

UNIVERSITY OF ZIMBABWE



***SHONA SOCIETY IN ZIMBABWE IS SANCTIONING THE SEXUAL ABUSE OF
WOMEN AND GIRLS THROUGH THE PRACTICE OF *CHIRAMU****

By

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Abstract

Chiramu is a *Shona* cultural practice that entails the breaking down of barriers between in-laws of the opposite sex. That is, they are ‘allowed’ through this practice to talk and joke about any subject under the sun with the older male in-laws giving advice to the younger female in-laws on men and their own relationships with men. Through this relationship, the younger in-law is taught how to look after her future husband – he coaches her on the best way to cook, clean and treat him in general. However, the practice has over the years worked towards opening up the younger in-law to sexual abuse brought about by the breaking down of the boundaries and allowing unfettered ‘access’ for the older male in-law (*babamukuru*). My research has confirmed my assumptions that the lines of relationships have been blurred deliberately by unscrupulous older male in-laws, making it easier and ‘permissible’ for him to touch, fondle and even have sexual intercourse with the younger in-law all in the name of ‘playing *chiramu*’. From my desk research, it was evident that this phenomenon has not been researched as a single practice but merely included in passing under ‘harmful cultural practices’. However from my own observation and personal knowledge as a *Shona* woman and regrettably as an unwitting promoter of this practice I realised that there was a lot more beneath the surface that needed to be unearthed through grounded research and the Women’s Law Approach enabled me to carry this out. I was able to use this and a number of Feminist Theories to better understand how and why this practice is widespread among the *Shona* people of Zimbabwe and also by applying the Actors and Structures approach, was able to understand the deep rootedness of the practice. My findings pointed to the entrenchment of a practice that is couched under the mysticism of culture and therefore made ‘untouchable’ and ‘unquestionable’. Further to this, the practice is ‘protected’ by the family wall that perpetually separates the private from the public, making it difficult for law enforcement to apply any influence on perpetrators. Essentially, the cases of sexual abuse emanating from the practice of ‘*chiramu*’ are mainly dealt with within the family confines and therefore the victim of the abuse is subjected to silence and more of the same cultural rites that do not aid her emancipation from her abuser but rather entrenches her ties with him as the verdict normally entails her getting into a polygenous marriage with her older sister or aunt. Through my findings from respondents and the desk study undertaken, I have recommended the eradication through awareness-raising of the harmful practice of ‘*chiramu*’, application of relevant laws and applying the Constitutional provisions that that have outlawed cultural practices that are harmful to women and promote gender equality.

Declaration

I, Chido Olgah Chisango, certify that this dissertation is my original work; it is an honest and true effort of my personal research. I certify that the work has not been presented anywhere else before for any other thesis.

Signed.....

Date.....

This dissertation was submitted for examination with my approval as the University Supervisor

Signed.....

Date.....

Professor Julie Stewart

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Dedication

To my cheerleaders....but much more than that, champions in their own right. Rose, Rumbi and Damian – I know. My sister, Rejoice, you would have been so proud (May Your Dear Sweet Soul Rest in Eternal Peace)

Acknowledgements

My most sincere gratitude goes to the women in Mbare and Waterfalls for their rich knowledge on the subject of ‘chiramu’ so freely and enthusiastically shared.

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I wish through this work to acknowledge my parents Portia and Lawrence Chisango. Mum for her motherliness – unwavering support and lessons through her own deportment on how to find strength within myself to be a woman in my own right and on my own terms, celebrating my womanhood and passing the gift on to my own daughters. My Dad for being the template of the man I would choose. I am grateful to my husband Brain for pushing me to my fullest potential and providing the support I needed to get through the challenges of the Programme.

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Last but by no means least, I thank my colleagues and course-mates in the SEARCWL class of 2018 – we got through it all thanks to knowledge exchanged during discussion groups and in lectures.

List of abbreviations and acronyms

ACRWC	African Charter on the Rights and Welfare of the Child
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
FGD	Focus group discussion
HIV	Human immune virus
NORHED	Norwegian Programme for Capacity Development in Higher Education & Research for Development
SEARCWL	Southern and Eastern Africa Regional Centre for Women's Law
STI	Sexually transmitted infection
UN	United Nations
ZWLA	Zimbabwe Women Lawyers Association

List of international human rights instruments

African Charter on the Rights and Welfare of the Child (ACRWC)

Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

List of legislation

Zimbabwe

Constitution of Zimbabwe Amendment (No. 20) Act, 2013 (the Constitution)

Domestic Violence Act [Chapter 5:16]

List of cases

Mudzuru v. Minister of Justice, 2016

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CHAPTER ONE

1.0 FINDING MEANING

1.1 Introduction – *Chiramu*: Who owns meaning?

Referring to the *Shona* dictionary, '*Duramazwi Guru reChishona*', Nomalanga Mpofu (2003) makes a critical observation about the interconnectedness between language and culture when she points out that at the centre of every language is a culture that it embodies and that the language of *Shona* is no exception. This dictionary presents distinctive aspects of *Shona* culture in which kinship emerges as an integral part of the whole.

'According to Wardhaugh (1998: 226), it is important to remember that when a term is used in a kinship system, it carries with it ideas about how such people [<http://lexikos.journals.ac.za> Cultural Aspects in the *Shona* Monolingual Dictionary *Duramazwi Guru reChiShona*] ought to behave toward others in the society using that system' (Mpofu, 2003).

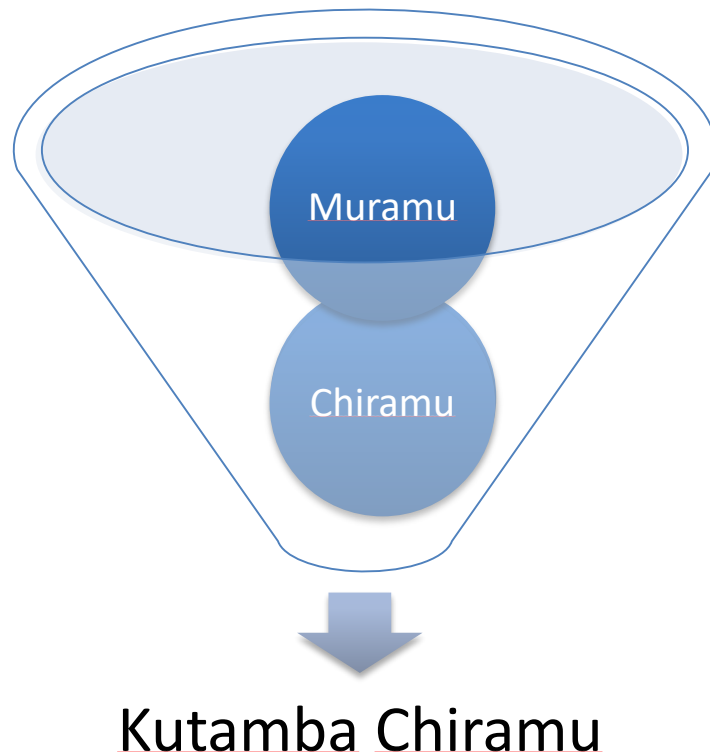
The subject of this research project is '*chiramu*' which is a *Shona* cultural practice that I have depicted diagrammatically in Figure 1 and that is also explained in the *Shona* dictionary (according to Mpofu, quoted below) in relation to larger kinship and familial relationships.

'If a person is your *muramu* (wife's sister, wife's brother's daughter, or husband's younger brother), there is linguistic license whereby you may joke with that person regardless of the context. In *Shona* there is the saying "*Muzukuru mukadzi*" ("Your sister's daughter is your wife") and the proverb "*Muzukuru mudonzvo wepwa, ukanzwa nzara unomenya uchidya*" ("Your sister's daughter is like a sugar-cane walking-stick, if you feel hungry you can peel and eat it, that is, a man can take his sister's daughter as his wife should he so wish"). This saying and proverb show that the relationship existing between a man and his sister's daughter does not restrict them from falling in love with each other' (Mpofu, 2003).

In the relationship defined above, three terms need to be individually explained in order to paint a full picture of the practice of '*chiramu*'. Firstly, the party involved, either as the younger sister-in-law or the older brother-in-law is called '*muramu*'. The practice of joking, horse play and flirting is called '*chiramu*' and the combination of all the above is called '*kutamba chiramu*' in which '*kutamba*' being the operative word which literally means 'playing' or 'play-acting'. This in itself illustrates that the practice was a game intricately

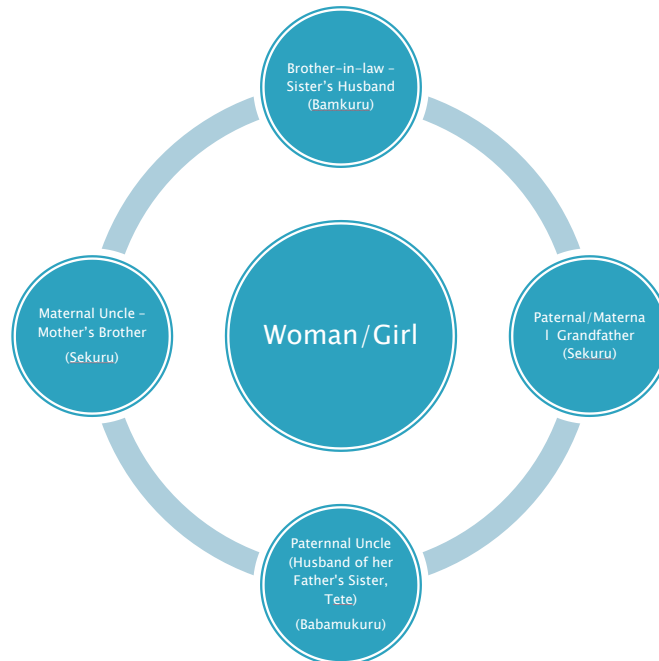
enacted between particular relatives, to be taken no more seriously or intended to go any further than young children innocently ‘playing house’.

Figure 1: Diagrammatic representation of *muramu*, *chiramu* and *kutamba chiramu*



My research unearthed evidence in the form of word and deed which presented a very different and contested meaning of ‘*chiramu*’ to that presented above. Notwithstanding the ‘original’ or ‘true’ meaning of the practice itself, one can easily get lost in the web of what today passes for ‘*kutamba chiramu*’ and entangles a *Shona* girl the minute she enters the world. Culturally, there are numerous men who are ‘entitled’ to her as their ‘wife’. These include her mother’s brother (*sekuru*, maternal uncle), her grandfather (also *sekuru*) and her older sister’s husband (*babamukuru*), who, by virtue of having paid *roora* (bride compensation) for her sister is also entitled to have her as his wife. Figure 2 diagrammatically illustrates these relationships. The message is sent to the little girl from a very young age that she must treat all these males in her life as her husband and therefore by inference they may treat her as a wife. Incidentally, following on from the discussion above on words and their meanings in *Shona*, the literal meaning of the act of making someone your wife ‘*kumuita mukadzi*’ is translated as the act of having sex.

Figure 2: Diagrammatic representation of the relationships between a girl/woman and her male relatives in which *chiramu* may be practised within *Shona* culture



1.2 The ‘original/true’ meaning of *chiramu*

The *Shona* dictionary defines ‘*chiramu*’ as ‘*Kutamba kwevanhu vachitsvinyirana vachisekesana*’, meaning joking, fooling around and horseplay. From the above meaning, there is absolutely nothing about sex or flirting or touching and fondling. One can take this to mean that the original uncorrupted form of ‘*chiramu*’ did not have any sexual connotations or innuendos.

Sekuru Hodzi, quoted in the *Shona* publication, *Kwayedza*, gives an exhaustive description of what ‘*chiramu*’ is and certainly what it is not in the following excerpt:

‘VaHodza vanoti: “Chiramu chakare chakange chiri chiramu chine unhu kwahwo kupinda chamazuva ano. Kwaivapo kufarirana nokusekedzana pakati pemuramu nemuramu, asi pakanga pasina zvokuti paizova nezvinotsamwisa kana kunyadza kufanana nezvavako musanyin’a (mukore) uno.” VaHodza vanoenderera mberi vachiti, “Muramukadzi aigona kuperekedzwa kubva kumusha kwemurume wake nemunin’ina kana mukoma wemurume wake achiendeswa kumusha kwake masango namasango kana mitunhu nemitunhu. Mumwe musu kwaive nerwendo rwairarwa panzira asi vairara vakati uyu rwake uriri, uyu rwake uriri, pasina kuti paizombova nechaitika kufanana nanhasi. Chikonzero ndechokuti vakuru vakanga vakaeresa kwazvo zvokuti pasave nomunhu anochiva mukadzi wehama, iyo hama ichiri

mheny'u. "Vaitamba zvavo chiramu chingafanane nokupota vachinemerana kana pamwe kubatana mawoko vachiita seviri kurima asi kuri kutamba. Izvi zvakanga zvisinai baramhosva nokuti zvainge zvisiko zvinofanana nezvemazuva ano zvokuti mukadzi wemunin'ina kana kuti wemukoma anoitwa naye mabimbiri (vamwe vanoti gwiti). "Mabimbiri aiveko zvawo asi aiiitwa nemunin'ina wemukadzi asati aroorwa, kwete akaroorwa. Vakuru vaiti, 'Charehwa mutupo, chaera.' Izvi zvaireva kuti atovawo hama yenyu kana mukadzi aroorwa nehama. "Muramu aitambwa naye zvinenge zvakati pfiurirei munin'ina wemukadzi wako, kana dzimwe nguva angava muramu mwana wehanzvadzi yemukadzi wako. Ava vaviri, kuti muramu munin'ina wemukadzi wako nemuramu mwana wehanzvadzi yako, ndivo vaitambwa navo vachiitwa navo mabimbiri. "Paishoranwa zvapo pavanhu ivava asi zvainge zviru zvine mutsigo. Mumwe musi paitaurwa zvinonyadzisa asi zvaiperera ipapo chete. Hapana aizonotaura izvi kuvanyarikani . . . Vabereki vavo vakange vasina hany'a nazvo nokuti vaingoti vari kufara zvavo. "

(Shona Registers; Volume 1, 1974)(Kwayeda, 2015)

(Meaning, 'Long ago and in its original context, the practice of *'chiramu'* merely entailed the play-acting relationship between in-laws. The talk was never offensive nor sexual like it is these days. He continues by saying that a female in-law could be accompanied on a long journey that could take days to complete by her older male in-law and they would sleep separately and nothing would happen unlike nowadays. He said that this was because the elders had created boundaries that no-one dared cross and they would be respected by all. The in-law that one could go slightly overboard with is your wife's younger sister or your sister's daughter and even then, there would still be a high level of respectability. You could even talk about sex but this was kept between you and would not be reported to the elders.')

1.2.1 Advisory role

A number of respondents in my research conceded that the real and original meaning of *'chiramu'* stressed on a 'fatherly' and advisory role of the older male in-law, in *Shona* called *babamukuru*. Strictly speaking, the literal translation of the name *bababmukuru* means 'big father'. It does not mean 'husband' but over time has now come to be associated with the term 'husband'. Gwandure (2012) explains the deeper meaning of the term *chiramu*:

'The sister's husband and his brothers are all regarded as the girl's "husbands". She gives them food, washes their clothes, and she respects them as close relatives. The role of the *babamukuru* as a traditional model of a good husband is to instil confidence in the young girl to love herself as beautiful. He teaches her to be a good woman that every man will aspire to marry (Gwandure, 2009). He exaggerates the girl's attractiveness as it is culturally inappropriate for a *babamukuru* or *sekuru* to say that the girl is not attractive. The *babamukuru* teases the girl that if he sees any man near her without his permission he will chase that man away because he is jealous of her. The girl only renounces the status of being a "wife" of the "traditional husbands" when

she gets married and her new husband becomes a “younger brother”, *babamunini* (Gwandure, 2009). As the big brother, *babamukuru*, now takes the new role of advisor to the married couple. The mother’s brother, *sekuru* teaches the girl about marriage and sex. On the other hand, the *babamukuru*’s younger brothers who could be of the same age as the girl are expected to make love proposals to the girl as a way of appreciating her (Allison, 2011).’

This ‘proxy’ husband, according to the above definition, was there to serve as an advisor to the girl and guide her on how to behave with other men. In essence he served to perpetuate the patriarchy embedded in *Shona* society by ‘coaching’ the younger *mainini* (sister-in-law) on the needs and desires of a man preparing her for her own inevitable nuptials. He would do this by teaching her how exactly she should cook, wash and clean for him. She acted as his ‘wife’ while practising to ‘please’ her future husband. The ideology disempowered the woman from a very young age, pushing her towards ‘wifing’ and ‘mothering’ as her main options in life.

Babamukuru was meant to be the one person a young girl could talk to about anything and everything but more importantly the all-important subject of ‘matters of the heart’. A girl could discuss her relationships with ‘*babamukuru*’ and ask questions on any issue under the sun. The relationship was designed in such a way that some topics the girl could not discuss with her sister were reserved for discussion with her older male in-law.

1.2.2 Present meaning – propagated by male in-laws

While a significant number of respondents in this research appeared to have some knowledge of the original meaning of the practice of ‘*chiramu*’ there is universal agreement that this has changed vastly and is now practised in a totally different fashion. The practice appears to have morphed so much that its actual and true definition has now been expressed as follows:

‘Chiramu: In-law: This is a practice in which a brother-in-law can indecently assault his young and unmarried sister-in-law under the guise of culture. This is meant to teach young girls how a man proposes and how to avoid him. The girl would also learn how to look after a husband, as she would be doing it for the brother-in-law. Many girl children have been abused as a result but most of these offences have gone unreported’ (Australian Government, 2010).

A significant number of respondents, notably the younger males, veered towards a similar definition of ‘*chiramu*’ seeming to condone this blatant sexual abuse. Table 1 shows the varying definitions of ‘*chiramu*’ and the range of respondents favouring each definition.

Table 1: Showing meanings of ‘chiramu’ by age and gender

DEFINITIONS OF <i>CHIRAMU</i>	SOURCES
Teaching the young girl how to treat her future partner so she would practice by washing, cooking and cleaning for her older male in-law. Either husband to her older sister (<i>babamukuru</i>) or husband to her father’s sister (her <i>tete</i>) whom she also calls <i>babamukuru</i> or even her mother’s brother (<i>sekuru</i>).	Female 37, Female 20, Male 22, Female 58, Female 60, Female 33, Female 63, Female 65
Verbal joking, dispensing advice, may include flirting and complimenting language	Male 60, Male 30, Female 43, Female 32, Female 43
Touching and fondling of breasts and bottom	Male 40, Male 25, Male 60.

Whilst it is clear that a true and singular meaning of ‘chiramu’ is becoming increasingly elusive, one thing is clear and that is that the present day version of ‘chiramu’ clearly veers towards wanton sexual abuse of women and girls by their older male in-laws. This harmful practice is depicted clearly in the excerpt below from a Newspaper publication:

‘The writer had a heart to heart conversation with a woman who lives in Chikanga and who has been a victim of *chiramu*. In that conversation she described how when she was only fifteen years of age, she moved in with her elder sister and brother-in-law. In no time this woman was raped and impregnated by her sister’s husband under the guise of playing *chiramu*. She further explained how when she confided into her sister and other close relatives what had happened, she was accused of being loose and of having invited the rape on herself through solicitous behaviour. This woman explained how she was sent packing from her sister’s home. It is saddening to observe that the very tradition that allows the men to play the *chiramu* sexual games is the same that condemns the victim girl child of being “too cozy” with one’s sister or aunt’s husband’ (Makombe T. , 2016).

The article clearly emphasises the myriad problems brought about by this ‘so called’ cultural practice which facilitates the wanton preying of older men on young and vulnerable girls. In addition, it emphasises how the girl from the young and vulnerable age of 15 is introduced into this ‘relationship’ and expected to accept and normalise it. The fortunes of the young girl are determined by society and their perception of her. Tragically, their assessment of the woman’s ‘transgressions’ are viewed through a ‘so called’ culture-tinted lens whose definitions and conditions are defined by the males in the society.

1.2.3 Owning meaning

From the preceding discussion, it can be inferred that in a patriarchal society such as the *Shona* society under discussion in this study, the meaning of a simple cultural practice can mean so much more than was originally intended. Mpofu puts this into perspective when she conducted a critique of the *Shona* dictionary. She discusses the intricate relationship between language and culture and how they are inseparable (Mpofu, 2003). However, upon closer inspection of the way society is structured among the *Shona*, the male members are the influencers of communal policies and politics and will ultimately carry the day in terms of attaching meaning to norms, values and practices.

This is not limited to the *Shona* community but can be applied even to the Western ‘developed’ states where it has recently come to light that one in every six women has been the victim of an attempted or complete rape in their lifetime (<https://www.rainn.org/statistics/victims-sexual-violence>) but have been silent until one woman came forward with sexual harassment charges against Harvey Weinstein, a Hollywood movie producer who appeared to have a stellar career until his fall from grace late last year. The fact that the harassment and abuse spanned across decades and affected so many actresses attests to the fact that women were afraid to speak out because the meaning of ‘rape’, ‘sexual harassment’ and ‘sexual abuse’ is contextualised to fit the circumstances by the perpetrators of these crimes, especially if they are significant influencers in their society.

The most important aspect of the Harvey Weinstein scandal is that it brought the #metoo movement into the spotlight and also saw an avalanche of women come forward to report incidents of sexual abuse, rape and sexual harassment perpetrated by men across various levels of society.

‘In 2006, Tarana Burke founded the #metoo movement to help survivors of sexual violence, particularly young women of color from low wealth communities, find pathways to healing. Using the idea of “empowerment through empathy,” the #metoo movement was ultimately created to ensure survivors know they're not alone in their journey’ (me too movement).

Women are fighting for ownership of meaning of matters directly affecting them and the #metoo movement has developed into the #timesup campaign. Women’s voices are getting out there and creating agency for women in their own fortunes. My engagement with the sexual abuse of women and girls in the name of a cultural practice, ‘*chiramu*’, led me to extrapolate the deeper meaning of the term and its application to women in general and led me to formulate the research assumptions below.

1.3 Research assumptions

1. Men have twisted the meaning and purpose of *chiramu* to sanction sexual abuse of girls.
2. Society turns a blind eye to the sexual harassment of girls in the name of culture.
3. Many rapes and the sexual abuse of girls which are perpetrated by their in-laws goes unreported.
4. Most girls who fall pregnant early have done so as a result of rape and sexual abuse by their in-laws.
5. Some of the girls are forced into early and polygenous marriages as a result of *chiramu*.
6. When reported, the police treat sexual abuse as a domestic issue and encourage ‘out of court’ settlements (*kuripa*).

1.4 Research questions

1. Have men have twisted the meaning and purpose of *chiramu* to sanction sexual abuse of girls?

2. Does society turn a blind eye to the sexual harassment of girls in the name of culture?
3. Do many rapes and the sexual abuse of girls which are perpetrated by their in-laws go unreported?
4. Is it the case most girls who fall pregnant early have done so as a result of rape and sexual abuse by their in-laws?
5. Are some girls forced into early and polygenous marriages as a result of *chiramu*?
6. Is it the case that when reported, the police treat sexual abuse as a domestic issue and encourage 'out of court' settlements (*kuripa*)?

1.5 Limitation of study

The study was limited to the practice of '*chiramu*' as a harmful cultural practice. It did not delve into other similarly harmful cultural practices. It was also limited in that the practice appears to be prevalent mainly among *Shona*-speaking Zimbabweans. The study was also limited to studying the practice in as far as it is harmful and abusive and not how it may be constructive. I limited the sample to Mbare and Waterfalls (both suburbs in Harare) due to financial constraints and the limited time allocated to carry out the research.

1.6 Research problem

The practice of *chiramu* is used by older male in-laws to facilitate their sexual abuse of younger female in-laws all in the guise of culture. The custom is prevalent among the *Shona* people of Zimbabwe and is not just limited to the strict definition that it is a practice between brothers-in-law and their younger sisters-in-law but also extends to grandfathers and grandchildren and maternal uncles and their nieces.¹ These young girls are mostly teenagers ranging from anything between 14 to 18 years of age.

1.7 Significance of study

The importance of this study was to raise awareness and provide a deeper understanding of the practice of *chiramu* so that society can be awakened to its harmful effects. The aim of the

¹ The nieces call the maternal uncles 'sekuru' in the same way they refer to their grandfathers and there is a common *Shona* saying that goes 'muzukuru mukadzi' meaning a granddaughter/niece is as also a wife.

study is to encourage the effective application of the criminal law against perpetrators, including getting cases reported to the police. The reason for this is that while the practice is rife, most cases go unreported allowing perpetrators to escape accountability according to the criminal justice system.

1.8 Structure of this study

The report starts with an introduction that puts the meaning of '*chiramu*' into context. It explains the dictionary meaning of the word and also the cultural practice as it is understood by the *Shona* who practise it. Within the definition of the practice of '*chiramu*' also lies the meaning of the word '*muramu*' and the act of '*kutamba chiramu*' which are all defined in the first chapter. The chapter also discussed the changing meaning of the term and how it is defined differently by the different players involved. The chapter further states the research objective, research problem, the research assumptions and research questions significance of the study.

Chapter 2 situates the study within its theoretical framework and also discusses the methodological framework applied to undertake the study. Chapter 3 discusses the results of the literature review which is a desk study of the subject under study which is the sanctioning of the sexual abuse of women and particularly young girls through the cultural practice of '*chiramu*'. The gap in the literature is identified and it is clarified how this research will address that gap.

Chapter 4 discusses data collection methods used in the study, while chapter 5 presents the data collected in the field and offers an analysis of the data. Lastly chapter 6 presents the conclusions arrived at by the study after the analysis of the research findings. It also offers recommendations from the study.

CHAPTER TWO

2.0 THEORETICAL AND METHODOLOGICAL FRAMEWORK

2.1 Introduction

The study employed feminist theories and methodologies in order to carry out the research on the practice of '*chiramu*' which affects women directly. I wanted to view the effects and causes of the practice through a feminist lens and particularly frame it within the lived realities of the women in question. This chapter discusses the theories that are directly related to this practice which I used for my understanding of the phenomenon and also the research methods I employed.

2.1.1 African feminism

The *Shona* cultural practice of *chiramu* which directly affects women and girls now clashes violently with current human rights provisions. It is important to examine how legal pluralism affects how the effects of perpetuation of this practice are dealt with in the family realm. The practice may not have been problematic for those who were practising it before Eurocentric influences came into play. In other words, women probably always had misgivings about the practice but due to lack of knowledge of any recourse available, did not do anything about it. Before the European influence on life in Zimbabwe, families lived in a communal setting with a clear separation of space between girls and boys. The opportunity to abuse a wife's younger sister then was extremely limited, unlike today's living conditions which tend to promote the abuse as women and girls live in much closer proximity to their '*babamukuru*' – brother-in-law.

2.1.2 Dominance theory

This theory is relevant to this study in that the practice of *chiramu* is affected by power relations and the inequality between men and women places women in a vulnerable position. The practice of '*chiramu*' is closely related to issues of power within the family. In the *Shona* context, the '*mukwasha*' (son-in-law) wields enormous power as he in most cases immediately becomes the main breadwinner for his own immediate family and his in-laws once he has paid '*roora*' (bride compensation). In addition to the traditional view of his being '*baba*' (father of his immediate family), the material aspect (his providing) adds weight to the influence that he wields both with his wife and her immediate family (her parents and

siblings included). Hence any accusation of wrong doing on his part – particularly something that threatens to send him to prison and take away his ability to provide for his family and that of his in-laws - is not taken lightly by the family. This leaves the victim of the act of '*chiramu*', the young girl isolated and under pressure to rescind and make the situation better by agreeing to marry the man and extend his benevolence even further for the family. There is already a lot of pressure on the younger sister to find the next 'provider' for the family and that the least she can do is support her older sister's marriage instead of behaving in a way that will negatively affect the family's fortunes – that is the perception presented by the family.

2.2 Methodology

2.2.1 Women's law approach

This approach emphasises understanding legal provisions through how they affect women and their realities. The approach takes into consideration that the law is not neutral and affects men and women differently. Women are taken as a starting point in this approach and also with the study which is looking into the harmful cultural practice of *chiramu* and how this affects the lives of women and girls. Legal provisions and feminist theories are studied and compared to the understanding of social practices and norms and how these all intersect to affect the lives of women. Knowledge from empirical evidence is also incorporated into the analysis in order to come up with a holistic picture on the factors acting on and affecting how women engage with their lived realities and how this is affected or in some cases aided by the law (Bentzon, 1998).

It will be shown by my findings that legal pluralism plays a significant part in how a case of '*chiramu*' gone wrong is dealt within the family. Due to the fact that '*chiramu*' is considered a cultural practice, the family members involved prefer to deal with any problems arising in connexion with it in a customary fashion. In most of the cases revealed in this study, the issue does not even reach a customary court, but is dealt with within the family where the ultimate solution is for the man to pay compensation and marry the defiled girl as a second wife. According to (Makombe R. , 2015), it is a common belief among the *Shona* that if a man has sex with a woman it means he has made her his wife and therefore the same is applied to the '*chiramu*' scenario whereby sleeping with his young sister in-law, the man has not really committed rape but has merely expressed an interest to marry the woman.

2.2.2 Grounded theory

The assumptions were formulated using the grounded theory approach which is developed in much the same way that the dung beetle operates. Assumptions were made and taken into the field during data collection, where they elicited further questions. At this point, the assumptions were brought back to the ‘drawing board’ and further revised or even changed in order to respond to the questions stimulated by the initial assumptions which may or may not have been confirmed by the data collected or the evidence on the ground. For instance, one of my main assumptions was that the police treat family-based offences differently from other offences but my respondents seemed to concur that the police in Zimbabwe are generally corrupt and treat any case according to the levels of bribery involved. So I had to go back and re-formulate my assumption mentally, bearing in mind that there was general widespread corruption in the respondents’ experience.

Grounded theory is premised on the iterative process which links data that the researcher has collected from the field with different factors acting on the woman and the world in which she lives. This data is a reflection of lived realities and perception of norms and ultimately how all these interact to impact on the women in question. This method of research was employed in my study successfully as I was able to apply various feminist theories as I went out into the field to speak to women on the subject of ‘*chiramu*’ which is a largely accepted social norm. Upon interrogation, it was interesting to see how women co-existed with the practice of ‘*chiramu*’ and up to this point accepted it. After our engagement, my respondents began a new process of introspection and this brought about new and various other levels of awareness, particularly when I asked respondents to define the term ‘sexual abuse’ and after they did, asked them if from what they knew about ‘*chiramu*’ and the way it was playing out in their communities they could form a link between the two concepts. The reaction was largely one of incredulity where the obvious link had not been previously made but when it was prompted, actually proved to be solid and real (Bentzon, 1998).

2.2.3 Human rights approach

This is an analysis of human rights provisions, internationally, regionally and nationally and how these are holding up in Zimbabwe in relation to how women are faring under the practice of ‘*chiramu*.’ The following is a list of the provisions that speak to the practice:

2.2.3.1 Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

Article 2 of Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) urges all State Parties to ‘Take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women’. With regard to the practice of ‘*chiramu*’, this provision must be rigorously applied because the family space is largely private and the law does not commonly enter into that realm and enforce legal provisions. However, CEDAW compels law enforcement bodies of any state that is signatory to the Convention to firstly put in place legislation that will abolish any practice perpetuating the discrimination of women, which is clearly one of the consequences of ‘*chiramu*’.

2.2.3.2 African Charter on the Rights and Welfare of the Child (ACRWC)

‘States Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child’ (Article 21).

As clearly stated above, the African Charter on the Rights and Welfare of the Child (ACRWC or the African Charter) also advocates the outlawing of outdated and discriminatory cultural norms. One of the effects of ‘*chiramu*’ is that it curtails the normal social development of a girl who is a victim of the practice as evidence indicates that she may end up getting pregnant and dropping out of school. Her normal growth and development as a child is interrupted because she will not be able to continue with her education and is in most cases forced into a polygenous union with her older male in-law which includes her older female relative.

2.2.3.3 Constitution of Zimbabwe Amendment (No. 20) Act, 2013 (the Constitution)

Section 80 of the Constitution of Zimbabwe Amendment (No. 20) Act, 2013 (the Constitution) abolishes the application of harmful social practices. The Constitution states that among Zimbabwe's founding values and principles are gender equality (section 3(1)(g)) and good governance which include respect for women's rights (section 3(2)).

The Constitution has been hailed as being extremely progressive with regard to women's rights and as expressed above is anchored on the principles of gender equality and respect for women's rights. This point was useful to me in my analysis of findings as it points clearly to

the practice of '*chiramu*' as violating the supreme law of the land due to the unequal basis on which the practice is premised. The average victim of '*chiramu*' is much younger than the perpetrator and this already brings into play the element of inequality. In addition, the practice is perpetrated by men and is favoured by men as they use it to deliberately abuse their younger in-laws and this reveals aspects of gender equality.

The country's national objectives include that the State must take measures for the prevention of domestic violence (section 25(b)) and ensure that no marriage is entered into without the consent of both parties, equality of rights and duties of spouses during the marriage. The practice of '*chiramu*' constitutes domestic violence as it is visited upon younger female in-laws who have come to live with their older sisters or aunts and are preyed upon by their older male in-laws. Inevitably, once the younger woman has been raped or becomes pregnant the family is quick to facilitate an 'out of court' settlement that includes '*kuripa*' (compensation) and the only resolution in these negotiations is the marriage of the girl to the older in-law in order to avert any court action against him. The girl is married without her consent in clear violation of national objectives and section 78 of the Zimbabwe Constitution.

Chapter 12 of the Constitution pertains to the establishment of Independent Commissions supporting democracy. This includes the establishment of a Gender Commission whose functions include monitoring, investigating, researching, advising on gender issues as well as receiving complaints concerning such issues. This action by government is significant in that they are putting in place measures to abolish the harmful cultural practices affecting women and therefore must be commended for their efforts.

2.2.4 *Actors structures and norms analysis*

At the heart of the analysis of my research lies the issue of legal pluralism and it has a great effect on how *Shona* society is complicit in the sexual abuse of its women and girls in the name of culture. As depicted in Figure 2 (above), the woman or girl must contend with the multiple relationships with those around her, who include the perpetrator of the violation, her own female relative who in most cases is married to the perpetrator, her parents and other male or female relatives who are in the family (Bentzon *et al.*, 1998).

There is a comment on a story that was carried by the Herald, nation's leading state newspaper, on virginity testing and *chiramu* among other harmful cultural practices. The

writer said that the article had prompted him to speak about an incident in his own family that had been a clear example of sexual abuse of women and girls. He describes how his younger sister was taken to live with his older sister and her husband and when her older sister was away on business trips to South Africa her husband systematically and continuously raped her, his '*maininni*' (younger sister-in-law). This persisted for a while during which the victim remained silent about the abuse. She eventually had intercourse with her boyfriend and became pregnant. After failing to persuade her boyfriend to take responsibility and marry her, he refused and went around telling all and sundry in the village that he was not going to take responsibility for the pregnancy as he had found she was not a virgin. And upon being questioned by her mother, the girl finally spoke about the rapes by her '*babamukuru*' – older brother-in-law (The Herald, 2010).

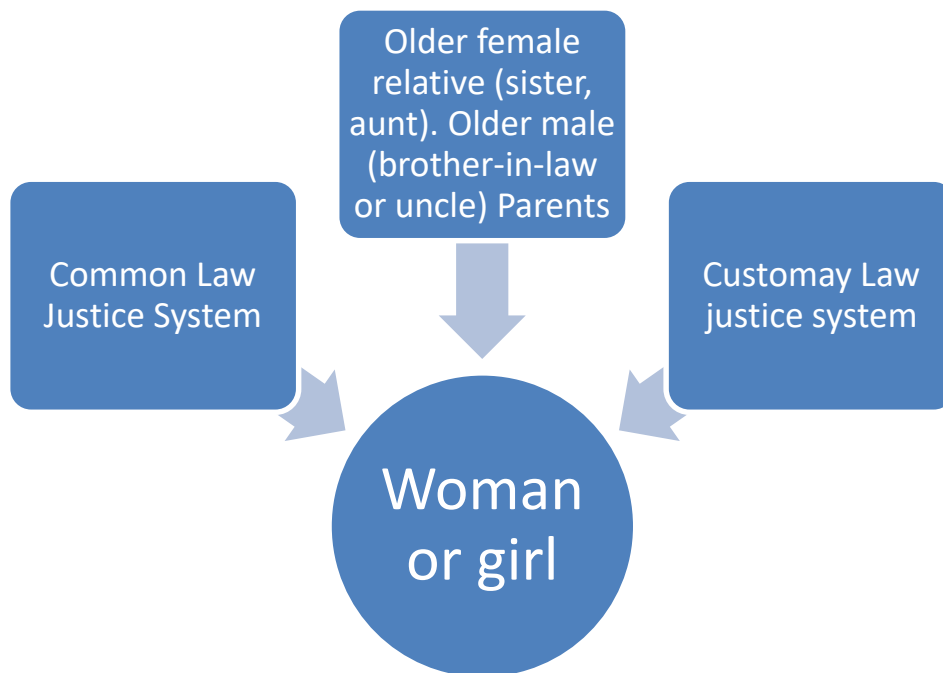
This clearly marks the role of actors and structures in the quagmire created by the kinship and other relationships that can affect a woman. Eventually, according to this writer, a family court was convened and a 'token' amount of '*kuripa*' (compensation) was paid to her parents but the case was not reported to the police and the young girl never received any form of remedy for the wrong she suffered. In fact the writer concluded by stating how now that the child has been born, the '*babamukuru*' – older brother-in-law even 'claims' ownership of the offspring. He is blatantly and arrogantly admitting to the crime without taking responsibility for his actions.

In addition, a visit to ZWLA (Zimbabwe Women Lawyer's Association) revealed that although a number of the violations of young women or girls eventually made it as cases through the criminal justice system, most, if not all, were withdrawn before prosecution. I was furnished with withdrawal affidavits filed by two complainants who had been victims of rape by '*varamu*' (older male in-laws). In both cases we see the actors and structures in play as the girls were living with their older sisters and maternal uncle, respectively. Both were raped and reported the rape and one of the girls fell pregnant. In her affidavit she cites the fact that she was told by her aunt that if she pursues the charge of rape against her uncle, she would receive no assistance for the child and if she agrees to withdraw her aunt would take care of the child and she herself would be helped to return to school (Appendices 2 and 3).

2.2.5 Effects of legal pluralism

As shown in Figure 3, faced with more than one alternative, the girl who is a victim of 'chiramu' is conflicted as to from whom she should seek help after she has been violated. She has numerous pressures acting on her from different directions and sadly the ones most accessible to her are those most bent on further oppressing her. On the one hand, the family will strongly discourage any formal reporting of the matter and rather opt for in-family 'social' justice which may include compensation ('kuripa') to her father or even just marriage to the perpetrator in which even she becomes the younger or sister wife to her older sister or aunt. Alternatively, the girl may be subjected to a 'customary law court' which may also call for compensation for her parents. These methods of resolution are in direct conflict with the common law (which is part of general law) as administered by the formal law courts which will insist on reviewing the matter within the legal provisions which include the Constitution, the Criminal Code and other human rights instruments. Commonly, the case is only dealt with according to the first two options described.

Figure 3: Diagrammatic representation of the effects of legal pluralism on a girl or woman victim of *chiramu*



CHAPTER THREE

3.0 LITERATURE REVIEW

3.1 Introduction

This chapter studies the phenomenon of '*chiramu*' in as far as it has been interrogated by other authorities and scholars. It also looks at how the literature addresses the research problem on which the present study is premised.

3.2 Culture and law

The Research and Advocacy Unit in a report quoted by Asylum Research Consultancy (2014) points to the interplay between societal perceptions of women's sexuality which affects the prevalence of sexual violence and ultimately how the law engages with these violations through the women:

'Violence against women and children is a common phenomenon in Zimbabwe. It occurs, both in the private and public spheres, catalysed by a number of factors that stem from the way in which society is structured. These factors include culture, tradition, religion, politics, and the economy. These factors contribute to shaping societal perceptions of why violence against women occurs, how society perceives the victim and the perpetrator, and how society responds to address cases of violence against women. Amidst all the other forms of violence against women such as wife battering and ritual killings, rape and other forms of sexual violence are becoming increasing social ills in Zimbabwean society' (Asylum Research Consultancy, 2015).

Zimbabwe is clearly not alone in propagating cultural practices that are harmful to young girls and may even violate their human rights. Kaufman (Kaufman M, 2014) elaborates the effect of cultural norms on a girl's life as she writes about a research trip to Malawi where she observed that one of the most common ways for young girls to end up in polygenous unions is through the practice of attaining 'bonus wives' in a practice quite akin to '*chiramu*'. In this case, the bonus wife is taken from the wife's younger sisters in order to retain the wealth of the son-in-law within the family. She describes the practice thus:

'In Malawi, sometimes a man acquires a 'bonus wife' when the first wife convinces her sister to join the marriage. She does this so the man does not marry another woman outside the family — so that his wealth can be kept in the first wife's family rather than sharing it with an unknown woman. Or the first wife may want to bring her sister or niece into the relationship in case the

husband dies so that the first wife is not left alone. The aunts or parents may also encourage the practice if the man has a lot of resources or if they want to thank their son-in-law for being so generous with their first daughter. The reasons for a family to offer a bonus wife are largely driven by economics — it is expensive to care for many daughters, so finding a wealthy man who can take on more than one is a ‘bonus’ for the family as well. But sometimes the husband himself initiates the process of taking on a bonus wife, especially if he lusts after her. In some areas in the southern part of Malawi, the man will prepare a basket of maize flour and one chicken (gifts that will ensure the family has key ingredients for many meals in the future). He then has his current wife take the basket to her parents to ask for the sister’s hand in marriage. If the parents accept, the man goes through the formal process of paying the bride price to her family before the younger sister joins the union’ (Kaufman M, 2014).

The girl in question is normally young and in her teens and thus loses out on any further education opportunities, is forced to give birth prematurely and has not consented to the union in clear violation of a number of human rights instruments. Machingura (2012) also concurs with Kaufman on how a girl’s human rights are easily violated in the name of culture:

‘Some of these practices include polygamy, spousal inheritance, *ngozi* (i.e., the traditional belief and practice of appeasing avenging spirits), *chiramu* or *sibale* (a mock marriage cultural practice where a young sister-in-law can be fondled in a practice that can lead to sexual intercourse)’ (Machingura, 2012).

Under Zimbabwean legal pluralism, the general law resides side by side with customary law and therefore can apply the customary law to adjudicate in a case that is clearly criminal, e.g., a ‘*babamukuru*’ (brother-in-law) having forced sex against his younger female in-law. Kanchese (2007) adds to the assertion by explaining the harmful effects of the culture of ‘*chiramu*’ on the young girl’s reproductive health:

‘*Chiramu* consists of a collection of privileges typically given to uncles and brothers-in-law. These allow them to fondle and even engage in sexual activity with younger girls in the family.’

Chipananga further defines ‘*chiramu*’ as a harmful cultural practice, confirming Kanchese’s view above:

‘The system of ‘*chiramu*’ is when a man is allowed to refer to his wife’s young sisters or female cousins and nieces as his wives and it also includes a

number of wife role-playing to the husband which is seen as a way to make the females to feel welcome at their female relative's home. Traditionally, a typical sister's or aunt's husband would call the girl 'my wife' and jokes about her owning everything in the house including the property, himself and the children. Nowadays, many men are abusing this traditional practice by using both forced and consensual sexual relations with their "wives", young female relatives. In Seke District when an incident like this happens, the men mostly offer to marry the adolescent girl and in this area they mostly accept since their culture supports and embraces 'chiramu' and polygamy.'

Since 'chiramu' culture plays a significant role in the sanctioning of the sexual abuse against women and girls, it remains critical that the law engages with this issue in a way that protects the young women from these social ills. Currently there is dissonance within the legal provisions on the age of consent as vividly portrayed by Dube's report;

'For as long as society believes that a child who is a teenager can consent to sex, ignoring that whatever consent may be given is not full, well informed and well-reasoned consent, then we shall continue to have low reportage of statutory rape and high cases of victims of such rape marrying their rapists. In the responses to the survey question, it was clear that there is considerable confusion about who is a 'minor.' The law has not helped to clarify this either as there is contradictions within the law. Under the Legal Age of Majority Act a minor is defined as a person under the age of 18 years. In the Children's Act, 41a child is described as a person under the age of sixteen years' (Dube, 2013).

The practice of 'chiramu' is rife among younger girls living with their older sisters or aunts. They are of school going age and are normally under the age of 18. It poses a serious problem that the definition of a child is not clarified in our statutes and therefore makes it difficult to bring perpetrators to book. In addition, it also becomes problematic when a case of forced sexual relations comes up and the perpetrator claims that it was an agreed affair. In the landmark ruling in the now famous *Mudzuru v. Minister of Justice* (2016) case:

'The Court decided that the Constitution sets the minimum age of marriage in Zimbabwe at 18 and that any other law, custom or practice which allows marriage of parties below that age is unconstitutional and invalid as of the date of the judgment' (*Mudzuru v. Minister of Justice*, 2016).

While banning child marriage, the judgment also finally determined that the age of marriage in Zimbabwe is 18 years of age.

3.3 Power relations

Men generally have a sense of entitlement when it comes to women, their bodies and their sexuality. This has also led to an increase in the number of rapes committed in the guise of culture. This behaviour also exhibits more broadly in a global sense, due to the levels of power play between men and women. Society raises an expectation amongst men to demand sex and expect to get it from the woman, either willingly or under duress (Dube, 2013). The very same cultural and societal structures that push a girl or young woman towards '*chiramu*' are the ones that are quick to condemn her the moment she is 'defiled' by her in-law:

'A woman who reports a rape through the *chiramu* practice is typically blamed for allowing the man to rape her. She is accused of being loose, inviting the rape via solicitous behaviour, and being incapable of setting boundaries and maintaining them' (Kanchese, 2007).

In examples given by respondents, whenever a case of rape or pregnancy emerges from the practice of '*chiramu*', the blame is placed squarely on the young girl and she is the one who is accused of trying to take away her relative's husband and is punished by expulsion from the home and return to her rural home. *Shona* society is hugely unforgiving towards single mothers and therefore this is an albatross she will bear around her neck for a long time to come. Ironically, *Shona* men also frown upon '*mvana*' (women who have children out of wedlock) since they are not very marketable when it comes to marriage. Men prefer to marry young girls who have not had children and can pass off as not being sexually experienced simply because they have not had children. In other words, the men who condemn these women for falling into this male-informed predicament are the very same male instigators who are responsible for it through their practice of '*chiramu*'.

Culture has placed men in a superior position to women and Chipananga (2016) also describes this sense of entitlement among the male perpetrators of sexual crimes:

'Women are more often viewed upon as submissive instead of being contributory thus somehow making them docile and indecisive and engage into early marriages without their consent. The relationship that exists between the sex role theoretical framework and the effects of child marriages is that the sex role theory hypothesizes that girls and women are commodities of man basing on their sexual orientation which makes men a superior being than women' (Chipananga, 2016).

In the African context, the man is the initiator of sexual activity in any relationship in and out of wedlock. Women are simply reactive to a man's initiative and therefore do not have agency within their sexuality.(Makombe R. , 2015). The practice of '*chiramu*', as discussed previously, is contextualised by men and given meaning within their own understanding, leaving the woman merely as receptors of male actions and desires.

3.4 The role of family and community justice

Young girls in Zimbabwe are married off by their parents as an economic coping measure due to prevailing economic hardships. This is spelt out in the 2014 Asylum Consultancy Report:

'Early marriages were reported as the most common harmful practice in all the seven areas. In most cases, participants reported that early marriages are accompanied by emotional, physical and psychological abuse. Early marriages also lead to increased vulnerability especially in cases where young girls are burdened with the responsibility of looking after the family. While most early marriages can be classified as statutory rape, most parties often opt for negotiated settlements, and in some cases parent will accept bride wealth' (Asylum Research Consultancy, 2015).

Early marriages are a direct result of '*chiramu*' where in the event that a rape occurs, the girl is discouraged from reporting to law enforcement agencies and rather encouraged to settle in a polygenous marriage with her sister or her aunt.

Saki and Chiware (2007) explain the Zimbabwean legal pluralism which is normally used to arbitrate over cases involving '*chiramu*'. The outcome of most of these cases is that the parents are given monetary compensation, normally leading to the marriage of the girl to the perpetrator of the sexual violation. The customary court, presided over by the chiefs is explained below:

'The main reason for the existence of these customary law courts is to provide a justice system to ordinary people in rural areas which is consistent with African custom and values. It is realized that most ordinary Zimbabwean regulate their lives in accordance with customary law to the extent that the legal ideas and institutions inherited from the system has preserved the authority of traditional leaders to adjudicate in civil disputes by customary law' (Saki, Chiware, 2007).

The way community members access justice largely depend on who that person is, what role or status they hold in the community and also how they are viewed in the community. The African community has shared values and practices and therefore a shared meaning on my events and occurrences. Actors and structures play a significant role in all this and it is a fact acknowledged by Dube (2013):

‘Violence against women and children is a common phenomenon in Zimbabwe. It occurs, both in the private and public spheres, catalysed by a number of factors that stem from the way in which society is structured. These factors include culture, tradition, religion, politics, and the economy. These factors contribute to shaping societal perceptions of why violence against women occurs, how society perceives the victim and the perpetrator, and how society responds to address cases of violence against women’ (Dube, 2013).

One observation from this study, which leads to the conclusion that *chiramu* makes girls or young women extremely sexually vulnerable is that most people contacted in the study were unaware that it is this harmful cultural practice that exposes girls to rape. If society is oblivious to the problem then a solution is very difficult to craft without other forms of intervention beyond regulation by law.

One of the most problematic issues surrounding ‘*chiramu*’ is that it occurs in a home setting and in most cases where there are other relatives present. The perpetrator is not only the breadwinner for his immediate family and also for his in-laws but he is also the husband of a sister or aunt to the victim. Already the victim is faced with the dilemma of how to make a case against her *babamukuru* or uncle. This is exacerbated by the fact that a large percentage of women actually believe that when a minor is raped, it is her fault:

‘It was perplexing to see that almost [45%] of women responded saying that they did not know whose fault it would be when a child is raped. This response reveals the attitudes of most women who fail to realise that when a child is raped, it is always the fault of the perpetrators,² and frequently they will try and protect the perpetrators be it a relation or their spouse, or if it is a stranger they may try and force a marriage to legitimise the “illegal sex”’ (Dube, 2013).

² The age of consent in Zimbabwe is 16 years old. The age of consent is the minimum age at which an individual is considered legally old enough to consent to participation in sexual activity. Individuals aged 15 or younger in Zimbabwe are not legally able to consent to sexual activity, and such activity may result in prosecution for statutory rape or the equivalent local law (What is the Zimbabwe Age of Consent?).

Women are taught from a very young age to avoid getting raped instead of socialising men to stop raping women. It is a simple phrase but is deep in meaning that has shaped the rape discourse for a very long time. The victim of a crime emanating from '*chiramu*' is largely seen as the instigator who is considered guilty of seducing her '*babamukuru*'. The older sister and the aunt become angry with the young girl and even if they are forced into a polygynous marriage, it will be an acrimonious union even if the older relative has agreed to it in principle. All these influences clearly place the younger girl under immense pressure and in an extremely challenging and vulnerable position.

CHAPTER FOUR

4.0 METHODS OF DATA COLLECTION

4.1 Introduction

The research was carried out over a 4 month period between October 2017 and February 2018. I chose to get my sample from Mbare. I selected this research site because I had previous links with the Mbare community having utilised some community researchers in previous research. This made it easier for me to penetrate the community and speak to the required community members. The study site was also chosen for its proximity to my home which is in Waterfalls and which reduced research costs. I also selected a sample from Waterfalls where I carried out a focus group discussion (FGD) with women from the women's wing of the Methodist Church in Zimbabwe (Ruwadzano). Most of the participants of the FGD were women in their 30s and late 40s. Generally, the women who attended the Thursday afternoon sessions were not in formal employment while those who were formal employed attended the Saturday morning session.

4.2 Interviews with key informants

'Key informant interviews are 'qualitative, in-depth interviews of 15 to 35 people selected for their first-hand knowledge about a topic of interest. The interviews are loosely structured, relying on a list of issues to be discussed. Key informant interviews resemble a conversation among acquaintances, allowing a free flow of ideas and information. Interviewers frame questions spontaneously, probe for information and take notes, which are elaborated on later' (USAID Center for Development Information and Evaluation, 1996).

In order to place the subject of '*chiramu*' in context, I utilised key informant interviews by tapping into professionals and subject matter experts who in their work come into contact with or are exposed to victims or perpetrators of sexual abuse based on the cultural practice of '*chiramu*'. In this vein, I also carried out interviews with the following key informants shown in Table 2.

Table 2: Showing details of key informants

ORGANISATION	POSITION	EXPECTED CONTRIBUTION
Zimbabwe Women Lawyers Association (ZWLA)	Legal officer	Criminal cases arising from ' <i>chiramu</i> '
MUSASA Project	Programmes' manager	Domestic abuse reports emanating from ' <i>chiramu</i> '
Rural community	Headman	Traditional perspective of the practice of ' <i>chiramu</i> '
Padare	Projects' coordinator	Male perspective on ' <i>chiramu</i> '
Methodist Church of Zimbabwe	Pastor and Pastor's wife	Religious perspective on the cultural practice of ' <i>chiramu</i> '
Ministry of Women's Affairs, Gender and Community Development	Gender officer	Policy perspective from the Ministry responsible for women

4.3 In-depth interviews

The subject of '*chiramu*' is an emotional and intense subject that requires a tactical and methodical approach to gathering data from informants. According to Boyce and Neale (2006):

'In-depth interviewing is a qualitative research technique that involves conducting intensive individual interviews with a small number of respondents to explore their perspectives on a particular idea, program, or situation.'

I then chose to speak to respondents from Mbare where I could access individuals in their homes and at a time that I could carry out lengthy and relaxed one-on-one discussions and gather enough data and information that would help prove or disprove my assumptions and answer my research questions. I drafted and used an interview guide (Appendix 1) to assist this process.

4.4 Focus group discussions (FGDs)

In order to gather as much information as possible from a wide spectrum of respondents, and in the interests of time, I also decided to utilise the technique of focus group discussions (FGDs). I approached the leader of the women's group in our church (Ruwadzano) requesting permission to speak to the Ruwadzano women at an upcoming meeting. I was informed that it would be difficult to get together a substantial group of women during the festive season as most had travelled out of town. A date had been set just after Christmas to conduct the discussion and I had invited my supervisor Professor Julie Stewart to join me and she had in turn invited the Australian High Commissioner to Zimbabwe Suzanne McCourt (whose actual identity was not revealed to participants and was introduced as an Australian lawyer). However, we had to cancel the invitation and reschedule for the first week of January, 2018.

The focus group discussion went smoothly as planned. I led the discussion by getting from the group their understanding of the meaning of the practice of *chiramu* leading into further (and sometimes emotional and heated) discussion of the practice.

4.5 Desk research

In order to situate the research in the social and legal realm, I needed to carry out extensive desk research and I made use of the library and internet resources at my disposal including the SEARCWL prescribed texts and other readings provided by the lecturers. I also studied various relevant instruments and legal provisions that I utilised for my analysis and theory formulation.

CHAPTER FIVE

5.0 DATA PRESENTATION AND ANALYSIS – FEMALE EXPERIENCES

5.1 Introduction

This study on how society is condoning the sexual abuse of women and girls unearthed a number of realities faced by women and perpetuated by societal actors and the structures within which they operate. Women experience the practice differently and their experiences depend on so many factors including their level of awareness, the strength of the beliefs in customary law within the main actors in their circles and the strength of the formal justice delivery system.

5.2 Women and girls on the receiving end of culture

African culture is extremely rich and intricate and permeates the lives of members of the community in various shapes and forms. However, from the respondents spoken to during the study, these problematic effects are mostly felt by women who in most cases are suffering the effects of the ‘bastardisation’ of the practice which has ultimately transformed it into a ‘harmful cultural practice.’

5.2.1 Culture that affects women negatively

‘*Chiramu*’ which is the subject of this study is prevalent among most *Shona* speaking people in Zimbabwe. Respondents unanimously agreed that it is a widespread practice that is accepted as normal behaviour. Though some respondents conceded that the practice had been somewhat warped over time, it still opened doors for the sexual abuse of women and girls. One respondent gave an example of the negative effects of ‘*chiramu*’. They gave an example of a girl of school going age in Budiro who was made pregnant by her brother-in-law. The girl she was immediately sent to her rural home to have the child and the child was passed off as her mother’s. Fortunately she was able to return to school but the fact that she was now a mother at a very young age has an effect on her future in real terms. She is a single mother who needs to fend for her child and this becomes a consideration on all the choices she makes in the future. Also, the irony is that in the *Shona* cultural context, she is no longer sought after for marriage as she is now ‘*mvana*’ (a defiled woman).

From my respondents, I also gathered information on other cultural practices which are an extension of 'chiramu'. The main objective of any marriage in an African context is to bear children and continue the blood line. Therefore if there is any problem in that specific department, one is seen to have failed dismally. Culturally however, the situation was never left to deteriorate and it was contained within the family by allowing a sibling to step in and rectify the anomaly. This was a form of surrogacy as the child born in this way would not know his or her true parentage; it was a well-kept secret among the elders in the family. In the same vein, the younger sister could step in if her older sister was failing to bear children and have intercourse with her 'babamukuru' (brother-in-law). There was never allowed to be a relationship between the two outside of bearing the children. However, these are some of the practices that have culminated in the blurring of lines and eradication of boundaries for in-laws as the sister is perpetually viewed as a 'wife in waiting' for her *babamukuru* (brother-in-law) (Tatira, 2014).

It also emerged from the research that some Ndebele tribes make a new bride have sex with her father-in-law first before sleeping with her husband as he is the one experienced enough to ascertain her chastity. This practice concurs with the view given by a casual acquaintance who after learning of the research I was doing quipped that:

'Ndizvo zvinotoitika izvozvo. Pane wandinoziva akatoboora mainini and waitodanana asi vakazoroowa vakachata. Hameno kuti nhumbu yavainayo ndeyemurume here kana kuti ndeyake,'

(Meaning, 'This is very prevalent. I know a guy who broke his younger in-law's virginity and they actually had an affair for years but she is now married. God only knows whose baby she is carrying – her husband's or this guy's.')

For me, this just managed to put into perspective how 'normal' and therefore rampant this sexual abuse is among the *Shona* people.

All these practices violate a number of international and regional provisions that have compelled state parties to outlaw any harmful cultural practices and put in place legislation to curb the unequal treatment of women and minimise their discrimination in any shape or form.

5.2.2 Societal expectations weighing on the woman

In the *Shona* cultural context, marriage is viewed as an achievement and once an older sister is married, the younger one at home aspires to be where she is. In addition, once the son-in-law has paid ‘*roora*’ or bride compensation, the family is obligated to him for assisting them to alleviate their poverty. In the same vein, the son-in-law assumes the role of breadwinner not only for his own immediate family but also for the family of his in-laws. There is a saying in *Shona* that ‘*Mukwasha mukuyu hauperi kudyiwa*’ (meaning, ‘A son-in-law is like a baobab tree, you can benefit from its fruits in perpetuity.’) According to one respondent:

‘Vabereki vanotoona kuti mwana wavo mukuru agara muhupfu vototi regai vose vaende ipapo hupfumi hugare mumhuri.’

(Meaning, ‘Parents see that their older child is well taken care of and decide that both children must just benefit from the wealth.’)

The respondents allege that the parents send the younger sister to stay with her sister ostensibly for assistance with school fees and other material benefits. The real mission however is for her to seduce the brother-in-law so that the resultant ‘rape’³ can be negotiated into a polygenous union with the 2 sisters.

5.3 The changing meaning of cultural concepts

A major finding in my research is not only the dynamic nature of culture but also the morphing of meanings depending on the person you are talking to. That practice of ‘*chiramu*’ means so many different things to different people. For example, there was an online newspaper article reporting on an uncle who raped his niece and made her pregnant and was reported to the police and the comments of one reader echoed some male attitudes towards this practice:

‘Haaa matakanana aya muzukuru mudonzvo wepwa yasekuru kana vaane nyota vanomenya vodya saka chii chashata apa sekuru vakadya havoka mudonzvo wavo uyezve dzinza rakura’ (<http://newsbite.it/index-id-news-zk-19814.html>).

³ The age of consent in Zimbabwe is 16 years old. The age of consent is the minimum age at which an individual is considered legally old enough to consent to participation in sexual activity. Individuals aged 15 or younger in Zimbabwe are not legally able to consent to sexual activity, and such activity may result in prosecution for statutory rape or the equivalent local law.

(Meaning, ‘Nonsense, the niece is a walking stick made from sugar cane; when the uncle is thirsty he will peel and eat it. So what is the problem here? He has eaten his sugar cane and the clan has been increased.’)

This is a reflection of the attitude of some of my respondents. The Headman from Chihota (one of my key informants) had this to say on the matter:

‘Ivo vanasikana vedu vakudawo zvinodhura and havachisina matyira. Varipo vandikadzanga pano vaivinga vazukuru vako pano vachitoti handei kut taundishipi kunobvakacha.’

(Meaning, ‘Girls these days are no longer afraid of the unknown and are going to great lengths to seduce boys and older men. There are a number whom I have had to chase away from this place who come in search of your nephews (referring to his grandchildren). They say, let’s go to the night club and spend time there and they will be scantily dressed.’)

5.4 Reporting mechanisms

5.4.1 Social reporting mechanism

The rape reporting statistics in Zimbabwe are high and, as also discussed with respondents in my study, many of the issues relating to ‘*chiramu*’ are swept under the carpet for fear of embarrassing the family:

‘The Zimbabwe Demographic and Health Survey (2010-2011) indicated that only 20 % of women who experienced sexual violence and 37% of women who experienced physical violence sought help during the period under study’ (Gasva and Mutanana, 2015).

The family reporting system calls for the young girl (who is usually the victim of rape) to go through her older female relatives. Due to the existing family dynamics and the fear of upsetting family relations, the decision is made not to publicise the embarrassing accusation. The reporting system is family based and is not objective. Family decisions are relational and will consider the effect reporting may have on the rest of the family.

In most of the cases discussed with respondents, the police were almost irrelevant as the family mostly made a determination on the matter and settled for compensation. In one of the ZWLA withdrawal cases, the family was promised \$300 compensation of which the son-in-law had paid \$50 on ecocash (mobile money transfer) and promised to pay the balance at a

later stage. This is a problem as it does not consider the violation of the rights of the girl who has been made pregnant by her uncle. She lists her reasons for withdrawal as follows:

- ‘(1) The matter was resolved with my parents and they decided to refuse.
- (2) My grandmother said she had no space for me when her husband get in jail.
- (3) He apologise (me) and my parents’ (Research narratives, 2018).

In the two rape withdrawal cases presented to me by the ZWLA legal officer, it was clear that where reports were made to the police (and not first to the family), those complaints will only end up in being withdrawn after the intervention of the family. Clearly the young girls are bound within the family norms and values, even when they try and go through the standard reporting channels. *Shona* custom is extremely family-oriented and legal pluralism also enters into the fray with regard to attaining justice for the victim of sexual abuse.

In the first ZWLA rape withdrawal case, the girl who reported her ‘*babamukuru*’ for raping her lives with her sister and the processing of any rape allegations can only cause friction if victim and accuser are left to live under the same roof. It is easy for the accused to manipulate the outcome of the case because he has a direct influence on his wife (the victim’s sister). Although the victim’s older sister and wife recognises her husband as the monster that he clearly is, she will, by transference, allow her own affliction as his hostage suffering from ‘Stockholm’s Syndrome’ to influence her younger sister to withdraw the charges. This syndrome is defined as follows:

‘The hostages experience a powerful, primitive positive feeling towards their captor. They are in denial that this is the person who put them in that situation. In their mind, they think this is the person who is going to let them live’ (Westcott, 2013).

In her withdrawal affidavit, the accuser lists several reasons for the withdrawal, among them the fact that her ‘*babamukuru*’ is the main breadwinner and will therefore not be able to fulfil his role if he is convicted and goes to prison. The accused can be likened to the captor in a hostage situation and the wife and her younger sister are the hostages and by benefitting from the apparent benevolence of the sister’s husband, the victim is made to feel that accusing him of rape and pressing charges are acts of ingratitude and selfishness. The affidavit states that

she is withdrawing the charge because her *'babamukuru'* has three children to support and that the charges would make him lose his job. The words in the affidavit do not have anything to do with questioning the fact that a rape actually occurred – far from it. It is almost as if the women are apologising and saying that they were wrong to have made the report even though they have been raped. A report in a local newspaper puts this into perspective by explaining:

‘Any decision to withdraw charges where a complaint of a sexual nature perpetrated any form of assault against a minor child should be the purview of the High Court of Zimbabwe.

‘The act of withdrawing such charges by a parent or guardian for financial consideration is in breach of the above cited constitutional provisions in that it is tantamount to discrimination and robbing the child victim of their right to equal protection of the law.

‘In conclusion no parent or police officer, public prosecutor or magistrate can consent to withdraw charges in cases where a criminal complaint has been made against an accused person for rape of a minor. Such an act is criminal in itself’ (Pasipanodya, 2015).

The excerpt above is premised on section 81 of the 2013 Zimbabwe Constitution which states:

- ‘(1) Every child, that is to say every boy and girl under the age of eighteen years, has the right -
 - (a) to equal treatment before the law, including the right to be heard;
 - ...
 - (e) to be protected from economic and sexual exploitation, from child labour, and from maltreatment, neglect or any form of abuse;
 - ...
- (2) A child’s best interests are paramount in every matter concerning the child.
- (3) Children are entitled to adequate protection by the courts, in particular by the High Court as their upper guardian.’

In the issue of '*chiramu*' under discussion in this paper, the family is hugely problematic and serves to facilitate the sexual abuse of girls. They appear to abdicate their responsibility conferred on them by the state through the Constitution. The girl is placed with her sister or her aunt because of a decision stemming from the family's decision. The girls are seen as pawns in a strategy to improve the family's livelihood and therefore are strategically placed within the grand scheme of things to achieve this end. So to begin with, the girl is living with her sister or her aunt to ease the financial burden on the family and when and if for any reason the brother rapes her, it is seen not as crime perpetrated on the unsuspecting girl but as the *babamukuru*'s expression of interest to marry the victim.

In addition, the family and their beliefs cause a logistical problem if and when the girl decides to report the rape. Firstly, she is urged to consider the kinship ties between her and her sister and to make the hard decision to break such ties. More importantly, the family does not want to lose their son-in-law who is a source of their own sustenance nor do they want to lose their older daughter's breadwinner who supports her and her children. As a result, the girl is pressured into not reporting the rape or, in the case of the ZWLA clients, being forced to withdraw the rape charges after they have been laid.

5.4.2 Formal justice delivery system

The findings from this research have seen the police play an extremely peripheral role when it comes to issues of '*chiramu*'. The police view '*chiramu*' as a domestic issue and therefore are reluctant to get involved. They will urge the family to negotiate a solution instead of prosecuting rape charges against the son-in-law and this usually convinces them to let the matter go. Most of my respondents shared the same sentiment over utilising the police as a reporting mechanism in matters to do with '*chiramu*'. The respondents' opinions are depicted in Table 3.

Table 3: Showing the opinions of respondents of the reaction of the police

Description of Respondent	Their opinion of the reaction of the police
Female (37) Mbare community member	The police are generally helpful but the process is weakened by the relatives who take into consideration the bread winning role of the older male in-law and discourage the younger woman from pressing charges.
Male (60) Mbare community member	He stressed that most families are against the prosecution of the offender and most children are caught in this trap.
Male (40) Mbare community member	The police are complicit in this abuse, particularly in the rural areas where relatives are encouraged to sit down and talk the matter over before involving the police. <i>'Mhosva yagara inongoparwa nevanhu, iyi imhosva inoripika sedzimwe'</i> (Meaning, 'It's human beings who commit crimes, in any case, this crime can always be compensated like all others.')
Male (55) Mbare community member	Most of these cases are not reported and money will exchange hands in the form of compensation
Female (30) Mbare community member	The police do not take these matters seriously and sometimes when the girl reports the matter, she is victimised by the older sister or aunt and accused of trying to seduce <i>babamukuru</i> .
Male (30) Programme officer of Padare, a male pressure group	In terms of law enforcement, with crimes that happen in the home, the police normally encourage negotiation. These cases do not really come out as quickly as incidents that happen in the public realm. People end up settling because they do not want to wash their family's dirty linen in public and damage the family's reputation. And when it comes to family issues, the police are expected to play a secondary role. The cases must just be settled in the home.
Female (45) Programme Manager of the Musasa Project	The family's solution is usually that the man is forced to marry both women in the event of a reported rape or any other sexual assault. There is no justice for the victim as the monetary compensation is paid to the male in-law who is normally the head of the family.

Reporting the rape at the police station or charge office also generally proves problematic for victims of sexual violence in general in Zimbabwe as findings revealed that some participants who had reported their cases of rape to the police found reporting the rape and their subsequent interrogation by the police to be an unpleasant experience because they were forced to confront and talk about the sexual violence they had suffered. Mashiri (2013) observes that collectors of evidence are often not trained properly and do not know how to make interviewees feel comfortable.

5.4.3 Still more culture

The prevalence of the abuse of *chiramu* is evident both from a quick and simple Google search on ‘Harmful Cultural Practices in Zimbabwe’ as well as numerous newspaper reports on the issue (Table 4).

Table 4: Showing Zimbabwe reports on harmful cultural practices in Zimbabwe

Publication	Date	Headline	Excerpt from news article
1. Manica Post	6/11/15	Some cultural practices harmful to children	<i>Chiramu</i> allows uncles and brothers-in-law to fondle young girls in the family and some lustful in-laws even go to the extreme of engaging in sexual activity with these innocent young children. <i>Chiramu</i> can have potentially obstructive social effects and limit opportunities for girls. These effects may result in ill-health from genitourinary infections, loss of educational opportunities through unwanted pregnancies and the social stigma that accompanies pregnancy out of wedlock (Makombe T. , 2015).
2. The Herald	27/04/16	Impact of some social, cultural practices on children in Zimbabwe	Early marriages were reported as the most common harmful practice nationwide as girls under the age of 18 drop out of school to get married (Guranungo, 2016).
3. The Standard	26/02/17	Women bear the brunt of harmful cultural practices	Marital rape, domestic violence, conflicts between civil and customary marriages, having no option for divorce, economic disempowerment, virginity testing, widow inheritance, prohibition of family planning, <i>lobola</i> , elevation of boy children above girl children, initiation rights, widow dispossession or property grabbing are some practices considered damaging to women and girls’ fundamental civil liberties (Mugugunyeki, 2017).
4. News Day	20/12/17	Protect the girl child from harmful cultural practices	Child marriages disrupt the process of development which would culminate in the country failing to achieve its set sustainable development goals. One of the goals is that by 2030, the practice of child marriages should have been done away with so that children are left to explore their full potential as they grow (Lynot Munyaka, 2017).
5. Daily News	30/03/14	Harmful Practices against children rife in Hwange	Other harmful practices mentioned in the report have to do with sexual abuse which is highly underreported because it is mostly committed by people who are close to the victims (Chinowaita, 2014).

The articles on harmful cultural practices summarised in Table 4 have been taken from five different daily national newspapers between the years 2014 to 2017 and they all emphasise how prevalent these harmful practices are and their direct negative impact on women and children in particular. This is a further illustration of the pivotal role that culture plays in Zimbabwean society. Children are born and socialised in a setting saturated with definite rigid cultural beliefs that influence their world view and ultimately largely determine how they respond to events which happen around and to them.

In the focus group discussion held at the Methodist Church in Zimbabwe at the women's meeting a woman told a story about her relative who was a victim of a '*chiramu*' rape and how this affected her family's relations and their reaction to her attempts to secure justice:

'One woman told a story about a woman who lived with her grandmother as a little girl and was raped by maternal uncle over a number of years. She is now grown up and married and has decided to report the case to her grandmother who blocked her from reporting to the police. She then demanded compensation and wants him to confess and the grandmother threatened to commit suicide.'

The grandmother, who happens to be the young girl's first resort for reporting the abuse, has become the symbol of her oppression. Her threat to commit suicide should not be taken at face value but rather in the full context of *Shona* culture which condemns a person for causing the death of another since it attracts avenging demonic spirits '*ngozi*'. However, the seriousness of the 'offence' is greatly increased when the person whom you are alleged to anger is your mother or your mother's mother because in *Shona* culture, you do not share the same ancestor as your mother and when matters move into the spiritual realm, you are no longer recognised as a child or grandchild of the person but as a stranger. This is further explained by a Sunday News reporter as follows:

'He said in the *Shona* society when you kill your mother you would have brought curses upon yourself, an act he said was referred as *kutanda botso* ... He said *kutanda botso* happens when someone wrongs their mother either by way of assault, insult or murder 'This is very severe and is the height of all madness when one gets to kill their mother it means they cannot do anything worse than this. It is the most unforgivable of all evil acts that a child can ever do,' said Nyathi ... He said the spirit of the dead mother was likely to haunt the young man until rituals to cleanse him were done, if the clan members wanted to do them anyway' (Muchetu, 2015).

The above explanation serves to underline the impact and influence of family and culture on the *Shona* people and how this effects attempts to attain justice for the victim of a ‘culturally based’ crime like ‘*chiramu*’. In addition, the reporting mechanisms are repeatedly interfered with by consideration that is given to many other factors at the expense of justice for victims of sexual abuse.

In addition, the threat of ‘*kutanda botso*’ is used as a cultural weapon which is deliberately wielded to instil fear in a victim who has been violated in the name of culture through the practice of ‘*chiramu*’. As illustrated earlier, the *chiramu* practice is allowed to play out between in-laws whose relation to each other is ‘*muramu*’. From a very young age the *Shona* girl must tolerate the attention of numerous male relatives who are her ‘*varamu*’. Within the layers of this cultural tapestry exists the uncle-niece relationship of the maternal uncle and his sister’s daughter. Interestingly, the maternal uncle is the niece’s cultural ‘mother’ in the same way as the aunt (father’s sister) is the niece’s cultural ‘father’. To place this in context and to further clarify the depth of the cultural nuance involved in inter-family relations in *Shona* culture, the position of a mother needs to be explored further:

‘The ill-treatment of a mother is believed to be met by a severe punishment when such a mother dies.... The *Shona* say, “*Mudzimu wamai unouraya asi wababa unongorwadza chete*” (“The ancestral spirit of a mother kills but that of a father only torments”). This obliges the *Shona* people to treat female members, in this case, their mothers, with respect and dignity lest, if they die aggrieved, they will fight back’ (Tatira, 2014).

The above serves to explain the link between cultural beliefs and the perpetuation of fear in the *Shona* people in which culture is brandished as a weapon. In the rape withdrawal affidavit viewed at ZWLA, one of the reasons cited for the withdrawal is the fear of ‘*kutanda botso*’ being the repercussions of angering your mother whose deceased spirit is believed will exact revenge against you unless she is appeased during her lifetime. The rape victim writes in her affidavit:

‘My grandmother (wife of maternal uncle) told me they is no relationship between her and our mother so it ended up to *ngozi* to us when our mother died.’ (Rape withdrawal affidavit, research narratives)

The young niece (who becomes pregnant as a result of being raped by her maternal uncle) is threatened by the spectre of ‘*kutanda botso*’ if she angers her maternal uncle who is in effect

her 'cultural' mother and angering her can have the same effect – that is, can have devastating effects.

Culture still continues as a reason or rather the excuse to perpetuate the undermining of the human rights of women and to condone violent acts against them or at least avoid censure.

The UN Special Rapporteur on Violence against Women stated:

'Activists have pointed out that although traditional practices such as virginity tests, 'crimes of honour' and widowhood rites are specific to certain cultures and explicitly undermine women's human rights, in all cultures violence persists because it is culturally acceptable. Around the world, most perpetrators of violence against women count on the fact that their community will not censure them for their behaviour. Challenging this impunity and the almost universal acceptance of a culture of violence against women is central to diminishing the problem' (United Nations Development Fund for Women, 2003).

The effects of culture are so ingrained among specific groups with common norms and beliefs that it is extremely difficult to de-programme them to think differently. For example, I came across an internet news article about a chief who had impregnated his sister's daughter. The matter was brought before a traditional court and his reaction to the proceedings revealed just how easily culture is indeed being used as an excuse to condone brutality against women. A chief is a community's custodian of cultural values and is therefore reasonably expected to set an example for his community by living a moral life. However, instead of submitting to the proceedings, the chief took offence and indignantly refused to answer the charges against him. When the reporter asked for his comment, he also attacked any publicity of the public adjudication of his conduct:

'When asked for comment, Mpakwa said such issues were family matters that should never be brought into the public domain. 'I am surprised that when you have a family dispute some people rush to the newsroom with sensitive issues that should be discussed as a family and not in the newspapers,' said Chief Mpakwa (NewsBite, 2014).

The chief hid behind culture in his statement to the reporter to avoid censure. In fact, he did not comment on the substance of the accusation of rape. Refusing to co-operate with the court proceedings, he instead used his position to invoke fear in mind of the public and this was a clear abuse of his office.

5.4.4 Role of justice delivery system – Impact of the law

Due to the fact that the police are rendered irrelevant in the cases to do with '*chiramu*' the rest of the justice system does not readily participate in assisting the girl or woman against the abuse.

‘Cultural relativists have questioned the overall relevance of the human rights framework for addressing the subordination of women, claiming that some traditions are central to people’s cultural history and must be respected’ (Chirawu-Mugomba, 2016).

Cultural relativism is a useful tool to use to discuss the issue of '*chiramu*' in relation to the justice system. On one hand, strong cultural relativism contends that all moral right or rule is sourced from culture. Universalism balances it out as it espouses the universality of human rights. On the other, is weak cultural relativism which accepts that some moral compass may exist within the universal human rights framework.

‘Universalists aver that there are inalienable rights affixed to every individual under all circumstances’ (Prasad, 2007).

It would be reasonable to ascribe the cultural relativists’ support for cultural practices to be based on whether they are harmful or not. The advent of universal human rights came into existing cultural norms that existed within pre-colonial societies. Cultural relativism flourished as a counter to a blanket application of human rights on to existing cultural norms which held meaning for the indigenous populations, including the *Shona* in Zimbabwe. Cultural relativism also enters to counter the colonial discourse whose main aim was to completely erase the traditional norms of the indigenous people.

‘As recognized by feminist postcolonial theorist, Gayatri Spivak, colonization was dedicated to the shifting of parochial norms through which gender and racial paradigms were redefined so as to make it coherent with the colonizer’s ideology. Hence, colonization’s social corollary was “interested in the seemingly permanent operation of altered normality”’(Prasad, 2007).

However, the need to counter the colonial discourse and influence should not allow vindication of all things cultural because it must be acknowledged that there are some harmful cultural practices. It must be acknowledged though that the colonial discourse also emphasised cultural and racial superiority and in a lot of ways attempted to obliterate the

ways and beliefs of the colonised. *Chiramu* taken in this context will be used by unscrupulous males who want to look as though they are ‘upholding culture’ while only creating a cloak behind which to abuse young women in their care.

5.4.4.1 Domestic Violence Act [Chapter 5:16]

The Domestic Violence Act [Chapter 5:16] is the one legal provision in Zimbabwe that comes close to touching ‘*chiramu*’ and making it punishable in the justice delivery system. It follows the resolution of the United Nations Special Rapporteur on Violence against Women which reads:

‘Strongly condemning all acts of violence against women and girls and in this regard called, in accordance with the Declaration on the Elimination of Violence against Women, for the elimination of all forms of gender-based violence in the family, within the general community and where perpetrated or condoned by the State, and emphasized the duty of Governments to refrain from engaging in violence against women and to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women and to take appropriate and effective action concerning acts of violence against women, whether those acts are perpetrated by the State, by private persons or by armed groups or warring factions, and to provide access to just and effective remedies and specialized, including medical, assistance to victims’ (<http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx>).

Zimbabwe’s Domestic Violence Act incorporates in national legislation the ways in which to eliminate all forms of violence against women, specifically gender-based violence within the family and it is in this context that I place ‘*chiramu*’ as a violation. In order to put the Domestic Violence Act to the test in terms of how it can be used in cases of violations emanating from the practice of ‘*chiramu*’, four cases from the research were tabulated in Table 5.

Table 5: Showing the application of the Domestic Violence Act [Chapter 5:16] to five cases

	CASE 1	CASE 2⁴	CASE 3⁵	CASE 4
S U M M A R Y	My main contact in Mbare is a member of the community research team that we used previously on another research project and she has a 7 year old daughter who was almost raped by her cousin brother at the Matapi Hostels where they all reside.	A teenage girl was staying with her maternal uncle and his wife and she laid a charge against him for raping her and she got pregnant but then withdrew the charges by way of an affidavit and the case was handed over to ZWLA.	A second teenage girl was staying with her older sister and laid a charge of rape against her 'babamukuru' and then withdrew it by way of an affidavit and the case was also handed over to ZWLA.	A woman now grown up and married lived with her maternal grandmother as a young girl and her mother's brother systematically raped her over several years as she grew up. She wanted to report the case but bowed to family pressure not to report the case but now she is seeking compensation in the form of a cow.
A P P L I C A B L E		'complainant', in relation to a respondent, means—(c) any person who is or has been living with the respondent, whether related to the respondent or not; or	'complainant', in relation to a respondent, means—(c) any person who is or has been living with the respondent, whether related to the respondent or not; or	'complainant', in relation to a respondent, means—(c) any person who is or has been living with the respondent, whether related to the respondent or not; or
P R O V I S I O N S	(1) For the purposes of this Act, domestic violence means any unlawful act, omission or behaviour which results in death or the direct infliction of physical, sexual or mental injury to any complainant by a respondent and includes the following—sexual abuse; (c) emotional, verbal and psychological abuse;	(1) For the purposes of this Act, domestic violence means any unlawful act, omission or behaviour which results in death or the direct infliction of physical, sexual or mental injury to any complainant by a respondent and includes the following—sexual abuse; (c) emotional, verbal and psychological abuse; (e) intimidation;	(1) For the purposes of this Act, domestic violence means any unlawful act, omission or behaviour which results in death or the direct infliction of physical, sexual or mental injury to any complainant by a respondent and includes the following—sexual abuse; (c) emotional, verbal and psychological abuse; (e) intimidation;	
	abuse perpetrated on the complainant by virtue of complainant's age, or complainant's physical or mental incapacity;	abuse perpetrated on the complainant by virtue of complainant's age, or complainant's physical or mental incapacity;	abuse perpetrated on the complainant by virtue of complainant's age, or complainant's physical or mental incapacity;	
TABLE 5/...				

⁴ Rape charges withdrawal case from ZWLA.

⁵ Rape charges withdrawal case from ZWLA.

Cont...TABLE 5				
	(CASE 1)	(CASE 2)	(CASE 3)	(CASE 4)
S U M M A R Y	My main contact in Mbare is a member of the community research team that we used previously on another research project and she has a 7 year old daughter who was almost raped by her cousin brother at the Matapi Hostels where they all reside.	A teenage girl was staying with her maternal uncle and his wife and she laid a charge against him for raping her and she got pregnant but then withdrew the charges by way of an affidavit and the case was handed over to ZWLA.	A second teenage girl was staying with her older sister and laid a charge of rape against her ' <i>babamukuru</i> ' and then withdrew it by way of an affidavit and the case was also handed over to ZWLA.	A woman now grown up and married lived with her maternal grandmother as a young girl and her mother's brother systematically raped her over several years as she grew up. She wanted to report the case but bowed to family pressure not to report the case but now she is seeking compensation in the form of a cow.
A P P L I C A B L E		(3) For the purposes of subsection (2)(e) and (f) 'imminent harm', in relation to a complainant, includes harm that the complainant fears to be imminent taking into consideration the history of respondent's known violent behaviour towards the complainant or other relevant factors.	(3) For the purposes of subsection (2)(e) and (f) 'imminent harm', in relation to a complainant, includes harm that the complainant fears to be imminent taking into consideration the history of respondent's known violent behaviour towards the complainant or other relevant factors.	
P R O V I S I O N S	(3) A complainant who is not satisfied with the services of a police officer to whom he or she has reported a case of domestic violence shall have the right to register a complaint in accordance with any procedure prescribed for that purpose under section 19.			

5.4.4.2 Comment

An analysis of the cases emphasised above in relation to the Domestic Violence Act shows that even though it is the closest legal provision to nabbing violators in cases where '*chiramu*' is involved, it falls short and therefore provides loopholes for accused persons to escape conviction or even arrest. All the cases fit perfectly within the 'complainant'

definition of the Act but that's about all there is with specific reference to the cases in my research. There are a number of other aspects of the cases that do not fall within the definitions of the Act and are therefore difficult to criminalise.

While the Act must be applauded for including 'harmful cultural practices' in its application, it errs by attempting to define the practices and by so doing, decidedly leaves some of them out of the definition, including '*chiramu*'. It is my opinion that the Act was drafted without enough research and consultation and in that case should not have attempted to distinguish the 'harmful cultural practices'. It lists the following practices:

- '(l) Abuse derived from the following cultural or customary rites or practices that discriminate against or degrade women —
- (i) Forced virginity testing; or
- (ii) Female genital mutilation; or
- (iii) Pledging of women or girls for purposes of appeasing spirits; or
- (iv) Forced marriage; or
- (v) Child marriage; or
- (vi) Forced wife inheritance; or
- (vii) Sexual intercourse between fathers-in-law and newly married daughters-in-law' (Domestic Violence Act, Chapter 5:16).

Surprisingly, the practice of '*chiramu*' which is one of the most prevalent cultural practices and occurs in the home, is omitted from the definition and is also not adequately covered in the wider aspects of the Domestic Violence Act. From Table, therefore, it is clear that none of the cases can apply because the list of definitions in the Act does not include '*chiramu*'.

The first case in Table 5 describes a scenario that fit some of the provisions of the Act to some extent, but the attempted rape is not perpetrated by someone who is living with the complainant so it is not clear whether the Domestic Violence Act can be applied to the case.

The Act is difficult to apply to known cases of domestic violence hence it appears not to have been practically tested as noted:

‘Whilst cases of domestic violence, mostly physical abuse, have been heard in the courts, so far the author is not aware of any cases of domestic violence related to harmful cultural practices that have come before the courts. Perhaps this is because such cases are hard to bring before the courts as they touch on customary law and cultural practices. What the Act has done, however, is to open dialogue on such issues and has created an opportunity for introspection. The law is certainly important but, for some issues, the presence of a legal framework will not result in immediate change’ (Chirawu-Mugomba, 2016).

5.4.5 *Male attitudes*

Shona culture is built around patriarchal values and, therefore, due to the male dominance over the ownership of meaning, attitudes are framed around how males perceive society. According to one respondent, a man does not need to propose to his in-law, he is entitled to her and this speaks volumes about women’s sexual agency:

‘Muramu haanyengwi, zvinenge zvichingovapo kare.’

(Meaning, ‘You do not need to propose love to your in-law, it is given that if you want to make advances, it is a done deal already. This is not rape.’)

More than anything else, this clearly emphasises the male sense of entitlement which is at the core of any gender based violence including the practice of ‘*chiramu*’. Male attitudes are fuelled by the belief that women are theirs for the taking. They do not think twice about violating a woman as their pleasure is paramount and less consideration is given to how and from whom they acquire their sexual gratification. This is also evident in a comment posted on an internet news website after a report on a chief who made his sister’s daughter pregnant and is defending his actions saying it is a family matter and should not be brought into the public realm.

One very worrying finding though was from my respondents in the study who when asked about why they thought these days the practice of ‘*chiramu*’ seemed to go badly and ended up with young girls being raped or coerced into sexual relations with the older in-laws, women in the focus group discussion at the Methodist Church said:

‘Parents must teach girls how to behave with decency and decorum.’

From the same group of women came a point that women should try not to leave their husbands alone with their younger sisters because:

‘Varume havagone kugara vasina mukadzi.’

(Meaning, ‘Men cannot go without sex for long periods of time.’)

On the same point, the village headman emphasised this by saying:

‘Mbudzi inofurira paikasungirirwa’

(Meaning, ‘A goat will graze around the area where it is tethered.’)

All this is meant to justify the practice that robs a young girl of her innocence and her future if she ends up getting pregnant and failing to complete her studies. These attitudes are not only common among laymen on the streets but also among legislators in the House of Assembly, the very people who are entrusted with debating proposed Bills and enacting laws. A male legislator (former) was quoted saying in reaction to the debate on the Domestic Violence Bill:

‘I stand here representing God, the Almighty. Women are not equal to men. ... It is a dangerous Bill and let it be known in Zimbabwe that the rights, privilege and status of men are gone. I stand here alone and say this Bill should not be passed in this House. It is diabolic’ (Chirawu-Mugomba, 2016).

Such male attitudes are retrogressive because essentially the speaker in the above quote is implying that there is a danger in protecting women from abuse by men and that abusing women is a ‘right, privilege and status’ that should be conferred upon men. It against such attitudes that the fight against practices like *‘chiramu’* has to contend.

CHAPTER SIX

6.0 CONCLUSIONS AND RECOMMENDATIONS

6.1 Conclusions

Although the meaning of the cultural practice of *chiramu* has been twisted, in its original form, it still promotes unwarranted easy access to a woman's or girl's private domain. The practice is ingrained in a *Shona* girl from birth and she learns that some men are her 'husbands'. This can have a psychological effect on the girl who subconsciously breaks down some resistance to this man's overtures as she makes some allowances that may lead him to taking advantage of the situation and end up abusing her sexually.

The practice is so deeply ingrained that law reform will have to be used in combination with heightened awareness-raising on the harmful effects of the practice. There will always be the argument that 'it is our culture' and that the world is trying to Westernise Africa by turning us against our culture and way of life. While there is nothing in law that clearly outlaws the practice of *chiramu*, my research revealed clearly that some people do not see it as posing any risk or danger to women or girls. In this case, when implementing legal provisions banning the practice it should include an aspect that is aimed at educating the public on how the practice can open up girls to abuse even in its most 'innocent' form.

Only a tiny fraction of women in Zimbabwe are exposed to campaigns like #MeToo movement and this needs to be addressed urgently. Culturally, the *Shona* woman is the keeper of family secrets; she is told that '*hatifugure hapwa*' (meaning, 'We do not expose our armpits in public.') This is how this practice has been so well hidden for so long. It is evident the fact that the #MeToo movement has taken the world by storm but there is not much hype about it in Zimbabwe. It can elicit results in the corporate sector with matters to do with sexual harassment or even in institutes of higher learning. However, when it comes to the family domain, it is difficult for the law to penetrate and make any changes. Again, re-orientation is required to shift mind-sets of the community leaders and gate-keepers of community values and beliefs who are the elderly and in leadership positions in the community.

Chiramu curtails a girl or woman's opportunities as they may end up getting married (early) and getting pregnant and dropping out of school. In the case of *chiramu* gone wrong and penetrative sex occurs, the girl tends to get pregnant in most cases. This is because she is most probably inexperienced sexually and therefore may still be a virgin who is not using any birth control and also does not have any condoms on hand. Besides getting pregnant, the girl is at risk of contracting STIs (sexually transmitted infections) or HIV.

6.2 Legal implications

6.2.1 Section 80 of the Zimbabwe Constitution

This section abolishes the application of harmful social practices. The Constitution states that all cultural practices that infringe women's rights are void to the extent of their infringement, and therefore the practice of '*chiramu*' goes against Constitutional provisions. A lot of men however still take advantage of young women and girls while hiding behind the guise of culture.

6.2.2 Section 27 of the Zimbabwe Constitution

Section 27 essentially provides that female children have to be given the same access as male children to educational opportunities. When a girl falls pregnant while she is still of school going age, it means that her education must come to an abrupt end and this is the end of her academic career. The effects of early marriage, which subsequently leads to early pregnancy, are far reaching and permanent for the girl. Constitutionally, she can still continue with her education but the usual cultural biases will be used against her as a single mother and she will eventually opt out of school for fear of being socially ostracised.

6.2.3 Chapter 2 of the Zimbabwe Constitution: National Objectives

Among Zimbabwe's national objectives are that it must take measures to prevent domestic violence (section 25(b)) and that it must ensure that no marriage is entered into without the consent of both parties, that there is equality of rights and duties of spouses during the marriage and spouses are given all necessary protection on dissolution of the marriage by death or divorce (section 26). When a girl is forced into a polygenous union, in most cases because she has been made pregnant by her older in-law, her rights to enter into a marriage with full consent are violated and this set-up also affects her psycho-socially as the liaison with her brother-in-law would probably have soured relationships between the sisters, hence

she is forced to exist under difficult conditions. However, at times the older sister is complicit in the action in order to keep the man within the ‘clan.’

6.4 Recommendations

Mandatory sentencing has been proposed by Professor G Feltoe of the University of Zimbabwe’s Faculty of Law. This is meant to be a deterrent as it will discourage those planning on perpetrating the same offence against other unsuspecting victims. However, he also puts forward some disadvantages of this step to the effective sentencing of those convicted of rape. It may have the adverse effect of lowering the rate of reporting when the complainant knows that there is no chance of reversing the report.

The state should put in place legal provisions to outlaw harmful cultural practices by incorporating them into the Criminal Code and making them punishable offences. This will make it easier to apply the law against perpetrators because at present, *chiramu* is only covered under the Domestic Violence Act [Chapter 5:16] and even then it is not covered fully and one has to search hard to find any aspect of it that applies to the practice.

The jurisdiction of customary courts should be extended to be able to pass custodial sentences as some of the cases are heard at the customary court level. However, this step would need to be monitored strictly in order to come up with a standardised sentencing format.

Confidence in the justice delivery system actually delivering fair judgement will deter ‘would be’ perpetrators and encourage reporting. This can only be realised with the witnessing of actual convictions when the cases are reported and go through the system. At times the victims are discouraged from reporting because they do not feel that it is an effective deterrent.

Young girls and women should be educated on the difference between permitted and non-permitted contact. The fact that I am conducting this study and questioning something that has all my life been an acceptable part of my life means that my eyes were opened by the Women’s Socio-Legal studies that I have been undertaking for the past year and a half. I entered this Programme having attained a first bachelor’s degree from the University of Zimbabwe, am 41 years old and have had a considerable number of years of work

experience. So where does this leave a teenage girl in the high density suburbs of Mutare? or a primary school girl in the rural areas of Masvingo? A lot of work needs to take place in order to raise the levels of awareness among the women and girls of Zimbabwe to start questioning 'norms'.

The spectre called culture needs to be demystified and critically unpacked so that the various meanings and implications of certain cultural rites and beliefs are fully understood. In addition, *Shona* people should start questioning this spectre called 'culture' and come to accept that culture is dynamic and can and should be allowed to change to relate better with the changing times and to reflect the evolving society.

Men should be educated from an early age to give up harmful cultural practices. Working with men is a key strategy to prevent gender based violence. *Padare* is an organisation that works with men on gender based violence issues. They advocate against violence against women and encourage dialogue and engagement with different structures to eradicate abuse of women by men.

Law enforcement agencies need to be sensitised on the extent and relationship between '*chiramu*' and sexual abuse. I gathered from my respondents that they are able to make the link between the practice of '*chiramu*' in its present day form and sexual abuse. This knowledge needs to be extended to law enforcement agencies, the police investigating officers who are also social beings having been raised in *Shona* communities where some of these practices are normal. The officers need to stop accepting what they already know on issues of sexual abuse and to be aware of the dangers of some long-accepted cultural practices.

There needs to be increased judicial activism among police and judicial officers who are also human and hail from communities that have instilled norms and values within them. As a result, they should be in a position to practice discretion when dealing with cases of '*chiramu*'. An example was given by a respondent who is a magistrate in Marondera who is well known for imposing stiff sentences in cases involving the sexual abuse of minors:

‘He gave a case in point of a female magistrate in Marondera who is doing great work in cases of sexual harassment in that she has a high conviction rate and has no tolerance for corruption’ (Research narratives).

Barring withdrawals for rape cases has been a proposal by some members of the law fraternity namely Professor Feltoe after a review of review judgements. However, there is a danger of decreasing the number of cases reported for fear of not having a way out once the case has been made known to the police (Feltoe, 2018).

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Appendices

Appendix 1: Interview Guide

1. Name
2. Age
3. Address
4. Marital status
5. Children
6. Sex of children
7. Definition of *chiramu*
8. Their view and perception
9. Definition of sexual harassment
10. Relationship between *chiramu* and sexual harassment
11. The effect of evolving living conditions
12. Effect of *chiramu* on male children vis a vis older female relatives
13. Role of law enforcement
14. Effectiveness of community/family justice

Appendix 2: Withdrawal Affidavit

AFFIDAVIT

[Redacted Name]

(FULL NAMES AND NATIONAL REGISTRATION NUMBER)

residing at [Redacted Address]

beco
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do hereby solemnly and sincerely swear/declare the following: I declare to withdraw my case of Rape against Davison Kachamaenzai. Due to the following reasons
① The matter was resolved with my parents and they decided to refuse. ② My grandmother said they had no space for me when her husband get in jail. ③ My grandmother told me they is no relationship between her and our mother so it ended up to (Ngoni) to us when our mother died and she told me again they is no space for the kid when she/he born when her husband go to jail. He promised me to take the child when he/she finished breast feeding. (He apologised me) They promised me to go back to school after all. He apologised me and my parents me I accept her apologised they decided to apologise with \$300 but \$50 cash the rest should be send on ecocash. My grandmother promised me she suppose to give me money for booking to the hospital for my pregnancy After ~~to~~ I withdraw of the case.

I make the above statement conscientiously believing the same to be true.

Signed [Redacted Signature]

Signed before me at HARARE this 23rd day of JUNE 2017
DATE MONTH YEAR

Kingsons

Signed
RUMBIDZAI TAWONEZVI-MOYO
LL.B (WITS UNIVERSITY)
LEGAL PRACTITIONER AND
COMMISSIONER OF OATHS
17 FIFE AVENUE, HARARE

