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Marriage registration and women's inheritance rights under the Recognition of Customary Marriages Act: Challenges in VaTsonga Polygynous marriages

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ABSTRACT

This study explored the proprietary consequences of VaTsonga customary marriages, focusing on the constitutional, property, and inheritance rights of spouses in polygynous unions**.** It further examined how these spouses can be informed of their rights and protected from losing property or inheritance. This study used a qualitative exploratory design, using purposive and snowball sampling to select five husbands and five second wives from the Vhembe District**.** Data were collected through semi-structured interviews, recorded, and analysed thematically. The study was guided by resilience theory and social exchange theory**.** The findings revealed that most of the participants understood the concepts of marriage, polygyny, and lobola practices. Cultural expectations, fertility, and reproduction emerged as key drivers of polygynous unions. However, many participants experienced property loss and unregistered marriages, often due to a lack of consent from the first wife and unpaid lobola, rendering such unions invalid under customary law. The study recommends that the Home Affairs Department educate communities about marriage registration and that women be empowered through awareness and counselling to protect their rights and promote harmony in polygynous households.

Keywords: African Customary Marriages, Inheritance, Lobola, Polygamous Marriage, Polygynous Marriage, Property, Proprietary Consequences.

INTRODUCTION

Polygynous marriage, a form of marriage in which a man has multiple wives simultaneously, remains a significant social and cultural practice in many African societies, including South Africa. The Recognition of Customary Marriages Act (RCMA) of 1998 established legal recognition of African traditional marriage practices, enabling the protection of women's rights within customary marriages. The Act established legal recognition for customary marriages, protected women's property rights, and created rules for matrimonial property rights, requiring court approval before husbands could take

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additional wives. The RCMA legal protections face major difficulties during actual execution because they especially impact women who are part of unregistered customary marriages.

In practice, when a husband is involved in multiple marriages, the wife who first establishes her marriage is often the one officially recognised as the lawful spouse. This occurs regardless of the legal validity of competing marriages, leaving disputes to be resolved through litigation. Women in unregistered customary marriages lack the legal protections they should have under the law, according to de Souza.[1] The RCMA established protective measures, which include communal property systems and mandatory court permission for future marriages, but these protections do not function properly.[2] The Vatsonga tradition requires that a first wife grant permission before her husband can marry again, but this practice conflicts with statutory legal requirements, according to Merdad et al. The legal system considers many second and subsequent wives to have invalid marriages, which results in their loss of all legal and financial safeguards.[3]

Existing research has examined both the legal and social aspects of polygyny in Africa and other parts of the world. Researchers must investigate how the RCMA legal framework functions in actual situations involving women who participate in customary marriage disputes and unregistered marriages. Previous studies have shown that polygyny exists widely in society,[4] creating social difficulties that include jealousy and competition between spouses and lead to negative effects on children.[5] The relationship between legal recognition and cultural practices, and their effects on women in South African communities, deserves further investigation.

The study analyses how RCMA acts as a protective mechanism for women entering polygynous marriages through traditional marriage customs. The research study investigates the challenges that women face when entering unregistered marriages, which lead to their subsequent registered marriages. The research team uses qualitative methods to examine shortcomings in existing legal protections that do not address current social conditions, drawing on the literature and legal systems, as well as case evaluations.

The paper contains two main sections, with the first providing a complete explanation of African and South African polygynous marriage practices. The second section examines the legal framework governing customary marriages, with specific reference to the RCMA. The third section investigates the implementation problems and legal deficiencies of the Act, which specifically affect unregistered and subsequent marriages. The last section presents the research results and recommendations to enhance the protection of women's rights in polygynous customary marriages.

LITERATURE REVIEW

The Constitutional and Statutory Evolution of African Customary Marriage in South Africa

The legal landscape of African Customary Law (ACL) has undergone a significant transformation to align with the democratic values of the South African Constitution. Constitutionally, ACL is protected by provisions of the Bill of Rights that safeguard individual and collective cultural, religious, and linguistic freedoms.[6] Although Section 211 formally recognises ACL, its application is not absolute; it remains subject to relevant legislation and the Bill of Rights.[7] Consequently, courts must apply

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1 Monica De Souza, "When Non-Registration Becomes Non-Recognition: Examining the Law and Practice of Customary Marriage Registration in South Africa," *Acta Juridica* 2013, no. 1 (2013): 239–72.

2 C. Smith, *Customary Marriage Amendments Give Women More Financial Clout* (Fin24, 2019).

3 Nisma Merdad et al., "Polygamy and Mental Health among Saudi Middle Schoolers: The Role of Family Cohesion and Father Involvement," *Family Relations* 72, no. 3 (2023): 774–93.

4 Augustin Tapsoba, "Polygyny and the Economic Determinants of Family Formation Outcomes in Sub-Saharan Africa" (TSE Working Paper, 2022).

5 Susan Dierickx, "'With the Kanyaleng and the Help of God, You Don't Feel Ashamed': Women Experiencing Infertility in Casamance, Senegal," *Culture, Health & Sexuality* 24, no. 2 (2022): 268–83.

6 Christa Rautenbach, "South Africa's Family Laws: A Potpourri of Some Sort?," in *Normativity and Diversity in Family Law* (Springer, 2022), 147–75, https://doi.org/10.1007/978-3-030-83106-6_7.

7 Keneilwe Martha Radebe, "Tsambo v Sengadi (244/19)[2020] ZASCA 46 (30 April 2020); Sengadi v Tsambo; In Re: Tsambo (40344/2018)[2018] ZAGPJHC 666;[2019] 1 All SA 569 (GJ)(8 November 2018) Assessing the Insurmountable Challenge in Proving the Existence of a Customary Marriage in Terms of Section 3 (1)(b) of the Recognition of Customary Marriages Act 120 of 1998 and the Misplacing of Gender Inequality," *De Jure Law Journal* 55, no. 1 (2022): 77–86; Ntombizozuko Dyani-Mhango, "The Consent of

customary law only when it is consistent with the fundamental principles of human dignity, equality, and freedom.[8]

The Recognition of Customary Marriages Act (RCMA) 120 of 1998 serves as the primary statutory instrument for integrating these traditions into the constitutional framework.[9] Before its inception, women in customary unions were largely subordinate to their husbands' marital authority, lacking the legal capacity to own property, enter into contracts, or access the courts independently.[10] The RCMA redressed these historical injustices by validating monogamous and polygynous marriages, thus establishing spousal equality and protecting children's rights.[11]

Key legal protections introduced by the Act include:

Property and Assets: The default for monogamous customary marriages was shifted to "in community of property," granting women the autonomy to own, sell, and litigate over assets.[12]

Polygynous Safeguards: To prevent exploitation, a husband seeking a subsequent marriage must petition the High Court to regulate a matrimonial property contract.[13] In many traditions, such as the Vatsonga, the first wife's consent is a prerequisite; failure to satisfy these conditions can render subsequent unions void and invalidate future inheritance claims.[14]

Validity and Registration: Legal certainty requires that both parties be adults (18+) and give their full consent. Although pre-Act marriages are recognised, new unions must be registered within three months to obtain the marriage certificate required to claim estate benefits or enforce rights with financial institutions.[15]

Dissolution: Customary marriages are now governed by the Divorce Act, empowering courts to oversee maintenance and the equitable redistribution of matrimonial assets.[16]

Ultimately, these reforms harmonise ACL with international standards, such as the Universal Declaration of Human Rights, by ensuring the family unit is protected without discrimination.[17] By elevating customary marriages to full legal status, the RCMA ensures that spousal rights are no longer subordinate to tradition but are anchored in constitutional protection.[18]

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the First Wife in a Polygamous Marriage as a Requirement for the Validity of Her Husband's Subsequent Marriage under South Africa's Recognition of Customary Marriages Act: Mayelane v Ngwenyama," *Journal of African Law* 60, no. 1 (2016): 156–69.

[8] RSA No. 108 of 1996, E Mamacos, *Women in Customary Marriages Now Have Equal Rights to Marital Property* (News24., 2019); .

[9] Zamambo Mkhize, "Negotiating Sisterarchy within Polygynous Marriages," in *Generation, Gender and Negotiating Custom in South Africa* (Routledge, 2022), 102–19.

[10] Rawia Aburabia, "The Law on the Books versus the Law in Action: Muslim Women in Polygamous Marriages under the Jewish State," *Social Politics: International Studies in Gender, State & Society* 29, no. 2 (2022): 634–57.

[11] Mamacos, *Women in Customary Marriages Now Have Equal Rights to Marital Property*; D. C Machedi, *Does the Non-Registration of Customary Marriage Affect Its Validity?* (De Rebus, 2020).

[12] Ruth Gaffney-Rhys, "A Comparison of Child Marriage and Polygamy from a Human Rights Perspective: Are the Arguments Equally Cogent?," *Journal of Social Welfare and Family Law* 34, no. 1 (2012): 49–61; Leena Chhabra and Arvind P Bhanu, "Understanding of the Status of Women and Right to Development," *Issue 1 Int'l JL Mgmt. & Human.* 5 (2022): 2382.

[13] Chhabra and Bhanu, "Understanding of the Status of Women and Right to Development."

[14] Machedi, *Does the Non-Registration of Customary Marriage Affect Its Validity?* ; Dyani-Mhango, "The Consent of the First Wife in a Polygamous Marriage as a Requirement for the Validity of Her Husband's Subsequent Marriage under South Africa's Recognition of Customary Marriages Act: Mayelane v Ngwenyama"; Fatima Osman, "Negotiation of Inheritance Rights by Widows: A Case Study in Rural South Africa," in *Generation, Gender and Negotiating Custom in South Africa* (Routledge, 2022), 156–72.

[15] S Yorgun, "Consent and Age Requirements for Indigenous Customary Marriages," *International Journal of Comparative and Applied Criminal Justice*, 2022; Welekazi Stofile and Mahlatse Mpya, "The Dissolution of a Customary Marriage: Women and the Traditional Court System in South Africa," in *African Feminisms and Women in the Context of Justice in Southern Africa* (Springer, 2021), 89–106; Osman, "Negotiation of Inheritance Rights by Widows: A Case Study in Rural South Africa."

[16] Fatima Osman and Chuma Himonga, "The Constitutionality of Section 7 (1) of the Recognition of Customary Marriages Act: Ramuhovhi v President of the Republic of South Africa," *The Journal of Legal Pluralism and Unofficial Law* 49, no. 2 (2017): 166–82; Stofile and Mpya, "The Dissolution of a Customary Marriage: Women and the Traditional Court System in South Africa."

[17] Mamacos, *Women in Customary Marriages Now Have Equal Rights to Marital Property*; Christin Khumalo, *Student Teachers' Experiences in Implementing Inclusive Education during Teaching Practice in Zimbabwean Primary Schools* (University of South Africa (South Africa), 2021).

[18] Ntandoyenkosi Mkize, "Customary Marriages and the Law of Succession in South Africa," ProBono.org, 2021, https://probono.org.za/customary-marriages-and-the-law-of-succession-in-south-africa/; Rautenbach, "South Africa's Family Laws: A Potpourri of Some Sort?"

The South African Constitution of 1996 elevated African Customary Law (ACL) to a status equivalent to common law, protecting individual and collective cultural freedoms through the Bill of Rights.[19] However, this recognition is not absolute; Sections 36 and 39 require that all customary practices, although traditionally transmitted through oral enculturation, must align with constitutional values of human dignity, equality, and freedom.[20] Within this framework, the Recognition of Customary Marriages Act (RCMA) 120 of 1998 redressed historical injustices in which women lacked marital power and property rights, thereby establishing spousal equality and shifting the default for monogamous unions to the community of property.[21]

In the specific context of Vatsonga society, polygyny historically served as a marker of wealth, social prestige, and lineage security.[22] Beyond status, these unions are driven by cultural identity, spiritual obligations to ancestors, and the economic necessity of enhancing agricultural production and family support networks.[23] Despite these deep-seated drivers, contemporary Vatsonga polygyny is evolving due to urbanisation and legal reforms.[24] The RCMA now imposes strict requirements for subsequent marriages, including mandatory court approval for matrimonial property contracts and, per Vatsonga protocol, the consent of the first wife.[25]Failure to adhere to these statutory requirements can render subsequent unions void, depriving second wives of critical inheritance and property rights.[26] Consequently, the law emphasises that all customary marriages be registered within three months to provide the marriage certificates necessary for asset distribution and maintenance claims.[27] By integrating traditional Vatsonga practices into this statutory framework, the South African legal system effectively balances the right to culture with the fundamental constitutional principle of gender equality.[28]

To address the adverse proprietary consequences of polygynous unions, scholars advocate the formal registration of customary marriages under RCMA 120 of 1998. Although non-registration does not technically invalidate a marriage, it creates significant evidentiary hurdles that often prevent surviving spouses from claiming inheritance or enforcing property rights against a deceased spouse's

[19] Rautenbach, "South Africa's Family Laws: A Potpourri of Some Sort?"

[20] Mamacos, *Women in Customary Marriages Now Have Equal Rights to Marital Property*; Osman, "Negotiation of Inheritance Rights by Widows: A Case Study in Rural South Africa"; Michel Garenne and Etienne van de Walle, "Polygyny and Fertility Among the Sereer of Senegal," *Population Studies* 43, no. 2 (1989): 267–83.

[21] Mkhize, "Negotiating Sisterarchy within Polygynous Marriages";Aburabia, "The Law on the Books versus the Law in Action: Muslim Women in Polygamous Marriages under the Jewish State"; Gaffney-Rhys, "A Comparison of Child Marriage and Polygamy from a Human Rights Perspective: Are the Arguments Equally Cogent?"

[22] C. Alphonce, "Iraqw Personal Names and Naming Practices: Some Linguistic Observations," *Journal of African Languages and Literatures* 4 (2023): 73–103.Anthony C Diala, "Neoliberal Influences on Legal Pluralist Marriage Reforms in Africa," *J. Int'l & Comp. L.* 9(2022): 81.

[23] Kulthum Fataar, "An Exploration of Knowledge, Attitudes and Practices of Primary Health Care Providers Providing Contraceptive and Family Planning Services in Cape Town, South Africa: A Qualitative Study," 2020; Lea Mwambene, "What Is the Future of Polygyny (Polygamy) in Africa?," *Potchefstroom Elec. LJ* 20 (2017): 1; Bonisiwe Masinga, "Female Students' Concerns About, and Management Of, Their Sexual and Reproductive Health at the University of KwaZulu-Natal, Pietermaritzburg" (University of KwaZulu-Natal, Pietermaritzburg, 2021).

[24] Mashudu Muthivhi, "The Influence of Missionary Work on Vhuhosi," 2018; Alex Mutseta, "Understanding the 'Small House'Phenomenon in Selected Parts of Harare," *International Journal of Research in Commerce and Management Studies* 2, no. 1 (2020): 120–52.

[25] Machedi, *Does the Non-Registration of Customary Marriage Affect Its Validity?* ; Thandabantu Nhlapo, "Customary Law in Post-Apartheid South Africa: Constitutional Confrontations in Culture, Gender and 'Living Law,'" *South African Journal on Human Rights* 33, no. 1 (2017): 1–24.

[26] Dyani-Mhango, "The Consent of the First Wife in a Polygamous Marriage as a Requirement for the Validity of Her Husband's Subsequent Marriage under South Africa's Recognition of Customary Marriages Act: Mayelane v Ngwenyama."

[27] Stofile and Mpya, "The Dissolution of a Customary Marriage: Women and the Traditional Court System in South Africa"; Osman and Himonga, "The Constitutionality of Section 7 (1) of the Recognition of Customary Marriages Act: Ramuhovhi v President of the Republic of South Africa."

[28] Mkize, "Customary Marriages and the Law of Succession in South Africa"; Petrus Khumalo, "Dissolving an Unregistered Customary Marriage," De ReBus, November 2021, https://www.derebus.org.za/dissolving-an-unregistered-customary-marriage/.

estate.[29] Consequently, spouses are encouraged to register their identities, marriage dates, and lobola details at the Department of Home Affairs to secure the necessary legal proof.[30]

Beyond administrative compliance, targeted educational and awareness campaigns are essential to combat the high rates of legal illiteracy among rural women regarding their constitutional rights.[31] Utilising mass media, social platforms, and traditional leadership can bridge the gap in understanding, ensuring indigenous communities recognise that customary marriages carry the same legal weight as civil unions.[32] This awareness must be coupled with accessible legal and professional support, including mediation and counselling, to guide spouses in choosing matrimonial property systems that offer protection during divorce or upon a husband's death.[33]

In the Vatsonga context, traditional family-based resolution remains a vital tool for mitigating disputes. Formal family agreements ensure that when a husband seeks a subsequent wife, the first wife's status and the children's inheritance are protected through internal consensus rather than costly litigation.[34] Furthermore, the establishment of robust community support networks facilitates the sharing of personal experiences and practical guidance, fostering collective solidarity that helps spouses navigate legal misunderstandings.[35]

Finally, long-term resolution requires the economic empowerment of women through entrepreneurship. Since many women enter polygynous unions as a refuge from poverty, fostering financial independence allows them to become self-reliant.[36] By teaching business skills, the legal system and society can ensure that women sustain themselves even after the dissolution of a marriage, ultimately empowering them to take proactive control of their personal legal affairs.[37]

The constitutional protection of African Customary Law (ACL) depends on its alignment with the Bill of Rights, specifically the principles of human dignity and equality.[38] Within this framework, the Recognition of Customary Marriages Act (RCMA) 120 of 1998 redresses historical gender inequalities by establishing spousal equality and introducing a default "community of property" regime for monogamous unions.[39] In the Vatsonga context, while polygyny remains a respected tradition linked to lineage and status, its practice has been transformed by socio-economic shifts and statutory mandates requiring court-approved property contracts for subsequent marriages.[40] To mitigate the risks of asset

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[29] Smith, *Customary Marriage Amendments Give Women More Financial Clout*; Mkize, "Customary Marriages and the Law of Succession in South Africa"; Elena Moore, "Customary Law Can Pose Problems for Widows," Mail & Guardian, 2018, https://mg.co.za/2018-11-23-customary-law-can-pose-problems-for-widows/.

[30] M. Fisher-French, *Financial Implications for Women in Customary Marriages* (City Press, 2021); Osman, "Negotiation of Inheritance Rights by Widows: A Case Study in Rural South Africa."

[31] Khumalo, "Dissolving an Unregistered Customary Marriage"; Mamacos, *Women in Customary Marriages Now Have Equal Rights to Marital Property*.

[32] Merdad et al., "Polygamy and Mental Health among Saudi Middle Schoolers: The Role of Family Cohesion and Father Involvement"; Nomkhosi Xulu-Gama, *Polygyny and Gender: The Gendered Narratives of Adults Raised in Polygynous Families* (Taylor & Francis, 2022).

[33] Aburabia, "The Law on the Books versus the Law in Action: Muslim Women in Polygamous Marriages under the Jewish State"; Ammar Ahmed et al., "Organizational Factors and Organizational Performance: A Resource-Based View and Social Exchange Theory Viewpoint," *International Journal of Academic Research in Business and Social Sciences* 8, no. 3 (2018): 579–99; Joshua O Akinyemi et al., "Household Relationships and Healthcare Seeking Behaviour for Common Childhood Illnesses in Sub-Saharan Africa: A Cross-National Mixed Effects Analysis," *BMC Health Services Research* 19, no. 1 (2019): 308.

[34] Fanisa Baloyi, Jabulani Owen Nene, and Azwihangwisi Helen Mavhandu-Mudzusi, "Vatsonga Cultural Practices and Their Impact on the Health of Widows and Significant Others," *Journal of International Women's Studies* 24, no. 4 (2022): 8; Magezi Elijah Baloyi and Dlamini Phumzile, "Gendered Taboos as an Impediment to African Women's Leadership: A Decolonial View," *Journal of Asian and African Studies* 58, no. 3 (2023): 475–88.

[35] M Fisher-French, *Financial Implications for Women in Customary Marriages* (City Press, 2021); Sofya V. Lavrentyeva, "Ethics of Organ Donation and the Problem of the Sacred," *Človek* 35, no. 1 (May 25, 2024): 94–108, https://doi.org/10.31857/S0236200724010077..

[36] Smith, *Customary Marriage Amendments Give Women More Financial Clout*; Osman, "Negotiation of Inheritance Rights by Widows: A Case Study in Rural South Africa."

[37] Mkize, "Customary Marriages and the Law of Succession in South Africa."

[38] Rautenbach, "South Africa's Family Laws: A Potpourri of Some Sort?"; Mamacos, *Women in Customary Marriages Now Have Equal Rights to Marital Property*.

[39] Mkhize, "Negotiating Sisterarchy within Polygynous Marriages"; Aburabia, "The Law on the Books versus the Law in Action: Muslim Women in Polygamous Marriages under the Jewish State"; Gaffney-Rhys, "A Comparison of Child Marriage and Polygamy from a Human Rights Perspective: Are the Arguments Equally Cogent?"

[40] Diala, "Neoliberal Influences on Legal Pluralist Marriage Reforms in Africa"; Muthivhi, "The Influence of Missionary Work on Vhuhosi"; Machedi, *Does the Non-Registration of Customary Marriage Affect Its Validity?* .

loss and legal invisibility, it is recommended that spouses prioritise mandatory registration to secure essential marriage certificates, supported by large-scale educational campaigns and professional legal assistance. Ultimately, fostering socio-economic empowerment through entrepreneurship and community networks is vital to ensuring women achieve the financial autonomy necessary to protect their legal interests.

METHODOLOGY

To conduct this research, the qualitative research method was selected because it would allow a comprehensive understanding of the perceptions, experiences, and attitudes of participants about property and inheritance rights in traditional polygynous societies. As it was conducted in a rural setting where most of the participants were elderly and illiterate, the researcher read all interview questions aloud to make the research understandable, and participants were able to listen to them and participate in the study. Open-ended questions were used to provide the participants with the opportunity to share their opinions, ideas and experiences in their own words. These questions enabled the participants to suggest solutions, give insights, and share their perceptions about the studied phenomena. Semi-structured in-depth interviews were the major data collection tool of the study, as semi-structured interviews are a prevalent approach to qualitative research that aims to investigate sensitive and complex phenomena.[41] This study interviewed second wives in polygynous marriages to understand their experiences regarding property and inheritance rights. Various interview sessions were held when deemed necessary, allowing the participant to take some time to think and provide more information.

Sampling and Participants

Purposive sampling was used to select the participants; a purposive sampling method is a typical qualitative approach whereby the participants are selected based on their aptitude to give information of relevance and depth about the research subject matter. The sample consisted of five husbands and five second wives in polygynous marriages, older women who were active members of polygynous families and were directly involved in inheritance and property issues. This is what made sure that the data obtained was that of the most informed on the phenomena under examination.

Data Analysis

Thematic analysis was used to analyse data, which included identifying, coding, and organising patterns and themes of qualitative data. The researcher transcribed interview tapes, compared and contrasted them to check accuracy, and coded responses to identify relevant themes of property rights, inheritance practices, and lived experiences of participants. The interpretation was aimed at grasping the perception and experience of the participants and making sure that the voices of the participants were well represented.

Ethical Considerations

The research was conducted in accordance with the ethical research standards. The subjects gave informed consent before the study, were guaranteed confidentiality, and were informed of their freedom to withdraw at any given time. To maintain the anonymity of participants, the reporting of findings was done under pseudonyms. The researcher also made sure that the interview process was respectful and non-intrusive, especially considering the sensitivity of the subject matter.

[41] Melissa DeJonckheere and Lisa M Vaughn, "Semistructured Interviewing in Primary Care Research: A Balance of Relationship and Rigour," *Family Medicine and Community Health* 7, no. 2 (2019): e000057.

PRESENTATION OF FINDINGS AND DISCUSSION

Table 1: Second wives who participated in the study

Participants	Age	N# of years within the P.M	N# within the PM	Gender	Occupation
A	47	11	2nd	Female	Carer at Daycare
B	50	13	2nd	Female	Street Vendor
C	55	15	2nd	Female	Cashier
D	57	16	2nd	Female	Domestic worker
E	60	18	2nd	Female	Pensioner

Table 2: Husbands who participated in the study

Participants	Age	N# of years in P.M	N# of wives within P.M	Gender	Occupation
F	49	10	2	Male	Teacher
G	52	13	2	Male	Self-employed
H	55	15	2	Male	Taxi Driver
I	59	16	2	Male	Taxi driver
J	63	18	2	Male	Retired clerk

Tables 1 and 2 present the biographical information of the participants in the studied phenomenon across two units, whose ages range from 47 to 63, who participated in the study either as husbands or second wives in polygynous marriages. There are five second wives and five husbands in polygynous marriages. It was important to include husbands as participants in the study because some questions directed to second wives concerned the husbands, so it would be good to get the answers directly from the horse's mouth (husbands). Above all, these participants are in different occupations, for example, a carer at a day-care, a street vendor, a cashier, a domestic worker, a pensioner, a teacher, a self-employed person, a taxi driver, and a retired clerk.

Data Findings

In this section, the study's outcomes are presented and analysed. However, to better understand the proprietary consequences of Vatsonga customary marriages, it was necessary to ask participants several questions to understand their perspectives on the study. The themes established during these conversations are presented below.

Theme 1: The Nature of Polygynous Marriages amongst the Vatsonga People

In this section, the researcher wanted to better understand the nature of polygynous marriages practised by the VaTsonga people. The researcher needs to have a better understanding, as this is the core of the study. This is done to assist future readers in gaining greater clarity on some of the key terms of the study, as this was deemed very important. In addition, this section raises questions that arise in the study; therefore, it was necessary to determine whether the participants understood the matter presented, since, from the beginning, they stated they knew the whole gist of the phenomenon.

> **Participant A:** *"From my View, I think marriage depends on which one, but it can be the joining of two people into one union by a pastor, magistrate or even at home affairs, who, in the end, have a family (children).*
>
> **Participant B:** *"What I think about marriage is that it is the joining of two opposite- or same-sex individuals into a certain union; nowadays, laws have agreed that (men can marry men, women and women or even siblings to siblings) as long as they end up having children."*
>
> **Participant C:** *"It is the union that comes in when two people agree to enter into, and some can be a forced union depending on the culture, like the Indians or even some upcoming white garment churches."*

Since this study also focused on males, it was necessary to ask them the same question that the females answered to gauge their understanding of the term marriage. Below are some of the responses from the participants:

> **Participant F:** *"What I think of marriage, neh. Marriage is the union of two people who have decided to build a family and get married under different laws; it can be civil or African way, but in the end, they are in union, which creates a bond between them."*
> **Participant H:** *"Honestly, people talk about marriage. But few people understand this term. As for me, in short, I think marriage is a union that can come from God or from people or from culture that binds two people together to form a family, in which, at some point, they can end up having children of their own."*
> **Participant J:** *"Marriage is something big, my son. But what I think marriage is, it's when two people who have been in a relationship decide to settle down into a union. This union can be joined by a Pastor, Home Affairs, Magistrate or even African Traditional people (Knowledge Holders and offer them a certificate to show that they are in a well-recognised union."*

The responses highlight that most participants in the study shared the same understanding of the term 'marriage'. However, the responses differed in how they were answered, but when checked, the majority centred on the union of two people to form a family. Therefore, based on the participants' responses, marriage is the union of two people who have decided to live together in one accord to start a family. It can be, according to the magistrate, pastor, or even the Home Affairs or African traditional knowledge holders. To concur, Golding defines marriage as a relationship between two people that produces a formal and recognised partnership and is significant on multiple levels, including social, cultural, and legal.[42] Golding stressed that marriage is a fundamental institution found in many nations around the globe. However, the form of this institution and its purpose may differ significantly between cultures and religions. In other words, the purpose of marriage is to establish a committed, long-lasting relationship between two individuals. This is typically done with the intention of starting a family and providing a secure environment to raise children. It entails joint rights and obligations between the couple, as well as the partners' relationship being legally and socially recognised by third parties.[43]

Theme 2: The Contributing Factors Leading Vatsonga Women into Polygynous Marriages in South Africa

Although participants were able to answer the researcher's question about the nature of polygynous marriages amongst the Vatsonga people, the researcher, through probing, realised that there may be valid or contributing factors that lead Vatsonga people to enter polygynous marriages. Therefore, the researcher decided to dig deeper or probe further so that, in the end, the contributory factors could be identified. Since the researcher was using an exploratory qualitative research design, it could help uncover some mysteries behind polygynous marriages.

Sub-Theme 2.1: What Are the Reasons Why People Enter into Polygynous Marriages?

In this section, through probing, as mentioned earlier, the researcher discovered that there may be contributing factors to why VaTsonga people enter polygynous marriages. In that regard, the researcher asked participants the following question about polygyny. The researcher asked the following question: *"In your own understanding, what do you think is the reason or factor that is making many Vatsonga enter into the African customary marriage called polygyny?"* The primary purpose of the question was to unveil the tenacity of the issue and its conundrum. In that regard, this is how the participants responded to the question:

[42] Corbin William Golding, "(Mis) Recognition of Customary Marriages: A Comparative Analysis of Canadian and South African Family Law," *Can. J. Fam. L.* 34 (2021): 67.
[43] Golding, "(Mis) Recognition of Customary Marriages: A Comparative Analysis of Canadian and South African Family Law."

Participant A: *"In our Tsonga culture, we are adhering to our customs. Also, we respect our culture of polygamy, and every woman who wants to enter a polygynous marriage must first consult with their first wives for me to be taken as the second wife."*
Participant B: "*The Vatsonga people adhere to our culture, and it is our culture that we respect marriage; that is why there is lobola that is paid to the in-laws."*
Participant D: *"Let men tell you something, my son. When one gets into a polygynous marriage, one needs support from the other side. Sometimes, because of poverty, we need people with money to help us or support our families when we're going through a lot. So, for example, my husband is wealthy, so being married to him, it helps my family a lot through support anywhere that we need, and we are no longer struggling with those who do not want to be in that type of marriage."*
Participant F: *"As much as African customary marriage is called polygynous, it is an African practice widely practised amongst the Vatsonga people. Most people marry because they believe that marrying many women is spiritual. Also, in some cases, it can be a religion that requires one to marry many women. But as for me, it was because I investigated the Bible and realised that many people in the Bible had many wives. So, I decided to have other wives who can be there to help me and to procreate or to give many children."*
Participant G: *"My son. Let me tell you something important: one day you will grow up and understand. Sometimes, when you see us marrying many wives, it is not that we love women that much; you know, our culture sometimes forces us, and there are many women in South Africa. So, for one to be recognised as a real man, it is because you have more wives, and it shows prestige and power too, to some extent, and it is our heritage and cultural norms and values for a man to have many wives."*
Participant J: *"The reason why I had to marry a second wife is that my first wife is only giving me females/girls, and we have been trying many times, and even my family contributed to it. Also, having many children is good; having many children with one wife is not, but having many children with many wives is. Reproduction."*

The study findings showed that most of the participants believe that it is due to their culture and that the norms are those that make them enter a polygynous marriage. In other words, the participants noted that the factors that lead them to marry in polygynous African marriages are cultural values; they see it as something they need to do to be considered a man or a woman. To corroborate this notion, Alphonce and Baloyi, Nene, and Mavhandu-Mudzusi affirm that the majority of the Vatsonga people are deeply rooted in their culture and follow it to its roots, which means that their African customs bind them.[44] That is why today, they are still practising polygynous marriages. In addition, Baloyi and Phumzile added that many VaTsonga people who enter these marriages do so because they follow their customs, which they consider to have existed for a long time and under which they still live.[45] Bishop argued that polygynous marriages are still widely practised among these tribes or clans, and most people who practise them regard it as a good way of life because it is passed down from generation to generation through enculturation.[46] Diala stated that when they practice this, they view it as a way to uphold and preserve their culture, cultural identity, and heritage.[47]

Moreover, the researcher realised that some participants noted they entered an African customary marriage, polygyny, because they needed support from the person marrying. In other words, some women who are married did this because of poverty; they need support from their partners so that they can survive in their day-to-day lives. To corroborate this, Alphonce and Baloyi, Nene, and Mavhandu-

[44] Alphonce, "Iraqw Personal Names and Naming Practices: Some Linguistic Observations"; Baloyi, Nene, and Mavhandu-Mudzusi, "Vatsonga Cultural Practices and Their Impact on the Health of Widows and Significant Others."
[45] Baloyi and Phumzile, "Gendered Taboos as an Impediment to African Women's Leadership: A Decolonial View."
[46] Michael Bishop, "Asserting Customary Fishing Rights in South Africa," *Journal of Southern African Studies* 47, no. 2 (2021): 291–308.
[47] Diala, "Neoliberal Influences on Legal Pluralist Marriage Reforms in Africa."

Mudzusi affirm that the purpose of marriage is to unite two families with different values and norms.[48] Also, Baloyi and Phumzile added that when two families are united, this creates a stronger bond between them, so many people enter such marriages for support that might come from the husband's side or the wife's side, depending on who has money and who does not.[49] However, Bishop argued that, above all, many people enter polygynous marriages because they seek support from the other side of the family.[50] In other words, polygynous marriages could create strong bonds among extended family members, as they are all part of the same lineage. This support network could be beneficial in times of hardship or need.[51]

In addition, the researcher, through the findings, discovered that some participants indicated that they entered the African customary marriage called polygyny because they believe it is something spiritual, or because of their religion, to have many wives, like the one in the Bible, who had thousands of wives. In other words, some of these participants believe much of what has been taking place in the Bible, in which one must marry many wives, as much as consent from the first wife is needed. Agreeing with this, Mwambene and Ndlovu highlighted that in some of the cultures in South Africa, polygynous marriages are a tradition.[52] They believe that a husband can marry a second wife, provided he first consults his first wife as a matter of protocol or a gesture of respect in Vatsonga culture. In addition, Nhlapo highlighted that if a husband decides to marry another wife, he must consult the first wife to show respect for the culture and their religion.[53] Phamphe added that, in some regions and among certain African traditional practices, polygyny may be viewed as honouring ancestors or as following divine instructions.[54]

Furthermore, the responses of the participants indicate that some of the participants enter into African customary marriages called polygyny because they want to have more children, or because the first wife is not giving birth, or because she is giving birth to children of the same sex. In other words, some of the participants are in polygynous marriages because maybe the first wife is not giving birth or the first wife is only giving birth to girls, and the man, because of culture, needs an heir to take care of the lineage; that is why some end up marrying a second wife. To corroborate the above sentiments, Ndlovu and Nhlapo affirm that the primary purpose of marriage is reproduction, which means having children. Many people enter such marriages because they want to have a child.[55] Moreover, Phamphe added that it is a norm that when people marry, they give birth to children, as many children are being aborted in South Africa.[56] Rikhotso added that it does not address the issue of why people enter these marriages: they want to give birth and start their own families, ensuring the continuity of the family and community.[57]

Theme 3: The Proprietary Consequences Encountered by Vatsonga Women upon the Dissolution of the Marriage

The researchers developed this theme to understand the issues that arise after divorce in a community of property.

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[48] Baloyi, Nene, and Mavhandu-Mudzusi, "Vatsonga Cultural Practices and Their Impact on the Health of Widows and Significant Others."

[49] Baloyi and Phumzile, "Gendered Taboos as an Impediment to African Women's Leadership: A Decolonial View."

[50] Bishop, "Asserting Customary Fishing Rights in South Africa."

[51] Diala, "Neoliberal Influences on Legal Pluralist Marriage Reforms in Africa."

[52] Mwambene, "What Is the Future of Polygyny (Polygamy) in Africa?"; Sambulo Ndlovu, "The Bulawayo Linguistic Landscape as Linguistic Heritage: Hodonyms and Oikonyms," *Igama Journal of African Onomastics Studies* 1, no. 2 (2016): 22–34.

[53] Nhlapo, "Customary Law in Post-Apartheid South Africa: Constitutional Confrontations in Culture, Gender and 'Living Law.'"

[54] Sedzani Shierly Phamphe, "Perceptions of Unmarried Women towards Contraceptives Use at Tshilapfene Village in Thulamela Municipality, Limpopo Province" (2021).

[55] Ndlovu, "The Bulawayo Linguistic Landscape as Linguistic Heritage: Hodonyms and Oikonyms"; Nhlapo, "Customary Law in Post-Apartheid South Africa: Constitutional Confrontations in Culture, Gender and 'Living Law.'"

[56] Phamphe, "Perceptions of Unmarried Women towards Contraceptives Use at Tshilapfene Village in Thulamela Municipality, Limpopo Province."

[57] S. R Rikhotso, *Indigenous Knowledge of Traditional Health Practitioners in the Management of Rigoni* (University of Pretoria, 2017).

Sub-Theme 3.1: What is your Understanding of Proprietary Consequences?

In this section, the researcher sought to determine whether the participants were aware of the so-called proprietary consequences. The researcher, by probing, asked participants the following question to understand what happens during a divorce. The following question was asked: "*In your own understanding, do you know anything about the proprietary consequences of customary marriages?"*

> **Participant A:** "*In my understanding, I think it is a situation that happens when there is a divorce between both parties and both of them have the right to the shares and ownership of properties."*
> **Participant C:** *"I think this is when both husband and wife are married under African customary marriages, divorce, and have both the right to own a share of their properties."*
> **Participant E:** *"This is the situation that happens when there is a divorce between two parties, which different things might force, and both parties have the right to own property after that happens."*
> **Participant F:** *"From me, my son. I think this is an event that happens with a marriage when both parties, after divorce, have the right to share the properties that they accumulated during their marriage."*
> **Participant H:** *"Property consequences, I think, when after divorce people need to share equal possession as stated by the law."*
> **Participant J:** *"This is a situation in which people, after a breakup, will have to have equal shares of properties that they had before the divorce took place."*

The participants' responses indicate that the majority were aware of the term's proprietary consequences. As much as they were saying it in different ways, in the end, their responses were the same, though they were different people. In other words, proprietary consequences are a state that arises in marriages in which, after divorce, both parties have access to property owned during the African customary marriage. Dexter argues in agreement that the proprietary consequences of a customary marriage are in terms of property, denoting that in the event of a divorce, both parties have the right to a proportionate share of the jointly held property, which includes all property as well as debts.[58] In other words, proprietary consequences in customary marriages occur when both parties want to divorce, and both have the right to share the property and everything they own.

In that regard, the researcher realised that there was a need to probe the question further. The reason is that the researcher realised that the participants had answered the question, but something emerged after their responses, which prompted the researcher to probe further.

Theme 4: The Implications of the Customary Marriages, The Act Regarding Polygynous Marriage amongst the Vatsonga People

The researcher discovered that people in polygynous marriages encounter certain proprietary consequences daily. The researcher realised that further probing was needed, especially regarding whether the participants were aware of the law governing these marriages.

Sub-Theme 4: What is your understanding of the recognition of the Customary Marriages Act 120 of 1998

In this section, the researcher sought to understand the participants' general knowledge of the Act that governs African customary marriages. On that note, the researcher asked the participants the following question: "*In your understanding, what do you think is the recognition of the Customary Marriage Act 120 of 1998?"*

> **Participant A**: "I believe the Customary Marriage Act 120 of 1996 aims to preserve and recognise *the cultural diversity of South Africa by giving legal recognition to marriages conducted according to customary practices. It ensures that the law protects second wives."*

[58] E Dexter, *The Rights of Women in Customary Marriages: Customary Divorces and Women's Rights in South Africa* (Schindlers Attorneys, 2020).

Participant C: *"In my understanding, the Customary Marriage Act 120 of 1996 is crucial for safeguarding the rights of women in customary marriages, though married like us. It provides legal protection for second wives, ensuring they are not unfairly disadvantaged and are entitled to an equal share of the marital property and support in case of divorce."*
Participant E: *"From my perspective, the Customary Marriage Act 120 of 1996 offers clarity and certainty to couples marrying under customary law. It establishes clear guidelines and requirements for the validity of customary marriages, making it easier for couples to navigate the legal aspects of their union and safeguard their rights."*
Participant F: *"The recognition of the Customary Marriage Act 120 of 1996 is all about acknowledging and giving legal validity to marriages conducted under customary laws and traditions. It ensures that traditional marriages are treated with the same respect and protection under the law as civil marriages. Also, it protects those second wives."*
Participant G: *"For me, the Customary Marriage Act 120 of 1996 represents a significant step towards promoting equality and fairness. It allows for equal recognition of both civil and customary marriages, granting spouses in traditional marriages the same legal rights and protections as those in civil marriages."*
Participant I: *"The recognition of the Customary Marriage Act is a way of honouring and preserving our cultural heritage. It acknowledges the importance of traditional customs and practices while also ensuring that these marriages are treated with respect and are legally recognised."*

From the above responses, most participants understood the African Customary Marriage Act 120 of 1996 and its implications for second wives. In other words, the participants demonstrated a strong understanding of Act 120 of 1996. They noted that it protects the rights of the disadvantaged and ensures that everyone is treated equally and protected by the law, recognising that they are in an existing marriage. To concur, Mamacos supports the participants' views, saying that the primary mandate of enacting the Polygamous Customary Marriages Act (RCMA 120 of 1998) was to curb or prevent discrimination against second wives in such unions.[59] To concur, in most Vatsonga culture and several other cultures, if a husband wants to marry another woman, he must first get government approval by uploading a written contract outlining their prospective personal law system.[60] Therefore, the Act aims to protect wives who were married in African marriages before, during, and after marriage, so that they will not lose any property to a second wife who may be married under civil law.[61] Mamacos stressed that South Africa's Customary Marriages Act promotes gender equality, recognises indigenous weddings, and protects children's rights, and that the African Customary Marriage Act protects women from discrimination.[62]

Theme 5: Ways To Resolve Proprietary Consequences Encountered by the Vatsonga People

Under this theme, the researcher, through in-depth probing and engagement with participants, established that the Vatsonga people continue to experience significant proprietary challenges within the context of customary marriages. These challenges are often linked to issues of non-registration, non-compliance with legal requirements, and tensions between customary practices and statutory requirements. As such, there was a clear need to explore potential mechanisms to effectively address these challenges.

Participants were therefore invited to reflect on possible solutions and interventions, particularly focusing on the roles that both the Department of Home Affairs and the community could play in mitigating these difficulties. The findings suggest that a collaborative approach is essential, where state

[59] Mamacos, *Women in Customary Marriages Now Have Equal Rights to Marital Property*.
[60] Machedi, *Does the Non-Registration of Customary Marriage Affect Its Validity?* .
[61] A.K. M Mahmudul Haque, Md Zahid Hossain, and S M Akram Ullah, "The Rights to Marry, Property and Be Free from Torture: A Study on the Elderly of Rajshahi District in Bangladesh," *Khazanah Sosial* 4, no. 2 (2022): 253–61; Gaffney-Rhys, "A Comparison of Child Marriage and Polygamy from a Human Rights Perspective: Are the Arguments Equally Cogent?"
[62] Mamacos, *Women in Customary Marriages Now Have Equal Rights to Marital Property*.

institutions and traditional/community structures work together to ensure that customary marriages are properly registered, recognised, and protected by the law.

Furthermore, participants emphasised the importance of community awareness and education regarding the legal requirements of customary marriages, including the implications of non-compliance for property rights. Strengthening communication between government departments and local communities was also identified as a key strategy to prevent disputes and safeguard the proprietary interests of vulnerable parties, especially women in polygynous unions. Overall, this theme highlights the need to integrate legal frameworks with culturally grounded practices to develop sustainable, contextually relevant solutions to the proprietary challenges faced by the Vatsonga people.

Discussion Summary

From the reactions of the participants, it was seen that there was a consensus between the male and female participants that the HA should engage in educating the public about people's rights and responsibilities under customary marriage arrangements. The participants stressed the importance of promoting awareness of proper ways to protect the interests of the people through educational campaigns, especially women who are more vulnerable with respect to inheritance, divorce and other marital rights. The results also indicate that many people enter or remain in customary marriages without being aware of their legal rights and responsibilities, pointing to a need for education on how to manage and use customary marriages on an ongoing basis. In general, participants considered that there is a need to educate and inform the public on how to promote informed decision-making, protect vulnerable spouses, and improve recognition of rights and effective enforcement in customary marriages. Based on participants' responses to the topic, the researcher, through probing, discovered that most participants, both males and females, indicated that the HA should educate people or run educational campaigns to empower them with knowledge of their rights and interests. Also, such knowledge can empower people, especially women, who seem to be the ones violated by their husbands, especially in matters of inheritance and divorce. To support this notion, Djuikom and van de Walle argue that education campaigns are crucial for raising awareness among people, especially in the context of African customary marriage, the Universal Declaration of Human Rights, and the Republic of South Africa Constitution Act of 1996.[63] Machedi affirms that Education is a key element of life, especially in relation to polygynous marriage and the recognition of customary marriage.[64] Khumalo states that most people married under customary or civil law are unaware of their rights.[65] That is why, in law, there is a proverb that says, '*Ignorance is not an excuse.'* Mkize affirms that most marriages nowadays are falling apart because one party was unaware of their rights, some signed papers without scrutiny, and others never signed any papers regarding marriage, yet consider themselves married.[66] In addition, Mamacos noted that women married under African customary law are unaware that they need to sign a marriage certificate under the Customary Marriage Act 120 of 1998.[67] As many African people cannot afford civil marriages, they can only marry under African customary law. A long time ago, no Act governed these marriages, especially in South Africa.[68] Hence, because of the Bill of Rights and the SA Constitution, these marriages are recognised.[69]

RECOMMENDATION

To achieve this, the following are recommended as practical measures to enhance recognition and protection of VaTsonga customary marriages, especially polygynous marriages, based on this study. The Department of Home Affairs should undertake sustained public awareness-raising efforts in communities to promote awareness of the legal requirements for registering customary marriages, the

[63] Marie Albertine Djuikom and Dominique van de Walle, "Marital Status and Women's Nutrition in Africa," *World Development* 158 (2022): 106005.
[64] Machedi, *Does the Non-Registration of Customary Marriage Affect Its Validity?* .
[65] Khumalo, "Dissolving an Unregistered Customary Marriage."
[66] Mkize, "Customary Marriages and the Law of Succession in South Africa."
[67] Mamacos, *Women in Customary Marriages Now Have Equal Rights to Marital Property*.
[68] Smith, *Customary Marriage Amendments Give Women More Financial Clout*.
[69] Djuikom and van de Walle, "Marital Status and Women's Nutrition in Africa."

rights and responsibilities of registered persons, and the legal implications of failing to register marriages under the Recognition of Customary Marriages Act 120 of 1998 (RCMA). Campaigns should be spread in local languages through community meetings, traditional councils, schools, churches, and local media, providing easy access to everyone.

Secondly, the Department of Home Affairs must conduct mobile registration in areas of rural and remote communities, where access to the government office is restricted. Offices could be established in communities and not far from the schools, which could reduce logistical barriers, promote the adoption of the RCMA, and increase the extent of legally recognised customary marriages.

Thirdly, stronger implementation of the Recognition of Customary Marriages Act (No. 15 of 1998) is required to ensure that the requirement for matrimonial property contracts to be court-approved under the Act, as well as other legal formalities that must be complied with before entering into subsequent marriages, are upheld in practice. Improved implementation and monitoring systems would increase the certainty of law and minimise property, inheritance, and marital status-related disputes.

Fourth, the provision of legal assistance services to the beneficiaries, especially women who are facing problems due to unregistered customary marriages, inheritance rights and the execution of polygyny, should be extended. Legal help at affordable rates would allow vulnerable spouses to better understand their legal rights and exercise them accordingly.

Fifth, there is a need for community-based legal education programs to increase legal education on customary marriage, matrimonial property rights, succession rights, divorce rights and women's constitutional rights. This programme should include men and women and help promote awareness of the issue of informed consent and manage the misunderstandings about customary marriage norms between the sexes.

Sixth, constructive collaboration needs to be established and strengthened among traditional leaders, government departments, legal professionals, civil society organisations, and faith-based organisations. Traditional leaders are custodians of customary practices; therefore, they are well suited to the promotion of lawful marriage practices, ensuring the prompt registration of customary marriages, and facilitating discussions between customary practices and statutory requirements.

Lastly, there is a need to examine existing implementation strategies under the Recognition of Customary Marriages Act and practice measures that could be applied to help navigate some of the challenges faced in the rural context. The following is a key priority for policy reform: to streamline registration processes, make Home Affairs services more accessible, and reinforce the security of rights to property, spouses' inheritance in customary marriages, and polygyny. The findings of the study revealed that most of the participants were aware of the term marriage as well as the issue of polygynous marriages. Also, regarding the procedure husbands follow to take a second wife and the issue of lobola, the study's findings indicated that most participants were aware of the project's gist. Moreover, of the contributory factors leading many people into such marriages, the researcher realised that there are several factors like culture, fertility or even reproduction, to mention but a few. To add to the next theme of the consequences of proprietary rights, the research findings revealed that most of the study lost property due to unregistered marriages. They pointed out that it affects many marriages in African customary law and that these are common consequences they encounter daily. On the implications of the Act, the findings revealed that most of these marriages are not recognised because the first wife did not give consent; hence, the husband did not pay the lobola as a sign of respecting the customs of the VaTsonga people. In other words, these marriages are invalid and void (*there is no marriage*). Patriarchal violence towards black women needs special attention in our black communities and black ecclesiology.[70] In addition, when looking at the last theme, which speaks about ways to resolve the proprietary consequences encountered by VaTsonga people, the researcher, through probing, found that there is a need for the Department of Home Affairs to educate people about these marriages and help them by registering them so that their marriages can be recognised. Also, the community can empower women to stand up for themselves and avoid being controlled by others. Also, there is an issue of

[70] Sandisele L. Xhinti and Hundzukani P. Khosa-Nkatini, "Black Women's Bodies as Sacrificial Lambs at the Altar," *HTS Teologiese Studies / Theological Studies* 79, no. 1 (April 13, 2023), https://doi.org/10.4102/hts.v79i1.7940.

counselling and guidance in case of disputes, so they are not controlled by others; therefore, there is a need for the Department of Home Affairs to educate people about these marriages

CONCLUSION

This study examined the property-related consequences of VaTsonga customary marriages, with particular attention to women's experiences in polygynous unions. The findings demonstrate that the non-registration of customary marriages and non-compliance with the legal and customary requirements governing subsequent marriages contribute significantly to property disputes and the insecurity experienced by women, particularly second wives. The study also found that inadequate adherence to the provisions of the Recognition of Customary Marriages Act 120 of 1998 (RCMA) undermines the legal protection intended for spouses in customary marriages.

The study contributes to the growing body of scholarship on customary marriage by providing context-specific evidence from the VaTsonga community on how customary practices and statutory law interact to shape proprietary outcomes. It highlights how gaps in the implementation and observance of legal requirements continue to affect the protection of spouses' property rights within polygynous marriages.

Overall, the study underscores the importance of ensuring that customary marriages are concluded and recognised according to both customary practices and the statutory framework, thus improving legal certainty and protecting the proprietary rights of spouses. These findings contribute to ongoing discussions on strengthening the legal recognition and protection of customary marriages in South Africa.

This study has investigated the property-related consequences of Vatsonga customary marriages, focusing on women's experiences in polygynous unions. It found that second wives face an increased risk of losing property, mainly due to the uncertain legal status of their marriages. Many of these marriages are neither formally registered nor recognised under the Recognition of Customary Marriages Act 120 of 1998 (RCMA). A significant issue is husbands' failure to meet their legal and customary obligations, especially the requirement to consult and obtain the first wife's consent before marrying again. This non-compliance can render subsequent marriages invalid or legally disputable, putting second wives at considerable socio-economic risk, including the potential loss of property. The study also highlighted the vital importance of adhering to both customary practices and statutory regulations to protect the rights and dignity of all parties involved. When cultural protocols are properly observed in alignment with legal frameworks, they can help reduce disputes, prevent the dissolution of marriages, and minimise property loss. Consequently, the research highlights the need for increased awareness, legal education, and the harmonisation of customary law with statutory provisions to ensure justice and protection, especially for women in vulnerable marital situations.

BIBLIOGRAPHY

Aburabia, Rawia. “The Law on the Books versus the Law in Action: Muslim Women in Polygamous Marriages under the Jewish State.” *Social Politics: International Studies in Gender, State & Society* 29, no. 2 (2022): 634–57.

Ahmed, Ammar, Faiz Muhammad Khuwaja, Noor Ahmed Brohi, I Othman, and L Bin. “Organizational Factors and Organizational Performance: A Resource-Based View and Social Exchange Theory Viewpoint.” *International Journal of Academic Research in Business and Social Sciences* 8, no. 3 (2018): 579–99.

Akinyemi, Joshua O, Pamela Banda, Nicole De Wet, Adenike E Akosile, and Clifford O Odimegwu. “Household Relationships and Healthcare Seeking Behaviour for Common Childhood Illnesses in Sub-Saharan Africa: A Cross-National Mixed Effects Analysis.” *BMC Health Services Research* 19, no. 1 (2019): 308.

Alphonce, C. “Iraqw Personal Names and Naming Practices: Some Linguistic Observations.” *Journal of African Languages and Literatures* 4 (2023): 73–103.

Baloyi, Fanisa, Jabulani Owen Nene, and Azwihangwisi Helen Mavhandu-Mudzusi. “Vatsonga Cultural Practices and Their Impact on the Health of Widows and Significant Others.” *Journal of*

International Women's Studies 24, no. 4 (2022): 8.
Baloyi, Magezi Elijah, and Dlamini Phumzile. "Gendered Taboos as an Impediment to African Women's Leadership: A Decolonial View." *Journal of Asian and African Studies* 58, no. 3 (2023): 475–88.
Bishop, Michael. "Asserting Customary Fishing Rights in South Africa." *Journal of Southern African Studies* 47, no. 2 (2021): 291–308.
Chhabra, Leena, and Arvind P. Bhanu. "Understanding of the Status of Women and Right to Development." *Issue 1 Int'l JL Mgmt. & Human.* 5 (2022): 2382.
DeJonckheere, Melissa, and Lisa M. Vaughn. "Semistructured Interviewing in Primary Care Research: A Balance of Relationship and Rigour." *Family Medicine and Community Health* 7, no. 2 (2019): e000057.
Dexter, E. *The Rights of Women in Customary Marriages: Customary Divorces and Women's Rights in South Africa*. Schindler Attorneys, 2020.
Diala, Anthony C. "Neoliberal Influences on Legal Pluralist Marriage Reforms in Africa." *J. Int'l & Comp. L.* 9 (2022): 81.
Dierickx, Susan. "'With the Kanyaleng and the Help of God, You Don't Feel Ashamed': Women Experiencing Infertility in Casamance, Senegal." *Culture, Health & Sexuality* 24, no. 2 (2022): 268–83.
Djuikom, Marie Albertine, and Dominique van de Walle. "Marital Status and Women's Nutrition in Africa." *World Development* 158 (2022): 106005.
Dyani-Mhango, Ntombizozuko. "The Consent of the First Wife in a Polygamous Marriage as a Requirement for the Validity of Her Husband's Subsequent Marriage under South Africa's Recognition of Customary Marriages Act: Mayelane v Ngwenyama." *Journal of African Law* 60, no. 1 (2016): 156–69.
Fataar, Kulthum. "An Exploration of Knowledge, Attitudes and Practices of Primary Health Care Providers Providing Contraceptive and Family Planning Services in Cape Town, South Africa: A Qualitative Study," 2020.
Fisher-French, M. *Financial Implications for Women in Customary Marriages*. City Press, 2021.
Gaffney-Rhys, Ruth. "A Comparison of Child Marriage and Polygamy from a Human Rights Perspective: Are the Arguments Equally Cogent?" *Journal of Social Welfare and Family Law* 34, no. 1 (2012): 49–61.
Garenne, Michel, and Etienne van de Walle. "Polygyny and Fertility Among the Sereer of Senegal." *Population Studies* 43, no. 2 (1989): 267–83.
Golding, Corbin William. "(Mis) Recognition of Customary Marriages: A Comparative Analysis of Canadian and South African Family Law." *Can. J. Fam. L.* 34 (2021): 67.
Haque, A K M Mahmudul, Md Zahid Hossain, and S M Akram Ullah. "The Rights to Marry, Property and Be Free from Torture: A Study on the Elderly of Rajshahi District in Bangladesh." *Khazanah Sosial* 4, no. 2 (2022): 253–61.
Khumalo, Christin. *Student Teachers' Experiences in Implementing Inclusive Education during Teaching Practice in Zimbabwean Primary Schools*. University of South Africa (South Africa), 2021.
Khumalo, Petrus. "Dissolving an Unregistered Customary Marriage." De ReBus, November 2021. https://www.derebus.org.za/dissolving-an-unregistered-customary-marriage/.
Lavrentyeva, Sofya V. "Ethics of Organ Donation and the Problem of the Sacred." *Čelovek* 35, no. 1 (May 25, 2024): 94–108. https://doi.org/10.31857/S0236200724010077.
Machedi, D. C. *Does the Non-Registration of Customary Marriage Affect Its Validity?* De Rebus, 2020.
Mamacos, E. *Women in Customary Marriages Now Have Equal Rights to Marital Property*. News24, 2019.
Masinga, Bonisiwe. "Female Students' Concerns About, and Management Of, Their Sexual and Reproductive Health at the University of KwaZulu-Natal, Pietermaritzburg." University of KwaZulu-Natal, Pietermaritzburg, 2021.

Merdad, Nisma, Salman Elbedour, Jennifer Lau, and Edward Barker. "Polygamy and Mental Health among Saudi Middle Schoolers: The Role of Family Cohesion and Father Involvement." *Family Relations* 72, no. 3 (2023): 774–93.

Mkhize, Zamambo. "Negotiating Sisterarchy within Polygynous Marriages." In *Generation, Gender and Negotiating Custom in South Africa*, 102–19. Routledge, 2022.

Mkize, Ntandoyenkosi. "Customary Marriages and the Law of Succession in South Africa." ProBono.org, 2021. https://probono.org.za/customary-marriages-and-the-law-of-succession-in-south-africa/.

Moeketsi, Rosemary M.H., and Nina Mollema. "Towards Perfect Practice in South African Court Interpreting: A Quality Assurance and Quality Management Model." *The International Journal of Speech, Language and the Law* 13, no. 1 (March 5, 2006): 76–88. https://doi.org/10.1558/sll.2006.13.1.76.

Moore, Elena. "Customary Law Can Pose Problems for Widows." Mail & Guardian, 2018. https://mg.co.za/2018-11-23-customary-law-can-pose-problems-for-widows/.

Muthivhi, Mashudu. "The Influence of Missionary Work on Vhuhosi," 2018.

Mutseta, Alex. "Understanding the 'Small House'Phenomenon in Selected Parts of Harare." *International Journal of Research in Commerce and Management Studies* 2, no.1(2020): 120–52.

Mwambene, Lea. "What Is the Future of Polygyny (Polygamy) in Africa?" *Potchefstroom Elec. LJ* 20 (2017): 1.

Ndlovu, Sambulo. "The Bulawayo Linguistic Landscape as Linguistic Heritage: Hodonyms and Oikonyms." *Igama Journal of African Onomastics Studies* 1, no. 2 (2016): 22–34.

Nhlapo, Thandabantu. "Customary Law in Post-Apartheid South Africa: Constitutional Confrontations in Culture, Gender and 'Living Law.'" *South African Journal on Human Rights* 33, no. 1 (2017): 1–24.

Osman, Fatima. "Negotiation of Inheritance Rights by Widows: A Case Study in Rural South Africa." In *Generation, Gender and Negotiating Custom in South Africa*, 156–72. Routledge, 2022.

Osman, Fatima, and Chuma Himonga. "The Constitutionality of Section 7 (1) of the Recognition of Customary Marriages Act: Ramuhovhi v President of the Republic of South Africa." *The Journal of Legal Pluralism and Unofficial Law* 49, no. 2 (2017): 166–82.

Phamphe, Sedzani Shierly. "Perceptions of Unmarried Women towards Contraceptive Use at Tshilapfene Village in Thulamela Municipality, Limpopo Province," 2021.

Radebe, Keneilwe Martha. "Tsambo v Sengadi (244/19)[2020] ZASCA 46 (30 April 2020); Sengadi v Tsambo; In Re: Tsambo (40344/2018)[2018] ZAGPJHC 666;[2019] 1 All SA 569 (GJ)(8 November 2018) Assessing the Insurmountable Challenge in Proving the Existence of a Customary Marriage in Terms of Section 3 (1)(b) of the Recognition of Customary Marriages Act 120 of 1998 and the Misplacing of Gender Inequality." *De Jure Law Journal* 55, no. 1 (2022): 77–86.

Rautenbach, Christa. "South Africa's Family Laws: A Potpourri of Some Sort?" In *Normativity and Diversity in Family Law*, 147–75. Springer, 2022. https://doi.org/10.1007/978-3-030-83106-6_7.

Rikhotso, S. R. *Indigenous Knowledge of Traditional Health Practitioners in the Management of Rigoni*. University of Pretoria, 2017.

Smith, C. *Customary Marriage Amendments Give Women More Financial Clout*. Fin24, 2019.

Souza, Monica De. "When Non-Registration Becomes Non-Recognition: Examining the Law and Practice of Customary Marriage Registration in South Africa." *Acta Juridica* 2013, no. 1 (2013): 239–72.

Stofile, Welekazi, and Mahlatse Mpya. "The Dissolution of a Customary Marriage: Women and the Traditional Court System in South Africa." In *African Feminisms and Women in the Context of Justice in Southern Africa*, 89–106. Springer, 2021.

Tapsoba, Augustin. "Polygyny and the Economic Determinants of Family Formation Outcomes in Sub-Saharan Africa." TSE Working Paper, 2022.

Xhinti, Sandisele L., and Hundzukani P. Khosa-Nkatini. "Black Women's Bodies as Sacrificial Lambs at the Altar." *HTS Teologiese Studies / Theological Studies* 79, no. 1 (April 13, 2023).

https://doi.org/10.4102/hts.v79i1.7940.
Xulu-Gama, Nomkhosi. *Polygyny and Gender: The Gendered Narratives of Adults Raised in Polygynous Families*. Taylor & Francis, 2022.
Yorgun, S. "Consent and Age Requirements for Indigenous Customary Marriages." *International Journal of Comparative and Applied Criminal Justice*, 2022.

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