

# Freedom and the Dignity of the Poor: Against the Alien Abortion Agenda in Uganda

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## ABSTRACT

Uganda faces pressure by the West to accept reproductive technology, especially elective abortion, as the answer to the challenges of human sexuality. This pressure is well represented by the 2006 publication *Unintended Pregnancy and Induced Abortion in Uganda*. We offer a response and a call to take seriously the coherent philosophical position represented by the general rejection of abortion and other reproductive technologies in Uganda. We first examine the current legal and moral status of abortion in that country. We then compare the notion of freedom represented by *Unintended Pregnancy* with a thicker notion of freedom being worked out in Uganda, one that we believe offers a fairer understanding of the traditional and contemporary religious culture of Ugandans and that better addresses the many societal issues related to sexuality that impinge on the freedom and dignity of Ugandan women.

LIKE MANY NATIONS in the developing world, Uganda is in the midst of a debate regarding the proposed decriminalization of elective abortion. The prevailing cultural understanding and legal status of abortion in Uganda is being challenged, in large part by foreign governmental aid agencies and non-governmental organizations. These organizations argue that the large percentage of poor women in Uganda suffer from a lack of freedom to make meaningful choices in their lives. Increased access to contraception, legal abortion, and high-quality post-abortion services are proffered as an essential part of a program to increase freedom in the lives of poor women. These practices will, it is argued, provide the poor with an increase in human dignity.

The question we wish to address is this: would the legalization of elective abortion and the widespread use of other reproductive technologies add to the real freedom of poor women in Uganda? In order to

answer this question, we intend to examine the nature of freedom. We hope to compare the freedom and dignity currently experienced by the poor in Uganda with the freedom and dignity proposed by those arguing for increased access to abortion. We will challenge the paternalistic notion that the poor are unable to make meaningful moral choices, a notion that robs the poor of their dignity. Ultimately, we will argue for a moral rather than a technical solution to the real problems affecting women in Uganda.

To inform our discussion of these issues, it is necessary to consider the current state of the law relating to contraception and abortion and the cultural and ethical assumptions upon which the law is based. Accordingly, this paper will be in two parts. In part one, we will describe, first, the state of the law, its jurisprudential derivation from British law, and possible avenues for the development of the law and, second, some fundamental tenets of African culture and ethics relevant to the questions at hand. In part two, we will turn to our critique of the idea of freedom proffered in the 2006 report by the Guttmacher Institute, *Unintended Pregnancy and Induced Abortion in Uganda*, as compared with a more complete understanding of freedom for the people of Uganda.

### *Part One*

#### THE LEGAL STATUS OF CONTRACEPTION AND INDUCED ABORTION

Contraception is legal in Uganda. Moreover, certain forms of contraception, including but not limited to condoms, are widely available there. Indeed, such forms of contraception are not only widely accessible but are provided by foreign governmental aid agencies and non-governmental organizations as well by the government of the Republic of Uganda.<sup>1</sup>

Induced abortion, on the other hand, is illegal in Uganda, except in certain, quite limited, circumstances. Moreover, the Constitution of the Republic of Uganda<sup>2</sup> contains a provision that prevents the judiciary from recognizing a constitutional right to induced abortion. However, the relevant statutory law, which has been interpreted by reference to case law

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<sup>1</sup> *Abortion Policies: A Global Review* (New York NY: U.N. Population Division; Dept. of Economic and Social Affairs), [www.un.org/esa/population/publications/abortion/doc/uganda.doc](http://www.un.org/esa/population/publications/abortion/doc/uganda.doc).

<sup>2</sup> *Constitution of the Republic of Uganda*, 1995 (Kampala: Fountain Publ., 2002).

originating in the United Kingdom, may be sufficiently broad to permit a more liberal interpretation, which would have the effect of liberalizing the law relating to induced abortion. Indeed it is exactly this—a liberalization of the practice without a change of the Constitution or the relevant laws—that representatives of donor governments and non-governmental organizations have urged on the government of Uganda.<sup>3</sup>

#### THE CONSTITUTION

In considering what the Constitution of the Republic of Uganda does and does not say about the practice of induced abortion, it is worth noting the emphasis in the Constitution on the rights and interests of women. Article 33 of the Constitution, which is titled “Rights of Women,” states that “[w]omen shall be accorded full and equal dignity with men.”<sup>4</sup> Indeed, Article 33 is arguably quite radical, transcending the traditional understanding of constitutional law by asserting the authority not merely to bind government but to change culture. By its terms, Article 33 is not limited to the question of the status and standing of women before law but addresses their place in society more generally, stating that “[l]aws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status, are prohibited by this Constitution.”<sup>5</sup> However, while Article 33 is intended to ensure the equality of women, it also recognizes their unique, maternal role: “[t]he State shall protect women and their rights, taking into account their unique status and natural maternal functions in society.”<sup>6</sup> This provision, which would perhaps be considered offensive to many in the West, is quite consistent with African culture’s emphasis on fertility, which we will consider below.

The emphasis in the Constitution on the rights of women is not limited to Article 33. This emphasis is expressed in other provisions

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<sup>3</sup> Agness Nandutu, “Ministry of Health Study Wants Abortion to be Legalized,” *The Daily Monitor*, Kampala, (27 Sept. 2005): “The Norwegian MPs called for legal abortion in accordance with the existing legislative framework.”

<sup>4</sup> *Constitution*, Art. 33(1), 30.

<sup>5</sup> *Constitution*, Art. 33(6), 30 (emphasis added).

<sup>6</sup> *Constitution*, Art. 33(3), 30.

relating to human rights and freedoms; for example, the Constitution explicitly states that men and women “are entitled to equal rights in marriage, during marriage and at its dissolution.”<sup>7</sup> And this emphasis is expressed in the structural provisions of the Constitution; for example, the members of Parliament include “one woman representative for every district,” which is intended to ensure the adequate representation of women in the national legislature.<sup>8</sup> Thus, it is not for nothing that the chairman of the Legal and Drafting Committee that produced the Constitution, Justice G.W. Kanyeihamba, writes that “[p]erhaps the greatest innovation introduced and practiced by the National Resistance government in Uganda has been the recognition and full acceptance of women as equal partners and full participants in the social, political and economic affairs of the country.”<sup>9</sup>

All of which is to say that the drafters of the Constitution were neither ignorant of nor indifferent to the particular concerns of women. On the contrary, they drafted a document that, when understood in its cultural context, is quite liberal and perhaps even radical in the manner in which matters sexual are addressed.<sup>10</sup> And yet, despite the Constitution’s emphasis on the rights and interests of women, and despite the exhaustive and comprehensive nature of the document itself, running as it does to 171 pages, exclusive of schedules, nowhere does the Constitution explicitly refer to or recognize a right to induced abortion.

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<sup>7</sup> *Constitution*, Art. 31(1), 29.

<sup>8</sup> *Constitution*, Art. 78(1)(a), 49.

<sup>9</sup> G.W. Kanyeihamba, *Constitutional and Political History of Uganda: From 1894 to the Present* (Kampala: Centenary, 2002), p. 263.

<sup>10</sup> The implications of this radical—in the Ugandan cultural context—view of the sex and sexuality are still being worked out. Only recently, the Constitution Court ruled invalid the criminal law relating to adultery. However, the law was not struck down because of an explicit or implicit right to privacy in sexual matters, and there is a broad consensus that a revised law criminalizing adultery will be enacted by Parliament and upheld by the courts. On the contrary, the law, which criminalized adultery by (or with) a married woman but not adultery by (or with) a married man, was struck down because it discriminated on the basis of sex. Lominda Afedraru, “Adultery No Longer a Crime, Says Court,” *The Daily Monitor*, Kampala (6 Apr. 2007); see also *Laws of Uganda (2000)*, Cap.120, §154.

Of course, any constitutional lawyer can see the possibilities that Article 33, relating to the rights of women, offers for arguing that the courts should recognize an implicit constitutional right of access to induced abortion. The arguments that women cannot be truly equal to men without reproductive rights, including the right of access to induced abortion, are too numerous and too well-known to merit mention. Moreover, Article 45 of the Constitution reads as follows:

The rights, duties, declarations and guarantees relating to the fundamental and other human rights and freedoms specifically mentioned in this Chapter shall not be regarded as excluding others not specifically mentioned.<sup>11</sup>

This provision is textually similar to the Ninth Amendment of the U.S. Constitution and may be treated similarly; i.e., largely ignored, except when brigaded with another, more explicit constitutional provision such as Article 33. Article 45 does seem to give some additional weight to the statement of Justice Kanyeihamba, that “[t]he Constitution is an ambulatory living instrument for the good governance, liberties, welfare and protection of all persons in Uganda.”<sup>12</sup> Thus, if the Constitution were silent about abortion, it would seem that a reasonable case could be made before the Constitutional Court that the Constitution recognizes and protects an implicit right of access to induced abortion.

Unfortunately for those who might advocate for the recognition of an implicit constitutional right of access to induced abortion, however, the Constitution is not silent with regard to abortion. On the contrary, Article 22, titled “Protection of Right to Life,” includes the following provision: “No person has the right to terminate the life of an unborn child except as may be authorised by law.”<sup>13</sup> Again, this provision is noteworthy, with regard to what it does not do as well as with regard to what it does.

First, let us consider what Article 22(1) does not do. It does not settle the question of the legal status of induced abortion. It certainly does not recognize a “right to abort.” Nor yet does it ground a “right to life”

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<sup>11</sup> *Constitution*, Art. 45, 33.

<sup>12</sup> Kanyeihamba, *Constitutional History*, p. 257.

<sup>13</sup> *Constitution*, Art. 22(2), 21.

attaching to all unborn persons. The concluding words, “except as may be authorised by law,” clearly imply that the political branches of government can permit abortion. There is no stated limit, in Article 22(1) or elsewhere in the Constitution, that would constrain the Parliament and President in the creation of a statutory right of access to induced abortion.

Now let us consider what Article 22(1) does, which is this: it determines the manner in which the contentious issue of abortion is to be settled. Article 22(1) is, in that sense, a structural provision rather than the articulation of a constitutional or human right, notwithstanding its place in the Constitution. By stating that there is no constitutional right of access to induced abortion and that the provisions of the Constitution relating to, *inter alia*, women’s rights should not be construed in such a manner as to create such a right, Article 22(1) politely but firmly tells the judiciary not to intervene to decide the question of the legal status of induced abortion, which is entrusted to the Parliament.<sup>14</sup> This may well be, at least in part, a response to the role of the judiciary in the abortion debate in the U.S. and in particular the effort of the U.S. Supreme Court not only to answer the question of the legal status of induced abortion but to “call the contending sides of a national controversy to end their national division by accepting a common mandate rooted in the Constitution.”<sup>15</sup> Neither prescribing nor proscribing the practice of induced abortion, nor yet committing the issue to the judiciary, the Constitution of the Republic of Uganda leaves the issue firmly in the hands of the political branches of government.

#### THE LAWS OF UGANDA

Since the Constitution commits the issue of induced abortion to the Parliament, it is necessary to turn to the laws of Uganda. At first blush, the law is quite stark: participation in abortion, whether by the one who performs an abortion, by the one whose pregnancy is terminated, and by the one who provides material aid for an abortion, is a felony. Specifi-

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<sup>14</sup> This is not to say that the judiciary has no role. As we will see below, there is still the question of statutory interpretation.

<sup>15</sup> *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 501 U.S. 833, 866-67 (1992).

cally, “attempts to procure an abortion,” presumably by someone other than the pregnant woman, is a felony punishable by up to fourteen years imprisonment.<sup>16</sup> The “procuring [of a] miscarriage” by a pregnant woman is a felony punishable by up to seven years imprisonment.<sup>17</sup> And “supply[ing] drugs, etc. to procure abortion” is likewise a felony, punishable by up to three years imprisonment.<sup>18</sup> However, it is important to note that each of Sections 141, 142 and 143 of the Penal Code Act<sup>19</sup> refer to the “unlawful” administration of an abortion, thereby suggesting that, under certain circumstances at least, those acts could be lawful.

Section 224 of the Penal Code Act sets out those circumstances in which an induced abortion is legal. Specifically, Section 224 reads as follows:

A person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon any person for his or her benefit, or upon an unborn child for the preservation of the mother’s life, if the performance of the operation is reasonable, having regard to the patient’s state at the time, and to all the circumstances of the case.<sup>20</sup>

This provision, while delicately declining to name the practice, permits surgical abortion, but only if the abortion is performed “for the preserva-

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<sup>16</sup> *Laws of Uganda (2000)*, Cap.120, §141: “Any person who, with intent to procure the miscarriage of a woman whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means, commits a felony and is liable to imprisonment for fourteen years.”

<sup>17</sup> *Laws of Uganda (2000)*, Cap.120, §142: “Any woman who, being with child, with intent to procure her own miscarriage, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other means, or permits any such things or means to be administered to or used on her, commits a felony and is liable to imprisonment for seven years.”

<sup>18</sup> *Laws of Uganda (2000)*, Cap.120, §143: “Any person who unlawfully supplies to or procures for any person any thing, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, commits a felony and is liable to imprisonment for three years.”

<sup>19</sup> *Laws of Uganda (2000)*, Cap.120.

<sup>20</sup> *Laws of Uganda (2000)*, Cap.120 §224.

tion of the mother's life." Moreover, Section 224 takes into account the ambiguities of medical practice insofar as it deals in probabilities rather than certainties. Accordingly, so long as the abortion is "perform[ed] in good faith and with reasonable care and skill," the abortionist is not exposed to criminal liability. However, some matters of statutory interpretation remain. In particular, how should the word "life" be construed? In order for an abortion to be deemed to be performed "for the preservation of the mother's life," does the mother have to face an immediate and probably threat of death? Or, does a more distant and/or less serious threat to the health of the mother suffice?

The courts of Uganda have not issued any decisions that interpret Section 224. However, the law of Uganda with regard to abortion is taken essentially verbatim from the law of the United Kingdom. Specifically, Sections 141, 142, and 143 of the Penal Code Act are based upon the (U.K.) Offenses Against the Person Act 1861, while Section 224 is based upon the (U.K.) Infant Life (Preservation) Act 1929. Accordingly, in this area of the law as in many others, it is appropriate to consider precedents from the United Kingdom, and in particular to consider cases that were decided before the independence of Uganda.

The leading case, construing the British precursors of Sections 141 and 224 of the Penal Code Act, is *Rex v. Bourne*.<sup>21</sup> In that case, a medical doctor was charged with unlawfully procuring the abortion of a fifteen-year-old girl. There is no indication in the decision of the court that the pregnancy posed a risk to the life or physical health of the girl, although the court did mention the physical and other risks of the delivery of a child by one so young.

The Lord Justice Macnaghten makes two crucial points in his decision. First, he draws a sharp distinction between the practice of induced abortion by untrained abortionists, on the one hand, and by trained medical professionals, on the other. In the case of the untrained abortionist "there is no pretence that [the abortion] is done for the preservation of the mother's life."<sup>22</sup> While in the case of the medical professional, "[a] man of the highest skill, openly, in one of our great

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<sup>21</sup> 1 K.B. 687, 3 All E.R. 615 (1939).

<sup>22</sup> 3 All E.R. 615, 617.

hospitals, performs an operation as an act of charity, without fee or reward, and unquestionably believing that he [is] doing the right thing, and that he ought, in the performance of his duty as a member of a profession devoted to the alleviation of human suffering, to do it.”<sup>23</sup> Accordingly, the court echoes and, if anything, amplifies the deference to the medical profession that is reflected in the statute.

Next, Macnaghten offers an expansive definition of the “life” of the mother. He concedes that “[the statute] does not permit the termination of pregnancy except for the purpose of preserving the life of the mother.”<sup>24</sup> But he goes on to say, “I think that those words ought to be construed in a reasonable sense, and, if the doctor is of opinion, on reasonable grounds and with adequate knowledge, that the probably consequence of the continuance of the pregnancy will be to make the woman a physical or mental wreck, the jury are quite entitled to take the view that the doctor, who in those circumstances, and in that honest belief, operates, is operating for the purpose of preserving the life of the woman.”<sup>25</sup> In short, the word “life” is best construed, according to Macnaghten, not merely as continued survival but as health and wholeness more generally.

The courts of Uganda have never relied on *Bourne*. And the consensus of most commentators, on both sides of the abortion debate, is that the courts of Uganda would be very reluctant to follow *Bourne*, at least with regard to the very broad construction of the language “preserving the life of the mother” to include physical and mental health generally.<sup>26</sup> Accordingly, most people consider the current state of the law in Uganda to proscribe abortion, except when necessary to save the life of the mother, in a literal sense. However, construing nearly identical statutes, and without recourse to constitutional law and the language of rights, the courts of the United Kingdom achieved a significant liberaliza-

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<sup>23</sup> 3 All E.R. 615, 616.

<sup>24</sup> 3 All E.R. 615, 618.

<sup>25</sup> 3 All E.R. 615, 618.

<sup>26</sup> See Singh et al., *Unintended Pregnancy*, p. 4: “Abortion is banned in Uganda (except to save a woman’s life).” See also Lillian Tibatemwa-Ekirikubinza, *Homicides and Non-fatal Assaults in Uganda* (Kampala: Fountain Publishers, 2005), pp. 125-28.

tion of the law and practice with regard to induced abortion. The courts of Uganda could, if they were so inclined, follow the path already blazed.<sup>27</sup> Indeed, as we noted above, this is exactly what representatives of at least one donor government have recommended.

#### ABORTION, CONTRACEPTION AND AFRICAN CULTURE

If the laws criminalizing abortion were merely a reflection of the lingering colonial influence of Victorian Britain, it would be reasonable to assume that Uganda's restrictive abortion laws eventually and naturally would be amended, repealed, or liberally interpreted, along the lines of *Bourne*. However, if such laws are consistent with Ugandan cultural norms, then it stands to reason that such laws may be retained and strictly enforced, despite later developments in the jurisprudence of the colonial power.<sup>28</sup>

Ugandan culture, like all African culture, is deeply religious. The

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<sup>27</sup> There is a key distinction between the law of Uganda and the former law of the United Kingdom, as construed by the *Bourne* court, that made it easier, perhaps, for the courts of the United Kingdom to achieve such a liberalization of the law of induced abortion. Under the (UK) Infant Life Preservation Act 1929, it was necessary to prove that "the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother" as an element of the crime. 3 All E.R. 615 at 620. Section 224 of the (Uganda) Penal Code Act, on the other hand, is best read, not as enumerating an element of the crime, but as establishing an affirmative defense. Obviously, this distinction makes a profound difference in the likelihood of a successful prosecution, which would seem to be almost nil in the United Kingdom. The breadth of "good faith" in British abortion law continues to be a contentious issue, under a new statutory regime. Recently, an otherwise illegal late term abortion was performed, based upon the doctor's understanding that a cleft palate constitutes a serious disability, as that term is defined in the (UK) Abortion Act 1967. The authorities declined to prosecute the case, despite that fact that a cleft palate was determined not to constitute a serious disability under the Act, because the doctor was deemed to have acted in good faith.

<sup>28</sup> There is disagreement whether it is ever to speak of African culture and ethics in the singular, given the cultural diversity of sub-Saharan Africa. However, we will follow Bénézet Bujo, who, in his *Foundations of an African Ethic: Beyond the Universal Claims of Western Morality*, trans. by Brian McNeil (Nairobi: Paulines, 2003), speaks of a single African that transcends regional and tribal differences.

population of Uganda is overwhelmingly Christian. Specifically, 83.9% of the population is Christian, 12.1% is Muslim, and 3.1% practice other religions, while less than 1% has no religious affiliation.<sup>29</sup> Not only do people largely identify themselves as religious believers, the role of religious faith in all of life, including public life, is much more pronounced than in the West. Obviously, the influence of Islam and particularly Christianity is extensive and informs the judgment of most Ugandans on moral and ethical questions, including those of abortion and contraception. The second part of this paper will address in more detail the manner in which the Christian religion and moral tradition is brought to bear on the questions of abortion and contraception in Uganda.

Very few Ugandans identify themselves as adherents to African traditional religion. However, many continue to practice African traditional religion in addition to Christianity or Islam. And even those who have rejected the practices of African traditional religion are informed by African culture and ethics. Accordingly, it is appropriate to consider the manner in which abortion and contraception are addressed in African culture and ethics in order to determine whether Uganda's law reflect the Ugandan people's traditional African culture as well as their contemporary religious affiliations.

Broadly speaking, African culture and ethics oppose the practices of contraception and induced abortion. While both have been practiced since time immemorial<sup>30</sup> and continue to be common in Uganda,<sup>31</sup> the practices are taboo and subject to varying measures of shame or punishment, if discovered.<sup>32</sup> But it is not sufficient to state that the practices are taboo. It is necessary to consider why the practices are taboo and why the practices of contraception and abortion contravene the most fundamental tenets of

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<sup>29</sup> *2002 Census* (Kampala: Uganda Bureau of Statistics, 2003).

<sup>30</sup> Benezeri Kisesembo, Laurenti Magesa, and Aylward Shorter, *African Christian Marriage*, 2d ed. (Nairobi: Paulines, 1998), p. 190, discussing herbal "contraceptives," which most likely refers to the traditional practice of giving a pregnant woman certain herbs to induce abortion.

<sup>31</sup> Laurenti Magesa, *Anatomy of Inculturation: Transforming the Church in Africa* (Nairobi: Paulines, 2004), p. 86.

<sup>32</sup> Singh et. al., *Unintended Pregnancy*, p. 8.

African ethical thought.<sup>33</sup>

African culture and ethics emphasize the priority of community. In most Western ethics, the foundational anthropological principle is the individual, who can and does form communities. In African ethics, the case is reversed. “The individual can only say: ‘I am because we are; and since we are, therefore I am’”. This is a cardinal point in the understanding of the African view of man.”<sup>34</sup> It is participation in community—communities, really, including family, clan and tribe—that constitutes an individual. For this reason, one of the most serious punishments, if not the most serious punishment, is exile from the community. An outcast is literally unmanned, less than fully human. “You are a person with others, alone you are an animal.”<sup>35</sup>

It also is important to consider the scope of the community, as understood in African culture and ethics. The community transcends the living. The community includes the ancestors—the living dead who continue to exist in relationship with and through the living.<sup>36</sup> And the community includes the unborn (indeed, the yet-to-be conceived)—those who will succeed the living in the ongoing chain of life.<sup>37</sup>

Finally, it is necessary to apprehend the role of the living in the community. The role of the living is to serve as the essential bridge between the living dead and the unborn by marrying and bearing children. In this way, the living continue unbroken the chain of life that stretches across the generations. Thus, according to Richard Rwiza, “[t]he basis of

<sup>33</sup> When considering the reasons for the stigma attached to abortion in Uganda, the authors of *Unintended Pregnancy and Induced Abortion in Uganda* refer to the religious constitution of the population of Uganda. However, they never address the African culture and ethics, which continue to inform the adherents of all those religions, whether indigenous or foreign. Singh et al., *Unintended Pregnancy*, p. 8.

<sup>34</sup> John Mbiti, *African Religions and Philosophy* (Nairobi: East African Educational Publishers, 2002), pp. 108-09.

<sup>35</sup> Laurenti Magesa, *African Religion: The Moral Traditions of Abundant Life* (Maryknoll NY: Orbis Books, 1997), p.128, quoting a proverb of unknown origin.

<sup>36</sup> Bénézet Bujo, *The Ethical Dimension of Community: The African Model and the Dialogue Between North and South* (Nairobi: Paulines, 1997), pp. 15f.

<sup>37</sup> Mbiti, *African Religions*, p. 107.

African morality is the promotion of human life. Fecundity is a matter of individual and communitarian survival at the same time. Child bearing constitutes a basic ingredient of a successful marriage. It makes the existential link between the departed, the living and the unborn.”<sup>38</sup> Fertility is central to African culture and ethics.

Let us consider corporate and individual survival. The manner by which the living ensure the survival of the community is self-evident; the living bear the children who will become the next generation of the community and who will in turn take up their responsibility to maintain unbroken the chain of life. The manner by which the living ensure the survival of individual members of the community is perhaps more subtle. Immortality, as understood in African culture, is not about existence in some heavenly realm. Rather, individual immortality is anamnestic; it is as the departed are remembered by the living that they continue to be present. “Unfortunate, therefore, is the man or woman who has nobody to ‘remember’ him (her) after physical death.”<sup>39</sup> It is family who will remember the departed. Indeed, this anamnestic function is aided by naming customs—to give one example among many, children in certain cultures are named after their grandparents—and the practice of identifying certain children with the departed, because of shared characteristics.<sup>40</sup>

Several important implications follow from the African understanding of the importance and scope of community, and the role of the living in its survival, implications that inform the traditional African view of contraception and abortion. Perhaps the most important such implication, and the most jarring to individualistic, Western sensibilities, is this: sexuality is not private; it is not an expression of individual choice. In African culture and ethics, sexuality is a public matter, a social responsibility. “African communities are interested in the sexual lives of all their members, since sexuality is not a private matter. The goal of sexuality is to keep together the community entrusted to us by our ancestors and to

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<sup>38</sup> Richard N. Rwiza, *Formation of Christian Conscience in Modern Africa* (Nairobi: Paulines, 2001), p. 31.

<sup>39</sup> Mbiti, *African Religions*, p. 134.

<sup>40</sup> Mbiti, *African Religions*, pp. 118-19.

bestow ever new life on this community.”<sup>41</sup> Accordingly, the language of sexual autonomy, so central to the Western understanding of contraception and abortion, is foreign. African culture and ethics are much more likely to speak in terms of sexual responsibility, to speak of the importance of subordinating individual choices and desires to the continued life of the community.

The public character of sexuality extends to children, who are viewed as the proper fruit of marriage and sexuality.<sup>42</sup> Children are not mere creatures of their biological parents. Rather, “[c]hildren are the buds of society.... A child cannot be exclusively ‘my child’ but only ‘our child’.”<sup>43</sup> Parents do not have exclusive, absolute or arbitrary authority over children. And, as stated above, “children” includes the unborn, indeed, even the unconceived. “[The] African concept of the family also includes the unborn members who are still in the loins of the living.”<sup>44</sup>

There is a significant likelihood of confusion regarding the moral status of the unborn in African culture and ethics. On the one hand, the unborn are not necessarily understood to be persons in an individualistic and Western sense. Indeed, even the born are not necessarily understood in this way. In some cultures, an infant is not named for three months, and is not mourned if he or she dies before naming. Indeed, in most cultures, an individual does not attain complete personhood until some time well after his or her birth. “Birth is a slow process which is finalized long after the person has been physically born. In many societies, a person is not considered a full human being until he has gone through the whole process of physical birth, naming ceremonies, puberty and initiation rites, and finally marriage (or even procreation). Then he is fully born, he is a complete person.”<sup>45</sup> Thus, the moral significance of the unborn is not based upon an individualistic criteria for personhood such as conception, quickening, viability, birth or, as some would have it, the ability to

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<sup>41</sup> Bujo, *Foundations*, p. 59.

<sup>42</sup> Generally, a marriage is not complete until a child has been born. Laurenti Magesa, *African Religion*, p. 127.

<sup>43</sup> Mbiti, *African Religions*, p. 110.

<sup>44</sup> Mbiti, *African Religions*, p. 107.

<sup>45</sup> Mbiti, *African Religions*, p. 25.

express preference. Rather, the moral significance of the unborn is related to their role in the drama of life. But this is not to say that they are not real members of the community, if in an anticipatory way. Indeed, their participation in the community is assumed, and the destruction of unborn life, and even its prevention by, for example, a failure to marry and bear children, is considered to be “the *death* of the unborn and a diminishing of the family as a whole.”<sup>46</sup>

#### THE RELATIONSHIP OF AFRICAN CULTURE AND CHRISTIAN CONFESSION

The vast majority of Ugandans are Christian. At the same time, they are African, and the influence of African culture and ethics abides. Accordingly, it is appropriate to give at least cursory consideration to the interplay of African culture and Christian confession in Uganda. There are certainly divergences between African culture and Christian confession, particularly with regard to the important cultural and ethical questions raised by sexuality. Consider the practice of polygamy. On the one hand, the Church condemns the practice as being inconsistent with the natural law, human dignity, and the teaching of the Church in Scripture and tradition.<sup>47</sup> On the other hand, African culture affirms the practice for a variety of reasons, including reasons relating to the importance of fecundity, as set forth above. This has led to moral confusion and even conflict, as African Christians can find themselves torn between the demands of culture and confession.

The case with regard to induced abortion, however, is quite different. In general terms, the dictates of African culture and Christian confession are consistent, both being opposed to the practice of induced abortion. Admittedly, the Christian critique of abortion, especially in the contempo-

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<sup>46</sup> Mbiti, *African Religions*, p. 107 (emphasis added).

<sup>47</sup> The Church does acknowledge the pastoral dimension of the question of polygamy. Generally, ecclesial communities do not allow polygamists to be communicant members, much less participate in lay or ordained ministry. However, polygamists are not encouraged to abandon all of their wives but one, which would impoverish the abandoned wives and their children. Rather, polygamists are encouraged to provide support—financial and social—to all of his wives and their children, while enjoying a conjugal relationship with only the first wife.

rary West, has largely been articulated in terms of the rights and dignities of the unborn child, as a person while the African critique of abortion is related to role of the unborn more generally in the drama of life that is society.<sup>48</sup> But it is fair to say that culture and confession are best described as complementing each other. Accordingly, rather than the (relative) moral confusion that can attend the issue of polygamy, African Christianity has achieved significant clarity with regard to the question of induced abortion that is consistent with its understanding of the dignity of the individual human person, created in the image of God, as well as its understanding of responsibilities we bear in and to community to bear and transmit life.

The manner in which African culture and ethics, on the one hand, and Christian confession, on the other, interact with regard to contraception is more complex and ambiguous. Both African culture and ethics and traditional Christian confession have been quite skeptical of the practice, at the very least. The concerns for both are similar; the high value placed on fertility—the conviction that children were a proper fruit of sexuality—as well as concern about morality—the concern that dissociating sexuality and fertility would permit sexual partners to use one another merely for pleasure. However, many Christians, laypeople and leaders, Protestants and Catholics, are rethinking this traditional skepticism. While the moral concerns about contraception abide, many Christians are open to the use of contraception, with significant qualifications.<sup>49</sup>

### *Part Two*

Those who wish to see a reduction in the cultural stigma against abortion

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<sup>48</sup> The communal critique of the practice of induced abortion can also be grounded in Christian confession and, in particular, the covenantal theology founded in the Old Testament and expressed in the doctrine of the Church, although some scholars would argue that the Old Testament's emphasis on fertility and the begetting of biological children is de-emphasized in the New Testament, where the emphasis is on a form of spiritual fatherhood and childhood. In either event, Christianity is fundamentally communal, even if the community is constituted differently in the New Testament. Sadly, the communal nature of Christianity has been ignored all too often in the West.

<sup>49</sup> See, e.g., Kisembo et. al, *African Christian Marriage*, pp. 184f.

and more widespread acceptance and use of contraception have noted that despite the state of the law in Uganda and despite the cultural beliefs about abortion and contraception, there is, in fact, a higher incidence of induced abortion in Uganda than the laws and cultural stigma would indicate. In other words, there is a gap between the theory and the practice. Moreover, these abortions are often performed in unsafe conditions and lead to maternal risk and even death. According to the authors of *Unintended Pregnancy in Uganda*, there are an estimated 297,000 abortions performed in Uganda each year.<sup>50</sup> Because of the social stigma surrounding abortion and the illegality of most abortions, the clandestine nature of the practice puts women at risk for serious health consequences. Therefore, there is pressure being put on the government and society of Uganda to change the law and to eliminate the social stigma. In this way, abortions could be obtained from trained professionals in a safe environment.

The leverage of foreign governments and non-governmental organizations is significant. 15.2% of Uganda's GDP is attributable to "official development assistance,"<sup>51</sup> and other forms of private and indirect aid are also significant. To put the matter more starkly, over one-half of the budget of the Government of Uganda is funded by foreign aid,<sup>52</sup> and the ambassador of at least one donor government reviews and approves the national budget.<sup>53</sup> Much of this aid is targeted to fight the scourge of HIV/AIDS, and the attempt to address the issues of abortion and contraception is generally seen as part and parcel of this effort. Accordingly, the incentives for policymakers to accept the Western agenda are great. The issue is presented as one of freedom for women, especially the poor, and of maternal health and well-being. Poor women

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<sup>50</sup> Singh et al., *Unintended Pregnancy*, p. 4.

<sup>51</sup> *Human Development Report* (New York: U.N. Development Program, 2003), [http://hdr.undp.org/statistics/data/cty/cty\\_f\\_UGA.html](http://hdr.undp.org/statistics/data/cty/cty_f_UGA.html).

<sup>52</sup> Approximately 52% of the budget of the Republic of Uganda is funded by foreign aid. See *Background to the Budget 2006/7 Fiscal Year* (Kampala: Ministry of Finance, Planning and Economic Development, 2006) and <http://devdata.worldbank.org/external/CPProfile.asp?CCODE=UGA&PTYPE=CP>.

<sup>53</sup> Based upon a private conversation with one of the authors.

are not free, it is argued, because they lack education, are more likely to marry early, and more likely to desire and conceive a large number of children. Education, especially about sex and contraception, will help them reduce family size and reduce the incidence of unintended pregnancies. Reduced conceptions and reduced unintended pregnancies will improve maternal health and well-being. Abortion is an unsafe, clandestine practice because there is widespread social stigma surrounding it, "even among highly educated individuals."<sup>54</sup> An overall change in the societal attitude toward abortion and contraception, it is argued, would make poor women safer and freer to make reproductive choices.

A close examination of these arguments and the assumptions behind them is warranted. We would like to look at several aspects of the argument, examine the nature of the freedom sought for women in Uganda, and offer a critique from a philosophical perspective.

There is a definition of freedom implicit in the literature. The authors of *Unintended Pregnancy in Uganda* call for:

Freedom from cultural stigma against abortion and contraception;  
Freedom to receive education;  
Freedom to marry later;  
Freedom to desire smaller families;  
Freedom from poor medical services; and  
Freedom from men's attitudes and practices.<sup>55</sup>

To examine these proposed goods or freedoms is to see that the problem is not so much unintended pregnancy as it is women needing to be rescued from a culture that puts more value on conception and fertility than the West feels is desirable. Women need freedom from that culture, it is argued, by being given more information. They are being kept in the dark. Men need freedom from the culture by a change in attitude. Interestingly, this dichotomy sends an unintended misogynistic message: women are passive and need to be told what to do; men are active and simply need to change their course of action. Men are assumed to have reasoned positions that need changing because they are wrong. Women are assumed to be

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<sup>54</sup> Singh et al., *Unintended Pregnancy*, pp. 7-8

<sup>55</sup> Singh et al., *Unintended Pregnancy in Uganda*, p. 28.

victims who simply need to be freed from ignorance.

What emerges is a truly confusing picture of women's freedom in Uganda. On the one hand, for example, the woman who seeks abortion is assumed to be a free agent in that decision. The 297,000 abortions currently sought clandestinely in Uganda are taken to be an unmet need and the desire of the women who seek them. On the other hand, the desire of rural women for larger families is seen to be a result of ignorance and a lack of freedom to make meaningful choices. Why should we assume that a woman who seeks an abortion is exercising freedom while a woman who desires a large family is acting under cultural compulsion or false consciousness? It is important to ask the question how many women seeking abortion are doing so out of pressure from boyfriends, husbands, or fathers. Perhaps they do not feel it is their choice, as they are unable to negotiate power within these relationships. It is also important to know that there are reasons why poor rural women desire more children. Historically, rural cultures have relied on children as an asset toward the future. An increased number of people in the family is seen as a solution to problems, not as the problem itself.<sup>56</sup> Children are welcomed just as guests are welcomed, whether planned ahead or not. There is an assumption among rural women that a good marriage will produce children and that breastfeeding practices<sup>57</sup> will space the children at a comfortable rate. To see these women as somehow less free than their Western counterparts because they choose to have large families is a failure to understand the culture in which they live, or perhaps simply to denigrate that culture. This characterization of poor women as disadvantaged assumes they are not free because they do not make the same choices as Western women. In fact, poor women have rejected and resisted the use of contraceptives, but not out of a lack of information.<sup>58</sup> Rural communities in Uganda have

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<sup>56</sup> Kisémbó et al., *African Christian Marriage*, p. 189: "The poorer people want large families because, when jobs are scarce, when illness is common and old age is early, children are necessary for protection, security and peace of mind."

<sup>57</sup> In certain African cultures, a woman may refrain from sexual intercourse until her child is weaned. Magesa, *African Religions*, p. 150.

<sup>58</sup> George Bitá, "Iganga Shuns Family Planning" in *New Vision*, Kampala (18 April 2007).

received much education about and donations of contraception. They have in large part chosen to reject them. The Western world sees this rejection as “superstition” and “ignorance.” When one examines the cultural and religious background behind the rejection, however, one sees that negative attitudes to Western practices are not largely based on superstition and ignorance but on a different anthropology. As indicated by the shocked tone in which we are told that there is “widespread social stigma surrounding abortion, *even among highly educated individuals*” in Uganda, it is against this anthropology that Western advocates are fighting.

When we examine this confusion about the freedom of women in Uganda and look closely at the goals and recommendations of the advocates for change, a picture begins to emerge of the exact nature of the freedom that is sought for Ugandan women. The freedom sought for women is very specific—it is simply a freedom from fertility. More precisely, freedom is sought from the burden fertility puts on women and men to make moral choices about sexuality. We shall argue that to define freedom in this way is to give an inadequate and problematic response to a set of real human challenges in Uganda. It is problematic primarily in its narrowness of scope, as it attempts to provide a merely technical solution to the problems of sex, rather than a moral response to the challenges of relationships and intimacy.

We would like to address three main failures of this approach. First, it fails to understand the important value placed on fertility as part of the dignity of woman in Uganda. Second, it fails to respect freedom of religion and the way the exercise of that freedom contributes to the public square a broader understanding of the human struggle and what it means to be free. Finally, in its attempt to provide freedom from moral choices about sexuality, it fails to understand how a thick view of freedom, which would be better able to address other societal issues related to sexuality that impinge on the freedom and well being of Ugandan women.

Let us first examine the use of the term “unintended pregnancy.” The problems faced by Ugandan women with regard to their fertility, it is argued, can be curtailed by a reduction in these “unintended” pregnancies. According to the authors of *Unintended Pregnancy in Uganda*, “[a]n unintended pregnancy is defined as one that the woman would have preferred to have at another time (mistimed) or would not have wanted at

any time (unwanted).”<sup>59</sup> To define unintended pregnancy as any mistimed or unwanted pregnancy significantly misunderstands Ugandan culture. It denies the value given in African culture to hospitality toward the stranger and the unexpected guest. In addition, timing and planning are viewed differently in African culture. In the West, any consideration of time is focused on the present and especially the future—on anticipating what may occur or planning what we intend to happen. In African culture, the emphasis is placed on the present and on the past. “[Time] moves ‘backward’ rather than ‘forward’; and people set their minds not on future things, but chiefly on what has taken place.”<sup>60</sup> Accordingly, the idea of a “mistimed” pregnancy is not equivalent to one that is undesired or even “unintended.” The emphasis is not on planning pregnancy or sterility, but on accepting the fertility that naturally coincides with sexuality. It is a distinctly modern conceit that one can and should dominate and control all of life rather than submit to the natural rhythms of life.

To impose such a standard of control over fertility is to be hostile to the more natural view of fertility in Ugandan culture. This hostility ultimately undermines the dignity of woman, as it is understood in that culture. The mindset coming from those pressuring for change is that the natural function of woman’s body is actually a curse—a sickness needing to be healed by Western technology. To persuade a Ugandan woman that her fertility is her enemy is contrary to the traditional African worldview that finds a dignity of woman bound up in her body. The tasks tied to the land and tied to the body can be seen, by Western eyes, in a decidedly neo-platonic way, as lower status because they are earthbound. Woman is robbed of her dignity when she is told that what is unique to her is of low status and robs her of her worth. This feeds into the worst abuses of women in African culture, such as female circumcision (female genital mutilation), which also attempts to free a woman from the natural function of her sexuality and does much harm to her body in the process. Children are not the problem for poor rural women in Uganda. To the extent that a Ugandan woman feels powerless it is not due to having a lot of children. The woman with many children is actually affirmed in her status as a life-

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<sup>59</sup> Singh et al., *Unintended Pregnancy*, p. 6.

<sup>60</sup> Mbiti, *African Religions*, p. 17.

giver, a provider to the community, as much as when she produces crops off her own land. These earth-bound sources of status for the rural poor woman may not fit with a modern neo-platonic view of woman that scorns the earth and the body and elevates the disembodied spirit and mind as somehow more worthy. However, to the rural poor woman, this tie to the earth and to her body is a source of pride. That is one reason why women in Uganda do not have cultural problems with “large” women. Women with large breasts and hips and a layer of fat are considered at least as healthy and wise as women who are thin or who have a more boyish figure. One might see this as an area in which Ugandan women have more freedom than their Western counterparts—freedom from worry about their weight and appearance as being “too womanly,” in other words, freedom to live in their bodies.

To attempt to convince women that they should want fewer children and that most pregnancy is an undesirable curb on true freedom is not to offer these women greater freedom. It is simply to change the value they place on fertility. It is important to recognize an African feminist movement that rejects what it sees as “the overly individualistic and rights-motivated claims of Western feminists” by focusing instead on women’s “embeddedness in their families, and the significance of their responsibilities as mothers.”<sup>61</sup> A change toward a Western feminist attitude toward childbearing likely will not result, as is supposed, in fewer unintended pregnancies, but in fact in more—for the simple reason that the attitude toward pregnancy and childbirth will have changed, whereas the absolute control over one’s fertility is, in reality, extremely difficult to accomplish.

If the first failure is to misunderstand the positive view of fertility in Ugandan culture, the second failure is to misunderstand the impact of religion on the overall anthropology at work in Uganda. As stated above, Uganda is predominately Christian, with 42% of the population Protestant and 41.9% Roman Catholic. The remainder of the population is divided among Muslims and adherents of traditional religion. A Christian philosophy of sexuality, fertility, and the human person has become embedded in the culture of Uganda and is still being worked out among

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<sup>61</sup> Rwiza, *Formation*, p. 20.

its adherents. Integral to this philosophy is the view of the body as an essential part of the human person. Christianity has traditionally taught that the two major goods of sexuality—the unitive and the generative—must not be separated. To import a rationalist view of the human body as merely a biological reference point and to seek to provide a technological freedom from fertility are to separate the goods of sexual intimacy and isolate them from each other. This fails to take seriously the freedom of religion exercised by many Ugandans to live within a moral universe that does not separate these goods. Far from being easily dismissed as ignorant and superstitious, people who are opposed to abortion and even contraception on philosophical and religious grounds are willing to practice self-denial, self-giving, and sacrifice to follow their conscience. For them, this is a moral rather than technical means to make choices about the fact that we are sexual, embodied beings. In fact, it takes a serious view of human freedom—the freedom and power over our sexual drives and the ability to subordinate them to human concerns. It also rejects the modern influence on the formation of conscience, which is seen as “a search for freedom at the expense of responsibility.”<sup>62</sup>

It is important to see this philosophy of sexuality and this view of human freedom as part of a larger project to protect the most vulnerable in society. An example of how this larger project has dealt successfully with the human struggle in Uganda is the ABC campaign against HIV/AIDS. Uganda’s ABC program began in 1986 when Yoweri Museveni began as head of state. The Government of Uganda, under Museveni’s leadership, developed a distinctive approach to AIDS prevention that emphasized moral decision-making about sexuality. ABC stands for: **A**bstain, **B**e faithful, or use **C**ondoms if A and B are not practiced. Infection rates between 1991 and 2000 declined from 21% to 6%. According to Edward Green, of the Harvard Center for Population and Development Studies, “[t]he abstinence message for the most part took the form of urging youth to *delay* having sex until they were older, and preferably married. Many of us in the AIDS and public health communities didn’t believe that abstinence and faithfulness were realistic

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<sup>62</sup> Rwiza, *Formation*, p. 24.

goals. It now seems we were wrong.”<sup>63</sup>

This brings us to the third failure of the project to provide freedom from moral choices about sexuality through fertility-curbing technology and abortion. It fails to understand how alternative philosophies of sexuality, fertility, and freedom are able to address other societal issues related to sexuality that impinge on the freedom and well-being of Ugandan women. The separation of the goods of sexual intimacy that is required by this project is problematic because it fails to address the challenges of relationships and the difficulties women can often have in negotiating power within these relationships. It is difficult to find a technological answer to the woman who wishes to be free from child defilement, rape or adultery. According to a rationalist anthropology, a person cannot *not* succumb to his or her sexual drives and so must instead become free of the natural consequences of fertility. A Christian philosophy of the body espouses a greater freedom in learning to curb sexual drive in the interest of protecting the other—a practice that is also applicable to the sexual problems of coerced sex and infidelity. The project to provide freedom from fertility cannot adequately address these problems of abusive relationships. It can serve to encourage them by taking away the natural consequences of the abuse, and often causing further abuse to women who, for example, get pressured to undergo induced abortion to hide the original crimes against them.

The Christian project, which attempts to address the whole person and the undivided goods of sexuality, provides a framework for addressing these real human problems. It is best expressed by the language used in Karol Wojtyła’s *Theology of the Body*: “[i]n its negative form, it states

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<sup>63</sup> Edward Green, *Testimony Before the African Subcommittee, U.S. Senate*. <http://www.senate.gov/~foreign/testimony/2003/GreenTestimony030519.pdf>. Interestingly, Green ends his testimony with this statement: “Since the mid-1990’s, there has been less emphasis on sexual behavior and more on medical solutions. In recent years, there has been a small but disturbing trend toward riskier sexual behavior, and for the first time in a decade there has been a slight uptick in national infection rates. The distinctive Uganda ABC model of the earlier period, the one developed primarily by Ugandans for Ugandans, is the one that seems to have worked best, and is the one that has most to teach the rest of the world.”

that *a person must never be used as a means to an end....* In its positive form, it states that *the only proper response to a person is love....* The opposite of loving, then, is not hating, but *using*.” It is precisely the notion of “sexual utility” that is being fought by the Christian project.<sup>64</sup> To isolate the goods of sexuality from each other is to fail to see the person as a whole person but as a means to an end.

The practice of female genital mutilation (or FGM) is illustrative of this failure. In the practice of FGM, the woman’s external sexual organs are removed, all or in part, in order to deny the woman the possibility of pleasure in the sexual act. This practice destroys the unitive function of sexuality by limiting her for all time to the procreative aspect of sex, or simply as a means for the man’s pleasure. She becomes merely a useful tool. This is, in fact, a technical solution to a perceived moral problem of female infidelity in the community. It does not admit of a moral solution to infidelity that would keep the goods of sexuality intact and involve the freedom of the whole, embodied person. FGM is an attempt to free woman from the natural working of her sexuality to attain only one of the goods of sexual intimacy. Interestingly, there is only one tribe in Uganda that historically practices FGM, other tribes having shunned or not known the practice.

While the practice of FGM is on the wane due to successful teaching about the unity of the goods of sexuality and the importance of women remaining connected to the natural functions of their sexuality, there are still other cultural practices and attitudes in Uganda that rob women of their dignity and freedom. Child defilement, rape, and adultery are all too common.<sup>65</sup> Interestingly, the statutes against these practices are placed in the same section of the law code as the statutes against abortion. These practices all take woman and misuse her sexually, exposing her to harm and leaving her socially and physically unprotected. Ugandan culture robs women of freedom and dignity through the actions of men who choose to

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<sup>64</sup> Christopher West, *Theology of the Body Explained: A Commentary on John Paul II’s Gospel of the Body* (Boston MA: Pauline Books and Media, 2003).

<sup>65</sup> Michael A. Koenig, Iryna Zablotska, Tom Lutalo, Fred Nalugoda, Jennifer Wagman and Ron Gray, “Coerced First Intercourse and Reproductive Health Among Adolescent Women in Rakai, Uganda” in *International Family Planning Perspectives*, 30/4 (2004): 156-63.

use women as instruments for their use or pleasure, rather than seeing them as whole, embodied persons of equal value and worth. The current state of the law in Uganda is written in such a way as to protect women from being exploited, from becoming a means of *sexual utility*. The attempt to decriminalize abortion in the cases of rape and incest is to fail to understand that it is precisely in those instances where technology would serve to hide the acts of abuse against women.

What we need to fight these practices is not technology to curb the fertility involved in these sexual acts, but the encouragement of a greater freedom of the human person over the sexual drives that seek to use people as means instead of ends. This is where the project of the Christian philosophy of the body, which is still being worked out in Uganda, has power to effect broad spectrum change in the lives of Ugandan men and women. We can find this possibility of change on a wide range of issues as we examine the nature of freedom presented to the world by Pope John Paul II in *Veritatis splendor*. In this encyclical, the Pope explains the essential bond between “truth, the good, and freedom,” for man truly finds freedom within the limits of the true and the good:

According to some, it appears that one no longer need acknowledge the enduring absoluteness of any moral value. All around us we encounter contempt for human life after conception and before birth; the ongoing violation of basic rights of the person; the unjust destruction of goods minimally necessary for a human life. Indeed, something more serious has happened: man is no longer convinced that only in the truth can he find salvation. The saving power of the truth is contested, and freedom alone, uprooted from any objectivity, is left to decide by itself what is good and what is evil.<sup>66</sup>

This is the freedom being offered by those who use the language of “safe” abortion and reproductive “rights” in Uganda. Again, the words of John Paul II are pertinent to the struggle to define freedom in Uganda:

Reason and experience not only confirm the weakness of human freedom, they also confirm its tragic aspects. Man comes to realize that his freedom is in some mysterious way inclined to betray this openness to the True and the good, and that all too often he actually prefers to choose finite, limited and ephemeral goods.

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<sup>66</sup> John Paul II, *Veritatis splendor* §84.

What is more, within his errors and negative decisions, man glimpses the source of a deep rebellion, which leads him to reject the Truth and the Good in order to set himself up as an absolute principle unto himself: “You will be like God” (Gen 3:5). Consequently, *freedom itself needs to be set free*.<sup>67</sup>

Ultimately, the pope argues, it is Christ who *sets human freedom free* by showing the complete picture of “authentic freedom...manifested and lived in the gift of self, *even the total gift of self*.”<sup>68</sup> To illustrate this, he speaks of the freedom of the martyrs:

The unacceptability of “teleological,” “consequentialist,” and “proportionalist” ethical theories, which deny the existence of negative moral norms regarding specific kinds of behavior, norms which are valid without exception, is confirmed in a particularly eloquent way by Christian martyrdom, which has always accompanied and continues to accompany the life of the Church even today.<sup>69</sup>

“Martyrdom...” says the Pope, “bears splendid witness both to the holiness of God’s law and to the inviolability of the personal dignity of man.... This dignity may never be disparaged or called into question, even with good intentions, whatever the difficulties involved.” “Martyrdom rejects as false and illusory whatever ‘human meaning’ one might claim to attribute, even in ‘exceptional’ conditions, to an act morally evil in itself. Indeed, it even more clearly unmask the true face of such an act: *it is a violation of man’s ‘humanity,’* in the one perpetrating it even before the one enduring it.” John Paul goes on to quote Saint Ignatius of Antioch, addressing the Christians of Rome, the place of his own martyrdom: “‘Have mercy on me, brethren: do not hold me back from living; do not wish that I die.... Let me arrive at the pure light; once there I will be truly a man. Let me imitate the passion of my God’.”<sup>70</sup>

Every third of June Uganda celebrates a defining national holiday, comparable in the U.S. only to Independence Day. The highest officers of government participate and millions of people make pilgrimages to the

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<sup>67</sup> *Veritatis splendor* §86.

<sup>68</sup> *Veritatis splendor* §89.

<sup>69</sup> *Veritatis splendor* §90.

<sup>70</sup> *Veritatis splendor* §92.

Namugongo shrines. It is Uganda Martyrs Day, commemorating the martyrdom of 26 servants of the Kabaka, the King of Buganda on June 3, 1886. These men—13 Catholic and 13 Protestant—were called upon by the king to perform certain sexual acts as part of their duty as attendants. They refused, on the basis that they were Christians and could not violate their consciences, or their bodies, in such a way. Consequently, they were marched many miles to the site of Namugongo, wrapped in bundles of sticks and pitch, and burned alive.<sup>71</sup>

There are still martyrs in Uganda today—in the sense that they are witnesses to the “authentic freedom...manifested and lived in the gift of self.” One is the woman who bears her child in poverty although her husband has all but abandoned her to a second wife. Another is the university student who refuses to “detooth” an older man for easy school fees and goes to work making bricks instead, to the derision of her classmates. They are the couple with three natural-born children who carefully discuss their sexual relationship and how it relates to the responsibility they have just been given for four nieces and nephews whose parents have died in a car accident. To echo Saint Ignatius, these witnesses to authentic freedom are not held back from living. With their whole selves they imitate the passion of their God.

In summary, we call upon those who put pressure on the government and society of Uganda for changes in reproductive health to take seriously the coherent philosophical positions represented by the general rejection of abortion and other reproductive technology. Technology is not the highest remedy for improving human life in the developing world, and it is not the only remedy on offer. There is a need for a serious and thoughtful engagement with these underlying philosophies before proceeding with an agenda for change in Uganda.

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<sup>71</sup> Ssemakula, M. *The Buganda Home Page*, [www.buganda.com](http://www.buganda.com) (2007).