

# **The Clash between Human Rights and Culture: Case Studies of South Africa and Zimbabwe**

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## **DECLARATION**

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## ABSTRACT

Culture is an important aspect of African people's lives. It informs the way in which communities are structured and how men and women relate to each other. In South Africa and Zimbabwe, looking specifically at the Zulu and Shona cultures respectively, culture is still seen as the anchor of people's lives. This is seen mostly in the rural and semi-rural areas of these two countries, where the cultures are still respected and lived. Zimbabwe and South Africa are multicultural states who seek to recognise all religious and ethnic groups. Although culture is constitutionally protected, certain customs and traditions that violate the rights of women and girl children are still observed. These harmful cultural practices are in direct conflict with human rights resulting in these two concepts (human rights and culture) being treated as a binary. Certain cultural practices have led to gender inequalities more specifically in the private sphere, that is, the home, where customs and traditions are passed down from generation to generation.

This thesis investigated what the perceptions of men and women are on human rights and culture and how their attitudes contributed to the acceptance or rejection of harmful cultural practices among Zulus in South Africa and Shonas in Zimbabwe. The harmful cultural practices (harmful as defined by international treaties) focused on virginity testing; ukuthwala in South African; early child marriage; and lobola in Zimbabwe. Quantitative and qualitative methodologies were used to gather data. It was found that the respondents viewed ukuthwala (South Africa) and early child marriage (Zimbabwe) as customs that undermine human rights and, therefore, should be abolished. However, customs such as virginity testing and lobola were not seen as harmful although the respondents were able to point out negative aspects of these customs. Overall it was found that the respondents see human rights and culture as important and therefore live hybrid lives, where they attempt to find a balance between modernity and culture in their everyday lives. The women respondents recognised that their role in the home and in the community at large is continuously changing due to socio-economic changes giving them more room to exercise their agency. However, they still see culture as important supporting the notion of hybridity in a modern world, balancing culture and rights.

## OPSOMMING

Kultuur is 'n belangrike aspek van Afrika-mense se lewens. Dit rig die manier waarop gemeenskappe gestruktureer word en waarop mans en vroue by mekaar aansluiting vind. In Suid-Afrika en Zimbabwe, in spesifiek onderskeidelik die Zoeloe- en Shona-kultuur, word kultuur steeds as die anker van mense se lewens beskou. Dit kan gesien word in die landelike gebiede van hierdie twee lande, waar die kulture steeds gerespekteer en uitgeleef word. Zimbabwe en Suid-Afrika is multikulturele state wat erkenning aan alle geloofs- en etniese groepe gee. Alhoewel kultuur grondwetlik beskerm word, word sekere gewoontes en tradisies wat die regte van vroue en meisies skend, steeds gehandhaaf. Hierdie skadelike kulturele praktyke is in direkte konflik met menseregte, wat daartoe lei dat kultuur en menseregte as in opposisie tot mekaar gesien word.. Sekere kulturele praktyke gee aanleiding tot geslagsongelykhede, spesifiek in die privaat sfeer, met ander woorde die huis, waar gewoontes en tradisies van generasie na generasie oorgedra word.

Hierdie studie behels 'n ondersoek na die persepsies van mans en vroue van menseregte en kultuur en hoe hul houdings tot die aanvaarding of verwerping van skadelike kulturele praktyke onder Zoeloes in Suid-Afrika en Shonas in Zimbabwe bydra. Die skadelike kulturele praktyke (skadelik soos deur internasionale ooreenkomste gedefinieer) het gefokus op maagdelikheidtoetsing en *ukuthwala* in Suid-Afrika en kinderhuwelike en *lobola* in Zimbabwe. Kwantitatiewe en kwalitatiewe metodologieë is gebruik om data in te samel. Daar is gevind dat die respondente *ukuthwala* (Suid-Afrika) en kinderhuwelike (Zimbabwe) as gewoontes beskou wat menseregte ondermyn en dus afgeskaf moet word. Tradisies soos maagdelikheidtoetsing en *lobola* is egter nie as skadelik beskou nie, alhoewel die respondente negatiewe aspekte van hierdie gewoontes kon uitwys. In die algemeen is gevind dat die respondente menseregte en kultuur as belangrik beskou en dus hibriede lewens lei, waar hulle poog om 'n balans tussen moderniteit en kultuur in hul daaglikse lewens te vind. Die vrouerespondente het erken dat hul rol in die huis en in die gemeenskap in die algemeen voortdurend weens sosio-ekonomiese veranderinge verander wat hulle meer ruimte gee om hul mag uit te oefen. Hulle beskou kultuur egter steeds as belangrik, wat die idee van hibriditeit van kultuur en regte as deel van modernisasie bevestig.

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## LIST OF ABBREVIATIONS

Abbreviation	Description
ACHPR	African Commission on Human and People's Rights
ACRWC	The African Charter on the Rights and Welfare on the Child

AIDS	Acquired Immune Deficiency Syndrome
ANC	African National Congress
AU	African Union
CEDAW	Convention on the Elimination of Discrimination Against All Women
CGE	Commission on Gender Equality
CRC	Convention on the Rights of the Child
FGM	Female Genital Mutilation
EFF	Economic Freedom Fighters
HCP	Harmful Cultural Practices
HIV	Human Immunodeficiency Virus Infection
HTP	Harmful Traditional Practices
HRW	Human Rights Watch
KZN	KwaZulu-Natal
NGO	Non-Governmental Organisation
OHCHR	United Nations Human Rights Office of the High Commission
POWA	People Opposing Women Abuse
UN	United Nations

UNFPA	United Nations Population Fund
SALR	South African Law Reform Commission

## CHAPTER 1 GENDER AND MULTICULTURALISM

### 1.1 Introduction

Culture is important to African people and the world at large. However, one bids to ask: although culture is important what if culture is harmful to women and children? Due to the importance of culture to African people, it has been used to justify acts that go against human rights. Figures of authority have used cultural defences for bad behaviour. For example, President Jacob Zuma who used the Zulu culture as an argument during his rape trial to justify him raping the complainant whilst the complainant who was also Zulu chose to bring her case before a Western court and was dismissed having agreed that the act was consensual (du Toit, 2014:16). Another example is when Mandla Zwelivelile Mandela, an African National Congress (ANC) Member of Parliament (MP) and grandson to Nelson Mandela argued that the taking of a wife through the custom ukuthwala (marriage by abduction) has nothing to do with age (Mail & Guardian, 2011). He further argued saying that "Culture has no age. Age is something we learn today because of our Westernisation" (Mail & Guardian, 2011).

From the examples above, it is evident that the embrace of culture today has led to the acceptance of customs and traditions that violate the rights of women and the girl child. Zimbabwe and South Africa, which this thesis will focus on, and states across the African continent seek to protect human rights in their constitutions (The Constitution of the Republic of South Africa, 1996; Constitution of Zimbabwe Amendment (No.20), 2013). However, due to the codification of African customs under colonialism into customary law, certain cultural practices that are harmful and discriminatory towards women continue being observed, making culture somewhat static and difficult to change. This has led to culture and human rights being treated as a binary with human rights and culture being seen as concepts that oppose each other (Gouws, 2013; Gouws & Stasiulis, 2013). South Africans and Zimbabweans today embrace and respect their cultures; although at times it comes into conflict with human rights.

Culture, although an ambiguous term, is important across the world, especially in the African context. Culture has been looked at from many different angles, for example, anthropology in the 1960s (Bennett, 2004: 79), which then expanded as multiple

disciplines such as sociology and political science, just to mention a few, began to adopt the concept of 'culture'. There are a number of definitions that one can mention such as Bennett (2004:79) where he states that culture "is a people's store of knowledge, beliefs, arts, morals, laws, and customs, [...], everything that humans acquire by virtue of being members of society." Geertz (1973:89) defined culture as "historically transmitted patterns of meanings embodied in symbols, a system of inherited conceptions, expressed in symbolic forms by means of which men [and women] communicate, perpetuate, and develop their knowledge about attitudes towards life." Therefore, one can see from the two definitions that culture ultimately unites people, it gives order to society and it informs what values and morals members should uphold and these values and morals are translated into behavioural patterns.

Although culture has positive aspects to it, there are negative aspects that clash with matters of human rights because of the codification of customary law. Customary law according to Ndulo (2011:88) is "the indigenous law of the various groups in Africa." The codifications of African customs, not just in South Africa and Zimbabwe, but across the continent, has led to the somewhat static nature of cultures today. This has made it difficult for cultures to gradually change with time, therefore, making it increasingly challenging to wholly embrace human rights, more specifically the rights of women because patriarchy is reinforced. Gouws and Stasiulis (2013:7) agree that the codification of customary law has led to the reinforcement of "misogynistic and static interpretations of African culture." According to Ndulo (2011: 88-89), the application of customary law has been discriminatory towards women in "areas [such] as bride price, guardianship, inheritance, appointment to traditional offices [and] exercise of traditional authority [...]." Due to the seemingly static nature of culture because of customary law, African cultures continue to be discriminatory towards women in some respects, as they seek to control women's sexual and reproductive lives (Gouws & Stasiulis, 2013:7; Okin, 1999:14).

African customary law is not a single uniform set of customs for any given African country or ethnic group, but it is a law that covers broad principles in all various systems allowing for micromanagement and change (Ndulo, 2011:88). Therefore, not all practices are coded into customary law, however, the general codification of an ethnic group's customs gives the ethnic group the ability to continue to live according

to both written and unwritten or “lived” customary law. This has left room for cultural practices that are deemed discriminatory and harmful to be practised today in ethnic communities.

According to Bennett (1981) and Ndulo (2011), the broad principles of African customs that were codified into customary law by colonial powers were customs that did not challenge Western laws before a time of liberal constitutions. However, one needs to realise that the broad principles that were coded into customary law do not police the lived or unwritten law that is practised in the private sphere of family life. Therefore, today we see the continuation of customs that are deemed harmful and are supported and defended using the argument that they are “part of one’s culture.” This has had a large effect on the rights of women and girls and these harmful practices are usually directed at them through policing their sexuality.

## **1.2 Harmful Traditional/Cultural Practices**

Harmful Cultural Practices (HCP) are practices that are at times violent and/or discriminatory towards women and girls and are seen as accepted within a culture (NHS, 2016). The Protocol of the African Charter on Human and People’s Rights on the Rights of Women in Africa (the Maputo Protocol) ()defines harmful practices as “all behaviour, attitudes, and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, dignity, education and physical integrity” (African Commission on Human and People’s Rights (ACHPR), 2018). Harmful practices are a result of gender inequality and discrimination towards women played out in social cultural and religious norms (UN Division for the Advancement of Women, 2009:6). These practices relate to the position women have in the family, community and the society at large (p6). In 1995 the United Nations (UN) issued the Fact Sheet no.23 which listed a number of cultural practices that are considered as harmful. For example, female genital mutilation, female infanticide, early marriage and dowry (lobola) (OHCHR, 1995).

Harmful practices are said to be more prevalent in places of conflict and post-conflict for example, child and forced marriages (UN Division for the Advancement of Women, 2009:7). Migration, globalisation, and conflict have led to the transfer and the change of certain harmful practices across the world. The West, today, has immigrants who may practice customs and traditions that are deemed harmful showing the

transference of harmful practices (Okin, 1999:9). Customs such as lobola, also known as bride price or dowry are customs that have changed over time. It has changed from being a custom that was not discriminatory or harmful towards women to one that is considered harmful due to inflated bride prices resulting in lobola-related violence (UN Division for the Advancement of Women, 2009:7).

It needs to be considered what the concept harmful means in terms of traditional practices and to whom these customs and traditions seem harmful. The concept “harmful traditional/cultural practices” (HTPs/HCPs) was developed within the UN as a way to identify and fight some of the cultural practices that were obvious forms of male domination over women (Winter et al., 2002:72). HTPs, specifically female genital mutilation (FGM), was first brought to the attention of the UN in the 1950s by colonial administrators (Winter et al., 2002:73). In 1995 the UN published the UN Fact Sheet No.23 listing a number of HTPs as mentioned above (le Roux & Bartelink, 2017:13). By 2002 the term ‘tradition’ was scrapped and replaced with ‘harmful cultural practices’, however ‘traditional’ is still used (le Roux & Bartelink, 2017:13). For this study the term Harmful Cultural Practices (HCPs) will be used.

The use of the term ‘traditional’ as it was introduced by the UN has led to these culture groups being juxtaposed with the ‘modern’ as though changing them from their ‘traditional’ format to modernisation is the solution (le Roux & Bartelink, 2017:13). Winter et al. (2002) agree to this as they argue that the UN approach to HCPs relies heavily on a ‘Western’/‘non-Western’ distinction, drawing a contrast between ‘modern’ and ‘traditional’ (Winter et al., 2002:76, 88). The HCPs listed in Fact Sheet no.23 were centred on cultural practices that were mainly from countries in the global South implying that there are no such practices that are harmful in the West of which there are (Winter et al., 2002:76, 88).

HCPs have been centred on practices from non-Western countries creating a distinction between Western cultures that are viewed as less harmful and non-Western cultures that are viewed as more harmful. These biases have been created by those on the outside (those from the West) looking in drawing their own conclusions on what they believe is harmful and the assumption that modernisation and Westernisation is the solution to these practices. However, modernisation may not always be the solution to HCPs (le Roux & Bartelink, 2017:13).

Although there has been a biased perspective of what and whose practices should be considered harmful one cannot ignore the good that has come from the West as they have highlighted customs and practices that are evidently harmful, for example, FGM, which has already been mentioned (UNFPA,2018). Due to colonialists and international organisation such as the UN recognising how young girl's lives are at risk due to FGM, progress has been made through advocacy and educating local populations of that harm caused to young girls (UNFPA, 2018). This has resulted in the practice being banned in several countries such as Burkina Faso (1996), Central African Republic (1996, 2006), Kenya (2001, 2011), Togo (1998), Zambia (2005, 2011), just to mention a few, showing progress in the fight to protect women and girls from customs and practices that are harmful (UNFPA, 2018). Therefore, it is clear that there are some practices that should be tackled due to their evident harmful nature and others upon further research and consultation can be recognised as harmful.

It is safe to say that despite the unifying force that culture has, it has also fostered the allowance of harmful practices that go against universal human rights. African countries who deem themselves democratic or that are rather in the process of democratisation struggle with having a double standard. This double standard is wanting to uphold the Universal Declaration of Human Rights while wanting to recognize the different cultures which still observe harmful practices within their territory. Today, African countries and their people have to juggle what aspects of their culture to let go of, without losing their African or ethnic identity.

It is important to look at culture and its clash with human rights not only because of the persistence of practices that are deemed harmful but also because of the perpetuation of patriarchy which leads to increased gender inequality. Patriarchy can be defined as “a structure in which men have more power and privilege than women, [and as] an ideology that legitimates this arrangement” (Smith, 1990:257). According to Okin (1999:16), “virtually [...] all of the worlds’ cultures have distinctly patriarchal pasts [...]” and this has not remained in the past but has crept into our present day and age leading to gender inequality which goes against human rights.

### **1.3 Human Rights and the Clash with Culture**

The concept of human rights was first expressed in the Charter of the United Nations of 1945 and later developed into the Universal Declaration of Human Rights of 1948.

Throughout the years the Universal Declaration of Human Rights has been elaborated in many multilateral treaties and other international instruments (An-Na'im & Hammond, 2002:15). The Universal Declaration of Human Rights has been adopted in constitutions across the world and is being implemented on the domestic level by the judicial and the executive organs of the state (An-Na'im & Hammond, 2002:14). Universal human rights have been created to ensure that there is some form of international supervision of domestic human rights protection for every state that submits to and abides by it (An-Na'im & Hammond, 2002:15).

According to Du Toit (2014:19), "the notion of human rights was born under very particular, material and symbolic conditions at a particular point in the history of Western Europe." The word 'universal' has a pleasant ring to it but this utopian concept did not always recognize women fully. The 'human' in human rights, according to Du Toit (2014:20), "used to be doubly alien to women's sexuality because it was simultaneously viewed in Western metaphysics as disembodied (thus sexless) and masculine." Because of this masculine focus on who was 'human' women were left out of the equation leading to gender inequality in both Western (global North) countries and countries in the global South. Despite the lack of focus on women from the inception of human rights, there has been some commendable progress over the years in terms of increasing gender equality, recognising women in the private and public sector as well as addressing violations of human rights towards women in the West (UN Women, 2018). Similarly, progress has been made on the African continent but the conflict between human rights and culture still remains.

Through the recognition of culture, gender inequality has been perpetuated as well as the conflict between culture and human rights in countries that consider themselves democratic such as Zimbabwe<sup>1</sup> and South Africa. Human rights are embedded in liberal ideology and therefore focus on the individual. However, culture sees the group as the primary unit, not the individual and therefore the application of human rights within cultures has been problematic, leading to gender inequalities. According to Gouws and Stasiulis (2013:3), when applying the liberal ideology, "cultural differences

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<sup>1</sup> Zimbabwe's constitution due its history of elections that have not been free and fair and the recent coup that took place at the end of 2017 where Ex-President Mugabe was asked to give up his presidency and President E.D. Munangagwa took over and has been inaugurated after the August 2018 elections.

[have] been regarded as problematic and [...] deeply troubling and dangerous [...] [because] culture is linked with oppressive restrictions on personal freedom.”

The Universal Declaration of Human Rights states in Article 1 that “All human beings are born free and equal in dignity and rights [...]” and in Article 2 it states that “Everyone is entitled to all the rights and freedoms [...], without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion [etc]” (UN General Assembly, 1948). From Article 1, it is evident that gender equality is one of the values promoted by the Universal Declaration of Human Rights. Gender equality is defined as the “the process of being fair to men and women” (UNESCO, 2003). With differences between cultural values and human rights, human right and culture are often in conflict and this conflict needs to be addressed so progress is made in achieving gender equality and prohibiting customs that go against the rights of the women. It is important to note that culture is not just the customs that the people practice it is also part of their identity making it increasingly difficult to balance Western and African ideals which are founded on different ideologies. Despite their differences, a solution needs to be found for culture and human rights to coexist.

#### **1.4 Problem Statement**

It can be seen above that culture is very important in the everyday lives of African people and that it informs a significant part of their lives. It is part of the people’s identity and it dictates the relations between men and women be it in the family unit, in the economic sphere or the political sphere. Culture, although an ambiguous term can be defined as “[...] a store of knowledge, beliefs, arts, morals, laws, and customs, in other words, everything that humans acquire by virtue of being members of a society” (Bennett, 2004:79). In Zimbabwe and South Africa, looking specifically at the Shona and Zulu culture respectively, culture is still seen as the anchor of people’s lives. This is seen more or less in the rural areas of these two countries, where the cultures are still respected and lived out.

Due to the importance of culture, cultural defence has been used to justify morals, values, custom, and traditions that violate the rights of women and the girl child (Okin, 1999). This has led to the perpetuation of practices that discriminate against women and the girl child in the home and in the community. With the codification of customs

into customary law, patriarchy has been institutionalised and engrained in the lives of the people which has led to recognizable inequalities between men and women as well as the acceptance of harmful cultural practices that have led to the maltreatment of women and the girl child (Okin, 1999). Due to the codification of customs and traditions, African cultures have become slow to change making it increasingly difficult to address gender inequality and discrimination within African cultures.

Culture has gradually changed as people have interacted with other cultures around them (Phillips, 2007:33). This is usually the case in a multicultural society which is the case in African countries. Although change has come about in the way men and women view human rights and cultural practices due to cultural exchange through interaction, patriarchy is still perpetuated in the home where culture is taught and transferred from one generation to another and harmful practices are still observed today.

This thesis will, therefore, analyse the tension between universal human rights and culture, looking at the Shona culture in Zimbabwe and the Zulu culture in South Africa as case studies. This thesis will discuss the perceptions of men and women on human rights and culture in terms of how they accept or reject harmful cultural practices. The thesis will also look at the extent to which people live a hybrid lives balancing human rights and culture.

## **1.5 Research Questions**

The main research question derived from the problem statement is: *What are the perceptions of women and men on human rights and culture and how do these attitudes contribute to the acceptance or rejection of harmful cultural practices among Zulus in South Africa and Shonas in Zimbabwe?*

The sub-questions are:

*Do men and women have opposing views on the perceptions of apparently harmful cultural practices?*

*To what extent do people in South Africa and Zimbabwe embrace both human rights and culture in a hybrid form?*

## 1.6 Theoretical Framework

### 1.6.1 Gender and Culture

This thesis will use gender as a theoretical framework, engaging arguments made on multiculturalism by Susan Moller Okin from a Western perspective and other academics on culture and its relation to gender in postcolonial contexts. Firstly, one has to look at the term gender and the lenses through which we perceive gender. Gender is an expression of masculinity and femininity that has been constructed socially and culturally whereas sex is biologically determined (Murphy, 1996:325). The way in which gender has been perceived in different cultures has determined what role men and women play in the home and in the work place. Bem (1993) suggests that cultures look at gender through three difference lenses. The first lens is polarisation. (Bem, 1993:2; Greenbaum, 1999:97) define this as “the male-female difference [...] superimposed on so many aspects of the social world that a cultural connection is thereby forged between sex and virtually every aspect of human experience.” The second lens is androcentrism which is a male-centredness; and thirdly, biological essentialism which is defined as “the natural and inevitable consequences of intrinsic biological natures of women and men” (Bem, 1993:2; Greenbaum, 1999:97).

Most cultures view gender from all three lenses in different degrees. Cultures are polarised in that they inform how males and females interact and what their roles are in the home and the public sphere, cultures are also patriarchal in that male counterparts benefit from cultural customs and traditions and women are the ones who have to subordinate themselves to these customs and traditions and at times are discriminated and disenfranchised through them. This is not to say that these customs and traditions are forced upon them as some customs are not only accepted by women but are performed by them as well. Additionally, cultures at times focus on the biological nature of men and women when assigning roles that men and women play in the private and public spheres of life.

Culture as defined above therefore educated its members of their role as men and women and reinforces these gender roles through customs and traditions. Okin (1999:12) argues that “cultures are suffused with practices and ideologies concerning

gender.” They dictate the roles that men and women are meant to play in the public and private areas of life and this creates an imbalance of power because men are usually in a position to determine what the cultural groups’ beliefs, practices, and interests are (Okin, 1999:12).

In family life, personal, sexual and reproductive relations are reproduced and because of this gender imbalances are seen more prominently in the home. In most cultures, women are expected to maintain the family life as this is her domain. However, the gendered nature of the private sphere is often forgotten leading to gender inequality because rights of women and girls are not addressed when addressing the rights of the cultural group as a whole. Okin (1999:13) states that “the distribution of responsibilities and power at home has a major impact on who can participate in and influence the more public parts of cultural life, where rules and regulations about both public and private life are made.” One deduces from this statement that because women are restricted to the private sphere they have little to no influence on what the cultural rules and regulations should be, reducing the opportunity they have to address gender inequalities in either the private or the public sphere.

Additionally, Okin (1999:13) argues that the biggest issue that arises in terms of gender and culture is the control of women by men. Okin (1999:14) states that cultures tend to control women’s personal, sexual and reproductive life and blames them for men’s difficulty in controlling their own sexual impulses. The author concludes by emphasising the need to adequately represent the less powerful members of cultural groups such as women and girls, more especially in multicultural states where the discrimination and subordination of women in the home is seldom tackled because of the argument of respecting one’s culture.

### **1.6.2 Multiculturalism**

Multiculturalism can be defined as “the coexistence within the same political society of a number of sizeable groups wishing and in principle able to maintain their distinct identity” (Raz, 1998:197). Young (2001:116) also defines multiculturalism stating that “multiculturalism consists of the assertion of normative principles that affirm the value of such cultural diversity in terms of equality between groups, and the realisation of these values in institutions and policies.” Multiculturalism can, therefore, be seen as a sense of moral sensitivity that embraces the difference of the individual instead of

othering. With the implementation of liberal multiculturalism within states across the world, there has been the creation of spaces of freedom in the public and private spheres of life, giving one the liberty to practice their culture without infringing on another's free will to choose their own culture. This can be seen in public spaces such as streets, squares, parks and shopping centres which have become free spaces to accommodate all cultural groups (Raz, 1998:198).

As this thesis focuses on gender inequality in culture groups, Susan Okin's question of whether or not multiculturalism is bad for women is appropriate and important to ask especially in the contexts of South Africa and Zimbabwe which are both multicultural states. There are two connection points between culture and gender within the private sphere in terms of the internal relations between men and women. The first being where "the sphere of personal, sexual and reproductive life functions as a central focus of most cultures" and secondly the fact that "most cultures have as one of the principle aims the control of women by men" (Okin, 1999:13). With cultures defining gender roles in a way that leads to the control of women by men, most cultures can be referred to as patriarchal.

Okin (1999:13)'s arguments against multiculturalism leans towards seeing minority culture groups and indigenous groups in countries in the global North as those that view gender in a polarised and androcentric way. The people groups therefore see male and females as genders that have certain roles and these roles are further defined and solidified through customs and traditions which at times discriminate against women and favour men. Okin (1999:13) argue that the customs and traditions that discriminate against women, and can be harmful towards women, are usually played out in the home where culture is passed down from generation to generation. To address the discrimination and harm caused to women and children, Okin (1999:13) suggest that differences between cultures and inequalities between sexes be addressed when considering having multiple cultures in one space. She further suggests that the solution is that harmful cultural practices be outlawed so as to uphold the rights of women.

Okin (1999:13) uses examples of customs and traditions of cultures from the Global South who have either migrated to countries in the global North or still live in their countries. Although Okin (1999:13) makes valid arguments that gender inequalities

within culture groups as well as practices that are harmful should be addressed, there have been arguments against her claims. Honig (1999:38) argues that Okin tends to see other ethnic groups and cultures as more patriarchal than her own Western culture which is a biased view. This argument shows that it is important not only to be critical of other cultures, for example, African cultures, but to also see one's own culture as one that may be similarly oppressive towards women in its own way. Al-Hibri argues that it is not fair for Okin to view other cultures in a stereotypical manner (Okin, 1999: 41). For example, Westerners have viewed African cultures as less moral and backward, however, this may not be the case. There may be some similarities between Western and African cultures, but different terminology may be used to communicate the values and morals upheld in African communities.

Uma Narayan adds to this argument warning feminists to avoid an essentialist view of cultures and urges feminists to acknowledge the differences in values existing among those described as members of a particular cultural group (Narayan, 1998:86). The author further urges feminists "to be cautious about essentialist contrasts between 'Western' and 'Third World' cultures" (Narayan, 1998:86; Narayan, 788). Ubu-Lughod agrees as she writes on whether Muslim women need saving, looking specifically at the war on terror discourses that has had a focus on Muslim women and the burqa (head veil). She too argues that we must "[...] be aware of differences [and] respectful of other paths towards social change that might give women better lives" (Abu-Lughod, 2002:788).

Gilman (1999:53) makes further arguments against Okin's writing on whether multiculturalism is harmful to women. The author argues that certain cultural practices are harmful but according to whom are these customs and practices harmful (Gilman, 1999:53)? The notion that all practices that are not similar to western practices are harmful or discriminatory towards women may not be entirely true. The sentiments held by those who are viewing customs such as virginity testing, or lobola from the outside in a negative light may not be the case for those who are practising these customs. It is important to investigate thoroughly the different views and opinions of cultures internally before choosing to completely outlaw a cultural practice that not only brings people together but gives them a sense of identity. However, it must be mentioned that having to address the inequalities between and within cultures makes

it increasingly difficult to maintain a multicultural system. This is an issue African states have to address as they are multicultural with a number of African cultures, as well as the Western culture functioning in one country.

Judging from the above argument multiculturalism definitely has its limitations. Due to these limitations there has been a recent retreat from multiculturalism at both policy and theoretical levels of the liberal state (Gouws & Stasiulis, 2013:3). One limitation that need to be mention is that “multiculturalism rests on a frail foundation: Cultural relativism, the notion that no culture is better or worse than any other – it is merely different” (Harrison, 20008:88). Cultures have claimed their right to be recognised which has led to the entrenchment of gender inequality slowing down progress towards the emancipation of women on the African continent in terms of cultural transformation. Multicultural states have the issue of recognising cultures on the assumption of relativism without taking into consideration if there are customs and traditions that are discriminatory and/or harmful (Okin, 1999:21).

The second limitation is that that multiculturalism as a concept “[...] remains situated within a nation-centred ethos of citizenship, justice, rights, and identity, and also in West centric assumptions about ‘freedom’, ‘belonging’, and ‘democracy’” (Shome, 2012:145). Shome (2012:161) makes important mention of the fact that “cultural relations in non-Western modernities may not lend themselves to the conceptual frames of justice, equality, cultural identity, and multiculturalism [...]”. Abu-Lughod (2002:788) makes a similar argument for feminists stating that “[...] we must accept that there might be different ideas about justice and that different women might want, or choose, different futures from what we [Western feminists] envision as best.” With this said it is important that context is taken into consideration when wanting to apply multiculturalism at a policy level, be it in Africa and in the Western states. The embrace of culture and the understanding of cultural differences will vary and this needs to be given thoughtful consideration.

Although there are limitations to the concept and theory of multiculturalism Shachar offers a solution to handle this dilemma. Shachar (1998:296) suggests an intersectionist approach on multicultural accommodation stating that it is an approach that “[recognises] that group members are always caught at the intersection of multiple affiliations. They are group members (perhaps holding more than one affiliation) and,

at the same time, citizens of the state.” Shachar (1998:296) argues that people affiliate themselves with multiple groups in their lives for example their culture, gender, race and citizenship and using the ‘intersectionist’ theory she argues that it is important to recognise group rights and respect them but to ensure that they do not have too much “power to systematically subordinate certain categories of insiders, namely women and children” (Shachar, 1998:296-297). This is a form of retreat from the pure form of multiculturalism as the state allows for inter-group differences which encourages intra-group relations (Shachar, 1998:297).

### **1.7 Outline of the Thesis**

This thesis consists of seven chapters. Chapter 1 serves as an introduction to the study, giving a brief outline of what will be addressed. Chapter 2 is a literature review looking at academic research and grey literature on harmful cultural practices in Zimbabwe and South Africa. Chapter 3 discusses the research methodology and design used for the empirical aspect of the research. Chapter 4 analyses and discusses the findings of the data for South Africa and Chapter 5 for Zimbabwe. Chapter 6 analyses the similarities found between South African and Zimbabwe and will elucidate the research questions and will conclude the thesis and give recommendations for further research.

## CHAPTER 2 LITERATURE REVIEW

### 2.1 Introduction

Culture as already highlighted is an important part of African people's lives. However, the embrace of culture has come with a clash with human rights because some cultural customs and traditions undermine the rights of women and children resulting in gender inequalities. With this said, this thesis' theoretical framework is gender and culture as these two concepts are interconnected and work hand in hand. Okin (1999:12) argues that "cultures are suffused with practices and ideologies concerning gender" therefore confirming the interconnection between gender and culture. Most African cultures see gender as three gender lenses: (1) Polarisation; (2) Androcentrism; (3) Biological essentialism (Bem, 1993:2). African cultures tend to socialize gender roles men and women are meant to perform in the public and private sphere for example men should be the breadwinners and women should take care of the home (Greenbaum, 1999:97). African cultures also tend to see gender in a biologically essentialist way and because of this they may base the roles men and women play in the public and private sphere according to what a woman and man can and cannot do biologically. Therefore, because gender is seen through these lenses gender inequality, practices that led to the control of women by men and patriarchal perspectives have been perpetuated.

The clash between human rights and culture is seen in most countries that are multicultural in nature. Multiculturalism seeks to embrace cultural diversity encouraging equality between groups, and the affirmation of these cultural groups and their values, moral and cultural institutions. The problem with multiculturalism is that while different cultures are encouraged to thrive and people are given freedom to choose what culture group or religion they associate themselves with, the private space where gender inequalities and gender discrimination often plays out has been left unregulated (Okin, 1999:21). Okin (1999) argues against multiculturalism but advocates for the differences between cultures and inequalities between genders be addressed and that harmful practices should be outlawed. Arguments have been made against her claims stating she has biased views favouring her Western culture over others and that feminists should try see that differences in how women understand justice and equality can vary and that is alright.

This thesis will focus mainly on the Shona culture in Zimbabwe and the Zulu culture in South Africa as case studies. It will focus on two harmful practices from each people group. From the Shona culture lobola and early child marriage will be assessed and from the Zulu culture virginity testing and ukuthwala will be looked at in depth. The thesis will attempt to tackle the clash between human rights and culture by analysing the perception that men and women have on these two concepts and how they perceive practices that are deemed harmful either by those outside their culture or those in the culture group.

Efforts have been made towards addressing the issue of harmful cultural practices on the African continent (AU, 2011). The African Union (AU) has paid close attention to the alleviation of harmful cultural practices including but not limited to, female genital mutilation and child marriages, recognising that there is a clash between human rights and culture (African Union, 2011:3). The AU has also paid special attention to gender inequality and has sought to rectify and redress the issue of gender inequality on the African continent. Countries across the continent have implemented measures to ensure that the different ways in which gender inequality manifests itself are rectified and this includes South Africa and Zimbabwe. Despite the progress that has been made there is still ample room to grow in achieving gender equality.

The South African and Zimbabwean governments have made changes through policy implementation and law amendments to try and reduce gender inequality as well as outlawing Harmful Cultural Practices (HCPs) by ratifying international conventions and protocols. This chapter will firstly look at treaties and protocols that aim to address gender inequality focusing on the Convention on the Elimination of Discrimination against All Women (CEDAW), the Convention on the Rights of the Child (CRC), the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol), the SADC Protocol on Gender and Development and the African Charter on the Rights and Welfare of the Child (ACRWC) which have all been ratified by both South Africa and Zimbabwe. This will give us an understanding of what the governments have agreed to implement in terms of achieving gender equality for the girl child and the woman. The sections in the international gender commitments that address gender inequality and harmful cultural practices will be discussed. Secondly, the chapter will give a comprehensive and focused look at the different harmful cultural practices in the Shona culture in Zimbabwe and the Zulu (Nguni

Communities which includes the Xhosa people) in South Africa so as to gain a good understanding of their cultural practices as well as what the gender relations look like within the different cultural contexts.

## **2.2 International Commitments**

### **2.2.1 The Convention on the Elimination of Discrimination against All Women (CEDAW)**

The United Nations Convention on the Elimination of All Forms of Discrimination against All Women (CEDAW) (which will be called the Convention from here on) was adopted by the United Nations General Assembly on 18 December 1979 and became active as an international treaty on 3 September 1981 (UN Women, 2009). By the year 1989, approximately one hundred nations agreed to be bound by its provisions (UN Women, 2009). This convention plays an important role in advocating for the empowerment of women as well as bringing women into the focus of human rights concerns (UN Women, 2009).

The Convention aims to create a greater understanding of the concept of human rights as well as the influence of culture and tradition on women's rights (UN Women, 2009). Cultures across the world have entrenched gender roles and expectations of men and women to the extent that women's rights are not recognised. Culture in the form of norms and values, as well as gender stereotypes, encompasses all spheres of life, therefore, placing political, economic and legal constraints on women (UN Women, 2009). The Convention states that "a change in the traditional role of men as well as the roles of women in society and in the family is needed to achieve full equality of men and women" (UN Women, 2009). The convention strives for gender equality in all spheres of life. Zimbabwe Ratified the Convention in 1991 but has not ratified the optional protocol (United Nations Treaty Collection, 2018). South Africa, on the other hand, has ratified both the Convention and its optional protocol (United Nations Treaty Collection, 2018). Given that both countries have ratified the main document, it puts an obligation on them to implement these treaties. The articles that are specific to this thesis in terms of gender inequality and harmful cultural practices are the following:

In Article 1 the Convention defines the term discrimination against women as:

“[...] any distinction, exclusion or restriction on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” (UN Women, 2009).

This definition covers substantive forms of discrimination against women. The Convention seeks to curb all forms of discrimination as per the definition stated to increase the equality of women and men in all spheres of life, be it in the home, in business or in education.

In Article 2 the Convention states that the countries that have ratified the Convention should adopt appropriate means to eliminate discrimination against women. The states need to “embody the principle of the equality of men and women in their national constitutions [...]” (CEDAW Article 2 s. (b)). Additionally, changes will need to be made in the legislature, including sanctions where appropriate and the establishment of legal protection through national tribunals and other public institutions (CEDAW Article 2 s. (f)). The state’s public authorities, institutions, private enterprises, and organisations are also recommended to refrain from any acts or practices that discriminate against women (CEDAW Article 2 s. (g)).

In Article 5 s. (a) the Convention places special mention of cultural activities stating that states should take all necessary steps to alter social, cultural and customary practices that lead to gender inequalities and prejudices. As already mentioned, both South Africa and Zimbabwe have ratified this convention and therefore these state parties recognize that there is a need to make necessary changes in all sectors and levels of engagement in their respective countries. Through the state's ratification of this convention, they also realise that it is important to make the necessary changes through the re-education of people in terms of social and cultural practices that reinforce gender inequalities and prejudices.

### **2.2.2 Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa and SADC Protocol on Gender and Development**

The Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (the Maputo Protocol) was endorsed in June 1995 by the countries

in the AU showing that there was a need to pay attention to the issue of gender inequality and discrimination against women on the African continent (African Commission on Human and Peoples' Rights (ACHPR), 2018).

The Maputo Protocol mentions provisions made for advocacy against gender inequality in other documents by drawing on treaties such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, CEDAW, and its optional protocol, to mention a few (ACHPR, 2018). However, the Maputo Protocol places specific emphasis on issues of harmful cultural practices in Article 5 (ACHPR, 2018).

The Protocol defines harmful practices in Article 1 s. (g) as “all behaviour, attitudes, and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education, and physical integrity” (ACHPR, 2018). Article 5 states that there is a need to create public awareness in all sectors of society regarding harmful practices through the spread of information, through formal and informal education and outreach programs (ACHPR, 2018). The article also stresses the importance of putting legislative measures in place to prohibit harmful practices such as female genital mutilation and other practices that are harmful (ACHPR, 2018). States should provide necessary support to victims of harmful practices through the provision of health services, legal and judicial support, emotional and psychological counselling including teaching women skills so that they are able to support themselves financially (ACHPR, 2018).

There are similarities between CEDAW and the Maputo Protocol because both state the importance of governments making necessary changes on all levels of society to move towards promoting gender equality and eliminating discrimination against women. The Convention and the Maputo Protocol also look at the importance of monitoring whether progress is being made in states and request that reports are issued with solutions where problems are evident in applying the Convention or the Maputo protocol (UN Women, 2009; ACHPR, 2018).

South Africa and Zimbabwe have both ratified the Maputo Protocol and they are therefore responsible to ensure that solutions are implemented to promote gender

equality and eliminate gender discrimination and harmful cultural practices. These states are also responsible to guarantee that progress is measured and monitored. Their efforts are also seen in the SADC Declaration on Gender and Development which was signed on 8 September 1997, where SADC heads of state have agreed on the importance of women's rights and gender equality (SADC Declaration on Gender and Development, 1997).

### **2.2.3 The Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC)**

South Africa and Zimbabwe have both ratified the CRC and ACRWC which seek to address the issues of children's rights. The ones who are most affected by discriminatory cultural practices besides women are children, more specifically the girl child. It is therefore important to look at the CRC and the ACRWC to understand the terms the governments of South Africa and Zimbabwe have agreed to.

The final version of the CRC was adopted in November 1989 (Viljoen, 1998:200). By 2 September 1990 twenty states ratified the CRC (Viljoen, 1998:200). Both South Africa and Zimbabwe ratified the CRC on 16 June 1995 and 11 September 1990 respectively (United Nations Treaty Collection, 2018). Article 1 of the CRC (Convention on the Rights of the Child, 1989) defines a child as one who is under the age of eighteen years. The article that is applicable to this thesis is article 30 which refers to culture. Article 30 states that "in those states in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own languages" (Convention on the Rights of the Child, 1989). This is the only article that mentions the importance of culture but does not include harmful cultural practices and their elimination.

There were arguments from the African community that the CRC did not include an African perspective on issues that children have to face on the African continent. Viljoen (1998:200) states that the involvement of African leaders in the drafting process was limited as only three African states participated for five of the nine years that the working group took to draw up the final proposal. After the first election in

January 1997, there was a minimal representation of the African continent with only three of the ten members of the committee being from Africa (Burkina Faso, Egypt & Zimbabwe) (Viljoen, 1998:200). This meant that the West was “overrepresented” (Viljoen, 1998:200).

Due to the minimal representation and the omission of African specific issues from the CRC the African Charter on the Rights and Welfare of the Child was created (Viljoen, 1998:205). According to Viljoen (1998), the specific issues pertaining to the African context that were not mentioned in the Convention were inter alia children living under apartheid, socio-economic conditions such as low education levels and sanitary conditions, children being used as soldiers and a minimum age requirement for military service (Viljoen, 1998:206).

The African Charter on the Rights and Welfare of the Child (The Charter) was adopted on 01 July 1990 (African Union, 2016). It is important to note that the ACRWC makes special mention of children and cultural practices. Firstly, the Charter in Article 1 s. (3) states that “any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties, and obligations contained in the present charter shall to the extent of such inconsistency be discouraged” (African Union, 2016). Article 21 takes a closer look at harmful cultural practices. The article states that States are to take all appropriate measures to eliminate any harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child...” (African Union, 2016). Article 21 s.1 ss.(a) and ss.(b) state that the States need to eliminate any practices that impact the health or life of the child negatively and customs that discriminate on the grounds of sex or another status (African Union, 2016). Article 21 s.2 further states that child marriage should be outlawed and the minimum age for marriage should be set at 18 years (African Union, 2016). HCPs is a subject that is not touched on in the Convention (CEDAW). Despite the focus of the charter on the African context and its issues, it did not have as much popularity as the CRC. South Africa and Zimbabwe have signed and ratified the CRC and the ACWRC and this shows that both these countries recognise the importance of the rights of the child.

### **2.3 South Africa**

South Africa like any other African country suffers from gender inequality (Mathebula, 2018). The fight for women’s rights and against their disenfranchisement in South

Africa dates back to the nineteenth and early twentieth century (Manjoo, 2005:245). The battle for gender equality can be seen in the conflict between common law and customary law, which has led to women and the girl child being left out on the fringes of justice. The conflict between the individualistic and autonomous view of the liberal ideology and African humanism, also known as 'ubuntu' (from the Zulu maxim *umuntu ngumuntu ngabantu*, that is, 'a person is a person through other persons') remains a problem today (Schutte, 1993:43 cited in Vincent, 2006:19).

There are a number of harmful customs that are practised in the Nguni communities such as lobola (which is contested), polygamy, ukuthwala and virginity testing which all have adverse effects on the rights of women (Gouws & Stasiulis, 2013:4). The two cultural practices that will be focused on is virginity testing and ukuthwala. These two harmful practices were chosen because, out of a number of them, they are the two contested customs nationally that are directed at women and the girl child (Mathebula, 2018).

### **2.3.1 Virginity Testing**

Virginity testing (*Ukuhlolwa Kwezintombe* in Zulu) is a cultural practice that has been observed for many years in South Africa but fell into disuse. It is a custom that is not only observed by the Zulus but has spread across the country as far as Mpumalanga and the Eastern Cape (Scorgie, 2002:57 & Thornberry, 2015:131). Virginity testing had a recent revival in the mid-1990s as the human immunodeficiency virus infection and acquired immune deficiency syndrome (HIV/AIDS) pandemic became a national problem in South Africa, more predominantly in KwaZulu-Natal as it has had the highest percentage of HIV/AIDS patients for example in 2016 at 16.9 percent (Hitchcock, 2016).

The re-introduction of the custom of virginity testing in the mid-1990s came from the insistent cry of older women who had to bear most of the burden of the HIV epidemic as they had to and still have to look after their sick relatives as well as their orphaned grandchildren (Leclerc-Madlala, 2001:535). The women in the Zulu culture advocated for the re-emergence of virginity testing as they saw it as the only way to instil the lost cultural values and morals that had been polluted by modernisation which was introduced by the West, as well as to fight against the HIV/AIDS epidemic (Leclerc-

Madlala, 2001:535; Scorgie, 2002:62; Commission for Gender Equality, 2000:16; George; 2008:1449). Thornberry (2015:144), speaks of nostalgia when addressing the custom of virginity testing and argues that the re-emergence of virginity testing can be seen as a “nostalgia for the past in which virginity testing provided a measure of protection for young women [...]” from sexual violence as well as issues of teenage pregnancy. Therefore, the arguments made for the re-introduction of virginity testing was the prevention of HIV/AIDS, child pregnancies and the detection of child abuse.

Virginity testing is a process whereby unmarried young woman (pl. *izintombi*; sing. *intombi*) are examined by older women to see whether or not they are still virgins (Thornberry, 2015:131; Scorgie, 2002: 56). The testing happens in different contexts, in the Xhosa culture it has been said to be practiced more privately, for example in one’s household by a girl’s mother or by a trusted older relative; whereas in the Zulu culture, testing has taken place in public settings such as school halls, community centres, and large public sports stadiums and some privately in their own homes (Leclerc-Madlala, 2001:537; Thornberry, 2015:131). In the case where girls are examined publicly, they are examined by older women who are seen as specialists in virginity testing (*Umhloli*) (Scorgie, 2002:57).

When the girls are being examined there are a number of things that the older women are looking for. Leclerc-Madlala puts it best when she states that when the girls are tested the virginity testers look for:

[...] features of the genitalia: the colour of the labia should be very light pink, the size of the vaginal opening should be very small, the vagina should be very dry and tight, and the white dot or white lacey veil [hymen] should be clearly evident and intact...a girl’s eyes should reflect virginity in that ‘they look innocent’. Her breasts and abdomen should be firm and taut, and the muscles behind her knees should be tight and straight (Leclerc-Madlala, 2001:540).

This is said to be a grade A virgin (Leclerc-Madlala, 2001:540). Scorgie concurs with the main features that are looked for when she mentions that the appearance of the girl’s body supposedly shows whether or not a girl is a virgin, for example, firm breasts and buttocks and flat abdomen with toned muscle (not flabby) (Scorgie, 2002:59). A type B virgin according to Leclerc-Madlala is one who may have had intercourse once

or twice or may have been abused (Leclerc-Madlala, 2001:540). Therefore, the labia of a grade B virgin is a deeper shade of pink, slightly bigger vaginal opening, not so tight and the hymen would have been tampered with (p540). However active complicity is what differentiates between a B and C rating in the virginity test although one who has been repeatedly abused may be graded a C in her virginity test (p540). A C grade means failure (p540).

Virginity testing as a traditional custom has gone through a process of transformation from its original form to a modern format. Thornberry (2015) takes a close look at the evolution of virginity testing and the influences of colonisation and apartheid which led to the change in virginity testing. The author evaluates the Xhosa culture and its use of virginity testing in the pre-colonial, colonial and apartheid times. In the precolonial and early colonial times in the Eastern Cape, virginity tests were used to control women's sexuality so as to not engage in intercourse (Thornberry, 2015:135). An unmarried woman's virginity was highly valued as it was connected to the bridewealth (lobola) that would be received when a daughter was engaged to be married (p135). When young women were examined by their mother or a close female relative what would be looked for was the extent of "wetness" (with semen) of the genitalia (Thornberry, 2015:137). Virginity testing was also used to see whether one was abused and therefore the custom played an important role in adjudicating cases of non-consensual sex in court (p137).

With the introduction of Western education in South Africa through colonisation it was found that traditional virginity testing results were occasionally false as a source of evidence for sexual abuse in court (Thornberry, 2015:141). Therefore, with colonisation, the custom transformed to one that not only checked for the extent of "wetness" of the genitalia but also the evidence of the hymen through medical examinations which was seen to be more accurate (Thornberry, 2015:137). With the education of the female genitalia by western medical practitioners, women in the Xhosa culture, as well as other cultures that conducted virginity tests, learnt about the hymen, which today is one of the main signs that a girl is still a virgin (Thornberry, 2015:144; George, 2008:1449).

Due to the celebration of the custom of virginity testing and the benefits that come with it, in January 2016 the maidens bursary was introduced (Mawisa, 2016). The bursary

was the Uthukela ANC District Mayor Dudu Mazibuko's idea (Khoza, 2016). A total of 113 pupils received this bursary from various schools on the condition that they stay virgins. The bursary was said to encourage girls to stay virgins and to focus on their education as well as to reduce the rise in teenage pregnancies and the HIV infection rate in the area which is the highest in the country (Khoza, 2016 & Mawisa, 2016). The girls who were awarded bursaries were required to be tested every school holiday (The Guardians, 2016). The bursary was criticised as unconstitutional by the Commission for Gender Equality (South Africa virgin bursaries rules unconstitutional, 2016). The maiden's bursary was further criticised as unlawful because it was seen as patriarchal and anti-women, which was an argument made by the Economic Freedom Fighters (EFF) which is an ANC opposition party (Mawisa, 2016). The People Opposing Women Abuse (POWA) argued that the bursary violated girls' rights (BBC, 2016).

Despite the positive points for virginity testing which were used to re-introduce the custom, such as identifying sexual abuse and trying to fight the spread of HIV/AIDS and teenage pregnancy, Behrens (2014:180) mentions a number of points against the custom. The first argument against virginity testing is that it is 'inherently unjust' (Behrens, 2014:181). This is to say that the virginal status of a girl due to the appearance of there being an untampered hymen is unjust as the hymen can be ruptured in other ways besides intercourse, for example during sporting activities (Behrens, 2014:181). Due to this, the results can come out as "false positive and false negative results" (Behrens, 2014:181). Due to the false negative results, girls could be unjustly humiliated or receive a positive result although she has been sexually active. This does not address the issue of the spread of HIV/AIDS nor does it do justice in ensuring that girls stay virgins till they are married.

The second argument against virginity testing is that it unfairly discriminates against girls (Behrens, 2014:182). In July 2005, the Children's Amendment Bill was amended to ensure that girls younger than 16 are not permitted to be tested for their virginity (Vincent, 2006:17; Naidu, 2008:79). When the amended bill moved into law on 13 March 2008, the Zulu community was outraged stating that the amendment was an assault on their culture (Naidu, 2008:79). Although the law was passed to protect young girls it promoted gender inequality. Despite the protection of young girls and

children from being coerced into being tested, boys have, according to the law, the allowance to refuse to be circumcised, which can be seen as discriminatory because girls are not given the same option. Chapter 2, Section 12(5) of the Children's Bill deals with the practice of male circumcision as it states "taking into consideration the child's age, maturity, and stage of development, every male child has the right to refuse circumcision" however there is peer pressure (Vincent, 2006:19). The discrimination against girls is also seen in that the responsibility of the spread of HIV/AIDS and teen pregnancy is placed on the sexuality of the girl but places little emphasis on the sexuality of the boy and his virginity (Naidu, 2008:87). Taylor et al. (2007:34) agrees with this statement when they write that "the focus on women as opposed to acknowledging the co-responsibility of men, discriminates against women and reinforces the stereotypical perspective of female responsibility" with which George, the Commission for Gender Equality (CGE) and Naidu concur (George, 2008:1460, CGE, 2000:5, Naidu, 2008:87). Therefore, the responsibility for curbing AIDS is placed on girls without recognising the role that men play in the epidemic.

Behrens also looks at the notion that virginity testing is 'morally unjustified' (Behrens, 2014:180). Due to the invasion of privacy and the direct conflict of issues pertaining to dignity and bodily integrity the custom is in direct violation of one's privacy and bodily integrity it can be assumed that this is morally unjustified (Behrens, 2014:180). However, Behrens (2014: 180) argues that this is a Western perspective on what a violation of one's privacy and bodily integrity looks like. Behrens (2014:181) argues that what constitutes decency differs across cultures. Vincent (2006:21) states that it all depends on one's view on issues of "...privacy, sexuality, the appropriateness of physical contact on the part of strangers with a person's genitalia, the sexuality of children, the rights and duties of parents and so on." Therefore, one's perspective on these matters will determine whether one sees virginity testing as morally unjust which may not be the case in the Zulu culture as it has been practised for many years with little resistance from within the ethnic group.

Leclerc-Madlala (2003) assesses the vulnerability of the young virgin to rape due to the discrimination incurred from the virginity testing results. Leclerc-Madlala (2003:22) conducted fieldwork in the form of focus groups with 14 girls between the ages of 13 and 18 who had planned to join the upcoming regional virginity tests. One of the main

concerns for the girls was that it may put them at risk of being raped and contracting HIV (Leclerc-Madlala, 2003:22; CGE, 2000:15). The risk of being raped can be linked to envious girls who plot for virgins to be raped as well as young men who see the virgins as “too confident” or “too proud” (Leclerc-Madlala, 2003:22). Another reason for the risk of rape is the myth that if one has intercourse with a virgin they may be cured of HIV/AIDS (Leclerc-Madlala, 2003:22). Girls have to carry the burden as they are the ones bearing the responsibility for the ills in their communities, including the policing of their sexuality.

The Commission of Gender Equality (CGE) agrees with the argument that virginity testing is discriminatory and has called for a ban on virginity testing (Vincent, 2006:19). Additionally, Leclerc-Madlala (2001:536) mentions the fact that the HIV pandemic has had a gendered bias mostly affecting poor women. Leclerc-Madlala (2001:536) also argued that virginity testing is a gendered response to a local disease that is gendered in nature. The custom places women’s sexuality at the centre of the HIV epidemic and enforces that women’s sexuality needs to be controlled to reduce the spread of HIV/AIDS (Leclerc-Madlala, 2001:536).

Empirical research on students’ perceptions of virginity testing range from those in high school to university (Swartbooi-Xabadiya, 2010; Taylor et al., 2007; Mhlongo; 2009). Looking at the findings of research there is a consensus that students place value on virginity testing as they see it as a custom that should be respected because it is part of their culture (Swartbooi-Xabadiya, 2010:35; Mhlongo, 2009:39, Taylor et al., 2007:31). The research found that virginity testing gives a girl a sense of pride, respect and self-dignity as the community will respect her as a “dignified lady” (Mhlongo, 2009: 38-39, 45). There is also mention of the value placed on a girl’s virginity in connection with lobola and marriage (Swartbooi-Xabadiya 2010:35; Mhlongo, 2009:43). The respondents also showed an understanding of the role of virginity testing as a tool to prevent the spread of HIV/AIDS and teenage pregnancy (Swartbooi-Xabadiya, 2010:42, Mhlongo, 2009:41, Naidu, 2008:79). Vincent (2006:20) concurs with Swartbooi-Xabadiya (2010) and Taylor et al.’s (2007) findings as she states that there is no visual evidence of overt coercion as the girls appear to be joyful as they sing and dance during virginity testing ceremonies.

A lack of overt coercion and differing perspectives on sexuality makes it difficult to ban virginity testing to ensure gender equality (which was the CGE's objective). If the circumstance of virginity testing was similar to male traditional circumcision where boys had to deal with serious physical ailments to the extent of death, it would be a somewhat simpler task to ban virginity testing. Yet it happens, and circumcision is not banned. Due to this perceived conflict between human rights and culture some changes have been made to protect the girl child, for example, permitting consensual virginity testing only from the age of 16 years.

Paradoxically, virginity testing increases the risk of being raped either due to mythical reasons or discrimination within the community as mentioned above (Swartbooi-Xabadiya, 2010:38, 41; Mhlongo, 2009:51). One of the respondents in Swartbooi-Xabadiya's research commented on older men wanting to have sex with younger girls saying: "inkciyo [a virgin] girl could be enticed by older men who want to have sex because they are virgins..." (Swartbooi-Xabadiya, 2010:37). Mhlongo's (2009:47) findings also point to the fact that girls who are found not to be virgins usually suffer discrimination from their friends and are often left isolated. Once a girl has lost her virginity she is no longer treated as a young girl (intombi) but as an older woman (umfazi) because she is sexually active (Mhlongo, 2009:47).

Naidu's (2008:79) research looks at body politics and how the women students in her sample negotiated concepts of 'virgin' and 'virginity'. The author found that overall the women who were students at the university struggled to create a narrative of "resistance to dominant discourses and cultural constructions of the female body" (Naidu, 2008: 89). Although the women knew what the cultural standard was (to remain virgin till married) they were ambivalent towards this as they were sexually active and unmarried (p89). They showed a sense of assertiveness in their relationships with the partners they were sexually active with but constantly reverted back to certain practice and cultural expectations of women's sexuality (p89).

Nhlapo makes an insightful point on the need to understand a culture to make changes that are inclusive and respectful to the values and morals upheld within the culture (Nhlapo, 2000:143). The author mentions the following:

Making an effort to understand the deep culture of others enhances our credibility. It pulls the carpet under the feet of anyone who seeks to argue that our secret agenda is to impose our own standards on others without being ourselves willing to adopt new modes of thinking (Nhlapo, 2000:143).

It is a difficult task to strike a balance between respecting one's culture while trying to promote human rights without imposing one's views disrespectfully onto a group of people. However, it is of utmost importance to understand the extent of the push and pull between human rights and culture to make the right changes that are respectful and beneficial to the said ethnic groups and country.

Taylor et al. (2007) found that the respondents did not believe that virginity testing deterred or discouraged young girls from engaging in sexual activity, whereas Swartbooi-Xabadiya (2010) found that his respondents had a respect for the culture and recognised its supposed ability to reduce and prevent HIV/AIDS and teenage pregnancy. One can therefore see that the respondents in these studies had a good understanding of the custom of virginity testing and its downside, however, some of the respondents saw it as beneficial while others did not.

Virginity testing violates the Constitution in a number of ways (South African Human Rights Commission (SAHRC), 2003:10). Because of its discrimination towards women, the custom violates the Bill of Rights that states that discrimination should be prohibited on grounds of sex and gender (Constitution of the Republic of South Africa, 1996). Virginity testing violates a girl's right to privacy which is protected in Section 14 of the Constitution. Additionally, virginity testing may violate one's dignity which is a violation of Section 10 of the Constitution (Constitution of the Republic of South Africa, 1996). The loss of a girl's dignity is experienced when one is at risk of being raped when a girl who is found not to be a virgin is excluded from a peer group and if she refuses to get tested (South African Human Rights Commission (SAHRC), 2003:8). This is a violation of children's rights if they are under the age of 18. Children's rights are protected in Chapter 28 of the Constitution stating that children should be protected from maltreatment, neglect, abuse or degradation and that the best interests of the child are of utmost importance in every matter concerning them (South African Human Rights Commission, 2003:10).

### 2.3.2 Ukuthwala

Ukuthwala is seen as a form of abduction (SALRC, 2014:19). Literature shows there is widespread agreement that Ukuthwala is a HCP that violates the rights of women and children, most especially the girl child (Choma, 2011; van der Watt & Ovens, 2012; Rice 2014; Kheswa & Hoho, 2014; Ntlokwana & Monyane, 2013; Wadesango, Rembe & Chabaya, 2011; Koyana & Bekker, 2007). Ukuthwala is a custom that is still being practised today, predominantly in the Nguni communities in the Eastern Cape and Kwazulu-Natal (Choma, 2011:874). The dictionary definition of ukuthwala describes the custom as “[to] carry on [the] head or shoulders or load gripping by the hands” (South African Law Reform Commission (SALRC), 2014:4). The custom has gone through changes over the years and has transformed from a practice that was not considered harmful, embracing the spirit of *ubuntu* to one that violates the Bill of Rights.

Koyana and Bekker (2007) gave a good illustration of what the custom looked like before transformation took place. Ukuthwala was a custom designed to initiate negotiations for engagement to be married if there were any hindrances to the proposal of the suitor by the father or other male relatives of the girl. The procedure of the custom was the following:

The intending bridegroom, with one or two friends, will waylay the intended bride in the neighbourhood of her own home, quite often late in the day, towards sunset or at early dusk, and they will ‘forcibly’ take her to the young man’s home. Sometimes the girl is caught unaware, but in many instances, she is ‘caught’ according to plan and agreement. In either case, she will put up a show of resistance to suggest to onlookers that it is all against her will when, in fact, it is hardly so (Koyana & Bekker, 2007:139).

After the abduction, the suitor would then report the abduction to the girl’s family of the abduction and then begin negotiations for engagement and marriage in terms of what was required for lobola (Koyana & Bekker, 2007:139). This created a friendly relationship between the bridegroom’s family and the girl. Thereafter the lobola would be negotiated and once the payment was finalised the girl will then change status from a single woman to being the young man’s wife (Koyana & Bekker, 2007:139).

According to Van der Watt and Ovens (2012:15), “correctly applied, ukuthwala allows for collective decision making and dialogue.” The custom was viewed as somewhat ‘romantic’ and was not a harmful practice due to the checks and balances that were in place in the community. The South African Law Reform Commission (SALRC) concurs with this giving several measures that were put in place to protect the girl from any harm. Firstly’ the groom and his family were required to inform the bride’s family of the whereabouts of their daughter on the day she was ‘thwala’d’ (taken/carried) that she was with them and were obligated to indicate the number of cattle they would pay for lobola, and by when (SALRC, 2014:10). Secondly, it was forbidden for the groom to have any sexual relations with the girl (SALRC, 2014:11). Lastly, the suitor was required to inform his family head of his intention to thwala the girl and once taken the girl would be looked after by the women in his family (p11).

There are several reasons why ukuthwala was practised. Firstly, it was a way to force the father of the girl to give consent; secondly, to avoid the payment of lobola; thirdly, to avoid the expenses of a wedding; fourthly, to hasten the process if the woman was pregnant; and lastly, to show the girl the seriousness of the young man’s intent to marry her (Ntlokwana, 2009:4-5). Another reason for the custom was to find a suitor for women who had remained unmarried for a long time (SALRC, 2014:7) The SALRC (2014:7) argues that there were some cases where the custom violated the girl’s rights, for example, where “families agree on the (potential) marriage without the girl’s knowledge” and where the bride and the bride’s family are pressured into following the custom by the groom’s family (p7). Although coercion may have been involved in the past ukuthwala, culturally, the custom did not involve offensive behaviours such as rape, violence or criminal abduction (SALRC, 2014:6)

Over the years the custom of ukuthwala has changed to one that was increasingly harmful to young girls being abducted by older men (SALRC, 2014:19). According to Van der Watt and Ovens (2012:12), when the girl is unlawfully abducted she is usually exposed to maltreatment and abuse such as rape, domestic violence and the infringement of her rights to dignity and bodily integrity. Ukuthwala as a harmful practice has had a large impact on girls’ development because girls who have been abducted have been denied the right to education, they get isolated and therefore do not get an adequate life and social skills (Choma, 2011:875). The girls are also

exposed to pregnancy before their bodies are ready for the physical strain of carrying a child and giving birth which can lead to lifelong health complications. Finally, the girls are exposed to HIV when abducted unwillingly and are sexually abused (Choma, 2011:875; SALRC, 2014:13).

This custom, despite its outright defiance of human rights and gender equality, continues to be condoned and accepted in the Nguni communities. Those who are the main perpetrators of ukuthwala are said to be workers in big cities who visit their homes in rural areas, for example, mine workers, factory workers, taxi drivers and long-distance truck drivers, just to mention a few (SALRC, 2014:15). There are several reasons that have contributed to the current harmful nature of ukuthwala. According to Monyane (2013:68), poverty plays an important role in the perpetuation of ukuthwala. It has been said that parents organise for their daughters to be abducted and married off to older men to ease the financial strain through the lobola that is paid (SALRC, 2014:20). A second reason is the belief that having sexual intercourse with a virgin will cure HIV/AIDS infection (p20). Thirdly, the traditional perception that women are meant to be subordinate to men and that they have stereotypical gender roles they should follow (p20). Ukuthwala has become a custom that not only perpetuates patriarchy but also increases domestic and sexual violence.

There are numerous accounts of ukuthwala that have been reported and written about by the local press. For example, Mapumulo (2015) wrote in *News24* that a young woman from the Mdakeni village in Lusikisiki in the Eastern Cape was forcibly 'thwala'd' by four men, at the time she was 16 years old. Her mother reported the case to local leaders who were not keen to help (Mapumulo, 2015). Only after the proposed lobola amount by the suitors family was rejected by Kotikoti's mother was she released (Mapumulo, 2015). A man aged 30 years at the time abducted a girl aged 14 in 2012 (SALRC, 2014:17). He had six charges put against him ranging from human trafficking to rape and the state sought a minimum sentence of life imprisonment on his three rape charges (SALRC, 2014:17). He continues to claim that he did nothing wrong. It was his culture. These are just a few of many examples of young girls being abducted.

Due to the abuse of the custom over the years, ukuthwala has violated the constitution as well as the international treaties and charters the government has signed and ratified. Articles 30 and 31 in Chapter 2 of the South African Constitution provide that

one can participate in the culture of their own choice, provided that the customs that are practised within the culture do not overstep the bounds of the provisions made in the Constitution (Constitution of the Republic of South Africa, 1996). The harmful practice has violated the Bill of Rights, the Recognition of Customary Marriages Act (Act 120 of 1998), the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

Ukuthwala violates the common law crime of abduction described in the Children's Act 2005 as "the unlawful removal of a minor out of the control of his or her custodian with the intention of enabling someone to marry or have sexual intercourse with that minor" (South African Police Service, 2014; Koyana & Bekker, 2007:142). It has also violated Section 3 s.1 ss.a of the Recognition of Customary Marriages Act (Act 120 of 1999) that states that both prospective spouses need to be above the age of 18 years as well as have agreed to be married to each other under customary law. Article 16 s.b in the Convention agrees with the Act stating that each spouse has the right to choose whom they want to marry and need to give his/her consent. Ukuthwala further violates Article 16 s.1 ss.a of the Convention (CEDAW) which states that states should take measures to eliminate any discrimination against women relating to marriage to each spouse equal right to enter and leave the marriage with free and full consent (SALRC, 2014:32).

The custom also violates Chapter 2 Section 9 of the Constitution and Article 10 of the CEDAW which states that everyone has a right to basic education as well as to further their education (Constitution of the Republic of South Africa, 1996). Some girls who are abducted are denied the right to go to school by their spouse and are forced to look after their home. Furthermore, due to the custom targeting young girls particularly making them the main victims, ukuthwala is discriminatory as it targets the one gender group and therefore infringes on Article 16 of the CEDAW. The custom also violates the Domestic Violence Act 116 of 1998 as girls are exposed to physical, sexual and emotional abuse from their spouses (Domestic Violence Act (Act 116 of 1998)).

## **2.4 Zimbabwe**

This section will be analysing Zimbabwe's context specifically with a focus on what the prevalent harmful cultural practices currently are in the Shona culture which have led

to gender inequality. The two harmful cultural practices that will be analysed in the Shona culture are early child marriage and lobola.

#### **2.4.1 Gender Inequality and Harmful Cultural Practices in the Shona Culture**

There are several cultural practices that are harmful in the Shona culture; a report by Shylock Muyengwa for the Zimbabwe Youth Council was drawn up looking at harmful practices affecting children that reported early marriage as the most prevalent harmful practice in the Shona culture affecting the girl child (Zimbabwe Youth Council, 2014: x). In this report it was recognised as the most common harmful practice in seven areas; Chikombedzi, Neshuro, Ngundu, Hwange, Lukosi, Uzumba and Mudzi (Zimbabwe Youth Council, 2014: xii). An earlier report by Kambarami (2006) supports this finding, arranged marriages are a prevalent problem within the Shona culture.

Padare, also known as Enkundleni Men's Forum on Gender and the Women's Action Group, wrote a report looking at best practices to overcome the challenges in gender dynamics in a cultural context and reported some controversial practices, listing (Padare & Women's Action Group & Padare, 2011:5):

1. The Commercialisation of bridal wealth (lobola);
2. 'Kupisa guva' – after the death of a father, all the girls in the family are taken to the river for virginity testing;
3. 'Madehne' - this is a tradition where the elderly women teach their nieces how to perform sexually to make sure that they are able to satisfy their husband's sexual needs;
4. 'Kubatidza moto' - this is a tradition that states that in the case of a husband being infertile the younger brother is asked to sleep with his wife without the knowledge of the husband to carry the family name on;
5. Widow inheritance - this is a tradition that is rarely practised and has changed into an 'informal' widow inheritance, where a man in the family can approach a widow without the knowledge of other family member and begins engaging in a sexual relationship with her;
6. 'Kurova Gata' (Death cause enquiry) - this is a practice where traditional healers are approached for inquiry of how a family member or family members have died, which leads to the denial of HIV/AIDS as a cause of death leading

to the spread of HIV. This is because traditional healers do not use information from the medical fraternity;

7. Child Marriage (Padare & Women's Action Group & Padare, 2011:5).

The harmful cultural practices that have been mentioned above, according to the report by Padare and Women's Action Group in 2011, were practised in Guruve and Mhondoro where these organisations operate. The seventh harmful practice mentioned in the report is child marriage which confirms the research done by Muyengwa (2014) and Kambarami (2014; 2006). The harmful practices mentioned above give a broad overview of what harmful practices have been and are still being observed within the Shona culture. Following is an in-depth analysis of child marriage and lobola practices in the Shona cultural context.

#### **2.4.2 Child Marriage**

According to the United Nations Population Fund (UNFPA) (2012:11) "the term 'child marriage' is used to describe a legal or customary union between two people, of whom one or both spouses are below the age of 18." Child marriage is a worldwide issue and is prevalent in low and middle-income countries where one in three girls will marry before the age of eighteen and one in nine girls will marry before the age of fifteen (UNFPA, 2012:11). Child marriage is a bigger issue in least-developed countries where nearly one in two children get married before they turn eighteen (p11). In 2010, 158 countries stated that within their laws, the minimum legal age for marriage for women without parental consent or approval was 18 (UNFPA, 2012: 12). However, 146 countries have a hybrid legal system with customary law and statutory law working side by side, where customary law allows girls to be married younger than the age of 18 with the consent of parents or other authorities (p12). In 52 counties girls younger than the age of 15 can be married off with the consent of parents (p12). Child marriage is an issue because it is children below the age of 18 who are getting married, very often these children get married to older men who may also be in polygamous marriages (Chenge & Maunganidze, 2017:26, 33). Therefore, the girl child will have to endure marital rape as she will be unable to refuse sexual advances from her husband who is significantly older than her or report this incident to the police (Sibanda, 2011:9). Child marriage, therefore, is a harmful practice that needs to be dealt with as it is a

violation of children's rights and human rights and has a large impact on the country in terms of development.

In Zimbabwe, there is a high prevalence of early child marriages, more especially in the Mashonaland Central province which has a 50% prevalence rate (Dzimiri, Chikunda & Ingwani, 2017:74). Therefore, child marriage continues to be an issue within the Zimbabwean state (Wadesango, Rembe & Chabaya, 2011; Padare & WAG, 2011; Zimbabwe Youth Council, 2014; Kambarami, 2006, Sibanda, 2011, Hodzi, 2014). Approximately 31% of women between the ages of 20-24 were married or entered a union before the age of 18, between 2000 and 2011 (UNFPA, 2012:23). According to a survey conducted by Zimbabwe's National Statistics Agency in 2014, one in three women between the ages of 20 and 49 who were surveyed reported that they got married before their eighteenth birthday (HRW, 2015). Additionally, the same survey found that an estimated 4% marry before the age of 15 (HRW, 2015). Most of these marriages are unregistered customary law unions, therefore, making it difficult to accurately measure the rate at which child marriages are conducted in Zimbabwe (HRW, 2015).

According to surveys conducted, the areas with the highest child marriage prevalence rate, are the provinces: Mashonaland Central with 50%, Mashonaland West with 42% and Mashonaland East is the third highest with 36% (Mashangwa, 2015). The other provinces where child marriage is practised in Zimbabwe are Midlands at 31%, Manicaland at 30%, Matabeleland North at 27%, Harare at 19%, Matabeleland South at 19% and Bulawayo at 10% (Mashangwa, 2015).

There are several factors influence the prevalence of child marriage. Poverty is one factor that fuels this harmful practice, as well as poor access to education and harmful religious beliefs and social norms (HRW, 2015). Religious beliefs have been one of the main reasons for many child marriages, specifically in the rural areas.

Child marriage is common in the Johanne Marange Apostolic sect also known as '*vapostori*' which is a mixture of Christian beliefs and traditional cultural beliefs (Sibanda, 2011: 4). This church was founded in 1932 and has spread from Zimbabwe to South Africa, Botswana, Zambia, Malawi, Kenya and the Democratic Republic of the Congo (Ruzivo, 2014:19). This religious sect has approximately 1.2 million

members in Zimbabwe (Sibanda, 2011:4). According to Ruzivo (2014:187), marriage within the church usually takes the form of customary marriage with the consent of the parents and the prospective husbands. The marriage arrangements usually happen without the girl's consent (Ruzivo, 2014:187).

According to Sibanda (2011:3), the "holy spirit" is used as an instrument of intimidation to validate child marriage. The prophets within the denomination say that they would have been 'directed' by the "holy spirit" to marry young girls (p3). Additionally, there is a view within this religious sect that women should only attain minimal education, therefore as soon as a girl reaches puberty she is eligible to be married (p3). Due to the beliefs of the Johanne Marange Apostolic sect, young girls are married off to men who are older than their fathers (Kachere, 2009).

There have been signs of resistance to change, for example, a comment made by Chief Chiduku, a senator for Manicaland in 2011, where he stated that there was nothing wrong with child marriage during a committee hearing with gender male activists (*News Day*, 2011). A direct quote was referred to in a *News Day* article where the Chief said:

You mentioned that the people in Chipinge and the apostolic sects are breaking the law by marrying off underage girls said Chief Chiduku. 'But it is their culture and religion that you are condemning (*News Day*, 2011).

Child marriage violates human rights in terms of children's rights as the girl child is the main victim of child marriage (Nkomo, 2014). Nkomo (2014) gives a thorough analysis of the articles that have been violated within the Convention, the Maputo Protocol as well as the ACRWC, and therefore violates Article 21 s.2 of the ACRWC which prohibits the betrothal of both girls and boys before the age of 18 (Nkomo 2014:52). Child marriage is also in direct violation of Article 16 s.1 ss.c in the Convention and Article 21 s.2 in ACRWC which both state that the girl and the boy need to be at least 18 years of age to be married (Nkomo, 2014:53). Child brides are frequently exposed to domestic violence and sexual abuse due to the large age gap between the parties which renders them powerless (Nkomo, 2014:54). According to Nkomo (2014), most child marriages are conducted without consent of the girl, the preceding domestic violence and sexual abuse violate Article 16 s.1 ss.c in the Convention which requires

that both husband and wife have equal rights during the marriage and its dissolution (Nkomo, 2014:54). Article 21 s.2 of the ACRWC and article 24 s.3 of the CRC state that child marriage is a violation of the rights of the girl child (Nkomo, 2014:54).

### **2.4.3 Lobola (Roora)**

Lobola (bride price) is a cultural practice that has stood the test of time and it is still observed within the Shona culture (Wadesango et al., 2011; Padare & WAG, 2011; Kambarami, 2006; & Sibanda, 2011; Chireshe & Chireshe, 2010; Dura, 2015; Ansell, 2001; Armstrong, 1998; Chirawu, 2006). Lobola in the Shona culture is known as '*pfuma*', '*rovora*', '*kutowora*' or '*roora*' (Nkomo, 2014:41). For consistency, this thesis will use lobola from here on. Lobola is the transfer of property, usually in the form of livestock, by the husband or the guardian to the wife's family as part of the marriage process (Nkomo, 2014:41). This is a custom that has had positive value in the Shona culture. Firstly, it has helped bring the two families of the woman and the man who are to be married together (Chireshe & Chireshe, 2010:212). Secondly, this cultural practice acts as a way of transferring the legal custody of the children born in the marriage to the father or his family, however, this was done to the exclusion of the mother's family (p212). Thirdly the custom is said to be a sign of respect and gratitude to the parents of the bride (Dura, 2015:1). Despite the positive results that come from the practice research has found that lobola brings about the manifestation of gender inequality and the control of a woman's sexuality within a marital context (Chireshe & Chireshe, 2010:212).

Throughout the year's lobola has transformed and become a custom that has led to the abuse and oppression of women in marriage (Chabata, 2012). The commercialisation of the custom has been one of the main misuses of the culture which has led to negative effects on marriage (Chabata, 2012). The commercialisation of lobola refers to a system where the payment of lobola has changed from it being a cultural practice to a business venture where a woman has a monetary value attached to her (Chabata, 2012). The commercialisation of lobola also refers to the process of negotiations leading to the payment of high fees as though the woman is a commodity to be sold (Chabata, 2012). The transformation of the custom from being one with positive results to one with undesirable results was experienced as far back as the

colonial era where commercialisation was introduced and has continued to be commercialised as Zimbabwe's economy deteriorated (Chabata, 2012).

The commercialisation of *lobola* according to Chireshe and Chireshe (2010:216) has led to the abuse of women by their husbands and their in-laws. Therefore, instead of the customs being practised in a way that leads to positive outcomes, commercialisation as well as the morphed perspectives of some of the families and husbands as to what the custom stands for has led to both men and women speaking against it (Chireshe & Chireshe, 2010:216).

Ansell (2001) conducted a study on what students in Lesotho and Zimbabwe think of lobola. Students from Ruchera Secondary School in Zimbabwe and Mahloko High School in Lesotho were asked to participate (Ansell, 2001:13). Focus groups were used to allow the students to speak freely with not much interference. The findings state that the students felt that lobola as a custom should be valued because it is part of their culture (Ansell, 2001:14). The second finding was that lobola was a viable way to thank the girl's parents for bringing her up (Ansell, 2001:15). Thirdly, the students saw it as a way for the man to show how much he loved his bride (Ansell, 2001:15). Despite the positive comments, there were some negative thoughts as well. The girls in the study stated that lobola makes it difficult for a woman to leave her marriage, even though it may be because of domestic violence (Ansell, 2001:16). The students in the study felt that lobola as a practice should be valued but realise that there is a conflict between this cultural practice and gender equality (Ansell, 2001:19).

Chireshe and Chireshe (2010:211) conducted a study asking forty-five students (29 female and 16 male) who were studying Women and Religion to participate in completing a questionnaire which sought to find out what they thought the significance of *lobola* was. The results of the research were both positive and negative. A majority (78%) of the respondents responded negatively when asked if lobola should be abolished (Chireshe & Chireshe, 2010:215). Three reasons that were stated motivating the continuation of this cultural practice was first that it is part of their cultural heritage (Chireshe & Chireshe, 2010:215). This concurs with Ansell's findings. Secondly, the students stated that *lobola* validates marriage between a man and a woman and shows the commitment of the man thereby reducing the divorce rate (p215). Thirdly, the respondents stated that the practice of *lobola* attaches value to the

wife (p215). In the Shona culture, a woman who has not had lobola paid for her has no value as she is considered an illegitimate wife (p215). Although these positive points were made not to abolish the cultural practice of lobola, the respondents specifically mentioned the fact that due to the abuse of the custom there have been detrimental effects on marriage, for example, the dissolution of the marriage (Chireshe & Chireshe, 2010:216).

The respondents made the following criticisms: that lobola facilitates the oppression and abuse of women in marriage; that the practice devalues women and commoditises her instead of treating her as an equal partner in the marriage (Chireshe & Chireshe, 2010:217). The latter criticism supports Kambarami (2006)'s argument that lobola is a manifestation of patriarchy that leads to inequality through women's subordination and oppression, where she is seen as a piece of property that has been acquired. Therefore, lobola has positive aspects, but due to its abuse, has led to a lack of gender equality.

Lobola and early child marriage are customs that are linked together, including early child marriages in religious fundamentalist groups. As already mentioned the Johanne Marange Sect is a mixture of Christian beliefs and traditional cultural beliefs and due to this the marriages initiated within this sect incorporate the cultural practice of *lobola*. According to Machingura (2014:187), the parents of the girls who are being married off facilitate the marriage through *lobola*. Besides having religious reasons for child marriage this harmful practice has economic gains through the payment of *lobola* to the parents of the girl and therefore many girls are married off due to its financial gains (Machingura, 2014:187).

The discriminatory and oppressive nature of *lobola* undermines both the Convention and the Maputo Protocol. Firstly, looking at the former, according to Nkomo (2014:41), *lobola* conflicts with the non-discrimination provisions made within the protocols as men are the main actors in *lobola* negotiations excluding women. As mentioned above, *lobola* transfers the legal custody of the children from the mother to the father which leads to an unequal distribution of rights and responsibilities about the guardianship of children which is in direct conflict with Article 16(1) of the Convention (Nkomo, 201:42). Secondly, the commercialisation of *lobola* which causes women to be viewed as property of male members of the family, that is the father, uncle or brothers, is a

violation of Article 2 of CEDAW and Article 2 of the African charter which both mention the importance of a women's right to equality (Nkomo, 2014:43).

Lobola is seen to add value to the women, therefore ensuring good treatment from her husband but this is not applied in reverse therefore it can be argued that this is a violation of Article 16(1) (c) of CEDAW which urges state parties to ensure that the same rights during and upon the dissolution of a marriage are applied (Nkomo, 2014:44-45). Through the payment of *lobola* it has been observed that it is difficult for the woman to leave the marriage despite the abuse incurred therefore further substantiating the argument that the custom does lead to inequality in terms of rights within the marriage. Furthermore, the transference of a women's rights to her husband is seen as a continued violation of Article 16 s.1 ss.c of CEDAW and Article 6 of the African Protocol which emphasises that both men and women enjoy equal rights in a marriage (Nkomo, 2014:45). Therefore, the manifestations of inequalities between men and women due to lobola need to be addressed.

## **2.5 Conclusion**

It is evident that South Africa and Zimbabwe still has practices amongst the Zulu and Shona cultures (respectively) that discriminate against women and the girl child and that are harmful towards them. The evolution of culture and its practices is also evident, showing that cultures change overtime however in some cases the change may be more harmful than beneficial as seen in the custom of lobola. Lobola was a custom that had many benefits to it but with the commercialisation of the custom, abuses have arisen leaving women in abuse marriages that they struggle to leave. Additionally, the literature shows that some customs can be phased about and be reintroduced as seen in the custom of virginity testing. It is also evident from the literature that Zimbabwe and South Africa recognise that work needs to be done to address gender inequalities, discrimination against women and harmful practices within their border. Having ratified different international conventions it shows that South African and Zimbabwe's leadership recognises the issues in the countries and are willing to be held accountable by international organisations on whether they are making progress addressing harmful cultural practices and gender inequalities. Furthermore, ratifying the international conventions shows commitment to amend laws

and to create and change policies to advocate for women and children's rights. The next chapter will look at the research design and methodology of this thesis.

## **CHAPTER 3 RESEARCH METHODOLOGY AND DESIGN**

### **3.1 Introduction**

Lobola in the Shona culture and virginity testing in the Zulu culture are widely practised customs and much has been written on their negative effects on gender equality and their supposed harmful nature. Early child marriage in the Shona culture and ukuthwala in the Zulu culture are customs that are harmful because of their direct violation of human rights. Therefore, these customs were chosen because of their harmful nature according to literature and the need of the researcher to find out if Zulu and Shona people view these customs in the same light. To find this out this thesis utilised quantitative and qualitative research methods. This chapter focusses on the research strategy, the process of data collection in South Africa and Zimbabwe, data processing and analysis, reliability, validity and ethical considerations and the research limitations and delimitations.

### **3.2 Research Methods**

In this research both qualitative and quantitative methods were used with the objective of exploring the conflict between human rights and culture, looking at HCPs. Quantitative data includes numerical and statistical data and qualitative data is generally expressed in words rather than numbers (Walliman, 2011:71). Qualitative research methods for data collection and analysis were used to gain some understanding of the respondents' perceptions of human rights and harmful cultural practices in the respective ethnic groups in both countries. Qualitative research methods and quantitative methods through the use of SPSS data coding and analysis worked best for this study as it allowed the researcher to ask questions which would help gain a deeper understanding of the respondent's perceptions of culture and human rights.

Case study method was used in this thesis. According to Yin (2009:18), a case study is "an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident." When adopting case study research methods, one can either have a single or multiple case studies (Yin,2003:14). For this thesis, a multiple case study method has been used with Zulus in South Africa and the Shonas

in Zimbabwe being the two cases used. Furthermore, a case study method was used to investigate what the thoughts and perspectives were of the men and women of the Zulu and Shona people on human rights and the customs that are deemed harmful in their cultures; and as stated above qualitative and quantitative methods were used to achieve this.

### **3.2.1 Sample: Setting and Respondents**

The research aimed to find respondents between the ages of 18 and 50 plus to get a broad understanding of their perspectives on human rights, culture and gender equality and harmful cultural practices. Both men and women in the stated age range were given the questionnaire to complete and were interviewed. The ages were divided into four groups:

- 18-24;
- 25-34;
- 35-49;
- 50+.

The researcher planned to select two men and two women in each age group to complete the questionnaire, making a total of 16 respondents from Zimbabwe and South Africa. In South Africa, there were seven women and eight men who were willing to participate in the study. The respondents in KwaBulawayo came from a nearby village which was a walking distance and the respondents in St Lucia worked at a cultural resort and were therefore interviewed during working hours. In Zimbabwe, the Non-Governmental Organisation (NGO), named Padare/Enkundleni was the researcher's contact point. The NGO had a base in Bindura and was willing to help find and gather the respondents in one venue. There were nine women and seven men who were willing to participate in the study. The younger men were difficult to find because most of them travelled to Harare for work or in search for work. Additional respondents who were community leaders in Shamva were interviewed to gain a deeper understanding of the cultural context.

*Table 3.1 Number of Male and Female Respondents by Sex (South Africa and Zimbabwe)*

	Number of Respondents (South Africa)	Number of Respondents (Zimbabwe)
Female	46.7% (7)	56.3% (9)
Male	53.3% (8)	43.8% (7)
Total	100% (15)	100% (16)

*Table 3.2 Age Groups (South Africa & Zimbabwe)*

	South Africa		Zimbabwe	
	Female	Male	Female	Male
18-24	28.6% (2)	---	44.4% (4)	14.3% (1)
25-34	---	25% (2)	---	28.6% (2)
35-49	42.9% (3)	37.5% (3)	44.4% (4)	28.6% (2)
50+	28.6% (2)	37.5% (3)	11.1% (1)	28.6% (2)
Total	100% (7)	100% (8)	100% (9)	100% (7)

### 3.3 Data Collection

The empirical research was carried out in KwaBulawayo and St Lucia in Kwazulu-Natal in South Africa and in Bindura and Shamva in Zimbabwe. The locations were chosen because of their proximity to rural areas and/or semi-rural areas as well as the availability of accommodation close-by. The main cultural practices that the researcher sought to understand better were virginity testing and ukuthwala in South Africa and lobola and early child marriage in Zimbabwe. The cultural practices were chosen because they are widely practiced, discussed and long-standing practices in the Zulu and Shona ethnic groups.

The South African population in 2016 was totalled an estimation of 55.7 million (Statistics South Africa, 2018). KwaZulu-Natal (KZN) in 2016 comprised of the second largest population in South Africa at 11.1% (Statistics South Africa, 2018). The Zulu people who are mainly based in KZN were the group the research focused on. In Zimbabwe, the total population amounted to an estimate of 14.2 million people in 2016 (Zimbabwe National Statistics Agency, 2016:7). The research was carried out in Mashonaland Central which had 1.15 million people in 2016 (Zimbabwe National Statistics Agency, 2016:6).

Both the Zulus and the Shonas are the predominant ethnic groups in South Africa and Zimbabwe. According to the 2011 census, 22.7 percent of the South African population speaks isiZulu as their first language and in Zimbabwe, approximately 70 percent of the population are Shonas (Statistics South Africa, 2011:25; World Population Review, 2018). Prior to selection, the researcher made attempts to find information on whether the harmful practices being researched were practised in the chosen areas and if not

the people in the area at least had good knowledge on the customs. In South Africa and Zimbabwe, snowball sampling was used to select the respondents needed for this study. Snowball sampling is used when members are sampled and then asked to identify other members to sample and this process continues until enough samples are collected” (CIRT, 2018).

The study’s instruments of data collection were open-ended interviews as well as closed-ended interviews (questionnaire) with the use of an interpreter. The questionnaire and interview questions were drawn up to answer the main research question:

*What are the perceptions of women and men of human rights and culture and how do these opinions contribute to the acceptance or rejection of harmful cultural practices among Zulus and Shonas in Zimbabwe and South Africa?*

The questions in the questionnaire were adapted from Swartbooi-Xabadiya (2010), the World Value Survey (WVS). The survey contributed to the demographic and religious questions in the questionnaire. Questions on culture, human rights as well as gender equality were drawn up by the researcher.

The questionnaire comprised both closed and open-ended questions. The closed questions looked mainly at demographics, understanding human rights, culture and gender equality. The open questions which were conducted in an interview format focused mainly on harmful cultural practices which were virginity testing and ukuthwala for the Zulu respondents and early child marriage and lobola for the Shona respondents. The questionnaires were translated into the respective languages of the respondents, Zulu for the South African respondents and Shona for Zimbabwean respondents.

The questionnaires were completed using different procedures in the two countries. The questionnaires in South Africa were filled out individually with the assistance of the researcher reading out the questions to the respondents for clarity. The interviews were also done on a one-on-one basis and were recorded for transcription and analysis. The questions in the interview were read out and the interviews were conducted by a translator. The questionnaires were completed on a one on one basis.

In Zimbabwe, the closed questions in the quantitative questionnaires were filled out individually by the respondents due to time constraints (two days). The respondents gathered at one venue and filled out the questionnaire all in one sitting and were able to ask questions where they failed to understand the questions<sup>2</sup>. Before the interviews took place, the researcher checked through the questionnaires to ensure that the questions were answered honestly. The interviews were then done on a one-on-one basis with the help of a Shona interpreter. The Shona interpreter carried out the interviews in Shona because it helped to keep the conversation going without continuous back and forth between the interviewer, the interpreter and the interviewees. The interpreter would say in English what the interviewee had said to help with the transcription and data processing stage after data collection. The researcher and interpreters tried their ample best to get all questions answered honestly with the least interference possible. To complete the closed and open questions in the questionnaire, each participant took approximately 45 minutes.

### **3.4 Data Processing and Analysis**

#### **3.4.1 Qualitative Data Processing and Analysis**

The interviews done in South Africa and Zimbabwe were transcribed by the researcher focusing on either direct translation of the Zulu interviews into English or partial transcription zooming in on what was said in English in the Shona interviews. The Zulu interviews were translated directly as the researcher has a good understanding of the Zulu language. This helped to reduce the time spent on transcription. In cases where the researcher did not understand what was said in the interview, input was sought from colleagues who were of Zulu decent to help with translation.

In Zimbabwe, the researcher had a limited understanding of the Shona language and therefore transcribed the interviews focusing mainly on what was said in English by the interpreter. The general questions could be traced as well as the responses. In the case that a direct translation of what was said in Shona was needed the researcher asked colleagues who knew how to speak Shona to translate the specific section of the dialogue needed for analysis. Each interview took approximately one and a half

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<sup>2</sup> Contamination effect/bias was avoided by ensuring that the respondents had little communication with each other as they filled the quantitative questionnaire out. Additionally, it was communicated that they need to complete the questionnaire on their own (in Zimbabwe).

hours to transcribe as the Shona parts of the recording were omitted and the English interpretations were transcribed. After each interview was transcribed the researcher would make notes on any observations that needed to be analysed. This helped to begin the process of analysis.

The open-ended interviews were coded into themes for each of the harmful cultural practices. For virginity testing in the themes were: a sense of pride and exclusion; prevention of HIV/AIDS and teenage pregnancy; corruption in virginity testing; marriage and lobola; religion; and one's right to health. The themes for ukuthwala were: human rights and personal experience of those who had witnessed it or had been involved. The themes for early child marriage were: human rights; cultural disconnect to the custom; poverty and the economy; religious fundamentalism; and culture and its relation to marriages. The themes from the responses on lobola were that: it united the family; changed overtime; mapoto (cohabitation); commercialisation; domestic violence; the importance of a girl's virginity status and behaviour; Jeredzwa<sup>3</sup>.

### **3.4.2 Quantitative Data Processing and Analysis**

The closed-ended questions in the questionnaire were coded in SPSS for quantitative analysis. Zimbabwe and South Africa's questionnaires were coded into separate data sets for each country. There were five themes for the closed questions. The five themes were: (1) Demographic information such as age, marital status, level of education etc.; (2) Religion<sup>4</sup>; (3) Culture; (4) Human Rights; and (5) Gender equality. There was a mixture of majority nominal and ordinal variables. The questions on demographics consist of mostly nominal and some interval variables. Questions on religion, culture and human rights are mostly nominal and ordinal. The questions that focus on measuring perceptions of gender equality are a battery of Likert scales ranging from strongly agree to strongly disagree with a statement.

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<sup>3</sup> Jeredzwa: explained in the interviews as the remaining balance of the negotiated lobola price that still needs to be paid.

<sup>4</sup> Religion has a large impact on how people perceive human rights and culture. According to the 2010-2011 nationwide survey conducted by Zimstat, the government statistic agency, 84.5 percent of the Zimbabwean population are Christian (Zimbabwe 2016 International Religious Freedom Report, 2016:1). According to the General Household Survey conducted in 2013 by Statistics South Africa, 84.2 percent of the population are Christian (Schoeman, 2017:3).

Bivariate, as well as multivariate analyses, were used to analyse the data. The questions on law and human rights had open-ended sections where the respondents needed to give an explanation on what they thought, for example, human rights or common law was. These parts were translated by colleagues who understood the language the interviewee responded in. This was mainly the case for the Shona respondents and not the Zulu ones as the researcher understood what the Zulu respondents were saying.

After the questionnaires were coded into SPSS the response categories in some of the variables were collapsed to simplify the findings, for example, the variables that had strongly agree, agree, disagree and strongly disagree were collapsed to agree and disagree because of the small N (sample size). Additionally, the variables that had very important, important, not so important, not important as categories were collapsed to important and not important.

A pilot study was done for South Africa on three respondents. In the pilot, it was found that the quantitative questionnaire was too long. The researcher shortened the quantitative questionnaire.

### **3.5 Ethical Considerations**

Ethical clearance was acquired from the Stellenbosch University Ethics Committee prior to conducting the data collection. The procedures of the research were explained to all the respondents both in the form of a letter of consent and verbally. It was explained that they were not being forced to participate in the research and that at any point in time if they felt uncomfortable during the interviews they could stop the interview and leave. It was explained that their identities would remain anonymous because their names would not be referred to in the thesis. To ensure these pseudonyms have been used to keep the respondent's identities anonymous. The respondents were informed that the interviews would be recorded and transcribed thereafter and would only be handled by the researcher, therefore their opinions would remain confidential. Consent forms were handed out to each participant before the questionnaires were filled out. Each participant filled out the consent form and signed it. If the respondents had any questions to ask after the interviews or if they sought

some feedback on the research the researcher's and the supervisor's contact details were given to them.

Financial compensation was given to those who participated in the research after the questionnaire was completed in Zimbabwe, but not in South Africa. In Zimbabwe the researcher gave compensation to each participant as well as the coordinators who helped get respondents for the research. All the respondents gathered in one place and filled out the quantitative questionnaire in one sitting, because of this they had to wait extended periods of time for their one-on-one interviews. The compensation was linked to the extended waiting period. In South Africa compensation was given to the people who helped find respondents for the research and not the respondents. The reason for this was because their venue as well as some of their resources, for example, their phones and facilities were used by the researcher. The respondents did not receive compensation as they came in one by one from their homes, therefore, eliminating the waiting period, inconveniencing the, less than the respondents from Zimbabwe.

The researcher took steps to ensure that ethics were taken into consideration and that the respondents knew what was happening from the beginning of the process to the end.

### **3.6 Reliability and Validity**

The extent of validity and reliability of research is an important aspect to look at. The two concepts are defined and viewed differently in quantitative research than in qualitative research. One can firstly look at the validity and reliability of quantitative research. Validity in quantitative research can be defined as "the extent to which a concept is accurately measured" (Heale & Twycross, 2015:66). Reliability can be defined as "the extent to which a research instrument consistently has the same results if it is used in the same situation on repeated occasions" (Heale & Twycross, 2015:66). Validity in qualitative research is defined as the degree to which the results or findings are independent of accidental situations of the research and validity speaks of whether the findings were interpreted using the correct methods (Kirk & Miller, 2011:7).

It is important to mention that due to the sample being small the researcher only used the data for descriptive purposes. Further this makes it difficult to check the statistical validity and reliability of the data. To the extent that the researcher oversaw the qualitative data collection the data is reliable.

### **3.7 Research Limitations and Delimitations**

There are several limitations to this research that needed to be taken into account. Firstly, financial constraints had an impact on the locations chosen for the research, in terms of distance, transport, and accommodation. Financial constraint also influenced the length of time the researcher was out in the field and the number of respondents the researcher was able to interview. Secondly, in South Africa and Zimbabwe it was difficult to find the respondents needed, particularly men between the ages of 18 and 34. One reason for this difficulty was that the men, particularly in South Africa, were either abusing alcohol in the daytime and were found in a state that was not conducive for an interview. Secondly, the men in South Africa and Zimbabwe were not in the villages during the day, but out working in the surrounding towns. Lastly, it was difficult to conduct a pilot study for Zimbabwe because the researcher was based in South Africa. One delimitation that can be mentioned was the language barrier in Zimbabwe. To address this a local Shona speaker from Padare helped interpretation during the interviews.

### **3.8 Conclusion**

In conclusion, this research sought to answer the main research question by using both qualitative and quantitative research methods. Men and women and women from Zimbabwe and South Africa were the respondents used in this research. A questionnaire as well as one-on-one interviews were the methods used to see how the men and women perceive human rights, culture as well as HCP's. The responses from the questionnaire were coded in SPSS to find if there were any variances in the responses from the men and women. The finding from this research will be analysed and discussed in following chapter. Chapter four will look at the finding from the men and women in South Africa and Chapter 5 will analyse the findings from the respondents in Zimbabwe.

## CHAPTER 4 SOUTH AFRICA - DATA PRESENTATION AND ANALYSIS

### 4.1 Introduction

This chapter's main objective is to analyse the research conducted in KwaZulu-Natal, South Africa to find any differences in perceptions of men and women on culture, human rights, gender equality and HCPs. The data was analysed with SPSS, as well as the interpretation of open-ended interviews. The first section discusses the demographics of the sample from KwaZulu-Natal (KZN). The second section discusses the perceptions of the respondents on culture and the third section looks at the knowledge of the respondents about common law and customary law. The fourth section analyses the perspective of the respondents on human rights and whether or not they know what international agreements the South African government has ratified. The fifth section reflects on the responses on gender equality in the home, at work and on access to education. The sixth section analyses whether the respondents view human rights and gender equality as Western concepts. The seventh section analyses the findings of the interviews about virginity testing and ukuthwala. The final section is an analysis of the relationship between quantitative and qualitative data.

### 4.2 Demographic Variables

The tables in this section show that South African sample was quite educated as a majority had education up to secondary school (66.7%) (*Table 4.8*). Unemployment was a predominant problem amongst the respondents (66.7%) and because of this nearly half have the respondents said they do not receive a steady income (46.7%) (*Tables 4.3 and 4.6*). Surprisingly, 46.7% of the respondents stated that they earn between R1000 - R5000, from part-time jobs they have infrequent access to (*Table 4.6*) (N=15). Unemployment was a predominant problem amongst the respondents (66.7%) and as a result nearly half of the respondents said they do not receive a steady income (46.7%) (*Tables 4.3 & 4.6*). Surprisingly, 46.7% of the respondents stated that they earn between R1000-R5000, from part time jobs they have infrequent access to (*Table 4.6*) (N=15).

The sample is predominantly single (66.7% - *Table 4.7*) with a small percentage being married or widowed. The sample was religious (80%) and a large majority said they attend religious services often (86.7%) which may influence how they view culture and

human rights (Table 4.9 and 4.10). In the next section, I will analyse the perceptions of culture<sup>5</sup>.

Table 4.1 Sex

	Percentage
Female	46.7% (7)
Male	53.3% (8)
Total	100% (15)

Table 4.2 Age Groups

	Percentage
18-24	13.3% (2)
25-34	13.3% (2)
35-49	40% (6)
50+	33.3% (5)
Total	100% (15)

Table 4.3 Employment Status

	Percentage
Employed	33.3% (5)
Unemployed	66.7% (10)
Total	100% (15)

Table 4.4 How long have you been unemployed for?

	Percentage
2 years	6.7% (1)
3 years +	60% (9)
Don't know/refused to answer	33.3% (5)
Total	100% (15)

Table 4.5 What would you say your economic class is?

	Percentage
Poor	33.3% (5)
Lower class	13.3% (2)
Middle class	53.3% (8)
Total	100% (15)

Table 4.6 How much do you earn per month?

	Percentage
No income	46.7% (7)
R500 plus	6.7% (1)
R1000 – R5000	46.7% (7)
Total	100% (15)

Table 4.7 Relationship Status

	Percentage
Married	26.7% (4)
Widowed	6.7% (1)
Single	66.7% (10)
Total	100% (15)

Table 4.8 Level of Education

	Percentage
No formal education	6.7% (1)
Informal education	6.7% (1)
Secondary school	66.7% (10)
Tertiary education	20% (2)
Total	100% (15)

Table 4.9 Religious Services Attendance

	Percentage
Often	80% (12)
Not so often	13.3% (2)
Never, practically never	6.7% (1)
Total	100% (15)

Table 4.10 Religious Orientation

	Percentage
Religious	86.7% (13)
Agnostic	6.7% (1)
Atheist	6.7% (1)
Total	100% (15)

<sup>5</sup> Due to the small sample size (15 respondents) data is merely descriptive.

### 4.3 Perceptions of Culture

Several variables were formulated to test the perceptions of the respondents on culture. The variables are the importance of culture, the function of culture in a community and the response of the community towards someone who chooses not to follow the cultural norms and traditions of the community.

The tables below show that the men and women agree that culture is important (93.3%) (*Table 4.11*). They also agree on the functions of culture that culture brings people together (100%), that it gives common morals and values to be followed (100%), that it gives specific roles to men and women in the private (home) and public (work) spheres of life (93.3%), and that it gives one a sense of identity and belonging (100%) (*Table 4.11*). The respondents also agreed that if a member of the community decides not to follow the customs and traditions of the predominating culture that the person should be given a warning privately by elders in their family or community (80%) (*Table 4.11*). The respondents also agreed that a member of the community should not be excluded from their family or their community if they choose to not follow customs and traditions (93.3%) (*Table 4.11*). Additionally, they agreed that people should be allowed to choose how they want to live their lives (93.3%) (*Table 4.11*).

The latter response presents a contradiction that on the one hand the respondents support the freedom to choose how one wants to live. However, on the other hand, they support the importance of culture and its functions and would advise one through a form of warning if they should stray from the cultural customs and traditions. The respondents may be open to the idea of freedom of choice because of the exposure to liberal views through education, radio and/or television and social media just to mention a few. One can assume that in the Zulu community, with culture being important, it may not be easy to convince one's family and community of one's choice not to follow cultural customs and traditions, for example paying lobola. Such findings may show how people today are trying to find a balance between human rights and culture. This suggests that even though the respondents respect their culture, they may also want agency.

Table 4.11 Importance of Culture and the Role of Culture

		Percentage	Total
How important is culture to you?	Important	93.3% (14)	100%
	Not important	6.7% (1)	
Culture brings peoples together	Agree	100% (15)	100%
	Disagree	---	
It gives common morals and values	Agree	100% (15)	100%
	Disagree	---	
It gives specific roles to men and women in private (home) and the public sphere (workforce)	Agree	93.3% (14)	100%
	Disagree	6.7% (1)	
Gives a sense of identity and belonging	Agree	100% (15)	100%
	Disagree	---	
6**Give them a warning (privately among elders)	Agree	80% (12)	100%
	Disagree	20% (3)	
**Exclude them from the family indefinitely	Agree	6.7% (1)	100%
	Disagree	93.3% (14)	
**Allow them to choose how they want to live their lives	Agree	93.3% (14)	100%
	Disagree	6.7% (1)	

Table 4.12 Importance of Culture and the Role of Culture by Sex

		Female	Male
How important is culture to you?	Important	100% (7)	87.5% (7)
	Not important	---	12.5% (1)
Culture brings peoples together	Agree	100% (7)	100% (8)
	Disagree	---	
It gives common morals and values	Agree	100% (7)	100% (8)
	Disagree	---	
It gives specific roles to men and women in private (home) and the public sphere (workforce)	Agree	85.7% (6)	100% (8)
	Disagree	14.3% (1)	
Gives a sense of identity and belonging	Agree	100% (7)	100% (8)
	Disagree	---	---
**Give them a warning (privately among elders)	Agree	85.7% (6)	75% (6)
	Disagree	14.3% (1)	25% (2)
**Exclude them from the family indefinitely	Agree	---	12.5% (1)
	Disagree	100% (7)	87.5% (7)
**Allow them to choose how they want to live their lives	Agree	85.7% (6)	100% (8)
	Disagree	14.3% (1)	---

<sup>6</sup> \*\* refers to questions elicit responses about what the respondents believe the consequences should be for one who chooses not to follow cultural traditions and practices.

Table 4.13 Importance of Culture and the Role of Culture by Age

		18-24	25-34	35-49	50+
How important is culture to you?	Important	100% (2)	100% (2)	83.3% (5)	100% (5)
	Not important	---	---	16.7% (1)	---
Culture brings peoples together	Agree	100% (2)	100% (2)	100% (6)	100% (5)
	Disagree	---	---	---	---
It gives common morals and values	Agree	100% (2)	100% (2)	100% (6)	100% (5)
	Disagree	---	---	---	---
It gives specific roles to men and women in private (home) and public sphere (workforce)	Agree	100% (2)	100% (2)	83.3% (5)	100% (5)
	Disagree	---	---	16.7% (1)	---
Gives a sense of identity and belonging	Agree	100% (2)	100% (2)	100% (6)	100% (5)
	Disagree	---	---	---	---
**Give them a warning (privately among elders)	Agree	50% (1)	100% (2)	83.3% (5)	100% (5)
	Disagree	50% (1)	---	16.7% (1)	---
**Exclude them from the family indefinitely	Agree	---	---	---	20% (1)
	Disagree	100% (2)	100% (2)	100% (6)	80% (4)
**Allow them to choose how they want to live their lives	Agree	100% (2)	100% (2)	100% (6)	80% (4)
	Disagree	---	---	---	20% (1)

Table 4.14 Consequences of not following Cultural Customs by Age Group and Sex

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
How important is culture to you?	Important	---	100% (2)	100% (2)	---	66.7% (2)	100% (3)	100% (3)	100% (2)
	Not important	---	---	---	---	33.3% (1)	---	---	---
Culture brings people together	Agree	---	100% (2)	100% (2)	---	100% (3)	100% (3)	100% (3)	100% (2)
	Disagree	---	---	---	---	---	---	---	---
It gives common morals and values	Agree	---	100% (2)	100% (2)	---	100% (3)	100% (3)	100% (3)	100% (2)
	Disagree	---	---	---	---	---	---	---	---
It gives specific roles to men and women in private (home) and public sphere (workforce)	Agree	---	100% (2)	100% (2)	---	66.7% (2)	100% (3)	100% (3)	100% (2)
	Disagree	---	---	---	---	33.3% (1)	---	---	---
Gives a sense of identity and belonging	Agree	---	100% (2)	100% (2)	---	100% (3)	100% (3)	100% (3)	100% (2)
	Disagree	---	---	---	---	---	---	---	---
**Give them a warning (privately among elders)	Agree	---	50% (1)	100% (2)	---	66.7% (2)	100% (3)	66.7% (2)	100% (2)
	Disagree	---	50% (1)	---	---	33.3% (1)	---	33.3% (1)	---
**Exclude them from the family indefinitely	Agree	---	---	---	---	---	---	33.3% (1)	---
	Disagree	---	100% (2)	100% (2)	---	100% (3)	100% (3)	66.7% (2)	100% (2)
**Allow them to choose how they want to live their lives	Agree	---	100% (2)	100% (2)	---	100% (3)	100% (3)	100% (3)	50% (1)
	Disagree	---	---	---	---	---	---	---	50% (1)

#### 4.4 Common and Customary Law

Several variables measured the respondents understanding of different legal systems that is if they knew the difference between common and customary law and which one they live according to or abide by. Statutory law (the term common law was used for common understanding and simplistic translation) is defined as “a term used to define written laws, usually, enacted by a legislative body. [...] Statutes are [...] recorded, or codified, in writing and published” (HG, 2018). Customary law is defined as “the indigenous law of the various groups in Africa” (Ndulo, 2011:88). When asked if they know what common law is a little less than half of the women (42.9%) said they know what common law was (*Table 4.16*). Of those who knew what common law was, a significant number were from the group aged 18-24 (2 respondents) (*Table 4.17*). 75% of the men did not know what common law was (*Table 4.16*).

The respondents who stated that they know what common law was were asked to explain what they understood by common law and there were some common responses. The respondents stated that common law gives one the right to live how they chose to within the confines of the regulatory system that one should follow. They also stated that it gives both men and women equal standing in their communities. It was also mentioned that when common law is broken it is a way of judging human beings, for example, reporting them to the police or opening a court case against them.

When asked if they knew what customary law was, more than half of the women (57.1%) and men (62.5%) said they knew what customary law was and 42.9% of the women and 37.5% of the men did not (*Table 4.16*). Those who said they knew about customary law were asked to explain what they understood by the term ‘customary law’. Some respondents mentioned that Ubuntu is the essence of customary law, that the respect of those in one’s community is the heart behind customary law. The respondents also mentioned that customary law is passed down from their ancestors and foremothers and forefathers, therefore not dictated by the government but passed down from generation to generation. It was also mentioned that customary law gave basic guidelines that one should follow like not stealing or committing murder. The respondents also mentioned that customary law helps govern marriages from initiation as well as in the dissolution of marriage.

After the researcher explained what common law and customary law was, the respondents were asked which one they lived by. A little over half of the women (57.1%) said they adhered to the customary law, 28.6% said common law and 14.3% said they adhered to both (*Table 4.16*). Conversely, the men had opposing responses as 37.5% said they adhered to common law, 37.5% said they adhered to both and 12.5% stated that they adhered to the customary law (*Table 4.16*).

There seems to be a hybridity of culture and human rights as the respondents attempt to acknowledge and respect the two in their lives. Through exposure, the respondents may have had to liberal ideas, it has become increasingly difficult to resist assimilating to other cultures. In this case that would be holding onto the Zulu culture, whilst assimilating to modernity which may be beneficial to the individual and the group. Although human rights and culture may clash, with exposure to education and different forms of information and knowledge, values begin to change.

*Table 4.15 Common Law and Customary Law (Univariate)*

		Percentage	Total
Do you know what common law is?	Yes	33.3% (5)	100% (15)
	No	66.7% (10)	
Do you know what customary law is?	Yes	60% (9)	100% (15)
	No	40% (6)	
Which one do you live according to?	Customary law	33.3% (5)	100% (15)
	Common law	33.3% (5)	
	Both	26.7% (4)	
	Don't know	6.7% (1)	

*Table 4.16 Common Law and Customary Law by Sex*

		Female	Male
Do you know what common law is?	Yes	42.9% (3)	25% (2)
	No	57.1% (4)	75% (6)
Do you know what customary law is?	Yes	57.1% (4)	62.5% (5)
	No	42.9% (3)	37.5% (3)
Which one do you live according to?	Customary law	57.1% (4)	12.5% (1)
	Common law	28.6% (2)	37.5% (3)
	Both	14.3% (1)	37.5% (3)
	Don't know	---	12.5% (1)

*Table 4.17 Common Law and Customary Law by Age Groups*

		18-24	25-34	35-49	50+
Do you know what common law is?	Yes	100% (2)	---	33.3% (2)	20% (1)
	No	---	100% (2)	66.7% (4)	80% (4)
Do you know what customary law is?	Yes	---	50% (1)	50% (3)	100% (5)
	No	100% (2)	50% (1)	50% (3)	---
Which one do you live according to?	Customary law	---	---	50% (3)	40% (2)
	Common law	50% (1)	100% (2)	33.3% (2)	---
	Both	50% (1)	---	---	60% (3)
	Don't know	---	---	16.7% (1)	---
Total		100% (2)	100% (2)	100% (6)	100% (5)

*Table 4.18 Common Law and Customary Law by Sex and Age Groups*

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
Do you know what common law is?	Yes	---	100% (2)	---	---	33.7% (1)	33.3% (1)	33.3% (1)	100% (2)
	No	---	---	100% (2)	---	66.7% (2)	66.7% (2)	66.7% (2)	100% (2)
Do you know what customary law is?	Yes	---	---	50% (1)	---	33.3% (1)	66.7% (2)	100% (3)	100% (2)
	No	---	100% (2)	50% (1)	---	66.7% (2)	33.3% (1)	---	---
Which one do you live according to?	Customary law	---	---	---	---	33.3% (1)	66.7% (2)	---	100% (2)
	Common law	---	50% (1)	100% (2)	---	33.3% (1)	33.3% (1)	---	---
	Both	---	50% (1)	---	---	33.3% (1)	---	100% (3)	---

## 4.5 Human Rights and Conventions

The respondents were asked a series of questions to get a glimpse of their perceptions of human rights. All the respondents (100%) knew what human rights are (*Table 4.19*). When asked to describe what human rights are the respondents gave several responses, such as that human rights give one the right to choose how one wants to live and it affords one second-generation human rights such as a right to education, shelter, and water etc. Some of the respondents also mentioned that human rights give them the right to protection from violence in any form. It is interesting to note that the respondents did not mention any civil liberties but focused on basic necessities.

A large majority of the women respondents (85.7%) stated that human rights are important to them (*Table 4.20*). Most of the men (62.5%) and women (57.1%) agreed that culture is more important than human rights (*Table 4.20*). One of the women respondents stated that culture is more important than human rights because it offers

something human rights does not, which is the generational transfer of knowledge from the older generation to the younger generation.

Culture is very important because it has things that are not in human rights [...]  
Culture is important because you sit down with an older person in culture [...]  
they will tell you how people used to live. (PB14F)

Table 4.21 shows that the older the respondents agreed that culture is more important than human rights. This may be because the younger age groups have been exposed to a more liberal form of education which gives one an understanding of what human rights are and why they are important. Therefore, the younger generation may give human rights priority over culture. Additionally, throughout the year's culture has changed therefore for younger respondents who engage with urbanisation who may not have a deep understanding of the customs and traditions that are practised may have less of an attachment to their culture compared to the older respondents who may have a deeper understanding of the customs and traditions.

Questions asked if the respondents knew the different international agreements that advance gender equality and the protection of women and children's rights. 66.7% said they know what CEDAW is, 53.3% said they did not know what the Maputo Protocol is, 80% said they know what the CRC is and 60% said they knew what the African Charter on the Rights and Welfare of the Child is (*Table 4.23*).

Although the names of the conventions were translated into Zulu, when reading out the conventions in English for clarity, the respondents seemed to respond to the familiar words in the titles of the conventions. For example, when asked if they knew what the CRC was the respondents would pick out Children's Rights and therefore assume they knew what the convention was. When the respondents, for example, were asked what the Maputo Protocol was, it was difficult for them to pick up on any familiar words which are linked to the rights of women or children therefore only 46.7% of the respondents said they knew what the Maputo Protocol was (*Table 4.23*). This shows that the respondents were aware of the rights of women and children.

Overall one can see that the respondents had some understanding of what human rights were and saw them being important. However, the older respondents saw culture as more important than human rights, because they lived in cultural

communities from a young age. The respondents stated that they knew what the different international agreements were, but this may be due to words in the titles of the conventions and protocols that ring a bell of familiarity instead of them having some knowledge of the international agreement.

*Table 4.19 Human Rights*

		Percentage	Total
Do you know what human rights are?	Yes	100% (15)	100% (15)
	No	---	
How important are human rights to you?	Important	93.3% (14)	100% (15)
	Not important	6.7% (1)	
Would you say culture is more important than human rights?	Agree	60% (9)	100% (15)
	Disagree	40% (6)	

*Table 4.20 Human Rights by Sex*

		Female	Male
Do you know what human rights are?	Yes	100% (7)	100% (8)
	No	---	---
How important are human rights to you?	Important	85.7% (6)	100% (8)
	Not important	14.3% (1)	---
Would you say culture is more important than human rights?	Agree	57.1% (4)	62.5% (5)
	Disagree	42.9% (3)	37.5% (3)

*Table 4.21 Human Rights by Age*

		18-24	25-34	35-49	50+
Do you know what human rights are?	Yes	100% (2)	100% (2)	100% (6)	100% (5)
	No	---	---	---	---
How important are human rights to you?	Important	100% (2)	100% (2)	100% (6)	80% (4)
	Not Important	---	---	---	20% (1)
Would you say culture is more important than human rights?	Agree	50% (1)	50% (1)	33.3% (2)	100% (5)
	Disagree	50% (1)	50% (1)	66.7% (4)	---

Table 4.22 Human Rights by Sex and Age

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
Do you know what human rights are?	Yes	---	100% (2)	100% (2)	---	100% (3)	100% (3)	100% (3)	100% (2)
	No	---	---	---	---	---	---	---	---
How important are human rights to you?	Important	---	100% (2)	100% (2)	---	100% (3)	100% (3)	100% (3)	50% (1)
	Not important	---	---	---	---	---	---	---	50%
Would you say culture is more important than human rights?	Agree	---	50% (1)	50% (1)	---	33.3% (1)	33.3% (1)	100% (3)	100% (2)
	Disagree	---	50% (1)	50% (1)	---	66.7% (2)	66.7% (2)	---	---

Table 4.23 Conventions and Protocols

		Percent	Total
Convention of the Elimination of Discrimination against Women (CEDAW)	No	33.3% (5)	100% (15)
	Yes	66.7% (10)	
Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol)	No	53.3% (6)	100% (15)
	Yes	46.7% (1)	
Convention on the Rights of the Child (CRC)	No	20% (3)	100% (15)
	Yes	80% (12)	
African Charter on the Rights and Welfare of the Child (ACRWC)	No	40% (6)	100% (15)
	Yes	60% (9)	

## 4.6 Gender Equality

### 4.6.1 In the Home

The index below contains six items which measure gender equality in the home. All the respondents (100%) (*Table 4.24*) agreed that women can be breadwinners of their families. Paradoxically, when asked if men and women should share the responsibilities of a household the men and women in this sample had differing views. A large majority (85.7%) of the women agreed whilst the men had opposing responses with 50% agreeing and 50% disagreeing (*Table 4.25*). When looking at the responses by age those in the age groups 35-49 and 50+ had the most varying responses with most of the men disagreeing with the statement (*Table 4.26*). Women in the age group 50+ were divided into half agreeing and the other half disagreeing (*Table 4.27*). The results show that more of the older respondents disagreed with the statement supporting culturally socialised gender norms such as; women should look after the household and men should be the breadwinners. The younger generation (groups 18-

24 and 25-34) on the other hand, agrees that men and women should share responsibilities in the household, therefore, showing gender awareness (*Table 4.26 and 4.27*).

The third variable refers to a women's main responsibility to give birth and to carry on the family name to which men and women responded differently. Most of the men (87.5%) agreed, whilst more than half of the women disagreed (57.1%) (*Table 4.25*). Analyses by age showed that women in the age groups 35-49 and 50+ had differing views with 66.7% in the age group 35-49 disagreeing and 66.7% of the women in the age group 50+ agreeing that a woman's main responsibility was to give birth and to carry on the family name (*Table 4.27*). Younger women did not agree but the older respondents believe this is a woman's responsibility.

There is an intergenerational difference between the younger and the older respondents. The younger respondents (18-24 and 25-34) seem to be opposed to cultural views of what a man and woman's roles should be in the home, whilst the older generation agrees with the culturally socialised gender norms. The younger respondents who may have had more access to urban areas, as well as information through media and technology, might have grown up with less exposure to the Zulu culture, giving them less of a reason to follow patriarchal views on the roles men and women in the home. Respondents in the older age groups have a better understanding of their culture and had a longer lived experience of their cultures.

Most of the men (87.5%) and women (85.7%) respondents agreed that men should be the breadwinners of their families (*Table 4.25*). The respondents were asked if women's main responsibility was to take care of the household to which the men and women had differing responses. A large majority of the male respondents (75%) agreed whilst the women respondents were divided with more than half of them disagreeing (57.1%) and 42.9% agreeing with the notion that it is a woman's responsibility to take care of a household (*Table 4.25*). The results show that on the one hand, the women respondents do not see the maintenance of the household as solely the women's responsibility for they are partially in favour of sharing the household responsibilities as seen in the responses to question two. On the other hand, men believe in the traditional idea that it is their responsibility is to work and

provide for the family. When asked if men should be the only providers of the family a large percentage of both the men (75%) and women (71.4%) disagreed (*Table 4.25*).

Men and women have slightly different views on the roles that men and women should play in the home. These responses could be attributed to the change in the labour force where women are now expected to work, due to the benefits that come with having a double income household. Today most women have a larger workload to carry, so the responses could indicate that respondents think it is only fair to delegate the responsibilities of looking after the home between the husband and wife. The breakdown of traditional family structures has led to an increase in single parent homes which has changed people's views to people supporting the notion of women as breadwinners.

African cultures including the Zulu culture assign specific roles for men and women to play in the private and public spheres. In Zulu culture, the women are meant to be the keepers of the home and were given little to no power in the public sphere. These roles are influenced by patriarchy, which is still evident in all spheres today, especially in the home. Men are expected to be the breadwinners and women are expected to be the caretakers of the household and to bear children to continue the family name. Although these beliefs which are grounded in patriarchy have changed over the years with a gradual embrace of gender equality, these socialised roles are still accepted and performed.

*Table 4.24 Gender Equality in the Home (Univariate)*

	Agree	Disagree	Total
Women can be breadwinners of their families	100% (15)	---	100% (15)
Men and women should share the responsibility of the household i.e. cooking, cleaning and looking after immediate and extended family	66.7% (10)	33.3% (5)	100% (15)
Women's main responsibility is to give birth to children to carry on the family name	66.7% (10)	33.3% (5)	100% (15)
Men should be the breadwinners	86.7% ( )	13.3%	100% (15)
Women's responsibility is to take care of the household i.e. cooking and cleaning	60% (9)	40% (6)	100% (15)
Men should be the only providers of the family	26.7% (4)	73.3% (11)	100% (15)

Table 4.25 Gender Equality in the Home (Sex)

		Female	Male
Women can be breadwinners of their families	Agree	100% (7)	100% (8)
	Disagree	---	---
Men and women should share the responsibility of the household i.e. cooking, cleaning and looking after immediate and extended family	Agree	85.7% (6)	50% (4)
	Disagree	14.3% (1)	50% (4)
Women's main responsibility is to give birth to children to carry on the family name	Agree	42.9% (3)	87.5% (7)
	Disagree	57.1% (4)	12.5% (1)
Men should be the breadwinners	Agree	85.7% (6)	87.5% (7)
	Disagree	14.3% (1)	12.5% (1)
Women's responsibility is to take care of the household i.e. cooking and cleaning	Agree	42.9% (3)	75% (6)
	Disagree	57.1% (4)	25% (2)
Men should be the only providers of the family	Agree	28.6% (2)	25% (2)
	Disagree	71.4% (5)	75% (6)

Table 4.26 Gender Equality in the Home (Age)

		18-24	25-34	35-49	50+
Women can be breadwinners of their families	Agree	100% (2)	100% (2)	100% (6)	100% (5)
	Disagree	---	---	---	---
Men and women should share the responsibility of the household i.e. cooking, cleaning and looking after immediate and extended family	Agree	100% (2)	100% (2)	66.7% (4)	40% (2)
	Disagree	---	---	33.3% (2)	60% (3)
Women's main responsibility is to give birth to children to carry on the family name	Agree	---	100% (2)	66.7% (4)	80% (4)
	Disagree	100% (2)		33.3% (2)	20% (1)
Men should be the breadwinners	Agree	100% (2)	50% (1)	83.3% (5)	100% (5)
	Disagree	---	50% (1)	16.7% (1)	---
Women's responsibility is to take care of the household i.e. cooking and cleaning	Agree	50% (1)	100% (2)	33.3% (2)	80% (4)
	Disagree	50% (1)	---	66.7% (4)	20% (1)
Men should be the only providers of the family	Agree	50% (1)	50% (1)	16.7% (1)	20% (1)
	Disagree	50% (1)	50% (1)	83.3% (5)	80% (4)

Table 4.27 Gender Equality in the Home (Sex and Age)

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
Women can be breadwinners of their families	Agree	---	100% (2)	100% (2)	---	100% (3)	100% (3)	100% (3)	100% (2)
	Disagree	---	---	---	---	---	---	---	---
Men and women should share the responsibility of the household i.e. cooking, cleaning and looking after immediate and extended family	Agree	---	100% (2)	100% (2)		33.3% (1)	100% (3)	33.3% (1)	50% (1)
	Disagree	---	---	---		66.7% (2)	---	66.7% (2)	50% (1)
Women's main responsibility is to give birth to children to carry on the family name	Agree	---		100% (2)		100% (3)	33.3% (1)	66.7% (2)	100% (1)
	Disagree	---	100% (2)			100% (3)	66.7% (2)	33.3% (1)	---
Men should be the breadwinners	Agree	---	100% (2)	50% (1)	---	100% (3)	66.7% (2)	100% (3)	100% (2)
	Disagree	---	---	50% (1)	---	---	33.3% (1)	---	---
Women's responsibility is to take care of the household i.e. cooking and cleaning	Agree	---	50% (1)	100% (2)	---	66.7% (2)	---	66.7% (2)	100% (2)
	Disagree	---	50% (1)	---	---	33.3% (1)	100% (3)	33.3% (1)	---
Men should be the only providers of the family	Agree	---	50% (1)	50% (1)	---	33.3% (1)	---	---	50% (1)
	Disagree	---	50% (1)	50% (1)	---	66.7% (2)	100% (3)	100% (3)	50% (1)

#### 4.6.2 Equality in the Workplace

The next five variables measured the participant's views on gender equality in the workplace. Looking at the responses in the tables below one can see that the respondents agreed that women should be allowed to work (86.7%), that they should be allowed to pursue a career (86.7%) and to work full time (86.7%) (*Table 4.28*). With reference to salaries and pay equity, the response varied and highlighted the issue of power balance in the home.

When asked if men and women should have equal pay if they have the same job with the same qualifications the men and women in this sample had opposing views. A large majority of the men (87.5%) agreed that it is fine for women to earn more money than men (*Table 4.29*). However, women were divided with 57.1% agreeing and 42.9% disagreeing (*Table 4.29*). This may be because of the perception that because the man is seen to be the provider of the family he should earn more even though both the man and woman have similar qualifications.

*Table 4.28 Perceptions of Gender Equality at Work (Univariate)*

	Agree	Disagree	Total
Women should not be allowed to work	13.3% (2)	86.7% (13)	100%
Women should not be allowed to pursue a career/occupation	13.3% (2)	86.7%	100%
Women should work only part time	13.3% (2)	86.7% (13)	100%
It is okay for women to earn more money than men	13.3% (2)	86.7% (13)	100%
Men and women should have equal pay	73.3% (11)	26.7% (4)	100%

*Table 4.29 Perceptions of Gender Equality at Work by Sex*

		Female	Male
Women should not be allowed to work	Agree	---	25% (2)
	Disagree	100% (7)	75% (6)
Women should not be allowed to pursue a career/occupation	Agree	---	25% (2)
	Disagree	100% (7)	75% (6)
Women should work only part-time	Agree	---	25% (2)
	Disagree	100% (7)	75% (6)
It is okay for women to earn more money than men M	Agree	14.3% (1)	12.5% (1)
	Disagree	85.7% (6)	87.5% (7)
Men and women should have equal pay	Agree	57.1% (4)	87.5% (7)
	Disagree	42.9% (3)	12.5% (1)

**Table 4.30 Perceptions of Gender Equality at Work by Age**

		18-24	25-34	35-49	50+
Women should not be allowed to work	Agree	---	---	33.3% (2)	---
	Disagree	100% (2)	100% (2)	66.7% (4)	100% (5)
Women should not be allowed to pursue a career/occupation	Agree	---	50% (1)	16.7% (1)	---
	Disagree	100% (2)	50% (1)	83.3% (5)	100% (5)
Women should work only part time	Agree	---	100% (2)	---	---
	Disagree	100% (2)	---	100% (6)	100% (5)
It is okay for women to earn more money than men	Agree	50% (1)	50% (1)	---	---
	Disagree	50% (1)	50% (1)	100% (6)	100% (5)
Men and women should have equal pay	Agree	50% (1)	100% (2)	50% (3)	100% (5)
	Disagree	50% (1)	---	50% (3)	---

**Table 4.31 Perceptions of Gender Equality at Work by Age and Sex**

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
Women should not be allowed to work	Agree	---	---	---	---	66.7%(2)	---	---	---
	Disagree	---	100%(2)	100%(2)	---	33.3%(1)	100%(3)	100%(3)	100%(2)
Women should not be allowed to pursue a career/occupation	Agree	---	---	50% (1)	---	33.3%(1)	---	---	---
	Disagree	---	100%(2)	50% (1)	---	66.7%(2)	100%(3)	100%(3)	100%(2)
Women should work only part time	Agree	---	---	100%(2)	---	---	---	---	---
	Disagree	---	100%(2)	---	---	100%(3)	100%(3)	100%(3)	100%(2)
It is okay for women to earn more money than men	Agree	---	50% (1)	50% (1)	---	---	---	---	---
	Disagree	---	50% (1)	50% (1)	---	100%(3)	100%(3)	100%(3)	100%(2)
Men and women should have equal pay	Agree	---	50% (1)	100%(2)	---	66.7%(2)	33.3%(1)	100%(3)	100%(2)
	Disagree	---	50% (1)	---	---	33.3%(1)	66.7%(1)	---	---

### 4.6.3 Equality in Education

Four variables below measured gender equality in terms of access to education. Overall all the men and women agreed that girls and boys should have equal access to education. They also agree that men and women should be able to advance their education if they choose to (*Table 4.32*).

The respondents were asked, if money is scarce whether girls rather than boys should get an education. Both men (62.5%) and women (85.7%) disagree that girls should get first choice to an education but that boys should thus indicating that patriarchal views still persist amongst the respondents (*Table 4.33*). The women's disagreement is quite telling of the patriarchal views they have embraced in their lives as Zulu women.

*Table 4.32 Perceptions on Gender Equality: Education (Univariate)*

	Agree	Disagree	Total
Women/girls should be allowed to go to school	100% (15)	---	100%
If money is scarce girls rather than boys should get an education	26.7% (4)	73.3% (11)	100%
Boys and girls should have access to education	100% (11)	---	100%
Men and women should both be allowed to further their education	100% (11)	---	100%

*Table 4.33 Perceptions on Gender Equality: Education by Sex*

		Female	Male
Women/girls should be allowed to go to school	Agree	100% (7)	100% (8)
	Disagree	---	---
If money is scarce girls rather than boys should get an education	Agree	14.3% (1)	37.5% (3)
	Disagree	85.7% (6)	62.5% (5)
Boys and girls should have access to education	Agree	100% (7)	100% (8)
	Disagree	---	---
Men and women should both be allowed to further their education	Agree	100% (7)	100% (8)
	Disagree	---	---

*Table 4.34 Perceptions on Gender Equality: Education by Age Groups*

		18-24	25-34	35-49	50+
Women/girls should be allowed to go to school	Agree	100%(2)	100%(2)	100%(6)	100%(5)
	Disagree	---	---	---	---
If money is scarce girls rather than boys should get an education	Agree	50%(1)	50%(1)	16.7%(1)	20%(1)
	Disagree	50%(1)	50%(1)	83.3%(5)	80%(4)
Boys and girls should access to education	Agree	100%(2)	100%(2)	100%(6)	100%(5)
	Disagree	---	---	---	---
Men and women should both be allowed to further their education	Agree	100%(2)	100%(2)	100%(6)	100%(5)
	Disagree	---	---	---	---

**Table 4.35 Perceptions on Gender Equality: Education by Sex and Age Groups**

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
Women/girls should be allowed to go to school	Agree	---	100%(2)	100%(2)	---	100%(3)	100%(3)	100%(3)	100%(2)
	Disagree	---	---	---	---	---	---	---	---
Women should not be allowed to pursue a career/occupation	Agree	---	50% (1)	50% (1)	---	33.3%(1)		33.3%(1)	
	Disagree	---	50% (1)	50% (1)	---	66.7%(2)	100%(3)	66.7%(2)	100%(2)
Women should work only part time	Agree	---	100%(2)	100%(2)	---	100%(3)	100%(3)	100%(3)	100%(2)
	Disagree	---	---	---	---	---	---	---	---
Men and women should be the only providers of the family	Agree	---	100%(2)	100%(2)	---	100%(3)	100%(3)	100%(3)	100%(2)
	Disagree	---	---	---	---	---	---	---	---

#### 4.7 Human Rights and Gender Equality: Are they perceived as Western Concepts?

When asked if they perceive human rights as a Western concept most of the men and women disagreed (66.7%) (*Table 4.36*). When asked if gender equality is a Western concept the male respondents agreed (62.5%) and the women were divided with opposing responses of 57.1% agreeing and 42.9% disagreeing (*Table 4.37*). The data shows that there are intergenerational differences amongst the women. The older women (50+) agree that gender equality is a Western concept whereas the younger generation is divided (*Table 4.39*).

One can deduce that human rights, as a concept, is not perceived just as a Western concept but one that is also African as it addresses social ills in communities which directly affect African cultures in positive ways. However, gender equality is still seen as a Western concept by older women in this sample. This may be because they are accustomed to the way relations between men and women are socialised in the Zulu

culture and therefore do not see the gender inequalities between men and women as problematic.

A majority of young people did not view human rights and gender equality as Western concepts because they live Westernised lives and therefore do not see a contradiction between these concepts as they identify with them. It is important to note that younger people might not completely disregard cultural gender roles but see these roles as ones that can be maintained if desired by the individual. One can therefore assume that older men and women ascribe to the cultural ideas of what role men and women are meant to play in the home and the community at large whilst young people live more westernised lives which do not ascribe to these notions entirely.

Looking at the responses given by the women on gender equality in the home it is evident that they understand that the role of the woman is changing. Although a majority of women agree that gender equality is a Western concept a majority of women see their role as one that has shifted to not just being reproducers, caregivers, and caretakers of the household, but to one that has extended further than the home to engage the public sphere. However, men still see cultural gender roles as a norm that should be upheld.

*Table 4.36 Human Rights and Gender Equality – Western Concepts?*

	Agree	Disagree	Total
Is human rights a western Concept?	33.3% (5)	66.7% (10)	100% (15)
Is gender equality a Western Concept?	60% (9)	40% (6)	100% (15)

*Table 4.37 Human Rights and Gender Equality – Western Concepts? By Sex*

		Female	Male
Is human rights a western Concept?	Agree	28.6% (2)	37.5% (3)
	Disagree	71.4% (5)	62.5% (5)
Is gender equality a Western Concept?	Agree	57.1% (4)	62.5% (5)
	Disagree	42.9% (3)	37.5% (3)

*Table 4.38 Human Rights and Gender Equality – Western Concepts By Age Groups*

		18-24	25-34	35-49	50+
Is human rights a western Concept?	Agree	50% (1)	50% (1)	16.7% (1)	40% (2)
	Disagree	50% (1)	50%(1)	83.3% (5)	60% (3)
Is gender equality a Western Concept?	Agree	50% (1)	50% (1)	50% (3)	80% (4)
	Disagree	50% (1)	50% (1)	50% (3)	20% (1)

Table 4.39 Human Rights and Gender Equality – Western Concepts? By Age and Sex

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
Is human rights a western Concept?	Agree	---	50%(1)	50%(1)	---	33.3%(1)		33.3%(1)	50%(1)
	Disagree	---	50%(1)	50%(1)	---	66.7%(2)	100%(3)	66.7%(2)	50%(1)
Is gender equality a Western Concept?	Agree	---	50%(1)	50%(1)	---	66.7%(2)	33.3%(1)	66.7%(2)	100%(2)
	Disagree	---	50%(1)	50%(1)	---	33.3%(1)	66.7%(2)	33.3%(1)	---

## 4.8 Virginitv Testing and Ukuthwala

In this part of the chapter we will analyse the findings of the open the ended questions which were asked in one-on-one interviews on virginitv testing and ukuthwala.

### 4.8.1 Virginitv Testing

In the process of analysing the interviews, several themes were highlighted on the custom of virginitv testing. The themes are as follows: (1) A sense of pride and stigmatisation; (2) Prevention of HIV/AIDS and teenage pregnancy; (3) Corruption in virginitv testing; (4) Lobola and Marriage; (5) Religion.

#### 4.8.1.1 A Sense of Pride and Stigmatisation

To understand what the respondents were taught about the custom of virginitv testing a number of common views were found.

Firstly, the respondents saw it as a tool to help young girls understand how to carry themselves and to have pride in their positive virginitv status as girls. The respondents were taught by either their parents, grand-parents or they heard about it in their communities. Here are some examples of what the respondents said about virginitv testing:

It is about teaching each other that when a girl gets into that stage how do they groom themselves so that they avoid that trap of getting pregnant or getting a boyfriend who is not going to take care of her and the child. (PA9F)<sup>7</sup>

It is all about keeping yourself and embracing yourself. (PA9F)

I was told by my mom that a girl must carry herself with respect and then when she becomes a woman she should be friends with boys, live well and when the times come when she grows up that she puts on pads during the time of her period (menstruation) if it is for seven days she stays with her grandparents. Then after that, she gets cleansed cause she stays with her grandmothers, then there is a celebration because she has become a woman/started her period. (PP1F)

Okay. I was told that virginity testing is a practised culture which builds self-esteem for a woman or a girl whatever, but it builds self-confidence even if a person is at school knowing that I do not engage myself in a relationship at this age or at this time, but my time is coming. (PC19M)

One of the women respondents stated that it was all about pride and showcasing oneself as being “kept”. She states that today:

People take virginity testing as a way to showcase themselves. Not that they take it as a cultural practice. Yes, I can say that. [...] right now it is about showcasing. [...] It is a pride thing because mostly you know that in this twenty-first century most of the girls are falling pregnant at an early stage so it is just showcasing yourself that if you do not have a child they assume that you are still a virgin. (PA9F)

One can see from her statement that there are benefits to being a virgin because there is a sense of pride in oneself for having kept one's virginity until old enough to get married, therefore delinking virginity testing from culture and they rather see it as a way of life.

Young girls are taught collectively about the custom of virginity testing and the reasons why it is beneficial to stay a virgin till the right time that being after the age of 21. This is

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<sup>7</sup> P = Participant; A/B/C/P(Phone)= recording file; 9=recording number (respondents number); F= Female

a when a ceremony is held where a cow is slaughtered by a girl's parents to thank their daughter for being "good", i.e., she has kept herself a virgin till marriage (UCT, 2011). Because the girls are taught collectively about the importance of virginity testing and how to carry oneself and how to take care of oneself. If a girl decides to have sex with a boy and is no longer a virgin she becomes stigmatised. Two of the women respondents, one older and the other younger, mentioned that they support the custom, but criticised the practice as it excludes those who are not virgins and the community of girls that has been created. A young woman participant who was 21 and the older woman participant who was 47 (respectively) stated that:

[Virginity testing] has no honesty. You get that girl who is at that stage she is no longer a virgin so what are you going to do about her as a parent, to never get to that stage where she feels guilty about it or feeling like she is being abandoned by a parent. So there has never been honest about it. [...] there must be something that must be done for those girls because they are still willing to be part of it. (PA9F)

I can say that now what I notice is that it discriminates towards other girls. They do things separately with girls who are virgins not wanting to involve those who are not virgins any longer. That is not a nice thing at all. (PC21F)

Overall virginity testing is seen as a good custom. Respondents see the custom as one that teaches and encourages girls to keep their virginity. They also believe that it gives girls a good sense of self-esteem if they keep their virginity. However, in the case that they lose their virginity girls become stigmatised in their community.

#### ***4.8.1.2 Prevention of HIV/AIDS and Teenage Pregnancy***

The respondents gave several reasons why virginity testing is practised today. The first point made by the respondents is that virginity testing helps to reduce the spread of deadly diseases such as HIV/AIDS. This finding supports LeClerc-Madlala's (2003:22) that virginity testing has its re-birth in the early 2000s as a protection against HIV/AIDS. One respondent stated that:

The reasons for why it is happening today is HIV/AIDS. It reduces the illness in the community. (PC21F)

I was told it has to be done to avoid the diseases that are here now. (PB15M)

Although virginity testing may help to reduce the spread of HIV/AIDS women aged 47, stated that virginity testing may cause some risks to the girls who are virgins because of the myth that men can be cured of HIV/AIDS if they have sex with a virgin girl. It sets the virgin girls up for rape. This is seen from one of the respondents:

It is a good thing, but it is also risky because there are the perpetrators who will know that these girls are virgins because there is this belief that you get healed from HIV if you sleep with a virgin. It is harmful in that respect. (PC21F)

This confirms Leclerc-Madlala (2003) and Swartbooi-Xabadiya's (2010) finding where the students stated that they were concerned about being exposed to the risk of being raped and contracting HIV/AIDS from men who believe in this myth (LeClec-Madlala, 2003:22; Swartbooi-Xabadiya, 2010:37).

Secondly, it was also mentioned that the custom helps reduce the rate of teenage pregnancy in their communities. This finding supports Swartbooi-Xabadiya's (2010:42) findings. One respondent stated:

It is a culture because culture has been lost and the children are now falling pregnant when they are young before they reach the stage of years [...] in the beginning culture stated that a girl would not be found at 15 pregnant because of boys now it's just a thing that boys lay with (sexual relations), because boys see that the girl has grown. (PP1F)

The re-introduction of virginity testing was aimed at dealing with the high prevalence of teenage pregnancy and HIV/AIDS that had a large effect on Zulu youth and the country. This tells us something about the worth that cultural values still have in peoples' lives. If the current morals and values that are linked to human rights do not decrease the issues of HIV/AIDS and teenage pregnancy the rationale may be that culture worked before and

it may work again today. This shows that cultural practices can disappear over time and reappear and be reinvented where needed.

#### ***4.8.1.3 Corruption in Virginity Testing***

Although virginity testing helps girls know their worth there are some negative effects as well. The respondents pointed out that corruption has had a negative effect on the custom of virginity testing. It was mentioned by the respondents that virginity testers are bribed to give positive results to young girls who are no longer virgins. Today corruption is rampant in South Africa and therefore it is not surprising that this would be an issue. A woman respondent confirms this by saying that:

It is bad now because now the tested do not have the knowledge about testing. Now they allow the girls to give them R200 [...] and they put it down and they take that R200 and they let the child go but the child will be pregnant [...]. (PB14F)

When one of the male respondents was asked what argument he would make to stop the custom of virginity testing he too mentioned the issue of corruption because girls who are no longer virgins continue to receive a certificate which is wrong. He states that:

[...] in the case that there are those who are not virgins but they continue receiving certificates (showing that they are virgins) then it needs to stop because it is becoming unfair. It needs to stop then. (PB15M)

Another male respondent also mentioned that the practice of virginity testing is slowly becoming negative due to corruption. He mentions that:

Because corruption, just messed up everything. Even because I have heard these negative talks like girls carry money just to be successful when they are tested, to get a certificate while knowing that you are not. (PC19M)

Corruption has an impact on how the custom functions and its impact on the community. Parents and leaders of a community may assume and think that their daughters are still virgins while they have gotten certificates through bribery. This then defeats the purpose

of raising young women who know their worth, as well as trying to protect them from HIV/AIDS and teenage pregnancy.

#### **4.8.1.4 Marriage and Lobola**

Male respondents link a girls' virginity status to marriage. In the Zulu culture a girl must keep her virginity until she gets married and if she has not she is considered damaged goods and therefore the lobola price for her will be reduced. On whether the virginity of a girl should be announced to the public or kept private a male respondent stated that:

[...] her parents should be informed it should not be something that should be kept even from the parents because at the end of the day the parents should know because there is a thing called 'ukulobola'. If I was a guy interested so now that the girl has been damaged cause that's word they use now that she is damaged I shouldn't be charged the very same amount as a girl which is a virgin. So keeping that information from the parents only for me to find out. (PC12M)

This is a patriarchal and deeply sexist understanding of virginity. The value of the woman when negotiating her lobola is partly determined by whether or not she is still a virgin but the virginity status of the man is disregarded.

#### **4.8.1.5 Religion**

The views of the respondents towards the two cultural practices, and specifically virginity testing show that respondents' opinions were influenced by their religious views. One of the older women respondents who stated she is a Christian saw it as counterintuitive to accept this custom when her religion gave her and her family morals and values to live by. She mentioned that Christian morals and values promote and encourage celibacy and teach a young woman to take care of herself and protect her virginity until she is married. The respondent stated that:

Just like it is in Christianity, in Christianity our children do not go get tested but by the law from church they are taught how to live their Christian lives. Even if she is in a relationship she must promise not to go sleeping with a boy until the night of

her wedding, they will see each other in the bedroom. Some others in church are unable to do this you see. When the boyfriend/fiancée is ready for marriage but she is that side being naughty. It is the same (as virginity testing). (PB13F)

Because you are Christians it says because you are a Christian that you are a new creation and the old has passed away. This is the law of Christ stands of how one that is growing needs to live. It is not necessary for one to get tested. They leave it. My children left getting tested. (PB13F)

A female respondent who had a strong stance in favour of customs and traditions stated that Christianity may be the cause of the decrease in the impact of virginity testing today. She stated that:

Even what has finished virginity testing is Christianity. You see these saved congregations, I apologise if it is you. It has finished the life of people in this life because when the child says they like the custom, they can participate in the custom, like the other children but you as a parent you are Christian when the child falls you won't know how to raise the child because the child is Christian. (PB14F)

The statement made by this respondent shows that she believes that Christianity does not have the same level of morality and value to raise a child in the direction he or she is meant to go and the child goes astray. Overall, Christianity has a powerful role to play in how the respondents see the current customs and traditions in their community and whether they participate in them or not.

#### ***4.8.1.6 Harm and One's Right to Health***

The respondents were asked whether they see the custom of virginity testing as harmful and all the respondents stated that the custom is not harmful. This is because they believe that the girls are not forced to participate because they can choose if they want to participate or not. This is seen when one of the women respondents stated:

What I knew growing up is that all girls must get tested so that she carries herself well and keeps her virginity, now it is the girl's choice if she wants to do it or not

but back then it was forced that every girl must do it. The girls used to run away when they knew they were no longer virgins and then after that, it became that girls were able to choose if they want to participate or not. (PC21F)

No, I wasn't forced. I wasn't forced. It was love, it came from love just like now I am older it still comes from love. (PP1F)

Looking at consent, an older woman stated that for her it was tradition, therefore, no one needed to teach her about it or force her to get tested. It was a commonly practised custom, therefore, it naturally came to her to participate in the custom. She stated that:

I was not told I was just tested. (PB14F)

This response is important as it shows that in her time she was not given the right to choose whether or not she wanted to be tested for her virginity. With little exposure to teachings on human rights, a girl did not need to be asked if she wants to get tested.

One of the respondents made a point that virginity testing is in accordance with human rights because a person has the right to health. As mentioned before one of the reasons for practising virginity testing is that it reduced the spread of HIV/AIDS and in his understanding, those participating have a right to life and good health which the custom affords them.

As I have said before if the government says I have a right to life obviously this testing of women should be passed I mean it's something that should go on because I have a right to life. I would not have a healthy life if I was infected by diseases so where are my rights there. If you are not doing this thing obviously it opens up a lot of gates for a lot of wrong things so if you practising this you know that no 'I won't get HIV or Sexually Transmitted Diseases (STD's) or anything that you get when you are mixing yourself with these intercourses. So it is a matter of life I think it goes according to human rights." (PC19M)

It is interesting to note that not much is said about a man's virginity but the weight of preserving virginity is placed predominantly on women in the community. According to

respondents the only way to curb or reduce the number of HIV/AIDS and teenage pregnancy cases is by controlling women's sexuality. This is done without recognising that men had and still have an equal role to play in the prevention of the spread of HIV/AIDS and the high numbers in teenage pregnancies which motivated the reintroduction of virginity testing. LeClerc-Madlala (2001:533) argues that "virginity testing is an attempt to manage the epidemic by exerting greater control over women and their sexuality. [...] Virginity testing of girls helps to draw attention away from the role of men in the maturing epidemic." The rural women who re-introduced virginity testing saw it as the only way to re-instill the values of chastity before marriage, modesty, self-respect, and pride (Lecler-Madlala, 2001:534). Although the introduction of the custom was for the benefit of the girls and the people in general, it is a great example of a custom with patriarchal roots that focuses on the woman and rarely addresses the man who is an equal partner in sexual interaction. Both parties need to be addressed to reduce the levels of HIV/AIDS and teenage pregnancy.

The respondents were asked if they see this custom as harmful and all the respondents stated that it is not inherently harmful. One of the respondents, who is a virginity tester, stated that it is not harmful because the testing is done in a careful manner as one is dealing with a sensitive part of the body. She also mentioned that the girls will only feel pain if she has had sexual intercourse with a man.

It is not harmful because there is nothing that is hurt, yes that place is delicate but there is nothing like you touch her and hurt you are not meant to as a mother hurt her. That is because the pain is felt in the time when she has slept with a man you are just guarding her you are like a police that says there is something that I see there. (PPF1)

Another respondent made an important point that those who are not part of the culture are the ones who see the custom as harmful because it invades one's privacy. However, if a person is Zulu and participates in the custom of virginity testing, they may not see the custom as harmful because they understand the reasons behind it.

Those in the culture don't see it that way because they understand the cultural reasons. (PA9F)

Those who advocate for gender equality be it through government organs or non-governmental organisations have contributed to protecting the girls from being tested when they are too young. Currently, the law states that a girl should not be tested below the age of 16. When asking if a girl should only be tested at the age of 16 and upwards most of the respondents, disagreed, stating that it will be too late because at that age the girl would have already met with boys. They also mentioned that it is important to start early so that the testers can see if the child has been abused by someone. And that girls can get used to the process of being tested for their virginity.

No, it must start younger until it reaches the age of 16. From 11/12 going up that custom must start then. (PB13F)

No from 10 years and above. (PC22M)

No. [...] It must start early so that they girl get used if she starts later she will feel uncomfortable. If you start late you will find anything and you will find it is too late. (PC21F)

Despite the Children's Act (Act No.38 of 2005) that has been implemented to protect girls the reality of what is happening in the Zulu communities does not comply with this because they believe that girls should be tested before the age of 16. Overall respondents support the custom with some reservations in terms of the risk of rape of those who are virgins in the community and the exclusion of those who are not virgins. They also see virginity testing as a custom that can rectify the current social ills such as the spread of HIV/AIDS and the high rate of teenage pregnancy.

Men and women, when speaking about virginity testing, thought of harm only in the physical sense but failed to recognise the emotional and psychological harm the girls may face when they are stigmatised for not being virgins. This may have a long-lasting effect on the girl's lives and is more difficult to detect.

#### 4.8.2 Ukuthwala

Ukuthwala is a harmful cultural practice because girls are coerced into marriage whether they agree or not. The original practice united people who were already in a relationship, however, today the girls are abducted into marriage by men who are much older than they are. The respondents were asked a number of question on the custom of ukuthwala. When the respondents were asked about what they had learned about ukuthwala when they were growing up they had a common answer. Most of the respondents stated that it is when a girl is carried away by a man that likes her, so he can marry her. The respondents were asked where they heard about the custom and most said from their parents, guardians as well as the community.

[...] if there is a girl you like a guy would send to thwala her and they would arrive home and then they send lobola for the girl. (PC22M)

I was told that ukuthwala is when a girl does not want the guy, doesn't want to date with that guy then the guy decided to take her by force. (PA9F)

It can be a discussion between the man and the woman. It happens at times that the girl's parents don't want her to be married to this family, but another family so they discuss so that she gets 'thwala'd' and then he sends cows to the father to say sorry then they can stay together. (PA10F)

It was also mentioned that sometimes ukuthwala does not happen by force, but because the girl has agreed to be 'thwala'd'. This would have been because the parents of the girl would have refused their daughter to marry the man she has chosen. She would then ask to be 'thwala'd' by her partner as a form of eloping.

If their parent has something against the guy, then she will say 'hey you thwala me'. (PA11Mno2)

The respondents also mentioned that ukuthwala does not always happen when a man physically carries away a woman to marry, her but it can also happen using. According to

the respondents, umuthi<sup>8</sup> would be used to bewitch the girl making her want the man who has bewitched her.

Most of the times, but there is also this thing, not ukuthwala like physically this thing happened in two different ways. It is not like ukuthwala physically, some they do it like emmm the traditional way. They are putting herbs in the cupboard [...] and then they are like calling your name and you will come from home to the...to their, to the house of that man. [...] Herbs works like that. (PA9F)

[..] there are other things like umuthi. I don't know if you understand ukuthakatha (to bewitch). If a woman gave me something do you know that my head would spin, then the only way I will be relieved from this spinning head is for someone who would assist me to get her back and if I get her back. So if a person possesses me with something then okay my parents or the people who are close to me would find a cure for me so that I could just forget about this person but if they see that no this person is not forgetting about her so what exactly is the problem so now they seek what traditional healers or someone who has a spirit to see, a gifting then if they see that there is something that is possessing me. (PC19M)

One can see from the quotes above that witchcraft can also be used to thwala a girl. If the one who has been bewitched needs to break the spell they would need to go to a witch doctor or the person would have to marry the one who has bewitched them. Overall, most of the respondents stated that the custom is wrong and should not be practised. They also saw it as harmful and not in accordance with human rights because the girl does not have the right to choose in the custom.

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<sup>8</sup> “The term muthi (spelled muti in Xhosa transliterations) derives from the Nguni root – signifying ‘tree’. Usually translated into English as either ‘medicine’ or ‘poison’, with the anodyne ‘herbs’ used in ambiguous instances [...]” (Ashforth, 2005:211-212). Muthi refers to herbs used by persons possessing secret knowledge to achieve either positive or negative results (Ashforth, 2005:212). The positive results are healing, cleansing, strengthening, and protecting persons from evil forces. The negative results are witchcraft, bringing illness, misfortune and death to others to mention a few (Ashforth, 2005:212).

#### **4.8.2.1 Reasons why Ukuthwala is Harmful**

The respondents gave several reasons why ukuthwala is harmful. The first reason that was the custom takes away a girl's freedom of choice. According to the law, a girl has the right to choose her spouse and therefore the right to reject a suitor she is not interested in.

No, it is not in accordance [...]. Everyone has the rights to live the life they want to live, not chosen for them by other people. (PB14F)

Another reason that was given was that due to the age difference between the man and the girl who is being 'thwala'd' the girl maybe abused in the marriage. This custom was not considered harmful decades ago, because the custom was practised between adults of similar ages. However, the custom has evolved to one where older men 'thwala' younger girls to be their wives. Due to the age difference and the forced nature of marriage rape was also mentioned as a reason why ukuthwala is harmful.

This was rape. It is just rape. Because you need to agree with it, do you agree with being thwala's, perhaps the person I am not sick then I can thwala, but if I am sick there is no reason for me to thwala. (PB15M)

The sickness being referred to here is HIV/AIDS or Sexually Transmitted Infections (STI's) and STD's that can be contracted through, sexual intercourse. One can see that the custom is not just harmful because it infringes on the girls right to choose but because it also puts her health at risk as she may contract infections and diseases.

#### **4.8.2.2 Personal Experience**

Some of the respondents had some personal experiences with ukuthwala. One of the male respondents stated that his daughter was 'thwala'd', however, it was consensual between her and the man she was 'thwala'd' by.

[...] according to my experience my child was 'thwala'd' in this day and age from [...] her high school and the man took and lobola was paid for her. AT about half-

past 10 at night I found the man. [...] they had agreed that they want to get married. [...] they took her with a car and then later at around ten they came. (PA11Mno1)

Apparently, another man wanted his daughter and the man she ended up getting married to decide to propose quickly by 'thwala'ing' (taking/abducting) the girl with her consent so she would get married to him and not the other man. The girl was not interested in the other man and therefore organised to be 'thwala'd' by the one she was interested in.

Two women who participated in the study also had personal experiences because their sisters were 'thwala'd', however, their marriages did not last. The first woman said that she saw her older sister get thwala's in 1990.

I have seen it. It was 1990[...] my older sister was 'thwala'd'. It was to the house of my brother in law. [...] Yes she was 'lobola'd', so it is like forced marriage. It is a forced marriage. Because you do not have a right to say to your parents no I do not love this person. They arrive and you are not there and they say we are here with the bride price, and they agree about the matter. (PB18F)

The second woman stated that she was asked by her brother to help him thwala a girl he liked so that she could be kept for him and not taken by another man. She mentioned that she participated that time because it was culture. However, today she would not encourage anyone to do it because she believes it is bad. It is important to note that of those who had personal experiences of ukuthwala were of older age groups, predominantly in the age groups 35-49 and 50+.

Overall, respondents believe that the custom of ukuthwala is bad and should not be encouraged by anyone. They see it as a harmful cultural practice that should be abolished because it infringes on the rights of girls.

#### **4.9 Discussion**

The main research question asks what the perceptions of men and women are on human rights and culture and how these opinions manifest in the acceptance or rejection of a human rights culture in Zimbabwe and South Africa. This section will seek to answer this

research question for South Africa. This section firstly analyses the participant's views on culture, human rights, and gender equality.

#### **4.9.1 Perception of Culture, Human Rights, and Gender Equality**

From the findings the respondents have a strong sense of respect for culture. When asked about virginity testing most of the respondents were fond of the custom despite the challenges that come with it. For example, corruption, the rejection and stigmatisation of girls who are not virgins and the risk of getting raped if you are a virgin, due to the belief that having sexual intercourse with a virgin can cure HIV/AIDS. Virginity testing in the Zulu community is not just a custom that seeks to protect young girls from falling pregnant or contracting HIV/AIDS, but it gives them a sense of pride, not just to the girls themselves but to their families and the community as a whole. This shows that the culture gives a sense of identity and belonging. There are also morals and values that are taught by parents and the virginity testers (*abahloli*) to girls, about how a girl must behave and how she should carry herself, therefore, affirming the results found in the quantitative section on culture, of common morals and values that are to be followed. This is can also be seen in the way both the men and women respondents, be it young or old, understood the value of a girl as linked to keeping her virginity, supporting sexist interpretations.

In general, the findings showed that many respondent's value human rights and its contribution in helping to protect both men and women and therefore saw ukuthwala as harmful they point out issues such as the risk of being raped if you are a virgin according to the custom of virginity testing. The results of the quantitative research show that the respondents do not see it as undermining human rights. This may be true because although the law states that girls should be tested for their virginity from the age of 16 and above most of the respondents disagreed with this. For them virginity testing as a custom seeks to protect girls, instilling good morals and values for the girls to follow. One of the older women respondents mentioned that human rights' demise is that it does not teach children the morals and values that need to be followed in Zulu culture and therefore is not beneficial. This includes respecting elders and how to behave properly as a girl or a boy, and how to respect oneself. Therefore, culture gives a set of "do's and dont's" that

are observed in ethnic communities that human rights do not address. This points to a clash between the ideologies that are the foundation of human rights and ethnic communities. Because human rights focus on the individual and his or her agency it negates the impact of decisions made on a whole community and what Zulu culture holds as important. The community as an entity is more important than the absolute agency of the individual.

Assessing the respondents' responses on gender equality, specifically linking them with their views on ukuthwala, it was clear that the respondents opposed the custom mainly because it infringes on the rights of the girl child of choice and bodily integrity. The respondents mentioned the issue of rape also pointed to the fact that it infringes the rights of the girl because if she is 'thwala'd' she won't be able to refuse to have sexual intercourse with the man she has been abducted by.

Some of the respondents made comments on virginity testing and its importance when the girl is getting married and the pride the girl's parents have when their daughter is still a virgin when she gets married. It is important to note that the responsibility of keeping one's virginity is placed solely on the girl. This, therefore, places the responsibility for the community on the girl. It can be assumed according to culture that men expect to get a virgin wife, however, this expectation is not placed on men to be virgins. The issues of HIV/AIDS and teenage pregnancy are in essence seen as the woman's fault, as a way of controlling the girl's sexuality in the Zulu culture.

The findings described above confirm the views given by Naidu (2008) where she reflects on body politics, specifically at the gendered discourses on HIV and AIDS. She speaks of the 'hijacking' of the female body within the "popular discourses of AIDS [which is itself a] socially constructed and gendered disease" (Naidu, 2008:28). As highlighted in Chapter 2, the epidemic disproportionately affects women and adolescent girls and because of this the discourses around the virus and the 'solutions' to curb the epidemic are targeted at women and/or girls and their bodies, turning a blind eye to the role men play in the spread of HIV and AIDS.

Because the current discourse on HIV and AIDS is centred on women and the policing of their bodies and sexuality, African leaders as well as the government will need to change the discourse around the disease. They have to clarify that the virus does not discriminate, but can be transmitted not only by women, but by men as well, and not just in heterosexual relationships but also in homosexual relationships. This will need a change of mindset on HIV/AIDS transmission.

To change the discourse on HIV and AIDS from being a gendered virus that targets women, men and children patriarchy will also have to be addressed. The notion of manhood in Zulu culture will need to be redefined and reconstructed as men need to be held accountable sexual activity that affects women, adolescent girls, and the community as a whole. The men would need to realise that controlling woman's sexuality does not address the issue of HIV and AIDS, but that it takes two people to spread HIV and AIDS through sexual intercourse.

More men were inclined to support cultural views than the women. When asking the respondents about their perceptions of gender equality in the home it was found that women and men had differing views on what the role of a man and woman should be in the home. Men leaned more towards culture, however, the women were divided. Men were mostly supporting cultural views perhaps because of the benefit it affords them and the patriarchal dividend of having power both in the private (home) and public (work) spheres of life. This speaks of the continuing patriarchal structures that exist in African cultures that need to be challenged as it leads to gender discrimination. Men's keen inclination towards culture is also evident as a majority of them agreed that gender equality is a Western concept and that culture is more important than human rights.

Women were divided with some supporting human rights and others supporting culture, but their responses showed that the two concepts do not exist as a binary, but that women (in this sample) are attempting to find a balance between the two. Although culture is important human rights and the morals and values that come with it are also important. The custom of virginity testing is still seen as important to the women as they saw it as

beneficial despite its drawbacks. Women also saw ukuthwala as a custom that needed to be abolished because of its violation of the rights of women and girls.

This constant back and forth between human rights and culture is seen when the women were asked about gender equality in the workplace. Women respondents did not support women earning more than men and were divided on whether it is fine for men and women to earn the same salary when having the same job with the same qualifications. Women support human rights and equality in terms of women being allowed to work and pursue a career, however, when it comes to matters of wages and salaries there is a sense of apprehension about women earning equal to or more than men. This is because salaries may have an impact on the power balance in the home.

Culturally men are meant to be the breadwinners of their families giving them a sense of power in the home. The majority of women agreed that men should be the breadwinners, perhaps because of the fact that economically it is beneficial for women to work. It is interesting to note that although they believe women should work and can be the breadwinners of the family the patriarchal foundations of the culture are not directly challenged by the women. Even if women bring in a salary to help provide in the home, they do not challenge men's status as breadwinners. This shows how prominent patriarchy is in the home. Women in this sample do believe that culture is important but in the current social and economic conditions the roles of men and women in the home need adjustment.

When looking at the participant's views on gender equality at work and at school the majority of men and women respondents agreed that women should be allowed to work and further their career and that boys and girls should be given equal access to education. Therefore, the respondents believe that there should be no hindrances in one's work and educational aspirations.

Regarding intergenerational differences there was little variation found as most of the findings were inconclusive due to the small sample size. Regarding which laws respondents believe they live according to, it was interesting to find that the older women (35-49 and 50+) stated that they live according to customary law and the younger women

(18-24) stated that they live either according to common law or both. This intergenerational difference shows that the younger generations who are exposed to information through education technological advancement and urbanisation chose common and customary law because their lives consist of engaging both sets of laws, as they interact with cultural and modernity each day. The older generation may have grown up in rural or semi-rural areas where culture may have had a larger impact on their lives and because of this, they chose customary law.

Looking at the findings the respondents support human rights as well as culture. It is difficult to see the binary between the two concepts because these concepts, and what they stand for are accepted and applied in the daily lives of this sample. The respondents in this sample live hybrid lives, more especially the women as they try to find a balance between culture and modernity.

#### **4.10 Conclusion**

For the sample from KwaZulu-Natal culture as well as human rights as important. Most of the respondents were fond of virginity testing as a custom stating that it helps combat the HIV/AIDS pandemic and the high number of teenage pregnancies. Although there are positives to virginity testing the respondents also spoke of the negatives that result from the custom such as corruption as well the risk of girls being raped. However, most of the respondents opposed the custom of ukuthwala saying that it goes against human rights. Overall, the respondents' responses showed that they embrace both human rights and culture. They agree that women should be able to pursue a career and that girls and boys should be given access to education, but gender equality remains a problem because the home continue to be a space where issue of gender equality persist. The men and women had differing views on gender equality in the home. The men leaned more towards a cultural understanding what men and women's roles should be in the home however the women were divided in their responses. Some of the women supported a more modern understanding of their role in the home whilst others supported a cultural view of a woman's role in the home. One can therefore see that the respondents' lives have a

balance between culture and human rights. The next chapter will discuss the findings of the data collected in Zimbabwe.

## **CHAPTER 5 ZIMBABWE – DATA PRESENTATIONS AND ANALYSIS**

### **5.1 Introduction**

This chapter seeks to describe, analyse and interpret the data collected from Zimbabwe. The first section will look at the demographics of the sample. The second section will discuss the respondents' perceptions about culture, the third section will look at their perceptions of the legal system, the fourth section will analyse the perceptions of the respondents on human rights and the different international agreements that have been ratified and the fifth section will analyse the respondent's opinions on gender equality in the home, at work and in equal access to education. The sixth section will look at whether the respondents perceive human rights and gender equality as Western concepts. The seventh section will seek to analyse the findings from the interviews on early child marriage and lobola.

### **5.2 Demographics**

The sample was drawn in Bindura, Zimbabwe and was a total of 16 respondents: 9 were women and 7 were men. The respondents were split up into four age groups. The researcher struggled to find female respondents in the age group 25-34. A majority of the respondents were unemployed (87.5%). Close to half of the respondents (43.8%) stated that they had been unemployed for 3 or more years and 31.3% had been unemployed between 6 months and a year. A quarter (25%) of the respondents refused to answer which may be because such information is seen as confidential. Looking at economic class the respondents a majority (62.5%) saw themselves in the lower class and 37.5% said middle class. When asked what their income is per month a majority (81.3%) of the respondents stated that they receive no income.

More than half of the respondents were married (56.3%) married, 12.5% were widowed and 6.3% were separated. Most of the respondent's highest level of education was a secondary school level (68.8%) which would mean they have received at minimum an Ordinary level Zimsec certificate which is the equivalent of Matriculation in South Africa. Almost all the respondents stated that they are religious (93.8%) and attend religious services often (87.5%).

**Table 5.1 Sex of Respondents**

	Percentage
Female	56.3% (9)
Male	43.8% (7)
Total	100% (16)

**Table 5.2 Age of Respondents (Sex)**

	Female	Male
18-24	44.4% (4)	14.3% (1)
25-34	----	28.6% (2)
35-49	44.4% (4)	28.6% (2)
50+	11.1% (1)	28.6% (2)
Total	100%	100%

**Table 5.3 Employment Status**

	Percentage
Employed	12.5% (2)
Unemployed	87.5% (14)
Total	100% (16)

**Table 5.4 Time period of Unemployment**

	Percentage
6 months	12.5% (2)
1 year	18.8% (3)
3 years	43.8% (7)
Don't know or refused to answer	25% (4)
Total	100% (16)

**Table 5.5 Religious Service Attendance**

	Percentage
Often	87.5% (14)
Not so often	12.5% (2)
Total	100% (16)

**Table 5.6 Level of Education**

	Percentage
Primary school	18.8% (3)
Secondary/High School	68.8% (11)
Post-secondary qualification: University, college Polytech	12.5% (2)
Total	100% (16)

**Table 5.7 Income**

	Percentage
No income	81.3% (13)
R500 plus	12.5% (2)
R5000 – R10 000	6.3% (1)
Total	100% (16)

**Table 5.8 Social Class**

	Percentage
Lower class	62.5% (10)
Middle class	37.5% (6)
Total	100% (16)

**Table 5.9 Religious Orientation**

	Percentage
Religious	93.8% (15)
Agnostic	6.6% (1)
Total	100% (16)

**Table 5.10 Relationship Status**

	Percentage
Married	56.3% (9)
Separated	6.3% (1)
Widowed	12.5% (2)
Single	25% (4)
Total	100% (16)

### 5.3 Perceptions of Culture

This section will discuss the opinions of the men and women on the importance of culture, the role of culture in their community and how the community or family unit would treat someone who decides not to follow their customs and traditions. When asked if culture is important a majority of the men (85.7%) agreed that culture is important. However, a majority of the women disagreed saying that culture is not important to them (66.7%) (*Table 5.12*). The respondents were then asked what function and role culture has in their community. Overall the men agreed that culture brings peoples together, that it gives common morals and values for the community to abide by, that it gives specific roles men and women are meant to play in the private and public spheres of life and finally that it gives a sense of identity and belonging to those that are part of the community. The women, on the other hand, were divided on some of the questions. Firstly, when asked if culture gives specific roles to men and women in the home and workplace women were divided on this matter with 44.4% agreeing and 55.5% disagreeing (*Table 5.12*). Additionally, when asked if culture gives a sense of identity and belonging the women were divided with 44.4% agreeing and a little more than half of them (55.6%) disagreeing that culture gives a sense of identity and belonging (*Table 5.12*).

The next set of questions asked how a community or family would address someone who has decided not to follow the customs and traditions that are practised. When asked if the person should be given a warning privately amongst elders the men (71.4%) and women (88.9%) agreed with this (*Table 5.12*). When asked if the person should get excluded from their family indefinitely all the male and female respondents disagreed with this. Finally, when asked if they should be allowed to choose how they want to live their lives all the men agreed but the women were divided once again with over half of them (55.6%) agreed and 44.4% disagreed (*Table 5.12*).

Overall one can see that the men in this sample see culture as important, but the women may have some apprehensions about the importance of cultures (*Table 5.12*). The women in this sample were divided on whether culture gives specific roles to be followed and if it gives a sense of identity and belonging. Due to exposure to information through

education on human rights, the women respondents may lean towards seeing culture as less important in their lives. Additionally, with the ease of transportation to urban areas, today and main cities from the rural and semi-rural areas in Zimbabwe such as Bindura the women may have been exposed to a way of life outside of their cultural context, therefore, giving them a different perspective that informs their way of life.

If people choose not to follow customs and traditions of the Shona culture, the men and women agreed that the individual should receive a warning and get some guidance from elders in their family or community, but they should not be excluded from the family because of their behaviour. The men believed that one should be able to choose how one wants to live one's life, however, the women had divided responses with a little over half agreeing (55.6%) and 44.4% disagreeing. Although the women's responses seem to show that they do not view their culture as important it is evident that this may not be entirely true as seen by the fact that 44.4% do not think one should be allowed to govern his or her own life. This may show that in some areas of one's life they can be afforded agency, however, culture still dictates how one should live.

The women's contradicting views may be explained by the hybrid nature of their lives, having to juggle between following their culture and or choosing a modern way of living. They may still view their culture as important however they must navigate how to use the agency they have received in post-colonial Zimbabwe where the rights of the individual should be held in high regard. Analysing the results above one can assume that the women in this sample see the benefit of culture as they agree that it brings people together and gives common morals and values to be followed. However, culture may not be the only informant of one's identity and the role one is meant to play in a community today. This may explain the division amongst the women.

Table 5.14 shows that there are some generational differences in the women's responses on culture. The younger women are divided on whether culture dictates the role men and women should play in the community and in the home. 50% of the women in the age group 18-24 and 75% of the women in the age group 35-49 disagree that culture is important (*Table 5.13*). This may be due to the exposure of the young women to urban

ways of living and to human rights which may have shifted the view on what the man and the woman should be. Furthermore, 75% of the women in the age group 35-49 and 100% (1 respondent) disagree that culture gives a sense of identity and belonging (*Table 5.13*). This may be because of the influence of religion. Zimbabwe's main religion is Christianity and because of this, women today may not get their sense of identity and belonging from their cultures but from their religious communities as well.

When analysing the responses on whether or not one should be given the freedom to choose how they want to live their life there were generational differences found amongst the women in the sample. The younger women (18-24) were divided with half agreeing and half disagreeing (*Table 5.14*). However, two women who were in the age group 18-24 were married and perhaps were not allowed to choose how they want to live their life due to the leadership of their husbands. The older women (35-49 and 50+) agreed (*Table 5.14*). This may be due to the recognition of human rights and the agency it affords an individual.

Overall, one can see that the men agree that culture is important. They believe in the function of the Shona culture and how one should be treated if one decided to not follow customs and traditions of the Shona culture. The women, however, are divided, showing a change in the way they view culture and the role it plays in one's life. Below analyses men and women's knowledge of their legal system.

*Table 5.11 Importance and Function of Culture and the Repercussions for not following Culture (Univariate)*

		Percentage	Total
How important is culture to you?	Important	56.3% (9)	100%
	Not Important	43.8% (7)	
Culture brings peoples together	Agree	87.5% (14)	100%
	Disagree	12.5% (2)	
It gives common morals and values	Agree	81.3% (13)	100%
	Disagree	18.8%(3)	
It gives specific roles to men and women in private (home) and the public sphere (workforce)	Agree	62.5% (10)	100%
	Disagree	37.5% (6)	
Gives a sense of identity and belonging	Agree	62.5% (10)	100%
	Disagree	37.5% (6)	
Give them a warning (privately among elders)	Agree	81.3% (13)	100%
	Disagree	18.8% (3)	
Exclude them from the family indefinitely	Agree	---	100%
	Disagree	100% (16)	
Allow them to choose how they want to live their lives	Agree	75% (12)	100%
	Disagree	25% (4)	

*Table 5.12 Importance and Function of Culture and the Repercussions for not following Culture (Sex)*

		Female	Male
How important is culture to you?	Important	33.3% (3)	85.7% (6)
	Not important	66.7% (6)	14.3% (1)
Culture: brings peoples together	Agree	78.8% (7)	100% (7)
	Disagree	22.2% (2)	---
Culture: it gives common morals and values	Agree	66.7% (6)	100% (7)
	Disagree	33.3% (3)	---
Culture: it gives specific roles to men and women in private (home) and public sphere (workforce)	Agree	44.4% (4)	85.7% (6)
	Disagree	55.6% (5)	14.3% (1)
Culture: Gives a sense of identity and belonging	Agree	44.4% (4)	85.7% (6)
	Disagree	55.6% (5)	14.3% (1)
Give them a warning (privately among elders)	Agree	88.9% (8)	71.4% (5)
	Disagree	11.1% (1)	28.6% (2)
Exclude them from the family indefinitely	Agree	---	---
	Disagree	100% (9)	100% (7)
Allow them to choose how they want to live their lives	Agree	55.6% (5)	100% (7)
	Disagree	44.4% (4)	---

*Table 5.13 Importance and Function of Culture and the Repercussions for not following Culture (Age)*

		18-24	25-34	35-49	50+
How important is culture to you?	Important	60% (3)	100% (2)	33.3% (2)	66.7% (2)
	Not important	40% (2)	---	66.7% (4)	33.3% (1)
Culture brings people together	Agree	80% (4)	100% (2)	83.3% (5)	100% (3)
	Disagree	20% (1)	---	16.7% (1)	---
It gives common morals and values	Agree	80% (4)	100% (2)	66.6% (4)	100% (3)
	Disagree	20% (1)	---	33.3% (2)	---
It gives specific roles to men and women in private (home) and public sphere (workforce)	Agree	40% (2)	100% (2)	66.7% (4)	66.7% (2)
	Disagree	60% (3)	---	33.3% (2)	33.3% (1)
Gives a sense of identity and belonging	Agree	60% (3)	100% (2)	50% (3)	66.7% (2)
	Disagree	40% (2)	---	50% (3)	33.3% (1)
Give them a warning (privately among elders)	Agree	60% (3)	100% (2)	100% (6)	66.7% (2)
	Disagree	40% (2)	---	---	33.3% (1)
Exclude them from the family indefinitely)	Agree	---	---	---	---
	Disagree	100%(5)	100% (2)	100% (6)	100% (3)
Allow them to choose how they want to live their lives	Agree	60% (3)	100% (2)	66.7% (4)	100% (3)
	Disagree	40% (2)	---	33.3% (2)	---

*Table 5.14 Importance and Function of Culture and the Repercussions for not Following Culture (Sex and Age)*

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
How important is culture to you?	Important	100% (1)	50% (2)	100% (2)	---	50% (1)	25% (1)	100% (2)	---
	Not important	---	50% (2)	---	---	50% (1)	75% (3)	---	100% (1)
Culture brings people together	Agree	100% (1)	75% (3)	100% (2)	---	100% (2)	75% (3)	100% (2)	100% (1)
	Disagree	---	25% (1)	---	---	---	25% (1)	---	---
It gives common morals and values	Agree	100% (1)	75% (3)	100% (2)	---	100% (2)	50% (2)	100% (2)	100% (1)
	Disagree	---	25% (1)	---	---	---	50% (2)	---	---
It gives specific roles to men and women in private (home) and public sphere (workforce)	Agree	100% (1)	25% (1)	---	---	---	50% (2)	50% (1)	100% (1)
	Disagree	---	75% (3)	100% (2)	---	100% (2)	50% (2)	50% (1)	---
Gives a sense of identity and belonging	Agree	100% (1)	50% (2)	100% (2)	---	100% (2)	25% (1)	100% (2)	---
	Disagree	---	50% (2)	---	---	---	75% (3)	---	100% (1)
Give them a warning (privately among elders)	Agree	---	75% (3)	100% (2)	---	100% (2)	100% (4)	50% (1)	100% (1)
	Disagree	100% (1)	25% (1)	---	---	---	---	50% (1)	---
Exclude them from the family indefinitely	Agree	---	---	---	---	---	---	---	---
	Disagree	100% (1)	100% (4)	100% (1)	---	100% (2)	100% (4)	100% (2)	100% (1)
Allow them to choose how they want to live their lives	Agree	100% (1)	50% (2)	100% (1)	---	50% (1)	100% (4)	100% (2)	100% (1)
	Disagree	---	50% (2)	---	---	50% (1)	---	---	---

## 5.4 Common and Customary Law

The respondents were asked whether they knew what common and customary law was and which one they believe they live by. A majority of the men (85.7% and 85.7% respectively) and women (66.7% and 88.9% respectively) said they knew what common and customary law was. The respondents who stated that they knew what common law was were asked to explain what their understanding is of common law. Some of the respondents stated that it was a law set out in the constitution for everyone to abide by. It was mentioned that common law forbids violence towards children or women and that murder is prohibited. Several respondents mentioned that common law is marriage without lobola. The respondents also mentioned that common law gives one the right to choose to follow one's culture, it promotes education and gives equal access to opportunities for all people be it male or female, disabled or orphaned.

When asked to explain what they understood about customary law many the respondents mentioned that; firstly, it was marriage with lobola and without a white wedding. Secondly, some of the respondents stated that customary law included polygamy where a man can have more than one wife. Thirdly, the respondents explained that customary law meant that the man works and leads the home while the woman does not work but rather implements the rules that the man has set out in the home. They also mentioned that it is an unofficial law that if broken the member of the community who has broken this unofficial law will be punished by the leadership of the community and finally, that customary law was a law derived from ancestors and the forefathers and foremothers of the Shona people.

The respondents were then asked if they lived according to common law (*Tables 5.16*), customary law or both to which 44.4% of the women responded that they lived according to common law, 33.3% lived according to customary law and 22.2% stating that they did not know which one they live according to. A large majority of them (85.7%) stated that they lived according to common law.

The above information shows that the men and women respondents had an understanding of what common and customary law were with women living according to either common law or customary law and the men living mainly according to common law.

*Table 5.15 Law System in Zimbabwe (Univariate)*

		Percentage	Total
Do you know what common law is?	Yes	75% (12)	100%
	No	25% (4)	
Do you know what customary law is?	Yes	87.5% (14)	100%
	No	12.5% (2)	
Which one do you live according to?	Customary law	18.8% (3)	100%
	Common law	62.5% (10)	
	Don't know	18.8% (3)	

*Table 5.16 Law System in Zimbabwe (Sex)*

		Female	Male
Do you know what common law is?	Yes	66.7% (6)	85.7% (6)
	No	33.3% (3)	14.3% (1)
Do you know what customary law is?	Yes	88.9% (8)	85.7% (6)
	No	11.1% (1)	14.3% (1)
Which one do you live according to?	Customary law	33.3% (3)	---
	Common law	44.4% (4)	85.7% (6)
	Don't know	22.2% (2)	14.3% (1)

*Table 5.17 Law System in Zimbabwe (Sex and Age)*

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
Do you know what common law is?	Yes	100% (1)	75% (3)	100% (2)	---	100% (2)	50% (2)	50% (1)	100% (1)
	No	---	25% (1)	---	---	---	50% (2)	50% (1)	---
Do you know what customary law is?	Yes	100% (2)	75% (3)	50% (1)	---	100% (2)	100% (4)	100% (2)	100% (1)
	No	---	25% (1)	50% (1)	---	---	---	---	---
Which one do you live according to?	Customary law	---	50% (2)	---	---	---	---	---	100% (1)
	Common law	---	50% (2)	100% (2)	---	100% (2)	50% (2)	50% (1)	---
	Don't know	---	---	---	---	---	50% (2)	50% (1)	---

## 5.5 Perceptions of Human Rights and Conventions

The section will look at the perceptions of the respondents on human rights and whether they knew what the different conventions were that sought to promote human rights and gender equality. A large majority (87.5%) of the respondents stated that they knew what human rights were. The respondents who said they knew what human right were, were asked to explain what they understand about human rights. There were several responses that were common amongst the respondents. Most of the respondents stated that human rights offered one the right to education, shelter, medical facilities, employment opportunities, and protection. Some respondents mentioned that human rights meant that one had the right to choose what church one wants to go to as well as the freedom to choose how one wants to live. One participant also mentioned that human rights give one the right to choose what state leadership they want through voting. Finally, some of the respondents answered saying that human rights are rights for all regardless of one's sex, race, age, religion and social class. When asked if human rights are important to them all (100%) the respondents answered yes. The respondents were then asked if culture was more important than human rights at which all (100%) the respondents disagreed. Therefore, one can see from the findings that both the men and women respondents knew what human rights were and saw them as important, but they did not think culture was more important than human rights.

The respondents were asked if they knew the different conventions and protocols or that had been ratified by the Zimbabwean government. The conventions which they were asked about were CEDAW, the Maputo Protocol, the CRC and the ACWRC. A majority of the respondents stated that they know what CEDAW (68.8%), the CRC (75%) and ACWRC (68.8%) was but did not know what the Maputo Protocol (37.5%) was and 25% did not know.

*Table 5.18 Human Rights (Univariate)*

		Percentage	Total
Do you know what human rights are?	Yes	87.5% (14)	100%
	No	12.5% (2)	
How important are human rights to you?	Important	100% (16)	100%
Would you say culture is more important than human rights?	Disagree	100% (16)	100%

*Table 5.19 Human Rights (Sex)*

		Female	Male
Do you know what human rights are?	Yes	88.9% (8)	85.7% (6)
	No	11.1% (1)	14.3% (1)
How important are human rights to you?	Important	100% (9)	100% (7)
Would you say culture is more important than human rights?	Disagree	100% (9)	100% (7)

*Table 5.20 Human Rights (Age Groups)*

		18-24	25-34	35-49	50+
Do you know what human rights are?	Yes	80% (4)	100% (2)	100% (6)	66.7% (2)
	No	20% (1)	---	---	33.7% (1)
How important are human rights to you?	Important	100% (5)	100% (2)	100% (6)	100% (3)
Would you say culture is more important than human rights?	Disagree	100% (5)	100% (2)	100% (6)	100% (3)

*Table 5.21 International Agreements (Univariate)*

	No	Yes	Don't know	Total
CEDAW	18.8% (3)	68.8% (11)	12.5% (2)	100%
Maputo Protocol	37.5% (6)	37.5% (6)	25% (4)	100%
CRC	6.3% (1)	75% (12)	18.8% (3)	100%
ACWRC	25% (4)	68.8% (11)	6.3% (1)	100%

## 5.6 Gender Equality

The next variables measure the perceptions of the respondents on gender equality in the home, the workplace and in terms of access to education. This section will be divided into sub-sections. The first sub-section will look at the perceptions of the respondents on gender equality in the home, the second sub-section will look at the respondent's perceptions on gender equality at work and lastly, the third sub-section will look at their perception on gender equality in terms of access to education.

### 5.6.1 In the Home

Six questions were given to the respondents to gain an understanding of what their perceptions were of gender equality in the home (*Tables 5.21-5.24*). The first question asked if women can be breadwinners of their families to which the men (100%) and women (88.9%) agreed (*Table 5.23*). The second question asked if men and women should share the responsibilities of the household i.e. cooking, cleaning and looking after immediate and extended family members and the results showed different responses between the men and women. Most of the men (71.4%) agreed with the question whilst the women in this sample were divided with over half of them (55.6%) agreeing and 44.4% disagreeing (*Table 5.23*).

Looking at *Table 5.24* one can see that there are generational differences with 75% (3 respondents) of the women in the age group of 18-24 disagreeing that men and women should share household duties. It is uncommon that the younger women would disagree which may be a sign that they have been taught in their upbringing what a woman's role should be and that her domain is the home and because of that disagree that a woman should go against the roles they have been taught to follow.

The third question asked if a woman's main responsibility is to give birth to children to which both the men (100%) and the women disagreed (71.4%) (*Table 5.23*). The fourth question asked if men should be the breadwinners of their families, at which the men and women gave opposing responses. A majority of the women (66.7%) agreed that men should be the breadwinners of their families however 42.9% of the male respondents disagreed (with 57.1% agreeing) (*Table 5.23*). Looking at the responses by age group the men in the age group 25-34 disagreed whilst those in the older age groups agreed (*Table 5.25*).

The response given by the men towards being breadwinners might be informed by the economic conditions in Zimbabwe and the world at large it is difficult to solely depend on the man to provide for a family<sup>9</sup>. Today having two income streams in a household is

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<sup>9</sup> Zimbabwe's broad unemployment rate as of 2014 was 11.3% (Zimstat, 2014:134). This percentage is all dependent on the definition of unemployment used in the calculations. Zimbabwe's rate of unemployment

more important than upholding cultural norms and values. Although the male respondents responded in partial disagreement with this question when asked if men should be the sole providers of their families a majority of the male respondents agreed with this whilst the women respondents disagreed. With these results, one can see that the male respondents do see it as important for them to provide for their families as it is seen as their duty. The women respondents may have disagreed due to the reasons stated above that the economy is not conducive to have a single income stream sustaining a household. The economy has put pressure on both the men and women to bring in an income to be able to pay their living expenses as well as the costs it takes to raise children.

Finally, the women respondents were asked if it is the women's responsibility to take care of the household and a large majority of the women (88.9%) agreed and a majority of the men (71.4%) disagreed (*Table 5.25*). This is a very interesting finding showing that women in Zimbabwe (in this sample) seem to be backward about role sharing irrespective of the age group. One can see that they are more inclined towards the social norms of the woman being the one to take care of the household and the family, but there is also a shift towards an understanding that men and women should share these responsibilities. However, male respondents in questions two and five agree with one another showing that the male respondents are for sharing the responsibilities in the household and that it is not solely the woman's responsibility.

Overall one can see that the male respondents support gender equality in the household where the women respondents have varying responses giving an unclear understanding of whether they are for or against the notion of gender equality in the home. Although this confusion may be present, one can see that cultural gender norms are still respected but it is difficult to conform to cultural norms when changes in the economic and social atmosphere have brought about change in the way men and women perceive the roles they are meant to play in a home. I will now look at the questions that look at gender equality in the sphere of work.

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has ranged from 95% to 5% which is a large range (BBC, 2017). The 2014 rate of unemployment relatively low because it includes subsistence farmers, who consume their output as employed (BBC, 2017).

*Table 5.22 Gender Equality in the Home (Univariate)*

	Agree	Disagree	Total
Women can be breadwinners of their families	93.8% (15)	6.3% (1)	100% (16)
Men and women should share the responsibilities of the household i.e. cooking, cleaning and looking after immediate and extended family	62.5% (10)	37.5% (6)	100% (16)
Women's main responsibility is to give birth to children to carry on the family name	12.5% (2)	87.5% (14)	100% (16)
Men should be the breadwinners	62.5% (10)	37.5% (6)	100% (16)
Women's responsibility is to take care of the household i.e. cooking and cleaning	62.5% (10)	37.5% (6)	100% (16)
Men should be the only providers of the family	6.3% (1)	93.8% (15)	100% (16)

*Table 5.23 Gender Equality in the Home (Sex)*

		Female	Male
Women can be breadwinners of their families	Agree	88.9% (8)	100% (7)
	Disagree	11.1% (1)	---
Men and women should share the responsibilities of the household i.e. cooking, cleaning and looking after immediate and extended family	Agree	55.6% (5)	71.4% (5)
	Disagree	44.4% (4)	28.6% (2)
Women's main responsibility is to give birth to children to carry on the family name	Agree	---	28.6% (2)
	Disagree	100% (9)	71.4% (5)
Men should be the breadwinners	Agree	66.7% (6)	57.1% (4)
	Disagree	33.3% (3)	42.9% (3)
Women's responsibility it to take care of the household i.e. cooking and cleaning	Agree	88.9% (8)	28.6% (2)
	Disagree	11.1% (1)	71.4% (5)
Men should be the only providers of the family	Agree	33.3% (3)	85.7% (6)
	Disagree	66.7% (6)	14.3% (1)

Table 5.24 Gender Equality in the Home (Age Groups)

		18-24	25-34	35-49	50+
Women can be breadwinners of their families	Agree	80% (4)	100% (2)	100% (6)	100% (3)
	Disagree	20% (1)	---	---	---
Men and women should share the responsibilities of the household i.e. cooking, cleaning and looking after immediate and extended family	Agree	40% (2)	100% (2)	66.7% (4)	66.7% (2)
	Disagree	60% (3)	---	33.3% (2)	33.3% (1)
Women's main responsibility is to give birth to children to carry on the family name	Agree	---	---	16.7% (1)	33.3% (1)
	Disagree	100% (5)	100% (2)	83.3% (5)	66.7% (2)
Men should be the breadwinners	Agree	80% (4)		66.7% (4)	66.7% (2)
	Disagree	20% (1)	100% (2)	33.3% (2)	33.3% (1)
Women' responsibility it to take care of the household i.e. cooking and cleaning	Agree	60% (3)		83.3% (5)	66.7% (2)
	Disagree	40% (2)	100% (2)	16.7% (1)	33.3% (1)
Men should be the only providers of the family	Agree	---	---	---	33.3% (1)
	Disagree	100% (5)	100% (2)	100% (6)	66.7% (2)

Table 5.25 Gender Equality in the Home (Sex and Ages)

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
Women can be breadwinners of their families	Agree	100% (1)	75% (3)	100% (2)	----	100% (2)	100% (4)	100% (2)	100% (1)
	Disagree	---	25% (1)	---	---	---	---	---	---
Men and women should share responsibilities of the household i.e. cooking, cleaning and looking after immediate and extended family	Agree	100% (1)	25% (1)	100% (2)	---	50% (1)	75% (3)	50% (1)	100% (1)
	Disagree	---	75% (3)	---	---	50% (1)	25% (1)	50% (1)	---
Women's main responsibility is to give birth to children to carry on the family name	Agree	---	---	---	---	50% (1)	---	50% (1)	---
	Disagree	100% (1)	100% (4)	100% (2)	---	50% (1)	100% (4)	50% (1)	100% (1)
Men should be the breadwinners	Agree	100% (1)	75% (3)	---	---	50% (1)	75% (3)	100% (2)	---
	Disagree	---	25% (1)	100% (2)	---	50% (1)	25% (1)	---	100% (1)
Women' responsibility it to take care of the household i.e. cooking and cleaning	Agree	100% (1)	75% (3)	---	---	50% (1)	---	50% (1)	100% (1)
	Disagree	---	25% (1)	100% (2)	---	50% (1)	100% (4)	50% (1)	---
Men should be the only providers of the family	Agree	---	---	---	---	---	----	50% (1)	---
	Disagree	100% (1)	100% (4)	100% (2)	---	100% (2)	100% (4)	50% (1)	100% (1)

## 5.6.2 Equality in the Workplace

Five questions were asked to find out how they understand gender equality in the area of work. The first question asks if women should not be allowed to work, the second questions asked if women should only be allowed to pursue a career and the third question asked if women should only work part-time. To all the three questions the men and women in this sample disagreed to therefore agreeing that women should be allowed to work, in the career of their choice be it part-time or full time (see Table 5.27).

When asked if it is fine for women to earn more money than men the men, the women had different responses. A little over half of the men agreed (57.1%) that it is okay for women to earn more than men but a significant percentage of them disagreed (42.9%) (Table 5.27). With the women over half of them disagreed (55.6%) while a significant percentage agreed (44.4%) (Table 5.27). One can see that the male and female respondents are divided and this may be because with the increase in the discourse on the advocacy for gender equality the respondents may be informed that it is fine for a woman to earn more than a man, but in the context of culture where patriarchy thrives one can argue that those who have disagreed may see this as problematic because the man should be the head of the family and community and therefore should earn more money than men. This would mean that money has a close link to power and agency therefore if a woman earns more than a man she has more power in the home compared to the man which may disrupt the order culture dictates.

Looking at the different age groups, especially the responses given by women that those who were younger (18-24) believe that it is fine for a woman to earn more than a man whilst those in the age group 25-34 and 35-49 disagree. This shows that the older generation may have a stronger connection with culture through more experience than the younger generation does. Exposure to other ways of living outside of the Shona culture and education may be the reason why the younger respondents agree that women can earn more than men.

The last question asked if men and women should have equal pay if they have similar job titles. A large majority of the men (100%) and women (88.9%) respondents agreed.

Overall men and women respondents support gender equality in the workplace in terms of women being allowed to work in the career of their choice be it part-time or full time but are conflicted on whether it is okay for women to earn more than men. One can now look at the last set of questions that looked at gender equality in terms of access to education.

*Table 5.26 Gender Equality at Work (Univariate)*

	Agree	Disagree	Total
Women should not be allowed to work	12.5% (2)	87.5% (14)	100% (16)
Women should not be allowed to pursue a career/occupation	12.5% (2)	87.5% (14)	100% (16)
Women should work only part-time	6.3% (1)	93.8% (15)	100% (16)
It is okay for women to earn more money than men	50% (8)	50% (8)	100% (16)
Men and women should have equal pay	93.8% (15)	6.3% (1)	100% (16)

*Table 5.27 Gender Equality at Work (Sex)*

		Female	Male
Women should not be allowed to work	Agree	11.1% (1)	14.3% (1)
	Disagree	88.9% (8)	85.7% (6)
Women should not be allowed to pursue a career/occupation	Agree	---	28.6% (2)
	Disagree	100% (9)	71.4% (5)
Women should work only part-time	Agree	11.1% (1)	---
	Disagree	88.9% (8)	100% (5)
It is okay for women to earn more money than men	Agree	44.4% (4)	57.1% (4)
	Disagree	55.6% (5)	42.9% (3)
Men and women should have equal pay	Agree	88.9% (8)	100% (5)
	Disagree	11.1% (1)	---

*Table 5.28 Gender Equality at Work (Age Groups)*

		18-24	25-34	35-49	50+
Women should not be allowed to work	Agree			33.3% (2)	
	Disagree	100% (5)	100% (2)	66.7% (4)	100% (3)
Women should not be allowed to pursue a career/occupation	Agree	---	---	16.7% (1)	33.3% (1)
	Disagree	100% (5)	100% (2)	83.3% (5)	66.7% (2)
Women should work only part time	Agree	20% (1)	---	---	---
	Disagree	80% (4)	100% (2)	100% (6)	100% (3)
It is okay for women to earn more money than men	Agree	80% (4)	50% (1)	33.3% (2)	33.3% (1)
	Disagree	20% (1)	50% (1)	66.7% (4)	66.7% (2)
Men and women should have equal pay	Agree	100% (5)	100% (2)	83.3% (5)	100% (3)
	Disagree	---	---	16.7% (1)	---

Table 5.29 Gender Equality at Work (Age and Sex)

		18-24		25-34		35-49		50+	
		Male	Female	Male	Female	Male	Female	Male	Female
Women should not be allowed to work	Agree	---	---	---	---	50% (1)	25% (1)	---	---
	Disagree	100% (1)	100% (4)	100% (2)	---	50% (1)	75% (3)	100% (2)	100% (1)
Women should not be allowed to pursue a career/occupation	Agree	---	---	---	---	50% (1)	---	50% (1)	---
	Disagree	100% (1)	100% (4)	100% (2)	---	50% (1)	100% (4)	50% (1)	100% (1)
Women should work only part time	Agree	---	25%	---	---	---	---	---	---
	Disagree	100% (1)	75%	100% (2)	---	100% (2)	100% (4)	100% (2)	100% (1)
It is okay for women to earn more money than men	Agree		100% (4)	50% (1)		100% (2)		50% (1)	
	Disagree	100% (1)		50% (1)			100% (4)	50% (1)	100% (1)
Men and women should have equal pay	Agree	100% (1)	100% (4)	100% (2)	---	100% (2)	75% (3)	100% (2)	100% (1)
	Disagree	---	---	---	---	---	25% (1)	---	---

### 5.6.3 Equality in Education

The last four questions in the section on gender equality looked at the perception of the respondents on gender equality in terms of access to education for both men and women. Little variance was found in this sections because of the small sample size. One can see in the tables below (Tables 5.28-30) that the men and women had similar perceptions on access to education. They agree that girls and boys should be given equal access to education.

Table 5.30 Gender Equality in Access to Education (Univariate)

	Agree	Disagree	Total
Women/girls should be allowed to go to school	100% (16)	---	100% (16)
If money is scarce, girls rather than boys should get an education	12.5% (2)	87.5% (14)	100% (16)
Boys and girls should have access to education	100% (16)	---	100% (16)
Men and women should both be allowed to further their education	100% (16)	---	100% (16)

*Table 5.31 Gender Equality in Access to Education (Sex)*

		Female	Male
Women/girls should be allowed to go to school	Agree	100% (9)	100% (7)
	Disagree	---	---
If money is scarce, girls rather than boys should get an education	Agree	11.1% (1)	14.3% (1)
	Disagree	88.9% (8)	85.7% (6)
Boys and girls should have access to education	Agree	100% (9)	100% (7)
	Disagree	---	---
Men and women should both be allowed to further their education	Agree	100% (9)	100% (7)
	Disagree	---	---

*Table 5.32 Gender Equality in Access to Education (Age Groups)*

		18-24	25-34	35-49	50+
Women/girls should be allowed to go to school	Agree	100% (5)	100% (2)	100% (6)	100% (3)
	Disagree	---	---	---	---
If money is scarce, girls rather than boys should get an education	Agree	20% (1)	---	---	33.3% (1)
	Disagree	80% (4)	100% (2)	100% (6)	66.7% (2)
Boys and girls should have access to education	Agree	100% (5)	100% (2)	100% (6)	100% (3)
	Disagree	---	---	---	---
Men and women should both be allowed to further their education	Agree	100% (5)	100% (2)	100% (6)	100% (3)
	Disagree	---	---	---	---

## 5.7 Human Rights and Gender Equality: Are they perceived as Western Concepts?

Respondents were asked if they think human rights and gender equality are Western concepts. One can first look at the responses given by the women. The women disagreed that human rights (77.8%) and gender equality as Western concepts (66.7%). The men responded differently. Men were divided with 42.9% of them agreeing and over half of them disagreeing (57.1%). When asked if they see gender equality as a Western concept a large majority (85.7%) of them agreed. Men and women viewed human rights and gender equality differently.

Looking at the divided response given by the men on their perceptions on whether human rights is a Western concept one can assume the division may be a result of the increased importance of human rights in Zimbabwe. One can assume that with increased access to education the importance of human rights has been stressed affecting how 57.1% of the men see human rights. The other half of the men (42.9%) who do see human rights as a Western concept may perceive it as such because they may see it as a disruption to their cultural order.

With the concept of gender equality, one can argue that the male respondents may see this as a Western concept because it too may destabilise the power balance between men and women in the community and in the home. Therefore, male respondents may still hold on to their cultural views on what roles a man and woman are meant to play in a community and see the introduction of gender equality as an invasion of Western ideal which might disrupt the current order that they believe has worked so far. One can, therefore, see why the male respondents see gender equality as a western concept.

It is however interesting to note that the women in this sample were the ones who had somewhat backward views about income and roles in the home whereas men seemed to be more flexible with their views on these matters. This shows a contradiction in the results shown on whether they see gender equality as a Western concept. This may be an indication of the complications one encounters when seeking to find a balance between culture and modernity.

Overall the female respondents are more acquainted with these terms and therefore do not see them as western concepts but as terms that embody morals and values that emancipate them and therefore are not foreign. However, with the male respondents, the disruption of the current order by human rights and gender equality may give them a perception of these concepts as being Western and foreign.

*Table 5.33 Western Concepts (Univariate)*

	Agree	Disagree	Total
Is human rights a Western Concept?	31.3%	68.8%	100%
Is gender equality a Western Concept?	56.3%	43.8%	100%

*Table 5.34 Western Concept (Sex)*

		Female	Male
Is human rights a Western Concept?	Agree	22.2%	42.9%
	Disagree	77.8%	57.1%
Is gender equality a Western Concept?	Agree	33.3%	85.7%
	Disagree	66.7%	14.3%

*Table 5.28 Western Concept (Age groups)*

		18-24	25-34	35-49	50+
Is human rights a Western Concept?	Agree	60%	50%	---	33.3%
	Disagree	40%	50%	100%	66.7%
Is gender equality a Western Concept?	Agree	60%	100%	33.3%	66.7%
	Disagree	40%	---	66.7%	33.3%

## **5.8 Early Child Marriage and Lobola**

Each participant had an interview where they were asked questions about two harmful cultural practices. The two harmful cultural practices that were assessed were early child marriage and lobola. These two practices were selected because of their harmful nature and because they are widely practiced in Zimbabwe. It is important to note that the quotes that will be used will be the interpretation of the answers given by the respondents which were said in Shona. Because of this, in some cases, the interpreter has summarised the participant's responses. This section will be split up into two, the first section will look at the responses given on early child marriage and the second section will look at the responses given on lobola (bride price). One can begin by looking at the perceptions of the respondents of early child marriage.

### **5.8.1 Early Child Marriage**

The researcher conducted interviews in Bindura and Shamva, which in the Mashonaland Central Province, to get some insight on what the respondents thought of the harmful cultural practice so as to see whether or not they are for it or against it. There are a number of themes that have been identified in the interviews. Firstly, that early child marriage undermined human rights; secondly, that there was a cultural disconnect to the practice; thirdly, the effects of poverty; fourthly, religious fundamentalism; and lastly, that culture is still relevant in marriages today.

#### ***5.8.1.1 Early Child Marriage undermines Human Rights***

When doing the interviews in Zimbabwe on early child marriage the researcher found that most of the respondents believed it was bad and that it should not happen. The researcher found early on in the interviewing process that the respondents could not relate personally to the topic because they saw it as a practice that used to happen back in the day or in religious sects, for example, the Johanne Marange Sect. The researcher did attempt to change the questions so that the respondents could relate to the questions more personally, however, the two respondents the researcher attempted these questions on kept making mention of the custom in past tense. Although there was no mentioned direct link of the respondents to early child marriage as a harmful cultural practice it was mentioned that religious sects are the ones who normally encourage early child marriages.

There were a number of questions that looked at who the respondents considered a child and whether or not puberty was a benchmark that one was mature enough to get married and whether or not one can choose a spouse. When asking them who they would consider a child almost all the men and women stated that a child is someone who is below the age of 18 years. Two of the respondents mentioned that a child is someone who is below the age of 16 which can be seen as an echoing of the previous law, which was amended in 2016, which stated that a girl can get married at the age of 16. One of the respondents stated that a child is someone below the ages of 21 and 22 because they are still not mature yet.

18 years and below is the one she considers to be a child. (PA25F)<sup>10</sup>

He is saying 18 and below is one that can be called a child. (PB38M)

Probably someone who is 16 years and below. (PA36F)

He is saying 21 to 22 years. (PA36F)

The men and women were then asked whether or not a child is eligible to get married when he or she had reached puberty. A large majority of the men and women disagreed saying that the child would have not matured enough to handle marriage and they would not have completed their education at that stage.

She says no [...] he couldn't have been matured. (PA25F)

He is saying one can be said to be a grown up person at 21 or 22 years. Maybe because of maturity stage at 18 years of course but you still not matured enough. (PA34M)

The men and women were then asked whether or not someone who is 18 years and above can get married and a majority of them stated that they agree but the rest of the men and women said that the person will still be too young to get married because they would not have matured enough at that age.

18 and above yes [...] because 18 it is a reasonable age. Some would be mature enough to handle marriage (PA36M)

She is saying yeah, she agrees that one can agree at the age of 18 such that she even married at the same age (PA33F)

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<sup>10</sup> P = Participant, A36 = number of recording (each participant had a different recording number), F/M = Male or Female

He is saying that 18 is too early but at 25. (PA34M)

When asked if they would let their daughter marry young they all disagreed. Firstly because of the lack of maturity and as well as the struggle to make decisions in the marriage. The second reason was that if their daughter got married at a young age she would not be able to handle the pressures of marriage and the marriage will probably end in divorce. The third reason given by two of the men in this sample was the issue of pregnancy and health. Their concern was that if the child gets pregnant at a young age she may have health issues when giving birth. Another reason was that the child will be abused because she will be too young for marriage.

She would not allow her child to get married at an early stage because she won't decide properly. (PA31F)

[...] like now early marriages they are like when you marry early this is the reason why there are so many divorces cause we are getting married early [...] (PA26F).

He is saying he will not allow his child to be married at a tender age because one she does not know her rights. The other thing is on her health, sometimes she gets pregnant she might have complications when giving birth. (PB37M)

She is saying she will not let her child get married at an early stage because maybe as a mother I might not feel well if I hear that my child is suffering quite a lot maybe in terms of getting some abuse [...]. (PA30F)

Child marriages usually have sexual violence involved such as marital rape. The respondents were also asked if they think marital rape is present in early child marriages to which all the respondents agreed that there is marital rape.

She is saying that is a very big abuse for a girl to get married at an early stage cause [...] she will not [be] old enough to make some decision that are proper for her life and so forth so that is an abuse [...]. (A30F)

[...] that marital rape is there because when someone who is at the age of 25 is married to someone at the age of 16 and 15 there is a sign of abuse because this man convinced that girl and she does not know many things but he is now older so he has many ways to convince that girl so there is that rape in mind. (A35M)

Both the men and women agreed that a girl can choose her spouse and that she has the right to refuse anyone chosen for her by her parents.

It is right for a girl to choose her own man to be a husband because during their time of making love to each other she would have learned much of the husband than to get a man whom could have been chosen by other people. (PA31F)

The girl has the right to refuse the husband chosen to her because maybe it is, one the husband won't be the choice for her, two she does not know his background, three there is no relationship that has been experienced between the two so she has the right to refuse the man. (PA31F)

By choosing a man for her means you are imposing forced marriage. (PB38M)

The respondents were asked if they think early child marriage is in accordance with human rights and all the men and women responded saying that early child marriage is not in accordance with human rights.

That does not go hand in hand. It is part of killing because the status of the person will deteriorate. More health wise the status will deteriorate. (A34M)

She is saying letting young girls getting married does not go hand in hand with the human rights because of some reasons which she had just said that one decision making two maybe she won't be in a position of handling a husband. (A30F)

Overall, the respondents believe that early child marriage is against human rights and that a girl should get married at the legal age of 18 and above.

### ***5.8.1.2 Cultural Disconnect***

During the interviews, the researcher realised that there was some disconnect between the topic of early child marriage as a cultural practice because of the gradual change of the Shona culture over the years. The researcher attempted to change the questions however when doing so the responses given were explanations of how the culture was in the past showing that culture has changed over time and early child marriage for these respondents is perceived as a custom that is against human rights.

It was mentioned that culturally puberty was an indicator that a girl or a boy had become an adult. One of the women stated that the forming of breasts, which is a sign of puberty, showed that the girl was a woman and was no longer a child and could get married. Therefore, puberty was a sign of womanhood and manhood. She also mentioned that development happens at different ages for men and women. She did not give reasons for this, but one can assume that she was referring to the biological

development of a boy and a girl. Girls are said to reach puberty faster than boys, therefore, making them eligible for marriage earlier than boys. She further mentioned the issue of equal access to education stating that boys were the ones to go to school first and then girls and once they grow up and reach puberty the boy continues with his education. Although she gave an explanation of what happens in the Shona culture she says that today things have changed and that the rights of boys and girls are considered.

It differs from men and women. (PA27F)

So they saw the girl as quicker. (R)<sup>11</sup>

Than a boy. (PA27F)

And school, were does school come in in all of this? (R)

Boys first then girls. (PA27F)

So if I reach puberty then education stops. (R)

Yeah, when you are a boy you continue going to school and the girl. (PA27F)

Sits at home. (R)

But now I think it is more reasonable to everyone. (PA27F)

One can see from the above that the Shona culture has changed in terms of how they measure whether a girl or a boy is ready to be married. With the introduction to human rights, the respondents in the sample showed that people's views have changed to ones that are more inclusive of human rights.

### ***5.8.1.3 Poverty and Economic Conditions***

After completing the interviews in Bindura the researcher went to a village close by, called Shamva where three community leaders were interviewed about early child marriage. The interpreter was also included in the interview because of his work in the NGO Padare which deals with issues of gender equality including early child marriage. When asking them whether early child marriage is a prevalent issue in their area they said that early marriages are a problem but not as a cultural practice but as a result of

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<sup>11</sup> R = R (researcher)

orphaned households and poverty. The early child marriages in the district consist mainly of two young people who decide to get married. When asking them if there are any forced marriages they stated that “such cases are not familiar” (CL2)<sup>12</sup>. However, from the comment below, it is evident that abuses are happening in the community, but they are not being reported. So, although forced early child marriages may not be widespread it does not mean it is not happening.

There are early marriages cases that are happening in here there are abuses that are happening in here and some of them are not reported because people do not know how to report may they think if we report such cases then we have done something out of law. [...] Nowadays we say it’s a very big problem, in terms of percentage we can say just 60 percent. [...] early marriages. (CL2)

One of the men stated that it is difficult today to encourage young girls and boys to finish their secondary school education because they end up getting married. The main causes for the early marriages were poverty as well as the pressure on children who head orphaned households. In orphan-headed households the oldest child usually carries the responsibility of looking after and providing for his or her siblings. Such pressures are too much for a child and result in his or her education being affected because of the level of responsibility he or she has.

The cause of early marriage comes into our economy. You find some she is 11 what we call orphans, they are living orphans headed. They are not having any guidance at all. So the one who is responsible for that family she will be a sister of 15 age so she is now looking for young kids, looking for food, looking for fees again for the young kids to go to school so she will decide to marry at the age of 15 or 14 so she will take an advantage if I get some who can marry me I will be able to keep my young kids so that they will go to school. (CL2)

#### ***5.8.1.4 Religious Fundamentalism (Johanne Marange Sect)***

As mentioned above early child marriage as a harmful practice is not common in the Shamva district however it was mentioned that it is more prevalent in the Johanne Marange Sect. As explained in the second chapter, this is a religious group that encourages early child marriages where older men state that the holy spirit told them to marry young girls young enough to be their daughters and the girls are now allowed

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<sup>12</sup> CL2: CL = Community Leader; 2 = participant number

to object. Sibanda states that “the [...] holy spirit is used to validate child marriages as the prophets would have been ‘directed’ by the holy spirit to marry young girls.”

They take the young child they give them to an old man and they say the holy spirit tells me that I must marry this young child. (CL2)

The Johanne Marange Sect are said to originate from Marange in Manicaland. Although they are centralised in one district they can also be found in Mashonaland central where the research for this thesis was done. This sect believes that girls should only have minimal education therefore once a girl has reached puberty she is married off (Sibanda, 2011:5). Early child marriage, in this case, can also be seen as forced marriage as girls do not have a choice but to get married because their elders say the holy spirit gave them these instructions.

One of the community leaders stated that he heard of a case where a 12 year old girl was married to a 64 year old man which is an example of forced early child marriages look like in Zimbabwe.

I heard some cases a young girl aged 12 given to her father an old man, 64 years. (CL2)

It was not mentioned if this was a marriage within the religious sect of a forced marriage. Despite the fact that early child marriage against human rights and the respondent’s in this sample disagree with the custom, it is still an issue in the country of Zimbabwe. According to Sibanda this church which is known as ‘vapostori’ has approximately 1.2 million members in the country<sup>13</sup>. With such a large number of people in this religious sect, early child marriage in their perspective is still prevalent.

#### ***5.8.1.5 Culture is still Relevant: How do handle Unhappiness and Abuse in a Marriage***

The men and women were asked three questions which focused on relations between a husband and wife in cases of abuse or unhappiness within a marriage and how they would handle such situations. These questions were asked to find out how young girls navigate relations with their husbands in a marriage. Because the respondents did not

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<sup>13</sup> The figure may have fluctuated from 2011 to 2017.

identify fully with early child marriage as a traditional custom they reflected on their own marriages, and if not married, what they were taught or had seen.

The first question asked in the case that they were unhappy with their marriage due to abuse if a girl would be able to leave or end the marriage. The second question asked whether or not a girl is free to express unhappiness to her husband. The third question asked whether or not a girl should report her husband to higher authorities such as the police in the case of abuse. There was a mixture of answers from the respondents. Firstly, some of the respondents agreed that a woman should be able to leave the marriage if being abused, that she should be able to express her unhappiness to her husband (at the appropriate time) or report him to higher authorities if abused.

He is saying if things are not going on well [...] it is better to leave than to stay because it might cause a lot of consequences that might happen so it is good to leave the marriage if you are not safe (PA34M).

She is saying in the case of your getting on with each other well then you can speak your sentiments to your husband but in the case that your relationship is not so good enough there comes a problem, you cannot put yourself up to tell whatever you think is right, your feelings. (PA30F).

[...] She is saying that is good for a woman to make her husband arrested in case of abuse. That will teach other men not to abuse women because this one will be an example [...]. (PA31F)

Other respondents had reservations, as they believed that there are better ways to deal with marital issues and their solutions have close links to the Shona culture. Firstly, some of the men and women believed that it is important to discuss matters to find a solution before leaving a marriage or reporting one's husband to higher authorities. Secondly, they mentioned that it is better to seek counsel from elders in the family or community such as one's aunties or church elders when discussing marital issues. In the case that the abuse does not stop, or the husband refuses to listen the respondents stated that it is best then to leave the marriage or report him to higher authorities.

He is saying that if he has gone in the shoes of his wife where if the wife now decided to leave him he is saying [...] if she has talked to me and tried to settle all the grievances between us then I refuse to understand even if she can report me to the police she and nothing works [...] of course she can leave. (PA37M)

If the husband will not understand we can take another third party from the church, elder or what can I say, aunties from my side or my husband's aunt then we can sit down and solve the problem. (PA29F)

She is saying she is not free enough to say whatever she thinks she might say to her husband because of the culture (...)

In the Shona culture, the channel used to address abuses and problems in a marriage is through the couple's relatives or religious leaders who are seen as respectable and trusted authority figures in one's life or in the community. Only after the issues have been talked through and there is no sign of improvements then the girl can report her husband. Additionally, it was mentioned that if a girl has issues in her marriage she can consult her parents or her elders to seek counsel on what to do. However, if she goes home and the parents do not welcome her they can encourage her to go back to her abusive husband and sort out the issues she and her husband have in their marriage.

It depends on the situation of the family, the position of the family, or how they accept you to come back, they will say leave. You must have a proper reason [to come back home]. (PA25F)

The interpreter further explained that in the Shona culture a girl's parents would just advise her to stay in the marriage even if she is being abused with the argument that that is how marriage works.

Maybe they say its culture linked because in culture they say a girl should just say [...] they advise them to stay even if they are struggling from abuses saying that's how their houses goes. (Interpreter during the PA25F interview)

Culturally, as stated above, a woman in most African cultures is not free to speak her mind or to mention if she is unhappy. Such discrimination against women and the obvious patriarchal nature of the cultural norms and values in the Shona culture perpetuate patriarchy and widen the gap of gender inequality. Patriarchy was expressed in one man's comment on whether or not a woman is allowed to leave her marriage if being abused. The interpreter interpreted the response saying that the respondent said:

He is the custodian of the family so even if abuses are happening in the family the wife cannot go out whenever she feels because of the abuse that is happening in the family. (PA39M)

This comment made by the young man shows that the man in the private sphere has the power to dominate the woman even to the extent of abusing her and because of this she then feels she does not have the right to go and report what is happening or to discuss her unhappiness with her husband or anyone else. In most African cultures women are subordinate to their husbands and are required to submit to their husbands even if being abused.

A third reservation made by two of the respondents was the effects of lobola on the rights of a woman in a marriage. Once lobola is paid it is difficult for women to leave their marriages because she is seen as the possession of the man and therefore cannot leave as she pleases although she is being abused physically, emotionally or psychologically.

Yes, but I think in Zimbabwe it is challenging [...] because of the issue of lobola. Usually, women will humble themselves because they are taught that this man bought me so they will just fall under those conditions of which they are harsh and tough to her. But in developed countries yeah you should leave him because you are suffering emotionally, physically and psychologically. (PA35M)

She is saying that our culture does not allow that if lobola has been paid. So our culture does not allow just to leave so there are some stages that you must take whereby you should seek settlement between yourselves maybe with a third party first before deciding to leave forever. (PB41F)

Lastly, the respondents also mentioned that it might not be wise to report one's husband to higher authorities because of abuse as it may cause further tension in the marriage which may incite further abuse and cause division between the husband and the wife's families.

She is saying if you get your husband arrested when he comes back he will start from where you left so it means the police will be now the controllers of your house that's the bad part of it but the good part of it is if you get him arrested and then if reforms the better. (A33F)

We should settle up our problems together because if she goes and makes an arrest it means she will suffer more, more than she was doing before. (B39M).

I think it will cause a lot of chaos between the two families because the family of the man will think that this girl will cause a lot of harm to their boy so I think

the relations will be a little cordial, so we have to sit the ideas first before we report the case. (A35M)

There is a sense of blame shifting towards the woman. If she reports her husband to the police for abusing her, the husband's family can blame her for the abuse instead of investigating who the real perpetrator is. One can also see that the reason why these respondents seem to object to a wife reporting her husband if being abused is because when he comes out of jail the abuse might get worse. This leads to the man not learning from his actions and may continue to abuse his wife. In the Shona culture, men have more power and more say in the community and in the home because women are meant to remain subordinate to their husbands (Kambarami, 2006). This perpetuates patriarchy and increases the gender inequality gap between men and women in the community.

### **5.8.2 Lobola**

Lobola (*roora* in Shona) as discussed in the second chapter is a custom that is observed not only in Zimbabwe but in South Africa and other countries across the world. Throughout the years this custom, which is respected because of its cultural roots has changed gradually from one that was seen as a token of appreciation to a custom that has been commercialised where the bride's parents ask for large sums of money with the motivation that they have incurred large costs while raising their daughter and therefore deserve to be compensated for the costs incurred.

#### ***5.8.2.1 General Perceptions of Lobola***

The respondents were asked a number of questions to get a deeper understanding of their perceptions of lobola as a custom. The research found that the men and women saw the importance of the tradition because it is a long standing custom that is a part of their culture and should be respected. The respondents stated that the custom is a bride price and should be paid for one to get married. If you are a man you must pay for your wife and if you are a woman, culturally you cannot leave your parent's home until the payment has been made. Before lobola has been paid the girl is not considered the suiters wife and therefore is still under the headship of her father, once the payment is made, she will then be under the headship of her husband and can move out of the parent's home to her new home.

Just bride price. (PA36M)

She was told that the person should be married by means of being paid for. [...] I was receiving advice in future if you are going to get married your husband should pay lobola petrol and what what and so forth. (PA29F)

She is saying she was told that a woman should go to her husband homestead only after lobola has been paid for her. (PB41F)

A majority of both the men and women believed that the custom is good and that it does not undermine human rights because one has the right to enter into marriage at the right age. There were a number of benefits that the respondents mentioned that were the most common amongst the respondents. The first benefit that was mentioned was that lobola is a token of appreciation and is not seen as buying a wife. Lobola was a sign of appreciation and respect to the bride's parents for raising their daughter to be the woman that he wants to marry.

I have mentioned them before I said it's a token of appreciation, showing respect, a way of thanking someone and it's a way of saying it's our culture. They told me that lobola is something which is vital that I should pay regardless of my background or my future. So they told me it's a sign of thanking, it's a token of appreciation. [...] [My parents] usually used to tell me that it shows that you are respecting the parents of the child and you are thanking them that they have you a precious wife [...]. (PA35M)

Some of the respondents also mentioned that the payment of lobola shows that you are serious about getting married and that you respect your wife and her family. In the case that he does not have the money or the resources to pay lobola he will then work for his wife until he raises all the funds necessary for lobola. Lobola does not only show that you are serious about getting married, but it also showed that you love your bride and will be able to look after her when married.

She is saying it good because this will only turn the boys by working for his woman in terms of getting jumping around, getting some monies to pay lobola so that will only make him respect his wife because he will be having a bit of sweat on getting her. (PB41M)

Okay sometimes paying lobola it really shows that the person that you want to get married to is really serious of you. (PA26F)

It gives a lot of respect because the men will be saying I have paid something I have done something to my wife, so it gives a lot of respect to maybe both families. (PA31F)

She is saying it is good for people to pay lobola because it symbolises love and responsibility to your wife. (PA31F)

Although the respondents seem to respect the custom of lobola there were some comments that showed that some of the respondents had reservations about the custom. The first reservation that was seen when the men and women were asked why they had or will participate in the custom of lobola. It was found that not all the respondents participated willingly but due to pressure, as it was expected of them to follow the customs and traditions of the Shona culture. One of the male respondents who currently is not married stated that he would have no option but to follow the Shona culture because it is what is expected of him. It was also mentioned that if one is forced to pay lobola it is infringing on their rights to choose whether or not to follow the custom.

[...] I have no option but to follow our culture. (PA36M)

So he is saying he paid because he feared culture. That was not his will. (PA38M)

She is saying that other families do force people to pay lobola so there is that element now of misconduct [...]. (PA25F)

When you are forcing me to pay something you are infringing on my rights. (PB38M)

Looking at the comments above, lobola is a custom that is not only respected because of cultural roots but it is also feared as one must follow the custom whether they want to or not. This can be viewed as an opposition to one's rights because one should be able to choose whether or not they want to follow the custom.

Another negative aspect mentioned by one of the women is that lobola can lead to forced marriages. This may happen because the family is poor and needs financial assistance and therefore will marry their daughter off, so they can get the money. This shows the link between poverty and early child marriages as this may be a way of making money.

She is bringing in another factor that in the case of I'm going against lobola a girl might be a bit young so because her parents need some money they will enforce her to get married. (PA33F)

### **5.8.2.2 Uniting Families**

The respondents also mentioned that the benefit of lobola is that it brings the bride and the grooms family's together, therefore, creating a good relationship between the families. It was also said that once lobola is paid it will give the family will be respected and will receive a good name because the children went through the correct channels when getting married. However, there were some respondents who argued that lobola is not necessary to create a relationship between the two families. They argue that the relationship between their son and daughter is a foundation that brings about a good relationship. 'Roora' can, therefore, be seen as a custom that aids the formation of a good relationship, but it is not paramount to the formation of a good relationship between the bride and the groom's family.

I have been told that lobola is just a payment so that two families can unite or unite for the two people to be together. (PA26F)

I was told that when you pay lobola it is our customary whereby it binds two families. (PB40M)

She is saying that she was told that is was very good ad very noble for one to get married to wait for her time whilst she is at her homestead that will give a good name to the family. People will be saying ah the child from such and such family got legally married then you just get your partner you get into a relationship and after within no time you are staying together. Yeah, that will be tarnishing the family's name. (PA30F)

Looking at family relations one of the men mentioned that once lobola is paid the two families cannot intermarry any longer because they are now seen as one family.

They say paying lobola strengthens the relationship between the two families and when it strengthens the relationship between the two families it will be able to for the two to know each other so that you cannot just marry from the same [family] [...] it means we are now related. You should distinguish that we are family and you must respect that. (PB40M)

### **5.8.2.3 Cultural Change (Old and the New)**

There was some mention by three of the respondents of how they were taught how the custom should be observed. Lobola negotiations are usually conducted by a third

party who is either an uncle or a close male relative of the bride or groom or both. The groom is usually present during the negotiations but only speaks when addressed. The third respondent mentioned that when ready to get married the clan or the families should first know of your intent to marry. He also mentioned that it is important to know the family that you will be marrying into and they should know your background so that there will be no hassles in the 'roora' procedures. One of the male respondents was also advised that he find a wife in his village so that the family can cut on travel costs.

He is saying when he was growing up he was told that if you want to marry it should be first known by the clan or the family you are going to marry. Then thereafter people will go to confirm that you are going to marry. [...] He is saying he usually talk to his children that if you intend to marry or if you want to marry you must really know the background of the family where you are going to marry, and they should also know your background so that we will not have hassles during the process. (PA39M)

He is saying we were being told that you should not go and marry very far from our place you should find a wife who is maybe a neighbour to us they were trying to cut some costs from travelling to very far away place. (PB38M)

[...] When going to pay the lobola you should not go alone but you should go with a witness who will pay on behalf of you. (PA37M)

One of the respondents gave an account of what the custom used to be like before it changed over the past decades. She explained that lobola was given in the form of beads but over time this has changed from beads to cattle, to large sums of money with luxury items included at times.

She just heard from her mother saying that a token of appreciation of a token of lobola has been paid in the form of tshuma (beads). It was a traditional custom. [Where the beads] were put inside that chinhu (traditional container). Now she is saying at that time they used beads at the time people were giving out hoes as lobola then now they are now being given money, blankets, goats, cows. (PA25F)

From the comments above it is that lobola as a custom has changed over the years from a custom that was simple and inexpensive to one that is commercialised and more costly. Most of the older respondents mentioned that it is important to teach the younger generation about the custom of lobola because it is currently being misused

because the meaning and the importance of the custom is not known by the younger generation.

During the interviews, the researcher realised that the respondents understood 'roora' as the wedding and the agreement to be husband and wife. The researcher inquired what they understood the white wedding to be and they answered that a white wedding is just a celebration of the marriage which was initiated in the 'roora' procedures that were concluded. One of the older men gave an account of what he used to see when he was younger in his community when weddings took place. The description he gave echoed aspects of a 'white wedding' or Christian wedding. He said:

He is saying when you were growing up we used to see the rituals being performed particularly if a girl is now going to be deposited to her husband homestead. The ritual is she would come and be covered with a white cloth where she will be given some offerings by the family where she is going to stay. They will be giving some offerings. [...] They will be celebrating her coming. (PA34M)

One can see that parts of the Western culture derived from Christianity where a woman wears a white dress with a veil over her face to be unveiled at the ceremony after the couple has said their vows have been adopted in this culture.

#### **5.8.2.4 Mapoto (Cohabitation)**

The respondents also introduced a concept in Shona called '*mapoto*'. 'Mapoto' is when a man and a woman live together as a married couple without paying lobola. This is considered a taboo in the community. The interpreter gave a definition of what 'mapoto' is, stating that:

This is just a binding of each other, you and me we just living together without paying anything to the parents. That is the thing they call 'mapoto', it is another way of customary marriage in Zimbabwe. (INTA27F)

Even though it is frowned upon Shona couples today are deciding to live together without paying 'roora'. According to customary law, a couple can get married in two ways firstly by paying lobola and registering their marriage so that it is legally recognised and the second marriage is when the couple pays lobola but does not register their marriage and therefore it is recognised in the community but not legally. In Zimbabwe, especially in the rural areas the latter form of marriage is more

predominant. However, looking at the responses given by the respondents the issue is not that the marriages are not legalised but that lobola today is avoided by younger couples, meaning that they live together without completing the cultural procedures of lobola for them to be married. From the responses below one can see that ‘mapoto’ (cohabitation) is not fully accepted by these respondents and may be a reflection of how the Bindura community views cohabitation.

She is saying it depends with the family some are being paid for a lobola but some since they will be staying together maybe they have a child or so, parents will just say as long as they are staying together [and] they are living together well there is no problem. (PA25F)

She is saying, yeah this is a taboo because this did not start with it started long back so we should follow and we should also insert out children to do the same. (PA32F).

The rise of ‘mapoto’ can be seen as a gradual abandonment of the custom of lobola and the importance of culture in one’s life. Commercialisation may have contributed to the reason why couples today would rather choose to cohabit than to pay lobola due to the hassle and the expense of it. With a struggling economy and the high poverty and unemployment rate one can assume that these factors will make it difficult for couples to get married culturally.

#### ***5.8.2.5 Commercialisation***

Lobola over the years, as mentioned above, has gradually changed from a custom that was simple and inexpensive to a custom that is costly with cows, blankets, and money being asked for. This shows a gradual process of commercialising the custom of lobola over the years. According to Chabata (2012), the commercialisation of lobola can be defined as “a system of payment where the payment of lobola has been transformed from being a mere cultural practice to a business venture, where the bride has a clear monetary value attached to her.” Due to rural to urban migration, one can assume that in areas where there are no cows, or no bead an alternative needed to be found for the custom to continue to be practiced. Nkomo (2014:43) agrees with this when she stated that “in most communities bridewealth consists of cash, consumer goods or a combination of livestock.” Although this change may have been introduced to accommodate the changes of one’s environment due to the capitalist nature of the

change the custom has changed from being just a token of appreciation to a way of recovering one's expenses.

When interviewing the respondents, they were asked whether or not lobola is a way of making money for the parents and quite a number of the respondents disagreed stating that it is not a way of making money for the parents. However, comments were made that in the case that the negotiated price for lobola is expensive it will seem as though the bride is a commodity that can be bought. Nkomo agrees when he argues that with the commercialisation of lobola the original intent of the custom has changed from it being a sign of love towards the bride and a sign of respect towards her family to a custom that puts the woman up for sale in exchange for money and/or livestock (Nkomo, 2014:43). The respondents made much mention of the fact that lobola prices can be too expensive.

It is not a way of making the girls family rich but it is part of building a relationship between the two families. (PA31F)

She is saying that is not a way of making the girls family rich, but in some cases where other families they keep on going to the in-law asking for more and for more and for more. (PB41F)

But on the contrary, sometimes people think that paying lobola is like paying for a wife that you are marrying to but it's a wrong thing. (PA26F)

[...] We have people in Masvingo who charge huge amounts of money so in that way we are saying they will be selling their child but some other tribes who charges normal amount of money, no that is not selling. (PB39M)

He has three points that I have grasped [...]. The first one is for the amount of money that was charged for the lobola. Maybe it might be too much or too less that will cause a lot of problems in a marriage set up. (PA34M)

There is a link between poverty and lobola and early child marriage. Zimbabwe has a large unemployment percentage leaving many without jobs for long extended periods of time with no source of income. This may lead to parents encouraging their daughters or in the worst-case scenario forcing their daughter to get married although they are young<sup>14</sup>.

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<sup>14</sup> It is difficult to say how prevalent this is in Zimbabwe due to a lack of statistics.

### **5.8.2.6 Domestic Violence**

Although lobola is still regarded as a custom that should be observed some of the respondents mentioned that some men use the custom as a reason to abuse their wives. Due to the commercialisation of the custom of lobola, some men have come to see lobola as a custom that allows for the abuse of their wives because they see them as their possessions because they paid for her. In the case that she does not perform in the way she is expected she may get corrected through physical, emotional or psychological abuse.

Ah, I think it is not [good] because the moment I become a custodian for the family, then what, I might abuse the woman or children become I am the head of the family, you know. Where is this stemming from? Because I paid lobola for her, I bought you from what from what? Your parents. (PA36M).

Yeah like when you said, maybe the boy would have overpaid so when you are in the marriage he will be like “I bought you so you must do what I say, everything that I say just do it cause I paid for you.” (PA26F)

The comments above, more especially the latter, shows how lobola has led to the commoditisation of women. The bride is bought from her parents and is expected to perform the way a wife should behave and if she falls short of the performance standards expected of her by her husband she gets abused. Lobola has made it difficult for women to leave marriages today as mentioned in the section on early child marriage. Due to the commitment that has been made and the investment the husband believes he has made by paying lobola, it is more difficult to leave the marriage. Respondents A36M's comments link directly to the issue of patriarchy and the subordination of women. The mention of the fact that the husband is the head of the home and the power imbalance because of this he may feel as though he has the right to discipline his wife if she does not perform in the way she is expected to. In his comment he mentions that some men believe that they bought their wives and this links directly to the issue commoditisation of women and the supposed ownership of women by their husbands.

Kambarami (2006:n.p) agrees with the link between the commercialisation of lobola and domestic violence when she states that “where the lobola was set at a high price [...] this can lead to abuse if the wife fails to be obedient to her husband [...]” One can

see that lobola and its commercialisation has led to the abuse of women in marriage because of the idea that the husband owns his wife because he bought her.

### ***5.8.2.7 Virginity and Behavioural Traits***

Some of the responses given by the respondents showed that in the process of lobola whether or not a girl is a virgin has an impact on the negotiated bride price. Not only is the girl's virginity important when she gets married but also her overall behaviour. One of the women in this sample stated that her husband paid lobola for her because she behaved like a young respectable woman as expected of her in their culture.

What cause my husband to pay for my lobola is mainly because of my behaviour. How I behaved in the community in the society then that gave him that impression to pay for the lobola. [A32F]

When lobola is being negotiated by the two families the bride's virginity status is important. According to one of the men once the girl has lost her virginity her value depreciates especially if she has had children out of wedlock. Lobola encourages a girl to keep her virginity, and by another and it shows that the girl is dignified and respectable.

Okay, he is saying now things have changed because the way how people were getting married during the time is not the way people are getting married today. Right now we have got a lot of crooks who are just cheating, they are cheaters, boys are just cheaters. They are just cheating our children giving them children. they just cheat them. They have sexual intercourse with them, they give them kids then they leave so the value has depreciated very much. [B39M]

She says it is very important, it is very critical because it encourages girls to maintain themselves until to the times of marriage yet. [A31F]

She is saying that will help my dignity in my community I will be dignified as a person. [A25F]

One can see from the above that the bride's overall value, in terms of lobola is placed on whether or not she is a virgin and/or has had children out of wedlock. There was little to no mention of the man's virginity status affecting the lobola process because the custom focuses on the value of the bride so much so that the importance of chastity is carried solely by the woman. Kambarami (2006) agrees with this when she/he stated

that “many cultures express leniency on male sexual behaviour but are very unforgiving when it comes to female sexual behaviour”. The above comments show that a woman must stay a virgin till marriage and have no children out of wedlock because this will affect her value in terms of the lobola that will be paid for her.

Lobola is also important because once paid it gives the bride a sense of honour and respect in her community because she is not married. This honour can also be linked to the family as explained by Kambarami (2006:n.p) who stated that in the Shona culture a girl must preserve her virginity till she is married because losing her virginity before marriage would tarnish the family and this would mean the son-in-law will not pay ‘*mombe yechimanda*’. According to Kambarami (2006:n.p), ‘*mhombe yechimanda*’ “[...] is a cow offered to the in-laws as a token of appreciation for ensuring that his wife preserved her virginity.” What the author defined as ‘*mhombe yechimanda*’ is expressed by one of the women who said:

If you are going to your husband the first day [...] they take a white sheet and give you a house with your husband and you sleep with your husband. Early in the morning they come in and see if you are a virgin or what and if they see you are a virgin in future your family of parents they claim what they say ‘chimanda’. (PA29F)

Another point, what she is adding is my husband saw me being a virgin and he managed to pay his head of cattle called chimanda manda [...]. (PA29F)

One can see from this statement how important it is in the Shona culture for a girl to keep her virginity and how this emphasis is only placed on the girl and not the boy. This is a clear display of patriarchy because the repercussions of losing one’s virginity and having children out of wedlock falls heavily on the girl, not the boy. It can be argued that culturally boys are also not allowed to have any sexual relations with women before they get married, however, the consequences weigh heavily on the girl.

He is saying he was told that he should not play with girls before [...] his age because long ago it was an offence even to touch a girl's breasts. It was regarded as a very serious offence so they were just encouraging us to wait for our time. (PB38M)

To summarise the point on virginity, in the Shona culture it is important for girls to be found as virgins when they are married because it will bring favour to wife's family and she will be respected in the community. These morals and values police the sexuality of the woman while the man is given freedom as the burden of purity does not weigh down on men but the women in the community.

### **5.8.2.8 Jeredzwa**

When translating the questionnaire from English to Shona instead of asking what the reasons for paying lobola were the translator used the word 'jeredzwa' in the place of lobola. This was a mistake, but a mistake that introduced a topic that is beneficial to this study. When asked what 'jeredzwa' is the answers given stated that it is when lobola has not been paid fully and there is still a remaining balance. That remaining balance is the 'jeredzwa'. This may have been an agreement between the in-laws and the husband to pay off the lobola overtime.

[...] We are saying the jeredzwa is something that I did not pay that I had promised to pay for my bride so I pay then that Jeredzwa. It means I fulfil what we had agreed. (PA30F)

He is saying paying of jeredzwa is one, a fulfilment of an agreement that has started long back when we got into a marriage we are being charged. Then after we pay as we have. (PA34M)

When the topic of 'jeredzwa' came up some of the respondents, mainly the younger men and women did not know what this was but the older respondents were able to give insight on this topic. The older men and women mentioned that paying off your lobola and not being left with debt is important because it has implication on the wellbeing of one's children as well as the wife in the long run. According to the respondents if the 'jeredzwa' is not paid the family will suffer from something called '*ngozi*' in Shona, which can be translated as being cursed by evil spirits. Here are some of the comments that we said in line with the issue of '*ngozi*'.

[...] if you do not pay in full what you were supposed to pay then evil spirits will be cast onto your family so that your family does not go on well in their living. (PA34M).

Okay, they are saying if one does not pay the jeredzwa it will cause what we call in Shona ngozi. [...]. These evil spirits will come in search of this jeredzwa [...]. (PA32F)

Besides the fact that the lobola has not been fully paid one of the men also mentioned the fact that the evil spirits also come because of the fact that when lobola is being paid for there are rituals that are performed where the ancestors are summoned to tell them that someone is paying lobola and the ancestors will then release blessings on this new family. If not paid fully the family is cursed and torment by evil spirits who are in search of the 'jeredzwa'.

Because this ritual part of the system [...] they give it to the ancestors, and they say someone is being paid lobola for so let give them blessings. (PA34M).

While the respondents explained what 'jeredzwa' and 'ngozi' is the researcher found two things, firstly that 'ngozi' does not only affect the family as a whole but it also has an impact on the children and secondly, if the wife dies before the 'jeredzwa' is paid off complications may arise during the funeral preparations. One can first discuss the curse that falls on the children. Firstly, if the 'jeredzwa' is not paid off the children are usually said to have a difficult life ahead where they will struggle to progress in life.

[...] There is a belief that if the jeredzwa is not paid in full the evil spirit will come and give harassment to the family, kids, such that their future won't be bright. (PA32F)

Yes, so this is part of what we fear, oh if I do not pay my lobola I bring bad spirits to my children. (PA34M)

He is saying it's an offence not to pay the lobola so if you have got finished paying the lobola your kids might have misfortunes so if they want to trace about them they will maybe relate to the credit that we have on lobola. (PA37M)

Secondly, if the father dies and the lobola has not been paid off it is the children's responsibility to pay off the remaining balance of the lobola so that their lives will not continue to be cursed.

Then the other thing is he should even tell your kids if they are some balances that have been left so that even if in the case of death the kids will carry over the balances to the to your in-laws. (PA37M)

He is saying if you do not pay your lobola in full that will disadvantage your children because instead of doing their own thing they will now start to look to your balances so that will disadvantage them [...]. (PA37M)

The second point mentioned above is that if the 'jeredzwa' is not paid in full it will affect the funeral preparations in the case that the wife dies.

To the negatives, I think lobola can be stopped like in the situation of death maybe the wife has debt so she can be buried cause the husband didn't pay the lobola. (PA26F)

Now it differs now with cases of one is not being paid for now if she gets killed you cannot go to the family to say that your child here is not feeling okay because there will be a bride between (PA29F0)

Let's say my wife passes away and I have got a balance and that balance is needed before [...] the burial. If I fail to pay that balance they will say we don't bury her until you have paid up the balance. (PB38M)

Looking at the points above one can see that lobola has deeper implications to the family as a whole than just the couple that is getting married. One can now discuss how the quantitative and qualitative findings relate to each, whether the perceptions found in the quantitative results can explain the results found in the interviews on early child marriage and lobola.

## **5.9 Discussion: Perceptions of Human Rights and Culture**

The main research question asks what the perceptions of men and women are on human rights and culture and how these opinions manifest in the acceptance or rejection of the human rights culture in Zimbabwe and South Africa. This section will seek to answer the main research question in the context of Zimbabwe. Firstly, the perceptions of the men and women on human rights and culture; and secondly, the researcher will attempt to deduce whether or not the respondents have accepted or rejected the human rights culture in Zimbabwe.

Overall, the respondents oppose early child marriage and believe that it is against human rights. In the area where the research was done, it seemed as though early

child marriages were not entered into due to cultural reasons but were mainly motivated by poverty. The interviews conducted in Shamva also showed that early child marriage is an issue mainly in the Johanne Marange Apostolic Sect rather than a cultural matter. The respondents also showed that a cultural way of doing things matters when dealing with marital issues. It was said that it is better to speak on matters before leaving a marriage or reporting one's husband to higher authorities due to abuse. The comments made showed that gender inequality exists, and patriarchy still has a stronghold in how people view relationships and the power balance in relationships. One can now analyse the themes found on the topic of lobola.

It was found by the researcher that most of the women stated that a woman cannot just leave her marriage if being abused. Some of the women stated that a wife can only leave her marriage or dissolve it if the abuse is continuous and cannot be resolved. The male respondents also mentioned that counsel should be sought before leaving the marriage. One of the men stated even though the woman wants to leave it is difficult because of lobola.

But in Zimbabwe it is challenging [...] because of the issue of lobola. Usually, women will humble themselves because they are taught that this man bought me so they will just fall under those conditions of which they are harsh [...]. But in developing countries yeah you should leave him because you are suffering emotionally, physically, psychologically. (PA35M)

Once lobola is paid it is implicitly assumed that the woman should remain submissive to her husband because he paid lobola for, therefore increasing the issue of gender equality. It is a direct violation of human rights because a woman is not owned by anyone even though lobola has been paid and has the right to leave her marriage if abused or in danger. When asked if a woman is free to speak to her husband if unhappy one of the male respondents stated that a woman should be free to speak her mind, however, women today in the Shona culture are afraid to speak their minds because of culture.

Eh, the problem is she might be free to do so but according to our traditional beliefs most of them they fear to be open to say out what worried them the

most, so they will just keep it to themselves to maintain the marriage. So, it is difficult. (PB40M)

It was also mentioned by one of the women that the mediator may encourage her to stay in the marriage although abuses are taking place because it is seen as paramount to make the relationship work even in dangerous conditions. Cultural solutions to marital issues were mentioned by the respondents. However, a majority of both the men and women in the sample stated that if there are issues the woman should speak up and, in the case, that the abuse continues she can report her husband to the police.

Looking at lobola, most of the respondents agreed with concerns concerning the abuse of the custom through commercialising the practice which has led to increased levels of domestic violence if the women are perceived to not be performing well. Most of the respondents believe that the custom is one that is in accordance with human rights because one has the right to get married to whom they want to. However, the custom has changed over the decades with couples increasingly choosing to live together without paying lobola because of its expense as well as the ease of living together without following cultural customs.

It has been observed that culture and human rights go head to head more frequently in the home where patriarchy and culture has a stronghold. This can be seen in the interviews as well as in the quantitative findings. There is a constant back and forth with the respondents choosing morals and values that are in line with human rights and those that are in line with culture. For instance, as stated above the men and women made comments on early child marriage that there may be difficulty in speaking up to your husband if unhappy and being abused as well as choosing to leave the marriage. This is all due to perceptions of culture and the perpetuation of patriarchy.

Looking at the overall findings, the results were quite inconclusive with the answers swaying to and fro between human rights and culture. The reason for the constant back and forth between culture and human rights may be due to the respondents attempting to find a balance between culture and modernity. With most of the respondents having obtained secondary education and having been exposed to teachings on human rights they are quite aware of the benefits of human rights.

Although there are benefits to human rights which are stipulated in the Zimbabwean constitution, the respondents still have a natural inclination to choose culturally socialised roles that men and women play in the Shona culture as is in most African cultures such as men being the breadwinners of the household and women being the caretakers of the home.

While analysing the findings one can see that the contestation between human rights and culture is seen mostly in the home where roles are more defined and are more difficult to change over time. With the respondents having to live a life where they attempt to balance modernity and culture, culture has a louder voice in the home than in the private sphere where it is contested with gender equality being advocated for not just in Zimbabwe but across the world. One can find that although women are able to work, obtain a good education and build a career for themselves in the private sphere at home they are still expected to fulfill their cultural roles as the caretakers of the home in the private sphere where cultural morals and values are still seen as important.

Religion may have also had an impact on how the respondents see culture. Most of the respondents are Christian and the Christian morals and values may have had a significant impact of how they view the Shona culture and the roles that men and women are meant to play in the home and community at large. Culture and religion may have an interchangeable role in the home and community because culture and religion in African countries are usually merged together. This may create a private environment that is more difficult to change towards gender equality as one would have to address both religious and cultural norms and traditions.

Agency may be another reason why the results are inconclusive. With agency, one has the freedom to choose what part of culture they can leave and keep and what part of modernity they should assimilate to. As mentioned above education may have given them increased information and therefore affording them greater access to variations of cultures one can pick and choose from and in the end, one creates their own culture that they choose to live by. Additionally, the ability to move between town because of public transport may have given the participant greater exposure to other way of living. Therefore, agency may be a reason why the results are inconclusive.

Through the findings it seems that men and women today have an increased sense of agency, more especially women. However, it can be argued that in more remote areas where exposure to different cultures and ways of living may be minimal it may be difficult to change their perceptions on culture and human rights with little exposure. Therefore, the extent to which one can exercise their agency can be influenced by the exposure they are their community has to other ways of livings and other norms and values which can promote human rights and gender equality.

One can also mention that how well the respondents understand their culture and its customs and traditions and the motives behind them may determine how easily one can disassociate themselves with their culture and to assimilate to another culture. It can be assumed that the younger generation may have a shallow understanding of the Shona culture compared to the older generation and therefore may be more inclined to choose a more Western way of life than the older generation. This can determine how one sees culture and human rights.

Looking at the findings above the respondents have neither rejected the human rights culture in Zimbabwe or the Shona culture, rather they are seeking to find a balance daily between human rights and culture because they have an understanding of the benefits of culture and human rights in their own local and personal contexts.

## **5.10 Conclusion**

Overall one can see that the men and women in this sample support culture and human rights. The respondents were against early child marriage and saw the good in lobola as well as the bad. They understood the benefits that come with lobola for example families being united and it being a sign of appreciation towards the in-laws as well as the negative such as the commercialisation of lobola which can lead to domestic violence. Men, and more especially, women today have an increased sense of agency and therefore have a little more freedom to choose how they want to live their lives. However, this may not be the case for women in remote rural areas in Mashonaland as explained above. In conclusion, the men and women from Bindura have not rejected human rights but are trying to find a balance between human rights and culture.

## **CHAPTER 6 DISCUSSION OF RESULTS**

### **6.1 Introduction**

This chapter will discuss the findings of the data collected from South Africa and Zimbabwe. The first section will give a brief overview of the findings. The second section will look at the hybrid lives the respondents live as they juggle between human rights and culture in their everyday lives. The third section will discuss the persistence of patriarchy in the Shona and Zulu culture. The fourth section will look at the impact of religion on the gradual change of culture. The fifth section will engage the question “according to whom are these practices harmful?” The sixth section will look at suggestions of what can be done to address persisting gender inequalities perpetuated by harmful cultural practices and the seventh and eighth sections will look at theoretical contributions and recommendations for future studies. Finally, the thesis will be concluded.

### **6.2 Brief Overview**

Culture is an important aspect of the lives of Zimbabweans and South Africans. However, the embrace of African cultures and their customs has led to a conflict with human rights as some customs violate human rights. This has led to culture and human rights being treated as a binary with human rights and culture being seen as concepts that oppose each other. Due to this dilemma this thesis has sought to answer the main research question which asks: What are the perceptions of women and men on human rights and culture and how do these attitudes contribute to the acceptance or rejection of harmful cultural practices among Shonas in Zimbabwe and Zulus in South Africa? The respondent’s responses showed that they regard human rights and culture as important and these views have led to the acceptance and rejection of some harmful cultural practices. For example, the respondents from South Africa believe that virginity testing is a good custom and therefore accept the practice. However, ukuthwala was widely rejected by the respondents because they understood that the custom is harmful towards women and young girls and therefore should be abolished. The Zimbabwean respondents believe that lobola, despite the abuse of the custom, should still be practiced however they reject early child marriage as a Shona cultural

practice and refer to it as a religious practice. They believe early child marriage undermines human rights.

African cultures see gender all three lenses which has informed the way in which gender roles have been socialised and organised. In most cases cultures are patriarchal therefore benefiting the man than the women in its customs and traditions, thus creating inequality between genders. When the respondents were asked about their perspectives on gender equality the women from the Zimbabwean sample still believe in the role women should play in the home. However, they do see that socio-economic conditions and family structures have changed, encouraging women to work and, in some instances, to be the provider of the home. The men from the Zimbabwean sample showed that they are open to change in terms of the roles in the home. The men and women stated that women should be given the freedom to pursue a career however, they are divided on women earning more than men as this may have implications for the interactions of men and women in the home. They also agree that women and men should have equal opportunity to pursue an education.

The men and women from the South African sample differed slightly in their responses to gender equality in the home. The women's responses showed that the expected role they are meant to play in the home is slowly changing. Some intergenerational differences were found with the younger women being the ones who opposed the stereotypical roles that women have to play in the home and older women agreeing. The men, on the other hand, seem more inclined towards the cultural roles men and women play in the home, however, they had some understanding that women too can be breadwinners. Looking at their views on gender equality at work and in education men and women agreed that women should be free to pursue a career and that the wages should be fair and that boys and girls should be given equal opportunity to an education.

### **6.3 Hybridity and Intersectionality: The Balance of Culture and Human Rights**

The findings of this research showed that the respondents lived mixed lives trying to find a balance between human rights and culture as they consider both important. There are two concepts that can be used to describe this balance and mixture and they are hybridity and intersectionality. Hybridity is a highly contested term, which is

difficult to pin down and define. Discourses around the topic of hybridity first began around matters of racism in the early seventeenth century focusing mainly of the crossing of people of different races, race mixtures and human fertility (Sayegh, 2008). Overtime, hybridity as a term has been used in cultural studies and related fields. Hybridity in terms of culture is a complicated topic because there are many aspects that have caused cultures to be hybrids. Homi K. Bhabha's work on hybridity shows that hybridity is "one of the most vital concepts in cultural criticism today" (Mizutani, 2009:1). Mizutani (2009:1) mentions that Bhabha's study on hybridity did not focus on "racial dimensions[s] of miscegenation" however the concept is used metaphorically.

Hybridity needs to be understood historically in three contexts: "(a) the development of vocabularies of racial and cultural mixture from the mid-nineteenth century onwards; (b) the historical basis of contemporary hybrid identities; and (c) the juncture at which the language of hybridity entered the study of international communication" (Kriady, 2005:vii). Colonialism, post-colonialism and globalisation has had a large impact on how people see and relate to their own culture and the cultures around them. Kaidy references Bentley (1993:viii) quoting that "encounters between cultures [...] have been so prevalent that the self-enclosed culture is in fact a historical aberration." Looking specifically at African cultures, colonisation, decolonisation and post-colonisation have had a significant effect on the way cultures have changed. History also has had an effect on the way people view their own cultures and its customs and traditions.

The other term that describes and explains the blend the Zimbabwean and South African respondents have embracing both human rights and culture is intersectionality. Intersectionality refers to "the critical insight that race, class, gender, sexuality, ethnicity, nation, ability, and age operate not as unitary, mutually exclusive entities, but as reciprocally constructing phenomena that in turn shape and complex social inequalities" (Collins, 2015:2). It is important to note that no culture is essentialist, but all cultures are a blend of different aspects as mentioned in the definition. Shachar (1998:296) concurs when she argues that "an intersectionist view [recognises] that group members are always caught at the intersection of multiple affiliations. They are group members (perhaps holding more than one affiliation) and, at the same time, citizens of the state."

The respondents hybrid and intersectionist lives are displayed by the fact that they continues to practice and respect customs such as lobola in Zimbabwe and virginity testing in South Africa whilst agreeing that human rights are important. However, the men and women from the South African and Zimbabwean sample acknowledges the negative aspects of the traditional practices such as the commercialisation of lobola and the corruption that has crept in the custom of virginity testing.

The respondents see human rights as important. The respondents agree that ukuthwala (South Africa) and early child marriage (Zimbabwe) is wrong. The South African respondents all believed that ukuthwala undermines human rights and agree that the custom should be banned. The men and women in the Zimbabwean sample agreed that they would never let their own daughters marry young, stating that it is a violation of human rights and that young girls still need to mature and develop into women and be educated before they get married. Therefore, the respondents from Zimbabwe and South Africa see human rights and culture as important. Due to the differences in age as well as exposure one can assume that the extent to which each participant views human rights and culture as important will differ. Some will see culture as more important than human rights and others vice versa.

Both young and old women in the South African and Zimbabwean samples had responses that showed that women live hybrid lives. They see their cultures as important, however, they are also beginning to see their role in the home as one that is changing as they gain more agency. The traditional roles that they had to abide by are increasingly difficult to follow, for example, the belief that men should be breadwinners and women should be the ones to look after the household. Due to changes in the economy and the labour force, because of urbanisation, both men and women today have to work. Additionally, with the change in family structure, there is an increasing number of single parent households, mostly headed by women. Therefore, women today have to be breadwinners changing the role they played culturally in the past.

Phillips (2007:33) states that “culture is made up of people, and people and their ideas move.” Although the South African and Zimbabwean respondents see culture as more important, it evident that all the respondents are living lives where they are trying to find a balance between culture and human rights, more especially gender equality.

With each individual being exposed to different internal (family) and external (socio-economic and political) influences each person begins to have a unique outlook on human rights, gender equality, and culture. Therefore, the balance between human rights and cultures will differ within a single community.

It is difficult for culture to remain static when ideas and people are in constant movement within a culture group and between cultural groups. Anne Phillips (2007:33) quotes:

The idea that culture evolves its own distinct norms of justice with not much overlap and not much hope of mature reconciliation, only makes sense if, first, there has been no exchange of people or ideas and second there is no great similarity in human experience that might lead to people in a different society formulating similar principles for regulating their collective lives.

From this quote it is evident that culture is not as static as one may think but is constantly changing even if it is a slow gradual change, it is a change nonetheless. Gouws (2013:51) agrees with the quote above when she states that “living customary law develops as cultures changes and come into contact with other cultures. It prevents cultures from becoming static and unchanging.” Therefore, it is challenging and problematic to see cultural groups in isolation. One can deduct from the results of this study that the respondents certainly live hybrid lives, juggling between culture and modernity (human rights and gender equality). It is fair to say that within cultural groups there are subcultural groups divided either by religion or social class just to mention a few. Because of these subdivisions, the way one person in the cultural group views their culture will differ to the next person. Because of this culture changes and transforms.

Due to the process of modernisation, urbanisation, education, and history it is difficult to treat human rights and culture as a binary in multicultural countries because the two concepts overlap in peoples' lives. There is an evident clash between human rights and culture, however, in the everyday lives of people, human rights and culture are not treated as terms that are in constant conflict but as terms that at times can be complementary. The responses of the respondents as to what they understood human rights to be were focused mainly on second-generation rights. Zieck (1992:166)

defines second generation human rights as “human rights [that consist] of economic, social and cultural rights.” These rights include “the right to social security, [...], the right to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions; the right to be free from hunger [...] and the right to education” (Zieck, 1992:167). There was very little mention on first-generation human rights which are the “the civil and political rights [characterised by the] abstention [of] the state and participation of its subjects in society on the basis of formal equality.” Looking at the respondents’ understanding of human rights there is a common underlying premise in second generation human rights and culture that a human being has the right to the basic necessities of life. Human rights and culture in this case overlap.

From the results above, one can argue that human rights has attributes of culture. Culture as defined in the first chapter is “[...] a store of knowledge, beliefs, arts, morals, laws, and customs, in other words, everything that humans acquire by virtue of being members of a society” (Bennett, 2004:79). From this definition and the findings above it is evident that human rights is a store of knowledge, with its own beliefs, morals and laws that one must abide by. Human rights, as argued by Du Toit (Du Toit, 2014:19), was born at a particular point of Western European history under very particular material and symbolic conditions. This has given human rights a Western store of knowledge, with beliefs, morals and laws that focus on the individual other than the group.

Universal Human Rights had patriarchal views at its foundation at a point in time, as cultures across the world do. Universal Human Rights, was not ‘universal’ from its inception but was patriarchal at its core leaving women out of the equation. Du Toit (Du Toit, 2014:20) writes that “the ‘human’ in ‘human rights’ or ‘humanity’ used to be doubly alien to women’s sexuality because it was simultaneously viewed in Western metaphysics as disembodied, (this sexless) and masculine.” Therefore, the vulnerabilities of women and their bodies were not acknowledged, for example, war time rape and other forms of abuse (Du Toit, 2014:19-20). Overtime, these patriarchal views on who was ‘human’ were challenged by the first generation of women in academia who critiqued the philosophical limitations built into the universal rhetoric (Du Toit, 2014:19). This only happened in the twentieth century and it took another

century to acknowledge war time rape as a war crime (Du Toit, 2014:19). Therefore, it took Western Enlightenment about 500 years to evolve from one that was patriarchal to one that acknowledged violations to women's sexual integrity and that these violations were crimes against humanity (Du Toit, 2014:19.). It is evident that it took time for Western culture to evolve and for patriarchal ideas to be challenged.

Looking at African cultures, patriarchal ideas still persist and continue to as African cultures and their customs are embraced and acknowledged by both men and women. It took about 500 years, until the twentieth century, for Western Enlightenment to acknowledge the rights of women, and because of this the West needs to be patient to allow other cultures and states to evolve (Du Toit, 2014:19). Change does not happen overnight but gradually comes about. Although human rights are being advocated for across the world, its values and morals will be embraced slowly because Western morals and values have not been African people's way of life. Du Toit (201:19) mentions that the acknowledgement of women's rights was only brought about after women were allowed to be educated. She stated that "it took a radical overhaul of Western thinking to allow Western women to be educated" (Du Toit, 2014:19). Once this change in thinking had taken place, only then were women's rights advocated for by women themselves. Therefore, women should be educated so that they understand what their rights are so that they are able to challenge patriarchy in their own contexts whilst finding a way to embrace their culture simultaneously.

Liberals would argue that human rights is not a culture because of its focus on the individual's moral, political and legal claims and not the claims of a collective or group (Gouws & Stasiulis, 2013:2; Gouws, 2013:36). However, one could counter argue this by stating that, human rights might not be a culture entirely but the fact that it is a Western way of thinking and living shows that it is a collective way of thinking some people and not others. The clash between human rights and African cultures and cultures in the global South is because of the difference in the store of knowledge, and beliefs, moral and values of these groups. Therefore, human rights can be treated as a culture, and the universal human rights and culture binary is dislodged. Thus, people on the African continent and the global South live hybrid lives, embracing their culture and Western culture simultaneously.

## 6.4 Patriarchy

The second similarity between the respondents from South Africa and Zimbabwe is that patriarchy in the private sphere i.e. the home is perpetuated. According to Sathiparsad et al. (2008:5), “patriarchy is a form of male domination based on the powerful role of the father as a head of the household and can be expressed in a multitude of ways.” Looking at the findings it is evident that patriarchy is still exercised more especially in the home. Men and women believe that certain socialised gender roles should be kept. However, looking at the findings men and women also realise that the role that women play in the home has changed into one where women have to work and be responsible for the upkeep of the home and those who live in it. These findings agree with Sathiparsad et al.’s (2008:8) research where they found that their respondents (young men) views aligned with the traditional understanding of the role of men and women in the home, that the man is the head and the woman is subordinate to the man. However, the young men also stated that women also have power in the home as they are the ones who make most of the decisions in the home and can at times be the head of the home as breadwinners depending on the circumstance (widowed or abandoned by the father of her children) (Sathiparsad et al., 2008:8).

The perpetuation of patriarchy is seen in the custom of lobola and in marriages in Zimbabwe. In the responses from men and women from Zimbabwe, it was found that at times it is difficult for a woman to leave the marriage once lobola has been paid, more especially when the lobola has been overpriced. The commercialisation of lobola has led to women being seen as a commodity and once bought she is then perceived as the property of her husband, making it difficult for her to exit an abusive marriage.

When asked about whether women have the right to leave the marriage if unhappy or abused and whether she is able to voice her grievances to her husband it was found that role of the woman in a marriage was to be submissive to her husband. The respondents agreed overall that if abuse continues in a marriage after, discussions through the mediation of elders in the family and/or the community then she can leave the marriage. However, discrimination towards women was clear from responses where one man stated that the wife cannot just leave her husband if abused, because the husband is, in essence, the head of the family and dictates whether or not she can

leave, making her subordinate to her husband. In Shona culture the husband has more say in the community and in the home enforcing the subordination of women, leading to the perpetuation of patriarchy.

Although the abuse and the power imbalances displayed in marriages in the Shona culture resulting from lobola has been mentioned, most of the men and women agree that the custom should continue to be practiced and respected, because it has some benefits, for example, the uniting of two families. Some of the older men stated that young people today do not understand the importance of the custom of lobola and would rather cohabit than pay lobola, due to the commercialisation of the custom which has made it too expensive for young people to follow. With this complaint, some of the men suggested that the foundational principles be taught to young people so that they understand it as a custom that does not lead to domestic abuse and commercialisation.

In South Africa, the respondents saw virginity testing as a custom that also should continue being practiced. The custom is seen as one that perpetuates patriarchy because it polices women's sexuality and reproduction to try to curb the spread of HIV/AIDS and teenage pregnancy whilst ignoring the role that men play in these social ills. These findings are in agreement with Okin (1999:16) when she states that "many culturally based customs aim to control women and render them, especially sexually and reproductively, servile to men's desires and interests."

It is evident from the data collected and analysed that the acceptance of customs such as virginity testing and lobola perpetuates patriarchy and gender inequalities between men and women in the home and the community at large. These findings agree with Okin's argument that the providing group rights to ethnic groups without looking into whether there are practices that exacerbate gender inequalities is detrimental to women and young girls. However, it is important to realise that these customs do not lead solely to gender inequality but have benefits that the respondents recognise and celebrate. For example, the young woman from the South African sample stated that virginity testing gives young women pride in themselves. Additionally, the benefits of lobola in Zimbabwe (also practiced in South Africa) make it difficult for the respondents to believe that the customs should be abolished because they see the good as outweighing the bad.

The women in the Shona and Zulu culture are not ignorant of the gender inequalities they face and they find ways to exercise the agency they have gained through human rights. Kandiyoti (1988:274) states that “different forms of patriarchy present women with distinct “rules of the game” and call for different strategies to maximise security and optimise life options with varying potential for active or passive resistance in the face of oppression.” Some of the older women in Zimbabwe spoke of the power bargain within a marriage when having to deal with marital issues. They stated that one needs to find the right time to voice any grievances against their husbands. Additionally, the women from the South African and Zimbabwean sample agreed that the responsibilities of the home should be shared between a husband and a wife, because of financial and economic pressures. The men also see the importance of helping in the home, chipping away at patriarchy.

Systems of patriarchy are not the same across the world. Bozzoli (1983) wrote of the patchwork quilt of patriarchy where she argues that patriarchy is not a concept or a theory that is singular but has many forms in different societies across the world. Additionally, she argues that due to the introduction of capitalism in South Africa the roles of both black and white women have had to change in ways that have led to the disenfranchisement of women as they are increasingly restricted to the home (more specifically black women who also work for white women) (Bozzoli, 1983:155). Capitalism may have had a significant effect in Zimbabwe. But throughout the years socio-economic and political changes have had a large effect on how patriarchy is either propagated or challenged. Both the Shona and Zulu ethnic groups have strong patriarchal foundations, however, throughout the years with external and internal influences causing change, patriarchy has been challenged in some respects and perpetuated in others.

## **6.5 The Impact of Religion on Culture**

The third similarity between the Shona and Zulu respondents is the impact religion has had on their cultures<sup>15</sup>. The data showed that both sample groups from Zimbabwe and South Africa were mostly Christian and regular churchgoers which has had an effect on the way they view cultural practices and human rights. In the African context,

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<sup>15</sup> Information on religion in Zimbabwe and South Africa

religion is usually mixed with culture which makes it challenging to separate religion and culture.

As mentioned in chapter four, some of the women interviewed in South Africa stated that they had never been tested for virginity because they were brought up Christian. However, on the other hand, an argument was made that Christianity is the cause of the decreased importance of African culture and its customs. From the responses in Zimbabwe, it was found that the custom of early child marriage had become a custom practiced more commonly by the Johanne Marange Apostolic Sect. For this religious sect, it is acceptable to have older men marry younger girls because the 'holy spirit' said the young girls should be their wives.

Harmful cultural practices are perpetuated because religion makes it more difficult for people to see the harm. In Zimbabwe, the Johanne Marange Apostolic Sect has weaved together both African cultural and religious morals and values and practices under the banner of religion. With early child marriage being practiced and encouraged because the 'holy spirit' strengthens the power men have over women and young girls. This leaves young girls and women vulnerable to abusive practices because the men in their religious community believe it is acceptable. Young girls and women are then restricted from exercising their human rights to either exit the religious group and to report abuses.

## **6.6 Harmful to who?**

Harmful Traditional/Cultural Practices (HTPs) which were first introduced to the UN in the 1950s and conceptualised by the UN have focused mainly on non-western practices and little to no mention of practices in the West as harmful. This has led to the idea that modernisation is the preferred living conditions that will solve the issues of HTPs. Liberalism perceives non-Western cultures as oppressive and restrictive to personal freedom (Gouws & Stasiulis, 2013:3). However, this is not the complete picture as seen in the results.

It is evident that what one perceives as a harmful cultural practice may not be perceived the same way by those who practice it. Respondents from South Africa believe that virginity testing is fundamentally good contrary to what observers believe. Virginity testing has been observed by outsiders as a custom that coerces young girls

to participate, controlling their sexuality and their reproduction. It has also been perceived as a custom that is discriminatory. Due to these perceptions, a law has been put in place stating that girls can only be tested for their virginity from the age of 16 years old and older. However, the respondents who understand this custom believe that it is too late for girls to be tested at the age of 16 because at that age they may already be sexually active or may have been sexually abused. It is evident that the women who practice virginity testing and the men in the community see the benefits of the custom outweighing the negatives, thus supporting the custom.

What the law says is not necessarily what happens on the ground. As discussed above, human rights and culture cannot be seen as a binary, however, the two concepts still clash as they have ideological differences. These ideological differences influence the way people perceive what practices are harmful and which ones are not. With a focus on the community which is the foundation of culture and the individual focus on human rights, it is difficult to reconcile the two. Those who are part of African cultures live hybrid lives. Picking what is applicable for them from human rights and respecting what is beneficial to them in culture. The balance between culture and human rights and gender equality will change as each individual is educated and interacts with others outside of their ethnic group. This will change the perspectives of roles in the community, be it in the private or the public sphere and may lead to one challenging cultural norms in the end.

## **6.7 Solutions**

### **6.7.1 Recognition**

There are a number of practical solutions States can apply to try to close the gender equality gap between men and women, more especially in the home and to encourage cultural reform. The first of these solutions is the recognition of women. Gouws (2014:45) states that “to rectify intragroup inequality, there should be recognition of women as agents who should be recognised in law and who should, therefore, have the status of majors and the agency to act on their own behalf.” For women to get recognition all state actors should be educated about the agency of women afforded by human rights and of the impediments to women to exercise this agency in the private or public sphere. The agents that need to be educated are the traditional

leaders, educators, political leaders, creators of the law as well as those who ensure that the law is applied at the grassroots level.

### **6.7.2 Exit and Voice**

The second solution is the choice to exit or to use one's voice. Women should be given the ability to “choose to exit from the jurisdiction of customary law” (Gouws, 2014:48). This is important because women have the right to choose to live according to their customs and traditions or not to. However, this is not the case for all women. Phillips (2009) argues that the option to exit may be an unrealistic option for some women. Phillips (2009:137) contends that cultural groups and their leaders do not seek to hold people against their will in the cultural group if they want to leave. However, if the person “breaks some of its cultural prescriptions, [they] may find themselves excluded against their wishes (Phillips, 2009:137). This argument is supported by the findings with some women from the South African sample stated that some girls who are no longer virgins may be left out of social groups and stigmatised by their peers and the larger community. According to Okin, this is “involuntary exit” (Phillips 2009:137 site Okin 2002:205-30). Therefore, it is important that women are freely able to choose to participate and to stop participating in either certain cultural practices and or the culture as a whole without being stigmatised.

Exit is a viable option for women who do not want to participate in harmful cultural practices, however, there are difficulties to exit that one must address. Phillips argues that “exit approaches to cultural diversity suffer from [the fact that they] seem to understate culture’s power” (Phillips, 2009:138). According to the author, there are two difficulties with exit identified in literature. The first main difficulty to exit found in literature is the issue of it being inherently difficult to choose to leave because culture has power (Phillips, 2009:138). Jacob Levy (2000:112) agrees when he states that “everything about culture is an exit barrier. [That] to have a culture whose exit is entirely costless [...] is to have no culture at all.” The identity and community gained from being either Shona or Zulu are of significant importance. Although there are some practices and beliefs that individuals may not agree with the importance of being in a community is still paramount as it gives one a sense of belonging and identity.

The second difficulty is an infatuation with giving one the right to exit as a solution to gender inequalities which reduced the impact of internal friction that leads to change. It is vital that discriminatory and harmful practices are contested from within because internal change ensures the engagement of those who are the perpetrators of discriminatory practices and those who are discriminated against (Phillips, 2009:139).

The customs and traditions, morals and values that people live by give a sense of identity and belonging, therefore, to choose to affect change from within instead of exiting brings about change that is longer lasting and more ingrained into the culture. Fighting from within gives women the opportunity to exercise their agency and to voice their concerns and to initiate change to practices and norms that are harmful and discriminatory. This is not to say that external intervention is not needed.

### 6.7.3 Autonomy

This solution pertains mainly to dislodging the binary between human rights and culture through autonomy. Phillips (2009:101) defines the term as “[...] the capacity to reflect on and, within the limits our circumstances, either endorse or change the way we act or live – thus, in some significant sense, to make our actions and choices our own.” There are limitations to the Western generalisation of what autonomy should look like as it focusses on the individual and little on the community as a whole, as is the case in African cultures. The relationship between “self-denial and self-affirmation” is one that is difficult to balance, more so when one recognizes that people live hybrid lives (Phillips, 2009:104). African cultures function under the premise of *Ubuntu*<sup>16</sup> which looks at the wellbeing of the whole community and how individuals need to act to ensure that the community thrives. Therefore, there is more emphasis on self-denial than self-affirmation as the affirmation of oneself is connected to the betterment of the community as a whole. Therefore, autonomy does not mean that decisions are made without the influence of the community’s morals, values, and traditions. Despite the African cultural focus on the community, this does not mean a lack of autonomy, but that the degree to which one has autonomy differs (Phillips, 2009:104).

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<sup>16</sup> “*Ubuntu* is a concept that originates from the Xhosa expressions “Umuntu, ngumuntu ngabantu” which means that each individual’s humanity is ideally expressed in a relationship with others (Mabovula, 2011:38).

The liberal view of culture mainly states that culture constrains and limits its subjects, however, this may not be entirely the case. Phillips states this well when she says:

People who do not know who they are or where they are going are much less able than those with a strong sense of identity to think reflectively, make choices and plan their lives. We need our cultures in order to become autonomous beings (Phillips, 2009:105).

In essence, it is important to understand that autonomy is hinged on being part of a community, in this case, an ethnic group. That those who are part of ethnic groups and cultural groups have different degrees of autonomy and are able to exercise them in different ways.

### **6.8 Theoretical Contributions to Multiculturalism**

Susan Moller Okin made arguments against multiculturalism stating that it is harmful to women because ethnic groups are recognised without paying attention to the customs and traditions observed that discriminate against and can be harmful towards woman and girls (Okin, 1999:12). The author concluded that if states want to maintain group rights according to liberal arguments, it is important that special care is taken to consider the inequalities within those groups (Okin, 1999:23). These inequalities take place in the private sphere where it is less discernible (Okin, 1999:23). However, she has biased views towards other cultures as she perceives her own as less patriarchal than others. This has been the case from the inception of HCPs by the UN as their conceptualisation relied heavily on a 'Western and non-Western' distinction, drawing on a contrast between 'modern' and 'traditional' (Winter et al., 2002:76, 88). Other academics have argued that it is important to acknowledge that cultures are different. All cultures are patriarchal in nature and cultures, be it from the global North or South, have customs and traditions can be deemed harmful towards women and the girl child. Therefore, it is important to not be biased but to look at all cultures critically and to have an open mind with one's own culture and with others. Additionally, it is important to acknowledge that cultures are different because of these differences women may see justice and equality and a 'good life' in different ways and one needs to respect that (Ubu-Lughod, 2002:788; Narayan, 1998:86).

The findings of this thesis show that the women respondents respect culture and see culture as a way of life. Therefore, one can deduct from the results that it is important to take into consideration the gender inequalities within a culture and to look further into the perspectives of the participants of cultural practices. This will give one a better understanding of how both men and women view their customs and traditions, issues of human rights and harm, as well as, cultural transformation. It is clear from how the respondents view customs such as virginity testing and lobola that those outside the culture may see the customs as harmful, but those who are part of the culture do not. They consider the discriminatory and harmful aspects of these custom, however they also see the beneficial aspects of them.

Anne Phillips, on the other hand, speaks of multiculturalism without culture, stating that culture transforms as its members come into contact with other people (Phillips, 2007:33). Issues of patriarchy and gender inequality can be tackled from within by those affected by the discriminatory practices as their perceptions are challenged and change overtime. Therefore, the respondents in this thesis showed that the Shona culture has changed overtime leading to the change of early child marriage from being a cultural custom to one that is more religious. Additionally, ukuthwala as a custom is viewed as one that undermines human rights and should be abolished. However, they still see customs such as virginity testing and lobola as ones that should be respected.

The respondent's responses showed that people's perspectives have changed over time concerning certain customs. For example, lobola in Zimbabwe, is a custom that is being practiced less and less because more people are deciding to cohabit than to pay lobola. It has become too expensive due to commercialisation. Virginity testing in South Africa, is still practiced, however, religion has had an impact on how Zulu people perceive the custom as important or not. Therefore, culture is changing, slowly but surely, and it is important to encourage change and to investigate what people's views are on customs and traditions. This will enable the state to educate them on issues of gender inequality and human rights in cases where customs that are harmful and discriminatory are still being practiced. Yet, we must be mindful of one's mindsets with concerns to their customs and traditions to understand their views and perceptions of their own culture and the morals and values that are being advocated for. This will ensure that the change being implemented is effective otherwise it will not

be long lasting. Thus, multiculturalism, as we have known it, is bound to change as cultures change customs that are harmful and discriminatory are challenged and women and men recognise that some of their practices, be it in the Shona culture or Zulu culture or cultures across the African continent, perpetuate patriarchy and discrimination.

Furthermore, as customs change the way in which they see gender and how they continue to socialize it will change and is changing. With the nuclear family structure changing, socio-economic changes, political changes and so forth, the way men and women see their role and each other's role in the public and private sphere will change. As already mentioned in chapter one, hybridity and intersectionality are impacted by historical events and this will have an effect on the role that men and women play in the home and in the public sphere today and in the future. As gender inequalities are directly challenged by the government and other organisations in the country men and women are then challenged to reassess how they see gender and how they socialize it. The changes in the way men and women see gender is seen in the way men and women are for women being educated and pursuing a career. They are slowly but surely realising that the role of the man and the woman in the home has changed. Today both men and women work and provide for their families and both men and women are able to do housekeeping chores and to look after family such as children and extended relatives. The idea that the home is the woman's domain and that the public sphere is the man's is changing.

The way in which feminists look at cultures across the world is one that also needs to be addressed. Narayan (2000:1086) urges feminist to "avoid the Package Picture of Cultures by attending to the historical variations and ongoing changes in cultural practices, [and by being aware of] the wide range of attitudes toward those practices manifested by different members of culture, and [...] the political negotiations that help to change the meaning and significances of these practices." Attention to the fact that various factors change people's perspective on culture and its customs and traditions will "facilitate informed and astute feminist engagement with women's issues in national contexts different from their own" (Narayan, 2000:1086). Acknowledging that women in different cultures see their cultures differently will help the solve the contrast between western feminist and post-colonial feminist ideas of what a good life is what

customs and traditions or perceptions about gender need to be addressed. Ubu-Lughod (2002:788) says it perfectly when she writes on whether Muslim women need saving stating that we must be “[...] respectful of other paths toward social change that might give women better lives.” She then asks “[...] is liberation even a goal for which all women or people strive for?” (Ubu-Lughod, 2002:788). I would add further that it is important to ask what liberation looks like for women in different parts of the world and in different cultures and to respect that and at time even challenge it through thought provoking discourse that encourages gradual and natural change.

Overall it is safe to say the culture is changing and that multiculturalism as we know needs to change to encourage and handle inter and intra-cultural differences. Differences on how women perceive their own culture, justice and liberation must be acknowledged and respected; and that history has a large impact on how cultures change.

## **6.9 Recommendations for Future Study**

The findings have identified a number of gaps in the literature that one can research in the future. The gaps that were found were within the topics of hybridity, multiculturalism, and culture. Firstly, looking at the theory of hybridity is would be beneficial to research to what extent people live hybrid lives and what has contributed to the extent of hybridity in men and women’s lives and whether or not there are any intergenerational differences. Secondly, in relation to multiculturalism is would be beneficial to look at how African governments have attempted to deal with the issues that have arisen from multiculturalism and if there has been any attempt to revise and amend laws to ensure a better way of recognising different cultural groups while fostering natural and gradual change. Additionally, a comparative study could be done on how African and Western states deal with multiculturalism. Thirdly, further anthropological research can be done on the lived experience of culture. A fourth study outlining the opinions of human rights versus the practice of culture in the older generation could help close the gap between the abuse of culture and the uptake of human rights.

## 6.10 Conclusion

This research sought to answer the main research question which stated: what are the perceptions of men and women on human rights and culture and how these attitudes contribute to the acceptance or rejection of harmful cultural practices among Zulus in South Africa and Shonas in Zimbabwe. Overall the respondents rejected early child marriage (Zimbabwe) and ukuthwala (South Africa) as customs because they directly violated human rights. The respondents, on the other hand, accepted the practices of lobola (Zimbabwe) and virginity testing (South Africa) because of the customs positive aspects. The respondents, however, were able to identify the negative aspects of these customs.

In the research it was found that the responses from the Zimbabwean and South African men and women showed that they see human rights and culture as important. This speaks to the way in which African people and people across the world live hybrid lives. Today men, women, boys and girls attempt to find a balance between human rights and culture daily as both of these practices inform their lives. With a majority of states today being multicultural different views, opinions, morals, and values are exchanged and communicated between cultural groups and within different communities. In multicultural states there is a continuous exchange of morals, values and ideas between people which leads to beliefs being challenged to the extent that they are either phased out, strengthened or changed.

The findings show that religion has had a large impact on how customs and traditions are embraced or rejected by its members. With many people in Southern Africa being Christian it is not surprising that people today identify more with their religion than their cultural group. Additionally, education, modernisation and technological advancements, socio-economic and political change has brought about a change in the way men and women understand their roles, especially in the home, leading to a lesser degree of gender inequality as men and women's roles.

Zimbabwe and South Africa are both multicultural states that recognise and represent each ethnic group because it is a human right, however, this has brought about discrimination towards women and the girl child. This is seen through certain cultural practices that are discriminatory and, in some cases, harmful. Over the years, with the

worldwide fight for women's rights, cultural practices that are harmful and/or discriminatory towards girls and women have been challenged globally and locally in an attempt to tackle gender equality. There has been some progress made as seen in the way men and women view cultural practices such as ukuthwala and early child marriage. However, further advocacy is necessary to educate men and women about their rights from rural to urban areas.

With these findings, it is evident that human rights and culture should not be treated as a binary, because in the lives of individuals they co-exist. Both human rights and culture inform the lives of people in the way they view society as well as the role they believe they are meant to play in society as men and women. As seen in the results the women from Zimbabwe and South Africa believe that they are free to pursue careers and get an education. However, it is important to note that although human rights and culture are observed simultaneously in peoples' lives, the way in which issues of patriarchy, gender equality, and harm are perceived by men and women will differ.

A liberal view of culture is that it is restrictive as though those in it are ruled by culture, with their rights and liberties being constrained (Gouws, 2014:36). However, this may not be the case entirely. Western perspective views patriarchy as an evil that needs to be eliminated for women to be emancipated, but this may not be the solution. African women, today may have found their own ways of addressing patriarchal norms that undermine them. Therefore, it is paramount to understand the context in which these women navigate issues of patriarchy and to understand that what one may see as discriminatory and harmful to one person may not be to another. Over time, women's views may change depending on the exposure they will get to discourses and challenges outside their culture which may challenge them to understand the harmful aspects of culture.

In conclusion, human rights and culture are concepts that co-exist and are observed simultaneously in peoples' lives. The extent to which human rights and culture are embraced or rejected depends on the individual and the environment in which they live, how they navigate around new ideas, and how they challenge norms within and around their communities. The perceptions of men and women from South Africa and Zimbabwe have been influenced by modernisation, urbanisation, and education. Due

to these changes, women view their roles in the home and in the workplace as ones that have changed. However, gender inequality continues to persist in the home due to patriarchal beliefs.

**BIBLIOGRAPHY**

- Abu-Lughod, L. 2002. Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others. *American Anthropological*, 104(3):783-790.
- African Commission on Human and People's Rights (ACHPR). 2018. *Protocols to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*. [Online]. Available: [http://www.achpr.org/files/instruments/women-protocol/achpr\\_instr\\_proto\\_women\\_eng.pdf](http://www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf) [2016, September 26].
- African Union. 2011. *Pan African Conference on Celebrating Courage and Overcoming Harmful Traditions 5-7 October 2011*. [Online]. Available: [2018, July 19].
- African Union. 2016. *African Charter on the Rights and Welfare of the Child*. [Online]. Available: <http://pages.au.int/sites/default/files/ACRWC-EN.pdf> [2016, September 26].
- African Union. 2011. *Pan African Conference on Celebrating Courage and Overcoming Harmful Tradition*. [Online]. Available: [https://au.int/sites/default/files/newsevents/conceptnotes/26486-cn-concept\\_note\\_english-1.pdf](https://au.int/sites/default/files/newsevents/conceptnotes/26486-cn-concept_note_english-1.pdf) [2018, May 22].
- Al-Hibri, A. 1999. *Is Western Patriarchal Feminism Good for Third World/Minority Women?*. In: S. Okin., J. Is Multiculturalism Bad for Women?: New Jersey: Princeton University Press, 41-46.
- An-Na'im, A.A. & Hammond, J. 2002. Cultural Transformation and Human Rights in African Societies, in A.A. An-Na'im (ed). *Cultural Transformational and Human Rights in Africa*. London & New York: Zed Books Ltd.
- Ansell, N. 2001. Because it's our Culture! (Re)negotiating the meaning of lobola in Southern African secondary schools'. *Journal of Southern African Studies*, 27(4): 697-716.
- Armstrong, A. 1998. *Culture and choice: Lessons from survivors of gender violence in Zimbabwe*. Harare: Violence Against Women in Zimbabwe Research Project.
- Ashforth, A. 2005. Muthi, Medicine and Witchcraft: Regulating 'African Science' in Post-Apartheid South Africa? *Social Dynamics*, 31(2):211-242.
- BBC. 2016. *South African Mayor Defends Virgin Scholarships for Student*. [Online]. Available: <https://www.bbc.com/news/world-africa-35403501> [2018, July 24].
- BBC. 2017. *Reality Check: Are 90% of Zimbabweans unemployed?* [Online]. Available: <https://www.bbc.com/news/business-42116932> [2018, July 6].
- Behrens, K.G. 2014. Virginity testing in South Africa: a cultural concession taken too far?. *South African Journal of Philosophy*, 33(2): 177-187.

- Bennett, T.W. 1981. Conflict of Laws: The Application of Customary Law and the Common Law in Zimbabwe. *The International and Comparative Law Quarterly*, 30(1): 59-103.
- Bennett, T.W. 2004. *Customary Law in South Africa*. Cape Town: JUTA
- Bem, S.L. 1993. *The Lenses of Gender: Transforming the Debate on Sexual Inequality*. Yale University Press: New Haven.
- Bozzoli, B. 1983. Marxism, Feminism and South African Studies. *Journal of South African Studies*, 9(2): 139-171.
- Centre for Innovation in Research and Teaching (CIRT). 2018. *Sampling Methods*. [Online]. Available: [https://cirt.gcu.edu/research/developmentresources/research\\_ready/quantresearch/sample\\_meth](https://cirt.gcu.edu/research/developmentresources/research_ready/quantresearch/sample_meth) [2018, November 26].
- Chabata, T. 2012. *The Commercialisation of Lobola in Contemporary Zimbabwe: A Double-Edged Sword for Women*. [Online]. Available: <http://www.osisa.org/sites/default/files/11-14.pdf> [2016, September 26].
- Chenge, E. & Maunganidze, L. 2017. Patterns and circumstances of girl child marriages in Mount Darwin district in Zimbabwe. *International Journal of Law, Humanities & Social Science*, 1(4):25-40.
- Chiefs defend girl-child marriages. 2011. [Online]. Available: <https://www.newsday.co.zw/2011/04/01/2011-04-01-chiefs-defend-girlchild-marriages/> [2016, September 28].
- Chirawu, S. 2006. Till Death Do Us Part: Marriage, HIV/AIDS and the Law in Zimbabwe. *Cardozo JL & Gender*, 13: 23.
- Chireshe, E. & Chireshe, R. 2010. Lobola: The Perceptions of Great Zimbabwe University Students. *The Journal of Pan African Studies*, 3(9): 211-221.
- Choma, H. 2011. Ukuthwala custom in South Africa: A Constitutional Test. *US-China Law Review*, 8:874-878.
- Collins, P.H. 2015. Intersectionality's Definitional Dilemmas. *Annual Reviews Sociol*, 41:1-20.
- Commission on Gender Equality (CGE). 2000. *Consultative Conference on Virginity Testing: Report*. [Online]. Available: <http://preventgbv africa.org/wp-content/uploads/2013/10/vt.pdf> [2018, July 26].
- Constitution of the Republic of South Africa*. 1996. [Online]. Available: <https://www.gov.za/documents/constitution-republic-south-africa-1996> [2018, July 24].

- Convention on the Rights of the Child*. 1989. [Online]. Available: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> [2016, September 26].
- Constitution of Zimbabwe Amendment (No.20)*. 2013. [Online]: Available: [https://www.constitutionproject.org/constitution/Zimbabwe\\_2013.pdf](https://www.constitutionproject.org/constitution/Zimbabwe_2013.pdf) [2018, November 26].
- Domestic Violence Act 116 of 1998*. [Online]. Available: <http://www.justice.gov.za/legislation/acts/1998-116.pdf> [2018, July 26].
- Du Toit, L. 2014. In the Name of What? Defusing the Right-Culture Debate by Revising the Universals of Both Rights and Culture. In Amanda Gouws & Daiva Stasiulis (eds), *Gender and Multiculturalism: North-South Perspectives*. Routledge: UK & New York.
- Dura, S. 2015. *Lobola: "A Contested Cultural Practice in the Era of Upholding of Woman's rights"*. [Online]. Available: [http://www.kas.de/wf/doc/kas\\_42434-544-2-30.pdf?150904102454](http://www.kas.de/wf/doc/kas_42434-544-2-30.pdf?150904102454) [2016, September 27].
- Dzimiri, C., Chikunda.P. & Ingwani, V. 2017. Causes of Child Marriages in Zimbabwe: A Case of Mashonaland Province in Zimbabwe. *IRA- International Journal of Management & Social Sciences*, 7(1):73-83.
- Geertz, C. 1973. *The Interpretation of Cultures*. New York: Basic Books.
- George, E.R. 2008. Virginty Testing and South Africa's HIV/AIDS Crisis: Beyond Rights Universalism and Cultural Relativism toward Health Capabilities. *California Law Review*, 96(6):147-1517.
- Gilman, S.L. 1999. "*Barbaric*" *Rituals*?. In: S. Okin. *Is Multiculturalism Bad for Women?*: New Jersey: Princeton University Press, 53-58.
- Gouws, A. 2013. Multiculturalism in South African: Dislodging Human Rights and Culture/Tradition. *Politikon*, 40(1):35-56.
- Gouws, A. & Stasiulis, D. 2013. Gender and Multiculturalism – Dislodging the Binary between Universal Human Rights and Culture/Tradition: North/South Perspectives. *Politikon*, 40(1):1-13.
- Greenbaum, V. 1999. Seeing through the Lenses of Gender: Beyond Male/Female Polarization. *English Journal*, 88(3):96-99.
- Harrison, L.E. 2008. The End of Multiculturalism. *The National Interest*, 93:88-96.
- Heale, R. & Twycross, A. 2015. Validity and Reliability in Quantitative Studies. *Evid Based Nurs*, 18(3): 66-67.
- HG. 2018. *Statutory law*. [Online]. Available: <https://www.hg.rg/statutory-law.html> [2018, August 29].

- Hitchcock, L. 2016. *KZN – highest new HIV rate*. [Online]. Available: <https://www.news24.com/SouthAfrica/Local/Greytown-Gazette/kzn-highest-new-hiv-rate-20160621> [2018, July 26].
- Hodzi, C.R. 2014. Peodophilia not ‘Child Marriage’: A Critical Analysis of ‘Child Marriages’ in the Apostolic Sects in Zimbabwe. Master’s Degree in Women’s Law, University of Zimbabwe, Harare. [Online]. Available: [http://ir.uz.ac.zw/bitstream/handle/10646/2592/Hodzi\\_Peodophilia\\_Not\\_Child\\_Marriage.pdf?sequence=3](http://ir.uz.ac.zw/bitstream/handle/10646/2592/Hodzi_Peodophilia_Not_Child_Marriage.pdf?sequence=3) [2018, July 20].
- Honig, B. 1999. *My Culture Made Me Do It*. In: S. Okin, *Is Multiculturalism Bad for Women?*: New Jersey: Princeton University Press, 41-46
- HRW. 2015. *Zimbabwe: Scourge of Child Marriage*. [Online]. Available: <https://www.hrw.org/news/2015/11/25/zimbabwe-scourge-child-marriage> [2016, September 28].
- Human Rights Watch. 2015. *Zimbabwe: Scourge of Child Marriage*. [Online]. Available: <https://www.hrw.org/news/2015/11/25/zimbabwe-scourge-child-marriage> [2016, September 28].
- Kachere, P. 2009. *Gender-Zimbabwe: Religion and Poverty Force Girls into Early Marriages*. [Online]. Available: <https://www.newsday.co.zw/2011/04/2011-04-01-chiefs-defend-girlchild-marriages/> [2018, July 20].
- Kandiyoti, D. 1988. Bargaining with Patriarchy. *Gender and Society*, 2(30):274-290.
- Kambarami, M. 2006. *Feminist, Sexuality and Culture: Patriarchy and Female Subordination in Zimbabwe*. ARSRC & Health Systems Trust, South Africa & University of Fort Hare. [Online]. Available: <http://www.arsrc.org/downloads/uhsss/kmabarami.pdf> [2016, March 10].
- Kheswa, J.G. & Hoho, V.N. 2014. “Ukuthwala” The Sexual-Cultural Practice with Negative Effect on the Personality of Adolescent Females in Africa. *Mediterranean Journal Social Sciences*, 5(20):2808-2813.
- Khoza, A. 2016. *Girls be warned: Lose your virginity, you lose your bursary*. [Online]. Available: <http://www.news24.com/SouthAfrica/News/municipality-warns-maidens-lose-your-virginity-lose-your-bursary-20160122> [2017, 7 October].
- Kirk, J. & Miller, M.L. 2011. *Reliability and Validity*. Sage Publications
- Koyana, F.S & Bekker J.C. 2007. The indomitable Ukuthwala Custom. *De Jure*, 4(1):139-144.
- Leclerc-Madlala, S. 2001. Virginity Testing: Managing Sexuality in a Maturing HIV/AIDS Epidemic. *Medical Anthropology Quarterly*, 15(4):533-552.
- Leclerc-Madlala, S. 2003. Protecting Girlhood? Virginity Revivals in the Era of AIDS. *Agenda: Empowering Women for Gender Equality*, 54: 16-25.

- Le Roux, E. & Bartelink, B.E. 2017. No More 'Harmful Traditional Practices': Working Effectively with Faith Leaders. Research Report.
- Machingura, F. 2014. The Martyring of People over Radical Beliefs. In E.Chitando., M.R. Gunda. & J. Kugler (eds). *Multiplying in the Spirit: African Initiated Churches in Zimbabwe*. University of Bamberg Press. 175-198
- Mail & Guardian. 2011. *When 'culture' clashes with gender rights*. [Online]. Available: <https://mg.co.za/article/2011-12-02-when-culture-clashes-with-gender-rights> [2018, 12 July).
- Manjoo, R.2005. South African Gender Machinery. *Acta Juridica*, 1:243-272.
- Mapumulo, Z. 2015. *She was abducted to be married off, but this young woman got away*. [Online]. Available: <https://www.news24.com/SouthAfrica/News/She-was-abducted-to-be-married-off-but-this-young-woman-got-away-20150622> [2018, July 26].
- Mashangwa, V. 2015. *18+: Strategy to end child marriages in Zimbabwe*. *Chronicles*, October 3. [Online]. Available: <http://www.chronicle.co.zw/18-strategy-to-end-child-marriages-in-zimbabwe/> [2016, September 28].
- Mathebula V. 2018. *Challenges that remain a hindrance in attaining gender equality in South Africa*. [Online]. Available: <http://www.cge.org.za/challenges-that-remain-a-hindrance-in-attaining-gender-equality-in-south-africa/> [2018, November 26].
- Mawisa, C. 2016. *The Controversial Maiden Bursary*. [Online]. Available: <https://carteblanche.dstv.com/maiden-bursary/> [2017, 7 October].
- Mhlongo, S.P. 2009. Reasons for undergoing virginity testing: A study of young people in rural KwaZulu-Natal, South Africa. Masters in Population Studies, University of Kwazuz-Natal, Durban.
- Mizutani, S. 2009. Hybridity and History: A Critical Reflection on Homi K. Bhabha's 'Post-Historical' Thought. *ZINBUN*, 41:1-19.
- Monyane, C. 2013. Is Ukuthwala Another Form of 'Forced Marriage'?. *South African Review of Sociology*, 44(3):64-82.
- Murphy, A. 1996. The Lenses of Gender. *Way-London Society of Jesus: Theological Trends*, 36:323-330.
- Naidu, M. 2008. Anthropology of Female body: Site of High-jacking within the AIDS Discourse. In Sexual and Reproductive Rights, HIV and AIDS Trilogy, *Agenda*, 1(1).
- News Day. 2011. *Chiefs defend girl-child marriages*. [Online]. Available: <https://www.newsday.co.zw/2011/04/2011-04-01-chiefs-defend-girlchild-marriages/> [2018, July 20].

- Ndulo, M. 2011. African Customary Law, Customs, and Women's Rights. *Indiana Journal of Global Legal Studies*, 18(1):87-120.
- Nhlapo, T. 2000. The African customary law of marriage and the rights conundrum, in M. Mamdani (ed). *Beyond Rights Talk and Culture Talk: Comparative Essays on the Politics of Rights and Culture*. Cape Town: David Philip Publishers.
- NHS. 2016. *Harmful Traditional Practices*. [Online]. Available: <http://www.gbv.scot.nhs.uk/gbv/harmful-traditional-practices> [2016, April 12].
- Nkomo, S.N. 2014. *A Critical Analysis of Zimbabwe's Legal Response to Traditional Cultural Practices and Gender-Based Violence*. Cape Town: University of the Western Cape.
- Ntlokwana, N. 2009. *Submission to the SA Law Commission on Ukuthwala Custom*. Centre for Constitutional Rights.
- Narayan, U. 2000. Undoing the "Package Picture" of Cultures. *Signs*, 25(4):1083-1086
- OHCHR. 2018. *Women's Human Rights and Gender Equality*. [Online]. Available: <https://www.ohchr.org/en/issues/women/wrgs/pages/wrgsindex.aspx> [2018, August 27].
- Okin, S.M. 1999. *Is Multiculturalism Bad for Women?* Princeton & New Jersey: Princeton University Press.
- Organisation Of African Unity (OAU). 1986. *African Commission on Human and Peoples Rights*. [Online]. Available: [http://www.achpr.org/files/instruments/achpr/banjul\\_charter.pdf](http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf) [2018, July 23].
- Padare & Women's Action Group. 2011. *Best Practices on Challenging Gender Dynamics in Cultural Contexts: Padare and Women's Action Group Implementing the 'Changing the River's Flow Programme in Zimbabwe*. [Online]. Available: [2016, September 27].
- Phillips, A. 2007. *Multiculturalism without Culture*. New Jersey: Princeton University Press.
- Protocols to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*. 1995. [Online]. Available: [http://www.achpr.org/files/instruments/women-protocol/achpr\\_instr\\_proto\\_women\\_eng.pdf](http://www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf) [2016, September 26].
- Raz, J. 1998. Multiculturalism. *Ratio Juris*, 11(3): 193-205.
- Rice, K. 2014. Ukuthwala in Rural South Africa: Abduction Marriage as a Site of Negotiation about Gender, Rights and Generational Authority Among the Xhosa. *Journal of Southern African Studies*, 40(2): 381-399.
- Ruzivo, M. 2014. Succession Debates in the Johanne Marange African Apostolic Church, in E. Chitando, M. Ragies & J. Kugler (eds.). *Multiplying in the Spirit:*

- African Initiated Churches in Zimbabwe*. Bamberg: University of Bamberg Press. 15-32.
- SADC Declaration on Gender and Development. 1997. [Online]. Available: [https://www.sadc.int/files/7613/5292/8380/Declaration\\_on\\_Gender\\_Development\\_1997.pdf](https://www.sadc.int/files/7613/5292/8380/Declaration_on_Gender_Development_1997.pdf) [2018, June 12].
- Sathiparsda. R., Taylor. M., Dlamini. S. 2008. Patriarchy and Family Life: Alternative Views of Male Youth in Rural South Africa. *Agenda: Empowering Women for Gender Equality*, 76: 4-16.
- Sayegh, P. 2008. *Cultural Hybridity and Modern Binaries: Overcoming the Opposition Between Identity and Otherness?* [Online]. Available: <https://halshs.archives-ouvertes.fr/halshs-00610753/document> [2018, November 21].
- Schoeman, W.J. 2017. South African religious demography: The 2013 General Household Survey. *HTS Theological Studies*, 73(2):1-7.
- Scorgie, F. 2002. Virginity Testing and the Politics of Sexual Responsibility: Implications for AIDS Intervention. *African Studies*, 61(1):55-75.
- Shome, R. 2012. Mapping the Limits of Multiculturalism in the Context of Globalization. *International Journal of Communications*, 6:144-165.
- Sibanda, M. 2011. *Married too early: child marriage in Zimbabwe*. The Research and Advocacy Unit. [Online]. Available: <http://researchandadvocacyunit.org/system/files/Married%20Too%20Soon%20-%20Child%20Marriage%20in%20Zimbabwe.pdf> [2016, September 28].
- Smith, M.D. 1990. Patriarchy ideology and wife beating: A test of a feminist hypothesis. *Violence and Victims*, 5(4):257-273.
- South African Human Rights Commission. 2003. *Harmful Social and Cultural Practices – Virginity Testing?*. [Online]. Available: <https://www.sahrc.org.za/home/21/files/30%20SAHRC%20Submission%20on%20Childrens%20Bill%20-%20Virginity%20Testing%20%28Parl.%29%20Oct%202005.pdf> [2018, July 26].
- South African Law Reform Commission, 2014. *Project 138: The Practice of Ukuthwala. Discussion Paper 132*. [Online]. Available: <http://www.justice.gov.za/salrc/dpapers/dp132-Ukutwala.pdf> [2018, July 25].
- South African Police Service. 2014. *Common Law Offenses-Definitions*. [Online]. Available: <http://www.saps.gov.za/faqdetail.php?fid=9> [2016, October 5].
- South Africa's virgin bursaries' ruled unconstitutional*. 2016. [Online]. Available: <https://www.theguardian.com/world/2016/jun/17/south-africa-virgin-bursaries-ruled-unconstitutional-university-scholarships-women-gender-equality-education> [2017, 7 October].

- Statistics South Africa. 2011. *Census 2011: Census in brief*. [Online]. Available: [http://www.statssa.gov.za/census/census\\_2011/census\\_products/Census\\_2011\\_Census\\_in\\_brief.pdf](http://www.statssa.gov.za/census/census_2011/census_products/Census_2011_Census_in_brief.pdf) [2018, August 27].
- Statistics South Africa. 2018. [Online] Available: <http://www.statssa.gov.za/> [2018, June 12].
- Swartbooi-Xabadiya, Z.C. 2010. Attitudes and perceptions of girls in St John's College about the practice of virginity testing. Limpopo: University of Limpopo.
- Tamale, S. 2008. The Right to Culture and the Culture of Rights: A Critical Perspective on Women's Sexual Rights in Africa. *Feminist Legal Studies*, 16:47-69.
- Taylor, M., Dlamini, S.B., Sathiparsad, R., Jinabhai, C. & de Vries, H. 2007. Perceptions and attitudes of secondary school in Kwazulu-Natal towards virginity testing. *Health SA Gesondheid*, 12(2):27-36
- The Children's Act (Act No.38 of 2005)*. 2005. [Online]. Available: [https://www.gov.za/sites/www.gov.za/files/a38-05\\_3.pdf](https://www.gov.za/sites/www.gov.za/files/a38-05_3.pdf) [2018, August 15].
- The Guardian. 2016. *South African district offers student grant to girls who remain virgins*. [Online]. Available: <https://www.theguardian.com/world/2016/jan/22/south-african-district-offers-student-grants-to-girls-who-remain-virgins> [2017, October 7].
- Thornberry, E. 2015. Virginity Testing, History, and the Nostalgia for Custom in Contemporary South Africa. *African Studies Review*, 58:129-148.
- UNESCO. 2003. *UNESCO's Gender Mainstreaming Implementation Framework: Baseline definitions of key concepts and terms*. [Online]. Available: [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/BSP/GENDER/PDF/1\\_%20Baseline%20Definitions%20of%20key%20gender-related%20concepts.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/BSP/GENDER/PDF/1_%20Baseline%20Definitions%20of%20key%20gender-related%20concepts.pdf) [2018, August 29].
- UN General Assembly. 1948. *The Universal Declaration of Human Rights*. [Online]. Available: <http://www.un.org/en/universal-declaration-human-rights/> [2018, August 29].
- UN General Assembly. 1979. Convention on the Elimination of All Forms of Discrimination against Women. United Nations, Treaty Series, 1249:13.
- University of Cape Town (UCT). 2011. Marriage and relationships: Findings from the rural women and land survey. *Law, Race and Gender Unit*. [Online]. Available: [https://open.uct.ac.za/bitstream/handle/11427/2479/CLS\\_summaries\\_MarriagePamphletAmended\\_2011.pdf?sequence=1](https://open.uct.ac.za/bitstream/handle/11427/2479/CLS_summaries_MarriagePamphletAmended_2011.pdf?sequence=1) [2018, August 18].
- UN Office of the High Commissioner for Human Rights (OHCHR). 1995. *Fact Sheet No. 23, Harmful Traditional Practices Affecting the Health of Women and Children*. [Online]. Available: <https://www.ohchr.org/Documents/Publications/FactSheet23en.pdf> [2018, July 10]

- United Nations Division for the Advancement of Women. 2009. *Good Practices in Legislation on "Harmful Practices" Against Women*. [Online]. Available: [http://www.un.org/womenwatch/daw/egm/vaw\\_legislation\\_2009/Report%20EGM%20harmful%20practices.pdf](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Report%20EGM%20harmful%20practices.pdf) [2018, August 29].
- United Nations Population Fund. 2012. *Marrying Too Young*. New York: United Nations Population Fund. [Online]. Available: <https://www.unfpa.org/sites/default/files/pub-pdf/MarryingTooYoung.pdf> [2016, September 28].
- UNFPA. 2018. *Female genital mutilation (FGM) frequently asked questions*. [Online]. Available: <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions> [2018, August 29].
- United Nations Treaty Collection. 2018. *Depositary*. [Online]. Available: [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en) [2018, June 11].
- UN Women. 2009. *Convention on the Elimination of All Forms of Discrimination against Women*. [Online]. Available: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article16> [2016, September 26].
- UN Women. 2018. *About Us*. [Online]. Available: <http://www.unwomen.org/en/about-us/about-un-women> [2018, November 26].
- van der Watt, M. & Ovens, M. 2012. Contextualising the practice of Ukuthwala within South Africa. *Child Abuse Research: A South African Journal*, 13(1):11-26.
- Viljoen, F. 1998. Supra-national Human Rights Instruments for the Protection of Children in Africa: the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. *The Comparative and International Law Journal of Southern Africa*, 31(2):199-212.
- Vincent, L. 2006. Virginty testing in South Africa: Re-traditioning the postcolony. *Culture, Health & Sexuality*, 8(1): 17-30.
- Wadesango, N., Rember, S. & Chabaya, O. 2011. Violation of Women's Rights by Harmful Traditional Practices. *Anthropologist*, 13(2): 121-129.
- Walliman, N. 2011. *Research Methods: The Basics*. Routledge: New York.
- Winter, B., Thompson, D. & Jeffreys, S. 2002. The UN Approach to Harmful Traditional Practices. *International Feminist Journal of Politics*, 4(1): 72-94.
- World Health Organisation (WHO). 2018. *Gender*. [Online]. Available: [www.who.int/gender-equity-rights/understanding/gender-definition/en/](http://www.who.int/gender-equity-rights/understanding/gender-definition/en/) [2018, November 14].

- World Population Review. 2018. *Zimbabwe Population 2018*. [Online]. Available: <http://worldpopulationreview.com/countries/zimbabwe-population/> [2018, August 27].
- Young, I.M. 2001. Thoughts on multicultural dialogue. *Ethnicities*, 1(1): 116-122.
- Zieck, Y.A.M. 1992. The Concept of “Generations” of Human Rights and the Right to Benefit from the Common Heritage of Mankind with Reference to Extraterrestrial Realms. *Law and Politics in Africa, Asia and Latin America*, 25(2):161-198.
- Zimbabwe 2016 International Religious Freedom Report*. 2016 [Online]. Available: <https://www.state.gov/documents/organization/268956.pdf> [2018, August 27].
- Zimbabwe National Statistics Agency. 2016. *Facts and Figures*. [Online]: Available: [http://www.zimstat.co.zw/sites/default/files/img/publications/Fact\\_Figures%20\\_2016.pdf](http://www.zimstat.co.zw/sites/default/files/img/publications/Fact_Figures%20_2016.pdf) [2018, June 12].
- Zimbabwe Youth Council. 2014. *Harmful Cultural and Social Practices Affecting Children: Our Collective Responsibility*. [Online]. Available: [http://www.unicef.org/zimbabwe/Report\\_on\\_Harmful\\_Social\\_and\\_Cultural\\_Practices.pdf](http://www.unicef.org/zimbabwe/Report_on_Harmful_Social_and_Cultural_Practices.pdf) [2016, September 28].
- Zimstat. 2014. *2014 Labour Force Survey*. [Online]. Available: [http://www.zimstat.co.zw/sites/default/files/img/Labour\\_2014.pdf](http://www.zimstat.co.zw/sites/default/files/img/Labour_2014.pdf) [2018, July 6].

**APPENDICES****Appendix 1 Questionnaire**

1)How old are you? (tick the applicable box)	
18-24	
25-34	
35-49	
50 plus	
2)Sex: (tick the applicable box)	
Female	
Male	
3)Are you: (tick the applicable box)	
Employed	
Unemployment	
4) If unemployed, how long have you been unemployed for: (tick the applicable box)	
6 months	
1 year	
2 years	
3 years +	
5)What is your highest level of education? (tick the applicable box)	
No formal Schooling	
Information Schooling only	
Primary School	
Secondary School/High	
School completed	
Post-Secondary	
Qualifications: University	
College, Polytech	
Don't know	
6)How much do you earn per month (tick the applicable box)	
US\$ 50 plus	
US\$ 100 – 300	
US\$ 300 – 500	
US\$ 400 – 600	
US\$ 600 plus	
7)What would you say your economic class is currently: (tick the applicable box)	
Poor	
Lower class	
Middle Class	
Upper Class	
8)Are you currently: (tick the applicable box)	
Married	
Living together	
Separated	
Divorced	
Widowed	

Single	
Don't know/refused to answer	
9)How old were you when you got married? (Fill the box)	
10)How many children do you have OR have you had any children? ( <i>tick the applicable box</i> )	
No children	
One child	
Two Children	
Three Children	
Four Children	
Five Children plus	

**Religion**

1) Apart from weddings and funerals, about how often do you attend religious services these days? (tick the applicable box)	
More than once a week	<input type="checkbox"/>
Once a week	<input type="checkbox"/>
Once a month	<input type="checkbox"/>
Only on special holidays	<input type="checkbox"/>
Once a year	<input type="checkbox"/>
Less often	<input type="checkbox"/>
Never, practically never	<input type="checkbox"/>
Refused to answer	<input type="checkbox"/>
2) Independently of whether you attend religious services or not, would you say you are? (tick the applicable box)	
A religious person	<input type="checkbox"/>
Agnostic	<input type="checkbox"/>
An atheist	<input type="checkbox"/>
Refused to answer	<input type="checkbox"/>
Do you belong to a religious denomination? If yes, which one? (write the church you go to)	
Don't know/refused to answer	<input type="checkbox"/>

**Culture**

1)How important is culture to you? (that is the following of customs and traditions such as lobola etc) ( <i>tick the applicable box</i> )					
Very important					<input type="checkbox"/>
Important					<input type="checkbox"/>
Not so important					<input type="checkbox"/>
Not important at all					<input type="checkbox"/>
2)What are the most important aspects of culture? ( <i>tick the applicable box</i> )					
	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
It gives common morals and values to be followed	<input type="checkbox"/>				
It brings people together	<input type="checkbox"/>				
It gives specific roles to men and women in private (home)and the public sphere (workforce)	<input type="checkbox"/>				
Does not protect men, women, and children	<input type="checkbox"/>				
Gives a sense of identity and belonging	<input type="checkbox"/>				
Traditional leaders know best about culture	<input type="checkbox"/>				
I trust traditional leaders more than the government	<input type="checkbox"/>				
3)If a member of the family or community were to choose to not follow the customs and traditions. How would your family/community deal with the person? ( <i>tick the applicable box</i> )					
	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
Give them a warning (privately or among elders)	<input type="checkbox"/>				
Exclude them from the family indefinitely	<input type="checkbox"/>				
Allow them to choose how they want to live their lives	<input type="checkbox"/>				

**Law and Human Rights**

1)Do you know what common law is? ( <i>tick the applicable box</i> )		
Yes		
No		
a)If yes, explain		
2)Do you know what customary law is? ( <i>tick the applicable box</i> )		
Yes		
No		
a)If yes, explain		
3)Which one do you fall under/live according to? ( <i>tick the applicable box</i> )		
Customary law		
Common law		
Don't Know		
4)Have you heard of: ( <i>tick the applicable box</i> )		
	No	Yes
The Convention on the Elimination of Discrimination against Women ( <b>CEDAW</b> )		
Protocol to the African Charter on Human and People's Right on the Rights of Women in Africa ( <b>Maputo protocol</b> )		
The Convention on the Rights of Children ( <b>CRC</b> )		
The African Charter on the Rights and Welfare of the Child ( <b>ACWRC</b> )		
5) Do you know what human rights are? ( <i>tick the applicable box</i> )		
Yes		
No		
a)If yes, explain		
6)If yes, where did you find out about Human Rights ( <i>tick the applicable boxes</i> )		
School		
Radio		
Television		
Newspaper		
Magazine		
Parents/relatives		
Pamphlets/NGOs/Government		

Not applicable	
7)How important are human rights to you? ( <i>tick the applicable box</i> )	
Very Important	
Important	
Not so important	
Not Important at all	
Don't know/refused to answer	
8)Would you say culture is more important than human rights?	
Strongly Agree	
Agree	
Disagree	
Strongly Disagree	
Don't Know/refused to answer	
9)Is human rights a western concept?	
Strongly Agree	
Agree	
Disagree	
Strongly Disagree	
Don't Know/refused to answer	

**Gender Equality**

Home:-

Please tick in the boxes whether you strongly agree, agree, disagree, strongly disagree, don't know.					
	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
Women can be the breadwinners of their families					
Men and women should share the responsibilities of the household i.e. cooking, cleaning, and looking after children, wife and extended family					
Women's main responsibility is to give birth to children to carry on the family name					
Women's responsibility is to take care of the household i.e. cooking and cleaning					

Work:-

Please tick in the boxes whether you strongly agree, agree, disagree, strongly disagree, don't know.					
	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
Women should not be allowed to work					
Women should not be allowed to pursue a career/occupation					
Women should work part-time only					
Men should be the only providers of the family					

Education:-

Please tick in the boxes whether you strongly agree, agree, disagree, strongly disagree, don't know.					
	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
Women/girls should be allowed to go to school					
If money is scarce, girls rather than boys should get an education					
Boys should be allowed to go to school and not girls					

Boys and girls should have equal access to education					
Men and women should both be allowed to further their education					

## Appendix 2 Interview Questions

### South Africa - Virginity Testing

1. As a girl/boy growing up, what were you told about virginity testing?
  - a. Who told you about virginity testing?
  - b. What did they tell you about virginity testing?
  - c. How old were you at the time you were told about virginity testing?
2. Now that you are older what is your understanding of virginity testing?
3. What are your views regarding the practice of virginity testing in your community?
4. What were you told are some of the reasons for practising virginity testing in your community?
  - a. What is your personal understanding of the reasons for the practice of virginity testing?
5. What can you tell me about your decision to participate/not participate in the practice?
6. Were you forced to participate in virginity testing?
7. Would you say virginity testing is a good/bad practice? And why?
8. What would influence your decision to participate/not participate in virginity testing?
9. The practice of virginity testing involves publicly announcing virginity status of participants – what do you think about this?
10. Would you encourage anyone to participate in the practice? Why?
11. Let's assume you are for virginity testing, what would you suggest to improve the way virginity testing is done in your village?
12. Let's assume you are against virginity testing, give reasons why you think the practice should be stopped?
13. Do you think virginity testing in accordance with human rights? Why?
14. If you were in government what would you change about the current law on virginity testing?
15. Should it only apply to girls above the age of 16?
16. Should girls give consent to participate?
17. Do you see this as harmful to the girls who are being tested? Why?/Why not?

## South Africa - Ukuthwala

1. As a girl/boy growing up, what were you told about ukuthwala?
  - a. Who told you about ukuthwala?
  - b. What did they tell you about ukuthwala?
  - c. How old were you at the time you were told about ukuthwala?
2. Now that you are older what is your understanding of ukuthwala?
3. What are your views regarding the practice of ukuthwala in your community?
4. What were you told are some of the reasons for practising ukuthwala in your community?
  - a. What is your personal understanding of the reasons for the practice of ukuthwala?
5. Have you participated in this custom?
  - a. If yes, why?
  - b. What is your choice?
6. Would you say ukuthwala is a good/bad practice? And why?
7. What would influence your decision to participate/not participate in ukuthwala?
8. Would you encourage anyone to participate in the practice? Why?
9. Let's assume you are for ukuthwala, what would you suggest to improve the way ukuthwala is done in your village?
10. Let's assume you are against ukuthwala, give reasons why you think the practice should be stopped?
11. Do you think ukuthwala is in accordance with human rights? Why?
12. If you were in government what would you change about the current law on ukuthwala?
13. Would it only apply to girls above the age of 18?
14. Should girls give consent to participate?
15. Do you see this as a harmful cultural practice? Why?/Why not
16. We should do away with Ukuthwala? Why/Why not?

## **Zimbabwe - Early Child Marriage**

1. Who would you consider a child?
2. If a girl or boy reaches puberty are they eligible to be married? Why?/Why not?
3. Do you agree/disagree that one can only get married when they are at the age of 18 and above?
4. In terms of marriage, is a girl able to choose whom she wants to be married to?
5. If a girl's parents choose a spouse for her, is she able to refuse to be married to the man chosen for her? Why?/Why not?
6. If you enter into marriage and are not happy with the union (due to abuse (psychological, physical, emotional to mention a few) are you able to leave/end the marriage?
7. How open are you to express your opinions and feelings in a marriage to your husband, if you are treated badly or abused?
8. If in a marriage where a girl is abused, can she report it to higher authorities such as the police?
9. If you have a daughter would you let her marry young? Why/Why not?
10. Is there marital rape in the context of child marriages?
11. Do you think child marriages are in accordance with human rights?
12. Do you think traditional leaders should make decisions about customs?

## Zimbabwe - Lobola

1. As a girl/boy growing up, what were you told about lobola?
  - a. Who told you about lobola?
  - b. What did they tell you about lobola?
  - c. How old were you at the time you were told about lobola?
2. Now that you are older what is your understanding of lobola?
3. What are your views regarding the practice of lobola in your community?
4. What were you told are some of the reasons for lobola in marriage?
  - a. What is your personal understanding of the reasons for the practice of lobola?
5. What can you tell me about your decision to participate/not participate in the practice?
6. Would you say lobola is a good/bad practice? And why?/Why not?
7. Do you see this as a harmful cultural practice? Why?/Why not?
8. What would influence your decision to participate/not participate in lobola?
9. What are the benefits of lobola?
10. What are the negative effects of lobola?
11. Do you see it as a way to unite two families?
12. Do you see it as a way of making money for the parents of the girl?
13. Let's assume you are against lobola, give reasons why you think the practice should be stopped?
14. Do you think lobola is like paying for a wife?
15. Do you think lobola is in accordance with human rights? Why?
16. Do you see any unfair treatment against men or women in the practice of lobola?