
**PEADOPHILIA NOT ‘CHILD MARRIAGE’: A CRITICAL ANALYSIS OF ‘CHILD
MARRIAGES’ IN THE APOSTOLIC SECTS IN ZIMBABWE**

BY

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**A Dissertation submitted in partial fulfilment of the requirements for a Masters Degree
in Women’s Law, Southern and Eastern African Regional Centre for Women’s Law,
University of Zimbabwe**

2014

Abstract

This research interrogates and critically analyzes the issue of ‘child marriages’ in two major Apostolic sects in Zimbabwe, namely, Johanne Marange and Johanne Masowe, the major objective being to unearth the root causes of these ‘marriages’, the types, the effects and the possible solutions. The researcher questions the name itself, ‘child marriage’, and tries to come up with an alternative name for this ‘institution’ and the move is towards sexual abuse, exploitation and paedophilia. At the centre of it all will be the law and the analysis of the legal pluralism in Zimbabwe that is affecting the effective domestication of international human rights conventions, such as the Convention on the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the African Charter on the Rights and the Welfare of the Child amongst other conventions. The research further quizzes the different actors and structures that are involved from the time a child is taken into this ‘union’ and analyses the role they play in perpetuating this system. Throughout the research the major findings which stemmed from the use of the women’s law approach as the overarching framework are brought to light. Narrations of the rape that happens, the trauma, the lack of protection in the polygynous union are discussed. Finally, the paper will look at the key findings and analyse them and chart a suggested way forward which is that of the multi-sectoral approach.

Table of contents

Table of contents.....	iii
Declaration.....	v
Dedication.....	vi
Acknowledgements.....	vii
Abbreviations and acronyms.....	viii
Domestic legislation.....	ix
International Treaties.....	ix
List of figures.....	x
Executive Summary.....	xi
CHAPTER 1.....	1
1.0 INTRODUCTION AND BACKGROUND TO THE STUDY.....	1
1.1 Introduction.....	1
1.2 Problem statement.....	2
1.3 Research objectives.....	4
1.4 Research assumptions.....	4
1.5 Research questions.....	4
1.6 Demarcation of research.....	5
1.7 Study limitations.....	5
CHAPTER 2.....	7
2.0 CONCEPTUAL FRAMEWORK and the Constitutional Debate.....	7
2.1 Defining ‘child marriage’ in the general context.....	7
2.2 Interrogating the human rights framework embedded in the Constitution of Zimbabwe.....	9
2.3 Towards a paedophilia and sexual abuse and exploitation mindset.....	12
CHAPTER 3.....	16
3.0 RESEARCH METHODOLOGY.....	16
3.1 Methodology.....	16
3.2 Research methods.....	23
3.2.1 <i>In-depth interviews with primary and key informants</i>	23
3.2.2 <i>Focus group discussions</i>	24
3.2.3 <i>Observation</i>	25
3.2.4 <i>Data recording</i>	26
3.2.5 <i>Desk review</i>	27

3.3	Conclusion.....	27
CHAPTER 4		28
4.0	THE MARRIAGE, WHO BENEFITS AND WHY SHE DOES NOT LEAVE.....	28
4.1	Why and for whose benefit?	28
4.2	Nowhere to go	33
CHAPTER 5		40
5.0	HER BODY, HER VOICE.....	40
5.1	Marital rape and agency	40
5.2	Sexual reproductive health rights	45
CHAPTER 6		50
6.0	ANALYSIS FROM A HUMAN RIGHTS AND THEORATIC PERSPECTIVE.....	50
6.1	Opportunities in the Constitution.....	50
6.2	Challenges with the period prior to the 2013 Constitution and legal pluralism	53
6.3	The way forward in the eye of culture, religion and patriarchy	56
CHAPTER 7		58
7.0	CONCLUSION ABOUT THE FINDINGS AND RECOMMENDATIONS	58
7.1	Conclusion about the findings	58
7.2	Recommendations for a multi-sectoral solution	59
7.2.1	<i>Apostolic sect</i>	59
7.2.2	<i>Community</i>	59
7.2.3	<i>Civil Society Organizations</i>	60
7.2.4	<i>Ministry of Education</i>	60
7.2.5	<i>Ministry of Health and Child Care</i>	61
7.2.6	<i>Ministry of Public Service Labour and Social Services</i>	61
7.3	Conclusion.....	62

Declaration

I Charity Rumbidzai Hodzi 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

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Dedication

This Work is dedicated to first and foremost my Lord and Saviour Jesus Christ for His Grace for taking my partner, Peter Tawanda Sibanda, and our son, Nyashadzashe Peter Sibanda. I dedicate this work to my niece, Fortunate Dube, who gave me the courage to explore this territory. To Tendai and all the young women and girls in 'child marriages', I say, 'Aluta Continua. It is possible to leave these 'unions' and there is a brighter day for you.'

Acknowledgements

I thank God for the successful completion of my studies. I also thank the following people:

My husband, Peter, thank you for your support, for literally spoon feeding me when I could not prepare my own meals and cheering me on. You went beyond cultural norms and expectations and still encourage me to go further with my studies. I love you!

To our son, Nyashadzashe, for understanding that mummy is working and for all the times you saw me typing and decided to do a funny trick which put a smile on my face and kept me going.

I would like to also thank my Mother who worked tirelessly, especially when my parents divorced, to ensure that we still received a decent education. You sold vegetables and knitted, went to school and got promoted at work just to make sure you paid for our education. I salute you Mom!

To my Father, I thank you for having planted a seed in our minds from the time we were born, that education is life.

To my dear sisters, Ruth, Mildred and Hazvinei, for your unwavering support and kindness.

To Mai Phiri, our helper who looked after Nyasha and always made sure that I was not disturbed when I was working. Thank you so very much, you are truly God sent.

To the Ministry for Primary and Secondary Education, the Ministry of Health and Child Care, the Ministry of Labour and Social Services, UNICEF, Plan International, Musasa, UDACIZA, Katswe Sistahood, ZWLA.

To all my friends and relatives who tolerated my silence and absence from their lives yet always called or texted to check up on me and see if I was still alive. Thank you all so much!

And last but not least, I would like to thank Professor Julie Stewart, Dr. Tsanga, my supervisor, Rosalie Katsande, Rudo Makunike, Prim, Blessing Tsomondo and Johnson (The staff at SEARCWL) and the Norwegian Government for sponsoring my Masters. Prof, thank you so much for your kindness and for encouraging me to continue. You truly walk the talk, Prof.

Abbreviations and acronyms

ACHPR	African Charter on Human and People's Rights
ACRWC	African Charter on the Rights and Welfare of the Child
AIDS	Acquired Immune Deficiency Syndrome
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
HIV	Human Immune Virus
MOHCC	Ministry of Health and Child Care
MOPSESC	Ministry of Primary and Secondary Education, Sports and Culture
MOPSLSS	Ministry of Public Service, Labour and Social Services
Maputo Protocol	Protocol on the African Charter on the Rights of Women
STD	Sexually transmitted disease
STI	Sexually transmitted infection

Domestic legislation

Children's Act, Chapter 5:06 of 2002

Constitution of the Republic of Zimbabwe, Amendment No. 20 of 2013

Criminal Law (Codification and Reform) Act, Chapter 19:23

Customary Law and Local Courts Act, Chapter 7:05 of 2002

Customary Marriages Act, Chapter 5:07 of 2001

Domestic Violence Act, Chapter 5:16 of 2007

Marriages Act, Chapter 5:11 of 2004

Presidential Powers (Temporary Measures) (Trafficking in Persons Act) Regulations S2014 4 of 2014

International Treaties

African Charter on Human and Peoples Rights (African Charter), 27 June 1981, CAB/LEG/67/3. Rev. 5, 21 I.L.M 58 (1982), Adopted in Banjul, The Gambia

African Charter on the Rights and Welfare of the Child, 3 RADIC (1991) 173

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), December 18, 1979, 1249 U.N.T.S 13

Convention on the Rights of the Child, September 2, 1990, 1557 U.N.T.S 3. G.A. Res. 44/25, (1989/1990)

Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, AHG Res. 230 (XXX) (1998/2004)

Protocol to the African Charter on the Rights of Women in Africa, 11 July 2003, 11 July 2003, available at: <http://www.unhcr.org/refworld/docid/3f4b139d4.html>.

List of figures

Figure 1: Intersectionalities faced by women in the Apostolic sect33
Figure 2: Sexual hierarchies in the Apostolic sect (from Rubin (1989) Sexual Hierarchies)..46

Executive Summary

‘Child marriages’ in Zimbabwe continue to be the wolf dressed in sheep’s clothing. They happen on a daily basis yet society has tended to turn a blind eye towards them because of cultural and religious reasons. These ‘marriages’ are a serious form of violence against girls and need to be stopped and called and seen for what they really are: paedophilia or sexual abuse.

Research shows that married girls are at higher risk of sexual and domestic violence at the hands of their husbands than women who marry later, and are more likely to believe that a husband might sometimes be justified in beating his wife (UNFPA, 2013).

The Apostolic sect in Zimbabwe is one of the largest religious groups with an estimated 33.9% (Zimbabwe National Statistics Agency (ZIMSTAT), 2011) of the total Zimbabwe population, though some studies have indicated that it is as high as 38% therefore showing that it is a very influential group in society with more than a third of the country’s population. The research which is qualitative in nature looked specifically at the major apostolic groups, the Johanne Marange and the Johanne Masowe yeSabata sects.

‘Child marriages’ take place in these sects and are often veiled or hidden from society. Girls as young as ten and sometimes new born babies are married off to older men under the pretext that it is God’s will. There is gross indoctrination of this belief and girls who are born into this sect are at a higher risk of being married off at an early age. The first sexual experience in these ‘marriages’ is rape which sometimes goes on for years before a girl fully submits and gives in to the *status quo*.

The parents of the girls work hand in hand with the ‘husband’ to be and the mothers are sometimes also involved in ensuring that the adolescent is married off. Benefit to the parents comes in the form of recognition for having adhered to the religious values of the sect and also in monetary form from the man who would have come to ‘marry’ the girl. Some women also participate in the rape of the girl by holding her down during the first encounter and also inserting cooked okra into her vagina to make it more slippery for easier penetration.

The girls are at risk of dying during child birth and some of them do die but the cases are never reported as this is concealed and becomes one of the many secrets in the sect. Life is often tough for these girls who eventually grow up into young women who are despondent and are often suicidal as they see no way out of the ‘marriage’ they would have been forced into. Some of the girls have what is termed ‘false consciousness’ since right from an early age they would have been taught to expect the inevitable marriage.

At the heart of the reasons for these ‘unions’ are issues of sexuality, power, patriarchy,¹ (Hartmann, 1981), culture, religion and a touch of poverty, the main drivers of these marriages being the view that a girl’s virginity will be more secure if she is married off early rather than left to be explored by her as she is allowed to grow.

Whilst all this is happening, the duty bearers, on the one hand, have some good policies and laws that can help end these ‘marriages’ but, on the other hand, very little implementation takes place as these ‘marriages’ have become the custom and, hence, very difficult to challenge. Co-ordination remains a serious challenge amongst line ministries in terms of coming up with a concerted effort and harmonizing existing structures beyond the theoretical call to stop ‘child marriages’. In the background behind the laws and policies remain two major challenges, that of awareness on the part of civil servants and the communities themselves and secondly the pluralistic nature of the Zimbabwean law system where both Customary and Roman Dutch law systems continue to run parallel to each other.

Despite the new Constitution having been passed into law in 2013, there is still no realignment of laws, especially the Children’s Act. This failure is one of the reasons why Zimbabwe is ranked in the top ten of the least child-friendly governments in Africa (ACPF, 2013). The top ten were countries that had failed to put in place appropriate legal and policy frameworks to protect children from abuse and exploitation, and did not make significant

¹ Patriarchy, for the purposes of this study, means ‘a set of social relations between men, which have a material base, and which though hierarchical, establish or create interdependence and solidarity among men that enable them to dominate women.’ While men of different ranks, classes, ages, races, and ethnic groups occupy positions of varying status within the structure, all men ‘are united in their shared relationship of dominance over their women; they are dependent upon each other to maintain that domination.’ Heidi Hartmann, ‘The Unhappy Marriage of Marxism and feminism; Towards a More progressive union, in Women and Revolution; A discussion of the unhappy marriage of Marxism and Feminism. Ed. Lydia Sargent (Boston, 1981) pp.14 – 15.

efforts to improve access to basic services and to achieve positive child-related outcomes, amongst other things.

In the light of the above major findings there is need for a multi-sectoral approach in fighting, ending and preventing ‘child marriages’. Consideration must be given to the fact that since the underlying causes are religion and culture which are deep-rooted in patriarchal trends of power and sexuality, the eradication will not happen overnight.

Communities need to be educated and empowered enough to see ‘child marriages’ for what they really are: sexual abuse and exploitation, paedophilia. Deeper engagements with Apostolic Sect leaders as well as followers are needed and serious government collaboration is essential. Civil Society Organizations need to move beyond touch-and-go approaches with communities; their fleeting presence in a community embedded with child marriages as a religion and culture three or four times a year does not do much change. There is a need for ongoing engagement and sensitization over time. Government needs to realign all laws with the new Constitution and must ensure public awareness of its laws and policies.

Government also needs to adhere to its international obligations and must begin reporting to the Committee on the Convention of the Rights of the Child as well as the Committee on the African Convention on the Rights and Welfare of the Child.²

Deep discussions and harmonizing of laws where possible are therefore necessary and it is important to look deeply at what has been codified as customary law. Engagement with traditional leaders is thus essential since they are usually the first people community members in the rural areas turn to when they have challenges.

² To date Zimbabwe has not sent a report on the state and welfare of the child to the Committee on the African Charter on the Rights and Welfare of the Child. A first country report was sent to the Committee on Convention of the Rights of the Child in 1995. Since then no further report has been sent submitted.

CHAPTER 1

1.0 INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction

‘For the first two days nothing much happened except my constant misery toward my new living situation. On the third day, whilst I was in the bedroom my sister suspiciously exited the room and left the door ajar. Whilst I was still trying to figure out why my sister had left, Austin (who was 52 years old at the time) entered the room and locked the door from inside. He raped me over and over again. I do not remember how long the act took but it seemed like an eternity. I screamed and yelled but no one came to my rescue. In their minds I was another bride who was having sexual intercourse with her ‘husband’. When he was done, he just pulled up his trousers zipped them and exited the room. My sister came back in the evening and helped me to wash and tend to my wounds. Austin had torn my vagina wall and I had to sit in salty water for the whole week. He returned after seven days and I remember because I had been counting the days. He raped me again everyday for the next two months. I later discovered that I was pregnant. I gave birth when I was thirteen to a girl and Austin did not seem to care because he felt that this was an extra mouth to feed.’

(Tendai Makanyanga (not her real name), a former member of the Johanne Marange Apostolic sect)

Tendai’s story together with many untold ones is what is at the heart of this research. In critically analysing ‘child marriages’ in the Apostolic sects, this research sought to expose the marriages and to give a face to the growing statistics on child marriages that society is often given in numerous newspaper articles and studies. A ‘child marriage’ is defined as follows:

‘Child marriage, also known as early marriage, is defined as “Any marriage carried out below the age of 18 years, before the girl is physically, physiologically, and psychologically ready to shoulder the responsibilities of marriage and childbearing”’ (Fact sheet 23, 1979).

In Zimbabwe, Tendai’s story has turned into the norm and even though there are laws and policies in place (though there are gaps), these so-called unions continue to take place.

Child marriages impact on the life of the girl child in very negative ways. The girl child often drops out of school at an early age and is thereafter exposed to a lifetime of misery. Research conducted by the Zimbabwe Statistics Agency (ZIMSTATS) shows that there is a marked relationship among women’s level of education and the median age at marriage. The median

age at first marriage among women aged 25 to 49 with no formal education is 17.7 years, and it rises steadily to 23.4 years among those with more than a secondary education (ZIMSTAT & ICF, 2012).

In Zimbabwe laws that have been enacted to protect children from such violence, for instance Domestic Violence Act (which criminalises ‘child marriages’) coupled with the Criminal Codification (which makes it illegal to have sex with a minor), are shrouded in ignorance and stigma on the part of the community. The Convention on the Rights of the Child states in Article 34(a) and (b):

‘States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent and eradicate the following:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices’

By allowing ‘child marriages’ in the Apostolic sect to continue, the Zimbabwe government is actually failing to protect the girl child from this form of sexual exploitation and unlawful sexual activity.

1.2 Problem statement

Given that girls and women are forced into marriages by their elders at church as well as their parents, the key issue then is how best to eradicate this problem. These young girls and women who have been forced into these ‘marriages’ have their power taken from them. Hence one of the key questions is about whether they have agency (see footnote 3) in this forced marriage set-up. What happens to them in the context of this marriage? Do they just give up and submit to these ‘marriages’ or is it a case of their having no place to which they may escape from them? The research that has been done so far on this topic is often quantitative in nature and fails to really capture the voices of the women and girls who are the victims of these so-called marriages.

Zimbabwe has entered a new Constitutional dispensation which is applauded given that for the first time a 'child' is defined as anyone below the age of eighteen. This definition has also been followed by the rights that are awarded to a child and yet to date we still see the non-realignment of critical laws such as the Children's Act to this new definition.

However, one interesting but unfortunate aspect is the conflict between customary law and civil law. While the Customary Marriages Act does not give an age for marital consent, the Marriages Act gives the age of 16 for girls and 18 for boys. Now with the arrival of the new Constitution and the definition of a child as being a person below the age of 18, the protection of this age restriction should be extended to girls through appropriate changes to the Customary and Civil Marriages Acts.

There are also key issues about eroticism. Do these young girls get used to sex which will have been rape? Do they find pleasure in this? What about the elderly women? These are all major issues that need answers. Zimbabwe has still failed to domesticate fully the conventions that it has ratified. There is hope however in the light of the new Constitution given Section 326 which states that:

- '(1) Customary International law is part of the law of Zimbabwe, unless it is inconsistent with this Constitution or an Act of Parliament.
- (2) When interpreting legislation, every court and tribunal must adopt any reasonable interpretation of the legislation that is consistent with customary international law applicable in Zimbabwe, in preference to an alternative interpretation inconsistent with that law.'

The recognition that is stated above now needs to be translated into action so as to give life to the Constitution and make it apply meaningfully to the lives of women and girls in Zimbabwe.

The other pertinent questions are: *'Who is really responsible for the welfare of the child and how best can communities, government and civil society join hands to put an end to forced 'child marriages'?' It is my case that 'child' and forced marriages can be stopped and young girls and women can have agency if they are rescued from this predicament through the full implementation of both the Constitution and relevant international and regional conventions.*

1.3 Research objectives

The main objects of the research were:

1. To investigate the causes of child marriages in the Apostolic sect.
2. To assess the effects and the impact of the ‘marriages’ on girls and women.
3. To analyze the laws and policies in Zimbabwe and to unearth gaps and opportunities.
4. To give possible recommendations for the prevention and ending of child marriages in the Apostolic sect.

1.4 Research assumptions

This research was based on the following assumptions:

1. Some girls and young women in the Apostolic sect have been forced into marriage by their church elders and parents under the pretext that ‘it is God’s will’.
2. Women and girls in forced marriages do not have agency³ and also experience ‘marital’ rape.
3. Women and girls cannot leave forced marriages because they have nowhere to go.
4. Some parents of the women in the Apostolic sect forced their children into marriage for some benefit.
5. Women and girls in forced marriages cannot fully access their sexual and reproductive health rights.
6. The laws in Zimbabwe do not fully protect women and girls and are also not being fully implemented by the duty bearers leaving women in the Apostolic sect vulnerable.

1.5 Research questions

1. Are some girls and young women forced into marriage by their church elders and parents under the pretext that ‘it is God’s will’?
2. Is it the case that women and girls in forced marriages do not have agency? Do women and girls in forced marriages experience ‘marital rape’?
3. Do some parents of women and girls in the Apostolic sect force their children into marriage for some benefit?
4. Are women and girls staying in forced marriages because they have nowhere to go?

³ Agency for the purpose of this research refers to the woman’s free will and their ability to make decisions about their circumstances and how they will use their body (Sanders, O’Neill, & Pitcher, 2009). It is also viewed as the ability of a person to challenge oppression.

5. Are women and girls in forced marriages unable to access their sexual and reproductive health rights?
6. Are laws in Zimbabwe not being implemented by the duty bearers leaving women in the Apostolic sect vulnerable?

1.6 Demarcation of research

The research was conducted in Kuwadzana Extension and Chitungwiza though some of the participants were also from Murehwa. A total of forty (40) respondents were interviewed. The two areas came about through the grounded theory and network case study approaches. Given the conservative nature of Apostolic sects, I was able to link up with those in Kuwadzana through a family friend. The links in Chitungwiza came from a follow-up with the Ward Co-ordinator of Seke.

Chitungwiza is the largest high density suburb in Zimbabwe and is popularly known as Chitungwiza. It is located about 30 kilometres from the Central Business District of Harare. Chitungwiza has several suburbs and this study was conducted in Seke Unit E.

Kuwadzana Extension on the other hand is also a high density residential area. The area lies on the western side of the Harare Central Business District and is about 35 kilometres away from it. The respondents from Kuwadzana extension were those from the Johanne Marange sect whilst those from Chitungwiza were from the Johanne Masowe sect.

1.7 Study limitations

The research does not contain any interviews from the Zimbabwe Republic Police. The Police Service did not grant permission for the researcher to conduct the interviews. It would have been interesting to gauge whether the Police actually understand the problem of child marriages and to see what attitudes influence their decisions in choosing between to arrest a perpetrator of such a marriage or to have the case withdrawn and dealt with by the Public Relations department.

The other main limitation was the voice of the male respondents in the Apostolic sects. There was only one male respondent from the Johanne Marange sect. It was difficult to get the male

respondents given the many patriarchal barriers. Maybe more engagement would have been obtained gotten buy in from potential respondents over time.

CHAPTER 2

2.0 CONCEPTUAL FRAMEWORK and the Constitutional Debate

2.1 Defining ‘child marriage’ in the general context

There has been a constant debate about the origins of child marriages in Zimbabwe. The Apostolic sect which is under purview in this research was formed in the 1930’s. The Johanne Marange and Johanne Masowe sects command sizable followings in Zimbabwe (Machingura, 2008). At the time of their formation, Zimbabwe (then Rhodesia) had just passed the cultural versus European standards struggle. After colonialism, black women had started benefitting from the enforcement of laws that protected them from forced marriages, child marriages and child pledging.

Elizabeth Schmidt (1990) interrogated this debate of customary law and its formation by looking at child marriages, pledgings and forced marriage. The Native Marriage Ordinance Act of 1901 which governed all non-Christian marriages between Africans - and thus the majority of African marriages - outlawed child pledging and required that the woman’s consent be obtained before a marriage took place. This information which is contained in archives shows that it was part of the culture of Zimbabweans, be it Ndebele or Shona (Zimbabwe’s two largest African tribes), to have child marriages of the girl and forced ones of the woman. Sadly, as this movement of emancipation grew, so did the opposition to it by black males.

A deal was struck between the male patriachs and the European males since there was a need to keep the black male happy in order to ensure that there was no rebellion (Schmidt, December 1990). More than four decades after the passage of the 1901 Marriages Ordinance, state officials were still preoccupied with shoring up African male transformations. Writing in 1946, the acting Native Commissioner of the Shangani Reserve held that the state should give an African woman’s guardian ‘every support in his attempt to restrain his ward from leaving his home without his permission...at present most daughters decide who they will live with and when they will leave their parents home’ (Commissioner, November 1946). It was in the 1930s in the heart of such post comments that the Apostolic sects were born. This inevitably meant a link in both culture and religion and hence ‘child marriages’ carried on in

the Apostolic sects to a point where they were deemed to be religious, although their origins were actually cultural.

As stated earlier, a child marriage is defined as:

‘Any marriage carried out below the age of 18 years, before the girl is physically, physiologically, and psychologically ready to shoulder the responsibilities of marriage and childbearing’ (Fact Sheet 23, 1979).

This shows that there is an international recognition and naming of the union or marriage itself. Yet a marriage is meant to be an agreement between two consenting adults.

Child unions often entail either one or both partners being adolescents and they may take place with or without formal registration, and under civil, religious, or customary laws. In many societies, and mainly in Third World countries, adolescent unions are used as a platform to build or fortify coalitions between families (Mhembere, 2011). Research has however shown that it is mostly the girl child, as opposed to the boy child, who ends up in a ‘child union’ (UNFPA, 2012).

Despite near-universal commitments to end child unions, one in three girls in developing countries (not including China), is married before the age of 18 (UNFPA, 2012). Many of these adolescents are underprivileged, live in rural regions and are poorly educated. Births by young girls are at their highest where child unions are prevalent, and are more frequent where the scarcity of resources is severe (UNFPA, 2013). These statistics show the extent of ‘child marriages’, the fact that they lead to adolescents giving birth and this, in turn, raises the world’s maternal mortality rates.

Since age seems to be the determining factor when analysing the meaning of a ‘child marriage’, it makes sense to make the starting point for this investigation the definition of ‘a child’. The Zimbabwean Constitution defines ‘a child’ as anyone below the age of 18 years of Age.⁴ The Children’s Act, Chapter 5:06 defines ‘a child’ as anyone below the age of 16 years of age. ‘A minor’ in the same Act is defined as anyone below the age of 18 years. When

⁴ Constitution of Zimbabwe (Amendment No. 20) of 2013, Section 81(1)(e).

dealing with the crime of having sex with ‘a young person’, the Criminal Law Code⁵ defines ‘a young person’ as anyone who is below the age of 16. The inconsistencies between these various laws which existed even before the Constitution continue to exist because there still has been no realignment of these laws to make them consistent with the Constitution.

Section 78 of the Constitution looks at marriage rights and states:

- ‘(1) Every person who has attained the age of eighteen years has the right to found a family.
- (2) No person may be compelled to enter into a marriage against their will.’

This section has together with Section 26⁶ shown that the move by the Government is towards ending ‘child marriages’. I still however have a problem with that. *If a marriage is supposed to take place with consent and between adults (i.e., persons of 18 years and over), then how is it that society has come to define a child living in the guise of a union as a married child?* What is a marriage? Can society continue to claim that a marriage has occurred because a bride price has been paid? What then really legitimizes a marriage? Is it the fact that a girl’s virginity has been broken and she is now pregnant?

In conceptualizing ‘child marriages’ what would make sense is if there were two children who are staying together and having children together. That can easily be defined as a child marriage but what then do we call an adult female or male in the context of this research who is living with a minor and sexually exploiting her and making her have his children?

2.2 Interrogating the human rights framework embedded in the Constitution of Zimbabwe

Child marriages are sexual exploitation and hence there is a need for duty bearers to realign all laws and ensure that customs and traditions that are inconsistent with principles of inequality are done away with.

⁵ The Criminal Law (Codification and Reform) Act, Chapter 19:23 in section 61: 1 on interpretation defines ‘a young person’ as anyone below the age of sixteen. This section of the Act deals with the crime of having sex with a young person which used to be called statutory rape. This change in the naming of the crime obscures the pervasive nature of the act and trivializes rape.

⁶ Section 26 of the Constitution states:

- (1) The State must take appropriate measures to ensure that:
 - (a) No marriage is entered into without the free and full consent of the intending spouses;
 - (b) Children are not pledged into marriage.

In trying to build consensus or a similar understanding of how we ought to reconceptualise the thinking and theorizing around child marriages, there is a need for an analysis of the human rights perspective in relation to ‘child marriages’. The Bill of Rights within the Constitution of Zimbabwe is critical as the starting point in this interrogation. As pointed out earlier, a ‘child’ in Zimbabwe in terms of section 81 of the Constitution is any boy or girl below the age of eighteen. This already gives a framework for defining what a ‘child marriage’ therefore is. Section 78 of the Constitution which deals with marriage rights states:

- ‘(1) Every person who has attained the age of eighteen years has the right to found a family.
- (2) No person may be compelled to enter into a marriage against their will.’

From the above sections, it can be easily deduced that marriages are intended to be entered into only by those who are above the age of eighteen and not anything less. Those who have attained the age of eighteen are adults in relation to the law and can, therefore, found or start a family. Children are clearly not included in that ambit.

Zimbabwe has also ratified numerous conventions and the key ones for the purposes of this discussion are:

- Convention on the Rights of the Child (CRC)
- The African Charter on the Rights and the Welfare of the Child (ACRWC)
- Convention on the Elimination of all forms of Discrimination against Women (CEDAW)
- The Protocol on the African Charter of Human and People’s Rights on the Rights of Women (‘The Women’s Protocol’)

Beginning with the regional frameworks, the African Charter on the Rights and Welfare of the Child (ACRWC) states:

‘Article 21: Protection against Harmful Social and Cultural Practices

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 and in particular:

- (a) Those customs and practices prejudicial to the health or life of the child; and
 - (b) Those customs and practices discriminatory to the child on the grounds of sex or other status.
2. Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.’

The ACRWC is very clear on its position of what the state has to do in terms of ‘child marriages’, though there is no clear definition of what a ‘child marriage’ is. If a child gets married to another child, what is the state supposed to do? Are the betrothals being viewed from a perspective of a child being married to an adult? The definition of a child though is very clear and that is that it is anyone who is below the age of 18. This shows that when framing its Constitution, Zimbabwe adhered to the regional treaty and its definition of who a child is. It also adhered to the principle of consent in framing what would constitute a marriage as stated above which is that no one can be compelled to marry against their will.

Another key question when interrogating what is being stated by the treaty is whether ‘marriages’ between two children are supposed to be sanctioned or not and whether society should stop or turn a blind eye to them. Is it worse for a child to be married to another child or for a child to be married to an adult? Both are detrimental to the child, although the latter appears to be the greater of the two evils. In either case, the girl child is prevented from ever reaching her full potential in any area of her life.

When it comes to dealing with the concept of marriage and who may get married, the Women’s Protocol states:

‘Article 6: Marriage

States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that:

- (a) No marriage shall take place without the free and full consent of both parties;
- (b) The minimum age of marriage for women shall be 18 years.’

What then is this ‘free and full consent’? If a child has grown up in the Apostolic sect and gets married ‘willingly’ without any debate, will that be defined as consent? Is full consent tied to the age of a person? In my opinion, there is no better definition of consent and what consent does not constitute than the one that was given in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime which states in Article 3:

“‘Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.’

The above article deals with the issue of consent in depth. Where people abuse their power to extract ‘consent’, that so-called consent is invalidated by the Convention. Aspects of coercion and manipulation are also addressed. Using that Article and that understanding of consent (i.e., from the world of trafficking) and applying it to the similar world of ‘child marriages’, it may be argued that they are a form of ‘internal child trafficking’ and one can clearly see that they do not constitute a valid, legal marriage at all. Simply put, when a child is supposedly ‘married’, that union is null and void because there is no free and full consent.

2.3 Towards a paedophilia and sexual abuse and exploitation mindset

First of all, society needs to remove the scales from its eyes. Living with a girl who is below the age of eighteen should not and cannot be classified as marriage. The definition of a child and who can be married are clearly given in Sections 78 and 81 of the Constitution of Zimbabwe, above.

While it is accepted that African society has always been applauded for embracing and celebrating the life of the child, what kind of celebration recognizes an abuse as marriage? Husbands of child brides are usually old enough to be their fathers or even grandfathers. Even those younger husbands (i.e., who are above the age of eighteen but, say, only five years older than their child brides) are more mature than the young girls they supposedly marry.

The reason why the terms ‘child marriage’ or ‘husband’ continue to be written in quotation marks throughout this research is because we as a society need to call ‘child marriage’ (and its related terms) by its proper name. In other words, a ‘child marriage’ is not a marriage. A marriage is based on the free and full consent given by spouses who are on an equal footing with each other. These supposed marriages are not. The girl is young and is supposed to be in school and not in a home making food. One respondent in the research had this to say:

‘Ndaiti masikati zviya, ndaibuda ndichinotamba mahumbwe nevame vana, muriwo ndasiya pamoto, manheru ndaisvikorohwa kuti ndapisa sei muriwo ndonzi ndukutadza kuchengeta murume.’

(Translation: ‘During the day I would go and play house with the other children and leave the evening’s relish on the fire. I would then burn the relish and get a beating in the evening for burning the relish and be told that I was failing to take care of my husband.’)

This is not a picture of a marriage but of a stolen childhood and exploitation. This man was busy waiting to have his food cooked by a thirteen year old girl who was a child by day and a ‘wife’ at night. Society cannot continue to endorse this as a union and needs to see it as sexual exploitation and abuse. The men who ‘marry’ these young girls are sexual abusers and paedophiles. Paedophiles are grownups who prey on children who have not yet reached puberty. Child sexual abusers are people who sexually abuse children below the age of eighteen.

Research shows that a lot of hard work - and capital - to prevent child pregnancy typically focus on adolescents’ aged 15 to 19. Yet, the adolescents with the greatest exposure, and who face the greatest danger of difficulties and fatality from pregnancy and giving birth, are aged 14 and below (UNFPA, 2013). This group of very young adolescents is typically overlooked because the girls are in forced early unions and are stopped from going to school or receiving sexual and reproductive health services.

In the light of this I would like to explore what I believe to have been the spirit behind the Convention on the Rights of the Child. While some authors might believe that the Convention's failure to mention 'child marriages' means its total disregard of the practice and attention to the girl, I, however, am of the view that the Convention's use of the words sexual exploitation and abuse refers to such 'unions'. They are not marriages and should be viewed from the perspective of exploitation and abuse. Let us call a spade a spade and not a garden fork. The needs for these young girls are tremendous, and states, societies civil society, and the international community needs to do much more to protect them and support their safe and healthy transition from childhood and adolescence to adulthood (UNFPA 2013). The girls need to experience their childhood and play games and go to school just like everyone else.

There is hope however in terms of the naming and the mindset of what we ought to call this evil. Zimbabwe enacted the Presidential Powers (Temporary Measures) (Trafficking in Persons Act) Regulations in January 2014. This Act which is valid up to July of the same year was created in the spirit of the Convention on Trafficking of persons together with the Protocol both of which Zimbabwe has ratified. The Act states:

'Crime of trafficking in persons

- (1) Any person who -
 - (a) Traffics any individual by transporting him or her into, outside or within Zimbabwe -
 - (I) involuntarily, that is to say by any of the following means —
 - A. force, violence or threats thereof; or
 - B. administering drugs to subdue the victim or causing the victim to be addicted to drugs; or
 - C. abduction or detention of victim; or
 - D. fraud, extortion or deception; or
 - E. the abuse of power or trust over a victim; or
 - F. the giving of inducements to a victim or a person having control over a victim for the purpose of exploitation;'

This Act recognizes internal trafficking and not just cross border trafficking which has been the challenge regarding many definitions of trafficking. The voluntary movement of the person which can be interpreted to mean consent makes it involuntary where there is deception, abuse of power or trust and even abduction and detention. This makes a clear case for the so called 'child marriages'. Parents who carry this out abuse their power and trust over the girl and the man who takes her is doing so for the purpose of sexual exploitation, reproduction and, ultimately, power.

In finalizing the conceptual framework, let us call rape by its name. What happens to these girls is not marriage but exploitation, abuse, trafficking, paedophilia. It is anything else but a valid, legal union between consenting adults!

CHAPTER 3

3.0 RESEARCH METHODOLOGY

3.1 Methodology

The overarching methodology was that of the Women's Law Approach. This was done primarily so as to capture the lived realities of the women to see how their lives have been impacted by the current laws in relation to 'child marriages'. The main objective here was to apply a systematic feminist perspective as well, that is, to examine and understand how women are considered in law and how the law corresponds to women's reality and needs (Dahl, 1987).

The approach is woman-centred and takes into account the woman's actual lived experiences and life situations as a starting point for the analysis of the position of women in law and in the society. It is an umbrella approach to the grounded theory, the actors and structures approach, the human rights approach and the legal pluralism approach. Hence, it facilitated a bottom-up approach which led to the qualitative participation of women in the research. The methodology of women's law is cross-disciplinary and pluralistic and calls for a rather free use of the available material wherever it may be found.' Stang Dahl (1988) goes on further to say, '...from the perspective of looking upwards from below... hereinafter called the women's perspective.'

Given the secretive and often conservative nature of Apostolic sects, especially the Johanne Marange sect, I needed to know if the women and girls had access to the law if they even knew what the law stated. 90% of the women that were interviewed stated that they had experienced physical violence and their first sexual experience was rape. They had no idea that 'marital' rape was a crime and that there was the Domestic Violence Act which was there to assist them in the face of such abuses. This clearly showed that what the law said on the one hand was not being fully implemented on the other because of a lack of knowledge on the part of its intended beneficiaries.

The women who had been married off at young ages felt that they had no power to refuse to be married off since their parents had entered into an agreement with their 'husband' to be. They felt that their consent was not necessary because they belonged to their parents and

once a man came to offer his hand in marriage, they were supposed to do as their parents told them.

The other women who had not been literally ‘forced’ to get married but had been married off before the age of sixteen years said that they did not see anything wrong with such a marriage. They did not know what the law said about marriage; on the other hand, the ones who had been married off as young as 12 said that to them such a thing seemed normal. They did not know the provisions of the law. Had they known, some of them said that they would not have gotten married at such a young age. The lived realities of the women in the Apostolic sect were therefore investigated and interrogated in order to discover gaps in policies and laws. The lived realities of the women in the sect became the key pointers to possible solutions and redress in the gaps.

These discussions around the law brought out the tensions that exist between the two systems of law, being civil marriages, on the one hand, and customary law, on the other. Within the framework of the Women’s Law Approach, I used the legal pluralism approach which looks at the dualistic nature of the legal system in a particular area of law and how that dualism affects the purposed recipients’ of the law.

Legal Pluralism had already been selected as one of the approaches engraved in the overarching framework of the Women’s Law Approach. The girls and women who were interviewed related more to the customary law and those who had registered marriages, that is the first wives in the unions, subscribed to the notion that the Customary Marriages Act, popularly known as ‘*muchato wekwamudzviti*’ (a marriage obtained from the District Administrator who was a marriage officer), did not state anything about the age of marriage. In saying this it was not that they were aware of the fact that the Customary Marriages Act did not stipulate an age for marriage, but that *Mudzviti* ought to have told them that they were too young to get married.

On the other hand the Domestic Violence Act makes it a crime to enter into a ‘child marriage’ and makes it illegal for there to be any form of child pledging. The question of the definition of a child in both customary and civil society came under immense scrutiny. Who was a child? Was there any recourse to justice at all for the ‘child’ who had been married off? What was the law using in its quest for paedophiles?

In utilizing the legal pluralism approach, I continued questioning the very existence of the codified customary law itself. Was it really the custom of Zimbabwe or was it a practice that had been long outdated but codified and therefore set in stone? The notion of custom as a living being that continues to change and is dynamic was a possible solution that was explored through using this approach. I used this approach in interrogating the gaps in terms of the law and how the plurality of systems perpetuates the institution. From the findings the codified customary law seems to be the one that is used to support ‘child marriages’.

The Human Rights Based Approach was then central to ensuring that questions arising from the dualistic nature of the Zimbabwean legal system were addressed. Zimbabwe has ratified very good international and regional treaties especially from a Universalist⁷ perspective. The challenge however remains in the domestication of the laws. In the Human Rights arena, both the Convention on the Rights of the Child (CRC) and the African Charter on the Rights and the Welfare of the Child (ACRWC) define a child as anyone below the age of 18.⁸ The women who were interviewed said that they had often heard of the term human rights or ‘kodzero’ in Shona yet they really did not know what these were.

The women were unaware of what human rights instruments were or that the Government had ratified any such conventions. This makes the government free from any accountability since the ordinary people on the streets are unaware of the existence of such conventions. On the other hand, there was a deliberate move to look at the human rights instruments and what they stated about ‘child marriages’ and the rights of the child in general in comparison with what was in our current system of law.

One of the questions I then posed using this approach was whether the customary law that is codified was going against the very essence and spirit behind the conventions that we had ratified as a country. The following pieces of legislation amongst others were then interrogated from the perspective of the Human Rights Based Approach:

- Constitution of the Republic of Zimbabwe
- Children’s Act

⁷ Definition of Universalism in the context of Human Rights.

⁸ State which articles you are referring to

- Customary Marriages Act, Chapter 5:07
- Marriages Act, Chapter 5:11
- Domestic Violence Act, Chapter 5:16
- Criminal Law (Codification and Reform), Chapter 9:23

The key area on which I focused was the extent to which the laws were consistent with the provisions of the human rights instruments. I also searched for any conflicts between the laws and sought the best solution that was in line with human rights obligations.

For every law, there is usually a positive or negative response. In the light of the semi-autonomous social fields approach, I sought to see if there was a voice that spoke louder than the law. This approach was used to determine why the law is currently not working when it comes to addressing forced or ‘child’ marriages. If the law is there and is meant to protect children from these so called unions, why were they continuing.

The current thinking is that where laws are in line with the conviction of society the legislator or emitter of such laws is likely to secure increased reinforcement for his legal message (Allot, 1980). However in the case of the Apostolic sect there was a deliberate attempt especially by the leaders even where they knew the law they did the exact opposite. The only male Apostolic respondent from the Johanne Marange sect, who spoke on condition of anonymity, said he had lied at first that all his wives had been married after they had turned sixteen years of age. He was very much aware of the contents of the law when he said:

‘Handiti mutemo unotiti tinofanirwa kuroora vasikana vanenge vadarikamakore 16. Ukasadarounogona kusungwa.’

(Translation: ‘The law states clearly that you must marry a girl who is at least sixteen years of age. If you do not do that you can even end up getting arrested.’)

Religion and culture seem to have more power and voice in relation to the law and through that lens I was able to interrogate why the law had not worked. I asked some of the women what they thought about the laws now that they knew that it was an offence to be beaten and that ‘child marriages’ and pledging were criminal. One woman said:

‘It is difficult my daughter to go against religion. Every day that I have attended the Johanne Marange sect, it has always been discouraged to have girls going as far as their Ordinary level. The emphasis is on marriage. A girl’s place is said to be n the home, law or no law.’

This brought to the fore the semi-autonomous field of religion. These girls and women, especially those who were born to parents in the sect, stood no chance of benefiting from any law that hindered ‘child marriages.’ The reason was very simple, their parents were bound to listen more to the preaching at a church than to a law that was sitting in a book in some cupboard in a Government office. What they did every day and related to was what they would listen to.

As Tsanga (2003:52) states, where people see law as imposing values and practices that are not consonant with their interests, needs, attitudes and convictions, reactions are generally negative. This was true in the case of the Apostolic sects. The men in this case really did know the law and knew that one could get arrested but nevertheless continued to go ahead and marry an underage girl.

Given all these legal issues that were likely to be present in the research, I sought to understand the role of the duty bearers in all this. Within the over-arching framework of the Women’s Law Approach, I also used the actors and structures approach so as to look at who was doing what and where and what was influencing their response to a certain situation.

The key question was, ‘Who is in charge of the child?’ and what were their attitudes in responding to the child. Did they carry out their work solely in terms of policy or were they influenced by parallel cultural or religious structures? This brought into play the concepts of cultural relativism versus universalism in the approach to child rearing. A child in our Zimbabwean society belongs to their parent or guardian and they can literally do whatever they want with the child. Even the actors and structures do not seem to support the child because of this strong underlying attitude.

Using this approach, I was able to pick out these attitudes from a teacher in a primary school in Chitungwiza. When I asked her whether children from Apostolic sects disappear just before writing exams she responded in the positive. I then went on to ask her what they then did as a school after having noticed that a child, in this case a girl, had dropped out. She said:

‘At times as a teacher you hear from the other students that so and so was married off by her parents and you just then leave the matter because at the end of the day, the child belongs to the parents so your hands are tied. These are Apostolic sect parents and at the end of the day they do what they want with their child.’

This attitude was coming from a state actor and showed that even though policy dictated that a teacher should report this to the school head (who, in turn, works with the District Education Officer to investigate such cases), this would not happen because the reporting structure had already been compromised by the parallel structure of culture and religion. As a mechanism for the early detection of child abuse, the roles of the teacher and of the school as a whole were virtually irrelevant. The Apostolic sect in that area was now running a parallel structure and way of doing things. As long as the child that disappeared was from the Apostolic sect, the teachers were likely not to do anything about it even though policy dictated the opposite. Hence, the girls who would go missing were not going to access the overall protection given from the reporting structure because of influences from the cultural and religious structures. This confirmed what was stated by Weis Bentzon *et al.* (1998) that ‘A woman’s use or non use of her legal rights and freedoms must be considered in the light of the wider socio-cultural opportunity structure she operates.’ The girls in this case because of the cultural and religious structures could not have the abuse they were going through detected early. In this case, the cultural and religious structures were so dominant that they neutralised the ability of the actors within the formal structure to detect and treat immediately the abuse experienced by the girls when it first arose.

To finally weave in all the approaches into the overall framework, I used the grounded theory and the network case study approaches. The grounded theory approach is likened to the work of a dung beetle (Weis Bentzon *et al.*, 1998) which continues collecting its small ball of dung until it is even bigger than itself and it greatly assisted me in locating the respondents as a start.

This approach was especially important in pointing out whom and which leads to follow. Given the secretive nature of the Apostolic sect, new leads and emerging issues were essential so as to be able to provide an in-depth analysis of the marriages. I used the network case study to analyze the lives of one family in particular in the Johanne Marange sect. I was

linked to John who then networked me with his wives. One of the wives then networked me with a cousin of theirs called Tendai. In the end, I was able to critically analyse their lives by conducting case studies.

In the same light, I used the grounded theory to search for the respondents by following up on leads whilst being networked to them. I started off with no respondents from the Apostolic sect and then after following up on a lead from a family member I was led to John (not his real name). Through this approach I was able to understand the different types of marriages within the Apostolic sects. Following up on leads and questioning and interrogating issues that had been raised in a previous interview proved useful and fruitful for in-depth analysis.

From an interview that I was conducting with the Ministry of Health and Child Welfare, I was made aware of the presence of an organization called the Union for the Development of the Apostolic Sects in Zimbabwe (UDACIZA). Hence when I had linked with the Ward Coordinator at Chitungwiza and they introduced me to the same group, I was already in the loop as to the potential of the wealth of information I would get from the group. UDACIZA then connected me with the group of women from Johanne Masowe with whom I had a focus group discussion.

Using the same approach, I was able to follow up on a lead that I had been given by the teacher at Seke Primary School who had talked about a school that was in the area which had been built by members of the Apostolic sect. I was able to follow up thoroughly on this school and I even had the opportunity to meet the only teacher who is at that school and find out more about their plans for the school and the quality of education that was being taught there.

From intertwining and weaving the above methodologies, I was able to use a holistic approach to the research and view from the lenses of the women who are usually at the bottom of the pyramid when it comes to national processes. This gave me an in-depth understanding of the nature and extent of the problem of ‘child marriages’.

The research took a surprise turn in the end. I ended up using a methodological approach that I had not encompassed and that is the participatory action research. Tendai a young woman who was forced into a ‘child marriage’ decided that she wanted to run away and needed my

help on where to go. I took her to the Musasa project for counselling and also advised her to go for testing. She did go to Musasa but unfortunately her uncle scared her by lying that the people at Musasa would arrest her parents. I also linked her up with an employment agency and she has visited it. The women in one of the focus group discussions also decided to engage in some form of economic activity so that they could send their children to schools.

I am still assisting the community to write some proposals and to also raise money on their own to do community gardens. The women are doing this to cope with the economic challenges that they face which they say expose their children to ‘child marriages’.

With the arsenal of the methodological framework, I was able to use a variety of methods to gather the information that was required.

3.2 Research methods

3.2.1 In-depth interviews with primary and key informants

A total of 10 in-depth interviews were held with primary and key informant respondents. Most of the interviews with the women in the sects were not formal and I did this to ensure that they felt safe. This allowed for data gathering of individualized stories of the women as they gave details on how they ended up in a ‘child marriage’. Using this method really assisted the women to open up since some of the details they gave were basically incriminating evidence against family members who had coerced or manipulated them to enter into these marriages. Through interviews I interacted with a lot of women which resulted in the collection of vital information.

The challenge though with the method is that some women at times feel safer when they are talking in a group. One-on-one in-depth interviews are very personalised and sometimes it takes more than one interview to make a woman feel relaxed and trusting. As stated earlier, the Apostolic sects are very conservative. However, sometimes that conservative nature worked to my advantage whilst using this method because the women often at times do not want the whole society to find out that they actually have a sort of repulsion towards the way things are done in the sect.

Using this same method really assisted in persuading John to speak out on issues that he admitted he would not have spoken about had he been in a group of men. It unveiled deep seated issues of masculinity that are present and that lead men to enter into these marriages. As John said during the interview:

'Huisi kamurume chaiye nhai mainini kana uine mukadzimumwe chete.unotodzingwa panevanhu uchinzi haungatonge nyaya nekuti hauna vakadzi vakawanda. Ivo vakadzi vadiki ava handiti ndivo vanobvuma barika.'
(Translation: 'You are not a real man if you have just one wife. When you are amongst other men they will tell you to move away from them because you cannot give any advice to people who are in polygynous unions because you will not be in one yourself. So we marry the young ones because they are the ones who easily accept such marriages.')

This information proved vital and would only have been unveiled using this method. John had clearly said from the onset that he would not have said anything if he had been amongst other men.

3.2.2 Focus group discussions

From the link with UDACIZA, it was easier and more convenient for the women in the area to attend a focus group discussion. The women are often busy with household chores and also because of indoctrination one cannot just approach them at their homes because the chances of being turned away because one is an outsider are very high.

Using this platform was very useful because the women were able to discuss the challenges that they faced and how they had gotten married. I had to break the large group into smaller groups for further discussions since there were some shy characters. The challenge with having a big focus group discussion is that sometimes you have those who participate a lot and they tend to intimidate the introverts into silence.

By getting into smaller groups a lot of discussions emerged from those who are usually quiet. One woman who had been very quiet all along when we had the bigger group which had a total of 19 individuals just started sharing her own experiences and said:

'Kunyarara hazvirewe kuti unenge usina nhamo. Wangu murume ndichingosvika akabva anditi nderegedze zvekutengesa zvandaiita. Iye naamaiguru ndivo vaironga zvaiitika pamba. Inini sezvo ndaive mudiki uyezva

ndiri mukadzin'ina ndainge ndisina kana chandaitenderwa kutaura. Ndakatozotanga kuwonekwawo semunhu ndava nemakore 25 ende iniwo ndainge ndachikura mupfungwa ndava kukwanisa kubvunza.'

(Translation: 'Being quiet does not mean that you do not have problems. When I started staying with my husband, he told me that I had to stop my small business of buying and selling goods. He and the first wife used to plan everything that was happening in the home. Since I was very young and also the second wife I was not allowed to voice my opinions. I was only seen as a full human being when I turned 25 and had also matured and was now starting to question things.')

Other women also came out of their cocoons and spoke but the support of the smaller group and the agreement that came from the others gave them the courage to speak out and tell their own stories.

3.2.3 Observation

In order to pick up on the untold or unspoken response of a respondent I used observation. This method was especially useful where a question was asked during an interview and the respondent changed the facial expression which communicated a different message or emphasised something that they were about to say. For example, when I asked one of the respondents, Mai Chipenge (not her real name), who spoke on the condition of anonymity, what she had gone through, she just shook her head and went quiet. Her face became sad and for a moment she seemed to have gone back in time. Even after opening up to me during the interview I could tell from observing her that she was holding back because she did not want to experience the trauma again by re-telling her story.

By observing I was also able to see the great trauma the women had gone through. It was a trauma that could not be expressed in words but could only be observed. I was also able to gauge the effect of indoctrination and how it works. The day that I visited Mai Chipenge there were some young children between the ages of 2 and 5 years old who were playing outside. The girls were dressed in mostly light colours like white and lilac. They were also wearing head gear to cover their tiny heads. As they were playing this is what they were saying:

Girl One (addressing a boy below the age of five years):

'Eh, Madzibaba, maswera seyi?'

(Meaning: '...')

Boy One:

'Taswera, Madzimayi. Ko Madzimayi tiimbireiwo nziyo tangai chiya chekuti, Gloria.'

(Meaning: '...')

Girl Two:

'Mirayi ndiimbe inini. Gloria, Gloria.'

(Meaning: '...')

And all of them start singing.

Meaning, the first girl was greeting the young boy calling him *Madzibaba* which is a *Shona* term used by Apostolic sect members when they are referring to a male. It carries connotations of being a leader and a father. The young boy then greets the young girl and calls her *Madzimayi* which is the Apostolic sect way of referring to women. It is a term that is used to look at women as mothers. The young boy then asks the young girl to sing a song called Gloria. Another young girl (Girl Two) interjects and insists that she be the one who starts the song. She then starts singing.

From that observation of how children play, I was able to see the indoctrination first hand. Instead of playing games like the other children that I had seen, the young children were playing 'church'. Such observations helped me understand just how pervasive religion could be.

3.2.4 Data recording

In order to ensure that I captured exactly what was said and meant by the respondents, I recorded sessions which were permitted by them. I would then come home and replay them in case I had missed some words or interpretation. During one replay of the session, I discovered that I had misunderstood the relationship that was there between Tendai and her aunt. I had captured that they were actually sisters which would have misled as to my next move in terms of the questions I was going to ask her in the following interview.

Hence by listening to the recording I was able to clarify this misunderstanding and I was able to redirect my questions and not follow up on a 'false' lead. Listening in to the recordings also assisted in bringing to the fore missed opportunities for following up which I ended up following up over the phone.

3.2.5 Desk review

The desk review was a method that I used to review the literature that is available on ‘child marriages’. I used it to also look at the laws and policies that are in place in Zimbabwe. It was an important method since it helped me to gauge the legal position of Zimbabwe. Searching through different pieces of literature showed me the prevalence of the problem of ‘child marriages’ and also showed the views of society in relation to the problem.

For instance finding out the statistics of the number of people in the Apostolic sects as 33.9% which is about a third of the Zimbabwean population showed just how important it is to tackle the problem of ‘child marriages’ in the sect. The review also assisted in making a comparative analysis of the different types of marriages and the reasons why they occur in other countries.

3.3 Conclusion

Using the different methodologies woven into one enabled me to unearth the underlying issues and tensions in relation to ‘child marriages’ from different perspectives. The different methods were the gathering tools and assisted in data collection in a manner which made it easier to interpret and understand what the respondents wanted to convey and to bring an in-depth understanding of the issues.

CHAPTER 4

4.0 THE MARRIAGE, WHO BENEFITS AND WHY SHE DOES NOT LEAVE

‘Child marriages’ are an outcome or a symptom of underlying problems in our society. As long as we do not understand the root cause we will give the wrong prescription. I therefore sought to understand why they took place. What drove a man or a woman to marry off their daughter who was meant to be their pride and joy? Was it just about money or were there some underlying deep-rooted issues? As for the girls, why did they not run away the moment they arrived at their new home? All these questions were swirling around in my head.

4.1 Why and for whose benefit?

One of the main interviewees was a man called John. John stays in Kuwadzana Extension⁹ and is in a polygynous union. He initially had five wives but now he has four after the other wife ‘cheated’ on him. Such cheating was never proved but, in the eyes of the church, his mere suspicion entitled him to divorce. John was 45 years old at the time of the interview. He grew up in the Apostolic sect. He was the fourth of five children in his family. When he was about three years old, his father sent his mother away from the home and she took the children with her. According to John’s narration they had been attending the Johanne Masowe sect but after the divorce, his mother was walking with the children wondering where next to go when they met a prophet from the Johanne Marange sect who told her that God had showed him that she was facing serious challenges in life. It was at this point in time that his mother started attending the Johanne Marange sect and they all grew up attending the sect.

At the time of the interview he was married to Mavis. When I interviewed John he brought to the fore some of the underlying issues and reasons as to why child marriages occur. John grew up exposed to the lifestyle of polygyny and was often disciplined by other male leaders in the sect. As indicated earlier, a real man is defined as one who has many wives. The only way one can acquire many wives is through marrying young girls who are subservient and submissive to their ‘husbands’.

⁹ Kuwadzana Extension is mentioned earlier in the section dealing with the demarcation of the study in Chapter 1.

Masculinity and power is at the heart of acquiring young virgin girls. In discussing the theory of masculinity, Connell addressed the issue of hegemonic masculinities (Connell, 1995). The concept of hegemony is derived from Antonio Gramsci's analysis of class relations. The hegemonic or dominant view of masculinity which is widely accepted is that of having many wives and getting young girls who are virgins. The marginalized masculinity¹⁰ which is subservient to the hegemonic one is that of having one wife and marrying a non-virgin.

There are some men in the Johanne Marange and Johanne Masowe sects who still choose to remain married to one wife despite the hegemonic view. It would be good to interrogate their survival in such a system and maybe, from there, solutions might emerge.

On the other hand, the power that is associated with the cultural connotations of virgin purity makes it exciting for the men to acquire young virgin girls. In the Apostolic sects, every month and sometimes as often as every week, girls have their virginity tested. Mavis, John's wife, gave an account of how her mother would constantly check her virginity any time that she arrived home late by even five minutes. There was a major fixation on her remaining pure and a virgin so that they did not lose out on the bride price.

The time that I interviewed John, his own daughter who was 12 years old had 'mysteriously' disappeared. She was supposed to write her Grade Seven exams when she disappeared after having been sent to the shopping centre to buy some bread. Revelations from discussions with John's wife and cousin showed that she had apparently been married off by her mother. Mavis had this to say:

'Vanhu vacho vanga vasirikubuda pachena. Takamboyenda nenyaya yacho kumapurisa tichida kuti mwana awanikwe. Baba vacho vakange vava kutsika tsika nyaya yacho. Takatozoudzwa kuti ari muno muKuwadzana akanoyenda kunoita number 10 asi haasi kuwuya kuhishanu. Vakamuvharira. Pakadaro munhu unoita seyi nhayi? Apa hanzi murume wacho ane makre 75.'

(Translation: 'The father and mother were not really being open about the story. We actually went to the police to report because we wanted the child to be found. Her father was now being vague about the whole story. We were told eventually that the girl was staying here in Kuwadzana and she was now wife number 10. She however has not been coming to church and we know

¹⁰ Definition of marginalized masculinity as given by

they are hiding her. Please tell me, what you do in such a case and apparently the man in seventy five years old.’)

Marrying a young virgin girl is part and parcel of status and ‘real’ masculinity in the sect. The bride price and the honour that comes with it drastically decline in the Apostolic sect when you are dealing with a non-virgin. A virgin girl brings honour not only to herself but to her mother. Hence the girl’s virginity translates to power overnight. In one focus group discussion the issue of virginity was interrogated and the following is what took place during the discussion.

The Ward Co-ordinator for the Ministry of Women Affairs Gender and Community Development (WADCO) who had attended to discussion asked the following question:

‘The way all of you are talking, you make it seem as if forced marriages happen from afar. Are you not having forced or child marriages amongst yourselves in the Johanne Masowe Apostolic sect?’

There was a bit of a silence until one elderly lady spoke up and said:

‘Ehe muchipostori tinodaro. Tinodaro nekutiwo vana vemazuvano havana tsika. Mwana kana asvika Grade 7 anenge achiri nehunhu. Kana asvika Form 4 achiri mhandaraanenge akazvibata. Zvirinani aroodzwe achiri mudiki, achiri mhandara pane kuti akura ava gaba.’

(Translation: ‘Yes, we do that as Apostolic sect churches. We do it because children of today have no values. When a girl is still in Grade 7 she will still have values. If she reaches form 4 whilst still a virgin, she will be having great self control. Hence it is better for her to be married off whilst she is still young than when she is older and now an empty can.’)

The elderly women went on to say:

‘Ndini paya ndinenge ndazvichenera ndave kuda kuyenda kuchishanu ndakapfeka hanzu dzangu chena. Vanhu mumaraini vanenge vachindiona vanenge vachiti ndivo gog vaya vane muzukuru gaba asina hunhu. Vakataadza kurera muzukuru mune zvakanaka.’

(Translation: ‘I will be busy all dressed up nicely about to go to church wearing my nice white regalia. Everyone in the area will be busy looking at me and saying that I am the grandmother of the girl who lost her virginity. The girl who is now an empty can. I failed to raise my granddaughter in the right way.’)

I then went on to ask whether the pride of raising a child well brought them any benefit. About 14 of the ladies agreed and one said that it was important to have honour bestowed upon you. No one wanted to be called a bad example. For these women, if their daughter lost her virginity, it grossly affected them in a negative way. They were not real women and were looked at as mothers who had failed. So in order to remedy this and make sure they benefited respect wise, having their children married off early ensured that they were not damaged goods.

Virginity meant power for the women and it was not just an issue of the increased money one could get for a daughter's bride price. It was about the pride and honour that they, the mothers, got from the community. Issues of femininity were brought to the fore. A real woman was one who had raised a virgin daughter and made sure she was married whilst she was still a virgin. Her age then became critical because the younger she was, the more likely she was to be a virgin. Her chances of her remaining chaste decreased with age.

According to Warner (2004), entire volumes could be written on why men devote so much effort to controlling and suppressing female sexuality, but the root cause must surely be the desire to establish paternity. So long as there is any chance that a woman could have sex with more than one man or at times and places of her own choosing, her husband can never be sure that her children are also his. The need to keep girls 'pure' and virginal before marriage reflects a double standard that has existed throughout human history.

This assertion was indeed confirmed not only by John but by the women in the sect. John clearly stated that he once divorced a woman because he had found her not to be a virgin on the night that they had sex. He said this did not go down well with him because he was now no longer sure that if she did fall pregnant that the children would be his. In the case of a virgin girl, however, he was most definite that the first child that she would bring into the world would be his.

According to the Fact Sheet on Harmful Cultural Practices, the principal reasons for 'child marriages' are the girls' virginity and the bride price. Young girls are less likely to have had sexual contact and thus are believed to be virgins upon marriage; this condition raises the family status as well as the dowry to be paid by the husband. In some cases, virginity is verified by female relatives before the marriage (Fact Sheet 23, 1979). As stated earlier,

virginity testing is a part of everyday life for these young girls. The women in the focus group discussion also said that the tests should not be done away with otherwise girls will become promiscuous.

The benefit that the parents of the girls seemed to get from the discussions held with the mothers as well as with John were:

- Honour and respect in the community for having raised a virgin girl.
- Recognition from the church elders. The parents would be held up as good examples by the church thus elevating their status within the church as exemplary sect members.
- Money and upkeep from the new 'husband'. This however was not always the case especially at times when a man would pretend to be wealthy and end up taking the girl then failing to pay the bride price.
- One less mouth to feed and to take care of.
- New alliances from the family of the 'new husband'. This was very important to the parents because it extended their sphere of influence. Extended family especially those from the in-laws meant that they had more people who were looking at them in high regard and who would be willing to carry out certain tasks for them. One woman said in explaining this benefit further said:

'In our culture there is a saying that goes "*mukwasha mukoko hauperi kumoriwa*" which means, "A son-in-law is like a honey comb, the honey never finishes."

This meant that the new son-in-law together with his family members were a long term investment of money, networking and connections in exchange for their girl child.

From the above list one can see clearly that a lot of the benefits stem from the root desire or need for power. Recognition, respect and honour give the parents power. Having a bigger sphere of influence gives them a lot of power once again. Yes, there are issues of financial benefit, but the overriding one is still power which stems from having a virgin. A virgin girl is a commodity in the Apostolic sect and a source of power. The religious and cultural mindset of the Apostolic sects is based on sexuality as power and as a result patriarchal

attitudes are used to further subordinate girls and women and to gain power. These benefits and mindsets are the underlying root cause of the ‘unions’ and they need to be dealt with rather than simply targeting the marriage itself which is only the symptom.

4.2 Nowhere to go

One of my research assumptions was that the girls and women did not leave the forced unions because they had nowhere to go. Nowhere to go meant the lack of a social, physical, emotional, economic and religious place to go. Using Kimberly Crenshaw’s Intersectionalities Model, I was able to deduce the various interlocking oppressions that made them stay in these extremely sexually exploitative societies. The diagram below gives a picture of the various reasons that were given.

The findings under this section will be looked at from the point of view of the

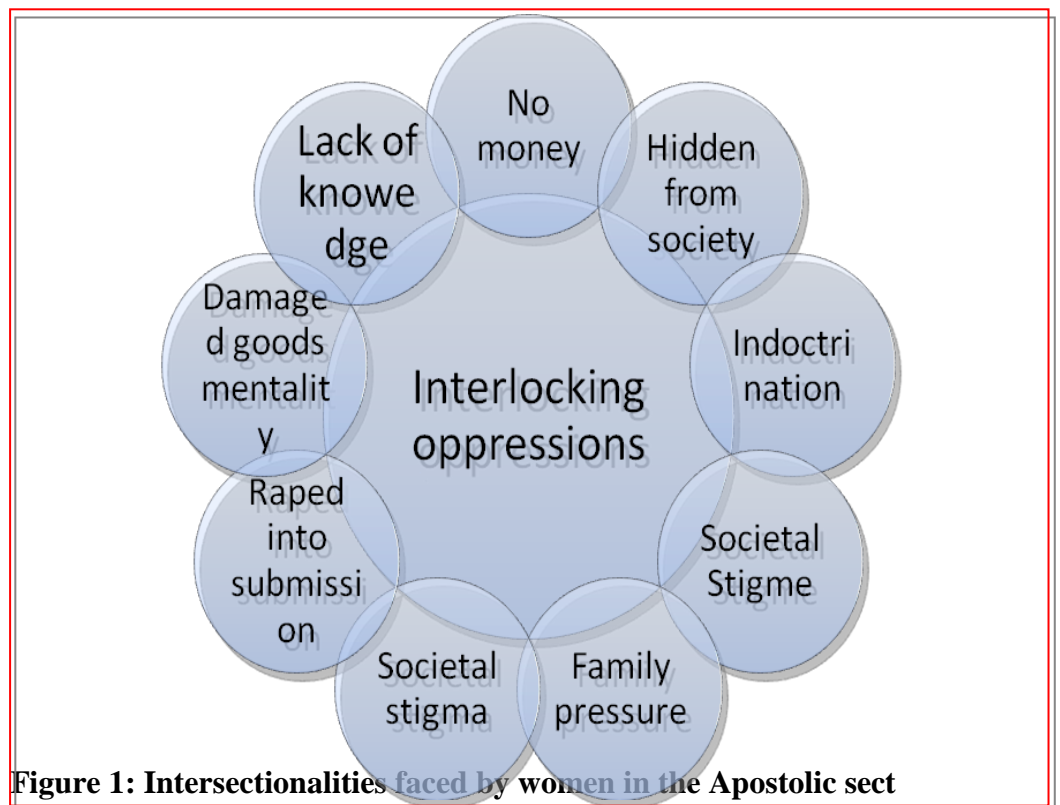


Figure 1: Intersectionalities faced by women in the Apostolic sect

‘Intersectionalities’ (i.e., interlocking oppressions) Model by Kimberly Crenshaw (1989).¹¹ The women in the sect do not leave because of many reasons that press down on them and cannot be solved from an essentialist perspective. There is no single type of Apostolic sect woman. All the women are at one and the same time similar but different in that they have various intersects, some of which are common to them all and others of which are relative. This asserts the position pointed out by post modernist theorists that women from different cultural, socio-economic statuses and so forth endure different degrees of discrimination or suffering by virtue of their circumstances.

The initial problem for the greater percentage of the women was a lack of education. One woman said:

‘How was I to run away? I had not even been educated about these ‘child marriages’. I only learnt about it later when I already had three children. Where would I go with three children and a Standard One education, my daughter?’

Her lack of education prevented her from running away and education was coupled with a lack of knowledge of the law and the opportunities that it presented to her as a woman in a forced ‘union’. The lack of education was exacerbated by what I found to be gaps in the education system. The duty bearers in this regard, that is, the schools, failed to detect the dropping out of school of children due to ‘child marriages’. In one school that I visited in Chitungwiza, the major finding was that there is a link between over-enrolment and lack of early detection of potential abuse. The Head Teacher at the school stated quite clearly:

‘We are over-enrolled so we won’t notice when a child stops coming to school, there is no manpower.’

The teacher added that one teacher has to teach a class of 55-60 learners and will not know all of them by name; as a result, when a child goes missing the teacher will be happy that they have 3 less books to mark. The Deputy Head said the challenge with the monitoring mechanism is that teachers do not say anything and the Head Teacher only gets to find out

¹¹ ‘Intersectionalities’ or ‘interlocking oppressions’ are terms that have been used interchangeably or synonymously for over a decade. The terms refer to the various ways in which variables, such as race, gender, sexuality, ethnicity, culture, religion amongst an array of differences, interact to shape the multiple dimensions of women’s experiences.

when the children are in the process of sitting their exams. This was the greatest loophole that I saw and the effect of understaffing and over-enrolment on the early detection of abuse. Funding constraints once again result in the suffering of the girl child. When the Government freezes posts it needs to be made aware that this not only loads extra work on to the remaining teachers but also results in negative attitudes which ripple down to the students.

Hence the intersectionality on lack of education of the young girl is perpetuated by the duty bearers as they fail to put in place proper monitoring mechanisms that help to keep her in school.

The other challenge that the women faced was that when they were taken at a very young age they were hidden from society. Both Tendai and Mavis were hidden from society for years. In Mavis' case she was taken to 'her husband's' rural home and stayed there for four years. She recounted how in the first two years she was not permitted to leave the homestead. She was under constant surveillance because the family feared that her mother would take her away. Mavis' story goes like this:

She was still 14 years of age when John had asked her father if he could start visiting Mavis. Mavis at the time agreed because she literally took the word visit to mean exactly that; little did she know that such an acceptance meant that she was agreeing to enter a marriage. Mavis' mother refused instinctively since John already had three other wives. She did not want her daughter to be in a miserable polygynous marriage. Mavis' mother to date is still the only wife that her father has ever had. Mavis then told me something that was contrary to what John had told me. Initially, John had said that it was a must for every man in the Johanne Marange sect to have many wives. It turns out that there is also room for choice. In this case, Mavis' father chose to marry only one woman.

Mavis admits that in the beginning she was very rebellious towards her mother since she felt her mother was very controlling. She had no idea that her mother was actually fighting for her not to be married. She then narrated how she at first thought that what was going on between John and her was a game and that the more her mother did not want her to play, the more she wanted to play. John used to buy her sweets, chips, pizzas and different small little items which made her giddy. Her father was totally in favour of the idea and wanted part of the money that John had. John had a car in those days and would also bring groceries to our

home from time to time. This made it easy for her father to give his approval though her mother fought this right to the end. John's sisters and brothers also came to exert pressure on Mavis' father so that he would agree to let her go so that John would marry her. The truth is that her father was waiting for actual payment of the *roora* or bride price.

One day, one of John's sisters came to collect her from her home and told her that they were going to church. She trusted her and went with her, but they passed by church. Just after passing the church she told her that they needed to go and see one of the elders at church and they went to Mbare *Musika* (Mbare Market) to board a bus. She exclaims at just how naive she was since even though people were calling out 'Murehwa', she did not even think that is where the bus was going. When they finally arrived she found herself being surrounded by some elderly women who were dancing for her and telling her '*wauya muroora, titambire*', meaning, 'welcome, daughter-in-law, welcome'.

She started crying wanting to go back home but they took her to her 'mother-in-law's' place and she was kept there and had no way of contacting anyone. John then started coming in at night to fondle her breasts and to rub his penis on the opening of her vagina. Naive as she was, she actually thought that this was sex since she had never had it before and had no idea how it was done.

She then paused and said that she regretted everything and what had become of her life. She wished she had fought harder to go back home but wondered what else she could have done at such a young age.

'Hupenyu hwangu wakawoma zvamunoona kudayi. 11 years ndingoripo pabarika, apa rudo hapana, ndakangogarira vana vangu. Dai ndaigara kwangu ndega ndakabuda mamarange. Zvino ndogara naamwene ende havatodi kunzwa nezve kubuda kubva imomo.'

(Translation: 'My life is very tough as you as you can see. I have been in this polygynous union for 11 years and here is no love lost. I am just here for my children. If I was staying on my own I would have left this sect. Sadly I cannot leave because I stay with my mother-in-law and she is deeply rooted in this sect.')

I asked her whether she had anywhere to go and she said yes she did but she had no money to sustain herself. She said if she had money she would go and stay on her own and support her children. She said poverty was causing her to stay stuck in the marriage.

Mavis' story shows that she suffered many interlocking oppressions. She was no longer in school and had no knowledge of what was going on. She also was kept hidden from society; literally locked away at her mother-in-law's place. She had no money, no job and, hence, to date is stuck in the 'union' that was forced on her. She also had family pressure from her father and John's relatives. Her mother's voice was like that of a loved one in the wilderness. The moment that was taken captive at her mother in laws home; she was eventually raped by John after some months and this just made her feel damaged. She believes to date that no one loves or wants a woman that is 'damaged' by another man. This ropes in the other oppression of the mentality of damaged goods.

In Mavis' case she had nowhere to go due to financial constraints. However in Tendai's case she literally had nowhere to go because 90 percent of her relatives were members of the Apostolic sect. This literally meant that at such a young age, the greater part of the relatives that she knew would have taken her back to the very same environment and sexual exploitation that she wanted to run away from. This brought to light the issue of how the religious sect is family-oriented and centred. Of the women that I interviewed, 80 percent of them attested to the fact that more than 70 percent of their relatives attended the sect since this was encouraged by the doctrine of the church.

The family-centeredness of the sect thus left the young women and girls with nowhere to go. The Ministry of Public Service, Labour and Social Services which is responsible for the building of places of safety for girl does not have any such safe houses. This then poses a challenge for a girl who wants to run away because even her own Government does not provide her with a place to stay.

The role of indoctrination thus comes into play as a voice that is within the women in these 'unions'. All their lives they are taught that their worth is their virginity. When that is taken away, the person who has taken it becomes their owner and they are captured by this person in their minds because they have been taught that that is where they now have to belong.

This indoctrination has also been allowed to permeate the school system. At the school I visited in Chitungwiza¹² my discussion with the District Education Officer and the Deputy Head Teacher brought up the issue of how every year children at the Apostolic school abscond from their classes in order to attend church conferences and may be away for as long as one to two months. This results in their falling behind in their school work. The current Head Teacher is always having serious conflicts with the parents of the children and eventually when the children drop out of school there are no follow ups. These children's attendance at these church functions with the encouragement of their parents (who consider that they are more important than school) reinforces the indoctrination of the importance of the religion.

Mavis was also staying in a society of other Apostolic sect members. During my research and even on my visit to Chitungwiza, I could not help but notice the close knit community of sect members who had literally established their own space where only sect members lived. As a result, it becomes difficult for one to leave the area because one is under constant sexual and physical surveillance.

In this connection West (1987) observes, motherhood leaves women vulnerable and unequal because her distinctive nurturing role is either stronger or weaker than those to whom she is closest. In this case Tendai was stronger in relation to her children but weaker in relation to her elder sister, the other wife and above all Austin, her so-called husband.

The challenge then that faces a woman in the Apostolic sects (which makes them vulnerable instead of powerful and equal) is that the traditional feminine qualities are undervalued in the overly individualistic and masculine Apostolic sect culture (Becker, 1999). This relational aspect then explains how they continue to survive and soldier on in that exploitative environment. One can now understand that they do not actually 'live', they simply exist. This then raises the question of how then do they survive, being raped constantly and having to endure constant surveillance amongst other hardships?

¹² Chitungwiza is situated just outside Harare, Zimbabwe's capital city, and it is the largest high density suburb in Zimbabwe. It is popularly known as Chi-town. It is described at some length in Chapter one in the section which deals with the demarcation of the study.

The women negotiate their spaces as a means of survival. They do what needs to be done and carry on living every day as normally as possible. Their silence and exclusion from society is a tactic to help them get by, given that there is no one who is going to come and rescue them from the perils of these unions. For other women, they have come to terms with the condition and given an option they will not live because that is all they know and all they have decided they want to know. Tendai negotiated her space for 9 years and one day decided that she had finally found the opportune moment to leave. This relates then to what Nnaemeka (2004) describes as conceptualizing nego feminism or no-ego feminism. This is a type of feminism where women collaborate, negotiate and compromise as opposed to the Western notion of challenging, disrupting, deconstructing and blowing apart. 9 years is a long time for her to have worked to set herself free, but for Tendai, such a strategy worked better for her. As she grew older, she did reach a stage where she might have slipped away and reported the matter to the police but she now had children and could also not entertain the thought of getting her parents arrested in the process even though they had wronged her.

This finding is critical as we will see later on since it informs the cultural strategy from which women look to the law. Tendai could have gotten her parents arrested even today but she does not want to destroy the family. Family is very important to her so she sacrifices herself and negotiates her space until she gets what she wants. Her idea of justice is not getting Austin arrested which would translate to having her sister, her mother and father arrested as well. Justice and finding somewhere to go is her leaving that homestead undisturbed, leaving her mother with her children whilst she looks for a job, getting a job and looking after her children and putting the past behind her.

CHAPTER 5

5.0 HER BODY, HER VOICE

The main assumptions of this study revolve around the body and voice of the girl who is taken and put into this ‘union’ where she experiences ‘marital rape’ and fails to have agency. The word ‘marital’ was put into quotes because of the reservations I have that such a union is not a marriage in the first place. But for the purposes of explaining what has become a widely acceptable notion of ‘child marriage’, I have placed the word ‘marital’ as a foreword. Agency, as explained earlier (see footnote 3), refers to the women or girl’s ability to have a voice over her own body and equal footing in the context of her new environment.

5.1 Marital rape and agency

‘John had been coming in during the night every day and fondling my breasts and playing with my vagina. He would rub his penis which was not erect on the opening of my vagina. This went on for about three months and since I was child I would giggle and believe that this was sex. My sister in-law kept on enquiring to find out if I had any symptoms of pregnancy. She finally decided to test and see if I was still a virgin. According to her I was at that house for one reason and one reason alone and that was to increase the clan by giving birth. She then found out that I was still a virgin and I had no idea because I did not even know what sex was. Finding out I was still a virgin shocked me. What was sex then, I wondered, and I was soon to find out.

I suspect that my sister-in-law must have exerted pressure on John because a few days later the worst thing happened. *‘Ndofunga musu iwowo akati, nhasi regayi ndimboidy mhandara yiya.’* (Translation: ‘I think on that day he said to himself, “Today I must feast on that virgin.”’) He came in and shut the door. He literally slammed it and my heart started racing fast. I knew something was wrong and I will never forget the hungry look that was in his eyes. He did not even try to fondle me or kiss me for he had one thing in mind. My virginity! I was instinctively afraid and I tried to fight him off but he was too strong. He held down my knees; the more I struggled the stronger he became. I saw his hard penis for the first time and I was so afraid. I had never seen it hard. It had always been shrunken and soft and it always used to just caress my vaginal opening. On this day it pierced me and I screamed. I wanted him to stop but he kept going on and on and on. It was the most painful experience ever. I cried and shouted but no one came to rescue me. I hit him with my fists. I struggled to the ending hoping he would stop but he continued to ravage my small body. I felt like he had killed me. He stole my innocence. He never even bothered to explain.’

She sighs and tears glisten in her eyes. We pause for a bit then she continues:

‘After he was finished he just put on his clothes as if nothing had happened. He did not even say a word or try to console me. There was blood, a lot of blood and I remember the stench. I was aching all over and crying. I tried to cover myself and I felt so ashamed but he had already killed me. His sister came in to console me and she told me, “Don’t worry my dear, it will be painful at first but with time you will get used to it. That is what is called having sex with a man, not all these games that you were playing all along. Now we wait for you to give us children.” He came in everyday after that and with time I got used to it and I eventually got pregnant.’

Mavis’ story is not new though it is very painful. Of the women in the focus group discussion only 3 out of 17 said that the first time they had sex with their husbands it was consensual. These were women who had joined the sect later and had not been born into it. That translates into 17.4% of all women who are married into the sect experience consensual and fulfilling first time marital sex. The rest (who constitute 82.6%) experienced rape. When we translate these numbers into statistics and look at the picture on the ground, it is alarming. What is even scarier is that none of them reported these crimes and they have continued to live with the perpetrators.

The question that I ask, then, is, ‘*Why do the women victims eventually develop a relationship with a “man” who clearly started off as their captor?*’ Is it a mere survival strategy or is it the popular Stockholm Syndrome¹³ (Graham, 1995). In their article, entitled *Loving to survive: Sexual Terror and Women’s Lives*, Graham, Rawlings and Rigsby (1995) state that Stockholm Syndrome transpires when survivors connect with their abusers. Reasons for this connection are not fully explained, although it is suggested that it takes place because survivors see no way of escaping from their situation and hence act in a compliant manner in an endeavour to promote their feeling of safety. In Tendai’s case she was negotiating her space and the fact that she bolted when she finally got the chance could explain how she was able to suppress her repulsion and even feel love towards her children. Tendai and Mavis

¹³ The term ‘Stockholm Syndrome’ was coined in 1973 after two bank robbers held two men and a woman hostage for a period of five days in a large Stockholm bank after an attempted robbery was foiled. Although the robbers threatened the lives of the hostages, the hostages identified with their captors and developed an emotional bond with them to the extent that they viewed the police as the enemy, and their captors as their friends. This feeling persisted long after the hostages had been rescued. Mental health professionals have discovered a similar dynamic at work in many other hostage taking situations. In addition, Stockholm Syndrome characterizes many other abusive situations, particularly, spousal abuse (D Graham 1995).

could be survivors of the Stockholm Syndrome. The challenge that this poses then is that when society sees a woman in this sexual exploitative environment, the appearance given by her for the sake of her survival is that of a 'normal', happily married person, yet, if the context were different, and she had the means to run, she would.

Mavis' failure to understand what sex was just goes to show the extent of the lack of education in schools in terms of sexual and reproductive health. In an interview with the Ministry of Health and Child Care (previously, Child Welfare) it was noted that the Ministry has a school health program which is rolled out by community health nurses but there is apparently no proper monitoring mechanism to ensure that this program is really taking place or how often. The community health nurses talk about everything in relation to health but they are understaffed and underfunded which results in a failure to teach school children about critical health, reproductive and sexual issues. In other words, there is a clear link between the freezing of government posts and the effectiveness of proper programs.

The freeze has resulted in the over-burdening of current employees with too much work. So people are now prioritising their 'core duties' which leave the issue of child sexual abuse unattended.

This was also the case with the Ministry of Primary and Secondary Education, Sports and Culture. The work of that Ministry's department concerned with special needs and psychological support involved running campaigns and holding sensitization meetings but they have been failing to carry out them at the rate they ought to do so. They are supposed to conduct at least three campaigns a term at each school, but due to under-staffing and a lack of resources, they only conduct one per term or none at all. They also work with the police when they are raising awareness about sexual abuse but once again this is dependent on resources. Between them the freezing of posts and the brain drain from the teaching sector have resulted in a serious decrease in support for the full and proper teaching which should be given to school children on sex education.

One of the roles of the department is to conduct guidance and counselling, but this has also been hampered by under-staffing and lack of financial resources. The structure that should be in place should provide for a guidance and counselling representative at Provincial, District and National level. However currently they only have 3 or 4 such representatives for the

whole of Zimbabwe. This is now problematic because it undermines the critical role of guidance and counselling in schools and results in little or no monitoring at all. Due to this critical lack of guidance and counselling most children are now not empowered enough to even know what sex is, what it means and how it affects their health when started at an early age. Like Mavis, they are not conversant with issues like sexually transmitted diseases and infections or the means to prevent contracting them.

Returning, for a moment, to the Stockholm Syndrome, this syndrome is coupled with the performativity of the script of motherhood and being a wife in the context of the Apostolic sect. Even though the women in the sect have been raped from the moment that they start living with their captor, they begin to play or perform their role in the script of womanhood within the Apostolic script according to the theory of performativity. This theory was conceptualized by Judith Butler when she stated:

‘Just as script may be enacted in various ways and just as the play requires both text and interpretation, so the gendered body acts its part in a culturally restricted corporeal space and enacts interpretations within the confines of already existing directives’ (Butler, 1988: 526).

When it came to having a voice in the relationship with their captors, the women only discovered their voice or agency when they were between the ages of 25 and as late as 35 years of age. What determined how or when a woman had agency were the following factors:

- Education

In terms of education, from the discussions that were held, those who had attained their ‘O’ Levels (i.e., Ordinary Level Examinations at about the age of 16) before they married felt that they had more of a voice and agency in their marriage in comparison with those who had not. One woman said that her husband sometimes complained that she reasoned too much because she had reached her ‘O’ Levels in comparison with the other wife who had never gone to school. This made her feel that she had the ability to negotiate even for safe sex when she did not trust her husband. The women who did not go to school at all emphasised that they felt short-changed in their relationships because their ‘husbands’ did not respect them or what they had to say. There was only one exception of a woman who did not go to school but felt that she

had both agency and voice. The secret in her case was that she was the first wife and her husband was not educated either.

- Money

The women who did not have any income-generating projects or jobs said that they had no voice in their relationship. Those who had some education but no form of economic independence said that they could speak to a limited extent. They called for assistance in the form of capital to start their own small businesses. One woman said that the unfortunate challenge was that when some men saw that they were now bringing in an income became jealous and stopped them from conducting these projects. Issues of power became a challenge to economic independence which translated to agency and voice in the 'relationship'.

- Age when they got married

The older the women were when they got married the more voice they professed to have. This then confirmed what John had said in terms of submissiveness and control. It is easier to be controlled when you are younger because you would not have seen or experienced much.

- Exposure

Exposure was not related to their age but rather to the other environments that the girls and women had been exposed to. The women who attended meetings on human rights, constitutional awareness etc., felt they had more voice because they had been made alive to their rights. This pointed towards the designing of possible programmes targeted at women in the Apostolic sect. The more they are exposed to outside influences besides their church, the more they claim their space.

- Hierarchy in terms of the polygynous union

The issue of hierarchy in the polygynous union determined the extent to which a woman had a voice; in some cases, the first wife by virtue of her position, automatically had a voice because 'she was here first.' However there were

cases where a new wife or the favourite wife had more of a voice than everyone else. She would be the one to whom the husband listened the most and whatever she said went. The women who also brought in their relatives as younger wives also had more agency than those who were alone. This was because they would have caucused support from their younger sisters or relatives.

- Their children

Women also summoned the courage to have agency for the sake of their children. One woman said that every time she looked at her children, she got strength from them to carry on since she wanted a brighter and better future for them than the one she had. This gave her the courage of her convictions to speak out and refuse certain things.

5.2 Sexual reproductive health rights

When exploring this issue I needed to understand the challenges that the women and girls in marriage faced when it came to their sexual and reproductive health rights. Thus I interrogated the issues of their health and the impact of being young and in a polygynous union. I also interrogated the issue of sexual hierarchies in the sect and aspects of sexual pleasure and eroticism.

Gayle Rubin's concept of sexual hierarchies is very useful in analysing African sexualities as she explains how society classifies sexual behaviour in terms of a hierarchical order in which 'good, normal, natural and privileged sexuality must be heterosexual, married, monogamous, procreative, non-commercial, in pairs, in a relationship, in private, bodies only, same generation' (Rubin 1989). The diagram below shows the hierarchies that exist within the Apostolic sect in relation to their views on sexual and reproductive health issues.

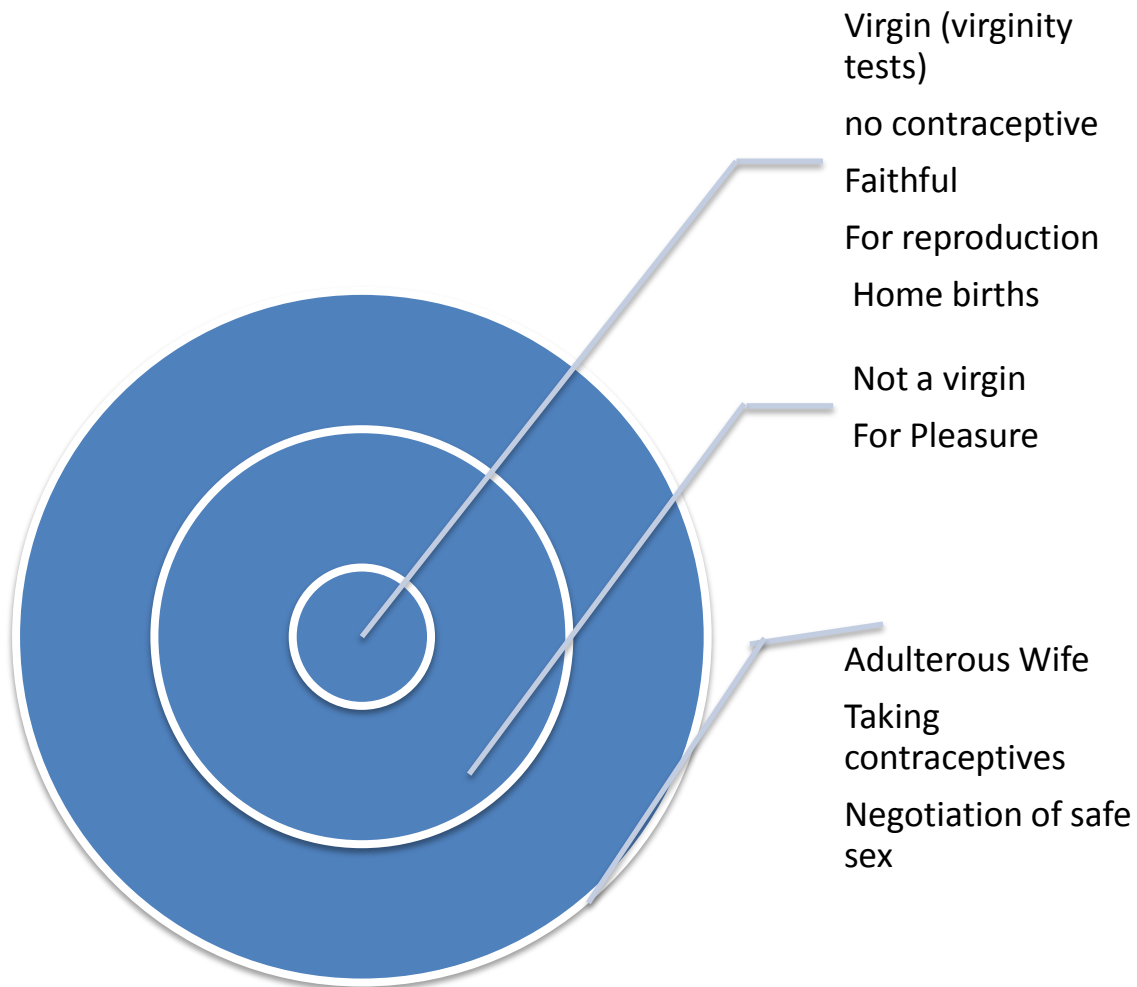


Figure 2: Sexual hierarchies in the Apostolic sect (from Rubin (1989) Sexual Hierarchies)

Inside the inner circle of Figure 2 one can see that the most acceptable condition is for the girl to be a virgin when she marries. This is a reality that is a prerequisite only for the girl. She goes for regular virginity tests in the sect which is, once again, normal; failure to do so results in her moving into an inferior class of girls who are not regarded as virgins. The girl is only permitted to have sex in marriage and the most widely accepted form of marriage is a polygynous union.

The sex that is performed is meant for reproduction purposes only and is not about the girl's satisfaction. The moment it becomes pleasurable for her it moves into a lower category which is not so acceptable. Pleasure is reserved for the man. Once the girl starts giving birth she is also not permitted to take any contraceptives. There is a term called '*kun'ora*' which means 'unclean'. A member of the Johanne Marange sect, who takes their children or themselves to

hospital, takes contraceptives or reports a matter to the police becomes permanently unclean. Taking contraceptives will result in being banished from the sect.

The women are also supposed to give birth at home and not in hospital. A woman however who is not a virgin is accepted in the sect provided that she confesses before the whole congregation. If she does not, she will be excommunicated. If she does confess and is accepted into the sect her status will be lower in the hierarchy than a virgin. A woman in the sect cannot commit adultery; if she does, she will not be allowed to confess the sin and will be excommunicated.

These hierarchies pose serious health challenges to women and continue to perpetuate stereotypes around African women's sexuality. Mavis gave an account of how at one time all six of them that is John, she and the other four wives had contracted a sexually transmitted disease (STD). What was amazing was that even though the sect's doctrine forbids seeking medical treatment (e.g., at hospitals and clinics), John had taken them all to the clinic and they were given medication. They were all then tested for HIV. John had always been staunch about not having his children immunized but when he noticed that he had contracted an STD he rejected the doctrine.

A few months later after the treatment the youngest wife was caught in a compromising position with a young man in their neighbourhood. John had apparently set a trap for them after being informed by some friends that she was having an affair. After being caught the young 'wife' threatened John and told him that if he even dared to report her to the church elders, she would tell them that he had forced her (and the other wives) to go to the clinic for treatment. In the sect, the sin of a wife committing adultery ranks at the same level as seeking medical treatment. Both are punishable by permanent excommunication. Since John is a leader in the sect and was not prepared to suffer the embarrassment of being rejected and excommunicated by the church he did not report the youngest wife's offence. The union is thus not safe for any of the 'wives' because there are extra-marital affairs that are already going on. The young wife said that she was cheating on John because he was old and could not satisfy her youthful desires. The age difference between John and the young 'wife' at the time of the interview was thirty years.

Mavis emphasised that John was getting old and his work kept him busy which often left them unsatisfied. She said that she did not feel like having sex any more because of what she had experienced with John but if he wanted to have sex with her she would allow him to do so. She said however that she could not negotiate for safe sex because John did not believe in condoms. It was indeed ironic how quick John accepted his religion's doctrines when it was to his advantage but how he was just as quick to reject them when they were not.

The challenge of not using contraceptives resulted in the girls and women opting for their own homemade concoctions which need to be researched in order to discover any potential future harmful effects to them. Tendai used bicarbonate soda to stop herself from getting pregnant. She says that she used to take a teaspoon after every sexual encounter that she had with Austin. Her mother apparently introduced her to the method. She professed that on the day that she did not take it because she had no money to buy the soda she fell pregnant with the second and last pregnancy.

Other serious issues emerged from discussions around reproductive health rights. The practice called '*kuviga pachipotori*' was unearthed. One woman took me aside during a focus group discussion and told me about this practice. She said it is most common in the rural areas. What happens is that if a young girl from the sect who is too young to be married falls pregnant, she is sent to the 'husband's' rural home. In most cases the majority of the husband's relatives are Apostolic sect members themselves. She is then kept under close surveillance and monitoring. The young 'bride' stays indoors so that the general public do not get to see her. The woman said that this practice is now even more prevalent these days, especially since the nurses at the clinic are well skilled at telling when child abuse has occurred.

When the time comes for the young girl to give birth, she is taken to a traditional birth camp late at night. She may even be taken there two or three days before the actual birth in order to ensure that she does not give birth during the day. The young girl either leaves the camp dead or alive. Sometimes her baby survives, sometimes the baby dies as well. I then asked her what happens to the girl if she dies? She looked at me with a downcast expression and said:

'Mwanangu, ndikoka kuviga pachipostori kwacho. Hatimbowudze kana munhu. Tinongodedza anababa ochera makuva musango, totomuviga. Hapana

anobvumidzwa kuchema. Hapana anobvumirwa kutaura nezvazvo. Zvinenge zvatoita Tikataura ka vanhu vanosungwa. Iye anenge akamuitisa pamuviri pamwechete nehama.'

(No translation supplied)

I was shocked to say the least but I tried my best to hide reaction. I then asked her what she thought should be done and she said that more research was needed into such practices of the Apostolic sects so that they could be exposed and brought to an end. She then told me that in Bhuhera where some of her relatives live, they put okra in a girl's vagina so that it becomes slippery for easy penetration. The women sometimes even hold a girl down while she is being raped by her new 'husband'.

These issues show just how endangered the girl child is when she is put into these so-called marital unions. The end result for the girls in some cases is death and for others untold trauma of mind-boggling proportions. There are many who are on a journey towards serious and possible life-threatening future reproductive health complications which may occur later in their lives. From the point of view of voice and body politics, it can be seen that the women and girls are placed in extremely vulnerable positions when they enter into these 'unions'. In most instances, they have no agency or voice and often have to compete and form collaborative relationships in order to survive.

The MOPSLSS which is tasked to look after the child and to ensure that their interests are protected is meant to have Child Protection Committees that are present in all wards, districts and provinces but not all of them are functional due to funding constraints. They are supposed to have shelters and safe houses for children and they are tasked to work with organisations that have such facilities. As of today, however, there are no safe houses with the exception of those that have been built by NGOs like the Musasa Project and Haven Trust in Bulawayo which are meant to protect women from situations of domestic violence and not necessarily the girl child. As I pointed out earlier, this lack of such safe houses is resulting in the deaths of young girls from pregnancies that could have been prevented had they had a safe place to seek shelter. A young pregnant girl receiving proper professional medical treatment from the comfort and care of a safe house or shelter would also enjoy a better hope of survival than one who is currently forced to escape into the wilderness and take her chances with a natural recovery.

CHAPTER 6

6.0 ANALYSIS FROM A HUMAN RIGHTS AND THEORATIC PERSPECTIVE

All the findings that were discussed in the previous two chapters speak volumes in relation to the fact that Zimbabwe now has a new Constitution in which, for the first time, the rights of children are specifically protected. The key question then is, *'Is there hope for the girls, young women and women in the Apostolic sect in the light of the new Constitution?'* My belief is that yes there is hope given the human rights of both the child and the woman which are embedded in it. The challenge that remains, though, is that of the proper realignment of the rest of Zimbabwe's laws with its Constitution and their full implementation within its context.

6.1 Opportunities in the Constitution

The Constitution and the numerous international conventions that the Government has ratified ought then to be the standpoint from which and lens through which to analyse the findings. Section 26 of the Constitution deals directly with the issue of marriage and states clearly that no marriage is entered into without the free and full consent of the intending spouses and also that children specifically are not to be pledged in marriage. This section typifies the mindset of the duty bearers in trying to ensure that only those above the age of eighteen (18) ought to be married and children must not be pledged.

Section 19 of the Constitution states:

- '(1) The State must adopt policies and measures to ensure that in matters relating to children, the best interests of the children concerned are paramount.
- (2) The State must adopt reasonable policies and measures, within the limits of the resources available to it, to ensure that children -
 - (a) Enjoy family or parental care, or appropriate care when removed from the family environment;
 - (b) Have shelter and basic nutrition, health care and social services;

- (c) Are protected from maltreatment, neglect or any form of abuse; and
 - (d) Have access to appropriate education and training.
- (3) The State must take appropriate legislative and other measures-
- (a) To protect children from exploitative labour practices; and
 - (b) To ensure that children are not required or permitted to perform work or provide services that:
 - (i) Are inappropriate for the children's age; or
 - (ii) Place at risk the children's well-being, education, physical or mental health or spiritual, moral or social development.'

From the above it can be seen that the duty of the State is to ensure the total protection of the child and to ensure that their best interests are met. In the case of sexual exploitation disguised as marriage, the best interests of the child is for the girl to be taken from the guardian and placed in the care of the State or a relative who is not part of that abusive environment. Tendai, the young woman who could not find any help, said that what would have been best for her at that time was an alternative shelter. She had tried to run away but had been found. Hence in the light of the new Constitution, it is important to ensure that children are protected from abuse. The continued existence of these 'unions' is actually a contravention of the Constitution. Section 81(1)(e) of the Constitution on the Rights of Children states:

'81(1) Every child that is to say every boy and girl under the age of eighteen years, has the right:

- (e) To be protected from economic and sexual exploitation, from child labour, and from maltreatment, neglect or any form of abuse.'

The State through the Ministry of Primary and Secondary Education (MoPSESC) needs to ensure that girls are protected from abuse. The failure of the State school system to detect sexual abuse and 'child marriages' is actually a failure of the State to protect the child from sexual exploitation. If teachers stop paying attention to the absenteeism of children due to over-enrolment, then that is a failure of the Government in its duty to protect the country's children in terms of its Constitutional obligations towards them.

Even the parents who remove their children from classes for prolonged periods of time during which some children are placed in ‘child marriages’ are doing so openly and in the face of the Government school system. This once again points to a failure on the part of the State to ensure that girls are protected from sexual exploitation. Section 27(2) of the Constitution in dealing with the right to education expressly states:

‘The state must take measures to ensure that girls are afforded the same opportunities as boys to obtain education at all levels.’

When ‘child marriages’ take place it is the girl child who is most often affected, as shown by the statistics. In Zimbabwe 31% of girls get married before the age of 18 (eighteen) in comparison to 5% of boys (ZIMSTAT, 2011). From the evidence in the research, all the girls dropped out of school the moment that they got married, hence, this breached their right to education thereby reducing their chances of being afforded the same opportunities as boys to obtain an education. Sexual exploitation not only infringes the right of the child viz-a-viz protection from exploitation but also the right to education. The cultural thinking which is behind this assumption is that girls are second-class citizens in comparison with boys and a non-entity when it comes to education. This is one of the underlying root causes of this sexual exploitation. Therefore, while the Constitution might clearly provide that both girls and boys have an equal right to education, as long as this underlying issue is not addressed, the voice of culture will speak more powerfully than the voice of the law.

When looking at the sexual and reproductive health rights of the girls and women in the Apostolic sect as well as the issues of their voice and agency, one must also analyse this lived reality in relation to other relevant provisions of the Constitution. For example, Section 25 of the Constitution deals with the protection of the family and central to that protection is the prevention of and protection from domestic violence. Now, the continued lack of agency and voice of women in this sect exacerbates the violence in this ‘home’. In other words, since these so-called marriages are such a fundamental contradiction of what constitutes a proper marriage, these ‘marriages’ themselves give rise to and perpetuate the very violence that destroys and hinders the formation or protection of a real family.

The States' obligation to protect was conceptualized by the UN Committee on Economic, Social and Cultural Rights 'as measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to relevant rights' (General Comment No12). According to Langford (2008: 17), the obligation speaks of proactive State duties to prevent, sanction, investigate, repair violations by both government and private actors as well as to fulfil human rights. Hence, based on this definition one can appreciate the justiciability of the right to education as well as that of health care in relation to 'child marriages' in the context of the states' obligation to protect.

Section 76 of the Constitution which addresses health care stipulates that every citizen has the right to access basic health care services including reproductive health care services. However, sexual exploitation also violates this right. As shown earlier, the religion itself dictates that a child should not seek reproductive health care. The girls end up taking bicarbonate soda to prevent pregnancy and the effects of this are yet to be seen. The girls are raped into submission and get pregnant and cannot even access the basic council clinics to give birth there. Hence the very religion itself once again violates the right to access reproductive health care.

Section 80(3) of the Constitution provides opportunities. It states that all laws, customs, traditions, and cultural practices that infringe the rights of women conferred by his Constitution are void to the extent of their infringement. This provides an opportunity in that the practice of 'child marriages' even though supported by the Customary Marriages Act is an infringement on the rights conferred on a woman.

6.2 Challenges with the period prior to the 2013 Constitution and legal pluralism

In the period prior to the 2013 Constitution there were and still are two systems of marriages (registered marriages in terms of the Marriages Act and registered marriages in terms of the Customary Marriages Act) the third one being the unregistered customary unions. After Independence Zimbabwe continued with two systems of law, namely, custom and the Roman Dutch law system which to date continue to run parallel to one another. Previously in terms of the old Constitution custom prevailed when it came to matters and issues affecting women. However that has since changed with the new Constitution.

The challenge that remains is who determines and defines what culture is? The majority of the people who are called the custodians of culture, the traditional leaders, are mostly men. Hence the voice of the woman or girl in terms of determining what constitutes culture is not heard. In terms of the Customary Marriages Act Chapter 5:07 (previously called the Native Marriages Act) no age is indicated for marriage for either the man or the woman. This is problematic because it basically and virtually allows for anyone to marry at any age.

Section 3 of the Customary Marriages Act (CMA) places the honour of registering the marriage on the male and marriage to a relative's widow is permitted as long it is then registered. A marriage which is not valid is an unregistered one although it is recognized as valid for the purposes of guardianship, custody and rights of succession of the children of such marriage. Research, however, has shown that 84% of the unions in Zimbabwe are unregistered customary unions (ZDHS 2010) which the law does recognise for the purposes stated above. These gaps in terms of registration and partial recognition give rise to the incidence of such marriages and it is in this grey area that 'child marriages' thrive and are recognized by both society and traditional leaders.

The CMA was bolstered by the Customary Law and Local Courts Act (CLLCA) Chapter 7:05. This Act states in Section 16 that there is a proviso for a Community Court to adjudicate upon marital relationships which, though recognized by customary law, have not been solemnized in terms of the Customary Marriages Act [Chapter 5:07]. This silently removes the whole aspect of the need to register a union which would have brought into question issues of consent. It is such conflicting statements that silently suppress the issue of 'child marriages' and bolster the confidence of the perpetrators because in custom the sexual exploitation by virtue of payment of lobola is validated as a marriage.

The Act did try to make some significant strides when amendments were made to it that prohibited the pledging of girls and women in marriage. In terms of the Act there is a penalty for compelling an African woman to marry against her consent. Any person who by force, intimidation or other improper means compels or attempts to compel any African female to enter into a marriage against her will shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such

fine and such imprisonment.¹⁴ The fine and even the period of imprisonment are a mere slap in the face. A perpetrator is sentenced to just one year for forcing a ‘union’ upon a young girl and raping them. However this is diluted once again by the proviso which recognises that so-called ‘marital relationships’ may be dealt with at community level. The fact that we have terms such as *kuzvarira*, *bondwe*, *musengabere Kufambira* in our indigenous language means that such practices were and still are part of our custom. Hence the whole conceptualization around sexual exploitation loses its value when customary law is being left to the exclusive decision of the community whose leaders are mostly male and are also the custodians of such customs.

Before returning to the provisions of the new Constitution, there is a need to analyse the other side of legal pluralism which is that of general law also called civil law or Roman Dutch law. There was a lot of conflict in terms of the definition of a child. Some statutes stated sixteen (16) and then a minor would be called anyone below the age of eighteen (18). Statutory rape (which is now called having sex with a young person) defines such a person as anyone below the age of sixteen (16).

The criminalization of having sex with a young person and defining the age as sixteen (16) was and still is problematic because this allows for marriages as long as a girl has turned sixteen (16). The thinking behind this statute was to merge it with the Marriages Act Chapter 5:11. In determining the age for marriage, the Act states in Section 22:

‘(1) No boy under the age of eighteen years and no girl under the age of sixteen years shall be capable of contracting a valid marriage except with the written permission of the Minister, which he may grant in any particular case in which he considers such marriage desirable.’

Already there is a problem with discrimination against the girl. She is deemed by the state to have capacity at the age of sixteen years and yet the boy must be eighteen years of age. This provision clearly exposes the girl child. The Minister’s discretion is also problematic because he can then decide on having a girl married off as young as fourteen (14) if he sees that as a desirable. Usually, as has been shown from the semi-autonomous fields, what influences the thoughts of decision makers are the cultural and religious mindsets. So the civil marriage

¹⁴ Such a penalty and recognition only came about through Act 22 of 2001, which took effect on 10 September, 2002.

contract does not offer any protection to the girl child, especially by a society that recognizes the phenomena of ‘child marriages’. There is therefore a need to move towards a Constitutional mindset and then from that standpoint deal with all the conflicts and parallels so that the best interests of the child are met.

The call now is for the total realignment of all legislation with the Constitution so that any legislation or any part of any legislation that is inconsistent with it be deemed contrary to the Constitution and, therefore, invalid to the extent of its inconsistency. However the process of realignment on its own does not work in a vacuum. There is a need for the popularizing of the Constitution in all government departments and communities so that whatever happens at the legal level goes hand in hand with the level of knowledge in the community.

6.3 The way forward in the eye of culture, religion and patriarchy

The issue then is, ‘How then can these rights come into practice given the semi-autonomous fields of culture, patriarchy and sexuality?’ As we have already seen, to be called ‘a real man’ in the Apostolic sect, one must be able to have as many virgins as possible and this points to issues of masculinity and femininity. As discussed earlier, Tendai said that she did not want to get her parents arrested so this means that litigation by the victim or the survivor of such a ‘child marriage’ is usually unlikely. This shows just how loud the voices of religion and culture ring in the ears of the women and girls even when they know that such sexual exploitation is wrong.

Section 85 of the Constitution is thus central in dealing with challenges like these that seem to tie the hands of the survivor and let the captor get away scot free. It looks at the enforcement of fundamental human rights and freedoms and gives locus standi to the following persons to approach a court in order to seek relief where a right or freedom has been or is likely to be infringed:

- (a) Any person acting in their own interest;
- (b) Any person acting on behalf of another person who cannot act for themselves;
- (c) Any person acting as a member, or in the interests of a group or class of persons;
- (d) Any person acting in the public interest;
- (e) Any association acting in the interests of its members.

From the above criteria, the spirit of representation of others' interests is the main focus of the provisions given in this section. This gives hope in cases where people like Tendai are afraid to testify on their own for fear of reprisal. There is also provision for those who are regarded as a friend of the court and this once again is an opportunity to protect survivors of rights violations.

The Constitution provides many opportunities for rectifying unjust situations like 'child marriages' and they need to be tapped into. Also the new Constitution is more in line with the international human rights conventions than the previous one. Women and children are central to those groups who are singled out and afforded protection but there is a need to popularise the Constitution and sensitize communities, government agencies and civil society about it in order to ensure that people are fully aware of the tools for change that the Constitution makes available to them.

CHAPTER 7

7.0 CONCLUSION ABOUT THE FINDINGS AND RECOMMENDATIONS

7.1 Conclusion about the findings

This journey into unknown and secretive territory has ended up unearthing major issues about the Johanne Marange and Masowe yeSabata sects. The first point of departure was the finding that, *‘Yes, “child marriages” do take place under the guise that it is God’s will’*. Deeply entrenched in the reasoning behind this are issues of power and masculinity where a real man is defined by the number of virgin wives he marries and the number of wives he has.

Therefore, it is critical for sect members to pluck the flower whilst it is still ‘fresh’ and young and before it is tampered with by other admirers. While the parents of these children benefit financially from the transaction, they benefit even more from the power and influence they gain within the sect. The power takes the form of the respect the sect showers on them for being good examples to the rest of its members by giving away their daughters. Mothers receive the respect of having acted like real women in their sect because they ensured that their daughters were given away when they were still virgins.

The girls who are married off have nowhere to go because of physical, economic and social barriers. They are indoctrinated into the sect beliefs from a young age and find it difficult to survive beyond what they have been exposed to. They also do not have alternative shelter hence they stay in these so-called marriages. They are also raped into submission and this exposes them to numerous STDs and STIs.

The girls and women do not have agency and they experience constant domestic violence. Because of the economic hardships in the country, the Government is failing to detect at an early stage the possible sexual exploitation that is occurring. The schools which are often the providers of sex education are so overwhelmed by problems of under-staffing and low remuneration that the teaching of life skills is no longer central to school teaching.

Sadly, some girls die during labour and are buried deep in the woods with no one to shed a tear for them, except the silent wind.

7.2 Recommendations for a multi-sectoral solution

The key towards reducing and eventually ending child marriages lies in implementing a multi-sectoral approach. This problem cannot be tackled from one angle or by the government on its own. There is a need for a well-focused and well-co-ordinated framework to be in place. As seen from the discussions with the various Ministries the question as to who is really responsible for the complete welfare of the child has remained unanswered. Children have been treated in a piece-meal manner by different Ministries; in other words, there is no single ministry that is totally dedicated to ensuring the co-ordination of all the other bodies ‘in the best interests of the child’.

7.2.1 Apostolic sect

There is need to really work with the Apostolic sects, in this case the Johanne Marange and Johanne Masowe yeSabata sects. The most conservative one and most difficult to penetrate is the Johanne Marange one. It is good that there is a starting point for raptor and that is UDACIZA.

The target also should go beyond just the leadership but sensitize the sect’s women and girls on their rights. As noted earlier, the women who had more exposure had a higher likelihood of changing the status quo. There is a need to have programmes that are sensitive to the peculiar needs of women in the sect. In its targeting of the children of sect members, the BEAM program needs to know that there are children who come from polygynous unions and it should fund more children than just, say, two out of the sixty. Discussions and deep engagement with the women and girls need to take place so as to dispel myths and societal stigmas.

7.2.2 Community

The rest of the community needs to be sensitized to the fact that child marriages are actually sexual abuse and exploitation. Just as when dealing with the Apostolic sects, there is a need to have meaningful discussions an engagement with the community around the myths and stereotypes that exist when it comes to the sect and also to girls. Communities need to be

made aware that girl children are equal to boys and worthy of the same love and respect that is awarded to boys.

Society also needs to be sensitized and made aware of the various laws and definitions on who a child is and what society can do if people stumble upon a 'child union'.

7.2.3 Civil Society Organizations

CSOs must start working in communities on a more long term basis if 'child marriages' are to end. I know that this has funding implications but the truth of the matter is that these 'unions' are not going to end overnight. The touch and go approach has not and will not work. There is a need for the creative use of the media. If, for example, there is an everyday reminder in the form of a jingle of some kind to stop these 'child marriages' and to call them by their real name, society's mindset will gradually change. Going to communities four times a year and hoping for change is a dream. There needs to be long term commitment.

These communities are exposed to indoctrination every day and hence there is need for a counter-message everyday as well. CSOs need to compliment and work with the Government since it has the structures to reach all communities even the remotest of them. Child Protection Committees need to be capacitated and availed with funding. Girls need to be sent to school and more outreach programs must capture children in school as young as at the Early Childhood Development level. Boys need also to be sensitised so that they are encouraged to look at girls as their equals and not as commodities with a price tag.

7.2.4 Ministry of Education

The Ministry of Education needs to include in its teaching curricula lessons on how to detect abuse early and on becoming aware of all the challenges of sexual exploitation when it is disguised as marriage. The curricula must be taught to teachers at the colleges. Teachers in schools must be equipped to teach children this and they must also be prepared to act as the first port of call at the early detection stage of abuse.

The Ministry, through the Ministry of Finance, must reduce the problem of the over-enrolment of school children since it is linked directly to the failure and lack of urgency to detect sexual abuse when a child starts missing classes. Teachers who fail to report the continued absenteeism of a child must also face disciplinary action.

Head Teachers at schools must convene regular meetings with their DEOs to ensure that they are up to date with any suspicious absenteeism and this must be investigated. Parents must not be allowed to withdraw cases where there is suspected child abuse.

7.2.5 Ministry of Health and Child Care

The Ministry of Health and Child Care must ensure that it works closely with the Ministry of Public Service Labour and Social Services. Their programming must move beyond just the medical aspect to viewing certain occurrences from a social level as well. While the issue of maternal mortalities is medical, the underlying causes are social, hence, the Ministry needs to view things from a lived reality perspective instead of focusing solely on the medical aspect.

The Ministry could use their hospitals and other centres as a vehicle through which to disseminate information to communities on the dangers of the practice of sexual exploitation disguised as ‘child marriages’. Information material should be sent to every clinic and hospital in Zimbabwe so that this lodges firmly in the minds of the ordinary community member.

7.2.6 Ministry of Public Service Labour and Social Services

Last but not least, this Ministry is central and ought to be the one driving the process since the Act has given it the greatest responsibility for the child. This Ministry should be the one spearheading the co-ordination and it should have a council that deals specifically with ensuring a co-ordinated approach towards protecting and promoting the interests of the child.

This Ministry should also build safe houses for the children especially the girls so that they may have somewhere to stay whilst waiting for placement in the care of either new guardians or relatives who are not in the sphere of influence of the other Apostolic sect members. The Ministry can partner with CSOs in the provision of establishing and maintaining safe houses.

There is a need to increase the social security of the women in the Apostolic sects and this can be done through having a fund for children. A tax can be imposed on private companies or investors and this can help to raise funds not only for creating an appropriate social security fund but also for the building of safe-houses.

7.3 Conclusion

The starting point for any collective move, journey or strategy of reform is to define certain concepts and theories to ensure that everyone is on the same track. First and foremost there is a paramount need to ensure that sexual abuse and exploitation are the key terms used in the process of dispelling the notion within culture that such incidences are actually marriages.

The root causes of the exploitation must be at the heart of any programming since they help in understanding the driving forces behind these practices. There is also a need to understand the context in which women in the sects work from as this directs the energy of the programming in the right way. From the evidence, we can see that the women are relational and they are negotiators. They also have various interlocking oppressions which call for a holistic approach to their challenges. The new Constitution of Zimbabwe is very central in providing solutions and if fully utilized will bring relief to the girls and women.

Essentialist approaches do not work. Instead, approaches that cater for both them and their children will work better for them. The hierarchies that they have been exposed too also mean that at times group settings do not work because they have been forced to act in a survival of the fittest mode. At the same time, their shared pain and experiences are opportunities for harmonizing and questioning what works best for them.

Duty bearers really need to work on ensuring that both laws and policies are implemented and that the public is made aware of them. A co-ordinated approach of all central players is necessary; this holistic approach, if employed over a long period of time rather than in a touch-and-go manner, will lead to a decrease in and the eventual eradication of so-called child marriages.

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