

ETHICAL DILEMMAS OF CIRCUMCISION SCHOOL WITH REFERENCE TO THE VENDA.

By

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DECLARATION:

I, the undersigned, hereby declare that the work contained in this assignment is my own original work and that I have not previously in its entirety or in part submitted it at any university for a degree.

Signature:

Date:

Summary

Morbidity and mortality are national problems that affect a vast number of children and young adults each year in Circumcision Schools. The number of children who either get sick or die of traditional circumcision school is probably high. “In one study of penile mutilation practice (in 1990) of the Xhosa tribe of Southern Africa, 9 % of mutilated boys died: 52 % lost all or most of their penile shaft skin: 14 % developed severe infectious lesions: 10 % lost their glans penis; and 5 % lost their entire penis. This represents only those boys who made it to the hospital,” (Denniston and Milos, 1997: v). The problem is still the same and this could mean that the true complication statistics is likely to be much higher if the entire South Africa is taken into consideration.

Although traditional circumcision was well intended, the recent spate of death puts it under threat. Besides, there are many other controversial acts that are taking place within the school itself. There are many illegal schools instituted by inexperienced traditional surgeons. The plight is further worsened by the commercialisation of the traditional institution. It is painful to note that the camps which were normally held in winter for children to heal faster are now also held in summer. The outmoded system of administration in this institution and the health hazards experienced, confronts parents, children and the entire community with a dilemma – a dilemma that warrants ethical reflection.

The dilemma poses a serious challenge to the cultures that practice the traditional ritual of circumcision. Many of the advisers of this thesis agree (the likes of Prof. C.S. van der Waal, Prof G. Tangwa, Chief T.J. Ramovha, Traditional healer Mashudu Dima and Dr D. Sidler) that we don't have to do away with the school as such, but that there is a need to either change and improve certain things in this school. Social change and medical awareness seem very important in this regard. The hurdle created by this dilemma, though daunting, can be overcome. We need education, cooperation, dialogue, rationality and true reflection on our culture to work this problem out. Until our children are safe from the threat of morbidity and mortality, no one is safe. I therefore think that many human errors could paint an unfavourable picture on the traditional Circumcision School, whereby creating ethical dilemmas. The ethical dilemma could be a starting point for critical reflection on culture and tradition with the hope for change and future progress. It is such a challenge that Circumcision Schools should face and which they urgently need.

Opsomming

Ernstige beserings en 'n hoë dodetal in besnyding-skool is 'n nasionale probleem wat elke jaar talle kinders en jong volwassenes affekteer. Die getal kinders waarvan die gesondheid aangetas word of wat selfs sterf in dié tradisionele besnyding-skole is waarskynlik hoog. *“In one study of penile mutilation practice (in 1990) of the Xhosa tribe of Southern Africa, 9% of mutilated boys died: 52% lost all or most of their penile shaft skin: 14% died developed serious infectious lesions: 10% lost their glans penis; and 5% lost their entire penis. This represents only the boys who made it to hospital”* (Denniston and Milos, 1997:v). Dié probleem bestaan voort, en dit mag beteken dat die ware ongevalle syfer veel hoër mag wees, sou die hele Suid Afrika in berekening gebring word.

Alhoewel besnyding tradisioneel welbedoeld is, word dié praktyk nou bedreig deur die onlangse vlag van sterftes. Daarbenewens is daar vele ander kontroversiële praktyke wat in dié skole self bedryf word. 'n Groot aantal van die skole is onwettig en word deur onervare tradisionele sjiurge bedryf. Dié problem word verder vererger deur die kommersialisering van dié tradisionele institusie. Dit is ook kommerwekkend om daarop te let dat waar dit gebruiklik was om dié kampe in die winter te hou – vir die sneller herstel van die kinders – hulle nou ook in die somer beslag neem. Die verouderde sisteem waarmee dié institusie se administrasie bedryf word, sowel as die gesondheids-gevaar wat daarmee gepaard gaan, stel ouers, kinders en die gemeenskap as geheel voor 'n dilemma – 'n dilemma wat etiese nadenke verg.

Dié dilemma bied 'n ernstige uitdaging tot die kulture wat steeds die instelling van besnyding huldig. Soveel as sekere van die bydraes binne die vervolgende verhandeling (bv. Dié van Proff. C.S. De Waal, G. Tangwa, Hoofman T.J. Ramovha, Tradisionele heler Mashudu Dima en Dr. D. Sidler) saamstem dat daar nie ingeheel van die skole afgesien hoef te word nie, is daar wel 'n nood om sekere aspekte daarvan te hersien en verbeter. Sosiale verandering en 'n mediese perspektief is van groot belang hiertoe. Die struikelblok wat deur hierdie dilemma veroorsaak word – hoewel intimiderend – kán wel oorkom word. Daar is 'n nood vir opvoeding, samewerking, dialoog, redelikheid en 'n ware nadenke oor ons kultuur om hierdie probleem die hoof te bied. Tot tyd en wyl ons kinders veilig staan van die dubbele

gevare van besering en dood, is niemand veilig nie. Ek dink dus dat, terwyl verskeie etiese dilemma's ongunstige beeld skep van menslike foute, hulle ook vra om insigte rondom die menslike kultuur, en om hoop vir toekomstige vooruitgang. Dit is wat tradisionele besnyding-skole benodig.

Dedicated to our children in the Limpopo Province who continually suffer of this plight

“Generally, most of us believe that a person who is natural, genuine, and different will not be accepted. We have forgotten and numbed ourselves to the deep emotional pain that accompanies the choice to hide our true selves. Let’s remind ourselves that being true to ourselves is critical to how we feel, and that people who are true to themselves often earn not just acceptance, but the respect and admiration of others.

Circumcision school exemplifies our tendency to raise our children to be like us, socially acceptable rather than who they really are. It is our society that needs to change, not our children. We make important contributions to social change when we make important child-rearing decisions.

Rather than thoughtlessly imitating the countless decisions of others who did not reflect on their decisions, we can instead give additional consideration to the child’s wants and needs and to our own instincts. Recalling the feelings and experiences of our own childhood can also help us to make better decisions for our children.”

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CHAPTER 1

INTRODUCTION

1.1. Introduction.

Circumcision Schools are one of the ritual practices adopted by many societies in South Africa. The Circumcision School has endured through time until modern time. Circumcision is practiced today by various cultures as part of initiation ritual and plays an important role in traditional community. According to Cox (1998: X)

“A ritual is a repeated and symbolic dramatization directing attention to a place where the sacred enters life, thereby granting identity to participants in the drama, transforming them, communicating social meaning verbally and non-verbally offering a paradigm for how the world ought to be.”

In his definition, Cox indicates that rituals are performed in a society to give a person identity. Rituals have the function to change people through an education that is given verbally and non-verbally. Rituals transmit important activities and knowledge of that particular culture from one generation to the other. The sole purpose of this transmission is to change people so that they should move from one state of being to another (Cox 1998: ix). The sense of changing from one state of being to another becomes a passage or a route¹ to be undertaken.

The act of passage and transmission of customary activities in a community uses circumcision as one of its major vehicles. Circumcision is regarded as a rite of passage that marks transition of young men from childhood to manhood. Mayer (1971:7) indicated that traditional tribal initiation is part of the experience of growing up. Amongst other things young boys are taught life skills related to discipline, marriage, endurance and self defense (initiation)². The Circumcision School is mostly marked by certain procedures entailing bodily mutilation, in the form of the cutting of

¹ Individuals in communities pass through transitional phases which reinforce their developmental stages and their roles in the community.

² This is an educational part of the school that instills morals to initiates so that they may grow up to be responsible citizens.

the foreskin. Many societies in South Africa, however do not regard Circumcision as a mutilation. More often than not, it is seen as a cultural consecration that makes the individual a man. The idea of bodily mutilation is discarded. The bottom line of the argument remains the same, be it circumcision or initiation, the fact is to transform a person from the state of being a child to that of an adult (Cox 1998: xi). After graduation from the school, the person has acquired a special status in his community.

Today, these schools are faced with many challenges, and some people claim that the practice has lost both its cultural value and its moral position.

To look at the moral position of this practice and the problems involved, I am going to use the “Findlay cartoon” taken from the Sunday Sun newspaper³ of June 30, 2002 as my point of departure. I will develop my argument⁴ from the Findlay cartoon that will form the basis of this study. Different premises will be established to reach conclusions. Reconstructing my argument, moral problems will be identified. Other moral problems will be formulated through implied conclusions. The identified moral problems will be addressed from a philosophical perspective and it will be shown that the problems of Circumcision Schools are serious ones.

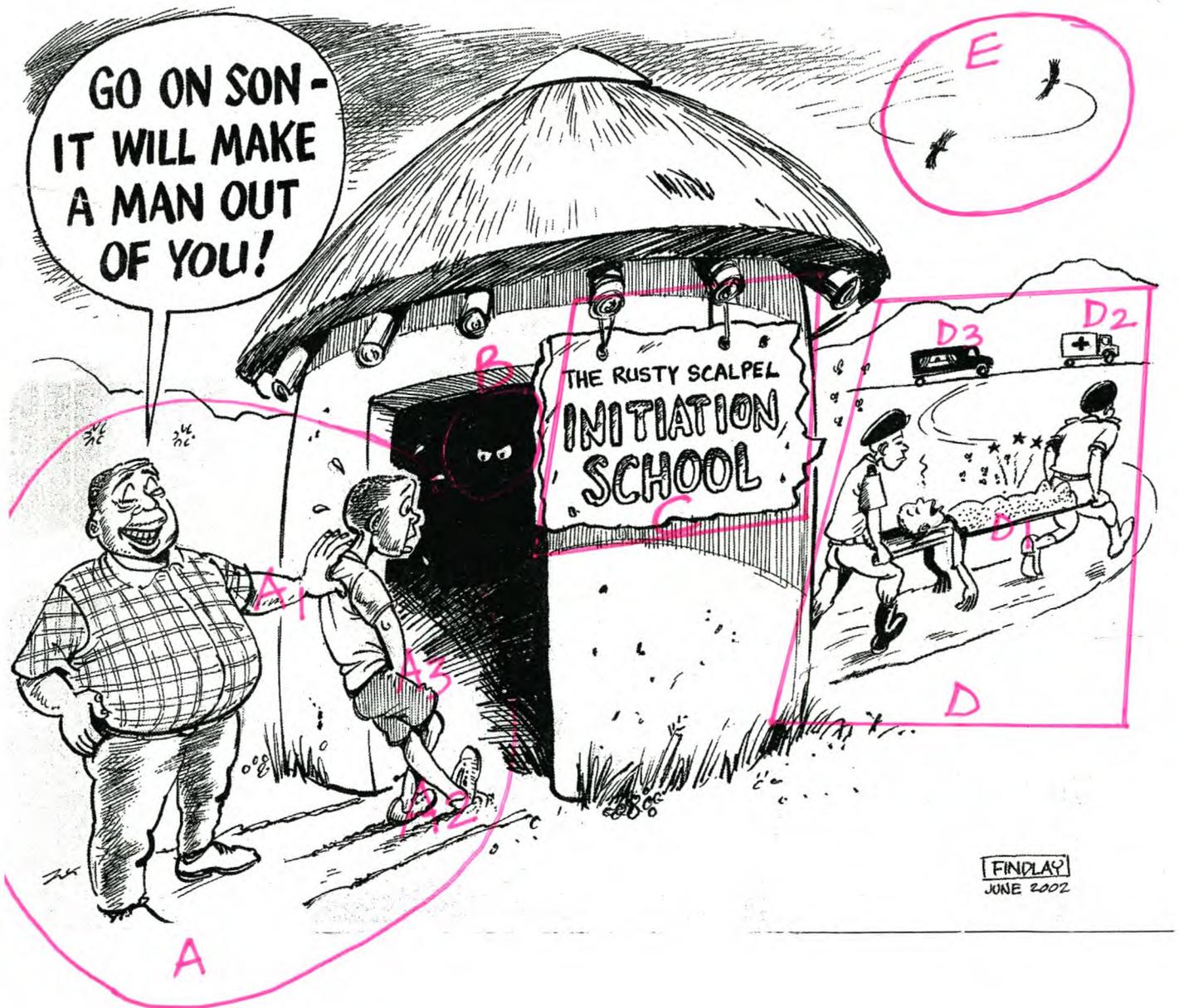
The cartoon that I am going to use is marked as annexure 1. This cartoon has five identified blocks marked A, B, C, D and E. Blocks A and D are further marked A₁, A₂, A₃ and D₁, D₂, D₃, respectively. This will help in the formulation of premises. Blocks B, C and E are not marked further but implied premises will be drawn from them. These direct and indirect premises are only meant to depict the state of chaos at this institution. This state of chaos breeds moral dilemmas. A diagram is used to summarize the premises and conclusions that are depicted by the Findlay cartoon. Out of the premises and conclusions I will be able to draw a few of the moral dilemmas with which the institution of Circumcision School is faced.

³ The Sunday newspaper, that circulates in Gauteng and the Limpopo Province.

⁴ Conway, A.D. and Munson, R. (2000, 5) define an argument as a set of claims, one of which is meant to be supported by the others.

1.2. The Findlay cartoon from the Sunday Sun.

Sunday Sun JUNE 30 2002



STEP 1: 1.2.1 Identification and list of statements

- A. S₁. Father forces his child to go to the Initiation School.
S₂. The boy is reluctant to go to the Initiation School.
S₃. The boy covers his penis as he is afraid to lose it.
S₄. He is forced to go to the Circumcision School and it therefore becomes a threat for him to go there.
- B. S₅. These are the eyes of a monster in the darkness.
S₆. A monster is known for its inhuman characteristics, horrible cruelty and horrifying wickedness.
S₇. The Circumcision School is a frightening practice.
- C. S₈. A rusty scalpel is used in the Circumcision school.
S₉. A rusty scalpel is known to cause infections and deadly septic wounds.
S₁₀. One rusty scalpel is used on many boys who go to the school.
S₁₁. The Circumcision School is an unhealthy and harmful practice.
- D. S₁₂. The boy goes out of the school in a stretcher and he is unconscious.
S₁₃. He will go to the hospital because of the botched operation.
S₁₄. He will die.
S₁₅. The Circumcision School is dangerous and fatal.
- E. S₁₆. Vultures are flying above the Circumcision camp.
S₁₇. These birds live from the flesh of dead animals and human beings.
S₁₈. People are dying at the Circumcision School.

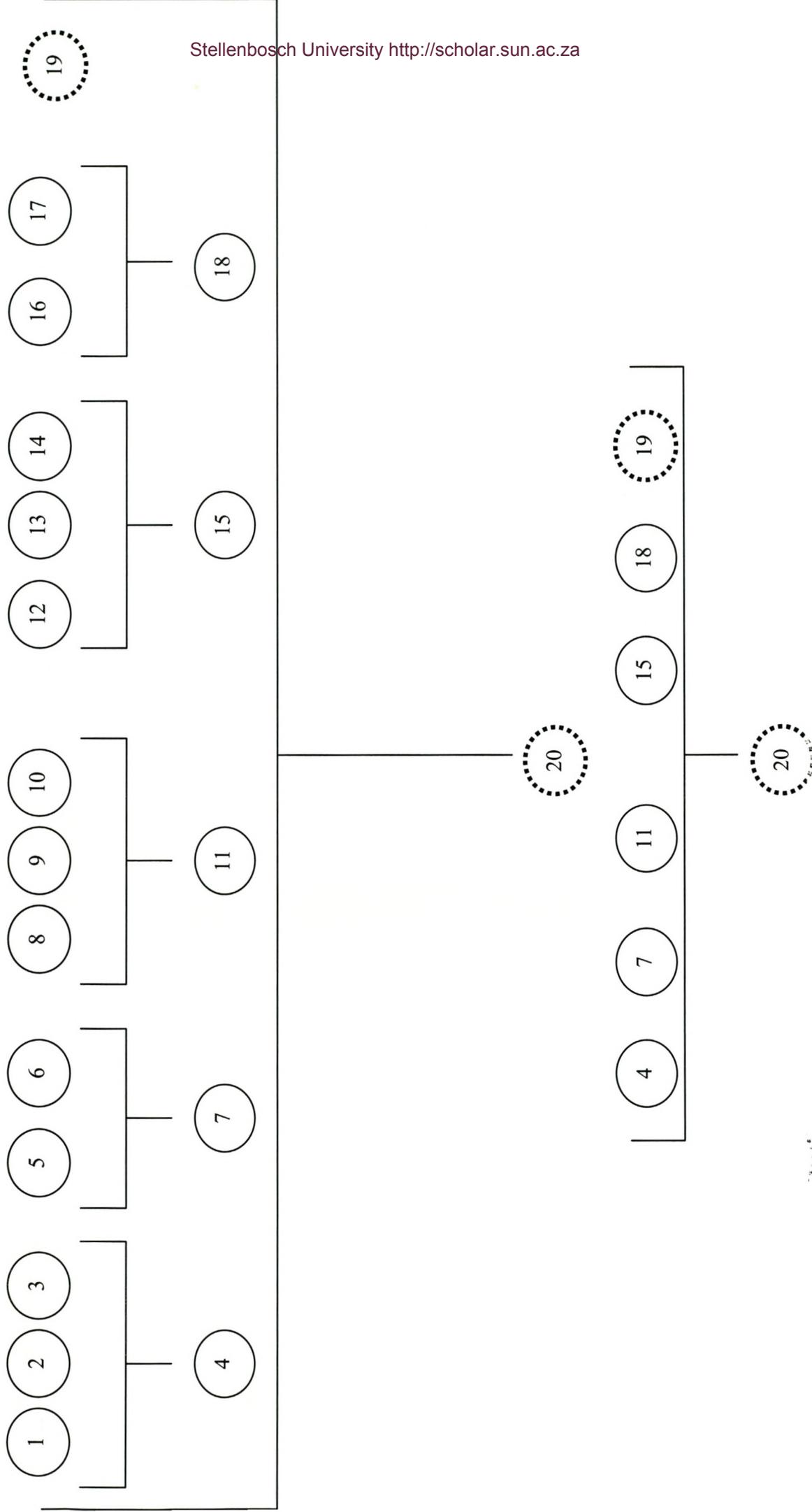
1.2.2. STEP 2: Reconstruction of the arguments.

- P1 = S₁. The father forces his son to go to the Initiation School.
S₂. The boy is reluctant to go to the Initiation School.
S₃. The boy covers his penis as he is afraid to lose it.

- C1 = S₄. He is forced to go to the Circumcision School and it therefore becomes a threat for him to go there.
- P2 = S₅. These are the eyes of a monster in the darkness.
S₆. A monster is known for its inhuman characteristics, horrible cruelty and horrifying wickedness.
- C2 = S₇. The Circumcision School is a frightening practice.
- P3 = S₈. A rusty scalpel is used in the Circumcision School.
S₉. A rusty scalpel is known to cause infections and deadly septic wounds.
S₁₀. One rusty scalpel is used on many boys who go to this school.
- C3 = S₁₁. The Circumcision School is an unhealthy and harmful practice.
- P4 = S₁₂. The boy goes out of the school in a stretcher and he is unconscious (after circumcision).
S₁₃. He will go to the hospital because of the botched operation.
S₁₄. He will die.
- C4 = S₁₅. The Circumcision School is dangerous and fatal.
- P5 = S₁₆. Vultures are flying above the Circumcision camp.
S₁₇. These birds live on the flesh of dead animals and human beings.
- C5 = S₁₈. People are dying at the Circumcision School.
- P6 = S₁₉. The Circumcision School has a lot of moral problems.
- C6 = S₂₀. The Circumcision School has lost its cultural value and moral position.

Diagram 1

1.2.3. STEP 3: Argument in a diagrammatic form



1.3. Background and description of the situation

The claims depicted by the premises and conclusions highlight that, Circumcision as traditional transitional ritual has become a monster that is causing serious harm to children. On their quest for manhood children either die or need hospitalization. The statistics released by the Department of Safety, Security and Liaison in 2001 show that eleven initiates died in Gauteng (Sowetan, 11 July 2001) and seven initiates in Limpopo in 2001. In 2002, 5 innocent young boys died in Gauteng (City Press, 30 June 2002). There are similar reports from the Eastern Cape. On July 28, 2002, 29 initiates were reported dead because of botched operations at a Circumcision School (City Press, July 28, 2002).

There are other health hazards and extreme harm that are inflicted on innocent children in this pursuit of tradition. These include the risk of sexually transmitted diseases, HIV and hepatitis B. A Limpopo police spokesperson, Inspector Moatshe Ngoepe was quoted in the Sowetan of 11 July 2001 as saying that “five victims in the Lowveld region died as a result of a combination of excessive bleeding and pneumonia.” This surely indicates that there is a legacy of unprofessionalism, both in surgery performed at, and in the general management of these schools. These problems, coupled with wound management and dehydration become extremely dangerous to the initiates.

The initiation part of the school is also under threat. Initiation is the educational part of the school. The purpose of the initiation is to instill discipline and courage. When these boys become adults, they become “pillars of society and they must therefore be able to carry out duties and fulfill responsibilities reliably”, (Müller and Ritz-Muller 2000:40). Four important goals are supposed to be achieved through initiation:

1. The provision of necessary support and a monitored physical process of transformation.
2. The reinforcement of cultural and moral core values.
3. The official conclusion of the educational phase and public recognition of its successes.

4. The guarantee of the overall order of life, which presumably also stands for life in the future, (Müller and Ritz-Muller 2000:43)

The Initiation school is the place where norms, morals and culture are taught at length. On successful completion of the initiation, the boys will have been transformed from adolescents into prospective adults. They become adults by being able to withstand pain, keep secrets, acquired norms, values and morals.

Today these responsible citizens who understood these aims and objectives of the school are gone. Most of the remaining leaders know very little about how the school should be run. Irresponsible men who know very little about the cultural norms and values have taken charge of these schools. Parents, traditional surgeons, traditional leaders and the community itself are certainly ill-prepared to administrate and handle these schools.

As shown in the Findlay cartoon, the major observation is that these schools have been turned into little cultural concentration camps where kids are tortured and ill-treated. They are circumcised with neither general anesthetic, nor proper treatment of pain and wounds. All these unfair practices are in the name of initiating youths into manhood, and they cause the dilemma. The dilemma to a large extent reflects the ongoing struggle about the relevance of these traditional schools in modern times in the broader South Africa. The government also wants to bring order to these schools. They proposed major interventions which are based on modern codes of conduct. Major proposals from the government are based on safety, hygiene and circumcision procedures at these schools. According to government authorities, this will go a long way towards avoiding future deaths and the dubious standards which have become synonymous with the unchecked and uncontrolled circumcision practice in South Africa.

The traditionalists in the communities are saying that culture must be preserved. It must not be interfered with and it is within their right to pass this culture on from one generation to another. City Press (June 30, 2002) quoted people as saying that “we agree that no one should have a right to interfere with cultural practices of certain

groups within our communities”. No one has a right to undermine and change other people’s culture. It must be maintained and cherished by all affected citizens.

In this study, I will suggest that Circumcision School must be maintained and cherished by all affected citizens. My primary aim will be to expose the moral problems surrounding circumcision school today. My suggestions regarding the moral problems surrounding traditional Circumcision will help to develop an integrated argument based on a biomedical paradigm. Provision of the solutions to the identified dilemmas may not necessarily meet the demands, challenges and ethical dilemmas which face Circumcision School in this modern, multicultural and pluralistic society. I shall argue that these difficulties require a re-examination of “socio-cultural” customs. This re-examination will contribute towards a better understanding of the difficulties faced by traditional Circumcision and will therefore promote well balanced interventions.

Circumcision as a persistent custom has been passed from generation to generation up to the present time. It produced commendable results. Various communities were sure to get men who would be good leaders in the future. Today the tables seem to have turned. One often hears the remark that recent developments in circumcision have altered these schools, giving rise to a number of moral questions not encountered before.

The moral acceptability of circumcision has become one of the most debated issues in South Africa. Ethical dilemmas in the following areas are identified:

1. The principle of beneficence and non-malificence.
2. Virtue ethics.
3. The tensions between autonomy and communitarianism.
4. The clash of tradition and modernity.

Circumcision School was meant to produce something good, not harm. But the death and harm that it causes are completely against the bio-ethical principles of beneficence and non-malificence. The ethical dilemma arises when, in the quest of doing good for boys, death and harm are the consequences. Do we go on with this

school in order to embrace tradition or do we stop it to protect the lives of innocent young boys?

My argument raises the question of whether sending a child to a Circumcision School can ever be seen as the appropriate expression of love and compassion. The dilemma is expressed in the question that says, “Does the claim that one was motivated by compassion and love to send the child to a Circumcision School justify the act and the consequences of harm and death?” This dilemma shall be discussed in terms of virtue ethics.

The third moral dilemma arises from the tension between autonomy and communitarianism. Autonomy emphasizes individualism and the ability of the individual to take responsible decisions for his own good, whereas communitarianism emphasizes that a person becomes what he is because of his community and its social structures. But according to Gyekye (1997:54), a person “may find that aspects of those cultural givens are inelegant, undignified or unenlightened.” What must he do therefore? If what the community offers poses threats to him, does he have the right to decide for himself what can be good for him? If he decides for himself against the community, what shall his status in the community be? Won’t he be regarded as an outcast? My argument is based on whether the boy should put his own interests or that of the community first.

It furthermore seems that there is a clash between tradition and modernity. What happens when circumcision as a traditional practice does not meet the realities of modern times? Is the practice of Circumcision Schools morally right or wrong in modern times? What is the relationship between tradition and modernity in the situation of Circumcision practice?

Ethical dilemmas are inevitable. However, we need to think beyond these dilemmas. As philosophers, we need to feel responsible for the needs and problems of humankind. As I indicated earlier, there are no ready made laws and principles that serve as solutions to the problems of human affairs. Philosophy grapples with problems such as these that cannot be solved by empirical methods, even though they have their origin in human experience (Gyekye, 1997:6). Philosophers take tradition

as a system of beliefs. They therefore raise fundamental and profound questions about the systems of beliefs “in order to explore its meaning and construct from it a synthetic and coherent picture of ultimate reality” (Gyekye 1997: 7). According to Gyekye, for us to arrive at solutions for these dilemmas, we need to be critical of the original construction and meaning of Circumcision Schools. Its present shape can only be changed into its true form through sound rational thinking. In my argument I will indicate that firstly rational thinking begins with being “self-critical”. This is what Nussbaum and Sen (1989: 299) call “internal criticism”. This is the rational assessment made by the affected person or community. Traditional values are therefore criticized by people who share the same values. Reflection will therefore lead to the reassertion or reflection on some harmful acts. I will argue that circumcision as a traditional asset should be reassessed by people who are primarily involved in its practice, so that the reflection on alternatives should not sound foreign.

Secondly I will refer to “transcendence.” In talking about transcendence Van Peursen (1974: 19) said the following:

“All this suggests that immanence is repeatedly being broken through by transcendence. Transcendence refers to what comes from without, that is to say, to what cannot be accounted for within the terms of a purely natural existence. In that sense every application of a norm involves our going above and beyond the unquestioning and natural acceptance of all that is, as it is.”

Using this idea of transcendence, we need to allow criticism from outside to influence the learning experiences in our culture. It is not of any use to accumulate and suffer from what has been passed from generation to generation. Something is transcendent if it is not regarded as being part of the value system in question. The community needs new ideas from outside to replace the stale ones that have been dogmatically preserved. An outsider can also bring novel ideas about a traditional activity that has proven to be harmful to the community. In my argument I am also obliged to consider the unfortunate limitations of both internal and external criticisms respectively. To overcome these limitations, I am going to conclude by using what Croaker (1991:170) calls “insider-outsider mixes”. A moral reflection brought about by the combination of an insider and an outsider view, brings sufficient possibilities. Therefore it will be

wise and safe to get a framework on Circumcision Schools that is “internally-and-externally-induced.”

To conclude my argument, I will bring to bear what I call an integrated approach. This approach is an initiative suggested by the relationship of tradition and modernity. I will indicate that the relationship between tradition and modernity can generate useful ideas that can be used to address the moral problems we face in Circumcision Schools. It must be understood and accepted (though it is generally not agreed) that tradition and modernity are not “polar opposites”. Modernity is not always a rejection of tradition. The role of the receiving generation is not only to preserve much of what they have inherited from the past, but also to evaluate whether the institution is worthy in terms of the ethos and expectations of the present. What is important according to Gyekye, (1997:222) is to refine the received tradition from the normative perspective of a present generation, in order to make that tradition more presentable to a contemporary cultural palate. In my argument, this will entail an integrated approach, which brings a perspective that will not defeat circumcision but seek to address the ethical dilemmas it entails.

In chapter 1 an analysis of a cartoon has been included to develop arguments and conclusions that give rise to ethical dilemmas. This research does not use empirical methods, but is basically a review and analysis of the literature on Circumcision School and philosophy. In chapter 2, I describe what Circumcision School is about and its intended benefits. Chapter 3 is a thorough discussion of the ethical dilemmas entailed by circumcision today. Chapter 4 deals with the important ethical and strategic question: can we go beyond these ethical dilemmas? Chapter 5 refers to Act no. 6 of 1996: Northern Province Circumcision Act of 1996 and Act no. 6 of 2001: Health standards in traditional Circumcision in the Eastern Cape. Chapter 6 presents conclusions the whole thesis.

CHAPTER 2

“Everyone has a right to participate in cultural life of choice”

Bill of Rights

EXPLANATION OF CIRCUMCISION AND INITIATION SCHOOL

2.1 Introduction

It is very important that we should have a good understanding of what a Circumcision School entails. My discussion will be twofold. Firstly, I will focus on the circumcision part and secondly will on the initiation part of the school. It is important to discuss the two aspects separately, even though in terms of practice the two are inseparable. Amongst the Venda people the school becomes incomplete if only one part is rendered. It is also important to note that although if I am a South African, my knowledge about circumcision is restricted to the Venda speaking people. I should therefore admit that the reflection of the Circumcision practice I discuss below is generally that of the Venda speaking people and how they practice it.

2.2 The Circumcision school

Amongst the Venda people, the camp is traditionally located some distance from the community. We normally refer to it as a “mountain school”, because in many occasions the camps are instituted next to the mountains. Other societies like the Xhosa speaking call it a “bush school” (Meintjies, 1998: 89). What is important here is “seclusion” (Meyer 1971: 8) and that the initiates should be kept in the forest as far away as possible from the community, particularly women (Raum 1967: 319). It is important, traditionally, that people who are not part of the school should not hear or even have a glimpse of the proceedings at the school.

The yard of the camp is very important. The fence is mainly made of branches of trees lashed together, making a protective surrounding. What is important about the yard is that it should be “earthed” and “proclaimed”. The process of earthing is done by the

“traditional diviner” (if the practitioner himself is not a traditional diviner⁵) who binds and protects the school against any form of witchcraft. Whosoever tries any “foul tricks” (-witchcraft) will be trapped and get “choked” – (utshelwa) against the fence and people will find him still stranded the following day. The school should also be proclaimed⁶ by the traditional diviner and makhadzi (chief aunt in the royal family) to the ancestors, so that they should keep an eye on it and on the initiates. This in itself is a sign that things will probably go well.

A traditional surgeon/practitioner should at least have minimal training in traditional divination. In a case where he does not have this training, he should at least have received the talent from his ancestors, passed on to him from preceding generations. If he does not have the above two specialists' requirements, he is bound to fail in his practice. In some instances his practice can easily be infiltrated by evil spirits and witches and this will pose serious threats to the initiates.

Before the traditional surgeon starts with his practice, he makes sure that he has two important items. The first one is a razor or a knife (whichever he feels comfortable with) and the other is a calabash containing muti (medicine) which will serve as a storage for the foreskin or prepuce that will be removed during circumcision. At a later stage the foreskin together with the medicine will be roasted and grinded, mixed with traditional African beer and will then be given to the initiates to drink. This is done to the initiates so that they should not fear anything, when they go to hunt and even after the circumcision school. In terms of a razor, the surgeon will keep one razor that will circumcise all the boys. It is believed that the more he gets used to the razor the more accurate he becomes. If he wants to use a knife, he may start preparing the knife some months before he starts using it, so that he will be familiar with it.

What is circumcision? This is the cutting of all or part of the foreskin of the male penis. The surgeon should first circumcise his son or a boy who comes from the royal family. They are operated on the night before everyone else. During the following days, the other boys are circumcised (Mark, P 1992: 49). Traditionally, the major

⁵ It should be noted that amongst the “Lemba” there are people who are only specialists in circumcision even though they may not be diviners.

⁶ This should be performed during autumn with the first harvest offerings before winter, on the year on which the school will be instituted.

benefits of circumcision are that it makes cleanliness easier. The cream-colored, waxy secretion called smegma (Goldman, 1997: 207) found under the intact foreskin is removed completely. In Venda culture people believe that if smegma could be allowed to accumulate it may cause infections. From the day of circumcision, these boys spend several weeks (mainly from three to five weeks) in the bush. What happens throughout these weeks encompasses mainly what we call initiation.

2.3 Initiation

Initiation is very important in circumcision. The activities that follow after circumcision complete the process of transforming boys from adolescence into adulthood. Initiation is the educational part of Circumcision School. It is important to note that without a didactic complement, circumcision remains an empty rite (Raum 1967: 314). During this training special teachings and activities are given to the boys who are about the age of puberty (La Fontaine 1985: 14). Even if the focus is on the passage between childhood and maturity, initiation does not confer the physiological adulthood on the initiate. It should be made clear that even when the boys have been initiated, they are put under the close supervision of the elders. The boy may not be permitted to marry or speak freely with adults and in community councils, even though he is initiated (Young 1965: 13). The initiation is basically the physical and psychological preparation that will probably help the boy in the future, if he successfully completes other rituals within the community.

The first important part that the initiate learns is physical endurance. During these weeks of seclusion, initiates are kept almost naked in the freezing winter conditions (Mayer, 1971: 8). They are only allowed to sit by the fire (warming only their backs or sides) in the early hours of each morning and during early evening. A successful endurance of these harsh weather conditions guarantees that one could be able to survive whatever harsh conditions life has to offer.

The eating of food is worth noting. The initiates eat their porridge without "tshisevho" (relish) for a period until mid-term of the circumcision school. This porridge is first

scattered all over the plaited reed mat. They do not wash their hands and neither do they drink water for the entire session. While eating they must stop up the anus with their heels. This is the strategy used to stop them from evacuating, because they have to eat continuously using both hands (khatha-khatha) quickly until they finish all the porridge provided to them. No one is allowed to plead to have had enough lest the guardian strikes him with a stick for disobedience.

The other basic part of initiation is character building. This is where initiates are taught social attitudes and values by their guardians and the elders present at the school. This part is mainly done through songs and formulae (milayo). The initiates have to know both the songs and the formulae by heart. This serves, in the future, to discover whether a stranger is among the initiated or not. The time of giving these lectures is mainly in the evening. Through the formulae (in most cases⁷), boys are taught to stand up for their community, force their way through in tough times and to stand up for their own good.⁸ These formulae instill discipline and courage in the young boys. They are made aware that life has got its own difficult times, so they must take a knobkierie (nda doba kumoro) and force their way through (nda dzinginya ndila). This is for the better preparation of the future adults who will be able to stand up for their families and for their community. This is what Müller and Ritz-Muller (2000: 43) call the guarantee of the overall order of life, which presumably also stands for life in the future. They are taught to provide for their families by the routine of hunting which they observe at school. This is only a way of instilling responsibilities in the boys.

The boys are taught special and respectful ways of talking to their seniors. When their guardian, elders, traditional surgeon or the chief (in case he pays a visit) call them, they should respond by saying “thabe” (your honor), which is a respectful way of responding to seniors. This institution provides the religious aspect that the initiates are forced to observe. During the second half of the initiation, guardians will put a pole (the size of a well developed tree) near the main entrance of the school. This pole is usually a tree that has been cut down especially for this purpose. The initiates are

⁷ It must be admitted that some other formulae and songs contain vulgar language. At some instances boys are taught songs that insult their mothers

⁸ This is the summary of the formulae called “matsha, matsha matsha! Ndo vha ndi mankhoni, na vho seletwani.....”

told to refer to this tree as a “makhulu” (the grandfather). A chief guardian or a specially assigned guardian will climb the pole and lead the initiates in a little meditation, every morning and evening. The initiates respond by saying “ndaa makhulu, ndaa makhulu” (hallo grandfather, hallo grandfather). This is a form of thanksgiving for the protection they have had up to that stage. They also request that their wounds heal fast so that they should be released to go home to see their mothers. With these continuous prayers, rules are loosened and boys are allowed to eat their porridge with relish or any other supplement including “thophi.”⁹

2.4. The final proceedings of the school

During this stage most of the wounds are about to heal. A date of closure is announced. On this day the boys are allowed to wear shorts only. They make a very long queue going to the nearest river to wash. This is called the procession to the river (Van Vuuren and De Jong 1999: 143). Remember that they have been restricted from washing for the entire duration of the circumcision school. Boys from the royal family will line up first in the queue and the rest of the boys will join in thereafter. The boys are told not to look back because it will cast a bad omen on them. After a deep wash, they are smeared with “luvhundi” (a mixture of red soil with vaseline) and wear traditional beads. They are told to keep everything that happened at the school a secret. Whoever shares this with a woman or a coward (uncircumcised) boy will dishonor his manhood. Back at the school, the surgeon or the diviner will put fire to the yard and the lodges to burn them completely. The school is then closed.

After washing, they proceed to the chief’s kraal. They kneel down in front of the chief. The makhadzi (chief aunt) will throw mielie seeds among them in order to declare them sexually fertile. This is quite symbolic because a seed is ready to sprout and bring life at any moment that it may find the right place. These boys are expected to have grown sexually and are therefore allowed the liberty of courting girls. The chief will then slaughter an Ox and a welcoming feast is rendered. Now the boys have

⁹Mixture of Pumpkin and mealiemeal.

been finally turned into men. They will be kept in seclusion for a week or two so that they can heal completely. They therefore go for the final wash that removes the “luvhundi” smeared on them.

2.5. Conclusion

The school managed to encompass four major aspects of life: i.e. the political, social, economic and religious. The pole that the boys worship at the school is an imitation of God. They are taught to worship and pray to their gods each time they go through difficulties. Important social lessons are learnt. The disciplinary value of eating together is quite symbolic. The boys do not eat porridge from their respective homes, but they generally eat without a choice. The guardians will be standing at their backs with a stick and whoever is not eating will be lashed. They will therefore eat together and as fast as they can. This lesson says that they are bound together in union. They have been joined to be strong. They should therefore live together and support one another like brothers born of one woman (Raum, 1967: 317).

The fact that the initiates should be initiated after one of the royal families has been initiated is a political gesture. The circumcision school is closed (burnt as they call it) and the initiates report first at the chief’s kraal. This instills the need for political authority and it functions well. This is the school that should be driven by the chief’s rule of the village. Appointment of traditional surgeons is also in the hands of the chief (Van Vuuren and De Jong, 1999: 147). Economically each family depends on a man (in a traditional set up.) He should be strong enough to work hard for his family and through these hunting activities the boys are taught to provide for their families.

CHAPTER 3

ETHICS, MORALITY AND MORAL DILEMMAS

3.1 Introduction

As long as we have pain, confusion and conflict, rules will be needed in our everyday life. These rules help to build a social contract among citizens that will strive to resolve these problems. The Greeks always emphasized that conflict is inevitable and that a good social order can only be brought about by rules. Such rules help to bring our imperfect nature in line with what is good. However, rules face their own challenges. They are often inadequate and disappointing in the contemporary context, particularly with bio-medicine.

The study of ethics developed in order to avoid similar inadequacies. Ethical theories were hoped that they can eliminate ethical problems. To a certain extent such theories managed to overcome some of the limitations of past formulations of ethical responsibility (Beauchamp and Childress 1994:3), but the challenge remains daunting.

According to Beauchamp and Childress (1994: 4) ethics strives to give "various ways of understanding and examining the moral life". They outline four approaches to ethics, viz. normative, descriptive, metaethics and common morality. Normative ethics presents the standards for right or good action. General normative ethics looks at the general norms for the guidance and evaluation of conduct worthy of moral acceptance and the reasons behind its acceptance. Again, through practical or applied ethics, ethics brings ethical theory and methods of analysis to bear on examining moral problems, practices and policies. The main aim is to provide "action-guides." Descriptive ethics helps in investigating moral behaviour and beliefs. Metaethics analyses the language, concepts and methods of reasoning in ethics. Descriptive ethics helps to shape what professional codes require.

Common morality addresses the question: "What is morality?" Ethical theory and moral philosophy are also important terms to refer to philosophical reflection on the

nature and function of morality. Using theory, one enhances clarity, systematic order and precision. When we combine theory and morality, we build good social conventions about right and wrong human conduct. These social conventions are widely shared so that they form a stable communal consensus. This therefore means that common morality is the starting point of ethical theory. This is because it comprises socially approved norms of human conduct, which we learn before any rule and regulation come into existence. We learn them as we grow up within our society. According to Norman (1983: 1) "ethics or moral philosophy is an attempt to arrive at an understanding of the nature of human values, of how we ought to live and what constitutes right conduct."

Ethics and morality are not faultless or complete. They get involved in more complex forms of judgments in trying to settle profound social disagreement, imperfect procedures and conflicting judgement. It means therefore that by using moral principles or rules, we cannot judge with assurance, that act x is morally right or wrong. Moral principles and rules often pose conflicting judgements – hence creating a dilemma. In this chapter we start looking at morality and its encompassed dilemmas.

3.2. Moral dilemmas

There are a number of moral dilemmas that arise with reference to the practice of Circumcision Schools. As indicated in chapter 1, the moral problems identified refers to:

1. Ethical principle of beneficence and non-malificence
2. Virtue ethics
3. The tension between individual autonomy and communitarianism
4. The clash of modernity and tradition

Before we discuss the moral problems, we need to understand what moral problems are. Ethics or moral philosophy, attempts to arrive at an understanding of the nature of human values, of how we ought to live and of what constitutes right conduct (Norman, 1998: 1). Concerning the right conduct, morality refers to what could count as good reasons for acting in one way rather than another, and about what constitutes a good life for human beings (Norman, 1998: 1). In our everyday lives we need to be concerned with right over wrong, good over bad, virtue over vice, and again with

judging what we do and the consequences of what we do (Nuttal , 1993: 1). There are situations in our lives that demand from us to behave in such a way that we should fulfill good duties to others. We should demonstrate values that override all others (Martin, 1995: 6).

The above definitions emphasize that our conduct must always be good. Morality is also concerned with the kinds of persons we should become, the kinds of relationships we should have and the kinds of communities and institutions we should promote (Martin, 1995: 6). Sometimes people deserve esteem, compassion, and support. We should value these people and understand their emotions and commitments in a way that will show their worth.

According to Martin (1995: 6), some other aspects like appreciation, sensitivity, understanding and responsiveness are not mere means to doing the right things instead they constitute our character, the moral substance of who we are. In moral philosophy, there are times where a choice of one moral value may override the other (directly or indirectly). In such a situation a person is caught between choices of two valuable directions. It becomes difficult for a person to make a rational choice hence creating a dilemma. In a dilemma something good has to be forsaken or something bad has to be suffered no matter what you choose. These dilemmas bring about what we call moral problems or moral dilemmas.

According to Beauchamp and Childress (1994: 11):

“Moral dilemmas occur in at least two forms:

1. Some evidence indicates that act x is morally right, and some evidence indicates that x is morally wrong, but the evidence on both sides is inconclusive.....
2. An agent believes that, on moral grounds, he or she both ought and ought not to perform x.”

In other words, in some cases a hard choice has to be made between two equally appealing acts and you comply with one obligation by actually contravening the other.

Circumcision Schools present difficult choices. In terms of tradition, taking a child for circumcision is the right thing to do. But on the other hand, taking the child for circumcision may actually be wrong if one considers that the consequences sometimes are wrong or bad. Yet a child or a parent who decides against circumcision may actually be contravening the expectations of his community and the rites of passage in his culture. His culture and the consequences are therefore two valuable considerations. He therefore has to make a moral choice. This is where he is faced with the dilemma that forces him to forsake something good on account of the idea that he is actually choosing something good. The good that he chooses may actually be bad in terms of the consequences. This is the situation we are faced with in the case of Circumcision Schools. A moral dilemma! Do we preserve it or do away with it? Let us therefore look at the moral problems that I have identified earlier.

3.2.1. The Principles of beneficence and non-malificence

These two ethical principles will be discussed together, but one after the other. This is because the implications and obligations of both the principle of beneficence and non-malificence are those of benefiting others. Beauchamp and Childress (1994: 192) distinguished the two principles in the following way:

Non Malificence

1. One ought not to inflict evil or harm

Beneficence

2. One ought to prevent evil or harm
3. One ought to remove evil or harm
4. One ought to do or promote good

Each of these three forms of beneficence requires taking action by helping – preventing harm, removing harm and promoting good – whereas non-malificence only requires intentionally refraining from actions that cause harm (Beauchamp and Childress, 1994: 192).

Let us look at the concept of non-malificence. First, this concept is identifiable with the terms “harm and injury”. Secondly it takes the form of “do not.” So what this concept is all about is that we do not inflict or cause harm or injury. Even though the term non-malificence can be broad, we will concentrate on causing physical harms, including pain, death and setbacks of other interests. We will also emphasize intending, causing and permitting the risk of death or at the extreme, death itself (Beauchamp and Childress 1994: 193). The more specific moral rules that the principle of non-malificence supports are:

1. “Do not kill”
2. “Do not inflict pain or suffering to others”
3. “Do not incapacitate others”
4. “Do not cause offence to others”
5. “Do not deprive others of the good of life”

The traditional surgeon violates the first expectation of “do not harm”. Many people have tried to deny that circumcision is painful, but considering that anesthesia is not used, one is bound to believe that during and after the cutting of the foreskin the circumcised person suffers pain. To make matters worse, rusty scalpels used cause infections and septic wounds. This in itself leads to a very painful wound that will harm the boy. It seems unfair for the traditional surgeon to cause pain to the body of a boy. The use of the rusty scalpel is not a healthy procedure, but a practice with a political nature and social biases.

The traditional surgeon, in terms of ethical principles, is mandated not to kill and not to cause pain or suffering to others but five moral rules that the principle of non-malificence supports are actually broken by the traditional surgeon. He might be motivated by a concern for doing something good to the life of the boy by cutting his foreskin and letting him participate in cultural rites, but the consequences are that he is actually inflicting harm on the boy. When he circumcises, the surgeon is expected to weigh the positive consequences that may occur against the degree of possible harm that his action may cause. In this situation the duty of “relative weightings” of potential benefits and harms is very simple. The possible harms are grossly evident in

hospitalization and death. The expected benefits (maybe sexual pleasure)¹⁰ are immediately overshadowed by harm. The boy may not even enjoy the projected benefits. What makes matters worse is that the boy is not circumcised to help him reduce any threatening risk of harm in his genitals. He is not even exposed to any risk of harm. The harm he experiences is thus unjustified.

What then is the use of inflicting pain if it is not meant to save the child from the risks of harm? The traditional surgeon is also bound by the obligations of not inflicting harm or not exposing the child to risks of harm. However in terms of the statistics given in chapter 1, a number of children are dying each year. The cases of death reported each year should make the traditional surgeons and the communities aware of the potential of death. Why do they continue with this tradition under these circumstances? Why do they continue to perform this act? Who then benefits, the child, the surgeon or the community? This is a difficult question to answer, but it seems that the benefits and safety of the child are not considered at all.

The principle of beneficence states that one ought to prevent harm, one ought to remove harm and one ought to do or promote good. These are actions done for the benefit of others. Beneficence includes the character trait called “benevolence”. Benevolence refers to the virtue of having a disposition to act for the benefit of others (Beauchamp and Childress, 1994: 260). Initiates are however forced to go to the circumcision school and it therefore becomes a threat and a frightening practice to them. As depicted by the cartoon, the father is sending the child into harm instead of preventing him from it. He is naïve to think that forcing the child to a circumcision school will be for the good of the son “go on son – it will make a man out of you!” It is important for the father to consider whether what he is considering for his child provides the most benefit at the lowest risk.¹¹ Beauchamp and Childress (1994: 269) alert us to reciprocity-beneficence. “I receive benefits of society, and therefore ought to promote its interests” You do something good because you will thereafter benefit from social interactions. The father should not risk the penis and life of his son, because he wants to benefit from social respect. This seems wrong! The intended

¹⁰ See Ronald Goldman (1997: 39-40), he held the belief that circumcised men do not feel the good sexual pleasure experienced by intact men, because the glands become hardened and the sensitivity is lost, yet traditional circumcision upheld major benefits on sexual pleasure.

¹¹ This is the principle of utility advocated by Kant and Mill.

benefits to the boy (from the perspective of the father) are far outweighed by the possible risks and harm, both to the boy and the Circumcision School itself. The father is obliged to act beneficently by preventing the boy to go to a Circumcision School if there is a risk of harm to the boy. And he is supposed to question the consequences of the school if he takes the obligation to remove harm and to promote good.

The father and the traditional surgeon have to decide between various courses of action. In terms of the principles of the beneficence and non-malificence they must immediately discard any action that will result in more harm than good. They are supposed to choose an action that will maximally benefit the child while exposing him to minimal risk of harm or death. Many people argue that it is better to do away with circumcision schools in order to adhere to these principles. I am not in agreement with the latter. In chapter four, I will try to look beyond these moral dilemmas and hopefully a better perspective will emerge.

3.2.2. Virtue Theory

The previous discussion of beneficence and non-malificence was primarily about the justification of ethical principles and rules. As I indicated earlier, principles do not provide justified and specific guidelines for each and every circumstance. For a right judgement based on principle one needs to go the extra mile. Principles require judgement, which also depend on character and moral discernment. We therefore examine virtue and moral ideas as other aspects of morality. Consistent adherence to principles, only succeed if there is a reliable character, good moral sense and correct moral responsiveness. Virtue calls for compassion, discernment, trustworthiness and integrity.

The ancient Greeks (mainly Socrates, Plato and Aristotle) also focused on virtues (traits of character) as the main subject of ethics (Pence 1991: 251). All these Greek thinkers presented courage, temperance, wisdom and justice as cardinal virtues. Cardinal virtues are major virtues in ethics. Aristotle classified human character into five types, ranging from great souled man to the moral monster (Pence, 1991: 252). In the thirteenth century, Thomas Aquinas added the "theological virtues" of faith, hope

and charity to the cardinal virtues. Virtue ethics is important because it emphasizes character. Virtue becomes a dilemma when one has to justify the consequences and certain bad acts that are happening to the boys who are initiated.

3.2.2.1. Virtue ethics

Moral virtue is a good character trait that entails an understanding of what is right, good and deserving of our kindness, generosity and the like (Beauchamp and Childress, 1994: 466). In whatever we do, we need to show love and compassion in our character. Oakley and Cocking (2001: 9) gave three important claims which are essential features of any moral virtue: 1. Action is right if and only if it is what an agent with a virtuous character would do in the circumstances. A right action is one that a virtuous person would perform under normal circumstances. For example, a person with benevolence would act in a way that yields good results because benevolence is a virtue which is directed at the good of others. The character of a person is essential in a correct account of right and wrong. From this standpoint the surgeon's character is not benevolent. 2. Goodness is prior to rightness. Oakley and Cocking (2001: 19) established that goodness is primary, while the notion of rightness can be defined only in its relation to goodness. No action can be regarded as right until we have established what is valuable or good out of it. Indirectly, virtue ethics requires us to look at the results of what we do, if the results are good then our action will be regarded as right. As depicted by the cartoon the father and the surgeon are guided by the fact that they are doing the right thing to circumcise the boy. However the end results are often so bad that the action of both the father and the surgeon (of circumcising the boy) are also relatively wrong. Do they have to continue with their act if the situation is going relatively badly and wrong? That is the ethical question.

3. Acting rightly does not require that we maximize the good. This claim may seem to contradict the other moral claims we discussed before, like the notion that we need to maximize goodness in our actions. The core thesis of this notion is that to act right is to act right regardless of whether goodness is monistic or pluralistic, subjective or objective, agent-neutral across the board or agent-relative. Good virtue remains good whether small or big. It does not matter whether just one boy dies in the circumcision school. We cannot wait to see a number of boys dying so that we can then realize that

our actions are bad. Bad is bad whether pluralistic or monistic. Bad action remains bad regardless of whether badness is at its extreme or not.

Generally, the consequences raise a question as to whether sending someone to Circumcision School can ever be seen as the appropriate expression of love and compassion. Does the claim that one was motivated by love and compassion to send the child to circumcision justify the act and the consequences? The father is supposed to act lovingly and protective towards the child. The traditional surgeon should provide palliative care to the child. Their actions towards the child should not reduce the situation to an “agent-object” relationship.

3.2.3. The tensions between autonomy and communitarianism

The first important question that one would ask is “in whose interest do we circumcise?” But, surely it is not in the child’s best interest. As we noted before, circumcision has turned out to be a political tool. A chief will feel in control if his village still exercises circumcision. Secondly, it encourages conformity to traditions for the sake of their antiquity (Seham Abd el Salam, 1999: 01). This continuation of circumcision establishes a model of behavior characterized by absolute submission to “orders of seniors and an inclination to keep the status quo” (Seham Abd el Salam, 1993: 03). If the interest is to maintain the status quo, where is the interest of the son, what about his autonomy? A boy at puberty (9 – 14) is old enough to be autonomous. The elders would force children to go to the circumcision school, because they do not want to challenge the tradition. Tradition emphasizes the inclination to be part of the community and of wanting to continue being part of the social structures in the village.

Beauchamp and Childress (1994: 121) indicated autonomy as the “personal rule of the self that is free from both controlling interferences by others and from personal limitations that prevent meaningful choice, such as inadequate understanding”. Personal autonomy allows an individual to act freely according to the way he/she chooses. However, sometimes a person may fail to make autonomous choices because of “diminished autonomy” and “agency”. Diminished autonomy and agency in a person is when a person is controlled by others or when he himself cannot deliberate

or act on the basis of his own thoughts. It is important and right that we should learn to accept that a person is autonomous (unless he is deemed to be mentally ill) and has a right to certain opinions, to make certain choices and to act in terms of his personal values and beliefs. It further does not mean that an incompetent person should be treated with less value.

Whereas autonomy emphasizes individualism, and the ability of the individual to take responsible decisions for his own good, communitarianism emphasizes that a person becomes what he is because of his community and its social structures. There is always a dilemma when a person living in communal structures wants to exercise his personal autonomy. The father upholds the communal aspects that characterize the African way of life. He believes that an individual is a direct consequence of communal social structure. You are what you are because of community relationships and guidance. Circumcision as a communal activity should definitely be part of making a person what he should be (in a proper way). But according to Gyekye (1997:54) a person “may find that aspects of those cultural givens are inelegant, undignified or unenlightened.” What must he do therefore? He wants to be part of the communal structures, but there is a danger within it. Don’t we allow him to practice his autonomy?

The ethical concern is that circumcision is practiced because it is believed that circumcision will make a man out of a boy, which is a communitarian belief. The father is ignorant of the fact that there are dangers already experienced by other initiates. His ignorance is driven by the values and beliefs of communal culture. According to Beauchamp and Childress (1994:126), respect for autonomy “can be overridden by competing moral considerations”. Let us therefore compare the initiate’s autonomy to the moral considerations of community personified by the father:

BOY	FATHER
1. Fear of death	1. Cherishes tradition.
2. Fear of being hospitalized	2. Quest for manhood.
3. Afraid to lose his penis	3. Paternalism/ control.

The father's moral considerations are weak compared to those of his son. How can the father push his son into an act that will destroy the boy completely? The father does not love and respect his son. If the father respects the son, he should be striving to assist the boy to act autonomously and uphold the boy's decision. The father, of course disrespects the son, because his good attitude and actions have turned to demean and to destroy the boy.

Immanuel Kant¹² and John Mill¹³ would not have liked this situation. Kant emphasizes the person's unconditional worth and the capacity to determine his own destiny. The boy should not be treated as a means to achieve the traditional obligation through Circumcision School. Instead he should be treated as an end in himself. The father should not use the boy to realize his ambition for status in the society but should respect the boy for his personal convictions. Mill indicated that "false or ill-considered views" should not override the active and positive autonomous expression. The boy has made positive and right decisions; these should not be overridden by the father's negative attitude which breeds harm and death.

3.3. The clash of tradition and modernity

The way I am going to look at "tradition" and "modernity" here is very interesting. It differs completely from the way I will look at tradition and modernity in chapter 4. The way I look at it here is basically the way most traditionalists view the two. For a case in point let us look at what Spiegel and Boonzaier (1988: 44) when they quoted (Eisenstadt, 1972: 1) said, "thus the lives of 'traditional' people are seen as bound by the cultural horizons set by (their) tradition, in contradiction to 'modern' people who are conceived as 'culturally dynamic, oriented to change and innovation'."

This statement by itself positions tradition and modernity as two "polar opposites". It sets out that whoever is traditional is old fashioned and should not be part of the modern or western setup. The person is a slave to that tradition. Tradition means transmission of culture from the past through to other generations (Gyekye, 1997:

¹² See Kant's obligation – based theory.

¹³ See Mill's principle of utility

219). This will then mean the handing down to other generations of ideas, conventions and practices, which humans need in social interaction (Spiegel and Boonzaier, 1988: 40). In terms of the traditionalists the person should continue to live in a primitive and tribal way. This person is far from “reason”, “rationality” and “science”. Modernity in this regard is usually perceived as scientific, innovative, western (industrial and urbanized) and future orientated (Gyekye, 1997: 712). These definitions for tradition and modernity actually assume that they are at loggerheads. This is because people believe that tradition is static and old, whereas modernity is the recent development.

The traditional Circumcision School is therefore regarded as being old fashioned and unscientific. However, if we perceive the way things are going today at circumcision schools, one could believe that there are people who want the school to remain as it has been traditionally. They do not believe that it should absorb new innovations like other cultural assets. These people do believe that tradition is “infinitively timeless” and it should not be dictated to by the changes of time. This is where the clash between tradition and modernity lies. Modernity emphasizes “cultural dynamism” and innovation. “Age- Old” activity should, with the passing of time, change its face to a new one which will be compatible with the present time. The Circumcision School is not ready for this progression. If it is ready, why not adopt new innovations? In terms of the Findlay cartoon the manner and the instrument of circumcising are outdated and they need to take into account the operating practices of modern times. Tradition should not mean the practicing of this school without safety precautions. Also it does not mean that in accepting the modern innovations one should do away with the school.

3.3. Conclusion

So far I have highlighted the moral dilemmas as depicted by the Findlay cartoon. The problem is extensive and the outcomes are very bad and desperate. The overall incidence rate of complications and mortality seems to be high. If Gauteng Province alone lost sixteen initiates, it indicates the undesirable situation and implies that a lot might be happening in the other provinces. Increasing number of deaths, septic circumcisions, leading to mutilated sexual organs and with resulting psychological, social traumas and upheavals necessitate the elaboration of a universally accepted

code of conduct aimed at regulating the custom (Meintjies, 1998: 124). This will be looked at in chapter five.

CHAPTER 4

BEYOND ETHICAL DILEMMAS

*“Socrates tenaciously maintained that `unexamined life is not worth living`”
(Gyekye, 1997: 3)*

4.1. Introduction

Thus far I have attempted to indicate some problems that impact negatively the cherished tradition of Circumcision School. This chapter aims to evaluate Venda culture and tradition, within which circumcision is practiced, in order to see if it cannot be brought into a framework that can serve as a solution to these problems.

4.2. Beyond ethical dilemmas

4.2.1. Culture changes

The institution of the Circumcision School is embedded in the culture of a particular society. This particular society has the liberty of practicing this culture in a way that will benefit people in that society. Today the concept of culture is changing in relation to different social and medical needs. Culture is now best thought of as a resource (Thornton, 1988: 24). This means that different people must have access to this culture and therefore it does not exclusively belong to any particular individual or group of individuals. It, therefore, becomes a resource from which all people will draw, in order to interact with each other in social life. According to Thornton (1988: 25), cultural resources are controlled and limited in many different ways by social and environmental factors and therefore culture changes all the time. The change of culture may occur over a long period of time and can be seen as the “evolution of culture”. The Circumcision School as part of an evolving culture should therefore also change, because of social and environmental changes to something that will “characteristically and completely” be a source of modern times.

Looking at the information given above, I therefore concur with the definition of culture that says that culture consists of the beliefs and value systems, the customs, norms, practices, activities and traditions that are operative in a community at a given time. The phrase “at a given time” is very important to note. It shows that the cultural activities and traditions should be applicable at the time the recipient generations start to use it. Let me further argue that if it is not relevant to the present time, it becomes the responsibility of the recipient generation to effect some desirable changes to fit their social life. The giving generation should place the cultural creations at the disposal of the receiving generation rather than to “transmit” them. This gives the receiving generation (on natural grounds) a chance to either refine or accept them. This also depends on some “kind of evaluation of those cultural products and the tradition they lead to (Gyekye, 1997: 221). Without the critical evaluations, this cultural tradition will not be revitalized and will not grow. We should understand that man develops in culture, so there is no need for man to suffer the trials through which former generations had to live and learn all over again. I have said enough about culture. I therefore take this argument further by looking at tradition and modernity.

4.2.2. Tradition and modernity

Gyekye (1997: 221) proposed a new definition of tradition “as any cultural product that was created or pursued by past generations, and that, having been accepted and preserved in whole or in part, by successive generations has been maintained to the present.” The role of the succeeding generation is more than preserving and maintaining what they have inherited. For tradition to be effective at the present time, the receiving generation should critically examine this tradition. The purpose of this critical attitude is to refine the inherited tradition, from the normative perspective of a present generation, in order to make that tradition more presentable to a contemporary cultural palate (Gyekye 1997: 222). The receiving generation is given a mandate to revitalize the tradition in order to accept that it must control conditions and influence their lives and therefore they will be convinced and satisfied that they have inherited a cultural framework that has a meaning to them, in their time. This conviction does not deny the possibilities of adding other novel features to the inherited tradition. This transformation of tradition and the cultural change that I referred to earlier is thus “internally and externally induced”. By understanding and accepting the tradition and

cultural transformation, I believe we can go beyond the ethical dilemmas. Only through refinement of tradition and culture can we find the framework that is appropriate for addressing these dilemmas.

4.2.3. Internal and external criticism

What I have indicated so far is that generations have been shaped by the interplay of rationality and transformation that cause social change. Such evaluation needs good alternatives. According to Gyekye, (1997: 222).

“The refinement or abandonment of a tradition and the need to revitalize it by adding on new elements are the consequences of two main factors: internal criticism of a tradition undertaken from time to time and the adoption of worthwhile or appropriate non-indigenous (or alien) ideas, values and practices.”

Culture and tradition are not what they were at the initial stage. This is because the beliefs, values, practices or institutions of particular traditions were grounded within conceptions. These conceptions may not have been rationally grounded. Consequently, subsequent generations may discover them to be simply false, inconsistent, morally unacceptable, or inadequate to the realities of their times (Gyekye, 1997: 222). The receiving generation will either use a “self-critical” method or criticism from outside to make these values and institutions more acceptable to themselves. Both internal and external criticism should be an ongoing process until a worthwhile solution is arrived at.

Let me first make the distinction between the roles of “social-insiders” in the process of refinement. This will help us to understand what exactly an “insider” and an “outsider” are in relation to groups. An insider is one who is counted, recognized, or accepted by himself/herself and the group, as belonging to the group (Crocker 1991: 155). He must share beliefs, desires, memories and hopes with that particular group. Accordingly, one is an outsider with respect to a group when he/she is not counted, recognized or accepted by himself/herself and/or the group members as belonging to

the group, due to lack of shared beliefs, desires, memories, hopes and so forth (Crocker, 1991: 155).

If a member of a group wants to critically reflect on that group, he or she must first get a rich, broad and deep description of the problem in question. Once he has noticed tensions and dilemmas he will therefore have to start with insider evaluation. By virtue of being an insider there are opportunities and dangers he will have to face in his assessment. According to Nussbaum and Sen (1989: 308) there are at least three advantages.

1. The critic will use the resources inside the culture
2. The criticism will be immersed rather than detached
3. The criticism will be genuinely critical.

The three methods respond both to the need for criticism and to the concerns about external imposition in terms of evaluation and criticism of tradition.

The three advantages given by Nussbaum and Sen reflect the following about the insider-ethics. By virtue of being an insider, the person knows the important things and their meaning to the community, because he shares in the community's practices, vocabulary, memories, hopes and fears. In his evaluation he will be able to give recognition to the aspirations and beliefs of the community and this will make his inquiry "value-relative." Nussbaum and Sen, (1989: 308) indicated that Aristotle would prefer an inquiry that is not conducted in a void: "Aristotle encouraged questions about the living asked by communities of human beings who are actually engaged in living and valuing what will count as appropriate and even true to their value and need." The insider-critic has the capacity to understand and to be understood, because he is part of the group, he is one of them. The insider knows the facts about the community and therefore his moral judgments about such a community will be accessible to the community in question, regardless of his inconsistency and biases. As an insider one has a genuine right to criticize and an acknowledged right and responsibility to contribute to the understanding of the group's identity. To conclude, Crocker (1991: 161) said: "this right to evaluate is based not only on the insider's contribution to the group but also on the likelihood that

the insider knows the facts, as interpreted by the group, the values that inform the group and the desires that its members express.”

Disadvantages and dangers also exist for an insider's critical assessment. The first problem is that he is “too close” to his community values precisely because they are “omnipresent”. Secondly, insiders “are more or less limited to the vocabularies and valuation resources of their groups.” This may cause the insider to be trapped in familiar and conventional concepts and he may be unable to expand the horizons of his assessment. He therefore fails to meet the needs of his community because “the group may desperately need new ideas to replace stale ones that have been dogmatically preserved” (Crocker, 1991: 162). Lastly, the insider will be inhibited in his assessment by the loyalties and “debts”, favors, obligations and promises of the group, because he cannot be sufficiently and properly impartial.

It is important to note that the critical work of evaluation can also be done by people who do not belong to that culture. It is however important for an outsider to get enough understanding of the culture in question, to be able to satisfy the requirement of the critique in the ways discussed earlier in the insider critique (Nussbaum and Sen, 1989: 316). He needs to familiarize himself with the history and literature, including formal and informal stories about the culture. The advantages of the outsider are that he is exposed to more resources than the insider. He is again open to greater freedom to “open up dialogue” especially with the “silent subgroups.” This enables him to make more constructive contrasts that will make the debate more understandable. Through this, an outsider is able to achieve, what an insider might have failed to achieve. He may see and reveal things that an insider might have missed. Through deliberation, the outsider can inject new and sometimes necessary ideas, into any group’s development.

Just like the insider, the outsider has certain limitations and temptations that can make the exercise difficult. Outsiders are often ignorant about what is going on in another group or culture. They may not understand what things mean and what the “group’s normative resources are.” They may end up ignorantly assuming that “what is good for us is good for them.” Doors are often closed to the outsiders’ critique, because of questionable legitimacy. Members of the concerned community may question the

right of an outsider to participate in criticizing them, especially if the outsider comes from a dominant group. The problem with an outsider is “detachment.” Evaluation and criticism of the society must be immersed rather than detached, (Nussbaum and Sen, 1989: 308). The outsider is initially or throughout his criticism part of an “alien” (foreign) society. This can be dangerous, because a powerful, developed and modern outsider is tempted to assume that his ideas are more worthy than those of the weak, underdeveloped, or traditional insider (Crocker, 1991: 163). As much as the insider can be involved in critical evaluation of the community, the outsider may also induce moral ideas that can be useful to that community. However, alternatively insiders and outsiders can share their ideas in and through cross-cultural dialogue together they can create or invent novel ideas.

Van Peursen (1971: 148) the idea of “inventiveness”. He regards culture as a learning process. This learning process is a unique ability that man has to show evidence of a very dynamic history, so that man is continually producing new forms, which he has an ever increasing ability to control. The idea of “continually producing” resonates with what we discussed earlier regarding “culture evolution.” What each generation learns is piled on top of what has already been acquired by earlier generations and so there is an enormous accumulation of knowledge and understanding. Van Peursen emphasizes the idea that there is no need for men to suffer all over again given the trials through which former generations had to live and learn.

Men must subject what they receive from past generations to scrutiny and there then emerge even wider opportunities for the accumulation of learning processes. Van Peursen also indicates that a human learning process is the acquisition of new skills, insights, rules of conduct and possibilities of expression. He therefore sees learning as a kind of acquisition which calls for development and not just natural adoption.

Looking at this standpoint, the whole of culture and tradition is one great learning process, whereby man always searches for new forms of expression. Gyekye indicated that tradition is something authentic but that it is not undisputed. This means that, according to Van Peursen, one has to cease to regard such a situation (tradition) as automatically acceptable, and question whatever is given in the course of transferring it onto another generation. To question is to open up other possibilities than those

already given. Around the possibilities, man can design and develop new facets of significance to the culture and tradition around and within him. This suggests that learning is more than a process of gathering information. More specifically it is a way of obtaining information, which in the long term makes it possible to incorporate initially unfamiliar phenomena into patterns which are familiar. Man's traditional activity is evaluated against its end results, congruity or incongruity with new potentialities and aims. Accordingly there is a retroactive effect on the cultural activity itself, so that it can be controlled and sometimes even restructured. The restructuring, according to Van Peursen needs what we call inventiveness.

4.2.4. Inventiveness

Van Peursen (1971: 148) goes further to say that the first important thing to understand is that culture and tradition are drawn into the orbit of man's ability to regulate them. This can sometimes mean that a whole situation may not be simply extended but even restructured. Of course tradition is "conventional", but in the sense that it falls within the 'human culture', it falls within a field of responsible actions, which, with time, will bring about renewal. Any activity belonging to a tradition and culture is not timeless, but can be transformed into a learning process. Even "primal activities" in a particular society are not purely natural leading to fatalistic attitude and refusal historical renewal. They can only continue to be of cultural value as long as they undergo a succession of crucial reinterpretations. Van Peursen emphasizes that "they can only go on being 'the same' if they are continually being transformed into 'different' rules." He does not even have a problem with transformation that affects the whole regulatory framework of tradition.

In "inventiveness" the equilibrium is never static, but is continually subject to greater or lesser deviations and disturbances. The learning process should intercept and correct breaches of this sort by characterizing them as incorrect through restructuring. In this restructuring, there should be an aspect of continuity, ensuring that whilst human tradition is ever new, it is also something we can recognize. This is what Van Peursen calls "adequate restructuring." Inventiveness is not anarchy, nor is it a purely rational impulse, because only a renewal that is effective and can achieve something in the social or scientific sphere can be described as inventive. There are different

patterns of inventiveness. The first is a harsh one. It entails that the new system of rules may present the old system as a problem and may really move above and beyond it, yet afterwards absorb it into itself as a simple marginal case. This is not what is proposed here with reference to the Circumcision School. What we would prefer is a second pattern of inventiveness. Such a pattern would link two already existing but not interrelated systems of rules together. In this case a particular area or process under examination is seen as an element of both systems and appears so within a broader field of functional possibilities.

To explain the idea of this second pattern of inventiveness, Van Peusen refers to "transcendence." The central feature is that one learns how to move out beyond an existing system and to operate outside the existing, fixed patterns of rules and of settled outlooks. This "transcendence" results in new and ample rules. "New" according to him means obtaining an additional or new viewpoint on the information already at hand. The elements remain the same, but the total system of rules is changed and that involves a more fundamental kind of renewal than the supplementing of an existing system. The principal form of the learning process entails our becoming aware of the rules of organization already in use and then to treat them as presenting problems.

It can hardly be denied that different cultures depend on each other. The fact that people of different tradition can appreciate the value of another cultural tradition and desire to appropriate at least some elements of it, it implies that there are certain cultural values that human beings, irrespective of their cultural backgrounds share, for example technology (Gyekye, 1997: 225). Through technology, what was originally an alien cultural value will, along with the old (i.e. existing) elements of the indigenous, tradition now shape and influence the life and thought of the users of the indigenous culture. Gyekye gives an interesting example with regard to technology. A traditional healer is good at diagnosing disease and prescription for it. The problem is that he must decide on the quality of each herbal ingredient for concoction. Then he must determine the appropriate and effective dosage for that particular illness. Both steps obviously require exact measurement. Failure to provide exact measurement would affect the efficacy of the concoction as well as the therapeutic effect of the dosage. This could be done better through technology to avoid a possible defect. The

call for technology means the modernization of traditional inheritance and institutions. This does not mean that inheritance and institutions should simply be replaced with the system practiced in western cultures.¹⁴ This simply means that inherited system should be amended or refined by getting rid of those features of it that are considered inelegant or inappropriate from the point of view of experiences and goals in the modern world. This therefore calls for an intervention from modernity. The point can be summarized in the following words by Gyekye, (1997: 281)

“Modernity, whatever else it involves, certainly involves a transition to a new era: the transition is borne partly on the wings of the elegant or worthwhile features of a cultural tradition and partly through the production of new ideas and the invention of new techniques of far-reaching consequences. The latter may involve whatever can usefully and suitably be appropriated and adopted from outside a given culture in addition to what can be acquired from within the culture itself by way of the exercise of the indigenous intellectual, evaluative and adaptive capacities. The former will require the abandonment of what I call the negative features of a culture as well as the maintenance – albeit through refinement – of what I call positive features. The creation of modernity in Africa will be a function of both methods of transition.”

From the beginning of this chapter I have identified the positive and negative attributes of traditional African culture, both from social and technological perspectives and also in view of the demand that certain things should change in modern times. According to Gyekye, successful modernization in Africa will have to develop from some elements within the traditional setting, in response to the exogenous cultural forces that have affected African Society. Thus an authentic African modernity would not be merely a transplantation of external traits. It would be worthwhile to adopt a modern view that would not regard all African values as something to be spurned and destroyed but instead would regard some of these values as something that can be maintained for the enrichment and fulfillment of human life. It has been indicated by government officials in Western Cap that they want to build a

¹⁴ See the distinction that Gyekye, (1997: 275) makes between modernization and westernization.

cultural village for initiates. The Ebakhweni cultural village will include an initiation camp and good quality huts for initiates in a bushy area. This will have further benefits of ensuring that key services such as water and sanitation are provided. The chosen sites are said to meet all the safety and infrastructural requirements, (Business Day, Tuesday, 10 February 2004 and The Cape Argus, Wednesday, February 4, 2004)

4.2.5. Reference to Circumcision School

The above discussion, also applies to the institution of the Circumcision School. Circumcision is part of a tradition. It is a part of a culture. Circumcision is never out dated. It can change and grow, just like culture. Circumcision can be a resource and it can be controlled by both internal and external social and environmental factors. It is open to critical assessment from insiders and outsiders. This critical assessment can lead to refinements and inventions of new techniques with far reaching consequences for Circumcision School. The implication would thus not to do away with the school, but rather a “transition into a new era”. Worthwhile features of this cultural tradition can be spared, but combined with inventions that will eliminate the negative features associated with the school today. Something can be invented through both “immanence and transcendence” that will deal with the dilemmas faced in the school and bring dignity to a cherished tradition. Problems to be addressed urgently are:

The first problem is morbidity (sickness) and mortality (death) in the Circumcision School. The Findlay cartoon clearly depicts this problem as (P4, S12, S13, S14 and C5) adversely affecting the school. Meintjies, (1998: 125) noted surgical technique and wound aftercare/management as major problems. The old methods are no longer successful. A safe surgical technique is urgently required. The old methods are challenged by modern diseases like HIV and other STD's. The razor used is not sterilized and is often used for several initiates. Adoption of a totally new technique is not necessary, but rather a modification of some kind to the existing ones. In terms of wound management, strong and relevant medication is called for, which will supplement the existing traditional ones so that initiates could heal faster. There can also be modifications to the system that traditional healers use to dress the wounds of the initiates. A bio-medical intervention regarding safe wound management can improve the circumcision practice. According to Meintjies, training programs for

traditional surgeons and traditional attendants could be a good supplement to a good technique and safe wound management. The trainers should be experienced traditional surgeons and traditional attendants as well as personnel from the Health Sector. Training of the traditional surgeons could include topics such as modern surgical techniques, wound care first aid as well as discussions of important ethical principles such as autonomy. There should be medical examination prior to any circumcision to make sure that the initiate is medically eligible to have a circumcision and a certificate should be issued. This should ensure that all initiates are in a “suitable mental and physical state when they come to circumcision.” An initiate without medical proof should not be allowed into the Circumcision School.

Mayer, (1971: 7) raised another problem, namely, the appropriateness and efficacy of ‘traditional’ tribal procedures in the modern urban setting”. What used to be traditional secluded villages are changing into townships and towns. There are no bushes anymore. Will circumcision under these urban conditions still be suitable? It needs to be kept in mind that Initiation Schools in the African sense are also concerned with social attitudes and values (Mayer, 1971: 9). The urban situation, however, incalculates these values, in a very different fashion. The modern African believes in churches and public schools for character building. For traditional procedures to continue successfully, some form of refinement is therefore needed, so that the traditional initiation procedures should not “become difficult, or embarrassing or unaesthetic, in the urban surroundings”. This calls for insiders to process change in order to prevent failure of the school in modern times.

In addition, reassessment of “social and political domain” is required. Since the school is part of a culture and a particular community, it is the prerogative of the chiefs to control the school. If the chiefs and their communities do not put their house in order, other social institutions and rites of passage will take over. They should prove to the world why they want to retain the school. What is it that is ‘social’ that is being met by the school today? What are they doing about the ethical issues involved? What are they doing about elements clashing with human rights? This calls for “cultural relativism.”¹⁵ If they wait too long, the school might be subject to external

¹⁵ See Gyekye on cultural relativism pp 233 – 234

forces demanding its demise. They must stand up and speak, that circumcision tells a story about their roots, and their land.

4.3. An integrated approach

An integrated approach that is wise to use and best for the Circumcision School today is what could be a “balance between biomedical perspectives and socio-cultural perspectives.” It is better to incorporate biomedical factors into the socio-cultural perception of the School. Whatever intervention it may be, it should show “sensitivity to the cultural issues at stake Meintjies, (1998: 107) alluded to this by saying that “thus no clear division between the biomedical and the socio-cultural perspectives in reality exists.” Eventhough the school is experiencing serious problems the ritual could still be supported. Members of the community have the right to attempt new ways of coming to terms with the challenges presented by a modern context. Meintjies (1998: 110) closes by saying that “there is a need for creative and acceptable solutions that allow the practice of the ritual to evolve in a way that ensures the well-being of those undergoing it.”

4.4. Conclusion

The above discussion shows that consensus, against the background of integration of socio-cultural and medical perspectives, is possible. This therefore demands for the willingness of people representing the two perspectives to work together to try and find valuable solutions that will have a major back up to the integrated approach. Let us therefore have a look at Act No. 6 of 2001 in the Eastern Cape Province and Act No. 6 of 1996 in the Northern Province. These Acts are attempts by the two provincial governments to regulate the proper establishments of Circumcision School. Again this shows the commitment by these provincial governments to solve the problems encountered by this school. One cannot underestimate these efforts. It therefore calls for other stakeholders to do their part.

CHAPTER 5

ACT NO. 6 OF 1996 (NORTHERN PROVINCE CIRCUMCISION ACT AND ACT) NO. 6 OF 2001 (HEALTH STANDARDS IN TRADITIONAL CIRCUMCISION ACT OF EASTERN CAPE)

5.1. A critique of Act No. 6 of 1996 and Act No. 6 of 2001

5.1.1. Introduction

This section presents a close and critical view of the Northern Province Circumcision act (Act no 6 of 1996) and Health Standards in Traditional Circumcision Act of the Eastern Cape (Act No 6 of 2001). The main purpose is to determine both the likely successes and shortcomings of these Acts. The fundamental question is: Do these Acts adequately address all the objectives they were intended to fulfill? Do they have something to offer in trying to address the plight circumcision is facing? This will also help us to establish the link between the Acts and the whole issue of circumcision in modern times.

5.1.2. The aims of the two Acts

The preambles of the Acts contain the following aims. The Acts should be able to provide control over the holding of Circumcision Schools in the respective provinces. The Premiers of the provinces or other duly authorized persons are vested with powers to control the establishment and the running of the school. This is followed by the control of applications to hold Circumcision Schools and the issuing of the permits to any traditional surgeon who qualifies to run such a school. The provincial governments have the powers to determine the age of the initiates and the duration of such a Circumcision School. When the school has been set up, the provincial governments provide general regulations on the running of the school especially on issues affecting safety and health provisions for the initiates. Finally, the Provincial governments proclaim the rights to legal and police interventions in regard to any person found to have contravened the regulations.

Generally, the aims contained in the Acts are well intentioned because they are mostly in line with fundamental human rights and they also consider the obligations of all interested stakeholders. People have to prevent harm and risk of death to the initiates. Before I align the aims of these Acts to Circumcision School let me list the positive aspects of these Acts. This does not however, imply that this Act can just be generally considered a success. There are certain aspects of the Act that may be positive and others that may be negative.

5.1.3. The positive aspects of the two Acts

1. It provides for the issuing of practice permits after a successful assessment of their profile and conduct to traditional surgeons. This will help to root out bogus traditional surgeons.
2. Parents are given responsibility powers and not authoritative powers over the children.
3. Age is moved from puberty (9 – 13) to 18 years and above (mid-adolescent)
4. Pre-medical examination is obligatory, and this provides the medical history and present medical status of the initiates
5. It allows for routine check ups by health officials giving them powers to dictate directions in case anything goes wrong.
6. The initiates should be provided with nutritional meals and liquids at all times.
7. The traditional surgeon, guardians and whosoever is involved, including the environment, should not expose the initiate to any danger or harmful situation.
8. Responsibility for the care of the initiates and treatments of wounds should not be placed on the inexperienced guardian only, but is the responsibility of the surgeon himself and officials of the department of health.
9. Prescription of effective antibiotics is allowed.
10. Training the organizers of the school: traditional surgeons and the traditional nurses (guardians) will be offered training in connection with the safe running of the school.
11. Pre registrations of the initiates is required and it provides for the following:
 - List of the initiates
 - Proof of age of all initiates

- Parental consent form duly signed
 - Initiate consent form duly signed and
 - A medical certificate in respect of each initiate
12. A certificate of approval of the surgical instruments to be used.
13. Issues of “abduction” and “running – into” of initiates are well addressed. The South African Police Services will be called in cases where the above are reported and criminal cases will be opened for whoever was negligent in his duties.

5.1.4. Application of the Acts to Circumcision School

Act No. 6 of 1996 and Act No. 6 of 2001 are closely following what is enshrined in the constitution of the Republic of South Africa. Chapter 2 of the constitution is about the Bill of Rights. The Bill of Rights affirms the democratic values of human dignity, equality and freedom. The provincial governments have an obligation to respect, protect, promote and fulfill the rights in the Bill of Rights.

Act No. 6 of 1996 and Act No. 6 of 2001 strive for human dignity and the right to life. The children who go to Circumcision School have a right to life and as South African citizens, they have an inherent dignity. This dignity needs to be respected and protected. Death in Circumcision School is totally contravening the child's right to life. Whoever leads or causes the child to death is also contravening the children's rights to life. The aim of the two Acts is therefore to try and solve the problem of mortality that is so highly prevalent in many schools.

The two Provincial Acts are also in support of the Principles of beneficence and non-maleficence. The two principles emphasize the importance to prevent harm, remove harm, promoting good and to refrain from actions that cause harm. Subsection 12.2 (e) and 12.2 of the Bill of Rights refers to the right not to be treated in an inhuman or degrading way and the right to bodily and psychological integrity. Earlier when we discussed the ethical code and principles of conduct, one of the rules of conduct was “first, do no harm.” The principles and the ethical code are in line with the Bill of Rights. The act of cutting the foreskin is painful. The causation of pain violates the

ethical principles and most importantly the constitution of the country. Failure to provide adequate control of pain amounts to violating the right to bodily and psychological integrity as enshrined in the constitution.

Act No. 6 of 2001 emphasizes the involvement of medical officers. Medical officers should intervene if there are signs of sepsis or other similar health problems. This is to try and protect the initiates from physical and psychological pain that compromises the initiates' integrity. Medical officers are also brought in to control pain that the initiates are faced with. It seems that these Provincial Acts were made with much consideration of Subsection 28.f. (ii) of the constitution. This Subsection emphasizes the right of every child not to be placed or involved in any practice that places risk to the child's well-being, education, physical and mental health. The two Acts are striving for the right of child to decent health conditions, which are often not prevalent in the Circumcision Schools. This will go a long way in protecting the initiates from pain and death. Circumcision schools need a closer look to avoid further inflicting of pain and the causation of death.

Another problem is that traditional surgeons are untrained, mostly old and inexperienced. Most of them have achieved a minimal level of education. The Acts make the provincial government responsible to assist such surgeons by giving them supervision from experienced surgeons. This helps that the initiates would not be exposed to unnecessary harm and death.

In chapter 2 of this thesis, I discussed issues pertaining to the running of the school. Children are accommodated in houses built from shrubs. They are exposed to the freezing winter conditions without proper shelter. They do not wash their bodies nor do they wash their hands when they eat. Furthermore, they are not given water to drink. Food given to them is mainly non-nutritional and the general health standards are low. The two Acts call for proper shelter for the initiates. Furthermore there is a call for better provision of nutritional food, clean water and social security to the initiates. There must be sufficient nutritional food for all the initiates. If this is not done, the provincial governments have the powers to close down the school and to prosecute whoever is contravening the basic requirements of the Acts.

Virtue ethics calls for compassion, discernment, trustworthiness and integrity. The government introduces standards which the traditional surgeons must follow. They have to apply for permission from the government to run the school. They have to recognize the consent forms that regulate the handing over of the initiates to them by the consenting parents. Most importantly the traditional surgeons should only circumcise when there is a medical certificate issued by a reputable medical doctor. The doctor examines the boy and looks for other diseases that may render a boy unfit to undergo circumcision. If the boy is fine then the certificate of readiness is issued. Instruments used on the initiates to perform circumcision must not be used repeatedly to perform circumcision on another initiate. The traditional surgeons must preferably use instruments supplied by the health officials. And equally shall use substance supplied by the health officials for the sterilization of the instruments. Any traditional surgeon who complies with these standards proves his compassion, discernment, trustworthiness and integrity. Such virtuous standards will make our children safe.

Chapter 2, subsection 30 and 31 of the Bill of Rights informs that everyone has a right to participate in cultural practice of choice. It goes further to mention that no one should exercise his/her cultural right in a manner inconsistent with any provision of the Bill of Rights. The traditional surgeon, traditional leader, and the father have a right to participate in any cultural practice. The boys also have rights to participate in their cultural practice. This shows that the boys have a right to go to the Circumcision School because it is their cultural practice. This however should not mean that the child's right to life, to dignity, to shelter food water and basic health care should be compromised by any consequence of the practice. Act No. 6 of 1996 (Northern Province) and Act No. 6 of 2001 (Eastern Cape) respect the right of children to participate in their cultural activities. These Acts permit the holding of Circumcision Schools in these respective provinces. The only concern is that there must be tight control to guarantee the safety of Circumcision Schools. The introduction of these Acts shows that the two Provinces are concerned about the safety of the children attending a Circumcision School.

As an indication of government's commitment to maintain and improve the school, Business Day of the 10th February 2004 reported that the United States government's aid and development arm, USAid, will donate R12 million for the development of a

pilot Circumcision village in Motherwell, Eastern Cape. The aim of the cultural village is to preserve the school and to continue with the tradition that prepares boys to become men in a safe environment. Services such as water and sanitation will be provided. Another problem which the Eastern Province has identified is that the practice is carried out at various sites throughout the country which are not appropriately zoned for such purpose. This is a good step that boosts the well intended commitments in the Acts. As believed by Dr. Mamisa Chabula, former Cacadu Municipality director of health services, who sourced the funds for this project from USAid, that the government should be a major proponent of proper Circumcision Schools.

Beauchamp and Childress (1994:121) indicated that autonomy is the “personal rule of the self free from both controlling interferences by others and from personal limitations that prevent meaningful choice.” I believe that personal rule and choice are influenced by age. In terms of the Acts, there must be a proof in the form of birth certificate or an identity document that the prospective initiate must be at least 18 years old. This assures personal consent. The initiates must be old enough to be able to make a personal decision if they want to go to a Circumcision School. At this age parental consent might not even be necessary. However, if the prospective initiate is 16 years or younger, the parental or guardian consent seems necessary. This is an effort by the government to respect autonomy of the initiates, because the initiates must also have a say in cultural practices.

5.1.5. Negative aspects of the Acts

The question now is: “if the Northern and Eastern Cape Provinces are ready for these acts? Will these Acts benefit all the people of the respective provinces?” These two provinces have a history of disparities. The provinces are divided into rural and urban settlements. For example, the Northern Province has a strong rural basis (South African yearbook 2002/2003, 9th edition) and it had a 90, 8% non-urban population by 1995 (provincial statistics, Part 9, 1995: 5). Most of those who are living in the rural areas are poor and illiterate. At present they are the worst hit by the spate of deaths in Circumcision Schools. They are mostly under the rule of chiefs, who play a big role in instituting Circumcision Schools.

I argue that knowledge is important. The poor and illiterate, who are the majority within the provinces, are not aware of the Acts. They are still subjected to the old regime, because they do not know what their rights are in terms of these Acts. Besides the people of the two provinces, most of the chiefs and traditional surgeons are illiterate themselves. So, the effort, to pass on information of the Acts, becomes a very difficult task.

The following factors may be regarded as shortcomings of the Acts:

1. The initiation part of the school is overruled.
2. The bullying attitudes of some guardians in the school are not well addressed.
3. The Acts are not easily accessible to the communities and accordingly people remain vulnerable.
4. The consent form is handled by the traditional surgeon and is therefore prone to abuse.
5. There is a very big gap in the proposed hierarchy (Premier – communities) and this may lead to shortcomings along the way.

The House of Traditional Leaders in the province submitted a report with other evident shortcomings.

1. They reject the submission of the list to the Premier for the fear of precluding other prospective initiates.
2. The submission of a consent form is rejected. They feel it to be likely to instill fear and insecurity in the initiates.
3. They reject age limits and want them to be moved from 18 to 12 years.
4. Whoever inspects or checks the Circumcision School should be a graduate himself and preferably from the culture of the school to be inspected.
5. Inspection should be only to monitor and not to get involved in the daily running of the school.

5.2. Conclusion

The Government's intention with these Acts is a very positive one. It seems important to have the legislature working towards stabilizing this problem. However, more work still needs to be done.

The school has both socio-cultural and health related problems, a vast array of interventions is called for. Besides the provincial government, municipal and local communities need to get involved. Working committees should be set up. These working committees should include representatives from government, traditional surgeons and guardians of initiates, the formal health sector and the community (Meintjies, 1998: 127). Non-governmental organizations could also get involved. National government should support these developments.

CHAPTER 6

CONCLUDING REMARKS

In the first chapter, I have made observations that there are many problems in the manner in which Circumcision Schools are run. Through the critical look at the Findlay cartoon, I identified problems of death, hospitalization through injuries and mutilations that occur as a consequence of manhood initiation practices. The general hygiene of the school also remained in question. These problems were reviewed from a socio-cultural point of view. The values of the socio-cultural objectives the school tries to achieve were excellent in the past. The problems arise when the school reaches recent modern times. It was indicated that most of the problems needed the incorporation of a medical perspective into the school, because this involves many of the modern innovations.

In Chapter 2, the socio-cultural context of the school was raised. An understanding of the school was sought so that it should be understood in its cultural context. This was followed by identification of areas that need interventions. These areas were identified as dilemmas. Most of these dilemmas were recapitulated in Chapter 3. In Chapter 4, I suggested social and cultural change as a starting point to try and bring interventions that will yield good results for the school. For the interventions to be appropriate and accepted I used the “insider-outsider” mixes approach. My last step in this chapter was to look at the relationship between tradition and modernity. I indicated that tradition in itself is not stale and dormant. It is dynamic and innovative. Culture evolves. I argued that this innovation involves amongst other things a biomedical perspective.

This issue of harnessing tradition and modernity was to make sure that the existing biomedical paradigm and interventions have been shaped around an intimate understanding of the cultural dimensions of the problem (Meintjies, 1998: 107). Biomedical intervention should be used to solve the problems Circumcision Schools are facing in terms of “morbidity and mortality.” It should not be the mechanism to destroy this practice. The traditional leaders and the government should sit down and identify the elements that are open to change. This will make us retain the worthwhile

features of this cultural tradition. I indicated that the production of new ideas and intervention in this school should adopt an integrated approach. This approach should be very sensitive to the school. This happens by the abandonment of what I call the negative features of a culture as well as the maintenance through refinement of what I call the positive features. This is like living in two worlds. You live with the new ideologies but without defeating your “traditional-self”.

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Appendixes

A. Act No. 6 of 2001. Health Standards in Traditional Circumcision Act in the Province of the Eastern Cape.

B. Act No. 6 of 1996. Northern Province Circumcision Act.

C. Report on initiation school from chairperson of the portfolio committee on constitutional committee.

Gazette No 818

Notice No 56

Gazette Eastern Cape

Date 20011122

PROVINCIAL NOTICE

No. 56

22 November 2001

PROVINCE OF THE EASTERN CAPE

OFFICE OF THE PREMIER

PUBLICATION OF APPLICATION OF HEALTH STANDARDS IN
TRADITIONAL
CIRCUMCISION ACT (EASTERN CAPE) (ACT No.6 OF 2001)

It is hereby notified that the premier has assented to the following
Act which is hereby published for general information:

No.6 of 2001 (EC): Application of Standards in Traditional Circumcision
Act, 2001 (Eastern Cape)

HEALTH STANDARDS IN TRADITIONAL CIRCUMCISION ACT (EASTERN
CAPE)

Act No. 6, 2001

ACT

To provide for the observation of health standards in traditional
circumcision; to provide for issuing of permission for the performance of a
circumcision operation and the holding of circumcision school; and to
provide for matters incidental thereto

(English text signed by the Premier)
(Assented to on 15 November 2001)

BE IT ENACTED by the Legislature of the Province of the Eastern Cape, as follows-

Definitions

1. In this Act, unless the context indicates otherwise-

"circumcision" means the circumcision of a person as part of a traditional practice;

"circumcision school" means a place where one or more initiates are treated;

"Department" means the Department of Health in the Province;

"gazette" means the Provincial Gazette of the Province;

"initiate" means a person who is in any stage of the circumcision process as contemplated in this Act;

"MEC" means the Member of the Executive Council responsible for Health in the Province;

"medical officer" means an officer designated or a person appointed in terms of section 2;

"medical practitioner" means a person registered as such under the Health Professions Act, 1974 (Act No. 56 of 1974);

"permission" means permission in the form of a document prescribed by Annexures A and B, issued by the medical officer in terms of section 3 (a);

"Province" means the Province of the Eastern Cape established by section 103 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

"surgical instrument" means an instrument used for the performance of circumcision, and "instrument" has a corresponding meaning;

"this Act" includes regulations made hereunder;

"traditional authority" means a traditional authority established in terms of a law recognised by section 211 of the Constitution; and

"traditional practice" includes a practice according to the custom, religion or any other rules of similar nature.

Designation of medical officer

2. The MEC must designate in writing one or more officers of the Department or appoint one or more persons, on such conditions and qualifications as may be prescribed, as medical officers for the purposes of exercising and performing powers and functions conferred or imposed on them by this Act.

Powers and functions of medical officer

3. The medical officer must, in addition to any other power and functions entrusted to him or her by this Act, exercise and perform the following powers and functions:

- (a) Issuing of permissions to circumcise or treat an initiate;
- (b) Keeping of records and statistics pertaining to circumcision and reporting thereon as prescribed, to the Department; and
- (c) A right of access to any occasion or instance where circumcision is performed or an initiate is treated.

Permission to perform circumcision

4. (1) No person, except a medical practitioner, may perform any circumcision in the Province without written permission of the medical officer designated for the area in which the circumcision is to be performed.

- (2) (a) A person may apply as prescribed for permission to perform circumcision and such permission may not be given unless all the conditions set out in Annexure A of the Schedule have been complied with.
- (b) A medical officer may, as part of the condition provided in item 7 of Annexure A of the Schedule-
 - (i) disallow the use of a surgical instrument that the traditional surgeon intends to use; and
 - (ii) prescribe or supply a proper surgical instrument where the use of a particular instrument has been disallowed in terms of subparagraph (i).
- (c) Where a proper surgical instrument has been prescribed or supplied in terms of paragraph (b)(i), the medical officer concerned must demonstrate to, or train, the traditional surgeon as to how the instrument should be used.

(3) A medical officer must, in the following manner, present the conditions set out in Annexure A, to the person applying for permission in terms of subsection (2) (a):

- (a) The medical officer, or any other person assisting such medical officer, and in the presence of the medical officer, must read the conditions in the official language understood by the person applying for permission;
- (b) both the medical officer and the person applying for permission to perform a circumcision, must write their full names and signatures, and the date, on the document containing the conditions.

(4) A person who has applied must within one month of the date of such application, submit proof of compliance with the conditions referred to in subsection (2), failing which the application of such person shall lapse.

(5) A person whose application has lapsed as contemplated in subsection (4), is eligible to make a new application for permission to the medical officer concerned, and the provisions of this Act Apply to such person as if application for permission is made for the first time.

Permission to hold circumcision school or treat initiates

5. (1) In the Province, no person may hold any circumcision school or treat any initiate without written permission of the medical officer designated for the area in which the circumcision school is to be held or the initiate is to be treated: Provided that this subsection does not apply to the treatment of an initiate in a hospital or by a qualified medical doctor outside the traditional context.

(2) A person may apply, as prescribed, for permission to hold a circumcision school or to treat an initiate, and such permission must be given subject to the conditions set out in Annexure B of the Schedule.

(3) A medical officer must, in the following manner, present the conditions set out in Annexure B, to the person applying for permission in terms of subsection (2):

- (a) The medical officer, or any other person assisting such medical officer and in the presence of the medical officer, must read the conditions in the official language understood by the person applying for permission;
- (b) both the medical officer and the person applying for permission to hold a circumcision school or treat initiates must write their full names and signatures, and the date, on the document containing the

conditions.

(4) A person who has applied, must within one month of the date of such application, submit proof of compliance with the conditions referred to in subsection (2), failing which the application of such person shall lapse.

(5) A person whose application has lapsed in terms of subsection (4), is eligible to make a new application for permission to the medical officer concerned and the provisions of this Act apply to such person as if application is made for the first time.

Restriction of persons to treat an initiate

6. (1) No initiate may treat or attempt to treat another initiate at any stage during or after the holding of a circumcision school.

(2) No person other than the traditional nurse, medical practitioner, the medical officer or any other person authorized by the medical officer, may within a traditional context, treat an initiate.

Consent by parent or guardian

7. (1) The parent or guardian of a prospective initiate must, in respect of a prospective initiate below the age of 21 years, complete and sign a consent form in the format set out in Annexure C.

(2) The parent or guardian of an initiate must, in addition to all other responsibilities which such parent or guardian has in respect of the initiate, render such assistance and co-operation as may be requested by the medical officer in the interest of the good health of the initiate.

(3) No person, including the parent or guardian of an initiate, may interfere with or obstruct the medical officer in the performance of his or her duties under this Act.

Amendment of Schedule

8. (1) The MEC may, by notice in the Gazette, amend the Schedule.

(2) The MEC must, within a period of thirty days after the publication of the notice contemplated in subsection (1), submit a copy thereof to the Legislature of the Province.

Penalties

9. (1) Any person who contravenes the provisions of sections 6, 7(2) and 7(3) is guilty of an offence and liable on conviction to a fine of R1 000,00 or to imprisonment for a period not exceeding six months.

(2) Any person who contravenes the provisions of sections 4 (1) and 5 (1) or who fails to comply with any condition imposed by a medical officer in terms of sections 4(2) and 5(2), is guilty of an offence and liable on conviction to a fine not exceeding R10 000,00 or to imprisonment for a period not exceeding ten years, or to imprisonment for a period of five years without the option of a fine.

Regulations

10. (1) The MEC may make regulations in regard to any of the following matters:

- (a) The issue of permission under this Act and the form of such permission;
- (b) the form and manner of application for such permission;
- (c) the requirements to be complied with by the applicant for such permission;
- (d) the prohibition or restriction of the issue of such a permission in appropriate circumstances;
- (e) the duration of any circumcision school;
- (f) generally the conditions subject to which permission may be issued;
- (g) the conditions and qualifications which an officer or a person referred to in section 2 must satisfy or possess; and
- (h) any other matter, the regulation of which may in the opinion of the MEC, be necessary or desirable for the purpose of achieving the objects of this Act.

(2) Any regulation made under this Act may prescribe a penalty for the contravention thereof, or default in complying therewith: Provided that regulations may not prescribe a penalty in excess of the penalty imposed by section 9(2).

Short title

11. (1) This Act is called the Application of Health Standards in Traditional Circumcision Act, 2001 ((Eastern Cape).

SCHEDULE

ANNEXURE A

CONDITIONS FOR OBTAINING PERMISSION TO PERFORM CIRCUMCISION

1. There must be proof in the form of a birth certificate or an identity document that the prospective initiate in respect of whom permission is requested is at least 18 years old, or if the parents of the initiate so specifically request, at least 16 years old.
2. Parental consent must be obtained in respect of a prospective initiate who is under 21 years of age or who has not acquired adulthood,, and such consent must be given either by a parent or a guardian of the prospective initiate concerned.
3. A prospective initiate must undergo a pre-circumcision medical examination by a medical doctor. The medical certificate must indicate as to whether the prospective initiate, based on the examination by the medical doctor who must have considered amongst others the medical history of the prospective initiate, is fit to undergo circumcision or not.
4. The traditional surgeon must be known to the parents of the prospective initiate, and must use instruments approved by such parents, or in the case of an orphan by his family, guardian or relatives, unless a medical officer has prescribed another surgical instrument.
5. A traditional surgeon, who is to perform a circumcision within an area falling under a traditional authority, must inform such traditional authority thereof.
6. Where a traditional surgeon does not have the necessary experience to perform a circumcision, he must perform it under the supervision of an experienced traditional surgeon.
7. An instrument used to perform a circumcision on one initiate must not be used again to perform a circumcision on another initiate, and the traditional surgeon must use the instruments supplied by the medical officer where the traditional surgeon has to perform more than one circumcision on more than one initiate but does not have sufficient instruments.
8. The traditional surgeon must keep instruments to be used by him to perform circumcision clean at all times before a circumcision, and shall use any substance prescribed by a medical officer for the sterilization of the instruments.
9. The traditional surgeon must cooperate at all times with the medical officer concerned in respect of any directive given or decision made by the medical officer under the powers vested in the medical officer by this Act.

Traditional surgeon

Medical officer

Name _____

Signature _____

Date _____

If initiate is under the age of 21 years:

Parent or guardian _____

Date _____

ANNEXURE B

CONDITIONS FOR OBTAINING PERMISSION FOR HOLDING A CIRCUMCISION SCHOOL OR FOR TREATING INITIATES

1. The medical officer concerned shall be entitled to impose a deviation from the use of traditional material only in cases where there are early signs of sepsis or other similar health conditions.
2. The medical officer concerned must be allowed by the traditional nurse to visit the circumcision school at any time and as regularly as the medical officer deems necessary in order to inspect the health and the condition of the initiate(s).
3. The initiate(s) must, at least within the first eight days of the circumcision, be allowed by the traditional nurse to have a reasonable amount of water to avoid the initiate suffering any dehydration.
4. The traditional nurse must not expose any initiate(s) to any danger or harmful situation and shall exercise reasonable care in the holding of the circumcision school.
5. The traditional nurse must report any sign of illness of the initiate(s) to the medical officer, as soon as possible.
6. The traditional nurse must stay with the initiate at the circumcision school 24 hours a day during the first eight days of the initiation process, and after the lapse of the first eight days of such initiation process, he must be available to the initiate(s) at least once every day until the initiation period has come to an end.
7. The medical officer concerned shall be entitled to prescribe any measure at any stage of the circumcision process that he or she on

reasonable grounds deems necessary in the interest of the good health of the initiate(s)), and such a measure may in appropriate circumstances include a departure from the traditional methods.

8. The traditional nurse must cooperate at all times with the medical officer in respect of any directive given or decision made by a medical officer under the powers vested in the medical officer by this Act.

Traditional nurse	Medical officer
Name _____	_____
Signature _____	_____
Date _____	_____

ANNEXURE C

PARENTAL OR GUARDIAN CONSENT

I, _____

ID No _____

Residential address

1. confirm that I am the parent/guardian of:

NAME OF THE PERSON

who will be undergoing a circumcision on

DATE OF OPERATION _____

in

PLACE OF OPERATION _____

TIME OF OPERATION _____ H _____

and

2. consent to my child undergoing a circumcision operation and attending initiation school. I acknowledge that I understand the conditions set out in Annexures A and B hereto, which conditions bind the traditional

surgeon and the traditional nurse.

SIGNATURE OF THE PARENT _____ /or

GUARDIAN _____

Database Provincial Gazettes
Gazette No 233
Notice No 9
Regulation 0
No
Gazette Northern Province
Date 19970324

PROVINCIAL NOTICE

OFFICE OF THE PREMIER

No. 9
24 March 1997

NO. 6 OF 1996: NORTHERN PROVINCE CIRCUMCISION SCHOOLS ACT, 1996.

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-

ACT

To provide for the control of the holding of circumcision schools in the Northern Province, and matters incidental thereto

(English text signed by the Premier)

(Assented to on 26 February 1997)

BE IT ENACTED by the Provincial Legislature of the Northern Province, as follows:-

Definitions

1. In this Act, unless the context otherwise indicates-

"Member of the South African Police Service" means a police officer appointed in terms of the South African Police Act, No. 68 of 1995;

"Premier" means the Premier of the Northern Province;

"Circumcision School" includes a circumcision school for either male or

"Circumcision School" includes a circumcision school for either male or female initiates;

"This Act" also includes any regulations made under this Act.

Powers of Premier

2. (1) The Premier or any other person duly authorised by him or her in writing, may issue a permit for the holding of circumcision school, subject to such conditions as he or she may deem necessary or desirable.

(2) If for any reason whatsoever, the Premier or any other person duly authorised by him, or her in terms of subsection (1) is satisfied that any or some of the conditions laid down by him or her in the interest of the initiates at any circumcision school, are being violated to the detriment of the said initiates, he or she may take such remedial steps as he or she may regard as adequate in the circumstances.

Prohibition of holding circumcision school without permit

3. No person shall hold a circumcision school without a valid permit issued to him or her in terms of section 2(1).

Premier may impose conditions

4. The Premier may impose such conditions as he or she may deem desirable in regard to matters in connection with the conduct of the circumcision schools and treatment of the initiates.

Powers of Members of the South African Police Service

5. Any member of the South African Police Service, who receives a complaint on oath or whom on reasonable ground believes that a person has been abducted or is being abducted or forcefully taken to a circumcision school, may rescue such a person in an orderly manner.

Regulations

6. The Premier may make regulations in regard to any of the following matters:

- (a) The issue of permits under this Act and the form of such permits;
- (b) the form and manner of application for such permits;
- (c) the requirements to be complied with by the applicant of such a permit;
- (d) the prohibition or restriction of the issue of such permits in

appropriate circumstances;

- (e) determination of the age of the initiates and the duration of any circumcision school;
- (f) generally the conditions subject to which a permit may be issued; and
- (g) any other matter, the regulation of which may in the opinion of the Premier, be necessary or desirable for purposes of achieving the objects of this Act.

Offences

7. Any person who contravenes any provision of this Act or fails to comply with any condition imposed in terms of section 2(1), shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two thousand rand or to a term of imprisonment not exceeding twelve months or to both such fine and imprisonment.

Repeal of Laws

8. The following Legislations are hereby repealed:

- (a) Proclamation No. R. 194 of 1967; and
- (b) Venda Act, No. 3 of 1980.

Short title

9. This Act shall be called the Northern Province Circumcision Schools Act, 1996. §

TO : CHAIRPERSON OF THE HOUSE OF
TRADITIONAL LEADERS

FROM : CHAIRPERSON OF THE PORTFOLIO
COMMITTEE ON CONSTITUTIONAL
COMMITTEE

SUBJECT : REPORT ON INITIATION SCHOOLS

The abovementioned Portfolio Committee. Submit this report to the House for your consideration.

We submit this for your adoption with regard.

CHAIRPERSON
T.J. RAMOVHA

REPORT ON DRAFT REGULATIONS: INITIATION SCHOOLS

The Constitutional Committee of the House of Traditional Leaders held meetings, in various regions, in respect of the abovenamed Draft.

Traditional Leaders, Traditional Healers and other interested people we requested to give inputs on the draft. I am pleased to report that in most regions where the committee addressed meetings people concentrated on issues on hand. The report covers the following areas. Southern, Western and Bushbuckridge.

Members of the House are urged to seriously consider this document as it is likely to impact negatively on our Tradition if implemented without Traditional Leaders inputs. While it is accepted that Government has responsibility towards safe running of these schools, it should not be a pretext to failing or doing away with our Tradition - which is held at high esteem. Mr Chairperson I hope you will find this report thought provoking and helpful towards adopting a common stand.

Hereunder follows the report as per each Section.

SECTION 1

Section 1 is the explanation.

SECTION 2

In all regions the response to this section was the same which is, Traditional Leaders and their people agree that initiates should be medically examined before going to the initiation school as is the case at the moment. The submission of a list to the premier which might at the end preclude other prospective initiates to undergo this important traditional ritual is rejected. The submission of consent for is also rejected as is likely to instill fear and insecurity to these consent. Compliance with the age limit and other conditions as well can be checked by the Inspector of Initiation School but not the Premier as planned. Traditional Leaders feel that it should be made explicit that only Traditional Leaders recognised as such should be allowed to apply for permit.

SECTION 3

This section was expected as it stands because it will minimise health risks in the Initiation Schools.

SECTION 4

The section was also accepted as such.

SECTION 5

All provisions of this Section are accepted.

SECTION 6

The introduction of Inspectors is accepted because it will contribute to the maintenance of minimum health standards. The

concept will also see to it that conditions set out by this regulations are adhered to. Traditional Leaders feel that the Inspectors should not only be Medical Practitioners but should be graduates of Initiation School as well. The Inspectors should not become involved in the initiation school when it has already commenced but should work with applicants of the permit throughout. This will as said in section 2 eliminates the need for a list which is supposed to be submitted to the Premier. The other provisions of this section are as well accepted, except where Premier is given Power to withdraw permit and close down school who are not comply with any of these regulation. The Premier should rather take corrective steps.

SECTION 7

In the past, including this year (2001) the minimum age limit was 12 years. This age has been set by Traditional Leaders before Circumcision School , let took effect in 1996.

Sub-Section 1 is therefore rejected. A 12 year old is still at Primary level. his/her academic future is not affected when he/she is still attending ritual but a 16 years old is high up on the Secondary School Ladder. It might not be possible to take him/her to an initiation. This Section implies that initiates below the age of 16 are likely victims of Initiation death. According to Traditional Leaders that is myth. Instead initiates between 12 and 16 are manageable.

Sub-Section 2 x 3 have already being dealt with in Section I. (List to the Premier).

SECTION 8

Provisions of this Section accepted. In the event that such a person has to be released by Police, such Police should have gone through the Initiation School.

SECTION 9

Provisions of this Section accepted. It should also apply to a person who ridicules, openly the initiation school.