



Representation of the Expression of Ndebele Customary Law of Inheritance in Selected Educational Works in Zimbabwean Schools

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ABSTRACT

The article examined the representation and the expression of the Ndebele Customary Law of Inheritance in selected educational works at the Ordinary Level in Zimbabwean schools. The study particularly explored the application of the traditional inheritance law as expressed in different educational works in the sphere of Literature. The analysis and discussion are derived from the Customary Law and from how inheritance issues are represented and handled in Ndebele educational works. The study further reflects on some of the problems recently encountered by how the custom is applied in the modernised era. In this regard, learners through cultural education would be guided accordingly on what the customary law of inheritance entails, have a better understanding of its modifications and changes in relation to the current socio-economic conditions of times and finally appreciate it as one of the critical customs in IsiNdebele traditional education. In conclusion, the study emphasises that the application of the inheritance system has been strongly affected by Modernisation, Formal Education and Christianity. The study contributed that in spite of these inevitable challenges, the custom should be dynamic and appreciative of modifications in accordance with the prevailing socio-economic changes of the times.

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INTRODUCTION

Zimbabwe is a multicultural society characterised by a total of sixteen officially recognised languages according to the Amended Constitution of Zimbabwe of 2013. Though all of them are official languages, English has the upper hand in that it is the medium of communication. According to Nhongo, “Although Shona and Ndebele were the only recognised indigenous languages, English remained the dominant official language.”¹ This statement endorses English as the paramount official variety ahead of ChiShona and IsiNdebele whose linguistic population in the country is 80% and 20% respectively.²

According to Bhebe, Ndebele-speaking communities are mainly situated in the western and southern parts of the country, generally referred to as Matabeleland North and Matabeleland South.

¹ Raphael Nhongo, “A National Language Policy for Zimbabwe in the Twenty-First Century: Myth or Reality?,” *Journal of Language Teaching & Research* 4, no. 6 (2013), 1211.

² Munhuweyi Peresuh and Jesta Masuku, “The Role of the Primary Language in the Bilingual-Bicultural Education in Zimbabwe,” *Zambezia* 29, no. 1 (2002): 27–37; Sabelo J Ndlovu-Gatsheni, “Africa for Africans or Africa for ‘Natives’ Only? ‘New Nationalism’ and Nativism in Zimbabwe and South Africa,” *Africa Spectrum* 44, no. 1 (2009): 61–78.

Outside the Matabeleland provinces, Ndebele people are also found in parts of the Midlands Districts that shares boundaries with the Matabeleland districts.³ The existence and prevalence of Ndebele culture is evidenced by the teaching and learning of IsiNdebele in the study of Literature at the Ordinary Level (O' Level) and Advanced Level (A 'Level) in secondary schools. In this sense, it is essential to note that inheritance is a critical phenomenon which should be imparted to learners through cultural education. Its impartation through teaching and learning would make it appreciated and thereby transmitted as part of their traditional heritage.

Customary Law of Inheritance

This is a critical phenomenon in this study and needs to be elaborated upon as it directly hinges on the discussion underway. The pivotal role executed by the use of this Inheritance law is that traditionally, it has been effective in managing deceased assets. Goldin and Gelford cited in Bhebe, states "Customary law is the oldest form of law known to man. In primitive societies, particularly among people, who had not developed the art of writing, they regulate their conduct according to rules which their ancestors had been accustomed to observe in the past."⁴ In concurrence with the preceding citation, Moodley, states that customary law is widely unwritten which implies that it is characterised by flexible rules that change in response to the prevailing socio-economic environment of the times.⁵ In this regard, representation of the customary law as traced through educational works that include Isi Ndebele novel, drama and poetry should be perceived as not rigid but flexible depending on different scenarios in literature. It is in these types of literary works studied at O' Level and A' Level that the customs are discussed and analysed with respect to what they entail in society. Despite being the oldest traditional law, it is still recognised and respected for its capability to mould behaviours of individuals so that they become acceptable in societies. In this respect, education through literary works in schools now has taken over the role moulding of acceptable characters which was a preserve for the uncles and aunties who were counselors then. This moulding now occurs through the study of literature that is related to issues directly affecting learners in life like the law of inheritance.

Although the concept of custom has been defined as attached to the word law, it is also crucial that it is perceived as an independent term. Bozongwana, perceives custom as a phenomenon associated with spiritualism, which confirms the title of his book, 'Ndebele Religion and Customs'.⁶ If the custom in one way or another is associated with spiritual reality as alleged, this is revealed through studied literary studies or educational works where the representation of the application of the customs is deliberated upon. Thus, this study focuses on the representation of the customary law of inheritance in the context of educational works as already revealed.

Inheritance is another key concept defined in this study. According to Bhebe, "Inheritance is generally perceived as established practices mainly concerned with taking over the ownership or use of the deceased man's property or estate".⁷ Indeed, this is a general perception as it does not capture that the application of inheritance also depends on whether the deceased followed the traditional way of life or subscribed to the modern life which is associated with the practice of signing of wills. In the traditional communities, explored in this paper, the custom dictates that the heir (indlalifa) from the senior house inherits most of the estate (ilifa) while sons from junior houses acquire less depending on their hierarchical positions for the entire family. Knowledge of this nature is critical in that it exposes learners through educational works to the systematic and equitable distribution of inheritance in the traditional IsiNdebele society. Guided by educational set books and through discussions of such themes in literature lessons, learners critique issues by raising strengths and weaknesses in relation to the current modifications of the custom. In this context, teaching and learning processes become practical, analytical and meaningful in the process of interrogating customs as represented in educational works.

³ C. Bhebe et al., "Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art," *Zimbabwe Journal of Educational Research* 22, no. 3 (November 2010).

⁴ Bhebe et al., "Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art," 3.

⁵ Isabela Moodley, "The Customary Law of Intestate Succession" (University of South Africa, 2012), https://uir.unisa.ac.za/bitstream/handle/10500/8829/thesis_moodley_i.pdf.

⁶ W. Bozongwana, *Ndebele Religion and Custom* (Gweru: Mambo Press, 2000).

⁷ Bhebe et al., "Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art," 345.

Having explained what the customary law of inheritance entails, the focus shifts to the modern law of the estate. Contrary to the traditional custom, emerged the Roman-Dutch law, which advocates a system that requires the executor to be responsible for the distribution of the deceased estate. When no objection has been lodged after inspection of the deceased's account, the executor immediately pays the creditors and distributes the estate among the heirs in accordance with the account.⁸ The difference in the Roman-Dutch law is that the executor does virtually everything including collection of debts, paying of estate to creditors and distribution of assets to the successors of the deceased. Yet, under the customary law, the heir (*indlalifa*), inherits everything and then distributes basically cattle in view of their birth positions in the family. In reference to the South African Constitution, Moodley argues that Section 211 (3) has the effect of raising the inheritance law to the same level as that of the common law, something that was not the case in the past as customary law was often viewed as inferior and always disregarded as a source of South African law.⁹ Implied from this statement is that in South Africa, the customary law is appreciated as their constitution attempts to improve rather than ignore it as the law of the past. Raising the customary law in this regard is positive in the sense that, it remains functional and continues to transmit and perpetuate it as part of their culture which the Zimbabwean lawmakers also ought to consider adopting rather than disregarding totally customary laws. Thus, the representation of the customary law of inheritance in this respect is expressed through novels, plays and poetry in the sphere of education. In this context, cited educational works of literature are crucial because they equip learners with content knowledge on customs and other culturally related issues with a bearing on human life.

Representation of Customary Law in Educational Works

The article proceeded to delve into the Inheritance custom as represented in educational Ndebele literary works which include novels, plays and poetry. Through the interrogation of customary laws in these literary works of art, learners will be equipped with the content and knowledge pertaining to what they entail with respect to what occurs in life. Learners in their engagements with the custom under study, develop a better understanding of its development and challenges currently encountered in its implementation. Therefore, in this study, the intention was specifically directed at educational works whose themes represent and/or relate to the Ndebele Inheritance Custom as they reflect what it entails.

Representation of the Customary Law of Inheritance in a novel

In his Ndebele novel, titled '*Ilifa Lidliwa Ngumninilo*' meaning Inheritance goes to the heir which was an O' Level set in 1991 to 1992, Ngwenya presents a violent fight over the deceased Mangundela's inheritance involving his late brother Sikhendevana and the heir apparent Swelibizo.¹⁰ The events of the novel unfold in a rural community located in a typical rural setting. This setting comprised traditionally constructed huts, communally brewed and shared beer, and the cattle inheritance (*ilifa lezinkomo*) left behind by the deceased Swelibizo's father. Because of jealousy and greed, Mangundela disposes Swelibizo the heir apparent of his father's inheritance rather than allocate it to the owner as expected in a traditional monogamous homestead. According to Bhebe et al., "In a traditional set up, the eldest son is *indlalifa* (the heir) who inherits the property of his late father, especially *izinkomo zelifa* (cattle for inheritance)."¹¹ Deduced from this quotation pertaining to Ndebele cultural inheritance system, is that the heir inherited most of the cattle. However, in the novel, this is not the case as Mangundela disinherits the heir apparent, and by so doing, he deliberately violets the custom of inheritance. The failure to observe and represent the customary law of inheritance with respect to the Ndebele culture as done by Mangundela in turn led to disastrous consequences. That is, a fierce and violent fight between Mangundela and Swelibizo ensues and ultimately results in Mangundela's fatal death. Thereafter, the estate goes to the rightful heir (*indlalifa uqobo*) and fulfills the title of the novel '*Ilifa Lidliwa Ngumninilo*' meaning that inheritance goes to the heir. Although in Ngwenya's novel, the

⁸ Mohammed Molla, "Administration and Winding-up of a Deceased Estate," DE REBUS, March 1, 2022, <https://www.derebus.org.za/administration-and-winding-up-of-a-deceased-estate/>.

⁹ Moodley, "The Customary Law of Intestate Succession."

¹⁰ M.N. Ngwenya, *Ilifa Lidliwa Ngumninilo* (Gweru: Mambo Press, 1982).

¹¹ Bhebe et al., "Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art," 345.

final events reveal that the rightful heir gets his inheritance like Swelibizo, this did not come on a silver plate. Instead, the heir had to violently fight for it, confirming that the process of the customary law of inheritance in traditional settings is not always a smooth-going as advocated. The reality is that the process is at times punctuated by surprises and disputes that are unavoidable as long as inheritance of cattle sharing is involved. Deduced from the tense and volatile situation over inheritance as expressed in the novel is that economic wealth associated with cattle as is the case in traditional communities results in bloody fights if the inheritance is appropriately handled. As O'Level learners read and analyse the customary law of inheritance in this novel which is a representation of what occurs in Ndebele traditional settings, they must understand what exactly it entails, how it is processed and possible results at the end, depending on it is administered. Hence, understanding the custom will make learners also appreciate some of the modifications and changes that have greatly affected it, due to cultural dynamism which is inevitable.

Representation of Customary Law of Inheritance in a play

The customary inheritance is also represented through Ndebele plays which are also part of the syllabus at O'Level. The traditional law of inheritance is also represented and expressed in Sigogo's play titled '*Indlalifa Ngubani?*', translated as Who is the Heir? In this play, with the title in question form and directly related to the inheritance, the author presents a hostile argument over this custom of a polygamous homestead.¹² This play was considered appropriate for this article and for O'Level learners who are expected to interrogate literary works that represent customs such as inheritance in traditional societies. The play is also essential and relevant in that it represents customary inheritance in a polygamous family which is the most popular family in African traditional communities and societies. The setting of this play is a rural setting as it is characterised by the regular drinking of traditional beer, the use of a traditional three-legged cooking pot stand and the processing of the wild rabbit skin.¹³ The play's events according to Bhebe et al. hinge on two women who have children or are pregnant before marriage and/or having children out of wedlock; hence, in Ndebele they are referred to as '*amamitha*' referring to a woman with a child before marriage.¹⁴ The eldest son in this polygamous family is Mphunzo, the oldest son who was born to a mother with two children elsewhere before her marriage to Mhlolo Ndlovu, the deceased. In this respect, Mphunzo does not qualify to be an heir because he is illegitimate to the deceased. The scenario is further complicated by that, in another house as this is a polygamous family, Lumphondo cannot be heir because he was born out of wedlock as his mother had already been impregnated by another man when she married the deceased Mhlolo Ndlovu.¹⁵

Furthermore, the situation is complicated by that Phehlane who is Lumphondo's young brother is not from the senior house, therefore, he did not inherit the estate according to the customary law of inheritance in the Ndebele communities. Apparent from this polygamous situation, no married woman in the two houses qualifies to give birth to the heir since they were already mothers upon marrying the deceased. After it became clear that none of the characters from the houses qualifies to inherit the estate according to the customary law, a fighting mood developed due to mistrust, suspicion and hatred. This volatile situation degenerated into physical and violent confrontation which led to the clubbing of Mphunzo with a knobkerrie. Consequently, the traditional law of inheritance ceremony which was pending could not proceed but abruptly ended. In this play, the process of the law of inheritance is clouded with several challenges which makes it fail to go through as expected. Had the ceremony gone through despite that, there was no heir according to the Ndebele customary law of inheritance, the impression given would have been wrong and contrary to what it entails. The given analysis of events clearly reveals that the heir is born of a mother in the senior house who should have had no other children before marriage. If he is not in the senior house he comes from the junior ones in the order of their seniority going down. The fact that the inheritance was not distributed due and there was no an heir, reiterates the point that sharing the estate could have distorted the customary law of inheritance, the play is expected to represent reality with regard to how the custom is conducted. In coming up with the question topic

¹² N.S. Sigogo, *Indlalifa Ngubani?* (Gweru: Mambo Press, 1976).

¹³ Sigogo, *Indlalifa Ngubani?*

¹⁴ Bhebe et al., "Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art."

¹⁵ Bhebe et al., "Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art."

which happens to be a fitting one, the author probably felt he should pause such a question in order to check if O. Level learners and readers understand what constitutes the custom in its application. The fight that ensued after it was clear that none of the characters could inherit the estate, shows that where there is no a vividly defined heir, and results in confusion and fights as opposed to situations when the heir is openly identified. The play ends without the distribution of the inheritance after Phunzo is clubbed to death because he did not qualify despite being the eldest as he was born out of wedlock. Therefore, learners in particular, in analysing plays on issues to do with inheritance and other customs, ought to be critical in their approach and ensure they know about them so that they assess events of the play from an informed position. In this regard, education through the study of literature empowers learners to be analytic in discussing critical themes with a bearing on human beings.

Representation of customary law of inheritance in poetry

Besides the representation of the inheritance custom in novels and plays, the custom has also been represented in poetry, especially in prose poetry. In praise poetry and historical novels, royal families are depicted as polygamous where customary rules of inheritance also prevail in Ndebele society. The polygamous nature of royal families is also expressed by Bhebe, who states that “Ndebele royal families are by nature always polygamous as tradition has it that Ndebele kings and chiefs marry many women, a practice that is understood or believed to have a unifying effect in the nation and is also meant to *ukwandisa abesendo* (increase the population of the royal family).”¹⁶ In elaborating on the ranking of houses in the royal families, Child, asserts that “The general rule is that wives rank in seniority in order in which they were married, but in the case of the chief, the heir is the son of Inkosikazi (queen) married after the chief’s appointment by the Native Law.”¹⁷ Apparent in this quotation is that the heir is born of the queen (inkosikazi) who should be the senior wife. This makes him inherit the estate in a royal family as long as the mother is married after the appointment of the chief. Hence, in a royal family, the heir is born of ‘*indlovukazi yesikhosini*’ referring to the queen of the royal family.¹⁸ Furthermore, Nyathi emphasises that the heir who takes over as Ndebele kingship throne should be born of ‘*intombi egcweleyo*’, meaning a virgin who has never married before.¹⁹ In the same vein, Sibanda, in reference to inheritance in Ndebele polygamous families clarifies that,

*Lapho okulesithembo khona ingqabutho ngeyintombi
loba engezwe ubuntu* (In a polygamous, the first born
of the one who married first being a virgin or would
have been made to be full according to tradition, becomes
the heir)²⁰

Of importance to note is that the heir in the Ndebele polygamous family is the son of the senior wife who marries for the first time being a virgin in any form. However, if there happens to be no son, the heir is considered from the next senior house in that order until the last house. According to Sibanda, while *indlalifa* (the heir), inherits the largest share as the name confirms, the quantities of the estate allocated to younger children in junior houses slowly decline according to their birth positions in the family ladder.²¹ Pertaining to the distribution of the estate in royal families, Krige confirms that, even if the king's son from a senior house is younger than his brothers from junior houses, he acquires the inheritance of the royal family and takes over the kingship due to that he is born by the royal queen.²² Implicit from these crucial inheritance issues is that literature learners in their engagements with educational works depicting inheritance in polygamous and royal families, is that they will confuse the two. Furthermore, knowledge of this nature will empower them to become future advisors and consultancies on such critical customs in their communities. In this regard, education through the study

¹⁶ Bhebe et al., “Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art,” 348.

¹⁷ H. Child, *The History of Amandebele* (Salisbury: Government Printers, 1968), 38.

¹⁸ Bhebe et al., “Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art.”

¹⁹ P. Nyathi, *Zimawele* (Harare: Longman, 2006).

²⁰ J. Sibanda, *Isikhiti* (Bulawayo: Typocrafters, 1998).

²¹ Sibanda, *Isikhiti*.

²² E.J. Krige, *The Social System of the Zulus* (Pietermaritzburg: Shuter and Shooter, 1936).

of literature becomes an effective instrument that prepares learners for future roles in traditional communities.

While the custom is clear on the process of distribution of inheritance and on the recognition of the heir as the firstborn from the senior house, it is not apparent on succession disputes that occur disregarding what should be observed. As presented in the proceeding paragraphs, due to suspicion, greedy and jealous fights for the throne arise. A case at hand involves how Tshaka ascended into power as represented through his praise poetry. According to Bhebe, et al, the rise of Tshaka to the Zulu throne was due to the killing of his half-brother, Sigujana who had replaced Senzangakhona as a chief.²³ However, Tshaka, who had been raised in the Mthethwa state, objected to Sigujana's ascendancy. Implicit in this citation is that Tshaka's assertion to the throne was the result of killing his half Sigujana confirming that it is not always the case that in the Ndebele custom, the property and the throne are inherited by the heir born of the royal queen. In ascending to the Zulu throne, Tshaka had the help of Dingiswayo's army to crush Sigujana and landed him on the Zulu chieftainship and earned him a lot of praise from Nyembezi.²⁴

Of paramount to note and represented in Zulu praise poetry is the surprise of the rise of Tshaka to Zulu chieftainship as captured in his praises characterised by mockery, sarcasm and laughter as he was least anticipated to be the Zulu king. In analysing praise poetry, learners will realise that surprises are inevitable in the inheritance ceremonies as represented in the novel and play presented prior. In both the novel, play and praise poetry what is common is that highlighted ceremonies are characterised by bitter consequences of killings over the inheritance of property and throne especially in royal families. From their discussions on such critical inheritance issues represented in cited literary works, learners would have insights on how to analyse encountered challenges and come up with their possible solutions. The knowledge acquired through interrogation of educational works is crucial in that discussions of issues and themes are not confined to set books only but related to real life in communities as literature is a reflection of life. Thus, education of this nature is practical and relevant as it creates beings who would understand the dynamics of life related to customs which are considered to be fundamental in traditional communities.

Women and Customary Law of Inheritance in Ndebele Traditional Societies

At this stage, the study reflects on women in relation to inheritance as represented in educational works. Prior to referring to particular issues on inheritance in Ndebele communities, it is paramount to observe that in the real traditional customary system, lineal succession was in favour of the firstborn who culturally became the head of the house and subsequently assumed the name of the deceased and this role in the family.²⁵ Implied from this citation is that, daughters were not beneficiaries of the inheritance but came to be after the Legal Age of majority Act. While this perception is respectable as it expresses the influence of Modernisation which is inevitable due to Roman-Dutch which has brought about cultural changes in society, Sibanda, asserts that '*Aluba imuli yomufo ilamankazana kuphela, indlalifa yintombi endala.*'²⁶ Deduced from this Ndebele quotation is that the eldest daughter inherits the property as the heir in that family of girls only. In this context, there is room for women to inherit property in Ndebele families, provided that there are no sons but daughters only. Instances to do with inheritance where there happen to be daughters only, though they exist in Ndebele society, are not recorded or are overshadowed as the impression in educational works is about sons as heirs and silence about daughters. Thus, learners in their deliberations as they engage related inheritance issues from work arts such as novels, plays and poetry, should be equipped with such knowledge so that they discuss the position of daughters in inheritance from an informed perspective represented in educational works. Implied in this expression is that knowledge about the girl child in relation to inheritance is critical because tradition has rendered them inferior to boys. This is, however, rejected in educational works where it is clearly articulated that the eldest inherits in a family where there are girls only. Therefore, it can be argued that, if learners are

²³ Bhebe et al., "Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art."

²⁴ S. Nyembezi, *Lzibongo Zamakhosi* (Pietermaritzburg: Shuter and Shooter, 1968).

²⁵ W. Ncube, *Family Law in Zimbabwe* (Harare: Legal Resources Foundation, 1989), 85.

²⁶ Sibanda, *Isikhiti*.

equipped with crucial and silent information through educational work of arts, they will not misrepresent or distort cultural-related issues.

In addition to the highlighted inheritance issues in a family of daughters only, Sibanda also refers to a balanced family of sons and daughters who happen to be recipients who take over cattle regarded as 'inyembezi zikababa' referring to tears of the father.²⁷ Furthermore, Sibanda further clarifies the deceased's cattle allocated to his daughters.²⁸

Yinkomo yelifa enikwa amantombazana njalo baphiwa imbuzi aluba kungela nkomo. Okukhulu okukhangelelweyo yikuthi babelane ingazala

Revealed from IsiNdebele statement is that daughters inherit cattle regarded as tears of the father. However, if there are no cattle, a she goat should be allocated daughters with the hope that they distribute its children later upon its delivery. Important to note here is that the custom of inheritance specially recognises daughters, as they are considered even for goats rather than not given something. Surprisingly, such critical data are scanty or missing in educational works pertaining to inheritance-related issues. Therefore, research of this kind equips learners with missing information that is crucial to know if the custom regarding the law of inheritance is to be perceived and transmitted accordingly in Ndebele cultural lessons in O'level classes.

The study of the customary law of inheritance cannot be complete without referring to the fate of the widower during the inheritance ceremony. Under the Customary Law of Inheritance, it is during this inheritance ceremony that widows have their fate decided. In reference to the fate of the widow, Sibanda and Nyathi, echo that the decision of the fate of the widow is made through a performance of jumping over the knobkerrie and spear on the door entrance, an activity called 'ukweqiwa kwentonga' in IsiNdebele.²⁹ If, however, the widow feels she is not interested in marrying anymore, she hands over the weapons to one of her elderly sons who will then take care of the family. Implicit in this quotation is that the act of accepting the deceased's brother as a husband, 'ukungenwa' is not oppressive since the widow is at liberty to marry or not. Therefore, the widow is not allowed to have secret love affairs as the custom is meant to benefit closed family members from the deceased's estate. Hence, the custom is protective in that it guards against invasion of the family inheritance by outsiders. In studying literature covering inheritance, O'level learners would be equipped with the appropriate content and processes pertaining to inheritance and related issues as represented in literary works. In critiquing the act of *ukungena*, learners would understand its rationale from a traditional perspective and understand the extent to which it has been diluted by the influence of modernisation. When the process of their study of literature, learners would examine the inheritance custom so as to establish its merits and demerits in relation to the modernised society and the advent of the Roman-Dutch law. Exposure to such issues and their effects will make them informed citizens who would understand evolving cultural realities in societies.

Customary Law of Inheritance and encountered challenges in a modernised society

Educational works representing the customary law of inheritance discussed in this study, demonstrate their relevance and effectiveness in traditional societies. Despite raised issues regarding its role as a custom, socio-economic and political changes have greatly affected its application in the changing times, something that should be known by learners in the field of education. Thus, it is through empowering learners with the content knowledge of customary law and Roman-Dutch law that makes them understand how the inheritance law has undergone modifications and changes as culture is dynamic. In the process of discussing changes in this custom and others, learners would also understand that modernisation is one of the major challenges encountered in administering the inheritance custom. Bhebe, et al., argues that modernisation has brought about the Zimbabwean constitution and awareness of human rights.³⁰ In

²⁷ Sibanda, *Isikhiti*.

²⁸ Sibanda, *Isikhiti*; Bhebe et al., "Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art."

²⁹ Sibanda, *Isikhiti*; P. Nyathi, *Traditional Ceremonies of AmaNdebele* (Gweru: Mambo Press, 2001).

³⁰ Bhebe et al., "Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art."

relation to property and inheritance issues, Article 16 (1) of the constitution stipulates that no possessions of whatever kind or right there in shall be forcibly inherited except under the authorisation of the regulation. This stipulation is an improvement of the Custom of inheritance law which can be easily abused as greedy relatives can misappropriate inheritance to be inherited by the heir and get away with it. In this regard, the custom is toothless while the Roman-Dutch law is authoritative in that it does not approve compulsory acquisition of property. The constitution also protects spouses and children from losing their inheritance to jealous and greedy relatives. These changes ushered by the advent of modernisation have affected the recognition of the eldest brother as the inheritor of the estate ahead of the spouse of the deceased. Instead, as expressed in the Legal Resources Foundation pamphlet, the major proposition is that the consort and infants will inherit.³¹ This silence about the eldest son inheriting the deceased estate clearly reveals the replacement of the Law of Inheritance by the General Law in modernised society. If learners are exposed to such knowledge about changes brought about by modernisation they will appreciate them if they are progressive and in recognition of the socio-economic changes of the time.

Another challenge faced by its application is Formal Education which is also inherent in modernisation. Directly or indirectly, this concept has influenced people to adopt the General Law that is associated with the will and does not segregate against women because of gender as is the case with the traditional custom of Inheritance.³² Implied in this citation is the impact of Formal Education which has empowered people in modernised society to embrace the General Law of Inheritance and neglect the customary one as it is no longer applicable in the current prevailing socio-economic and political situations. The acquisition of this Formal Education has been celebrated and appreciated as replacing the heritage of cattle which is associated with the customary law. This is apparently articulated by the poetess Nkala in a poem titled 'Imfundo' for Education'.³³ In this poem, there is a stanza where great grandparents brag about the replacement of cattle heritage or economic wealth in the past by formal education. Those who have a formal education are said to be sauntering because they have a bright future likened to receiving thick traditional processed milk (amasi). In the absence of the cattle which were the family estate, there is formal education which is individually acquired and has something positive and none discriminatory in whatever form. Thus, the spread of education which in turn affects the administering of the custom of the inheritance law in a modernised environment is inevitable.

The spread of Christianity is also a challenge encountered in the administration of the custom of inheritance in modernised society. The spread of Christianity as a religion is expressed by Akhverdiev and Ponomarev, who emphasise that "Christianity is the most widespread religion in the world."³⁴ In its spread as a religion in the world, it impacted the customary laws that existed in traditional societies in one way or the other. The wave of Christianity penetrated African communities, villages, and individuals converting them into Christians by baptising them in the name of Jesus Christ; hence, they became Christians. Individuals' abandoning their customs but adopting Christianity is put across by Wintersteen, who asserts that as a religion, Christianity is a personal issue of the individual in his/her own right.³⁵ It does not stop being like that because most individuals accept it. In this respect, the Customary Law of Inheritance was greatly affected, as issues to do with polygamy, worshipping of ancestral spirits and traditional practices were discouraged by Christianity as sin and evil according to the Bible teachings.

CONCLUSION

The study examined the representation of the customary law of inheritance in selected educational works involving a novel, play and poetry. The issues discussed and discussed in the course of the study were mainly related to the application of the inheritance system as portrayed in the cited literary works. Apparent in the study is that its application has been somehow affected due to several factors. Modernisation, formal education and Christianity were highlighted as some of the main challenges

³¹ Legal Resource Foundation pamphlet, *Inheritance Under Customary Law* (Harare: Legal Resource Center, 2001).

³² Bhebe et al., "Customary Law of Inheritance in Traditional Ndebele Families as Depicted in Selected Ndebele Works of Art."

³³ B.M. Nkala, *Zimbabwe Women Writers. Selections Inkondlo* (Harare: Weaver Press, 1998).

³⁴ Erwin Akhverdiev and Alexander Ponomarev, "Religion as Factor in Formation of Law: Current Trends," *SHS Web of Conferences* 50 (October 12, 2018): 3. <https://doi.org/10.1051/shsconf/20185001024>.

³⁵ A.H. Wintersteen, *THE AMERICAN LAW REGISTER: CHRISTIANITY AND THE COMMON LAW*. (Philadelphia, 1890).

encountered in the administration of this custom. Interestingly to note about its application is that the process is well organised and systematic despite its abuse by greedy and unscrupulous relatives and their competitors especially in polygamous and royal families. However, they never get away with it since they are ultimately somehow punished by death, with the rightful heir emerging victorious by deservedly inheriting the deceased's estate as expected by custom. Furthermore, customary law like all other systems of the law, has both weaknesses and strengths in its application as reflected in literary works. In spite of the reflected unavoidable challenges in a modernised society, the article summarises by emphasising that the custom of inheritance law should be dynamic and flexible in order to accommodate modifications and changes in accordance with the socio-economic and political situation of that era.

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