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Possible or Impossible?:
A Tale of Two Worlds in One Country

Judith S. Seddon†

I. INTRODUCTION

"I can't believe that!" said Alice.
"Can't you?" the Queen said in a pitying tone. "Try again: draw a long breath, and shut your eyes."
Alice laughed. "There's no use trying" she said: "one can't believe impossible things."
"I daresay you haven't had much practice," said the Queen. "When I was your age, I always did it for half-an-hour a day. Why, sometimes I've believed as many as six impossible things before breakfast."¹

Some young women and girls of African origin living in Britain, surrounded by Western values and culture, follow the Queen's advice and shut their eyes to endure the pain which is part of their reality.

One day when I was nine, my Mum didn't let me go to school. After a while I see an old woman come in. I see her bag, some scissors and some things. When I tried to get out of the house they pulled me back, my mum, my aunties and the woman; they held me down, they done it to me. I fight them, but they was too strong for me. They just said, it's something every girl has to do, and if she doesn't, she's a dirty girl.²

The words come from seventeen-year-old Fatima who lives with her family in Middlesex. Yah, nineteen, tells of her circumcision in her family's South London kitchen at age eight: "One of my aunts pinned my arms behind my

† L.L.M, Yale Law School, 1992. Judith Seddon is currently studying at New College, Oxford University. I would like to thank Lynn Berat for encouraging me to publish this article, and Catherine Adcock for her enthusiasm and practical and caring support. During the redrafting I had the unfailing and invaluable support and advice of my sister Jane, and of Ishmail Badr. I would also like to thank Jane Conners and Denise Whitby for their contributions, and Amran Vance for his friendship.
1. Lewis Carroll, Through the Looking Glass 100 (1912). The idea to use this quote came from an article by Carol Cohn, Sex and Death in the Rational World of Defense Intellectuals, 12 Signs 687 (1987).
back, another held my legs and my mother cut me." A British nurse working in a private clinic in North West London tells of what goes on there:

One of the patients at the clinic was a beautiful Nigerian woman. . . . Her chart . . . said excision of the clitoris and labia minora. . . . I was shocked. I couldn’t believe it. I didn’t want to look at her. . . . One of the regular nurses at the clinic told me they had done a 2-year-old girl at the same place. 4

The practice is commonly known as “female circumcision,” but this euphemism is rejected by many writers in favor of “genital operations” 5 or less ambiguously “female genital mutilation.” 6 It is practiced in many parts of Africa, most frequently in Sudan, Somalia and Mali, along the southern coast of the Arabian peninsula, and by the Muslim population of Indonesia and Malaysia. 7 Upon immigration to Europe and North America, families continue the practice. The numbers of women thought to be affected vary, but some estimate over eighty million. 8 The World Health Organization estimates that ninety million girls and women have endured either clitoridectomy or infibulation, and that “two million more girls endure these practices each year.” 9 It is estimated that there were about ten thousand female children circumcised in Britain in 1991. 10

Female circumcision ranges from ritualistic circumcision, where the clitoris is barely nicked, causing little mutilation or long term damage, to the practice of infibulation 12 or “Pharaonic” circumcision which involves the complete amputation of the external female genitalia. 13 In its extreme form, the entire clitoris and labia minora (or ‘small lips’) are removed and “much

5. Rhoda Howard, Women’s Rights in English-speaking Sub-Saharan Africa, in HUMAN RIGHTS AND DEVELOPMENT IN AFRICA (Claude E. Welch, Jr. & Ronald I. Meltzer, eds. 1984)(“It should be noted that I use the term ‘female genital operations’ rather than the inaccurate term ‘female circumcision.’”).
7. SEBASTIAN POULTER, ENGLISH LAW AND ETHNIC MINORITY CUSTOMS 153 (1986).
10. Whyte, supra note 2, at 15.
12. The word “infibulation” “is derived from the clasp which the Romans used to fasten their togas and sometimes the genitals of their male slaves.” (The scar created from the circumcision is a physical barrier across the opening of the vagina, “fastening” the vagina closed.) Female Circumcision, ECONOMIST, Sept. 18, 1982, at 42.
13. Medically, the removal of a healthy organ is mutilation. Male circumcision removes a piece of skin, but removal of healthy labia and clitoris is classified as “female genital mutilation.” Health care workers at a 1979 World Health Organization conference unanimously condemned the practice as medically indefensible and disastrous to women’s health. Among those participating were health officials from countries where women are subject to clitoridectomies. See, REUTER LIBR. REP., Aug. 8, 1979 (on 1979 World Health Organization conference held in Khartoum, Feb. 1979).
or most of the labia majora (or 'large lips') is cut or scraped away. The remaining raw edges of the labia majora are then sewn together with acacia tree thorns, and held in place with cat-gut sewing thread. The entire area is closed up by this process leaving only a tiny opening, roughly the size of a match stick to allow for the passing of urine and menstrual fluid. The girl's legs then are tied together [at the] ankles, knees, and thighs—and she is immobilized for an extended period, varying from fifteen to forty days, while the wound heals."

The short term consequences of female circumcision include hemorrhage, shock, severe pain, and in some cases, death. At times, death can only be prevented if blood transfusions and emergency resuscitation are available. Given the fact that the operation is usually concealed from the authorities, only a very small proportion of those in danger of dying reach the hospital in time.\textsuperscript{15} Health risks are heightened where traditional methods are used, such as the procedure involving tree thorns. "In the long term, circumcised women are susceptible to vulvar abscesses, inclusion cysts and urinary complications in addition to the inevitable obstetric complications which can cause permanent injury to mother and child."\textsuperscript{16}

The scarred and hardened tissue often blocks the birth passage and results in tearing of the vaginal area, hemorrhaging, or a ruptured uterus. . . . The vaginal opening is frequently cut, or "re-infibulated," to allow for easier passage of the fetus, but delayed births are common, and obstructed labor can result. Brain damage and death of the baby can occur because of lack of oxygen. In unassisted births where the infibulated opening is too small, or in cases where the infibulated area is so mutilated that sufficient cutting of the opening is impossible, the lives of both the mother and the child are threatened.\textsuperscript{17}

The physical health implications for girls and women include the increased susceptibility to the contraction of AIDS.

A woman who has a sexually transmitted infection such as gonorrhoea, for example, may have genital sores or ulcers which could make it easier for the virus to enter her bloodstream during intercourse. . . . [She] may also have open wounds as a result of clitoridectomy and infibulation which are practiced on a large number of African women . . . . [which] would allow easier transmission of semen containing the

\textsuperscript{14} Slack, \textit{supra} note 11, at 441-42 (citations omitted).
\textsuperscript{15} \textsc{Elise Sochart}, \textsc{Strathclyde Papers on Government and Politics, Legislating Against Female Circumcision: Social Reform or Placebo Politics} 5 (1987).
\textsuperscript{16} \textsc{K. Hayter}, \textit{Female Circumcision—Is There A Legal Solution?}, 1984 \textsc{J. Soc. Welfare} L. 323.
\textsuperscript{17} Slack, \textit{supra} note 11, at 453-54.
virus.\textsuperscript{18}

In addition, the use of an instrument on more than one child, in unhygienic conditions, could lead to the spread of the disease.\textsuperscript{19} A virologist working on AIDS research believes that the wounds resulting from female circumcision would provide an efficient way of transferring the AIDS virus, as a circumcised woman could contract the virus and pass it on during intercourse more easily due to the broken genital tissue.\textsuperscript{20} Scientists have noted that bleeding during sexual intercourse could "possibly mak[e] it easier for HIV to invade its new host."\textsuperscript{21}

Female circumcision also leaves girls "psychologically scarred and terrified of intercourse and childbirth."\textsuperscript{22} London obstetrician Dr. Mary McCaffery, who performs operations on infibulated pregnant women to remove the scar tissue several weeks before the birth, said that "even with a general anaesthetic some of the women scream when their genitals are touched. The pain is not just physical—it goes very, very deep and will be with them forever."\textsuperscript{23}

I have chosen to write about the practice of female circumcision as it takes place in Britain, the legislation which was enacted in England and Wales to outlaw the practice and its effectiveness, and the policy issues which arise as a result. As a white British woman, I feel that concentrating on the practice as it takes place in my country will lend a credibility and force to my arguments which is difficult, if not impossible, to achieve when writing about a practice in countries and cultures of which I am not a part. Within those different countries and societies, some women have sought to stop the practice of female circumcision with a vision and an awareness which only they can possess.\textsuperscript{24} According to Isabelle Gunning, "different women struggle for their own vision of what is best and possible, both within and against the constraints of their culture."\textsuperscript{25}

\textsuperscript{18} DIANE RICHARDSON, WOMEN AND THE AIDS CRISIS 52 (1989).
\textsuperscript{20} Interview with Denise Whitby, virologist and AIDS researcher at the Institute for Cancer Research, in London (Feb. 8, 1993).
\textsuperscript{21} Sharon Kingman & Steve Connor, The Answer Is Still a Condom, NEW SCIENTIST, June 23, 1988, at 33, 35.
\textsuperscript{22} Whyte, supra note 2.
\textsuperscript{23} Hampton, supra note 9, at 17.
\textsuperscript{24} For the African feminists who clearly agree that the surgeries must be abolished, the practice is viewed as only one of a number of problems besetting women, including poverty, scarce water and land, heat and dust storms, and generally bad health care. The surgeries do not head the list of wrongs that need to be righted to improve the status of women. Some feminists, while still fighting to abolish the surgeries, have rejected any interference by Westerners.
At the 1975 conference in Copenhagen, marking the midpoint of the U.N. Decade for Women, African women made it clear that they resented Western feminists' campaign to "save African women." Many African women believe that the practice of female circumcision should be fought by African women because only they understand what is at stake. To intervene on an arbitrary basis, with only superficial knowledge of the history of the practice and without respect for the women's wishes of the country in question, would be counter-productive.

Female circumcision in Britain, on the other hand, can be perceived as something white Western feminists may address because the girls being circumcised live in Britain, and often embrace Western values as their own. They are caught between two cultures and two value systems. For example, Yah, the little girl who was circumcised in a South London kitchen, is now seeking advice from social workers on how to get the cat-gut stitches out. This is a symbolic act of rebellion which could sever her from her community, leaving her unmarriageable in an ethnic group whose traditions demand that her groom pay a substantial bride-price if, and only if, the woman is circumcised.

II. THE FEMALE CIRCUMCISION ACT

The legal response to the practice of female circumcision in Britain came in the form of the Prohibition of Female Circumcision Act of 1985. The Act makes it "an offense for any person to excise, infibulate or otherwise mutilate the whole or any part of the labia majora or labia minora or clitoris of another person" or to "aid, abet, counsel or procure the performance by another person of any of those acts on that other person's own body." This Act, although eventually introduced by Marion Roe, Conservative Member of Parliament for Broxbourne, largely resulted from the work of Lord Kennet of the Social Democratic Party. Lord Kennet initially introduced the issue to Parliament by proposing the first Prohibition of Female Circumcision Bill in March, 1983 in the House of Lords.

There were two circumstances that particularly influenced Lord Kennet's involvement in the issue of female circumcision. First, certain organizations interested in calling attention to the practice of female circumcision successfully agitated for reform. The Minority Rights Group was instrumental in fostering awareness of the practice in Britain and proposing

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27. REUTER LIBR. REP., supra note 3.
28. Prohibition of Female Circumcision Act, 1985, ch. 38 (Eng.).
29. Prohibition of Female Circumcision Act, 1985, ch. 38, §§ 1(1)(a) and (b) (Eng.).
30. The Minority Rights Group (MRG) is an international research and information unit that commissions and publishes issue-specific reports in order to promote a greater public awareness and understanding.
action against it, particularly through a subgroup called the Women’s Action
Group on Excision and Infibulation (WAGFEI). Lord Kennet’s support of
WAGFEI and involvement with promoting their aims put him in to contact
with those most intimately affected by female circumcision in Britain. Another
influential group was the Somali Women’s Association (SWA).31 Second,
growing media coverage generated public support for Lord Kennet’s Bill,
despite the fact that much of the public interest in female circumcision
stemmed from a kind of voyeurism, injected with moral outrage: “[i]n 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.”32 The growing media attention created the momentum necessary
to ensure passage of legislation addressing the issue.

The principal difference between the final version and the Bill proposed
by Lord Kennet lies in section two of the Act, which continues to be a source
doctrine. This section provides:

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;

(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.33

Lord Kennet originally tried to outlaw female circumcision except when
necessary for the physical health of the woman or the rectification of any
abnormality. This limited exception was opposed by the Royal College of
Obstetricians and Gynecologists (RCOG) who may have viewed the Act as a
threat to this lucrative area of private medicine. Though the RCOG officially
condemned the practice of circumcision as abhorrent, it vigorously opposed
the legislation prohibiting the operation:

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 the doctors
practice medicine, including its own Fellows and Members. Instead of
pressing for legislation to make the operation illegal, because there are

31. SOCHART, supra note 15, at 11.
32. Id.
33. Prohibition of Female Circumcision Act, 1985, ch. 38 (Eng.).
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.34 Consequently, the RCOG supported more liberal exceptions to the Act than those proposed by Lord Kennet.

The 1985 Act clearly allows for those legitimate operations necessary for the physical health of a woman,35 as in cases of cancerous or pre-cancerous conditions, or in those “rare cases of ambiguous sexual development or secondary virilism”;36 circumcision is also available when necessary for the mental health of a woman. This last exception has caused considerable controversy. It seems possible that such an exemption might create a massive loop-hole, which could render the whole Act meaningless by allowing the claim of depression or severe anxiety to nullify the intention of the Act.37 For example, it allows for the continuation of the practice of “trimming” female genitalia, where “a girl or woman, otherwise perfectly healthy, becomes anxious and depressed about the shape or size of her external genitalia. . . . It is from the woman's actual or potential mental illness that the need for it arises.”38

However, there is an exception to the mental health loop-hole: in cases where girls or women claim the mental health exemption for reasons of “custom or ritual,” as referred to in section 2(2). This exception to the exception is cause for concern. Distress and anxiety are conditions which know no cultural boundaries or difference. Legislation distinguishing between the women who believe that their genitals need cutting for “rational” reasons and those who think, “irrationally,” that their genitals need cutting, requires an explicit value judgment as to mental needs, a value judgment seen by some as “naked racism.”39

The subtext of Section Two is the legitimacy of Western women’s needs and freedom to choose. An African woman’s freedom to choose is ignored, sacrificed to the preferences of those who think they know better than she. The Commission for Racial Equality (CRE), the Government’s statutory advisors on race relations, responding to Lord Kennet’s request for advice, stated their shared concern over the formulation of the amendment proposed by the Government:

35. Prohibition of Female Circumcision Act, 1985, ch. 38, § 2(1)(a) (Eng.).
37. However, as one observer writes: “Without any exemption on mental health grounds the bill represents an inroad into women's rights to self-determination in that it restricts the freedom to elect for surgery on non-therapeutic grounds.” Hayter, supra note 16, at 332.
39. Telephone Interview with Lord Kennet, Member of the House of Lords (Feb. 10, 1993).
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 ought 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 of precedent would be undesirable on principle.40

The Government overrode this opinion and kept the exclusion in the final bill. Lord Kennet criticized this decision, noting that the legislation was effective in providing remedies for white women's depression. According to Lord Kennet, the legislation legitimates circumcisions used to "cure" white depression but not for black depression. He concluded that "[t]o allow the mutilation of a deluded white girl and not of a deluded black girl is indefensible."41

The reasons for which a Black girl would choose to undergo this operation may be incomprehensible to Westerners,42 but they are not necessarily delusions. To describe these African women's beliefs as delusional does injustice to the complex reasons for which many choose to be circumcised. As Isabelle Gunning points out, in order to approach another's culture with any understanding, it is first necessary to see oneself as the other sees you; to acknowledge that "just as a Westerner may view the surgeries as a cultural challenge, the street runs two ways: non-Westerners too can view Western practices as culturally challenging."43 In light of our own culturally challenging practices, it is both unjust and unhelpful to speak in such culturally superior tones.

There have, as yet, been no prosecutions under the Prohibition of Female Circumcision Act. This is due in large part to the difficulty of acquiring

42. For example, one claim is that the operation is carried out to improve the hygiene of these girls and women. "A . . . justification is to the effect that many societies believe the female genitals to be 'unclean' and thus their removal is regarded as a process of 'purification.' Infibulation, however, has precisely the opposite effect and is extremely unhealthy." Poulter, supra note 7, at 153.
43. Gunning, supra note 24, at 212. For example, it is worth noting that some cosmetic surgery could be described as mutilation, but no one speaks of "breast mutilation." Instead, non-judgmental descriptions such as "breast surgery," "breast enlargement," or "breast reduction" are chosen.
sufficient evidence, which would often require a girl to testify against her own family; an unlikely possibility. It may be easier to prosecute the doctors who perform the operations. Scotland Yard is at the moment investigating the case of a Harley Street doctor, Dr. Farouk Hayder Siddique, who charges £400 to perform female circumcisions. Two journalists tried to expose Siddique by posing as an engaged Nigerian couple seeking the operation.

At the meeting, Kogbara [the journalist] gave the false name of Joy Opara. Siddique told her: “In this country the operation is illegal, OK? So don’t go talking about it.” When asked why it was illegal, he said: “Because if you take that part from the woman, the woman’s pleasure is not there anymore.”

Siddique told the couple how he would explain his needing a room at the hospital, adding: “I’m not going to tell them what operation she’s having. I am going to say something else.”

Even if the evidence seems clear, successful prosecution requires access to the doctor’s records, which would breach doctor/patient confidentiality. According to Efua Dorkenoo, a trained nurse and director of the Foundation for Women’s Health Research and Development (FORWARD), officials at Scotland Yard are presently investigating allegations that the operation is being performed in private clinics in North London. In addition, Scotland Yard continues to investigate reports of the mutilation of children in Cardiff. Despite Scotland Yard’s efforts, the lack of prosecutions certainly calls into question the effectiveness of the Female Circumcision Act.

III. PROSECUTING FEMALE CIRCUMCISION UNDER THE OFFENCES AGAINST THE PERSON ACT

During the passage of the Prohibition of Female Circumcision Act through the House of Lords, Parliament members emphasized the fact that female circumcision was already illegal under English law, and concluded that the legislation was therefore superfluous. Lord Halisham, speaking in his capacity as Lord Chancellor on a matter of legal issue, rather than as a member of the Government, stated that under the Offences Against the
anyone participating in the practice of female circumcision without legitimate medical reasons would be guilty of unlawful and malicious wounding, or grievous bodily harm.

The Government has not always espoused this view. In November 1982, upon being questioned by a Member of Parliament regarding possible legislation against female circumcision, the Government responded that the issue was to be left in the self-regulatory arena of the General Medical Council. Nothing was mentioned at the time about the illegality of female circumcision under any statute or under the common law. Indeed, opinions vary as to whether female circumcision is illegal under the law, other than under the 1985 Prohibition of Female Circumcision Act.

The view that female circumcision is illegal under the OAPA is based on the fact that under the common-law right to bodily integrity, any unlawful interference with the right to bodily integrity amounts to at least an assault or battery. Thus, female circumcisions might be unlawful under sections 18, 20, and 47 of the OAPA. Under section 47, once assault is proven, it need only be proven that it occasioned actual bodily harm. Intent is irrelevant. The question then becomes whether the operation of female circumcision can be justified as lawful interference; that is, whether consent of the patient can establish a valid defense.

Lord Halisham believed that the consent of an adult to maim herself would not be admissible as a defense under the OAPA. He argued 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.” The recent case of R v. Brown demonstrates this. Despite the plaintiff’s willing participation in

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51. Sections 18 and 20 read as follows:

§18. Whosoever shall unlawfully and maliciously by any means whatsoever wound or cause any grievous bodily harm to any person . . . with intent . . . to maim, disfigure, or disable any person, or to do some other grievous bodily harm to any person . . . shall be guilty of felony . . .

§20. Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanor . . .

Offences Against the Person Act, 1861, 24 & 25 Vict., ch. 100 (Eng.).

52. SOCHART, supra note 15, at 14.

53. POULTER, supra note 7, at 155.

54. §47. Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily harm shall be liable . . . to be kept in penal servitude. Offences Against the Person Act, 1861, 24 & 25 Vict., ch. 100 (Eng.).


56. Id. at 426-27.


58. SOCHART, supra note 15, at 22.

sado-masochistic acts, including genital torture, it was held that the defendant was liable under sections 47 and 20 of OAPA because of the actual bodily harm and the unlawful wounding occasioned. People cannot consent to cause each other bodily harm "for no good reason."\footnote{Attorney General's Reference (No. 6 of 1980), 1981 Q.B. 715, quoted in Mackay, supra note 57, at 720 (two men agreed to settle argument by means of fist fight).} If there is no sound medical reason for an operation, then consent is not a defense:

> [I]t is not in the public interest to allow anyone to inflict permanent injury upon another without just cause or excuse. . . . [E]specially since the harm which results from this operation is so much more serious and far reaching than that declared to be unlawful by the courts in Adesanya and Attorney-General's Reference (No. 6 of 1980).\footnote{Mackay, supra note 57, at 721.}

Extending the criminal law of assault to eliminate the defense of consent to surgical operations which have no clear physical benefit for the patient calls into question the legality of many forms of elective surgery. "Examples include male circumcision, cosmetic surgery and 'sex change' operations, all of which are currently practised in the belief that the principle of self-determination overrides any possible public policy considerations which could result in criminal liability."\footnote{Hayter, supra note 16, at 327.} Hayter sees a possible justification for such an extension in both the differences in lifestyle and the degree of liberation which Western women and women from the practicing ethnic communities enjoy. "It is possible, however, that the cloistered lifestyle and acute state of economic dependence in which the women practicing female circumcision find themselves may provide some justification for a paternalistic approach here."\footnote{Id. at 326.} This circumstance is changing, however. Media attention and education campaigns which teach women about the health consequences that usually follow the operation have been in place for a number of years. Women who decide to subject themselves to the operation in spite of this information should have the same right to do so as those who, given the known consequences of some forms of cosmetic surgery, still subject themselves to the risks.

The consent issue is different in the case of children. The question in these cases is whether consent of the parents can establish a valid defense. Poulter suggests that "no amount of parental agreement or support can legitimize the practice of circumcision, excision or infibulation of a young girl in this country, unless the operation is for therapeutic purposes."\footnote{Poulter, supra note 7, at 155. Presumably those operations allowable for therapeutic purposes would be covered under § 2(1)(a) of the Prohibition of Female Circumcision Act. See supra note 35 and accompanying text.} This view would
seem to be confirmed by the recent decision in Re W, which though not a decision about female circumcision, has principles easily applicable to the practice of female genital operations. The question in that case was whether a sixteen-year-old girl, suffering from anorexia nervosa, could be moved to a specific treatment unit and given medical treatment without her consent. Balcombe L.J. states, “if the court’s powers are to be meaningful, there must come a point at which the court, while not disregarding the child’s wishes, can override them in the child’s own best interests, objectively considered.”

Nolan L.J. adds:

[If the child’s welfare is threatened by a serious and imminent risk that the child will suffer grave and irreversible mental or physical harm, then once again the court when called upon has a duty to intervene. It makes no difference whether the risk arises from the action or inaction of others, or from the action or inaction of the child. Due weight must be given to the child’s wishes, but the court is not bound by them.]

This could have clear application to operations of clitoridectomy or infibulation. Even where a girl or woman can be unstitched, the damage done is irreversible. Therefore, in the case of children, the state should be able to intervene and forbid the operation, even when parents consent to the operation. For adults, however, the operation may be an educated choice, and this should be respected.

IV. THE CHILDREN ACT OF 1989

The circumcision of girls raises different concerns from those raised by the circumcision of adult women, and necessitates different legislative avenues for addressing the problem. The Children Act of 1989 is the governing piece of legislation on children and provides the major source of protection for children living with families practicing genital mutilation.

Section 1(1) of the Children Act mandates that the child’s welfare be the court’s paramount consideration when deciding any question with regard to the child’s upbringing, and Section 1(5) states that a court shall not make any order with respect to a child “unless it considers that doing so would be better for the child than making no order at all.” With these considerations in mind, a court may make a care order or a supervision order, on the application of a local authority or an authorised person, if it is satisfied

66. Id. at 643.
67. Id. at 648 (emphasis added).
68. Children Act, 1989, ch. 41 (Eng.).
69. An ‘authorised person’ is defined in section 31(9): “a) the National Society for the Prevention of Cruelty to Children and any of its officers; and b) any person authorized by order of the Secretary of
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(a) that the child concerned is suffering, or is likely to suffer, significant harm; and

(b) that the harm, or likelihood of harm, is attributable to:
   
   (i) the care given to the child, or likely to be given to him (her) if the order were not made, not being what it would be reasonable to expect a parent to give to him; or
   
   (ii) the child's being beyond parental control.

Pursuant to Section 31(2) "[a]n isolated incident in the past, however serious, will not by itself ground proceedings." Further, the harm must be "significant." The DHSS Review of Child Care Law explained that there must be some "substantial deficit" in the standard deemed acceptable for the upbringing of a child.

However, it is difficult to assess when harm will be regarded as significant enough to justify intervention. In one case, an eight-year-old boy died of exposure after running away from home for the fourth time. One time when the child ran away after a beating, he was taken to the police station in Reading. Although his injuries were sufficient to amount to actual bodily harm, and in spite of the boy's repeated insistence that he did not want to go home, none of the professionals involved (including a doctor, a social worker, and a police officer) thought that the child should be removed from his home. Given the holding of Re W, something as grave and irreversible as genital mutilation appears to qualify as significant harm. Whether genital mutilation would actuate the removal of a child from the parent is, however, unclear.

Another difficulty stems from the legislation's commitment to cultural pluralism. When making any order for the benefit of a child, the court must consider a list of factors, set out in section 1(3) of the Act, which includes consideration of "the background of the child." Although the Children Act adopts a racially and culturally sensitive approach, it stops short of total relativism in establishing the reasonableness of care standard. "[W]ithin limits which it would be difficult to define precisely, what constitutes reasonable care

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State to bring proceedings under this section and any officer of a body which is so authorized.

Children Act, 1989, ch. 41, § 31(9).


71. DEPARTMENT OF HEALTH AND SOCIAL SERVICES, REVIEW OF CHILD CARE LAW, Paragraph 15(15), quoted in Freeman, supra note 70, at 138.

72. Freeman, supra note 70, at 143.


74. Children Act, 1989, ch. 41, §1(3).

75. HMSO, DEPT. OF HEALTH, WORKING TOGETHER UNDER THE CHILDREN ACT 1989 (1991). This report states that:

All staff working in the area of child protection should be aware of [the list of factors set out in section 1(3) to be taken into account in determining the best course of action for a child] and should use them to underpin their work which should always be sensitive to the culture and background of the child and family.

Id. at 1.
will differ in different communities. The Act seems to recognise this.\textsuperscript{76}

The strength of the legislation, however, lies not in what can be done once a child has suffered significant harm, but in the responsibilities of local authorities and other authorized persons to prevent the operation from ever taking place. As already mentioned, if the likelihood of significant harm can be established, then a care or supervision order can be made. "In areas where there are significant numbers of children of particular ethnic minority or cultural backgrounds, workers will need to be alert to the possibility of female circumcision."\textsuperscript{77} Under section 47 of the Children Act, if local authorities have reason to believe that a child is at risk of undergoing the operation, then they have the duty to investigate. Such inquiries should be made as they are considered necessary to enable local authorities to decide whether to take any action in order to safeguard or promote the child’s welfare.\textsuperscript{78}

After a Section 47 investigation, a child protection conference is called, where family members and agency professionals discuss the information gathered during the investigation. The degree of risk to the child will then be evaluated in order to determine whether or not she should be placed on the child protection register. If the child is indeed registered, she will be appointed a primary worker and recommendations will be made for a core group of professionals to carry out interactive work to address the problem.\textsuperscript{79} A prohibited steps order,\textsuperscript{80} under section 8 of the Act, could be made to prevent parents from carrying out a particular act. In some instances, this order prevents parents from removing the child from the United Kingdom to undergo the operation abroad.

When all of the orders outlined in the Children’s Act are taken into consideration, it becomes clear that children who are in danger of undergoing the operation of female circumcision should have the benefit of British child protection legislation. As Efua Dorkenoo has pointed out, "[c]hild protection structures exist in this country. But when it comes to the genital mutilation of black children they are not being used."\textsuperscript{81} The reason for this is that the law governing children emphasizes working together with the family first as opposed to removing a child immediately in order to avoid cultural tension and feelings of animosity. Yet, in cases of imminent risk of significant harm to the child, if the child’s welfare is the paramount consideration, then the protection of the child must outweigh any negative feelings felt by the family itself. Otherwise these children have only a second-class status in terms of child

\textsuperscript{76} Freeman, supra note 70, at 154.

\textsuperscript{77} HMSO, DEPT. OF HEALTH, supra note 75, at 11.

\textsuperscript{78} Children Act, 1989, ch. 41, § 47(1).

\textsuperscript{79} HMSO, DEPT. OF HEALTH, supra note 75, at 42.

\textsuperscript{80} "A prohibited steps order means an order that no step which could be taken by a parent in meeting his parental responsibility for a child, and which is of a kind specified in the order, shall be taken by any person without the consent of the court." Children Act, 1989, ch. 41, § 8(1).

\textsuperscript{81} Whyte, supra note 2, at 15.
protection law and procedure in this country. 82

V. SEEKING SOLUTIONS WHICH RESPECT WOMEN’S EXPERIENCES

The nature of the operation, the traditional secrecy, and the mystery surrounding the practice all work to prevent legislation from having much impact, unless it is combined with other preventative measures such as better social intervention and a heightened social awareness of the problem. For example, in 1982, “after fourteen girls were revealed to have died in Kenya and another nine were hospitalized in critical condition, President Moi decreed a nation-wide ban on female circumcision and ordered the police to charge its perpetrators with murder.” 83 Many doctors and social workers at the time believed that, as a result, circumcision would become even more difficult to eradicate “as tribal elders and midwives conspired to conceal any casualties.” 84

Education is regarded by many, including FORWARD, as the single most important factor in combatting the practice of female genital operations. 85 If the education program treats the issue in terms of child abuse or child protection, however, its success will be limited, because such an approach “suggests that women who permit the operation are incompetent and abusive mothers who, in some ways, do not love their children.” 86 Of course, many of these mothers not only permit the operations, but are often the ones who carry them out. 87 Nevertheless, the success of education, as Kay Boulware-Miller emphasizes, depends on how it is implemented. “[I]f African women are offended by the implication that they are poor mothers, they will likely reject the children’s rights argument altogether.” 88 Because education as to the health implications is culture-neutral and therefore provides no threat to the community, and because the implications for a girl’s health are unequivocal, health education could provide a bottom line in the discussion. Once the risks to a child’s health have been detailed, perhaps parents will start to listen more carefully and think twice about whether their culture really demands that they hurt their children in this way.

“Not only can education impart health dangers, but it provides an

82. Interview with Efua Dorkenoo, supra note 47.
83. Female Circumcision: Because It’s Always Been Done, ECONOMIST, Sept. 18, 1982, at 42.
84. Id.
85. Interview with Efua Dorkenoo, supra note 47.
86. Kay Boulware-Miller, Female Circumcision: Challenges to the Practice as a Human Rights Violation, 8 HARV. WOMEN’S L.J. 155, 166 (1985).
87. At a United Nations World Conference on Women held in Copenhagen in 1980, Nawal el-Saadawi, a medical doctor from Egypt and an outspoken critic of female circumcision, tells the story of her circumcision: that when she was six years old strangers came in the night and took her from her bed. “In her pain, she opened her eyes and saw the blood and cried out for her mother. But her mother was standing there, among the midwives.” Georgia Dullea, Female Circumcision: A Topic at U.N. Parley, N.Y. TIMES, July 18, 1980, at B4.
88. Boulware-Miller, supra note 86, at 166.
alternative context in which precious notions about feminine sexuality and marital responsibility can be upheld.”

Notions of female sexuality are a factor in the continuation of the practice of female circumcision in Britain. Some African mothers have their daughters circumcised because they believe that if their daughters grow up in Britain uncircumcised, they will become sexually active, and thus unmarriageable. Some women believe that “circumcision is ‘culture’ and the only way to womanhood.” The culture of womanhood becomes the culture of control over women’s sexuality. The desire to control women’s sexuality arises partly out of “an implicit cultural belief that a woman’s sexuality is irresponsible and wanton and therefore must be controlled by men.” The woman has to be circumcised in these cultures in order to be able to marry and have a husband who will be proud of her, and more importantly, provide for her basic needs.

Female circumcision is but one method of control used by men over women. Whether one looks at women in the West, or the East, in Africa or in Asia, sexuality and the control of sexuality are a pervasive and determining dimension of social life, defined by a particular culture or subculture. Restriction, constraint, contortion, servility, display, self-mutilation, passivity, humiliation, and the requisite preservation of self as a beautiful thing, are definitive of sex and sexuality for many women. Hanna Papanek, writing about the differences between the imputed needs of men and women, draws attention to the fact that these differences can come to include ideas about the physiological and psychological processes in men and women. “The presumed inability of men to control their sexual impulses is coupled in many societies with restrictions on women’s behavior and an emphasis on female self-restraint in sexual matters.” Virginity and purity are assets for women. Virility demands an explosive sexuality for men. As Papanek notes, these differences in needs and entitlements, imputed to and imposed on women, are part of the social construction of women and men and serve to perpetuate inequality.

Alison Slack compares female circumcision in Africa to cosmetic surgery in the United States. She writes: “The frequency of cosmetic surgery in the United States cannot be compared to the frequency of circumcision in Africa. Furthermore, there is no social requirement for women to undergo cosmetic surgery in the United States; . . . [S]hould we simply accept some degree of morbidity and mortality as the price of our cultural (and aesthetic)
freedom?"96 For the women in either culture this is not freedom. When thousands of women in the United States are dying each year from anorexia or bulimia, and when 90-95% of the sufferers of such diseases are women,97 it would seem that there are indeed socially-imposed standards that are deleterious to women. A striking feature of both female circumcision and cosmetic surgery or dieting is that although they are required for and by men, they are dependent on the complicity of women. "In both cases the women's perception of themselves reflects the demands of the social group to which they belong."98 These practices cannot, therefore, be examined outside of the cultures that demand and tolerate them.

Gunning uses a three-pronged methodology in order to understand "culturally challenging" practices like female circumcision:

1) be clear about the boundaries and ramifications of one's own will and interests, i.e. understand one's own historical context; 2) understand how as an outsider one impacts on the "other's" world and is perceived by the "other," i.e., see yourself as the other woman might see you; and 3) recognize the complexities of the life and circumstances of the other woman, i.e., see the other woman, her world and sense of self through her eyes.99

In other words, an understanding has to be attained by dealing with our own history of female genital operations as a cure for masturbation100 or male-defined "illnesses" such as "hypersexuality, hysteria and nervousness."101 We can then realize that women must be heard, that they must lead the discussion of what should be done and how.102 We should remember our own history of genital mutilation which resulted from societal beliefs about women's sexuality: "[W]e may be inclined to breathe a sigh of relief that such surgeries are in the past. But we cannot breathe that easily. The basic motivating desire

96. Slack, supra note 11, at 463-64.
98. Hayter, supra note 16, at 325.
100. Barker-Benfield notes that clitoridectomy was the first cure for female mental disorder. It was invented by an English gynecologist, Dr Isac Baker Brown, who was considered one of the ablest and most innovative surgeons in England. Reports of the number of surgeries Brown performed range from several hundred to several thousand. Brown's concern was to 'solve' women's mental health problems: '. . . the main culprit was masturbation . . . The treatment was clitoridectomy.'

Id. at 206-7 (quoting EDWARD WALLERSTEIN, CIRCUMCISION [SIC]: AN AMERICAN HEALTH FALLACY 173 (1980)).
101. Id. at 208.
102. The Somali Women's Association set up an action group in response to Marion Roe's proposed bill, considering clause 2(2) to be racist. This group, the London Black Women's Health Action Project (LBWHAAP), aimed to promote the welfare of black women in Britain. Although the group supported the general aim of the legislation, they felt that, as regards clause 2(2), there had been no consultation with the Black communities most affected by the practice. See SOCHART, supra note 15 at 49, 57.
to control women into submission still reigns strong in our current American and Western cultures." We should remember that what seems impossible in one society, seems possible in another.

These women’s perception of what is in their best interests can best be understood by realizing that everyone perceives his or her life circumstances according to the norms and expectations of the group to which he or she belongs. When norms are so prevalent, dominant, and exclusionary of other ways of behavior that the woman sees no alternative to living by these norms, then she may see no other way to assure her daughters a good life than by continuing to enforce inequality. If many of the best-paying jobs for women are those in which they can sell their bodies, and if force is an integral part of many women’s sex lives, then to cope and survive in such a world means internalizing these values almost as a positive act of affirmation of self. Or, along similar lines, the fact that mothers tell their daughters not to eat so much, to go on a diet, to think of their weight, to remember their posture—starting the process early on in their daughters’ lives—is testimony to the dominant beauty ideology of society. Mothers may be blinded to other alternatives, for their daughters or for themselves, which would not conform to the dominant ideology of what a woman should look like.

As many writers have observed, the ideal of beauty for the circumcised female is but a variation of the ideal of beauty in the West. The results of infibulation may be appealing to some eyes, “an improvement on the wet, lumpy natural female genitals, source of uncontrollable desires.”

The contrast is somewhat analogous to current western concepts of female beauty. One popular ideal of beauty is slim, smooth, simple with just the barest hint of curvature for the breasts and, perhaps, the hips: the adolescent figure. Fat or large women and the thickness and complex wrinkles that come with age, struggle, childbearing and wisdom are largely discounted as marks of beauty.

Forgetting the victims of our own sexually exploitative system, and sensationalizing a practice that we view as repulsive, risks breeding a cultural superiority which can lead to antagonism between Western and African women. The women from within the culture who are critical of traditional practices are then open to an even greater attack from their own people, for

103. Gunning, supra note 24, at 210.
104. Gunning points out that when female genital operations were practiced in Western societies, “doctors of the day described women demanding the removal of the wombs and ovaries (castration) or viewing the scars of castration or clitoridectomy as a ‘fashionable fad,’ ‘a mark of favor’ or ‘as pretty as the dimple in cheek of sweet sixteen.’” Id. at 209 (citation omitted).
105. See generally Mackinnon, supra note 93.
106. See, e.g., Gunning, supra note 24, at 211.
107. Hampton, supra note 9, at 17.
108. Gunning, supra note 24, at 209 n.90.
joining forces with others who have neither sympathy nor understanding for them or their culture. Perhaps, as a result of the perceived judgmentalism of some Western women, the women who practice the tradition feel all the more alienated and angry, and withdraw into their culture with an even greater resistance, determination and sense of self. As Kay Boulware-Miller writes:

Given the intimate nature of female circumcision and the complex factors involved in attempts to eradicate it, the success of any campaign is problematic. Female circumcision personally concerns those who have experienced it, and inevitably draws personal responses from those who have not.\textsuperscript{109}

Her description of her own personal response of ambivalence and confusion as an African-American woman is illustrative:

As a woman, I felt rage that the practice helped solidify and preserve society by the violation of female bodies; as a Black, I felt a perverse pride that an African tradition had managed to hold its own amid invasive values of beauty, morality, and self-worth; and as a mother of a little girl at the age of most who are circumcised, I felt threatened by a vividly-imagined, but never-to-be known loss.\textsuperscript{110}

It is also possible to imagine the reaction of a woman of Somalian origin living in Britain. She, too, may feel a bond and a sense of loyalty to her African culture while feeling simultaneously threatened by it. It is essential that she not be made to feel the additional threat of a foreign culture acting against her culture as a whole and that her experiences and feelings are central in the formation of strategies for change.

Where the practice exists in certain ethnic communities within a larger dominant Western culture, the issue of cultural self-determination and cultural tradition versus the protection of girls and women from unnecessary pain, health complications, permanent bodily damage, and death, has to be approached with great delicacy and sensitivity. Small ethnic communities in a larger foreign environment might see their culture as a haven which allows them to escape the imposition of Western values. Efua Dorkenoo, a Ghanaian woman, says she has been accused by adherents of the practice of female circumcision of promoting racism by trying to eradicate their ethnic customs.\textsuperscript{111} A white British woman is subject to even greater criticism, even if she is genuinely concerned about children undergoing the genital operations occurring in her country. While the survival of African culture adds to the

\textsuperscript{109} Boulware-Miller, supra note 86, at 176.
\textsuperscript{110} See id. at 176 n.121.
\textsuperscript{111} REUTER LIBR. REP., supra note 3.
beauty and color of London and Londoners' lives, the practice of genital mutilation should not be protected though exploitation of the important need for African cultural self determination. A balance must be struck between cultural self-determination—allowing African culture and tradition to thrive, and not forcing assimilation—and the need to protect girls and women of that culture, who do not always thrive within it, are disproportionately disadvantaged, and may otherwise receive no protection.

Raqiya Haji Dualeh, a vice minister in the Somali Ministry of Health, sees the real problem in the fact that it is women who perform most circumcisions, that it is women who instill in their daughters the attitudes which perpetuate the practice, that these women “have internalized this thing to the point where they cannot conceive of anything else.” How was it for them to start the cycle over again with their own daughters? Why did they not revolt? This is the crux of the matter in the perpetuation of inequalities."

When a tradition takes the form of a ritual it becomes something which is full of symbolism for a culture, and it can be difficult for either the woman performing the operation or the girl undergoing it to refuse. It becomes almost like the “compulsory emotions” defining “how one is supposed to feel toward specific others in a given situation.” As Papanek explains, compulsory emotions are powerful tools in ensuring conformity to group norms. The women may feel that it is their duty to bring their daughters up in this way—a duty to their husbands, to their community, to their daughters. Daughters, if old enough to understand, may feel that it is their duty to go through with the operation—it is what they have been told good girls do. Not only should they go through with the operation, they should actually want it. As long as women must marry to survive, they will in many cases do whatever they feel is necessary to secure a husband, including tolerating abuse and submitting themselves and their daughters to sexual surgery. If she is otherwise not eligible for marriage, how can her consent be seen as freely given, as real?

In addition to cultural pressures, economic and social concerns may compel women to “consent” to these operations. In much of Africa, marriage is a primary path to social and economic survival and advancement. Because uncircumcised women are not considered suitable for marriage in some areas, many African women are forced to undergo circumcision to avoid becoming social and economic outcasts.

112. Blaine Harden, *Africans Keep Rite of Girl's Circumcision; Practice Causes Pain, Infection, But Seen as Badge of Chastity*, WASH. POST, July 13, 1985, at A12. In the same way that African women have internalized this practice, women in other cultures are often the educators of inequality.
113. Papanek, supra note 94, at 177.
114. Id. at 179.
115. Boulware-Miller, supra note 86, at 157 (citations omitted).
Women's complicity in female circumcision has to be acknowledged before a solution can be found, especially insofar as the notion of freedom is concerned. One analogy is the extinct Chinese practice of foot-binding, which was done by mothers to their daughters to cripple the foot, for the purpose of making their daughters appealing to men. Mothers, having experienced the pain, inflicted that pain on their daughters, "a severe test of women’s successful internalization of the social norms of inequality: by going through with it, they show acceptance of their own inability to resist, even if they wanted to."

The mothers are learning their own position all over again. Within this intergenerational system, a complete internalization process occurs in the woman who now perpetuates the inequality which was part of her own experience. The example of Chinese foot-binding proves that maternally maintained systems of inequality are not impossible to eradicate, but implies that changes in the greater political system must occur before changes in the practice. "[I]t was decisively stopped in conjunction with major political, social, and economic changes in the society. It is evidence of the possibility of changing even the most grievous inequality through appropriate actions."

What a "culture" is and who creates that definition must also be examined. What does cultural self-determination mean and where does it end, and is it self-determination or is that a misnomer and should it not instead be called the cultural determination by some for others? As the Kenyan women’s magazine Viva observes, "There is nothing ‘African’ about injustice or violence, whether it takes the form of mistreated wives and mothers, or slums or circumcision. Often the very men who... excuse injustice to women with the phrase ‘it is African’ are wearing three-piece pin-striped suits and shiny shoes."

The hypocrisy of applying cultural standards and principles to women, but not to men, must be challenged.

The centrality of female circumcision to many African cultures is often used by defenders of the practice to justify its continuation. African culture may indeed have to fight to exist within a white dominant culture. However, because it exists in an affluent Western country with education and resources available, a growing number of people could start looking for new ways to express their ethnic identity by utilizing those very resources and educational opportunities. For example, Efua Dorkenoo states that she does not deny her African heritage by wanting to end female circumcision; that however entrenched or well-established the custom may be, it is wrong; that conventions

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117. Id. at 176-77.
119. Efua Dorkenoo says that increasingly men are repelled by the traditional wedding night, during which they are sometimes obliged to open hardened scar tissue with a knife, and believes that this provides "a gleam of hope for the new generation." Interview, Dorkenoo, supra note 47.
have to change.\textsuperscript{120} The promotion of positive customary practices such as breastfeeding, care of widows, and care of the aged, can be used in order to value one’s culture and feel valued by it. Moreover, in order to change the social inequities and cultural beliefs that leave women economically dependent on men, men’s own attitudes must be changed.

VI. CONCLUSION

Dealing with female circumcision in Britain’s African communities presents problems and questions as to how the issue should be framed and how it can best be confronted. One may believe that female genital operations are harmful for women and exist against their best interests. However, to practice paternalism here, without regard to the damaging and harmful practices which exist in Western “culture,” would impose double standards, creating two sets of rules and laws, one for “us” and one for “them.” Westerners cannot glibly attack the practice of female circumcision of African women while there also exists a culture which encourages the mutilation of women in the West. The worldwide obsession with transforming women’s bodies to satisfy culturally acceptable standards leads to various forms of mutilation, such as cosmetic surgery, footbinding, and eating disorders.\textsuperscript{121} In most cultures, the pressure for bodily compromise impacts women and girls as women and girls; the risk factor is being female. Inequalities must be identified in all cultures and must be fought on every front, by concentrating on the commonalities of gender-based oppression, rather than one culturally-based difference.

Certainly, an adult woman’s right to self-determination must not be compromised; however, in the case of children, the rights to be free from physical and psychological harm must be of paramount concern. A young British girl of African origin, who will develop largely within the British culture, should not have her right to “sexual and corporal integrity”\textsuperscript{122} abused simply because her minor status permits her parents to control most aspects of her life. These girls and young women, often caught between two cultures, see themselves as African but reject giving up their clitoris in the name of African tradition. If children’s rights are to be taken seriously, it is essential to enforce legislation to protect them. Although laws sanctioning the circumcision of young girls may be more legitimate than laws preventing the voluntary circumcision of an adult woman, little is likely to be achieved by

\begin{itemize}
  \item \textsuperscript{120} Hadijah Ahmed of the African Women’s Welfare Group says, “I love my culture, but it is not this. This is torture hiding behind culture.” Hampton, supra note 9, at 16.
  \item \textsuperscript{121} Cosmetic surgery can be harmful to a woman’s health. For example, “[i]n addition to cancer concerns, any number of side affects like hair loss and pain have been attributed to breast implants. The controversy over the safety of breast implants has caused the FDA, recently, to call a moratorium on the sale or use of silicone gel breast implants . . . .” Gunning, supra note 24, at 214. See generally, The Politics of the Scalpel, THE TIMES (London) Jan. 10, 1992, available in LEXIS, Nexis Library, TTIMES File (discussing “lookism” and artificial means of achieving culturally accepted standards of beauty).
  \item \textsuperscript{122} Boulware-Miller, supra note 86, at 169.
\end{itemize}
enforcing punishment against parents. This punishment may have a corresponding negative impact on the well-being of the child, thereby adding to her stress and deprivation.\textsuperscript{123} Also, in the light of the recent trend towards non-intervention, the courts would be very unlikely to mete out such punishment. Implementation of legislation “must forego the use of punishment or force in favor of more dialogue and education.”\textsuperscript{124} Perhaps punishment would be more effective against doctors who are performing the operation for their own financial gain. Alternatively, the medical profession could adopt a policy which would sanction any doctor who performs this operation on a child.

Although the Prohibition of Female Circumcision Act was not the best way to bring an end to the practice of genital mutilation of women in Britain, it has brought the practice to the attention of the country, and will enhance efforts to eradicate the practice as a form of abuse of women of all ages. The most effective solutions will be those which are considered within the context of these women’s lives. Only when the women themselves begin to perceive female circumcision as harmful will the practice end. The fact that mothers often perpetrate the act means that they will have to unlearn the cultural values they know which devalue and debase women as a group. Their knowledge of gender inequality is the result of a learning process; in the same way, their knowledge of gender equality will require a learning process. Punitive legislation may delay the process by inhibiting real discussion. The answer to ending genital circumcision must focus on education and cultural sensitivity, while respecting the personal choice and individual autonomy of the women most affected.

\textsuperscript{123} Hayter, \textit{supra} note 16, at 331.
\textsuperscript{124} Gunning, \textit{supra} note 24, at 193.