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**EDITORIAL**

# **Mandatory Neonatal Male Circumcision in Sub-Saharan Africa and the Common Good: An Exploration of Ethical Justification**

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## EDITORIAL

# Mandatory Neonatal Male Circumcision in Sub-Saharan Africa and the Common Good: An Exploration of Ethical Justification

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**Abstract:** *Despite the scientific and political advances made in the areas of prevention and treatment to curb the devastation caused by HIV/AIDS, the pandemic continues to exert an enormous toll especially in sub-Saharan Africa. Sub-Saharan Africa carries about 70 percent of the world's HIV/AIDS burden. Interestingly, an effective preventive measure against HIV/AIDS seems to have been found in one of mankind's most common and oldest cultural and religious rituals, that is male circumcision. The conclusive evidence from three randomized control trials in Africa indicates that circumcised males have a lower risk of HIV infection. Medical experts and researchers advocate that male circumcision is best done at infancy for optimum health benefits. This paper explores the ethical justification for mandating neonatal male circumcision in sub-Saharan Africa, perhaps with an opt-out clause, as one of the bold measures government could take to prevent the spread of HIV. The notion of the common good consistent with Thomistic theological anthropology, which David Hollenbach examined in his thesis of the common good, is proposed as the justifying ethical measure. However, the proposal in this essay shall be exploratory rather than prescriptive.*

**Keywords:** *HIV/AIDS, male circumcision, mandatory neonatal male circumcision, common good, Thomism, David Hollenbach.*

## INTRODUCTION

When human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) were discovered in the early eighties, no one would have predicted the global catastrophe the disease would cause in three decades. This disease no doubt has become "humankind's worst pandemic since the plague known as 'Black Death' cut down one-third of Europe's population about seven centuries ago."<sup>1</sup> There have been scientific and political advances made to curb the devastation caused by this pandemic, but despite these gains in the areas of prevention and treatment, HIV/AIDS continues to exert an enormous toll, especially in sub-Saharan Africa.<sup>2</sup> Interestingly, the most effective preventive measure so far, against HIV/AIDS, seems to have been found in one of mankind's most common and oldest cultural and religious rituals: male circumcision (MC). Male circumcision is: "one of the oldest and most common surgical procedures worldwide, and is undertaken for many reasons: religious, cultural, social and medical. There is conclusive evidence from observational data and three randomized controlled trials that circumcised men have a

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<sup>1</sup> Edwin Cameron, "Foreword," in *Ethics and AIDS in Africa: The Challenge to Our Thinking* 2005, eds. Anton Van Niekerk & Loretta M. Kopelman, (California: Left Coast Press, 2008), iii.

<sup>2</sup> Cave J. Edwards et al., "Should We Implement "Opt Out" HIV Testing for Patients with Lymphoma?" *Clinical Medicine* (2009) 9: 320-322.

significantly lower risk of becoming infected with the human immunodeficiency virus (HIV).<sup>3</sup> These studies show that where male circumcision rates are low (less than 20%), HIV prevalence is above 10%, while where male circumcision is high (above 80%), HIV prevalence is under 10%.<sup>4</sup>

The conclusive evidence from three randomized control trials that circumcised males have a lower risk of HIV infection seems compelling and powerful.<sup>5</sup> The World Health Organization (WHO) and The Joint United Nations Programme on HIV and AIDS (UNAIDS), based on the strong scientific evidence from these trials, issued a statement on March 28, 2007, endorsing male circumcision as an additional strategy in HIV prevention, particularly in high HIV prevalence and low male circumcision countries.<sup>6</sup> Similarly, the Centers for Disease Control and Prevention (CDC) concluded in 2008, that male circumcision “may also have a role in the prevention of HIV transmission in the United States.”<sup>7</sup>

Currently, there is no preventive vaccine for HIV/AIDS proven to be effective. Many medical scientists say, “the prospect of the availability of a vaccine over the next 20 years is unlikely.”<sup>8</sup> Nonetheless, it is no doubt that we are getting better at fighting the disease. In February 2015, a small team of scientists announced that a vaccine they developed “may have helped five people already infected with HIV keep the virus in check” though the result must be tested in larger studies.<sup>9</sup> The recent successes of these therapeutic vaccines and the invention of antiretroviral (ARV) drugs have been able to help infected people keep the virus at bay for years, which made it possible for their life expectancy to be near normalcy. A 2017 study confirms that since 2010 “many people living with HIV can expect to live as long as their peers who do not have HIV.”<sup>10</sup>

However, despite the presence of these therapeutic tools, in 2015 alone, more than two million new HIV infections occurred worldwide, and the rate has declined only slightly since 2010.<sup>11</sup> And the situation in Africa, particularly its sub-Saharan region, has not gotten any better. Africa carries 70 percent of the world’s HIV/AIDS burden.<sup>12</sup> Millions in sub-Saharan Africa who would need ARV drugs to survive, do not have access to the drugs and are “marked for death” as the disease progresses unhindered. For them, male circumcision is one of the most powerful interventions currently available in the fight against HIV. It has been used against a wide variety of infections and adverse medical conditions over a lifetime. The public health benefits include protection, not just from sexually transmitted HIV, but also from some common sexually transmitted infections (STI) and other conditions.<sup>13</sup>

Many medical experts and researchers have advocated that circumcision should be done at infancy. They hold that for optimum health benefit, cosmetic result (no stitches), simplicity, speed, convenience, and cost, infancy is the ideal time to perform a circumcision.<sup>14</sup> Neonatal MC could be integrated into existing reproductive health clinics, postnatal care services, or programs to

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<sup>3</sup> Joint United Nations Programme on HIV/AIDS (UNAIDS) and World Health Organization (WHO). 2007. *Male Circumcision: Global Trends and Determinants of Prevalence, Safety and Acceptability*. Geneva: UNAIDS, accessed March 17, 2017. [http://whqlibdoc.who.int/publications/2007/9789241596169\\_eng.pdf](http://whqlibdoc.who.int/publications/2007/9789241596169_eng.pdf).

<sup>4</sup> Karl Peltzer et al., “Male Circumcision, Gender and HIV Prevention in Sub-Saharan Africa: A Social Science Research Agenda,” *Journal of Social Aspects of HIV/AIDS* (2007) 4: 658 – 667.

<sup>5</sup> Agnes Binagwaho et al. “Male Circumcision at Different Ages in Rwanda: A Cost-Effectiveness Study.” *PLOS Medicine* (2010) 7: 2. The 2005 trial at Orange Farm in South Africa by Auvert et al., revealed a reduction of the risk of female to male transmission of HIV-1 among circumcised males by about 60%. In another trial by Bailey et al., in 2007 in Kisumu Kenya, the risk of HIV infection among circumcised males was reduced by about 53%, and finally a trial in Rakai in Uganda by Gray et al., 2007 showed the risk of HIV infection reduced by about 51%. On average, these clinical trials reveal that male circumcision reduces the risk of HIV infection by about 55%.

<sup>6</sup> UNAIDS & WHO. 2007. *New Data on Male Circumcision and HIV Prevention: Policy and Programme Implications*. Montreux, Switzerland: UNAIDS, accessed February 20, 2011, [http://data.unaids.org/pub/Report/2007/mc\\_recommendations\\_en.pdf](http://data.unaids.org/pub/Report/2007/mc_recommendations_en.pdf). The statement reads: “The efficacy of male circumcision in reducing female to male transmission of HIV has been proven beyond reasonable doubt. This is an important landmark in the history of HIV prevention.”

<sup>7</sup> Centers for Disease Control and Prevention (CDC). *Male Circumcision and the Risk for HIV Transmission and other Health Conditions: Implications for the United States* (2008: GA, Atlanta), accessed Mar. 7, 2011, <http://www.cdc.gov/hiv/resources/factsheets/circumcision.htm>.

<sup>8</sup> David A. Cooper et al, “The Case for Boosting Infant Male Circumcision in the Face of Rising Heterosexual Transmission of HIV,” *The MJA* (2010) 193: 318.

<sup>9</sup> Jon Cohen, “AIDS Vaccine May be ‘Functional Cure’ for Some,” *Science*, Feb. 22, 2017, accessed June 6, 2017, <http://www.sciencemag.org/news/2017/02/aids-vaccine-may-be-functional-cure-some>.

<sup>10</sup> Nam AIDSmag, “HIV update - 24th May 2017: Life Expectancy is Near Normal for Many People with HIV,” accessed June 6, 2017, <http://www.aidsmap.com/HIV-update-24th-May-2017/page/3141125/>

<sup>11</sup> Anthony S. Fauci and Carl W. Dieffenbach, “NIH statement on HIV Vaccine Awareness Day – 2017,” May 18, 2017, accessed June 6, 2017, <https://www.nih.gov/news-events/news-releases/nih-statement-hiv-vaccine-awareness-day-2017>

<sup>12</sup> Anton. Van Niekerk, “Moral and Social Complexities of AIDS in Africa” in *Ethics and AIDS in Africa: The Challenge to Our Thinking 2005*, eds. Anton Van Niekerk & Loretta. M. Kopelman, (California: Left Coast Press, 2008): 57.

<sup>13</sup> Niekerk and Kopelman, “AIDS in Africa,” 57

<sup>14</sup> Brian J. Morris, “Why Circumcision is a Biomedical Imperative for the 21st Century,” *Bioessays* (2007) 29:1147-1158.

prevent mother-to-child transmission of HIV.<sup>15</sup> Furthermore, “neonatal MC helps avoid lost days (from school and work) associated with circumcision at later years and the thorny problem of risk compensation (a common psychological phenomenon of an increase in risky behavior due to a decrease in perceived risk).”<sup>16</sup>

To put conclusion first, I believe that a mandatory neonatal MC across the board is medically urgent and legally imperative. The governments of the sub-Saharan African countries should mandate neonatal MC, perhaps with an opt-out clause as an active measure to fight the disease. However, there exist religious and cultural challenges for the governmental action. Sub-Saharan Africa consists of so many different tribal groups whose cultural and religious ideologies may militate against the neonatal MC. Thus, what we need is an ethical justification for the legal mandate, which can overcome the possible conflict with the cultural and religious views. I propose the notion of the common good as the justifying ethical measure. However, the proposal in this essay shall be exploratory rather than prescriptive.

### HIV/AIDS STATISTICS IN SUB-SAHARAN AFRICA

When this new and mysterious disease made its way into the global arena in the early eighties, little did anyone know it was going to become pandemic. Millions of people have been infected by this disease, and many more have died from it. According to UNAIDS, since the beginning of the epidemic, almost 78 million people have been infected with HIV and 35 million people have died of HIV/AIDS-related causes. UNAIDS estimates that there were 36.7 million people living with HIV at the end of 2015, compared with 26.2 million in 1999. Of the 36.7 people infected with the disease, 24.7 million adults and children are living with HIV in sub-Saharan Africa, with an estimated 1.1 million new infections and 1.3 million HIV/AIDS-related deaths.<sup>17</sup>

UNAIDS Global Report lauds the fact that “the overall growth of the global AIDS epidemic appears to have stabilized” but warns that “levels of new infections overall are still high.”<sup>18</sup> With about 36.7 million people living with HIV in 2015, and an estimated 2.1 million new infections in 2015 alone, it would be statistically reasonable to say that the worst is far from over. The incidence, prevalence and mortality rates vary among African countries. East and Southern Africa are the worst hit by HIV. They are home to 6.2% of the world’s population but have 19 million people living with HIV, which is more than 50% of the total number of people living with the disease in the world.<sup>19</sup> For instance, in Somalia and Senegal, HIV prevalence is under 1% of the adult population, whereas in Namibia, Zambia, and Zimbabwe around 10-15% of adults are infected with HIV. The Republic of South Africa has an HIV prevalence rate of about 18.5%, Botswana 24.8%, Lesotho 23.6% and Swaziland 25.9%.<sup>20</sup>

West Africa has been less affected by HIV/AIDS, but some countries are experiencing rising HIV prevalence rates. In Cameroon, HIV prevalence is now estimated at 4.8% and in Gabon it stands at 5.2%. In Nigeria, HIV prevalence is low (3.2%), compared to the rest of Africa. However, because of its large population (it is the most populous country in sub-Saharan Africa, with an estimated population of 150 million), this equates to around 3.3 million people living with HIV.<sup>21</sup> Adult HIV prevalence in East Africa exceeds 5% in Uganda, Kenya, and Tanzania.<sup>22</sup>

### SNAPSHOT OF THE EFFECTS OF HIV/AIDS IN SUB-SAHARAN AFRICA

The emergence of HIV on the continent of Africa spelled doom for a poor and ravaged continent that was struggling socio-economically. Sub-Saharan Africa generates no more than one percent of the total wealth produced in the world. Africa is the home of ten percent of the world’s population, yet lives on one percent of the global economy, and carries 70 percent of the world’s HIV/AIDS burden.<sup>23</sup> A report of the U.S Presidential Mission on Children Orphaned by AIDS in sub-Saharan Africa observed that:

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<sup>15</sup> Stuart Rennie, Adamson Muula, and Daniel Westreich, “Male Circumcision and HIV Prevention: Ethical, Medical and Public Health Tradeoffs in Low-Income Countries,” *Journal of Medical Ethics* (2007) 33 (361): 358. Also, some studies indicate that the protective effect is greater when circumcision takes place early in a man’s life (infancy), presumably due to the thickening of the skin on the head of the penis (see R. Kelly et al. Age of Circumcision and Risk of Prevalent HIV Infection in Rural Uganda. *AIDS* (1999) 13: 399-405, 402.)

<sup>16</sup> Rennie et al. “*Male Circumcision*,” 358.

<sup>17</sup> UNAIDS. 2010 *Epidemic Update: Report on the Global AIDS Epidemic*, accessed June 12, 2017, [http://www.unaids.org/documents/20101123\\_GlobalReport\\_em.pdf](http://www.unaids.org/documents/20101123_GlobalReport_em.pdf).

<sup>18</sup> UNAIDS, *Epidemic Update*.

<sup>19</sup> Avert.org, “HIV and AIDS in East and Southern Africa: Regional Overview,” accessed June 12, 2017, <http://avert.org>

<sup>20</sup> UNAIDS, *Epidemic Update*.

<sup>21</sup> *Ibid*.

<sup>22</sup> UNAIDS. 2008 *Report on the Global AIDS Epidemic*, Accessed March 20, 2016, [http://data.unaids.org/pub/GlobalReport/2008/jc1511\\_gr08\\_executivesummary\\_en.pdf](http://data.unaids.org/pub/GlobalReport/2008/jc1511_gr08_executivesummary_en.pdf).

<sup>23</sup> Anton Van Niekerk, “Moral and Social Complexities of AIDS in Africa,” 57.

“deaths due to AIDS in the region will soon surpass the 20 million people in Europe who died in the plague of 1347 and the more than 20 million people worldwide who died in the influenza epidemic of 1917.”<sup>24</sup> While the recent report from UNAIDS suggests that the spread of the AIDS pandemic has started to decline, the worst is not over yet and the devastation on the African continent remains very tragic. The White House report graphically captures the scenario in its statement that “AIDS in sub-Saharan Africa is stalking women and young people, shattering families, and placing extraordinary burdens on the extended family and village systems that have been the backbone of African child-rearing tradition.”<sup>25</sup> The report also observes that “AIDS is not only causing unfathomable human suffering, it is jeopardizing economic growth, political stability, and civil society in many sub-Saharan African nations.”<sup>26</sup> Similarly, Stephen Lewis, the U.N special envoy for HIV/AIDS in Africa, described the situation thus: “The pandemic of HIV/AIDS feels as though it will go on forever. The adult medical wards of the urban hospitals are filled with AIDS-related illnesses, men, women wasted and dying.”<sup>27</sup>

The worst affected by the virus are young people who make up the workforce of these ravaged nations. If no aggressive and effective intervention is initiated, it is expected that 40 to 50 percent of the workforce of worst hit countries, like South Africa, Botswana, and Swaziland will die in the next ten years.<sup>28</sup> Sub-Saharan Africa also struggles with other epidemics, such as malaria, cholera, TB, and the “epidemic of hunger.” The loss of life and resources in the HIV/AIDS pandemic puts in peril the provision of goods and services that will benefit individuals and the larger society. If there are no renewed efforts to combat this pandemic, it will give rise to increased poverty and despair, and could lead to increased political instability, terrorism, war, and even to global instability.<sup>29</sup> Unless we act swiftly, the HIV/AIDS epidemic in sub-Saharan Africa continues to devastate communities, rolling back decades of developmental progress.

### NEONATAL MALE CIRCUMCISION, AND ITS RELATED MEDICAL, LEGAL, AND FINANCIAL ISSUES

Male circumcision is defined as “the surgical removal of all or part of the foreskin of the penis and may be practiced as part of a religious ritual, as a medical procedure, or as part of a traditional ritual performed as an initiation into manhood.”<sup>30</sup> A circumcision is a form of surgery. It is believed to be the oldest form of surgery.<sup>31</sup>

The foreskin is a hotbed of infections. Brian Morris explains that “sexual transmission of HIV requires this virus to penetrate epithelial tissue. The inner lining of the prepuce provides such an access route. This is because it is a mucosal epithelium and its protective keratin layer is very much thinner than in the outer prepuce and glans penis.”<sup>32</sup> Compared with the dry external skin surface, “the inner mucosa of the foreskin has less keratinization (deposition of fibrous protein), a higher density of target cells for HIV infection (Langerhans cells), and is more susceptible to HIV infection than other penile tissue in laboratory studies.”<sup>33</sup> The foreskin “may also have greater susceptibility to traumatic epithelial disruptions (tears) during intercourse, providing a portal of entry for pathogens, including HIV.”<sup>34</sup> Furthermore, the micro-environment in the preputial sac between the unretracted foreskin and the glans penis may be conducive to viral survival.<sup>35</sup> During circumcision, this foreskin is removed.

MC has been proven to have medical benefits.<sup>36</sup> When male circumcision is done with the proper kits and analgesic in a clinical setting, the adverse effects are minimal. Research shows that for 1 in 500 infant circumcisions, there may be slight bleeding (easily

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<sup>24</sup> The White House, “Report on the Presidential Mission on Children Orphaned by AIDS in Sub-Saharan Africa: Findings and Plan of Action.” (1999): 7.

<sup>25</sup> White House Report, “AIDS in Sub-Saharan Africa,” 7

<sup>26</sup> Ibid.

<sup>27</sup> Lewis, “Race against Time,” 1-2.

<sup>28</sup> Niekerk & Kopelman, “Ethics and AIDS in Africa,” ix-x.

<sup>29</sup> Robert Hogg et al., “Time to Act: Global Apathy towards HIV/AIDS is a Crime against Humanity: Commentary.” *THE LANCET* (2002): 360.

<sup>30</sup> N. Siegfried et al., “Male Circumcision for Prevention of Heterosexual Acquisition of HIV in Men.” *Cochrane Database of Syst. Rev.* (2009) 2: 1.

<sup>31</sup> Frank Zimmerman, “Origin and Significance of the Jewish Rite of Circumcision.” *The Psychoanalytic Review* (1951) 38: 105-114.

<sup>32</sup> Morris, “Circumcision,” 1147.

<sup>33</sup> Bruce K. Patterson et al., “Susceptibility to Human Immunodeficiency Virus-1 Infection of Human Foreskin and Cervical Tissue Grown in Explants Culture.” *American Journal of Pathology* (2002) 161: 872.

<sup>34</sup> Robert Szabo & Roger Short, “How Does Male Circumcision Protect Against HIV Infection?” *British Medical Journal* (2000) 10: 4.

<sup>35</sup> Mark C. Alanis & Richard S. Lucidi, “Neonatal Circumcision: A Review of the World’s Oldest and Most Controversial Operation.” *Obstetrical & Gynecological Survey* (2004) 59: 379-395.

<sup>36</sup> It is the medical recommendation for phimosis (a condition in which the distal prepuce cannot be retracted over the glans penis), paraphimosis (the inability to reduce a retracted foreskin over the glans penis to its naturally occurring position), balanitis (an infection of the glans penis), and posthitis (an infection of the prepuce). Recent reports in the medical literature support a protective effect of circumcision (at

stopped by pressure or, for 1 in 1,000, stitches), need for repeat surgery (1 in 1,000), or a generalized infection (1 in 4,000). True complications requiring hospitalization occur in only 1 in 5,000. Mutilation or loss of penis is unheard of these days when circumcision is performed by competent medical practitioners.<sup>37</sup> In some parts of Africa where traditional circumcision is prevalent, circumcision can be more painful than clinical circumcision as the use of anesthetics is rare, probably due to the perception of circumcision as a marker of bravery and endurance.<sup>38</sup> Additionally, the use of unsterilized equipment for MC during initiation rituals and by traditional circumcisers could lead to infections including HIV.

Studies conducted in the United States and Africa show that neonatal male circumcision is less expensive when compared to adult circumcision. In the U.S: “Post-neonatal circumcision was 10 times as expensive as neonatal circumcision (\$1,921 per infant vs. \$165 per newborn).”<sup>39</sup> In a study published in the January 2010 issue of *PLOS Medicine*, Agnes Binagwaho and colleagues conducted a comparative cost-effective analysis of neonatal, adolescent, and adult male circumcision in Rwanda (which has a moderate adult HIV prevalence of about 3%). The results were astonishing. The findings show that neonatal MC is less expensive than adolescent and adult MC (US\$15 instead of US\$59 per procedure) and is cost-saving even though the savings from infant MC will be realized later in time. This implies that for each infant MC performed, the government of Rwanda will save money.<sup>40</sup> This money could no doubt be utilized in other ways for the benefit of society. The cost of infant MC in some other parts of sub-Saharan Africa may be a little more or less than the Rwanda findings but will pale in comparison to the cost of adult MC or the cost of managing an adult HIV patient over a lifetime.

Besides the medical issues associated with neonatal circumcision, there are also legal, religious, and cultural issues in this debate. The question here is whether it is legally appropriate to mandate neonatal MC across sub-Saharan Africa. Can neonatal MC be enforced under the law? Should parents who refuse to circumcise their newly-born infant be prosecuted for breaking the law?

The mandatory HIV screening for pregnant women in Botswana with an “opt-out” clause is a model that could be replicated in sub-Saharan Africa with neonatal MC. Since the beginning of 2004, HIV tests have been offered as part of routine checkups in public and private clinics in Botswana. The testing is part of the standard routine, but people who do not want to be tested can opt-out. Botswana was the first country in Africa to have a national policy of routinely offering an HIV test at clinics. The “opt-out” clause in Botswana has helped in some degree to resolve the problem of coercion. Some pregnant women who feel coerced to get tested during their routine antenatal visits can opt-out without any fear of retribution. The good news is that this piece of legislation has saved the lives of many unborn babies and their mothers. It could serve as a model for legislation with regard to mandatory neonatal MC. HIV is undoubtedly a health emergency that warrants and demands bold measures from governments and public policy makers to protect society. *Mandating neonatal MC perhaps with an opt-out clause is one of those bold measures government could take to prevent the spread of HIV.*<sup>41</sup>

## CULTURAL AND RELIGIOUS ISSUES

Given that mandating neonatal MC possibly with an opt-out clause is the most compelling option to fight HIV here and now, its acceptability as a mandatory procedure across sub-Saharan Africa depends to a very large extent on some religio-cultural concerns. In an internal survey of 118 developing countries on the topic of male circumcision and religion, Paul Drain and colleagues noted that: “As expected, male circumcision was strongly associated with religious variables. A greater part of the population being Muslim was strongly associated with more male circumcision prevalence. Conversely, a greater percentage of the population being

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various levels) against urinary tract infections (UTIs), some STDs (including HIV infection), cervical cancer, and penile cancer. See: C.A. Angel MD & S. Cantu Jr. MD. Circumcision: eMedicine Clinical Procedures. Accessed March 27, 2011. <http://emedicine.medscape.com/article/1015820-overview>.

<sup>37</sup> Morris, “Circumcision,” 1155.

<sup>38</sup> Karl Peltzer et al., “Male Circumcision, Gender and HIV Prevention in Sub-Saharan Africa: A Social Science Research Agenda.” *Journal of Social Aspects of HIV/AIDS* (2007) 4: 661.

<sup>39</sup> Edgar J. Schoen, Christopher J. Colby & Trinh. T. To, “Cost Analysis of Neonatal Circumcision in a Large Health Maintenance Organization” *The Journal of Urology* (2006) 175 (4): 1111-1115.

<sup>40</sup> Binagwaho et al. “Male Circumcision,” 3-4.

<sup>41</sup> I acknowledge that there is another comprehensive preventive strategy, along with neonatal MC, positively reviewed in our fight against AIDS in the sub-Saharan Africa, called “ABC” (Abstain, Be faithful, Use Condoms). The African teens are or at least ought to be followed up in schools and rural communities through the ABC. The method has been proven to be effective in countries like Uganda. Uganda was able to reduce HIV prevalence rates dramatically from a peak in 1991 of around 15 percent among all adults, and over 30 percent among pregnant women in the cities, to around 5 percent in 2001. It is certain that measures must be implemented, but I focus on neonatal MC in this paper. [Avert. HIV and AIDS in Uganda. Available at: <http://www.avert.org/aids-uganda.htm> (Accessed 28 Mar 2011)].

Christian was strongly associated with less male circumcision.<sup>42</sup> This means that in an effort to mandate neonatal MC local religious institutions and leaders must play a role in advocating for the procedure, as an effective means of preventing HIV.

Religion is not the only issue at stake here. Acceptability of neonatal MC remains a great concern due to the strong cultural values attached to circumcision, status, rituals, and practices. Many ethnic groups in Africa circumcise at infancy, but others do so in early adolescence because circumcision is often (particularly in rural areas) practiced as part of a boy's rite of passage into manhood.<sup>43</sup>

Neonatal circumcision is common in West Africa but is uncommon in East and Southern Africa, where the median age at circumcision varies from boyhood to the late teens or twenties. Among the Balante in Bissau Guinea, circumcision ceremonies are carried out by groups of villages every four to six years. But sometimes, villages can wait up to 16 years to organize a circumcision ceremony. In some areas in southern Senegal, the ceremony takes place every 30 years.<sup>44</sup> In South Africa, for example, Xhosa communities circumcise young men in a rite of passage that is key to gender definitions, marking the transition from boyhood to manhood. Initiating neonatal circumcision, therefore, can cause cultural disruption. "Cultural beliefs and conceptions of masculinity, including what it means to be a man, are turned upside down when neonatal circumcision is introduced to cultures where MC is a pubertal rite of passage."<sup>45</sup>

Rennie and colleagues observed that the factors enumerated above show that, among currently circumcising groups, circumcision soon after birth could dramatically alter the social, psychological, and cosmological dimensions of such traditional process, and some communities may be reluctant to tolerate this degree of cultural change, even to stem new HIV infections. It could be easier for groups that do not currently circumcise to accept non-ritualized, neo-natal circumcision. In Botswana, where circumcision was a rite of passage but was stopped in the 19<sup>th</sup> and 20<sup>th</sup> centuries, a survey showed 55 percent of parents were willing to circumcise their children, if it would protect them from STIs (including HIV), and 90 percent of these parents felt it should be done in a hospital setting.<sup>46</sup>

The acceptance and adaptation of this cultural change would require liaison and dialogue with the different ethnic leaders and religious authorities. The cooperation between the reluctant communities, ethnic and religious leaders and social scientists (advocates of neonatal MC) is essential for the success of the enterprise. This co-operation, according to Karl Peltzer and his colleagues, "could give voice to local people and help social scientists to analyze how male circumcision is conceptualized in connection with their own philosophical systems, social dynamics, gender relations and symbolic modes of learning and transmitting knowledge."<sup>47</sup>

The findings of a study in Rwanda on the effects of cost and culture on neonatal circumcision were very upbeat. The Rwandan experience could be a model for starting and scaling up neonatal circumcision in other countries in sub-Saharan Africa. More than 90 percent of the Rwandan population is Christian, and in Christianity, there is little of any religious and cultural meaning to MC. Thus, while the country does not already routinely circumcise at birth, there will likely be little resistance to scaling up neonatal MC. Rwanda has already initiated a national MC program that focuses on infants, one of its priority populations.<sup>48</sup>

In sum, the success of mandating neonatal MC in the sub-Saharan African countries depends on whether we can find justifications and persuasions for the mandate. Justifications and persuasions are distinct in the sense that the former has fundamentally to do with ethics and the other with politics. While the justifications explain why the measure is ethically allowed to the extent that a mandate is a form of coercion, the persuasions require a political maneuver, which includes the art of language, to let the ethnic groups who already see the infant circumcision as religiously and culturally unacceptable, positively re-evaluate the measure and find it condonable, if not acceptable. This discussion continues below on the ethical justification behind the proposal for mandatory neonatal MC.

## EXPLORING ETHICAL JUSTIFICATIONS

Mandatory neonatal MC in sub-Saharan Africa is so sensitive a proposal, that it cannot but provoke ethical controversy. Opponents focus on autonomy and informed consent. Neonatal MC is a form of non-consensual surgery. The claim is that the surgical removal

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<sup>42</sup> Paul K. Drain et al., "Male Circumcision, Religion, and Infectious Diseases: An Ecologic Analysis of 118 Developing Countries." *BMC Infectious Diseases* (2006) 6: 172.

<sup>43</sup> Rennie et al., "Male Circumcision," 358.

<sup>44</sup> Karl Peltzer et al., "Male Circumcision, Gender and HIV Prevention in Sub-Saharan Africa: A Social Science Research Agenda." *Journal of Social Aspects of HIV/AIDS* (2007) 4: 660.

<sup>45</sup> Seth C. Kalichman, "Neonatal Circumcision for HIV Prevention: Cost, Culture, and Behavioral Consideration." *PLOS Medicine* (2010) 7: 2.

<sup>46</sup> Rennie et al., "Male Circumcision," 358.

<sup>47</sup> Peltzer et al., "Male Circumcision and HIV Prevention," 660.

<sup>48</sup> Kalichman, "Neonatal Circumcision," 1.

of a healthy child's foreskin without his informed consent is always wrong.<sup>49</sup> Opponents further contend that such a non-consensual surgery causes bodily mutilation and is in violation of the Hippocratic ethical principle of nonmaleficence ("Do no harm").<sup>50</sup> The upshot is that children should be allowed to grow up and make the circumcision decision by themselves. Proponents of mandatory neonatal MC, by contrast, base their arguments on the research-proven protective effects of male circumcision against HIV and other STI's. They also note that neonatal MC is cost effective and poses minimal risk of medical complications compared to adult circumcision. Neonatal MC could easily be integrated into already existing post-natal programs, operational in many African nations. Finally, they point out that young men might refuse circumcision during adolescence due to not perceiving themselves as at risk for HIV infection.<sup>51</sup> These benefits to the child and society, in the long run, justify letting parents choose circumcision for their infants, rather than waiting for their sons to decide for themselves when they grow up.

A critical appraisal of the arguments of opponents of mandatory neonatal MC reveals significant weaknesses. The argument from informed consent as expressed above is not solid because parents often practice proxy decision-making when choosing other (and sometimes invasive) therapeutic interventions for their children, including mandatory preventive measures such as vaccinations.<sup>52</sup> The reasoning is: if parents who ideally act in the best interest of their children have in the past chosen mandatory procedures whose effects are realized later in the lives of their children, why then should neonatal MC be different, given its proven medical effectiveness for the child? The argument from autonomy also fails. For surely it would be ethically justifiable for public health to permit childhood vaccinations with substantial potential side effects, while universally condemning neonatal MC. Moreover, if (as research has shown) neonatal MC can offer long-term vaccine-level protection against HIV transmission, why should this beneficial procedure not be allowed when the child is living in a high HIV prevalence setting?<sup>53</sup>

On another note, the idea of autonomy (self-determination) in Western societies, like the United States and Europe, does not have the same self-evidence in African contexts. Bioethicists, Beauchamp and Childress, describe autonomy thus: "Personal autonomy encompasses, at a minimum, self-rule that is free from both controlling interferences by others, and from certain limitations such as an inadequate understanding that prevents meaningful choice."<sup>54</sup> Whereas this idea of autonomy is overtly individualistic, sub-Saharan thinking tends to be more communitarian. Decisions are not made in isolation but together with family (nuclear and extended). As the theologian Lisa Sowle Cahill puts it: "In African and Asian societies, the community is much more clearly considered prior to the individual than it is in the U.S.... Often it is the family or elders and authorities within the family, who make decisions regarding the needs of individuals."<sup>55</sup> Thus, the idea that parents will make decisions about the child's medical treatment, without considering the impact on the family and community seems at odds with the African context.

From a theological angle, an argument is made in favor of mandatory neonatal circumcision in sub-Saharan Africa. Theological Bioethicist, Peter Clark, and his colleagues argue for mandatory neonatal MC as a preventive measure against the spread of HIV, using the principle of double-effect (PDE). One effect is intended and morally good, the other is unintended and morally evil, in the sense that it is foreseen, yet not intended. Applying the PDE to mandatory neonatal MC in sub-Saharan Africa, they note that the good effect is that three randomized clinical trials in Africa have shown that MC reduces the risk of heterosexually acquired HIV infection in men, by approximately 51 percent to 60 percent. The evil effect concerns the removal of a child's healthy foreskin without his informed consent, which violates the principles of autonomy and nonmaleficence.<sup>56</sup>

As I applaud the case made by Clark and colleagues, it is pertinent to note that applying the PDE to neonatal MC has raised some concerns. Critics have claimed that, when the PDE is invoked, independent justification for causing the harm in question (unconsented removal of the child's foreskin) is implicitly relied upon and in fact doing the justificatory work.<sup>57</sup> Also, it is questionable in the current case, whether the third condition of the PDE, as it is conventionally formulated, is here satisfied.

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<sup>49</sup> Rennie et al., "Male Circumcision," 358.

<sup>50</sup> Geoff Hinchley, "Is Infant Male Circumcision an Abuse of the Rights of the Child? Yes." *British Medical Journal* (2007) 335: 1180.

<sup>51</sup> Rennie et al., 358.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Tom. L. Beauchamp & James F. Childress, *Principles of Biomedical Ethics*, 6th ed. (New York: Oxford University Press, 2009): 99.

<sup>55</sup> Lisa. S. Cahill, *Bioethics and the Common Good*. (Milwaukee, Wisconsin: Marquette University Press, 2004): 52.

Note that in sub-Saharan Africa, emphasis falls on the community and not autonomy. An average African might be more willing to sacrifice autonomy (that is, accept a mandatory program) if he or she realizes that the common good is promoted. This observation suggests that a decision by parents or family to have their infants circumcised would not pose much of a problem to the persons concerned provided that the benefits of such a procedure have been made clear to them.

<sup>56</sup> Peter. A. Clark, Justin Eisenman & Stephen. Szapor, "Mandatory Neonatal Male Circumcision in sub-Saharan Africa: Medical and Ethical Analysis." *Medical Science Monitor* (2007) 13 (12): 205-213.

<sup>57</sup> Alison McIntyre. Doctrine of Double Effect. In *Stanford Encyclopedia of Philosophy*, accessed March 23, 2011. <http://plato.stanford.edu/entries/double-effect/>



According to this third condition, the evil effect must not be a means to the good effect. But surely, unconsented removal of the child's foreskin is the means to the good effect of reducing the risk of acquiring AIDS.

However, in contrast with the ethical opinion expressed above, I make the following suggestion as a theoretical possibility. I propose an exploration of the principle of the common good. The principle of the common good has a long history that dates to the ancient Greeks. But the most recent theological account of the common good as an ethical justification is found in David Hollenbach's writings. Situating the common good within the context of the *polis* (Greek city-state), Hollenbach notes that Aristotle in his *Nicomachean Ethics* affirmed that: "A good life is oriented to goods shared with others – the common good of the larger society of which one is part of. The good life of a single person and the quality of the common life persons share with one another in society are linked. Thus, the good of the individual and the common good are inseparable."<sup>58</sup>

It must be acknowledged that the social and political situation prevalent in the Greek city-state differs from that of a modern nation-state such as the United States. Hollenbach observes that, given the differences between the *polis* and a modern nation-state, it is not clear what the interdependence of the individual's good and the common good of the society nowadays mean. For example, does the freedom and liberty of the individual trump the common good of the society or vice versa? Hollenbach also warns that a literal identification of Aristotle's notion of the common good with the good of the modern-nation state may have totalitarian implications.<sup>59</sup> Nevertheless, it does make sense to think that, at least in some contexts, the good of the individual is inextricably interwoven with the good of the larger society.

As Hollenbach explains, the concept of the common good was further enriched in the middle ages. Thomas Aquinas's discussion of Christian morality was built on Aristotle's idea of the common good in moral life. According to Hollenbach, "Aquinas's *Summa Contra Gentiles* re-affirmed Aristotle's statement that the good of the community is more 'godlike' or 'divine' than the good of an individual human being."<sup>60</sup> He went further to identify this good to be sought by all persons in common with the very reality of God.<sup>61</sup> Thus, the good of each person is linked with the good shared with others in the reality of God. God is the supreme good, and the highest common good is reflected in the love of God and neighbor. Love of God, the thought seems to be, can only be had in common, as for example, the good of friendship can only be had in common (that is, is an irreducibly social good). In Scriptural terms, two or more must be together for God to be present among us (see MT 18:20).

Yet, the concept of the common good has been mired in some ambiguities and misinterpretations in our contemporary society. John Rawls identified the pluralism of the contemporary nation-state as the intellectual and theoretical obstacle toward having a uniform notion of the social (common) good to which all could agree.<sup>62</sup> Accordingly, the concept of the common good has more or less fallen out of common use today. Instead, we speak of the general welfare, public interest, and public goods. But these terms are not quite the same as the common good.

Hollenbach traces the relationships between these terms and the common good. To draw out the difference, he focuses on the concept of a family. There are goods shared in common in the family (e.g., house and income) but over and beyond these shared goods lie relationships of care, concern, and affection.<sup>63</sup> These go deeper than such so-called external goods, as house and income. This deeper relationship is the missing piece in the alternative concepts of general welfare, public interest, and public goods, which all concern in one way or another, the sharing of external goods.

As the bonds of affections bind family members together, so does the relationship of being members of the human society or community bind us together, urging us to make it a better place to live and flourish. For the good of community can clearly only be had in common. It is an irreducibly social good. The common good is all about the goods of common life, a life enriched by being lived with others. It remains a useful concept as long as human society endures, and is therefore relevant to our ethical consideration of the problems of HIV in sub-Saharan Africa.

Now, how is the common good in sub-Saharan Africa threatened by the HIV plague? As stated earlier, sub-Saharan Africa is the part of the world most affected and devastated by the HIV and AIDS pandemic. The common good of the communities in sub-Saharan Africa *may be* said to be the totality of socio-political, economic, religious, and cultural factors that help the individual flourish and realize her potentials in the community.

It is known that the family, as the nucleus of sub-African societies, is the most stable unit that can nurture a child into becoming a responsible member of his community. The individual draws from the parents at home and from other role models in the community, on how to flourish and give back to the community. The stability of the family has been shattered by HIV/AIDS-

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<sup>58</sup> David Hollenbach, *The Common Good and Christian Ethics*. (U.K: Cambridge University Press, 2002): 3.

<sup>59</sup> Hollenbach, "Common Good," 4.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

related deaths, leaving millions of children orphans. These children will have to survive each day without the provenance and guidance of one or both of their parents. The majority of those infected with HIV (children and adults) do not have access to antiretroviral therapy that will help them live longer, and so are left at the mercy of the disease, which will eventually kill them. The suffering, sorrow, and loss of productivity due to illness imperil how the people of sub-Saharan Africa benefit and contribute to the common good.

The ethical argument here is that, for the sake of the common good, the effective and bold preventive measure, that is, neonatal MC, should be implemented. However, theoretical difficulties abound. The quintessential problem here, as readers may know, is the notorious ambiguity of the meaning of the common good itself. It is apparent that there cannot be an overwhelming consensus on the meaning of the common good among the leaders and citizens of African countries, and this type of political and social consensus is fragile in any countries and at any points of history. And, even if there were overwhelming agreements on the common good at the cross-continental level that the neonatal MC should be mandated for all sub-Saharan nations, there still requires a further justification how this socio-political agreement can be ethical. Unless one subscribes to the position of hard-core moral relativists or moral non-cognitivists that ethics should be replaced with politics, then there shouldn't be any need for an ethical justification. However, many thinkers, including the author, believe that there is a deeper sense and place for ethics because it is in this ethical sphere that politics finds its fundamental justification.

As was discussed above, it is clear that the family is the nucleus and the most stable unit of sub-African societies, and as Cahill observed, autonomy in the African culture is communal rather than individualistic. However, I do recognize that the communal ethics does not explain away the perennial philosophical problems long discussed. It is highly controversial to say that decisions made "communally," either by the majority vote in the family or the entire village are ethically justifiable. What about the age-long customs practiced in the patriarchal society, which includes sub-Saharan African societies, such as forced marriages between older men and much younger women, female circumcisions, etc.? Are we ready to say that these practices are ethically permissible because they are simply communally agreed forms of customs?

I believe that the only feasible path to hold on to the notion of the common good in the familial, community ethics, in the sub-Saharan African context, is via the Thomistic theological anthropology, which Hollenbach attempted to explore in his thesis of the common good. In Thomist tradition, as opposed to Augustinian or Lutheran tradition, the common good has always been understood against the backdrop of humanity's rational capacity to share what is morally right or wrong, regardless of one's commitment to different religion or exposure to different culture, for all humanity *qua* humanity already access the morality of which character is essentially rational. A further research is required to pursue the project. The purpose of this editorial was to show one direction in which future research can go to locate ethical justifications for the mandated medical measure for the sake of the common good.

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