawn from the debate on this initial Bill? Certainly Lord Kennet seemed optimistic and had prepared a statement announcing that the Bill had completed all its stages and suggesting that "It can thus be introduced and sent quickly to the Commons in the empty days at the beginning of the next Parliament." Yet throughout the debate Lord Trefgarne's statements pointed to the fact that the Government, while agreeing with the principle of the Bill, had not in fact given its "seal of approval" to the passing of the Bill. In this instance perhaps the Government hoped that the

Bill might not be re-introduced in the next Parliamentary Session - that public interest in the issue would fade as other events caught their attention - much as A. Downs posits in his 'issue-attention cycle' theory. (Downs, A. 1972).

Certainly, the General Election was the issue that the media now turned to - as did the general public. But Lord Kennet, the medical interest groups, humanitarian interest groups and the ethnic womens interest groups and therefore perforce the DHSS, continued to pursue the matter. By now this issue had gained a momentum of its own with its extended network of groups.

For example, on May 26th the General Medical Council (GMC) released a statement concerning female circumcision....

"The Council regards the practice of female circumcision when undertaken on other than medical grounds with the same abhorrence as that expressed by Mr. Kenneth Clarke when answering a question on the subject in the House of Commons on 9 November, 1982. Although such a practice may not be specifically prohibited by law in the United Kingdom, it is not recognised or accepted in our society.

When considering this matter, the Council has noted that the term "female circumcision" encompasses several different surgical procedures and that there are several medical conditions which are regarded by specialist gynaecologists as indications for such surgical procedures.... The Council has noted that other similar procedures may be indicated on medical grounds in rare cases of ambiguous sexual development or secondary virilism.

In the opinion of the Council, there must be strong and incontrovertable medical indications before the performance of such an operation in the United Kingdom can be justified. The Council regards performance of such an operation in the United Kingdom on other than medical grounds, as unethical."

In the specialist medical magazines, debate continued. The Nursing Mirror had printed an article on March 9 asking any nurses who had evidence of female circumcisions carried out in Britain to come

forward. (It had been an agency nurse working in a London Clinic who had originally provided the evidence which had led to The Observer article and interview with Dr. Ghatak.) A short notice was placed in April in the Nursing Standard, (approximate circulation 43,000), and in the Midwives Chronicle, (approximate circulation 22,000) in an attempt to seek evidence of the extent to which female circumcision was practised within the UK - although it must be said that the officials of the Rcn and RCM were dubious as to whether any nurses or midwives, who had been involved in any such practice, would be prepared to come forward and be identified.

Lord Kennet had also kept in touch with Louise Panton, producer of the earlier BBC programme, and had requested that she forward to him any letters which she might receive after the screening of her documentary, which might provide evidence as to the prevalence of female circumcision in Britain. Certainly, without substantiated numbers, the RCOG and the DHSS could not be refuted in their claims that there was very little hard evidence either of the 'growing' practice of female circumcision or the need for urgent legislation. In some sense, the reformers were finding difficulty demonstrating that there was a real problem to be dealt with.

At about this time (Spring 1983) it was clear that a degree of further co-ordination was developing amongst those groups having an interest in seeking legislative change. This co-ordination was facilitated by Lord Kennet's own affiliation with many of the groups. Lord Kennet was already a member of the ASS and in March 1983, he accepted an invitation from Ben Whitaker of The Minority Rights Group to join their Council. In July 1983 Stella Graham of WAGFEI formed a new autonomous organisation, The Womens Foundation for Health and Development (FORWARD) and wrote inviting Lord Kennet to be a sponsor

of this charitable foundation. Lord Kennet agreed to be a sponsor and his wife agreed to become a director of the foundation.

Lord Kennet's membership and/or commitment to many of the interest groups (humanitarian and sectional) involved in the issue, provided the link between these groups, and a means of pooling and exchanging information, each re-enforcing the effects of the others. The issue may have been supplanted in the minds of the public, but it was still a high priority to the interest groups involved and had not left the political agenda.

Thus, after the General Election and the formation of the new Government, (Lord Glenarthur becoming Joint Parliamentary Under-Secretary for State at the DHSS and the Government spokesman in the House of Lords), Lord Kennet had much support to count upon when he introduced on June 30th, his second Prohibition of Female Circumcision Bill, for its First Reading. (see Appendix 2) (Hansard/Lords/Vol. 443, Col. 369). The formal legislative process had once more begun. After the summer recess, the Second Reading was scheduled for 10 November 1983. (Hansard,/Lords/Vol. 444, Col. 990-1003). The Bill that Lord Kennet introduced, was his original Bill, as amended in its process through the Committee and Report Stages earlier that year. As a result Lord Kennet and his supporters were brief in their statements, as it was felt that the issue had already been well aired.

Lord Kennet did point out that the Bill now had the backing of The British Medical Association; The Royal College of Nurses; The Royal College of Midwives; The National Council of Women; The National Federation of Women's Institutes; The Association of Mental Health Visitors; The Medical Women's Federation; The Anti-Slavery Society;

The Roman Catholic Feminists; The Josephine Butler Society; The Minority Rights Group; and The Fawcett Society. He also pointed out that, after consultation with the Royal College of Obstetricians and Gynaecologists and their sponsoring Department, the Ministry of Health, the original Bill had been amended to try and satisfy their criticisms. He conceded that the Bill was still capable of improvement and therefore further amendments would be proposed by himself and by the Government at the Committee Stage of the Bill. Once more support for the Bill was forthcoming from all sides of the House. Lord Hatch, Baronesses Masham, Cox, Gaitskell, Jeger and Lady Kinloss reiterated their support and Baroness Cox stated that since the last debate she had received letters of support for the Bill from women in other countries where female circumcision was widely practiced who felt that "the symbolic effect of the passing of this law in this country will be helpful to them as a precedent." (My emphasis)

For the Government, Lord Glenarthur stated that he was....
"encouraged to hear... about the possible effect on other countries of this Bill being passed in this country. The position of the Government was clearly stated in the closing paragraph of his speech:

"As I have said, what is needed is a clear statement of law to prohibit operations which have no medical justification, while not inhibiting or obstructing legitimate health care. If suitable changes can be made in this House, as I am sure they can, to meet the points I have raised, then the Government would have no reason to oppose the Bill in an amended form. To these ends the Government will be very happy to assist the noble Lord, Lord Kennet with the drafting of suitable amendments."

Therefore, On Question, the Bill was read a second time and committed to a Committee of the Whole House. The date for Committee discussion was set for January 23rd 1984. After discussion with, and the

approval of, Lord Kennet, Mr. Clement Freud had also introduced the Bill in the Commons on October 26th, 1983 and the Second Reading had been arranged for March 1984.

Consultation once more began in earnest, in order to produce relevant and acceptable amendments for Committee debate, and by November 30th, less than two weeks after the Second Reading, the Amendment to be moved in Committee by Lord Glenarthur on behalf of the Government was produced. It was this amendment which was to prove a stumbling block to the passage of the Bill. The amendment proposed to replace the original Clause 2 with a new clause -

("2 (1) subsection (1)(a) of Section 1 shall not render it unlawful for a person to carry out a surgical operation on another person if that operation is necessary for the physical or mental health of that other person; and accordingly a person shall not be guilty of an offence under that section by reason of anything done in connection with, or with a view to, the carrying out of a surgical operation on another person in those circumstances.

2 (2) In determining for the purposes of this section whether an operation is necessary for the mental health of a person, no account shall be taken of the effect on that person of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual." (my emphasis).

Lord Kennet sought the advice of the Commission for Racial Equality, as to the implications of this Government amendment. In reply they stated...

"However well intentioned in seeking to avoid any circumvention of the Bill's purpose, Clause 2(2) could be indirectly discriminatory in effect. A doctor, when assessing mental health as justifying the performance of an otherwise prohibited operation, will normally base his judgement on the patient's state of mind as he finds it. To suggest that some reasons for that state of mind may be acceptable and others, broadly confined to those which might affect persons of African origin or descent, are not, is in our view, discriminatory and therefore to be avoided.

On a more general point, so far as I am aware this is the first time at least in recent years, that draft legislation has explicitly sought to exclude from consideration the relevance of a custom of an ethnic group settled in the UK. Any such exclusion or precedent would be undesirable in principle."

In attempting to solve one problem - namely that provision had to be made for the operation to be carried out for good medical reasons - the Government had created another problem (or so the reformers perceived) because the amendment might possibly be construed as 'racist'. Thus there seemed to be a difficulty in meeting what the Government saw as sound practical points being raised by its client professional groups and meeting the social principles held dear by the reformers.

Before the Committee stage of the Bill, Lord Kennet wrote an article in The Times (January 20th 1984), putting forward the case for legislation and the case against the proposed Government amendment. In his article Drawing a line between custom and cruelty, he explained that the Bill he had re-introduced into the House of Lords was so worded as to prohibit all mutilating operations on female genitalia, but that it also recognised and provided for certain exemptions on the grounds of medical necessity (for example for the treatment of certain types of cancer or for the correction of physical abnormality).

In his article Lord Kennet stated his objections to the proposed Government amendment on three counts.

- 1). While accepting that some girls might get so depressed because they believed they were abnormally formed (although in fact they were not) that it affected their mental health, he felt that "depression induced by a delusion of abnormality... should be treated with reassurance and psychotherapy not surgery".
- 2). If 'mental health' was to be allowed as grounds for exemption from the ban, then it was, in Lord Kennet's opinion, "clearly racial discrimination" if "White depression.... would secure an

operation; black depression.... would not secure one". He further considered that "To allow the mutilation of a deluded white girl and not of a deluded black girl was indefensible".

- 3). Lord Kennet's third objection was based on the fact that "British law has not since Catholic Emancipation banned anybody's 'custom or ritual' simply because it is custom or ritual." He felt that the introduction of the words 'custom or ritual' had to be thought about with great care as they could be seen as the thin end of the wedge, when what the Bill should be seen as, was a ban on "acts of cruelty and harm as such."

As is often the case, however, disagreement did not prevent co-operation in the legislative process. For example, on January 23rd, the First Day of the Committee, several drafting amendments were agreed to.

Then came Amendment 6, to leave out the original Clause 2 and insert the new clause proposed by the Government. In his opening speech Lord Glenarthur now had his turn to give the case for the proposed Government amendment. He pointed out that in any one year there were approximately 8,000 legitimate surgical operations carried out on the female external genitalia - against perhaps a tiny number of female circumcisions. He agreed that there was obviously no difficulty about conditions which required surgery on the grounds of physical health but that -

"The cases which present a problem - and they are a small but nevertheless significant number - are those in which a girl or woman, otherwise perfectly healthy, becomes anxious and depressed about the shape or size of her external genitalia.... Such surgery - colloquially referred to as "trimming" - cannot be said to be necessary for physical health. It is from the woman's actual or potential mental illness that the need for it arises."

Lord Glenarthur further went on to state that Lord Kennet's phrase 'rectification of abnormality' -

"...leaves doubt about what is or is not physically abnormal - (a view shared by the RCOG)..... It would be quite wrong for any doubt to be cast over the position of women, black or white or of any ethnic group, requiring surgery for reasons which have nothing to do with the custom or ritual practice of female circumcision".

If the patient's mental health is to be admitted as grounds for surgery, then clearly some safeguard is needed to prevent it being used as a cover for female circumcision on the grounds that a woman's mental health would suffer if she could not conform to the prevailing custom of her community. Subsection (2) of the new clause covers this by preventing the surgeon from taking account of the effect on a person's mental health of a belief that the operation is required "as a matter of custom or ritual".

Lord Glenarthur concluded by referring to the manuscript amendment which Lord Kennet was about to propose -

Subsection (2) seems to me to be quite sufficient to prevent female circumcision from being brought in under cover of the new clause. The additional subsection contained in the noble Lord's Amendment No. 6A would place a bureaucratic duty on doctors who are performing legitimate surgery, without, as we see it, any commensurate strengthening of the safeguards provided by the new clause...."

Now Lord Kennet moved Amendment 6A - to insert a further subsection to Amendment 6 as follows -

"(3) in determining for the purposes of this Section whether an operation is necessary for the mental health of a person a certificate shall be required from a member of the Royal College of Psychiatrists and a member of the Royal College of Gynaecologists.

Lord Kennet expressed his hope that Amendment 6A might alleviate some, if not all, of what he considered to be the "bad effects" of the Government's amendment and went on to state his objection to the Government amendment. He also drew attention to the fact that the CRE supported his view that the Government's amendment was racially discriminating, and that the NCW, the Josephine Butler Society and the Fawcett Society supported his view that grounds of mental health

provided a loop-hole which could negate the whole intention of the Bill.

Baroness Jeger, opposed both Amendment 6 and 6A, feeling that the introduction of the words "mental health" in any form offered a loop-hole for the operations to continue. Baroness Cox echoed these sentiments as did Baroness Masham. Lord Rea and Lord Hatch were against the Government's amendment on the grounds of its racial/discriminatory aspects as was Baroness Seear.

A hint of frustration seems to have crept into Lord Glenarthur's response to these points, as he argued that -

"it seems to me that the essential purpose of the whole Bill, as presented by the noble Lord, Lord Kennet, is to prevent acts of cruelty or harm being done under the cloak of custom or ritual.... What we are saying is that these particular customary practices are not compatible with the culture of this country. I do not see this as attacking any racial group, on the contrary, we are saying that girls and women living here should have the protection of the law against practices which, whatever sanction they may enjoy in other countries, are thoroughly repugnant to our way of life.... The Government's amendment is designed to benefit women of all ethnic groups who suffer or who may suffer from mental illness because some part of their external genitalia has become excessively large, but where there is no physical cause for their ill health."

Lord Kennet had earlier in the debate expressed his hope that the Government would not take their Amendments to a Division that day, thereby allowing further time for arguments and representation from 'outside the House'. It is possible that he feared the Government would attempt to force their amendment through and had earlier in the debate stated -

"I judge that at present about 25 to 30 noble Lords are in the Chamber. I should very much regret, as I think would all noble Lords present, if in the event of a Division there was a much larger tally of noble Lords voting, many of whom had not heard these complicated arguments."

In the event a Division was called, but Amendment 6 was defeated - although only just. Indeed on Division the noble Lords divided Contents 43; Non-Contents 43, which meant the Amendment fell (under Standing Order No. 53). This tally might lend support to Lord Kennet's claim that those who voted against the Government's amendment were those who had followed the debate. Certainly many more took part in the Division than had been present in the Chamber following the arguments for and against the amendment. Indeed in April 1985 during the Second Reading in the House of Lords of the Marion Roe's Bill to prohibit female circumcision, Lord Hatch of Lusby made reference to this fact in his statement "It will be recalled that every Member who was present in the House during that Committee Stage voted against the Government amendment." (my emphasis). (Hansard/Lords/Vol. 463, col. 1226).

On Thursday 26 January, the Second Day of the Committee (Hansard/Lords/Vol. 447/Col. 392-4) heard the remaining amendments, all of which were agreed to without division.

Monday, February 7th saw the Report Stage of the Bill (Hansard/Lords/Vol. 447/Col. 1076-82). During this, Lord Kennet pointed out, that of eight amendments requested by the Government, seven had received his full co-operation, and that he had opposed only Amendment 6. (compare Appendix 2 and Appendix 3)

In his reply Lord Glenarthur made reference to the Government's worries over the phrase "rectification of abnormality" now contained within the Bill - worries based on the fact that "'normality' and its obverse have no exact definition". He went on to state -

"If therefore the Bill is now passed by your Lordships - as no doubt it will be - I think that the Government position will have to turn in part on what the possibilities are of introducing further amendments in another place."

While waiting for the Third Reading, scheduled for Thursday 27 March, various events were taking place outside the House of Lords. Mr. Clement Freud's Prohibition of Female Circumcision Bill was due for its Second Reading in the House of Commons on March 22nd. After talks with the Minister of State for Health, the Right Honourable Kenneth Clarke, on March 21st, at which the Government offered to assist in the expedition of a Bill containing the proposed Government amendment which had been defeated in the House of Lords, Mr. Freud decided to withdraw his Bill to allow further talks to take place. He hoped that a compromise could be reached between the RCOG (with whose views the Government concurred) on the one hand, and those who like the Rcn and RCM opposed the amendment because they considered that the treatment for any mental disturbance or illness was more appropriately administered through psychiatric approaches rather than through surgery, and those who, like Lord Kennet were concerned about the 'racial' implications of the inclusion of the 'custom or ritual' clause. In his letter to Kenneth Clarke (Minister of State at the DHSS), Mr. Freud stated:

"the more I consider this, the more concerned I become about setting a legislative precedent by enshrining your 'custom and ritual' amendment in the Act of Parliament. As a result of this, a white citizen would be subject to different laws than a black one - and a blatant loophole would be created that might act as a positive incentive to bring "mentally distressed" women to British surgeons."

Lord Kennet, on hearing of the Government's suggestion to pass the Bill "on the nod" through the House of Commons, wrote to Lord Glenarthur, suggesting that if the Government could explain a little more fully their position on their "mental health" amendment, it

might be more understandable. Lord Kennet now felt there were two principles at stake, the freedom of medical judgement on the one hand and racial equality on the other. He suggested that an informal conference could be held between those in both Houses interested in the legislation, all the Royal Colleges concerned, the CRE, the Department's professional advisers, and outside experts on the practice of female circumcision in order to try and reconcile the two principles and reach some consensus/compromise.

In reply, Lord Glenarthur expressed his surprise that the Government's position had not been fully understood, and his doubts as to whether a conference would be very helpful, especially as he also suggested that if Mr. Freud's Bill were to be passed "on the nod" it would then have to come to the Lords where it could then be considered once again. However, if it was amended at that stage and returned to the Commons for further consideration, there probably would not be sufficient time left in the session and the Bill, once more, would fall.'

On March 27th the Bill received its Third Reading in the House of Lords (Hansard/Lords/Vol. 450/Col. 212-222) Lord Kennet was unable to be present as he was out of the country, but Lord Rea, on his behalf, raised the sole amendment on the Marshalled List which was, On Question, agreed to and Lord Kilmarnock moved, That the Bill do now pass.

Lord Glenarthur, however, did attempt to explain more fully the Government's stance and its view that while the definition of 'necessary surgery' needed to include some provision for mental health grounds, any loophole that this might provide for female circumcision

would be prevented by specific exclusion of 'custom or ritual' as grounds for surgery. He went on to state "I cannot agree that the Bill becomes racist simply because that implied purpose is stated explicitly." The Government's position appeared to be that the reformers were now being illogical. Having proposed the banning of a practice that was usually based upon custom and ritual, they now objected to a specific reference to custom and ritual in the actual legislation. Lord Kennet, now faced the difficult - perhaps impossible - task of managing consultations in such a way that a compromise amendment could be produced - knowing that the Government was determined to press its view. Clearly the RCOG was central to his task. If an amendment could be produced which was acceptable to the RCOG, then he might stand a chance of getting the Government to shift its ground somewhat. An added problem was that time was again running out if the Bill was to complete all its stages in both Houses before the end of the Parliamentary session. As Lord Glenarthur pointed out in the debate "we have to realise that time is not exactly on the side of this Bill."

On Question, the Bill was passed and was sent to the House of Commons without the "custom and ritual" amendment.

On Friday 27 April, in the House of Commons, when the Order for Second Reading was called for the Prohibition of Female Circumcision Bill, the convention known as "The Slaughter of the Innocents" was invoked, and "Object" was called out from the Government front-bench.

A second date was set for Friday, 4th May, but Lord Kennet was fully aware that if the Government had indeed been responsible for this delaying procedure, the Bill had little chance of becoming an

Act. Despite continuous efforts, both by himself and Mr. Freud, to arrange further meetings and consultations with the RCOG and the DHSS in order to seek wording which would allay the fears of the surgeons concerned sufficiently to make it possible to do without 'custom and ritual'" no further progress was achieved before the end of the Parliamentary Session. Thus, on July 6th 1984 once more, the Bill fell.

However, Lord Kennet was not prepared to let the issue rest. Although disappointed to learn that the BMA had now adopted the view of the RCOG and the DHSS, he had continued correspondence with the new President of the RCOG (Professor M. C. McNaughton) who agreed to attend further meetings in order to try and find a form of words that might avoid using the phrase 'custom or ritual'. In September 1984 Lord Kennet wrote to Lord Glenarthur informing him of his decision to call a further meeting of all interested parties at which he again hoped the Department would be represented.

Having heard nothing from the Department, a meeting was held on the 17th October, and among those represented were the RCOG, RCM, Rcn, GMC, BMA, MRG, CRE and MWF. At this meeting tentative agreement was reached on a new form of wording. Indeed there were two alternatives proposed. These were then sent, on October 18th, to the fourteen organisations most closely involved in the negotiations, (see Appendix 5) and to the DHSS, Baronesses Jeger, Cox and Vickers, Lord Rea, Lord Hatch of Lusby and Mr. Clement Freud, - and their further comments were invited. Lord Kennet hoped that it would be possible to introduce a Bill (suitably amended) before Christmas, in order to allow completion of its passage through Parliament during the 1984/85 session.

It was perhaps unfortunate timing that the very next day (October 18th) Lord Kennet finally received a reply from Lord Glenarthur declining to attend the meeting! In his letter, Lord Glenarthur stated....

"Our position remains unchanged from when we met in June. We utterly deplore the practice of female circumcision in this country and are prepared to support legislation that effectively prohibits it. If we are to ban the practice effectively, we need to ensure that any Bill would successfully achieve the position that an operation would not be deemed to be necessary on medical grounds if the only ground were that the patient would suffer psychologically if not allowed to conform to tribal custom or ritual. The Government also has a wider responsibility to make sure that legislation on this subject is so framed as not to place any doubt over the legality of reputable surgical operations". The letter goes on to state..."we can see no other way of achieving all we intend by the definition of medical exemptions than by the amendment as we proposed it," (my emphasis), and that "As both Kenneth Clarke and I have made clear to you we feel it is absurd to suggest that the form of words proposed in the amendment could in any sense be misconstrued as racist, unless it is argued that it is racist to ban female circumcision at all."

Lord Glenarthur while declining to attend the meeting in person, did ask that Lord Kennet should inform all those who attended the meeting of "the precise content of this letter so that there can be no misunderstanding" and concluded by hoping that Lord Kennet would be able to support the Departments "well-drafted and effective legislation".

In reply, Lord Kennet sent the new form of words proposed at the meeting on October 17th to Lord Glenarthur, pointing out that the wording had in fact been suggested by the President of the RCOG, and that he had been unable to convey the contents of Lord Glenarthur's letter as asked, as he had not received said letter in time.

On 26th November, Lord Kennet received a letter from the

President of the RCOG, stating that of the two new alternatives "... the Council of this Council(sic) agreed the proposed amendment to your Bill on Female Circumcision.

Clause 1 (1)(a) "to excise, infibulate or otherwise cut the whole or any part of the vulva of another person in a manner likely to be detrimental to the physical health of that person." Clause 2(a) would be deleted. He concluded by saying "I am glad this matter has at last been resolved and I hope you will be successful with your Bill."

Having gained the approval of the RCOG, Lord Kennet hoped that the Department would also approve the new wording and was anxious to set the formal legislative process in motion once more. Having heard nothing further from the Department by the beginning of December, he wrote to them once again, asking for some indication of their attitude, in the light of the new wording approved of by the RCOG.

On December 10th, Lord Kennet received a reply from Lord Glenarthur giving the Department's view that, notwithstanding the position of the RCOG, the suggested new approach and wording of the Bill was still, in the Department's opinion, fundamentally wrong and unacceptable, and therefore did not change the Department's previously stated position.

By this stage, it was apparent to Lord Kennet that the Government had made a political decision to stand fast on its own amendment which had been introduced, but defeated, in the House of Lords, despite the apparent new-found consensus among all the concerned groups consulted by Lord Kennet.

On December 20th Lord Kennet, recognising that he personally had

reached an 'impasse' with the Department, wrote to Baroness Cox asking if she could perhaps speak to Lord Glenarthur. In her reply on 18th January 1985, Baroness Cox said that she had spoken to Lord Glenarthur and that the Government were now planning to put forward in the House of Commons a Bill to prohibit female circumcision, drafted by their own experts.

Lord Kennet next received a letter from Marion Roe, M.P., a Government back-bencher, who informed him that she was introducing a Bill for the Prohibition of Female Circumcision. Mrs. Roe had been most disappointed when Lord Kennet's Bill failed to be enacted and although she had been unsuccessful in the ballot allocating times for the introduction of Private Members Bills she discovered that it was possible to introduce an unballoted bill "from behind the Chair" (under Standing Order No. 39 - currently No. 58). Bills are rarely introduced in this manner, and stand little chance of success unless the Government is prepared to provide time for debate and an unopposed second reading is secured.

Mrs. Roe consulted the Conservative Whip who dealt with Private Members Bills and was left in no doubt that the Government would not change their position over Clause 2 of Lord Kennet's Bill. On reflection she decided that, as legislation against female circumcision was necessary and should be on the Statute Book, a compromise would have to be made in order to gain Government support. In order to ensure this support, Mrs. Roe decided to take the main wording of her bill from Lord Kennet's Bill, which had already passed through the House of Lords in 1984, but to replace the original Clause 2 with the clause proposed by the Government amendment which had been defeated, and also (on the advice of the DHSS) to further clarify and

safeguard the position of nurses and midwives assisting in the delivery of babies.

Assured now of Government and Department support, Mrs. Roe next set about gaining cross-party support. She approached Mrs. Jo Richardson (Lab.) knowing her commitment to Womens' Rights and also Ms. Ann Clwyd (a new woman Member of Parliament). From the Conservative Party she asked Mrs. Ann Winterton whom she knew socially, and also David Crouch who was a more senior Conservative Party member, and with whom she had served on the South East Thames Regional Health Authority. Mrs. Roe contacted the Alliance to ask for Cross-Party support and they agreed and suggested she should approach Clement Freud who had already shown his interest in the issue.

Mrs. Roe presented her Bill "from behind the Chair" on Thursday, January 17th, and a date was secured for Second Reading on January 25th. Agreeing to allot highly sought after parliamentary time at such short notice was a clear indication of Government support.

Alas, "Object" was heard from the Labour benches on January 25th because there was another Bill being presented on that day which members of the Labour Party rated as a higher priority, and for which they needed to be sure of securing Committee time. As this had indeed been secured that afternoon, Mrs. Roe re-introduced her Bill for Second Reading on February 8th at which time it was unopposed, and was passed "on the nod".

When Mrs. Roe wrote to Lord Kennet, she had also enclosed a copy of her proposed Bill, and Lord Kennet immediately noted that the Government amendment, defeated in the House of Lords, was now part of

the new Bill. Lord Kennet realised that, having the backing of the Government, this Bill would more than likely pass through the House of Commons "on the nod". On January 23rd 1985, he therefore wrote once more to the fourteen most closely involved organisations, as well as to those members of the House of Lords who had previously spoken or voted for the Bill, and whom he felt would now wish to consider what their attitude would be once the Bill reached the House of Lords.

From the replies Lord Kennet received, it appears that while all the interest groups supported the principle of Mrs. Roe's legislative initiative, those outside the medical profession still had reservations about the provisions and wording of Clause 2. And indeed the MWF, which surely was part of the medical community network, although perhaps not of 'insider' status, wrote to Lord Kennet confirming their support for his stance because of the "overtones of racial discrimination in the phrase of 'custom or ritual' and also because of the mental health aspects (always difficult to determine). We would support efforts in the House of Lords to revise the Bill...." The CRE wrote to Mrs. Roe and her five co-supporters informing them of its concern over the form of words used in Clause 2(2) and also notifying them of the alternative wording suggested by the RCOG.

The Somali Women's Association now set up a new action group in response to Marion Roe's proposed Bill, as they considered Clause 2(2) to be 'racist'. This new action group (co-ordinated by Shamis Dirir) called the London Black Women's Health Action Project (LBWHAP), was a community-based group whose aim was to promote the welfare of black women in Britain, and which was also affiliated to The Tower Hamlet Association for Racial Equality (THARE). The LBWHAP received funding

from the GLC and from the British Council of Churches. They firmly supported Lord Kennet's opinion that Clause 2(2) of the bill was discriminatory and felt that the bill would not achieve the desired effect of eradicating the practice of female circumcision per se. As well as preparing a press release they also communicated their feelings to the CRE and lobbied the proposer and co-sponsors of the Bill.

Thus, at Standing Committee C, held on April 3rd, 1985, (Parliamentary Debates/House of Commons Official Report HMSO), all those participating had been made aware of the views of Lord Kennet and of those groups opposed to the 'custom and ritual' clause. Indeed, Ms. Richardson and Mrs. Clwyd, co-sponsors of the Bill under consideration, moved amendments No. 1 and No. 3 which incorporated the alternative wording proposed and accepted by the RCOG and other institutions at the meeting organised in the House of Lords on October 17th by Lord Kennet.

During the discussion which ensued, Ms. Richardson referred to her consultations with the LBWHAP and to their views that any Bill outlawing female circumcision would need to be accompanied by provisions for community health education and counselling programmes. Her own view was that legislation prohibiting the practice would not be the end of the matter as it would only serve to drive the practice underground unless accompanied by such programmes. Mrs. Roe, and Mr. John Patten (Parliamentary Under Secretary of State for Health and Social Security) opposed both of the proposed amendments as they felt that they would "serve only to cloud and confuse the issue". Mr. Patten rejected the suggestion that there were any "racist" implications in Clause 2(2) and argued that the clause made "explicit

the implicit purpose of the Bill", which was "to protect women and girls from needless mutilation and all the serious hazards to health that female circumcision carried with it." He concluded by stating that the amendments would "ruin the Bill and allow the practice to continue." Ms. Richardson, reacted strongly to the suggestion that either or both of the amendments, would "torpedo" the Bill, but also admitted that she personally did not hold the view that Clause 2(2) was racist, but had felt that the argument presented by "members of the ethnic minorities and the Commission for Racial Equality should be considered." After full discussion, Ms. Richardson and Mrs. Clwyd withdrew the amendments.

Mrs. Roe, used the Committee Stage to make some general remarks on the emergence of the issue of female circumcision, the support of the professional medical interest groups for the fundamental principle of the Bill, and indeed the support also of the Minority Rights Group. Mention was made of the need expressed by Stella Graham of FORWARD for legislation to be "combined with a well thoughtout education programme conducted by informed members of the communities themselves." (The New Statesman 11/11/83) and Mr. John Patten assured the Committee "that my Department will consider as sympathetically as possible funding for educational help of that nature." In the event Clause 1, amended on a technicality was agreed, as were Clauses 2 to 4 and the Bill, as amended, passed to the Report stage.

Moving once again from the formal legislative process, what was happening outside Parliament? The LBWHAP now stepped up their campaign against Marion Roe's proposed new Bill. Lord Kennet passed on their press release to the Department of Health and Social Security. The LBWHAP stated their fears that the legislation might

turn "caring parents into potential criminals" and drive the practice underground, and that there was therefore "a need for a period of transition" in order to carry out educational programmes. Baroness Trumpington, now Joint Parliamentary Under Secretary of State at the DHSS, replied to Lord Kennet that these potential dangers had been considered by the Department, but that the "undoubted benefit of giving girls and women in these communities the protection of the law" outweighed these dangers - and also pointed out that in the Department's view there had already been a period of transition if one took as a starting point the introduction of the first Prohibition of Female Circumcision into the House of Lords.

A flurry of correspondence between Lord Kennet and Baroness Trumpington continued throughout April and into May. However the Department did not shift in its opinion, but instead, asked for Lord Kennet's support for Baroness Masham of Ilton who was to sponsor the Bill (by then past its Third Reading in the Commons) in the House of Lords. Lord Kennet continued to offer alternative forms of wording and to reiterate his concern that the Government were over-riding the objections of their statutory advisers on race relations (CRE).

On the occasion of the Bill receiving its Third Reading in the House of Commons (April 19th, Hansard/Commons/Vol. 77 col. 583-589). Mrs. Roe again reviewed the reasons behind the Bill and its provisions, and stressed that "at the same time as legislation there must be a process of health education among those people who still perform the acts". Ms. Richardson echoed these sentiments, quoting a letter she had received from Stella Graham of FORWARD welcoming the Bill and stating the intention of FORWARD to apply for funding from the Department.

The Minister of Health agreed that "the Bill should be seen only as a necessary part of a wider health education campaign to eradicate the practice in this country and abroad" and reaffirmed the fact that applications for funding would be looked at sympathetically. Perhaps the words the Minister then spoke were directed towards Lord Kennet - "While I am sure that their Lordships will wish to look at this Bill, I hope that they do not embark on amateur draftsmanship of their own and get the Bill back into complications that might run the risk of frustrating its purpose." The Bill was passed and sent to the House of Lords for First Reading on April 24th 1985.

It would appear that the full debate which took place during Standing Committee C, especially the arguments put forward by the Government spokesman, had persuaded many of Lord Kennet's previous supporters to now view Clause 2(2) as necessary and acceptable. Certainly, outside the House, many of the organisations changed their stance and now supported Marion Roe's Bill. The Medical Women's Federation wrote to both Lord Kennet and Marian Roe to state that they now supported Mrs. Roe's Bill - thus the medical profession's interest groups were at last united. The Fawcett Society and The Josephine Butler Society, while still retaining some reservations, also appeared prepared to accept the Bill in its new form. Perhaps of greater significance, the Minority Rights Group and FORWARD did so too.

The Commission for Racial Equality, in their letter of 26th April, stated that Clause 2(2) was "likely to be discriminating in effect and undesirable in principle" (my emphasis) but concluded, "The Commission's role here is simply to say that the form of words as presently drafted is objectionable in principle, and asks that this

matter be taken into account in the proceedings before the House." (my emphasis). Thus, the only group which, like Lord Kennet, was unprepared to compromise over the view that Clause 2(2) was 'racist' was the London Black Womens' Health Action Project. But this group was undoubtedly an outsider group, with no significant sanctions at its disposal. Moreover, the debate had already begun to move towards consideration of implementation - with the hint of government funding.

On the 15th May at the Second Reading in the House of Lords (Hansard/Lords/Vol. 463/Col. 1223-1245), Baroness Masham of Ilton stressed that "Many people have worked very hard to make the Bill acceptable to as many people as possible." She went on to state that although originally opposed to the inclusion of the words 'custom or ritual', she now felt that the benefits that the legislation would provide "far outweighed a few people being worried about the words 'custom or ritual'."

Lord Kennet and Lord Hatch of Lusby again voiced their opposition to Clause 2(2) and Baroness Trumpington again asked them to accept that if the Government or co-sponsors of the Bill had felt that Clause 2(2) was in any way racist then it would not have been introduced. After some discussion the Bill was passed and committed to the Committee of the Whole House on June 3rd. Baroness Jeger continued to voice her misgivings as to the "loop-holes" provided by the inclusion of the 'mental health' aspect and indeed on May 23rd tabled a further question for written answer on the subject.

Perhaps it was this question that prompted Baroness Trumpington to write to Lord Denham PC, the Government Chief Whip in the House of Lords, to make the Government's reasons for the wording of Clause 2(2)

quite clear, "this sub-section is to ensure that while legitimate surgery on grounds of mental health is allowed, female circumcision, as such and only as such, is not also allowed.... the Bill takes no account of ethnic origin. It allows for legitimate surgical operations on any woman of any race". Copies of this letter were sent to all other members of the House of Lords who had shown interest in the issue.

Baroness Masham had written to the RCOG enclosing a copy of the House of Lords' report. The President replied to this on May 25th, reiterating the need for the inclusion of the 'mental health' aspect in the Bill, and stating that he felt that the CRE and others were being 'over-sensitive' about the wording of the Bill - indeed he had now reached the conclusion that "if one wishes to make it illegal to perform female circumcisions, which are done for ritual reasons, one must say so..."

The passage of the Bill through the Committee Stage of the House of Lords was often heated (Hansard/Lords/Vol. 464/Col. 570-97) with the repetition of the arguments which by now had become very familiar. Thus Lord Kennet and Baroness Trumpington clearly considered that each was being intransigent over clause 2. Lord Kennet stated "has it not been clear for months that the view of the department is now set in concrete and nothing... can shake it?" While Baroness Trumpington posited that "If it is suggested that the Government by their obstinacy are preventing the passage of the Bill, it can, with equal or greater justice, be said that the resistance of the noble Lords, Lord Hatch, and Lord Kennet to the Bill as currently drafted, on the best legal advice, is now preventing the Bill from proceeding to Statute." Baroness Masham, in a more practical vein, suggested that

"If the Bill is wrecked tonight, it will lose the Government's goodwill towards this very serious problem of female circumcision, and so may be sic) the grants which are so badly needed to help educate people will also be lost."

Baroness Masham and Baroness Trumpington were very ably supported throughout this particular stage in the debate by Lord Richardson, (whose medical knowledge and information greatly influenced the House). Lord Richardson firmly opposed any amendment which would exclude 'mental health' grounds as justification for the operation. It is interesting to note that Professor McNaughton, President of the RCOG had corresponded with Lord Richardson over the issue. In the event, the amendments proposed to replace Clause 2(2) were either defeated on Division or withdrawn, and the Bill was reported without amendment. Though further acrimonious debates ensued on Report (Hansard/Lords.Vol. 465/Col. 207-24), the essence of the position was that the Government could and would use its majority to force the legislation through.

Thus, on the 2nd of July the Bill was presented for Third Reading in the House of Lords (Hansard/Lords.Vol. 465/Col. 1134-48). Baroness Masham on moving the Bill stated "I hope that this Bill, when enacted, will totally eradicate the practice in Britain and I also hope that it will help to stimulate other countries who admire British law to take a stronger line in prohibiting the practice." Again Lord Kennet and Lord Hatch firmly expressed their distress that the Government had overridden the objections of their own statutory body, the Commission for Racial Equality. Baroness Masham, in winding up the debate, paid tribute to Lord Kennet's "many hours inside and outside the House over this matter." She attempted to make clear her

own feelings on the issue - "What I feel is that female circumcision, which is female mutilation, is discriminating in itself. It discriminates against the freedom of women who know no better, and therefore it is discriminating against women. Therefore the people who have been really direct in this present piece of legislation and have not havered at all are the women."

On Question, the Bill was read a third time and passed, and on 16th July 1985, with Royal Assent (Hansard/Lords/Vol. 1465, col. 603), the Prohibition of Female Circumcision Act 1985 (Elizabeth II, Ch. 38) entered the Statute Book.

Outside Parliament, debate still continued as the LBWHAP continued to vocalise its objections to Clause 2(2) of the Act. In June they had issued their press release rejecting Marion Roe's Bill on the grounds that (a) they considered it 'racist' (b) that it did not have any provision for a period of transition (c) there had been no consultation with the Black communities most affected by the practice. On July 8th they wrote to Lord Kennet, thanking him for all his efforts on their behalf and enclosed the first issue of their new Newsletter. In the newsletter they again gave their objections to Clause 2(2) of the legislation. However, it is interesting to note that, just as FORWARD had asked Lord Kennet, in May, to support their application to the DHSS for funding, in September the LBWHAP also asked for his support for an application that they had submitted to the DHSS on July 31st for funding. (Lord Kennet did indeed write to the Minister and the DHSS, supporting the applications of both groups.)

It is at the practical implementation stage that the results of

legislation can be assessed, but monitoring arrangements had not been embodied in the Act. Certainly, one consequence of the legislative process had been the promise of funding from the DHSS. Thus, although it may not have been possible to discover how many operations were in fact taking place, or prosecutions being pursued under the Act, on July 29th 1986 the information as to funding granted by the Government was given in a Written Answer to a question submitted by Baroness Jeger in the House of Lords. Baroness Trumpington (for the Government) stated that "The Prohibition of Female Circumcision Act 1985 came into force on 16th September 1985. Information on court proceedings for 1985 are not yet available. The Government have agreed grants totalling £86,000 to voluntary organisations to fund schemes to promote an information and education campaign about the implications of the Act and the potentially adverse effects on health of the practice of female circumcision". (Hansard/Lords/Vol. 478/Col. 826.) Whilst the policy process had illustrated, yet again, the power of well-respected professional associations when compared with outsider groups, we also see the semi-incorporation of these outsider groups into the implementation process. In a practical sense, some kind of de facto consensus had been achieved, albeit around an Act which may prove ineffective in its implementation.

CONCLUSION

Although Lord Kennet, to this day, considers that the Act "was achieved at the expense of something more important" (interview January 1978) - i.e. the duty of Parliament to ensure that legislation is so worded as to avoid even the suggestion of discrimination - it was due to his continued efforts that any legislative action was taken to eradicate the practice of female circumcision. As is often the case, the reform process is dependent upon one, or a few, individuals committed and energetic enough to challenge the status quo.

Another important feature of this case study is that the Parliamentary arena was of more than symbolic significance. Although, as Punnett points out, "...whereas Government Bills are almost certain to be passed, the majority of Private Members Bills are lost" (Punnett, 1980, p. 243), Private Members Bills (successful or otherwise) can, and do, act as a means of drawing the attention of Parliament and society at large to problems, which although perhaps of a relatively obscure nature, are of public and moral importance. Once an issue reaches the Parliamentary arena, "if sufficient parliamentarians decide to run with the ball, the Government often feels obliged to respond" (Richardson and Jordan 1985, pp. 127-128). In turn this can overcome what appears to be the "moving inertia of the Whitehall machine" (Rose 1984, p. 71) and can stimulate Departmental action on an issue which, in the organisational process of "issue-filtration" (see Hogwood and Gunn 1984, pp. 88-99), may have been filed "... (at least mentally) under 'ignore it and hope that it goes away'" (op. cit. p. 90).

However, even though in this instance the Parliamentary arena was

of greater significance than usual, one can still note throughout the whole legislative process, the operation of the normal British policy-style 'of bureaucratic accommodation' in which "the prominent actors are groups and government departments, and the mode is bargaining rather than imposition" (Jordan and Richardson, 1982, p. 81). Certainly, if "The aim is to secure through bargaining at least passive acceptance of the decision by the interests affected" (Hayward, 1974, pp. 398-399) then on the whole this would appear to have been achieved. The sectional interests of the medical profession were protected by the wording of the legislation; the interests of the promotional groups were furthered by the Bill actually reaching the Statute Book; the sectional interests of the ethnic minority groups were furthered by the provision of government funding for health-oriented education campaigns; and the interests of the government in "managing the political agenda" (see Stringer and Richardson, 1980, p. 30) were furthered as this relatively obscure issue was eventually removed from both the permanently over-crowded policy environment in Whitehall and from the political agenda at Westminster.

This case study also supports the hypothesis that "Unballoted bills...and measures introduced by individual peers which are passed down from the Lords - have no chance of success unless they are uncontroversial or are supported by the Government." (Richards 1981, p. 146). When Lord Kennet introduced his first bill to prohibit female circumcision in Britain, all those involved in informal consultation as well as formal Parliamentary debate were in accord that the practice was abhorrent and should be prohibited in Britain. Initially, at least, the move promised to be uncontroversial, although in the event the 'consensus' proved to be fragile.

Thus, by the time the second Bill had completed all of its legislative stages in the House of Lords, and was due to be sent to the House of Commons, the issue had become politically controversial - in that a proposed Government amendment had been defeated, albeit narrowly. Any Government support for the bill, as worded, could no longer be counted upon - and indeed it was inevitable that, given the Government majority in the House of Commons, the Bill would either be defeated in the division lobbies, or, as was to prove the case in this instance, would fall through the operation of the convention colloquially referred to as 'The Slaughter of the Innocents'.

In marked contrast, was the treatment accorded to the unballoted bill introduced in the House of Commons by Mrs. Marion Roe. Although the wording of the bill was based mainly on that of Lord Kennet's unsuccessful bill, it incorporated the previously defeated Government amendment, as well as additional safeguards for nurses and midwives. Government assistance and support in this instance was forthcoming. For example, Mrs. Roe was granted direct access to, and had consultations with, the Government department concerned (DHSS), the Bill was passed 'on the nod' at Second Reading, Report and Third Reading, and additional time for debate was allocated at a time when the parliamentary time-table was already under considerable pressure. Perhaps of even greater significance, is the fact that Mrs. Roe, having been unsuccessful in the members' ballot, was permitted (by the Government Whips office), to introduce the Bill "from behind the Chair".

A particularly intriguing aspect of this study is how an issue, which started out uncontroversially (in political terms) did become

controversial. The area of controversy centered on the wording and provisions of Clause 2 of each of the proposed bills - those exemptions to be allowed, and those to be disallowed, on the grounds of mental health, and the inclusion in the legislation of the words 'custom or ritual'. The competing objectives of the organised interest groups involved in the 'issue-network', were the ultimate cause of the controversy. Thus, as La Palombara posits, "although the political process may not be characterised exclusively by group behaviour...it is obvious that no political process can be understood without according serious attention to the role of interest groups." (La Palombara, 1964, p. 13). The irony, in this case, was that the "issue network" had to be mobilised in order to maintain some dynamic for the issue. (Appendix 5)

In terms of opportunities for wider participation in the policy process, it can be seen that there was opportunity for interested parties, through organised groups, to have their views taken into consideration. However, we also saw that over time, as 'insider' groups (Grant 1978) develop and form mutually supportive exchange relationships with their sponsoring departments, pockets of power, verging indeed on veto status, accrue to these groups. As J. B. Christoph points out, "the vast majority of Whitehall departments manage policies affecting identifiable clienteles...it would be unnatural if officials did not identify in some way with the interests of their clienteles..." (Christoph, J.B. 1975, p. 47).

The prohibition of female circumcision, treated as a health-related issue, fell within the remit of the DHSS. It was perhaps inevitable, therefore, that legislation to prohibit the practice would be viewed by the DHSS from the perspective of, and implications for,

their clientele - the organised and largely self-regulating groups representing the medical profession as a whole and in this instance, the Royal College of Obstetricians and Gynaecologists (RCOG). Thus, although the issue-network was extended by Lord Kennet, to include the other sectional promotional groups with an interest in the issue, these groups were not likely to present much of a challenge to the interests of the medical profession, whose policy-professionals had, over the years, developed a near symbiotic relationship with the policy-officials within the health policy community.

Throughout the legislative process the medical profession as a whole clearly stated their abhorrence of the practice of female circumcision and their support for legislation to prohibit the practice as such in Britain. However, as Kimber and Richardson point out "the professions are particularly assiduous in protecting their interests" (1974, p. 10). Thus although the RCOG was not, in principle, opposed to legislation to prohibit female circumcision, it did wish to ensure that any legislation that was drafted, would be done in such a way as to, firstly, protect the professional interests of its own members, and secondly, present as little encroachment as possible upon the long-standing right to self-regulation enjoyed by the professional medical community as a whole.

Of course to this day the RCOG and DHSS maintain that, apart from the two cases reported in The Observer in 1982, there has been no hard evidence to substantiate the claim that female circumcision was being carried out, let alone on the increase, in Britain. Although the lack of hard evidence does not prove that the practice was not in fact being carried out, it was certainly a stumbling block to the case presented by Lord Kennet. As the Political Director of Britain's

best known and most influential 'insider' pressure group, the National Farmers Union (NFU) emphasises, "In presenting a case to the Ministry and to politicians your case must be accurate, reasonable and politically attractive... there is a need to produce good hard evidence to sustain claims." (Holbeche, 1986, p. 47).

However, Holbeche also suggests that, in presenting a particular viewpoint, there is a need for a united front, and that internal differences should be settled behind closed doors (ibid.). Within the medical community itself, points of difference as to the wording and provisions of Clause 2 did exist between the sectional interest groups. This enabled Lord Kennet to claim, throughout most of the protracted legislative process, that some of the medical profession did support his view that the mental health provisions of Clause 2 were racially discriminatory. One by one however, this support was withdrawn until the professional medical community as a whole, closed ranks, and presented a united front in its support for Mrs. Roe's Bill.

It is worth noting that the Royal College of Nursing (Rcn) and the Royal College of Midwives Trust (RCM) were the last of the sectional interest groups within the medical community to withdraw their opposition to Clause 2. Significantly this coincided with the inclusion in Mrs. Roe's Bill of greater clarification of, and protection for, nurses and midwives - included in fact on the recommendation of the DHSS. Thus, even within each policy community, different sectional groups will press for the best interests of their own members first, and will be prepared to negotiate and compromise to achieve these objectives. This case study is a good example of the view "co-ordination takes place at a number of levels within the

relevant policy community until a common policy emerges which the community 'sells' to the rest of the system." (Jordan and Richardson, 1982, p. 83).

What then of the part played by the other interest groups which Lord Kennet had mobilised, and which had become part of the extended issue-network? Certainly, Holbeche points out that allies are very important and that, "It is often the case, if several organisations or bodies are saying similar things to a wide range of politicians, there's more chance of making progress on that issue than if you're just saying it yourself" (1986, p. 47). However, the caveat to that must inevitably be that the larger the number of groups involved, the more difficult it is to manage the outcome - as each group will perceive the issue from its own particular stand-point and organisational objective.

The cause/promotional groups such as the MRG, A.S.S., Fawcett Society and Josephine Butler Society did have an important role to play within the extended issue-network. These groups may lack the veto status of the clientele insider groups, but they do have long-standing publicly recognised and politically accepted commitments to issues of moral justice and social reform; long established relationships with MPs, peers and the media; and a large articulate middle-class membership. As R. M. Punnett suggests, this membership, may for most of the time remain "passive" (Punnett, 1980, p. 142) but it can be mobilised most effectively if an issue is taken up by their officials.

Although media coverage of the issue helped Lord Kennet place the issue firmly on the political agenda, this initial high degree of both

media and public concern fluctuated and eventually diminished during the protracted legislative process. Other issues, such as the miners' strike, caught their attention much as suggested by A. Downs' 'issue-attention cycle' theory (1972). It was, therefore, the continued attention of these promotional interest groups that gave the issue extended political salience, thus keeping it on the political agenda, despite (one suspects) the initial hopes of the RCOG and the DHSS that the issue might fade away of its own accord. The promotional groups put into action the grass-roots lobbying techniques which have proved so effective in America (see Fenno R.F., 1978) - they mobilised their members to write individually to their local MPs as well as to the Minister for Health, (orchestrating this to occur before the Second Reading of each Bill), and also mobilised their supporters within the legislature by drawing their attention to the issue and by providing them with up-to-date information on the social and moral implications of the practice. Although these cause/promotional groups could be considered 'ideological outsider groups' they could also be considered classic 'insider' groups in terms of the strategies which they used - "traditional methods of lobbying to seek to alter the views of ministers, civil servants and parliamentarians". (Grant, 1985, p. 34).

However, although each one of these groups was opposed to the practice of female circumcision, their aims were more international than national, and they viewed each of the proposed bills, more as a 'flag-flyer for the principle' rather than as an urgently required piece of social reform in Britain. Although they expressed their reservations about the wording of Clause 2, their first priority was to get an Act on the Statute Book, which would serve as an example to the rest of the world. Thus, in order to achieve this objective,

they were prepared to compromise, recognising that, as Holbeche suggests "....a reasonable aim is to get some of what we want most of the time" (1986, p. 44).

Heclo points out, "As more and more puzzling unfamiliar policy issues have been thrust upon government, more and more fluid groups have been unexpectedly mobilised" (Heclo 1978, p. 94). What then of the two ethnic minority groups whose interests were most intimately affected by the practice? Even between these two groups there were differing objectives and strategies. FORWARD, headed by Stella Efua Graham, had the long term objective of eradicating the practice of female circumcision world-wide - and considered that an Act passed in Britain, would help legitimise and lend greater status and credibility to the work being carried out by the grass-roots womens' organisations in Africa - as Britain, or rather the British legislative system, (even in this post-colonial era) still enjoys a great deal of status and respect amongst the now independent African nations. Stella Graham, through her previous experience and involvement with the MRG and WAGFEI had quickly developed an awareness of the policy-system in Britain, and FORWARD started out as a potential 'insider' group knowing "how to present a case and how to bargain effectively... willing to accept the outcomes of the bargaining process". (W. Grant, 1985, p. 33).

By contrast, at that time, the LBWHAP was a politically inexperienced community-based, community-oriented and community-led 'outsider' group - and as Grant points out, "It is characteristic of politically unsophisticated outsider groups that their demands are made in strident and uncompromising terms". (1985, p. 33). The LBWHAP was not concerned about the effect that the legislation might

have on the international scene, but on the effect it would have on the Somali community which had settled in Britain. Thus the LBWHAP, like Lord Kennet, was not prepared to compromise over the wording of Clause (2), which they considered 'racist' in its implications. Even though the LBWHAP did achieve something from the legislative process (it applied for, and received, Government funding towards a community-counselling programme - significantly however, far less than the £80,000 FORWARD was to receive, over a two-year period, for its proposed programme) it continued throughout 1985 to try and mobilise community opposition, (through its community newsletters), to the wording of the Act. LBWHAP was destined to remain an "outsider" group - unless it managed to acquire "the necessary political skills" (see Grant, 1985, to move from an 'outsider group by necessity' to a 'potential insider' group (ibid.).

Of particular interest was the position of the CRE whose sponsoring division would appear to be the Home Office. The CRE, as a statutory body and therefore part of the government machinery, might have expected to have been an accredited "insider" likely to be "invited by central government departments to submit their views on topics relevant to their concerns" (Grant 1978, p. 3.) rather than, as it turned out, "tolerated to the extent that they are allowed to send occasional deputations to the relevant departments" (ibid.). The lack of direct communication between the DHSS and the CRE leads one to consider whether the CRE might in fact be a quasi-autonomous public agency set up in order to deflect other groups "from the centre of government where the major decisions are made about the direction of the economy, the allocation of resources and the legislative programmes..." (Lowe and Goyder, 1983, p. 67) and whether in reality it is only on the "outer orbit of the consultative machinery".

(Richardson and Watts, 1985, p. 17).

Ultimately, however, it must be said that all those with an interest in the passage of this legislation were aware that an Act prohibiting female circumcision would not itself lead to the eradication of the practice and therefore one might assume that this was to some degree a piece of "placebo" legislation. They did however agree that it could have an important part to play if it was accompanied by grass-roots health education and counselling programmes within the communities whose value-systems were being challenged (communities in either Britain or in Africa).

In this instance, perhaps, the three basic objectives attributed to policy-makers by Stringer and Richardson were not mutually exclusive (1970, p. 23). In one context this legislation could well be viewed as a placebo policy enacted in order "to manage the content of the political agenda" (ibid), yet from another perspective it could be seen as legislation passed in an attempt to "reduce competition between competing interests (consensus-seeking)" (ibid). And yet again, with the provision of government funding for community-based health education campaigns - which although not made explicitly within the legislation itself had become implicit as a consequence of debate (and consultation) as the legislative process progressed - the legislation could well be viewed as "a serious attempt to solve the underlying problem" (ibid.).

In the absence of any statutory monitoring procedures there is no way of knowing the degree to which the problem has been, or will be, solved (bearing in mind that at no time was the extent of the problem in Britain known). In the short-term the policy process may well

have become an end in itself - as the 'troika' of 'insider' pressure-group officials (RCOG), Senior Civil Servants (DHSS) and Government Department Ministers (Minister/Secretary for Health) strove to arrive at a mutually acceptable bureaucratic accommodation that would finally 'close' the issue and remove it from their respective agendas / dense and over-crowded environments (Heclo, 1978). However, one might hope that in the long-term (through the provision of government funding for community-based health education campaigns), the efforts of Lord Kennet and his colleagues will have set in motion a process, albeit gradual, of social change.

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APPENDIX 1

Chronological process of the Bill through Parliament

House of Lords

Prohibition of Female Circumcision Bill
(introduced by Lord Kennet)

2/3/83 First Reading (Hansard/Lords/Vol. 439/Col. 141)
21/4/83 Second Reading (Hansard/Lords/Vol. 441/Col. 673-97)
10/5/83 Committee (Hansard/Lords/Vol. 442/Col. 439-56)
12/5/83 Report (Hansard/Lords/Vol. 442/Col. 696)
13/5/83 Report (Hansard/Lords/Vol. 442/Col. 724-32)

ELECTION CALLED : BILL FELL

Prohibition of Female Circumcision Bill
(re-introduced by Lord Kennet)

30/6/83 First Reading (Hansard/Lords/Vol. 443/Col. 369)
10/11/83 Second Reading (Hansard/Lords/Vol. 444/Col.996-1003)
23/1/84 Committee (Hansard/Lords/Vol. 447/Col. 72-91)
26/1/84 Committee (Hansard/Lords/Vol. 447/Col. 392-4)
7/2/84 Report (Hansard/Lords/Vol. 447/Col. 1076-82)
27/3/84 Third Reading (Hansard/Lords/Vol. 450/Col. 212-22)

Prohibition of Female Circumcision Bill
(brought from the House of Commons - re-introduced
by Baroness Masham of Ilton)

24/4/85 First Reading (Hansard/Lords/Vol. 462/Col. 1184)
15/5/85 Second Reading (Hansard/Lords/Vol. 463/Col. 1223-45)
3/6/85 Committee (Hansard/Lords/Vol. 464/Col. 570-97)
18/6/85 Report (Hansard/Lords/Vol. 465/Col. 207-24)
2/7/85 Third Reading (Hansard/Lords/Vol. 465/Col. 1134-48)
16/7/85 Royal Assent (Hansard/Lords/Vol. 466/Col. 603)

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House of Commons

Prohibition of Female Circumcision Bill (No. 2)
(introduced by Mr. Clement Freud)

26/10/83 First Reading (Hansard/Commons/Vol. 47/Col. 284)

BILL WITHDRAWN

Prohibition of Female Circumcision Bill (House of Lords)
(brought from House of Lords)

27/4/84 Order for Second Reading (Hansard/Commons/Vol. 558/
Col. 1069)

6/7/84 Order for Second Reading (Hansard/Commons/Vol. 663/
Col. 660)

END OF PARLIAMENTARY SESSION : BILL FELL

Prohibition of Female Circumcision Bill
(introduced by Mrs. Marion Roe)

17/1/85 First Reading (Hansard/Commons/Vol. 71/Col. 525)

25/1/85 Order for Second Reading (Hansard/Commons/Vol.71/Col.1306)

8/2/85 Second Reading (Hansard/Commons/Vol. 72/Col. 1298)

3/4/85 Standing Committee C - Parliamentary Debates,
House of Commons Official Report HMSO)

19/4/85 Report and Third Reading (Hansard/Commons/Vol. 77/
Col. 583-589)

Prohibition of Female Circumcision [H.L.]

1

A
B I L L

INTITULED

An Act to prohibit female circumcision.

A.D. 1983

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 5 1.—(1) Subject to section 2 below, it shall be an offence—
- (a) to excise, infibulate or otherwise mutilate any part of the labia majora or minora or clitoris of any person; or
- (b) to procure or take part in or facilitate the commission of any of the acts listed in paragraph (a) above.
- 10 (2) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both; or
- (b) on summary conviction, to a fine not exceeding the statutory maximum (as defined in section 74 of the Criminal Justice Act 1982) or, as respects Northern Ireland, £1,000, or to imprisonment for a term not exceeding six months, or to both.
- 20 2.—(1) Section 1 above shall not render unlawful the carrying out of a surgical operation on a person if—
- (a) a registered medical practitioner is of the opinion that such an operation is necessary for the physical health of that person or for the rectification of abnormality; and
- (13)

Prohibition
of female
circumcision.Saving for
necessary
surgical
operations.

49/1

2

Prohibition of Female Circumcision

(b) the operation is carried out by a registered medical practitioner in a National Health Service hospital or a registered nursing home.

(2) In this section—

“National Health Service hospital” means a hospital provided by the Secretary of State under the National Health Service Act 1977 or the National Health Service (Scotland) Act 1978 or by the Ministry under the Health and Personal Social Services (Northern Ireland) Order 1972; and

“registered nursing home” means a nursing home registered under the Nursing Homes Act 1975 or the Nursing Homes Registration (Scotland) Act 1938.

1977 c. 49.
1978 c. 29.S.I. 1972
No. 1265
(N.I. 14).1975 c. 37.
1938 c. 73.Notification
of operations
under
section 2, etc.

3.—(1) The Secretary of State shall by statutory instrument make regulations to provide for requiring any such opinion as is referred to in section 2 above to be certified by the practitioner concerned in such form and at such a time as may be prescribed by the regulations, and for requiring the preservation of certificates made for the purposes of the regulations.

(2) Any person who wilfully fails to comply with the requirements of regulations under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale (as defined in section 75 of the Criminal Justice Act 1982) or, as respects Northern Ireland, £1,000.

(3) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Short title and
commence-
ment.

4.—(1) This Act may be cited as the Prohibition of Female Circumcision Act 1983.

(2) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

A
B I L L

INTITULED

An Act to prohibit female circumcision.

A.D. 1984

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 5 1.—(1) Subject to section 2 below, it shall be an offence for any person—
- (a) to excise, infibulate or otherwise mutilate the whole or any part of the labia majora or labia minora or clitoris of another person; or
- 10 (b) to aid, abet, counsel or procure the performance by another person of any of those acts on that other person's own body.
- (2) A person guilty of an offence under this section shall be liable—
- 15 (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both; or
- (b) on summary conviction, to a fine not exceeding the statutory maximum (as defined in section 74 of the Criminal Justice Act 1982) or, as respects Northern Ireland, £1,000, or to imprisonment for a term not exceeding six months, or to both.
- 20

[Bill 160]

49/1

Saving for
necessary
surgical
operations

2

Prohibition of Female Circumcision

2. Section 1 above shall not render unlawful the carrying out of a surgical operation on a person if—

- (a) the operation is carried out by a registered medical practitioner who is of the opinion that the operation is necessary for the physical health of that person or for the rectification of abnormality; or
- (b) the operation is carried out by a registered midwife or a person undergoing a course of training with a view to becoming a registered medical practitioner or a registered midwife on a person who is in any stage of labour or has just given birth and is so carried out for purposes connected with that labour or birth.

Extradition
etc.

1870 c. 52.

1967 c. 68.

1952 c. 67.

3.—(1) Offences under section 1 shall be included—

- (a) in the list of extradition crimes contained in Schedule 1 to the Extradition Act 1870; and
- (b) among the descriptions of offences set out in Schedule 1 to the Fugitive Offenders Act 1967.

(2) In paragraph 1 of the Schedule to the Visiting Forces Act 1952 (offences against the person in the case of which a member of a visiting force is in certain circumstances not liable to be tried by a United Kingdom court), at the end of paragraph (b) there shall be inserted, appropriately numbered, the following paragraph—

“() section 1 of the Prohibition of Female Circumcision Act 1984.”.

Short title,
commence-
ment, and
extent.

4.—(1) This Act may be cited as the Prohibition of Female Circumcision Act 1984.

(2) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed.

(3) This Act extends to Northern Ireland.

30



Prohibition of Female Circumcision Act 1985

1985 CHAPTER 38

An Act to prohibit female circumcision. [16th July 1985]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Subject to section 2 below, it shall be an offence for any person—

- (a) to excise, infibulate or otherwise mutilate the whole or any part of the labia majora or labia minora or clitoris of another person; or
- (b) to aid, abet, counsel or procure the performance by another person of any of those acts on that other person's own body.

(2) A person guilty of an offence under this section shall be liable—

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both; or
- (b) on summary conviction, to a fine not exceeding the statutory maximum (as defined in section 74 of the Criminal Justice Act 1982) or to imprisonment for a term not exceeding six months, or to both.

Saving for necessary surgical operations.

Extradition etc.

1870 c. 52.

1967 c. 68.

1952 c. 67.

Short title, commencement, and extent.

2.—(1) Subsection (1)(a) of section 1 shall not render unlawful the performance of a surgical operation if that operation—

- (a) is necessary for the physical or mental health of the person on whom it is performed and is performed by a registered medical practitioner; or
- (b) is performed on a person who is in any stage of labour or has just given birth and is so performed for purposes connected with that labour or birth by—
 - (i) a registered medical practitioner or a registered midwife; or
 - (ii) a person undergoing a course of training with a view to becoming a registered medical practitioner or a registered midwife.

(2) In determining for the purposes of this section whether an operation is necessary for the mental health of a person, no account shall be taken of the effect on that person of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

3.—(1) Offences under section 1 shall be included—

- (a) in the list of extradition crimes contained in Schedule 1 to the Extradition Act 1870; and
- (b) among the descriptions of offences set out in Schedule 1 to the Fugitive Offenders Act 1967.

(2) In paragraph 1 of the Schedule to the Visiting Forces Act 1952 (offences against the person in the case of which a member of a visiting force is in certain circumstances not liable to be tried by a United Kingdom court), at the end of paragraph (b) there shall be inserted, appropriately numbered, the following paragraph—

“() section 1 of the Prohibition of Female Circumcision Act 1985.”.

4.—(1) This Act may be cited as the Prohibition of Female Circumcision Act 1985.

(2) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed.

(3) This Act extends to Northern Ireland.

APPENDIX 5

Interest/Pressure Groups within Issue network

*The Royal College of Obstetricians and Gynaecologists	RCOG	(M)
*The Royal College of Psychiatrists	RCP	
*The Royal College of Surgeons	RCS	
*The Royal College of Nursing	Rcn	(M)
*The Royal College of Midwives Trust	RCM	(M)
*The Royal College of General Practitioners	RCGP	
*British Medical Association	BMA	(M)
*General Medical Council	GMC	(M)
*Medical Women's Federation	MWF	(M)
*Women's Action Group on Excision and Infibulation	WAGFEI	
*Women's Foundation for Health and Development	FORWARD	
Somali London Community and Cultural Association	SLCCA	
* Somali Women's Association	SWA	
London Black Women's Health Action Project	LBWHAP	
*Commission for Racial Equality	CRC	(M)
*Minority Rights Group	MRG	
*Fawcett Society		
Josephine Butler Society		
*Anti-Slavery Society for the protection of Human Rights	ASS	
The National Council of Women of Great Britain	NOW	
The National Union of Townswomen's Guilds	NUTG	
The Dorcas Group		
The Women's Liberal Federation		
St. Joans International Alliance		

M - Those who attended meeting on 17 October 1985

* - Groups consulted and kept informed by Lord Kennet