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Factors That Perpetuate Traditional Male Circumcision (TMC) among the Ama-Xhosa in the Eastern Cape: In Search of Means and Ways to Mitigate the Impact of the Practice - A Human Rights Perspective

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ABSTRACT Xhosa Traditional Male Circumcision (TMC) known as *ulwaluko* is an ancient practice among the amaXhosa. It is a secretive and a sacred ritual that takes place away from the eyes and glare of the public and is performed for cultural reasons. However, today TMC faces growing protest from the public and carries with it mixed feelings due to high mortality and morbidity. The practice is seen as cultural right on one hand and a violation of human rights of the initiates on the other hand. As such, prohibition of TMC is not a panacea in as much as the respect for human rights and adherence to modernity and civility alone may not yield the expected results in short and medium term, unless there is awareness raising on how best to uphold the practice while protecting the human rights and dignity of the initiates.

INTRODUCTION

A recent report by the World Population Review on circumcision by country 2020 indicated that one- third of men globally are circumcised and this amounts to 37 -39 percent of men globally (Morris et al. 2016; World Population Review 2020). Approximately half of these circumcisions are either for religious or cultural purposes and this is common in United States, Asian countries and Africa. Earlier research shows that men over 15 years of age in the world are circumcised and this amounted to an estimated 665 million (Khumalo 2009; Futabi and Bowley 2010). This practice also referred to as the rite of passage to manhood has been in existence for decades (Mavundla et al. 2009). According to Chatsika et al. (2020), Mielke (2013), Nxumalo and Mchunu (2020) and WHO (2009), male circumcision is embedded in social factors and is done for religious and cultural reasons and is a relatively common practice even in Africa, where 28 of 54 countries have male circumcision prevalence exceeding 80 percent. For instance, results emerging from a study done by Peltzer et al. (2007) indicated that in Namibia, Swaziland, Zambia and Zimbabwe, about 15 percent of the male population are circumcised (WHO 2007). Whereas, countries such as Malawi (21%), Botswana (25%), South Africa (35%), Lesotho (48%); Mozambique (60%), Angola (66%), and Madagascar (80%) indicate higher prevalence of male circumcision. A study done by Morris et al. (2016) on estimation of country specific and global prevalence of male circumcision showed that these statistics had gone up particularly in some Africa countries as follows: Angola (57%), Botswana (15.1%), Lesotho (52%), Madagascar (94.7%) Swaziland (82%), South Africa (44.7), Zambia (12.8), and Zimbabwe (9.2%) respectively.

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The South Africa Situation on Traditional Male Circumcision

The matter of male circumcision continues to be a belligerent subject in South Africa inso-

far as it involves TMC. As in other African countries, TMC in South Africa is largely practiced by AmaBhaca, AmaHlubi, Ba Pedi, Vha Venda, Basotho, amaNdebele, amaShangaan and AmaXhosa and the circumcision rate is about 35 percent (Malisha 2005; Nomngcoyiya 2015). Since time immemorial TMC has always been regarded as a sacred and indispensable cultural rite intended to prepare initiates for the responsibilities of adulthood (Behrens 2014; De Niro 2018; Siweya et al. 2018). A study done by Soga as early as 1931 speaks to the inviolability of *ulwaluko* as a shielded secret. For instance, there is a distinct etymological way of communication which the initiates are taught, are expected to memorise during the initiation period and utilised as a medium of communication particularly during cultural ceremonials (Mfecane 2016; Mgqolozana 2009).

In South Africa, traditional male circumcision is most prevalent in the Eastern Cape where a male figure is not viewed as man as long as they have not undergone what is called *ulwaluko* (Douglas et al. 2018; Nkosi 2005). Thus, TMC is mostly conducted during the summer and winter season and traditional surgeons (*ingcibi*), traditional nurses (*inkankatha*), initiate(s) (*umkhwetha/abakhwetha*) and parents or guardian of the initiate form part of the process (Kepe 2010; Meissner and Buso 2007). According to Ntombana (2011), the process of *ulwaluko* is undertaken by a boy aged 18 and older better known as *umkhwetha* who will be under a chosen custodian known as *ikhankatha* and other initiated male youths *abafana* (Ngwane 2004) from being a boy (*inkhwenkwe*) to being a man (ubudoda). Thus, the concept of *indoda* among amaXhosa is exemplified through a traditionally circumcised person (Mfecane 2016: 204). Mfecane (2016) further suggests that being classified as *indoda* in the Xhosa culture is the most illustrious practice and affords a man who has undergone TMC certain civil rights such as building a homestead, actively participating in communal dialogs and rituals as well as, marrying (Ntombana 2011).

Ndangam (2008) also advances that a Xhosa man's circumcised penis is fundamental and closely associated with masculine identity and is seen as a cultural asset aligned with social status among other men. Kang'ethe (2013) also maintains that TMC among the amaXhosa people is not only an irreplaceable practice but also works as a societal mirror. As a result, year after year initiation schools are inundated with youth attending the rite of passage to adulthood. The fact that, the practice overrides health hazards, emotional and physical distress associated with it, calls for identification of ways and means to mitigate the practice from a human rights perspective (Deacon and Thomson 2012).

There has also been special attention leveled against this practice due to a vast number of challenges such as: violation of human dignity, the right to safe and health practices, and the right to life, particularly for the initiates due to a number of deaths of young men which are on the rise every initiation season (De Niro 2018; Douglas et al. 2018; Eastern Cape Statistics 2013). Thus, this discussion centres on the ramifications of TMC while highlighting on the importance of suggesting ways and means of mitigating the practice from a human rights legislative framework with specific reference to the Eastern Cape Province where it is largely practiced among the amaXhosa ethnic group in South Africa.

Legal Obligations Aligned with TCM and Protection of Human Rights

Within the international circles, South Africa is well known for preserving, responding and promoting human dignity and security of person through a number legislative framework from international level right through provincial legislation. These legislatives precisely address issues pertaining prevention and promotion human rights and address the present situation being experienced by some of the initiates. These include:

The Universal Declaration of Human Rights (UDHR) of 1948 – this declaration is an international instrument that recognises the importance of self-respect, equal and immutable rights of all members of the human family as the basis of sovereignty, integrity and reconciliation in the world (United Nations 1948). Article 2 of the declaration reads:

"everyone has the right to life, liberty and security of person".

Whereas *Article 5* provides that:

"no-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

Though the UDHR is not a treaty and is not legally binding, it has since its inception in 1948 given rise to a wide range of international conventions that are legally binding to state parties that are signatories. South Africa is not an exception to these convention as prescribed below:

Convention of the Rights of the Child (CRC) [1989] - South Africa became a signatory on the 16th of June 1995. The preamble of the CRC highlights on the importance of traditional and cultural practices. It must be noted that in terms of the CRC, the 'best interests of the child' is held in high esteem whereas, *Article 31* of the CRC provides that:

"States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity."

Article 31 on the CRC is explicit on and put emphasis on 'the right of the child (initiate) to participate fully in their 'cultural' life, and does provide a standard against which the act of circumcision can be measured. However, this convention appears to be inaudible on provisions that deal with male circumcision in isolation.

The African Charter on the Rights and Welfare of the Child (ACRWC) [1990]. This is a very relevant regional legal instrument in the South African context. The ACRWC was ratified to suit and standardize unique needs of the African culture and tradition that were not captured in the CRC. The Charter further provides that all the countries that are signatories have a duty to protect children from harmful cultural practices, which may negatively impact their health or lives.

The Convention against Torture and Other Cruel and Inhuman or Degrading Treatment or Punishment (UNCAT) [1984]. Ever since this convention came into force, it has become acceptable as a principle of customary international law. *Article 2 (1)* states the following:

"Each state party shall take effective legislation, administration, judicial or other measures to prevent act of torture in any term under its jurisdiction"

Out of this concern for realization of human rights which are fundamental and are expected to be held in high esteem to promote societal impartiality, the above instruments act as a framework for the following purposes. Firstly to ensure that while promoting culture of TMC the practice should also promote with human rights, dignity and security of person of the initiates. Secondly, this is because human rights are universal, indivisible, interdependent and interrelated as espoused by the Vienna Declaration and Programme of Action of 1993. This has resulted in South Africa also enacting a number of legal frameworks within its domestic terrain as a way of showing commitment and support of the aforementioned.

Legal Obligations Aligned with TMC in South Africa

The South African Constitution of 1996

The Constitution of South Africa reigns supreme and the "best interest of the child" are the cornerstone of this legislation as highlighted in *Section 28(2)*. Within the constitution, all citizens are given the right to choose their cultural identity and rights. However, this should not infringe on the Bill of Rights, neither should the dignity and security of person vis-à-vis TMC practice be infringed in the process. Below are a few Sections of the Bill of Rights which align with the focus of the paper.

Section 7(2) of the country's constitution indicates that the right to health cannot be understated because it promotes, respects, protects and fulfils people's well-being and the rights to healthcare.

Section 10 highlights the importance of having the right to dignity respected and protected while, *Section 11* clearly stipulates that everyone has the right to life.

Section 12 covers issues pertaining to freedom and security of the person and emphasizes that no person should be treated or punished in a cruel, inhuman and degrading manner; every individual has the right to bodily and psychological integrity and this includes security in and control of one's body.

Section 27 dwells on health care, food, water and social security and that under no circumstances should an individual be denied emergency health facilities.

Section 30 gives everyone the right to fully participate in the cultural life of their choice whereas, *Section 31* articulates that individuals may not be denied with other members of that community enjoyment and practice their culture.

The Children's Act No 38 of 2005

The Children's Act No.38 of 2005 which came into being in 2006 proscribes children below the age of 16 years to undergo circumcision and being put under any circumstances that compromise their safety (Children's Act and Regulation 2005). In this Act it is clearly presaged that only a medical practitioner; or a person with knowledge of the social or cultural practices of the child to be circumcised and has been suitably trained to perform circumcisions must do so (Children's Act and Regulation 2011). Whereas, in Sub-section 8(a) of Chapter 2 of the Children's Amendment Act No. 41 of 2007, children below the age of 16 years are prohibited from undergoing circumcision nor being exposed to conditions which compromise their health. The implementation of the Children's Act, aligns with *Article* 24(3) of the CRC and with Article 21(1) of the African Charter.

National Health Act No. 61 of 2003

The role of this Act is to provide a well regulated and undeviating health system; regulate specific provincial measures including issues on how consent and monitoring of TMC should be implemented in South Africa. Of importance is *Section 43* of the Act which is particularly concerned with Health Services at Non-health Establishments and at Public Health Establishments Other Than Hospitals. This part of the act is commensurate with the review and the environment where TMC is conducted. For instance, in *Section 43(3)* the paragraph reads:

"it is critical to ensure that conditions relating to traditional health practices are monitored to ensure the health and well-being of persons who are subject to ritual circumcision."

Meanwhile, the responsibilities of Traditional Leaders are captured in *Section 212* of the Constitution. This section highlights that it is prerogative that the national legislation provides a role for traditional leadership at a local level. This should encompass any matters affecting local communities; customary law and the customs of communities observing a system of customary law (such as TMC).

At provincial level there a number of Acts that are in line with *Article 24(3)* of the CRC and *Article 21(1)* as provided in the African Charter particularly in those provinces where TMC is still being practiced. For instance, implementation of provincial frameworks to regulate, guide and safeguard TMC in South Africa emanates from the concerns and observations that have be made particularly in grey literature that there exist diverse cultural subtleties and challenges cutting across the provinces. Therefore, it is strategic to cater to these issues at a provincial level (De Niro 2018) through the following Acts. These are:

- *Free State Province - Initiation School Health Act No. 1 of 2004;*
- *Northern Province Circumcision Schools Act No. 6 of 1996;*
- *Eastern Cape Province - Application of 15 Health Standards in Traditional Circumcision Act No. 6 of 2001 and*
- *Eastern Cape Customary Male Initiation Practice Act 5 of 2016*

The core functions of these provincial legislations is to provide appropriate regulations and guidelines for TMC while identifying ways to redress the existing underlying forces surrounding the practice in a negative manner, these include:

- examination of the initiate by the health practitioner prior to the circumcision practice;
- granting of permission for circumcision itself;
- information on the traditional surgeons and nurses and initiation school operations; and
- acquiring consent from the parents especially for the underage boys, as stipulated in the legal frameworks (Application of Health Standards in Traditional Circumcision Act 2001).

On this basis, the preceding instruments draw inspiration from regional and international instruments in ensuring that TMC is aligned with international human rights norms and values. For the purpose of this study, the aforemen-

tioned legal obligations, especially the Eastern Cape Application of Health Standards in Traditional Circumcision Act of 2001 and the most recent Eastern Cape Customary Male Initiation Practice Act 5 of 2016 are relevant in identifying the missing gaps. Moreover, both Acts are frameworks which may assist to pinpoint loopholes on how despite their existence, TMC fails to uphold and respect human dignity and integrity particularly for those initiates that undergo TMC and in the process become victims of grim and permanent damages. Thus, the review further gives an overview of the intrinsic difficulties that have arisen in relation to TMC in the Eastern Cape despite measures put in place to extricate this problem. This is despite South Africa being a cosigner of international and regional conventions such as CRC, ACRWC and UNCAT within its domestic territory.

In addition, the researchers' argument emanates from the accusations that South Africa, particularly the Eastern Cape Province finds itself by being at the centre of a polemic debate concerning its failure to come up with drastic measures on this topical issue as enjoined by the supreme law of the country (Douglas and Maluleke 2016). This according to the researchers' views is divergent with what is captured in *Section 10, 11* and *12* of the constitution. This has led scholars such as De Niro (2018) interrogating if at all TMC is compatible with international children's (initiates) rights. Reason being currently, there is flagging credence which is aligned with the practice due to its antithetical consequences. This has led to the practice being questioned of its relevance in the 21st century particularly for those initiates under the age of 16 who are exposed to a number of health complications which in the process has violated their right to human dignity and security of person.

Objectives of the Study

- To identify the effects TMC as a violation of human rights and dignity; and
- To find out the strategies that can be implemented to uphold the TMC and promote human rights and dignity.

METHODOLOGY

The study was designed to be a desktop review. Data were collected using extant literature comprising of journals, articles, reports, books, electronic media as well as international, regional, national and provincial legislatives. This allowed for the convergence of multiple insights concerning TMC from a human rights perspective.

OBSERVATIONS AND DISCUSSION

Effects of TMC as a Violation of Human Dignity

Traditional Male Circumcision continues to be aligned with severe complications, hence, its criticism for being a perilous practice subsists (Peltzer et al. 2007). In 2010 Kepe's study revealed shocking statistics on adverse effects of TMC experiences by male initiates in Eastern Cape Province. The study found out that within a space of decade (1995 to 2005) a staggering 5 813 initiates were admitted in hospitals. Of this total, 281 had penile amputations whereas 342 deaths were reported due to blotched TMC. These results from Kepe study suggest that on average and, on a yearly basis the Eastern Cape had 528.5 hospital admissions, 25.5 amputations and 31 deaths respectively. Vincent (2008) in his paper titled 'Cutting Tradition: The Political Regulations of Traditional Rites in South Africa Liberal Democratic Order' also reveals that during the 2005 winter circumcision season, a huge operation was put in place comprising of over 425 officials, eighty 4 X 4 vehicles and three helicopters responsible to rescuing initiates in trouble. In the process the Eastern Cape Health Department arrested ûfteen traditional health practitioners and rescued 535 boys who had been left to die in the bush after being circumcised. Undoubtedly, these statistics indicate gross dereliction by traditional health practitioners in failing to adhere to the right of initiates as stipulated in the CRC, *Section 43(3)* of the National Health Act and *Section 7(2)* of the constitution.

Wilken (2014) also conducted a study in Eastern Cape and Limpopo Provinces. The participants of the study were aged between 15 and 35. The results revealed that, complications associated with TMC led to 56.2 percent initiates suffering from sepsis and 56.2 percent having their glands amputated. The study further highlights that 26.7 percent had their genitalia muti-

lated while, 10.4 percent were dehydrated. The study further noted that complications associated with TMC result from incomplete circumcision; reduced intake of fluids, initiates kept in outdoor camps, the use of unsterilized knives, and initiates being kept long in the forest before they are released (Wilken 2014). These numbers indicate not only a severe public health concern but failure by traditional leaders to uphold their duties as provided in *Section 212* of the Constitution.

Traditional Male Circumcision has also received negative publicity from electronic media. During June and July 2015, about 34 boys died resulting in a total of 153 fatalities of initiates since 2012. About 80 percent of these related deaths occurred in illegal initiation schools (Nicolson 2015). Meanwhile, as reported from *News24* by Adam Wakefield in 2015, the death toll of initiates during winter season in Port Elizabeth was 29 and in total 133 initiates were admitted in different hospitals in OR Tambo district. *Sunday Times*, on 19th of July 2017 reported that, an official commission of inquiry in Eastern Cape found out that, 400 boys died and 500,000 were hospitalised after attending winter initiation schools between 2008 and 2013 due to complications from infection after TMC. Similarly in December 2017, Feni reported that 3 initiates died in Mpondoland, two were underage and one committed suicide and that, a total of 19 traditional surgeons had been arrested in connection with the death of imitates. Whereas, Nini on the 28th of December 2017, reported through *DispatchLive* how an initiate was diagnosed with dry gangrene and his right hand was at the risk of being amputated after being severely beaten by his traditional nurses for oversleeping in his hut. News24, also reported on the 30th of September 2017 how an initiate woke up days later in a hospital with his manhood damaged after being severely beaten with each of his legs tied with a rope to a pillar inside the initiation school. On the 12th of May 2018, *Mail and Guardian* reported that a father of young men aged 19 and 26 found his sons badly beaten on their freshly circumcised genitalia because they came from a different village. These according to the researchers' are just but a few examples from the extant literature and media reports on the effects of TMC and why it is paramount that measures to mitigate this practice are identified and implemented using a human rights perspective. Reason being:

- The age of some of the participants who undergo TMC is not commensurate Children's Act No.38 of 2005 which prohibits children below the age of 16 years to undergo circumcision;
- The mushrooming of bogus initiation schools and arrest of traditional surgeons due to death of some initiates does not endorse what is stipulated in the Eastern Cape Province - Application of 15 Health Standards in Traditional Circumcision Act No. 6 of 2001 and Eastern Cape Customary Male Initiation Practice Act No 5 of 2016; and
- The inhuman treatment subjected to the initiates to deviates from *Article 5* of UDHR of 1948.

However, scholars (Douglas 2013; Kepe 2010; National Department of Health 2013) allude to the fact that the existing problems emanate from the fact that TMC has been commercialized and is being conducted without any guidance from traditional leadership. As a result, the rite is becoming like a death chamber where a number of the initiates succumb to death, have their male organs dysfunctional (Mpateni and Kang'ethe 2020: 80). This has led to the existence of a number of proscribed initiation schools which are run by ill experienced traditional surgeons who expose initiates to inhuman treatment; and disregard of right to life. For instance, it has been alleged that some of the initiates are circumcised by drunken traditional surgeons and in some cases, car safely belts were being used as bandages. In addition, concerns have been raised that (Vincent 2008) death tolls continue to be on the rise because primitive and brutal practices with disregard to individual human rights were being used.

Nkhwashu and Sifile (2015) concur that the rampart spread of commercialisation of TMC with a component of criminalization puts the right to human dignity and security of person at risk for the initiates. Studies also show that the same knife is used for a whole group of initiates, leading to high exposure of HIV/AIDS for the initiates. Mpateni and Kang'ethe (2020) further

advance that misleading teachings during the initiation process are the cause of initiates contracting HIV/AIDS. Clearly, this shows the lack of training, adherence to health measures on the part of some traditional practitioners (Anike et al. 2013; Oomen 2002). Yet, it is not a secret that this cultural practice falls under the legal jurisdiction of the traditional leadership who are well aware of what the Eastern Cape Customary Male Initiation Practice Act No 5 of 2016 demands. Ironically, the criminal justice system in South Africa seems to be tolerant; provides inexorable opportunities for more deaths and related implications (Douglas et al. 2018; Feni 2014). Moreover, this is an indication that there is incongruity by the public and the state regarding TMC at the expense of the South Africa's human rights record (Carotenuto 2012). Thus, it appears that the divide between TMC and how human dignity; bodily integrity and security of person can be promoted in the process is not clearly defined.

Unfortunately, this has led to TMC infringing on four core human rights documents namely: the *Universal Declaration of Human Rights, the Convention on the Rights of the Child,* the *International Covenant on Civil and Political Rights*, and *the Convention against Torture* in which South Africa is a signatory. This paper builds on these assertions and that the current picture on the ground indicates how the whole purpose of the law is being defeated causing a huge dent of the country's repute at international, regional and national level. Moreover, there are gaps showing failure to harness; uphold the sanctity of human beings and enumerate human rights principles in a concrete and absolute fashion due to the necessities of tradition (Maseko 2008; Moodley and Rennie 2018; Svoboda 2013).

In addition, the legislation has encountered resistance because it is viewed as interfering with the local custom, nonsensical, often shrouded in mystery and considered as sacred (Douglas et al 2018; Messiner and Buso 2007; Vincent 2008). For instance, another major challenge is hospitalization of the initiates which is considered culturally unacceptable among the amaXhosa. Thus, mere contact with western medication is viewed as a violation of the custom. Moreover, the criticism of the practice is yet to have any major impact on its popularity among the youth. This is evidenced by a study by Douglas and Hongoro (2016) titled '*The Consideration of Socioeconomic Determinants in the Prevention of TMC Deaths and Complications'*. These scholars found from a total of 1 038 initiates in their study that, 92.2 percent preferred TMC because of the social manhood values and benefits. This why it may be difficult to rally for the youth and men to buy-in any attempts to tamper with the practice as their beliefs are still embedded on their quest to meet their cultural aspirations and defend the practice on cultural grounds no matter the repercussions. Hence, it is not surprising that the enactment of the Children's Bill was met with outrage and resistance among those who style themselves 'traditionalists', arguing that state regulation of these practices contravenes the constitutional protection of their cultural rights (Vincent 2008: 78).

But the question is - should this be at the expense of the rights of an individual? Such as the right to health, right to life, protection from torture and harassment, the right to human dignity and humanity all of which are being denied to some initiates. To top it all, the extant literature about TMC is imperceptible concerning violation of rights of initiates or promoting human dignity and safeguarding the right to life and health. Furthermore, examples of the studies listed below are an indicator how TMC has been overshadowed by moral ethnicity at the expense human rights and dignity. These have largely focused on: Traditional Male Circumcision as a contested Practice (Lamont 2018); Morbidity and Mortality of Traditional Male Circumcision (Mogotlane 2004); The physical impacts of the traditional circumcision in comparison with medical circumcision (Bottoman et al. 2009); Psychosocial Effects of Traditional Male Circumcision (Nomngciyiya 2015); Complications of Traditional Male Circumcision (Anike et al. 2013); Predictors of Traditional Male Circumcision (Mangombe and Kalule-Sabiti 2018); Traditional Male Circumcision as a notion of manhood (Siweya et al. 2018); Citizenship in the times of HIV: Understanding medical male adult circumcision in South Africa, (Howard-Payne and Bownman 2018); Voluntary Medical Male circumcision in South Africa, Tanzania and Zimbabwe (Patel et

al. 2018); Perceptions of TMC among male university students, (Ntozini and Abdullahi 2018); and University Male student's perceptions on cultural relevance of TMC, East London, South Africa (Anathi 2015).

A cursory glance of the foregoing scholarly works reveals a dearth of issues pertaining to violation of human rights, protection of the initiates and promotion of human rights vis-a-vis their cultural rights during TMC. This pinpoints to the fact that amid this enduring and contested discourse on TMC there is need to challenge the existing status quo, promote human rights debate which is infused with the cultural rights of the amaXhosa. We cannot deny the fact that the South African constitution protects the male circumcision initiation schools because they form part of the cultural practice as stated in Section 30 and 31 of the constitution (Gudani 2011). However we would like to borrow from Vincent (2008: 80) who advances that:

"The distinction between legality and illegality that underpins this response (to TMC) evokes a wider discourse of human rights, the rule of law and the sanctity of human life, which is set up in contrast to its binary 'other': savagery, irrationality, superstition and outdated beliefs that endanger the well-being of citizens that tradition and cultural diversity are all very well but where mortality (morbidity) is in question, there can be no compromise".

From the foregoing it is clear that if ever there is going to be redress of the adverse effects that are currently associated with TMC then the proviso in the preamble of the Constitution of UNESCO which reads " the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern." should be adopted. Simply put, though it is critical that the cultural and customary rites are adhered to, it is equally important to embrace human rights values discourse (Nabudere 2005).

CONCLUSION

This review concludes that though the likelihood of deaths and other complications are preventable they continue to be the underlying social determinants that sustain the practice among the amaXhosa despite a wealth of human rights conventions that flow from international level right to national level. Peer pressure to fulfill the requirements of the custom; fear of rejection by peers should one fail the cultural prescriptions, ignorance and predetermined misconceptions carried from one generation at the expense of the right to life, health, security and human dignity take precedence. The review further concludes that neglect of after care and wound management by the young and inexperienced traditional attendants, commercialisation of the practice and abuse and maltreatment by traditional attendants is still rampant. This indicates failure to enforce of the Criminal Procedure Act No 51 of 1977 against perpetrators. Thus, a call is made to search for ways and means to mitigate the impact of the practice of TMC which is embedded within the language of human rights.

RECOMMENDATIONS

The researchers' discussion about TMC with a human rights perspective is likely to reflect on future trends of how the practice should be regulated and which implementing measures should be put in place. The review recommends that legal prohibition of TMC alone is not a panacea since this is a cultural practice that has been in existence for a long time. In order to influence, modify or extricate problems associated with it, there is need to mobilise, educate and raise awareness among all the stakeholders involved of the pros and cons of the practice. Medical practitioners need to play their meaningful role in advising traditional leaders who are the custodians of the cultural practice and alerting them on extant trends of TMC. Developing promotional material on protection of human rights and dignity of initiates in conjunction with TMC through health facilities is critical. All relevant stakeholders including parents should play their meaningful role in protecting and guarding the initiates against any form of abuse targeted to circumcision initiates. While TMC, as currently practiced, causes serious harm and violates a number of human rights conventions and treaties, prohibiting this practice is not the only way to prevent harm. With effective regulation and

management, the social good of protecting cultural practice can be achieved at the same time ensuring that human dignity of the initiates is promoted while, harm is minimised.

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