

Briefing Note



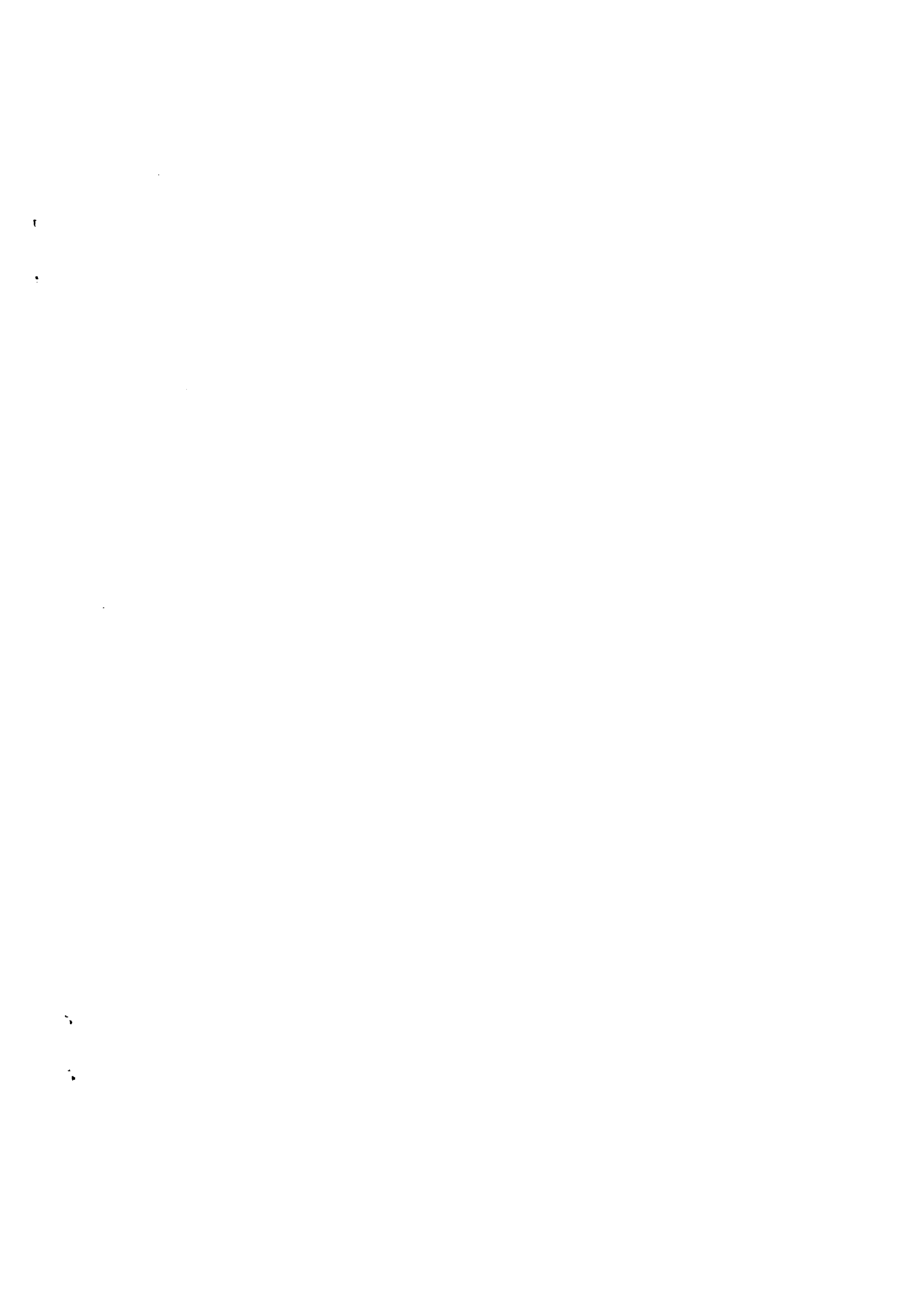
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Female Genital Mutilation

by
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No 003/94



FEMALE GENITAL MUTILATION

BACKGROUND

The issue of female genital mutilation is once more receiving attention in the media. This is due to a number of factors including the recent release of a Family Law Council Discussion Paper "Female Genital Mutilation"¹. The Australian Medical Association and the New South Wales Opposition have also recently made statements in relation to female genital mutilation, with the Deputy Leader of the Opposition and Shadow Minister for Health, Dr Andrew Refshauge, M.P. announcing the Opposition would introduce legislation in the forthcoming session of Parliament to outlaw the practice.²

In this context, and in view of the increasing number of media stories concerning female genital mutilation, this Briefing Note attempts to provide factual information concerning female genital mutilation and the main issues raised and conclusions reached in the Family Law Council Discussion Paper.

FEMALE GENITAL MUTILATION

Female Genital Mutilation is a traditional cultural practice performed on young girls, and is mainly carried out, though not exclusively, in African countries. Female Genital Mutilation is the term usually used by those opposed to the practice. It is also known as Female Circumcision.

The Family Law Council Discussion Paper cites four procedures, all of which can be seen as female genital mutilation:

- Ritualised circumcision

This is the least severe form and may be wholly ritualised. It consists of cleaning and/or application of substances around the clitoris. In other forms of ritualised circumcision the clitoris is scraped or nicked. This causes bleeding, but results in little mutilation or long term damage.

- Sunna

Circumcision or "sunna" (which in Arabic means tradition), involves the removal of the clitoral prepuce - the outer layer of skin over the clitoris, which is sometimes called the "hood". The glans and body of the clitoris are meant to remain intact. However, it often involves removal of the glans of the clitoris.

¹ Family Law Council - Female Genital Mutilation, Discussion Paper, Issued 31 January, 1994.

² Media Release, Dr Andrew Refshauge, M.P. - 8 February, 1994.

- Clitoridectomy

Excision or clitoridectomy is said to be the most common form of FGM and involves removal of the glans of the clitoris, but usually the entire clitoris, and often parts of the labia minora as well.

- Infibulation

The most severe form is infibulation or "Pharaonic" circumcision which involves removal of virtually all of the external female genitalia. The entire clitoris and labia minora and much of the labia majora 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 catgut or sewing thread. Sometimes a paste of gum arabic, sugar and egg is used to close the vulva. The entire area is closed up with just a small opening the size of a match stick left for passing urine and menstrual fluid. A straw, stick or bamboo is inserted in the opening so that as the wound heals, the flesh will not grow together and close the small opening.³

The procedures are "generally performed by traditional midwives using unsterilised knives, razors or glass. No anaesthetic is used and several women may assist in restraining the girl while the procedure is performed."⁴ The procedure can be carried out on girls from a few months old to puberty, depending on local custom.

The vaginal opening of infibulated women remains small until marriage when, on the day before the wedding: "women from the groom's family visit and examine the bride. They check to ensure that infibulation has been done and that she is a virgin. The genital area should be smooth as the palm of one's hand. To make intercourse easier, the vulva may be cut open slightly. Otherwise, during the wedding night, the groom widens the opening with his penis which is painful for him as well as for the bride. This 'tailoring' of vagina to the size of the husband's penis is meant to ensure monogamy on the part of the wife."⁵

THE ORIGINS OF FEMALE GENITAL MUTILATION

It is generally accepted that female genital mutilation pre-dates Islam, Christianity and other major religions. "It is sometimes incorrectly thought that female genital mutilation has its origins in Islam. However, there is no Islamic religious basis for the practice.

³ Family Law Council, Female Genital Mutilation, Discussion Paper, 31 January 1994, p2/3

⁴ RACOG Continuing Education Resource Unit 108, Dr Chris Bayly (RACOG - Royal Australian College of Obstetricians and Gynaecologists)

⁵ Female Genital Mutilation: A Tradition of Pain, Virginia Mak, Healthsharing, Winter/Spring, 1993

The Koran does not contain a specific call for female genital mutilation."⁶

It has been claimed that as many as 80 million women around the world are affected by female genital mutilation. The practice is most common in Africa and is also found among certain groups in the Middle East and Far East.⁷

In 1985, the Working Group on Traditional Practices Affecting the Health of Women and Children - a body associated with the UN Commission on Human rights "revealed that 54% of persons practising female genital mutilation advised that they did so because of tradition....religion and diminution of women's sexual sensitivity were the next most popular reasons for the practice. Other reasons given were reduction of women's sexual urges, increased sexual performance for men and protection of the health of babies."⁸

HEALTH EFFECTS

The literature available on the possible health effects of female genital mutilation is in general agreement that the procedures involved may lead to significant adverse physical and psychological effects. Physical effects include pain, haemorrhaging, urinary infection, tetanus, septicemia, painful menstruation, bloating and impaired sexual response. In addition, there can be particular complications for infibulated women during childbirth and it has been suggested that it is common for infibulated women to under eat during pregnancy so that they will have smaller children. In addition, relationship difficulties and resultant anxiety and depression may be expected to occur.⁹

"My legs were tied together from my waist to my feet. I stayed bound like that for nearly three weeks so my vulva could heal shut. Urinating was excruciatingly painful. I had to be turned on my side so the urine could drip out of an opening".¹⁰

INCIDENCE OF FEMALE GENITAL MUTILATION IN AUSTRALIA

The 1991 Census indicates that there were 75,698 women in Australia from countries which practise some form of female genital mutilation. Nearly 30%, or 21,812 were from African countries. The Department of Immigration and Ethnic affairs (DIEA)

⁶ Family Law Council, Op Cit p9

⁷ Female circumcision: fighting a cruel tradition, Sue Armstrong, New Scientist, 2 February, 1991

⁸ Family Law Council, Op Cit p10

⁹ RACOG Op Cit, p108.2

¹⁰ Virginia Mak, Op Cit p12

advises that during 1991-92 and 1992-93, a further 1,601 women arrived from African countries. Of these, 470 were girls under 16 years of age. Most were from Somalia where infibulation is practised and 150 were from the Sudan which also practises infibulation.¹¹

It is difficult to estimate with any degree of accuracy the extent of female genital mutilation taking place in Australia "The evidence relating to the incidence of female genital mutilation in Australia is mainly anecdotal. However, it would not be unreasonable to infer from recent developments in migration from African countries which practise female genital mutilation, that it is likely that the practice is now occurring in Australia. The extent of that practice, however, is not known."¹²

Dr Refshauge points out that although the evidence of female genital mutilation in NSW is low, there is anecdotal evidence suggesting that it does take place in certain communities "there are at least two cases known to authorities in recent times and health professionals have reported treating women suffering the after-effects of the practice".¹³

CULTURAL ARGUMENTS

As a multicultural society, Australia has had to come to terms with, and has benefited from, a range of cultural and traditional practices being observed by ethnic communities in Australia. An issue such as female genital mutilation poses a dilemma for Governments as to when such practices can readily be accepted and when they cannot. The argument has been put that while female genital mutilation may be seen by non practitioners as barbaric and an intrusion on the privacy of the individual, practices such as cosmetic surgery, the wearing of high heel shoes and the pressure on young women to be thin, are just as repellent to other groups.

Nevertheless, female genital mutilation is a procedure which cannot be completely reversed (although reconstructive surgery may alleviate certain distressing symptoms) and as the procedure is carried out on young girls who are not given a choice as to whether they wish the procedure to take place, it could be argued that it is not appropriate, therefore, to compare it with less invasive cultural practices.

The Family Law Council considers that "if Australia permits the continuation of female genital mutilation by those for whom it is a traditional practice it will be saying that what we, as a society, find unacceptable for some children in our society, we accept for other children. Also, if we condone the continuation of this tradition among those in our society who feel compelled to follow it, we consent to it and it is done with our

¹¹ Family Law Council, Op Cit p12

¹² Family Law Council p12

¹³ Dr Andrew Refshauge, MP, Op Cit

complicity".¹⁴

INTERNATIONAL INSTRUMENTS

The Family Law Council Discussion Paper considers a number of international instruments which are relevant to the practice of female genital mutilation. Those considered in the Discussion Paper are:-

- The Universal Declaration of Human Rights;
- The Convention on the Elimination of All Forms of Discrimination Against Women;
- The Declaration on Violence Against Women;
- The 1951 Convention and 1967 Protocol relating to the Status of Refugees; and
- The Convention on the Rights of the Child

Female genital mutilation appears to violate certain clauses and objectives of relevance in the above international instruments, to which Australia is a Party.

It should be noted that female genital mutilation is illegal in Canada and the United Kingdom where specific legislation has been enacted. A summary of the United Kingdom and Canadian legislation, as outlined in the Family Law Council Discussion Paper, is contained in Appendix A.

CURRENT LEGAL POSITION

It has been suggested that female genital mutilation constitutes an "assault" under statute law. Such laws fall within the jurisdiction of the State and Territory Governments. In June 1993 the Human Rights Branch of the Attorney-General's Department sought information from the States and Territories as to the adequacy of their existing laws to deal with female genital mutilation. In general, the response from the States and Territories was that their existing criminal laws on assault would be adequate to cover any instance of female genital mutilation. However, to date, no cases appear to have been brought before the Courts.¹⁵ Laws of relevance in Australia and certain overseas countries are in Appendix B.

The practice is also considered as "child abuse" for the purposes of child protection legislation. However, the Family Law Council has reached the conclusion that legislation should be introduced which makes it clear that all forms of female genital mutilation, including ritualised circumcision, are not acceptable in Australia. Several factors have led Council to this view:

¹⁴ Family Law Council, Op Cit, p27

¹⁵ Family Law Council Op Cit, p29

- there are some doubts about the adequacy of the existing criminal laws to ensure that female genital mutilation will, in all circumstances, be regarded as "assault" under existing laws;
- there should be no doubt in any person's mind that female genital mutilation is "child abuse" under Australian law and child protection provisions apply; and
- it is important that there be visible laws against the practice of female genital mutilation, both as a deterrent to would-be perpetrators and as a protection and support for women and children who wish to resist the continuation of the practice. It would also assist health workers and others in refusing to take part in such practices.¹⁶

FAMILY LAW COUNCIL PRELIMINARY CONCLUSIONS

The Family Law Council makes a number of "preliminary conclusions" in its Discussion Paper, which are outlined below. The Council seeks public comment on the issues raised in the Discussion Paper, with a closing date of 31 March, 1994.

- The Family Law Council views female genital mutilation primarily as a practice which aims at dominance of the women and girls on whom it is practised. For reasons discussed in the paper, council has formed the preliminary conclusion that female genital mutilation is a practice which should not be accepted in Australia.
- The Family Law Council has reached the preliminary conclusion that the law should be clarified to make it clear that female genital mutilation is a crime and that it constitutes child abuse in Australia. That legislation should make it clear that all forms of female genital mutilation, including ritualised circumcision, are not acceptable in Australia.
- There are serious doubts about the capacity of the law to cope with the issue of removal of a child from Australia for the purpose of female genital mutilation. In the circumstances, and having in mind the serious consequences for the children concerned, Council has reached the preliminary conclusion that legislation should be passed to put these issues beyond doubt.
- Council has reached the preliminary conclusion that the simplest, most effective and quickest way to achieve its legislative aims is for one Act to be passed which builds in existing State legislation and services. In Council's view, this could be done by the Commonwealth Parliament using its external affairs power. The legislation would employ the existing reporting, investigation and protection facilities of the States/Territories in much the same way as is presently done for the purposes of investigating child abuse allegations under the *Family Law Act 1975*.

¹⁶ Ibid p28

- (a) Commonwealth legislation should cover the following:
 - * Legislation should put the issue beyond doubt that female genital mutilation, in all of its forms, is a criminal offence;
 - * It should be made clear that female genital mutilation, in all of its forms, constitutes child abuse under Australian Law;
 - * There should be severe sanctions for professionals who perform female genital mutilation;
 - * Appropriate sanctions should apply to non-professionals who perform the procedure and on those who aid and abet such persons as well as those who arrange for their children to be genitally mutilated;
 - * There should be mandatory notification to state/Territory authorities of prospective or actual incidences of female genital mutilation; and
 - * There should be legislation making it an offence to take, or to propose to take, a child outside Australia to be genitally mutilated.
- (b) There should be a targeted education campaign about female genital mutilation.
- (c) Australia should participate in international forums aimed at eliminating the practice of female genital mutilation globally.
- (d) There is no need for legislation on the question of jurisdiction of the courts in relation to female genital mutilation.

EDUCATION

The Family Law Council considers that "any strategy for the elimination of female genital mutilation which does not include education of families from countries which traditionally practise female circumcision, we well as professionals and others within the general community, will not succeed."¹⁷

The Council proposes that such an education program should be aimed at a number of target groups including;

- Care providers - including doctors, midwives/nurses and teachers;
- Police;
- The Courts;
- Families; and

¹⁷ Family Law Council, Op cit, p31

- Others (including, perhaps, the general community).¹⁸

CURRENT POSITION

The Family Law Council has released its Discussion Paper and has called for submissions by 31 March, 1994.

The issue was debated in the Federal House of Representatives on Monday 21 February, 1994, with debate being adjourned to be resumed. During this debate, the Federal Government was called upon, inter alia, to recognise its obligations under international instruments and to introduce legislation to outlaw female genital mutilation in Australia.

It is understood that the New South Wales Attorney-General is currently considering this issue.

As previously stated, the Deputy Leader of the Opposition and Shadow Minister for Health, Dr Andrew Refshauge, M.P., has outlined the Opposition's intention to introduce legislation in the forthcoming session of Parliament to outlaw the practice.

¹⁸ Family Law Council, *Ibid.*

APPENDIX A

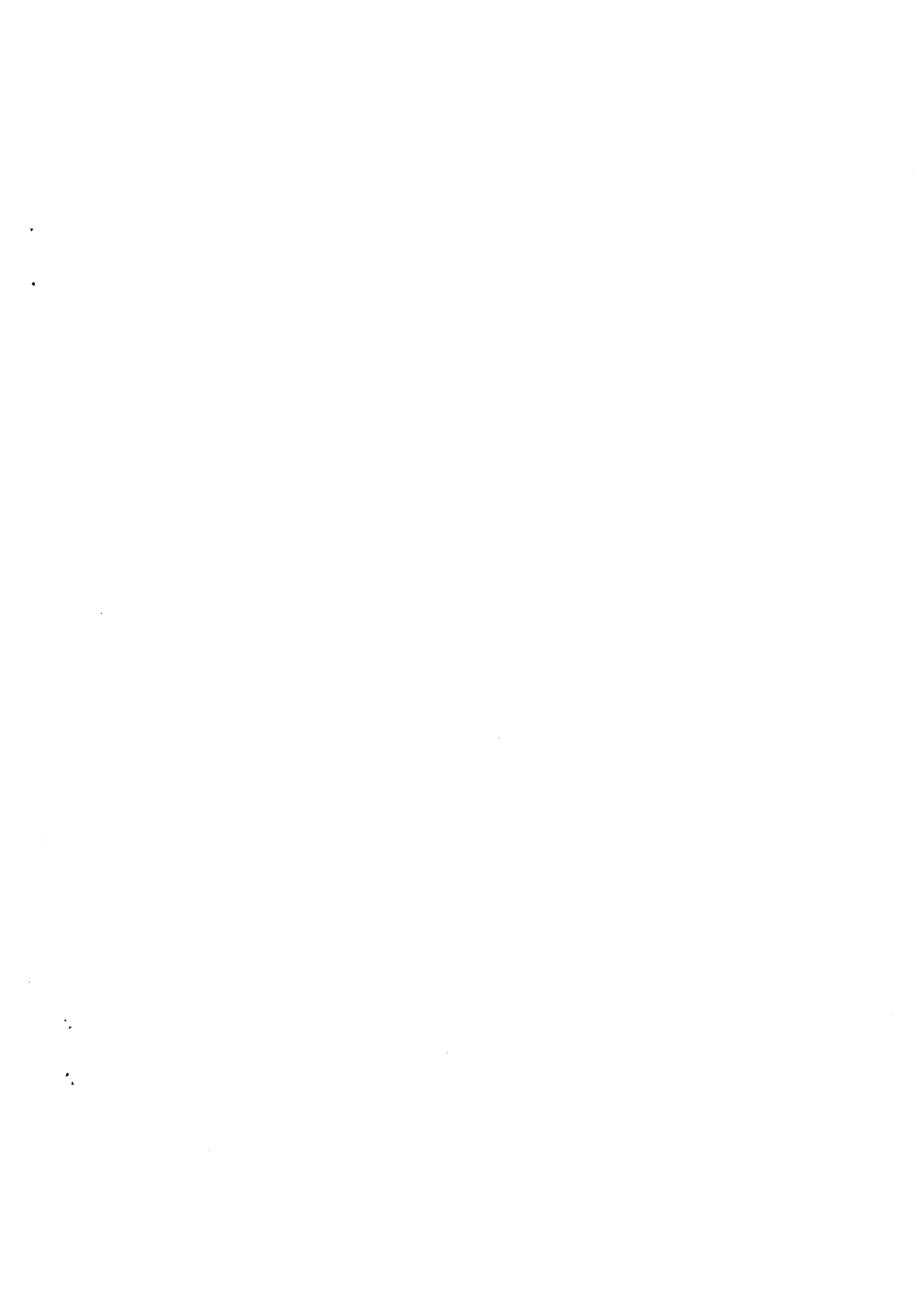
British and Canadian Legislation

From Family Law Council Discussion Paper - Female Genital Mutilation (Appendix A)

APPENDIX B

Australian and Other Laws of Relevance

From Family Law Council Discussion Paper - Female Genital Mutilation (Appendix B)



APPENDIX A

BRITISH AND CANADIAN LEGISLATION

UNITED KINGDOM PROHIBITION OF FEMALE CIRCUMCISION ACT 1985

The (UK) *Prohibition of Female Circumcision Act 1985* includes the following provisions:

- 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.

Section 2 of the Act makes it clear that the Act does not render unlawful a surgical operation which is necessary for the physical or mental health of the person on whom it is performed. In determining whether the operation is necessary for the mental health of a person, no account is to be taken of any belief of that person or any other person that the operation is required as a matter of custom or ritual.

CANADA BILL C-126

This legislation is an Act to amend the (Canada) Criminal Code and the Young Offenders Act.

The problem of female genital mutilation has surfaced in recent years as an issue in Canada, and prompted a review in 1992 by the Canadian Department of Justice. That review concluded that such practices were clearly against several provisions of the Canadian Criminal Code. However, the review also raised concerns that the law did not prohibit the removal of a child from Canada for the purposes of having genital mutilation performed on that child. Bill C-126 was drawn up in response to those concerns.

The following provision in Bill C-126 is particularly relevant to female genital mutilation:

273.3 (1) No person shall do anything for the purpose of removing from Canada a person who is ordinarily resident in Canada and who is

(a) under the age of fourteen years, with the intention that an act be committed outside Canada that if it were committed in Canada would be an offence against section 151 or 152 or subsection 160(3) or 173(2) in respect of that person;

(b) over the age of fourteen years but under the age of eighteen years, with the intention that an act be committed outside Canada that if it were committed in Canada would be an offence against section 153 in respect of that person; or

(c) under the age of eighteen years, with the intention that an act be committed outside Canada that if it were committed in Canada would be an offence against section 155 or 159, subsection 160(2) or section 170, 171, 267, 268, 269, 271, 272 or 273 in respect of that person.

Section 273 refers to two age limits, which reflect the age limits of the domestic offences against children. For example, sexual interference (section 151) and invitation to sexual touching (section 152) are offences if committed against those under 14, while sexual exploitation is an offence committed against anyone under the age of 18 years by a person in a position of trust or authority.

The new offence is a domestic offence, in the sense that it prohibits conduct occurring in Canada; that is, it prohibits the doing of anything for the purposes of removing from Canada a young person with the intent of committing outside Canada an act that would be one of the enumerated offences if committed in Canada. There is, therefore, in law no element that must exist or occur outside Canada in order for the offence to exist.

APPENDIX B

AUSTRALIAN AND OTHER LAWS OF RELEVANCE

AUSTRALIAN LAW

1. **Assault.** Any intervention that interferes with a person's bodily integrity through the use of force, no matter how small, is, in law, a trespass to the person. A trespass to the person is either a crime (called "an assault") that can be punished under State and Territory criminal laws, or it can be a tort or civil wrong (assault and/or battery), for which, under State and Territory laws, the person injured can claim damages or compensation from the person who committed the trespass. Most trespasses committed intentionally - for example, where a person deliberately punches another - are both crimes and civil wrongs.

2. **Current State/Territory laws of relevance.** Based on advice received from the States and Territories, the following summarises the current position under the criminal laws of Australia:

New South Wales. The following provisions of the *Crimes Act 1900* (NSW) are relevant: section 61 (common assault), section 59 (assault occasioning actual bodily harm) and section 35 (malicious wounding or inflicting grievous bodily harm).

Victoria. Opinion at officer level in the Justice Department and the Department of Health and Community Services in Victoria is that existing laws on assault would cover the situation in that State.

Queensland. The *Criminal Code* (Queensland) contains a number of provisions of relevance including section 245 (definition of assault), section 246 (Assaults unlawful), section 335 (common assault) and section 320 (grievous bodily harm). Section 1 of the *Criminal Code* contains definitions of "bodily harm" and "grievous bodily harm".

South Australia. The South Australian criminal law contains "the usual array of non-fatal offences against the person and sexual offences against minors."

Western Australia. Section 222 of the *Criminal Code* (WA) provides that any application of force to the person of another without that person's consent is assault and any assault (unless authorised, justified or excused by law) is unlawful and constitutes an offence. The WA Code defines "bodily harm" as "a bodily injury which interferes with health or comfort". "Grievous bodily harm" means any bodily injury of such a nature as to endanger life or to cause, or be likely to cause, permanent injury to health.

Tasmania. Tasmania expressed the view that "a surgeon who performed genital mutilation on a girl would be guilty of an assault under section 184 of the *Criminal Code* unless that surgeon's conduct was covered by section 51 of the Code." Section 51 of the Code relates to consent to medical procedures on children. (The Tasmanian respondent made no reference to the situation where female genital mutilation is performed by elder women or "midwives".)

Northern Territory. Assault is dealt with in sections 186, 187 and 188 of the *Criminal Code* (Northern Territory). Section 187 defines "assault" as "the direct or indirect application of force to the person without his consent or with his consent if the consent is obtained by force.." Section 186 states that any person who unlawfully causes bodily harm to another is guilty of a crime and is liable to imprisonment for 5 years or, upon summary conviction, to imprisonment for 2 years. Section 188(2) states that if a person is assaulted under 16 years of age and the offender is an adult, the offender is guilty of a crime and is liable to imprisonment for 5 years or, upon summary conviction, to imprisonment for 2 years. The NT respondent said that under NT laws "it may be difficult to succeed in an assault charge where there was consent."

Australian Capital Territory. The ACT said that, as elsewhere in Australia, existing criminal law in the ACT would apply to the practice of female genital mutilation.

3. **The common law.** At common law some trespasses are not crimes or civil wrongs as the law regards them as justified. This will be the case where, for example, a valid and effective consent to the trespass has been given by a person whom the law regards as competent to give consent.

4. In 1989 the Commonwealth Government (at that time responsible for criminal law in the ACT) produced a working paper containing proposals to reform ACT criminal legislation, specifically in relation to offences against the person. Included in that working paper was a specific recommendation to prohibit female circumcision. However, responsibility for criminal legislation in the ACT fell to the ACT Government before the proposal was implemented.

5. **Child Welfare legislation.** All States and Territories have child care and protection legislation which authorises State/Territory authorities to intervene where a child is at risk of abuse or ill-treatment. Sections 4, 10 and 11 of the *Community Welfare Act* (NT), for example, empower the authorities to take a child "in need of care" into custody.

6. Section 71 of the *Children's Services Act 1986* (ACT) defines the circumstances for intervention by the ACT Family Services Branch, the Community Advocate or the Court when a child is in need of care. One of the circumstances is where the child has been, or is likely to be, physically

injured. Children may also be considered in need of care where they have suffered psychological damage of such a kind that their emotional or intellectual development has, or will be, endangered. Section 139 of the *Children's Services Act 1986* (ACT) creates offences involving ill-treatment of a child. The Act provides protections for medical practitioners, police officers and welfare authorities to take such steps as are considered necessary for the immediate safeguarding of the a child who has been ill treated.

7. In the case of child abuse allegations made by parties to applications under the *Family Law Act*, for example, the actual investigation of the allegations is carried out by State authorities which have the expertise and the personnel, supported by legislation, to do such investigations. Council notes that there are requirements for the reporting of abuse or suspected abuse and that child welfare authorities are the appropriate bodies for referral of allegations of abuse under the *Family Law Act*.

8. **Civil actions.** In addition to female genital mutilation being an assault, for which criminal sanctions might be imposed, it would also constitute a civil wrong - a trespass to the person (assault and battery) for which personal injury damages might be available. And, under State and Territory criminal injury compensation legislation, a person who has had the procedure performed on her may seek compensation for the injuries she has suffered.

THE LAWS OF SOME OVERSEAS COUNTRIES

9. A number of overseas countries, including countries which have migrant populations, have already confronted this issue have done so in a variety of ways. The position of some overseas countries is therefore briefly examined below.

10. **United Kingdom.** The *Prohibition of Female Circumcision Act 1985* (UK) prohibits female genital mutilation in the UK. Extracts from this Act are set out in Appendix A. The Act is supplemented by the *Children Act 1989* which provides for the investigation of suspected violations of the female genital mutilation prohibition and enables the removal of the child from her home where this is the only way her protection can be guaranteed. The *Children Act* also empowers the courts to prohibit parents from removing their children from the country to have the operation done elsewhere.

11. **Canada.** Canada's 1993 Bill C-126 to amend the Criminal Code and Young Offenders Act received Royal Assent on 23 June 1993. Clause 3 of the Bill creates section 273.3 of the *Criminal Code* which is designed to extend domestic protection to children who are normally resident in Canada, from their removal from Canada with the intention of committing assault causing bodily harm, aggravated assault or any sexual offence. While having general application, the offence was initially developed in response to a concern that Canadian domestic

law did not provide sufficient protection against the practice of female genital mutilation. Further details of Bill C-126 are provided in Appendix A.

12. The offence applies to anyone engaging in the prohibited conduct in Canada. Additionally, its protection extends to all children ordinarily resident in Canada, whether citizens or landed migrants.

13. The offence has general application, but was initially developed in response to a concern that Canadian domestic law did not provide sufficient protection against the practice of female genital mutilation. Action was seen as necessary in conformity with Article 24(3) of the *Convention of the Rights of the Child*, which provides: "State parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children."

14. Section 273.3 is preventive in nature as it allows for intervention before harm is done to the child. However, it is acknowledged that it will not prevent abuse in all cases and this remains an issue of concern. The Canadian view is that further steps require an international convention to establish principles on which States will protect children subject to abuse beyond their borders.

15. Work is currently under way with the Canadian Medical Association and the relevant immigrant associations to provide education on the health and legal aspects of the practice of female genital mutilation. The College of Physicians and Surgeons of Ontario has declared that any doctor performing female genital mutilation could be guilty of professional misconduct.

16. *France.* In France⁶⁵ female genital mutilation is not specifically penalised by French law but is actionable as a mutilation under Article 312 of the Penal Code which punishes violence against children. Under this Article, a penalty of 10-20 years imprisonment is imposed. Where the mutilation is carried out by a parent or guardian, a life sentence is imposed. Generally professional persons who perform female genital mutilation, and are solicited by the parents, are treated more harshly than the parents of the child, who can often rely on such matters as respect for customary law and social pressures.

17. The Medical Ethics Code 1979 forbids the practice of female genital mutilation except where medically required. The French Medical Board is not aware of any breaches of the Code. Furthermore, where a doctor observes that a child under the age of 15 years has been the victim of maltreatment or neglect, the doctor is required to alert the authorities.

18. *Europe.* The Council of Europe has not specifically addressed the question of female genital mutilation. It is understood the position in several countries is similar to France⁶⁶. Sweden was one of the first countries to specifically

⁶⁵The brief outline of the position in France is based on information provided in a cablegram from DFAT Paris.

⁶⁶The information on the position in Europe is based on a cablegram from DFAT Paris.

condemn female genital mutilation. It banned health professionals from performing the operation in 1982.

19. *African countries.* In 1982 Kenyan President Moi condemned female genital mutilation and called for prosecution of those who practised it. Kenya passed legislation banning female genital mutilation in 1990, but various forms of female genital mutilation are still practised there. In Sudan the Ministry of Health launched a campaign against female genital mutilation in 1946 and succeeded in getting a law passed prohibiting infibulation but allowing sunna. The law was primarily a response to pressure by British colonial powers and little action was taken to enforce it. Burkina Faso has incorporated into its draft constitution a prohibition on female genital mutilation. In 1991 the Cote D'Ivoire (Ivory Coast) advised the United Nations that existing provisions of the nation's criminal code could be used to prohibit the practice.

20. The position in Egypt is not clear. The educated community regard the practice as having been banned by President Nasser in 1958. Others say that partial clitoridectomy is allowed, but because of the confusion excision and infibulation are both still practised in Egypt. For the most part legislation has not been effective in eliminating or reducing the practice of female genital mutilation in Africa, but this appears to have been due to problems of enforcement.

