



**College of Law and Management Studies  
School of Law**

**Perceptions of caregivers about children's participation in the Umkhosi WoMhlanga  
(reed dance) in the Nongoma district**

**by  
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## DECLARATION

I **Fikile Ruth Mchunu**, declare that this work titled, “**Perceptions of Caregivers about Children’s Participation in the Umkhosi Womhlanga (Reed Dance) in the Nongoma District**” has been prepared by the same and there is no plagiarism / copy of any nature, especially from another research document (thesis, journal, text, congress, or similar) presented by any natural or legal person before any academic, research, professional or similar institution. I state that the citations of other authors have been duly identified in the research work, so I have not assumed as my own the opinions expressed by third parties, whether from sources found in written, digital or Internet media. Likewise, I confirm that I am fully aware of all the content of the work and assume responsibility for any error or omission in the document, and I am aware of the ethical and legal connotations involved. In the event of non-compliance with this declaration, I submit to the provisions of the rules of the UKZN and the current legal provision

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Date

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## **LIST OF ABBREVIATIONS AND ACRONYMS**

ACRWC	African Charter on the Rights and Welfare of the Child
UNCRC	United Nations Convention on the Rights of the Child
UDHR	Universal Declaration of Human Rights
ZDM	Zululand District Municipality
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
HIV	Human Immunodeficiency Virus
AIDS	Acquired Immunodeficiency Syndrome
ICPD	International Conference on Population and Development
DVA	Domestic Violence Act
PEPUDA	Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
UNICEF	United Nations Children's Fund

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# CHAPTER ONE

## INTRODUCTION

### 1.1 Introduction

*Umkhosi Womhlanga* is an annual Zulu reed dance ceremony celebrating virginity. It is practised among others by the Zulu ethnic group who live mainly in the province of KwaZulu-Natal. The girls who participate must be certified virgins (Vincent, 2006). This celebration is not only for the purposes of honouring virginity but seen by many as a rite of passage for young girls which promotes respect for young women and preserves the custom of keeping their virginity until marriage. The celebration takes place in the form of a gathering of maidens at King Goodwill Zwelithini's royal palace, known as the Nyokeni Palace in the Nongoma District (Sowetan, 2007). The fact that the girl children must be 'certified' virgins means they undergo the practice of virginity testing. "Virginity testing is the gynaecological examination that is intended to correlate the status and appearance of the hymen with previous sexual contact to determine whether a female has had or is habituated to sexual intercourse (Independent Forensic Expert Group, 2015: 62). As part of the ceremony, the girls go through this process of gynaecological examination which is performed by the elders who check for the absence or presence of the hymen.

This research study aims to explore the perceptions of caregivers about girl children's participation in *Umkhosi Womhlanga* in the Nongoma District. Children have rights and these rights are safeguarded by international and regional instruments such as the UN Convention on the Rights of the Child (CRC) (UN, 2014), the Universal Declaration of Human Rights (UN, 1948) and the African Charter on the Rights and Welfare of the Child (ACRWC) (Organisation of African Unity, 1967). The Constitution of South Africa Act No. 108 of 1996 (South Africa, 1996) and the Children's Act No. 38 of 2005 (South Africa, 2005) give effect to numerous children's rights. The main focus of the study will be centred on how the girl children's rights are exercised and adhered to in cultural activities such as *Umkhosi WoMhlanga*.

The study is piloted in the Usuthu locality in the Nongoma Municipality. Nongoma is among the five local municipalities in the Zululand District and it is located in the east of the Zululand

District Municipality (ZDM). Covering an area of approximately 2,184 km<sup>2</sup>, among the districts in Zululand, Nongoma is the second largest in terms of area; it comprises 21 wards, with 42 councillors. Nongoma is commonly referred to as the Zulu monarch seat. The municipality is predominantly rural. The level of education in the area is very low and there is a high dependency on government grants. Three Traditional Councils are found in Nongoma, namely the Matheni, Mandlakazi and Usuthu Traditional Councils and there are 363 settlements, but Nongoma is the only area that has some urban characteristics. The majority of the people in the area (98.34% of the population) reside in the rural areas, according to the Nongoma Final Integrated Development Plan 2017/2018 (South Africa, 2017). Annually in September thousands of young girls attend the reed dance festival at Nyokeni palace.

### 1.2 Background and Statement of the Problem

The *Umkhosi Womhlanga* (Reed Dance) is the cultural celebration of a young girl's virginity and it aims to encourage women to abstain from sexual activity until they get married. Since it is a celebration of virginity, it means a girl child shall preserve being a virgin and this is confirmed by undergoing the practice of virginity testing. Rumsey (2012) stated that virginity testing entails the inspection of a girl child to determine if she has taken part in any sexual activities or not; the aim of the virginity inspectors is to check for the absence or presence of the hymen.

Caregivers view *Umkhosi Womhlanga* as restoring the dignity of the virgin girl child and thus encourage maidens to participate in the event from a very early stage of development (Nxumalo, Msimang and Cooke, 2003). This was confirmed in the Royal Reed Dance Magazine (2004) where it was stated that the "invitation of young maidens to participate in the Reed Dance ceremony is accepted with pride and dignity by the family of the young maidens as it symbolises that the maiden is still pure and is a virgin" .

The Commission on Gender Equality (CGE) has described virginity testing as a discriminatory practice, which lacks privacy and is unlawful in that it infringes on the rights and dignity of girl children (CGE, 2000). Furthermore, it has been reported that virginity testing is conducted in environments that are unhygienic, at times scary and that the testing comes up with results that are inaccurate (Kunene, 2015).

According to Rumsey (2012: 1) hundreds of girls, some who are as young as six years of age, and unmarried women are exposed to offensive assessments of their genitals as a way of determining if they have had sex or not, and elders afterwards publicise the girls' sexual "statuses" within the community. Some testers give the girls certificates of virginity, whereas some put a white dot on the foreheads of the girls to indicate their purity (Scorgie, 2002: 58). This is despite the prohibition under section 12 of the Children's Act. This section provides that "virginity testing is prohibited in children younger than 16 years old" (Section 12 (4) Children's Act, 2005). The Children's Act further states that "the results of virginity test may not be disclosed without the consent of the child" (Section 12 (6) Children's Act, 2005).

Maluleke (2012) asserts that virginity testing is one of the traditional practices which are harmful in nature and violates international and national human rights laws. Such practices (traditional harmful practices) continue unabated because no one questions or challenges them, therefore there is an impression of morality in the eyes of those who advocate for these practises.

The problem or the driving force behind the study is the issue of participation. The researcher aims to determine whether caregivers involve girl children in decisions to participate in virginity testing; and how they (caregivers) perceive the participation of the girls in virginity testing. Secondly this dissertation also looks at whether girl children younger than 16 years of age participate in virginity testing.

In Southern Africa several other countries practice virginity testing, for instance Swaziland and Zimbabwe, thus South Africa is not the only country still practicing virginity testing (Rakubu, 2019). There is a need for enhanced interventions into the practice of virginity testing to ensure the rights of girl children are not infringed on and that the practice is not harmful.

### **1.3 Research Problem**

The driving force behind the study is to investigate the perceptions of caregivers with regards to the participation of girl children in virginity testing. Previous studies conducted on virginity testing and the *Umkhosi Womhlanga* have not focused on the problems associated with the implementation of laws governing children's rights.

#### **1.4 Research Objectives**

The objectives of the study are as follows:

- 1.4.1 To determine the perceptions of caregivers on the participation of girl children in virginity testing.
- 1.4.2 To determine whether the participation of the girl children is voluntary.
- 1.4.3 To explore the opinions and views of caregivers on whether the procedure used is appropriate for young girls.
- 1.4.4 To determine whether caregivers are aware of legislation regulating virginity testing.
- 1.4.5 To analyse whether caregivers comply with legislation.

#### **1.5 Research Questions**

Andrews (2003) argues that research questions are different from general day-to-day questions that just need a general response, as they enable researchers to obtain answers on a particular research problem. Moreover the research questions give the researcher a platform to gather evidence, argue the case and justify the findings.

The key research questions in the study are:

- 1.5.1 What are the perceptions of caregivers regarding the participation of girl children in virginity testing?
- 1.5.2 Do girl children participate voluntarily in virginity testing?
- 1.5.3 How do caregivers view the procedure for virginity testing? Is it appropriate to young girls?
- 1.5.4 Are the caregivers aware of the legislation relating to girls' participation in virginity testing?
- 1.5.5 Do caregivers comply with legislation regulating virginity testing?

#### **1.6. Significance of the Study**

The study is significant as it raises awareness on the dangers of virginity testing, and at the same time highlights the widespread nature of the practice and the failure by advocates of the practice to abide by the international human rights and Constitutional standards. It makes a contribution to the eradication of patriarchal practices in the form of oppressive acts and discriminatory perceptions against girl children and young women. It also contributes to the development of non-sexist progressive societies.

## **1.7. Research Methodology**

Research methodology is a set of techniques of scientific precision and a series of methods which are systematically applied in the research process, to ensure one attains findings that are theoretically valid. Thus, the conceptual support that oversees the manner in which processes are applied in any study is the research methodology.

Flick (2015) describes the research methodology as, “a knowledge discipline responsible for developing, defining and systematising the set of techniques, methods and procedures that must be followed during the development of a research process for the production of knowledge”. It guides the way in which the investigation is focused and the manner in which data will be gathered, analysed and categorised. The objective is that the findings will have relevance and validity, and meet specific scientific demands. In this sense, the research methodology is part of the research project in which the criteria adopted to choose the methodology, whether quantitative and qualitative, is uncovered and described in a reasonable manner. The study utilised a qualitative research methodology and thematic analysis to analyse the data gathered from the participants.

### **1.7.1 Research approach**

The researcher made use of the qualitative approach because it enabled the researcher to have autonomy when analysing the data. The researcher managed to push certain theoretical insights and reveal specific boundaries through the collection of data, and this shows that the researcher managed to integrate the relevant analysed literature and emerging theory into the study. The qualitative methodology that was utilised enabled the collection of descriptive data as the study participants expressed themselves openly and clearly in a verbalised way (Creswell and Clark, 2017).

### **1.7.2 Sampling**

According to Du Plooy-Cilliers (2014: 135) “a sample is a subset of a population that is considered to be representative of the population”. The researcher drew the sample from the caregivers of girl children who participated in virginity testing. When selecting the research participants, the gender issue was addressed by selecting both female and male caregivers; this is due to the fact that some male caregivers send their children to participate in virginity testing. The sample was drawn from the caregivers residing in the Nyokeni locality.

### **1.7.3 Sample size**

Gentles et al. (2015) claims that “smaller samples are used in qualitative research, and this is because the general aim of sampling in qualitative research is to acquire information that is useful for understanding the complexity, depth, variation, or context surrounding a phenomenon, rather than to represent populations as in quantitative research”. The main aim of this study is to investigate the perceptions of caregivers and therefore a smaller sample is used to gain that in depth understanding and to also allow the participants to share their stories within the context surrounding the phenomenon under investigation. The researcher drew a sample of ten caregivers from the Nyokeni locality.

### **1.7.4 Methods of data collection**

#### ***1.7.4.1. Data collection instruments***

An interview guide was utilised as the instrument for data collection. Explanations relating to the interview guide are provided in detail in the ensuing section.

#### ***1.7.4.2. Interview guide***

The “interview guide is a list of questions that will be asked to the participants during the interview. The order of the questions and the grade level in which you deviate from your list of defined questions will vary according to the type of interview you choose to complete” (Kallio et al., 2016). Interview guides that lists in outline form the topics and issues the interview will be asking about. Questions for the interview guide were formulated in alignment with the main research questions. The instrument was piloted with two caregivers before the actual data collection to determine if the questions meant the same thing to different people.

#### ***1.7.4.3. In-depth interviews***

During the in-depth interviews the interviewer attempted to get the interviewees to expose their intimate feelings, experiences, motivations, perceptions and desires. In the process of conducting an in-depth interview, the interviewer must maintain the participant’s interest, trust, and deepen the discourse, so that the interview remains focused on the subject of the study at all times (Johnston et al., 2018).

An in-depth interview can cover a wide range of situations, from a brief informal talk to a structured interview regulated in space and time. According to Legard, Keegan and Ward

(2003), different types of in-depth interviews can be distinguished, based on the following criteria:

**Structured interview:** It is one in which the interviewer raises a certain order in the questions that the interviewee must follow at all times, without the possibility of altering the order of the discourse or of introducing new questions that are alien to the pre-established script. The nature of the interview requires good prior understanding of the matter to be investigated; eliciting a level of information determined by the structure of the script and the topics covered (Legard, Keegan and Ward, 2003).

**Semi-structured interview:** It is characterised by having a less fixed structure, in which there is the possibility of altering the order of the questions, the discursive route, as well as the times of the interview. However, it requires the mandatory steps needed for certain issues, or issues that are mandatory in the conduct of the interview, to ensure that the relevant issues ultimately appear in the speech. This type of interview will require more time, as well as a medium level of information and prior preparation (Andrews, 2003).

**Unstructured interview:** This resembles the technique of a discussion group, as it is based on the free flow of discourse on a topic, although in this case individually. It requires minimal information since it is in the development stage itself that, in an exploratory way, it is expected to consign the key elements with respect to the research object (Andrews, 2003).

### **1.7.5 Data analysis**

In the course of the data analysis stage, the researcher will take charge of constructing the realities of the interviewees. Data analysis is the phase whereby the researcher reflects and goes past the availed data to have an understanding of the principles of the study phenomenon (González and Cano, 2010), and then extends the data further than the descriptive narratives (Dicks et al., 2005) to come up with modifications that are based on the findings (Day, 1993). Several authors have come up with applicable recommendations as a way of initiating the process. Hernández (2003) stated that every piece of material has to be reviewed before it is organised, labelled or classified according to logical criteria and then evaluated when complete, clear and legible. According to Ratcliff (2002), the development must come up with optimal results if it is coded, categorised and put into sub-categories, and these must be monitored and connected to issues in the investigation. Further details of the data analysis are discussed in Chapter Three.

### **1.8. Ethical Considerations**

In conducting this research study, the researcher had to take into account issues that are ethically binding to ensure that the study is ethical. Strydom (2002:419) states that ethical considerations relate to “the undertaking by an individual to respect the specific ethical values governing a particular profession, trade or industry”. The main purpose of ethical research planning is to protect the welfare and the rights of research participants. For this study the researcher respected the facts and observed safety measures and all activities that would guarantee humane conduct; safety which maintained the confidentiality of the study participants. The researcher applied for an ethical clearance certificate from the University of KwaZulu-Natal’s Ethics Committee, and after obtaining the certificate, the study was conducted and the ensuing ethical considerations were observed: informed consent, principles of voluntary participation, freedom from coercion and deception, no harm, respect of own work and confidentiality.

### **1.9. Limitations of the Study**

The limitations of the study are “those characteristics of design or methodology that impact or influences the interpretation of the findings” of the research” (Hunter, McCallum and Howes, 2018). The study only looked at the caregivers in the Usuthu locality in KwaZulu-Natal Province and did not include the country’s other provinces. The study did not cover the girls’ willingness to take part in virginity testing and their views of the practice.

### **1.10. Structure of the Dissertation**

The research study consists of five chapters, and the chapters cover the following topics:

#### **Chapter 1: Introduction of the study**

This chapter provides an introduction to the study and outlines the background and statement of the problem, the research problem, the objectives, research questions, significance of the study and the research methodology. The chapter also addresses the ethical consideration, limitations of the study and a brief conclusion.

#### **Chapter 2: Literature review**

The chapter focuses on reviewing literature and the theoretical framework that involves virginity testing and the reed dance celebration.

### **Chapter 3: Research methodology**

This chapter looks at the research methodology and research instruments that have been used to conduct the research study, including the sampling procedure and the instruments used.

### **Chapter 4: Data analysis and discussion**

This chapter analyses and interprets the data collected by the researcher during the study.

### **Chapter 5: Recommendations and conclusions**

This is the final chapter of the research study in which the researcher provides recommendations and draws conclusions.

#### **1.11. Conclusion**

This chapter outlined the *Umkhosi Womhlanga*. It also focused on the background of the study, the research questions, the research objectives, the research problem, as well as the structure of the entire dissertation. The literature of the study is presented in the ensuing chapter.

## **CHAPTER 2**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

Reviewing literature is a crucial part and the main requirement in any study; it functions as a means of advancing the study. According to Hart (1998: 16), the main purpose of reviewing literature is to “show that all the main concepts, theories and methodological approaches relevant to the topic have been identified, understood and critically evaluated”. The literature review provides readers with an outline of the present research challenges, and at times those that are not so current but are still relevant to the subject under study. The main aim of this research is to provide an understanding of the diverse forms of themes or issues that are key to the study. Therefore, this literature review is the study’s foundation, because it provides a perfect picture of the identified research problems. The chapter introduces the concept of the *Umkhosi Womhlanga* through an overview of literature. In so doing the participation of girls, the origins of the *Umkhosi Womhlanga* and conventions relating to human rights will be discussed.

#### **2.2 *Umkhosi Womhlanga* (Reed Dance): Roots and Origins**

Virginity testing in South Africa can be traced to the early twentieth century, when all the girls in a specific area were tested because of an order that would have been given by the chief in that area (Kaarsholm, 2005). The local chief appointed elderly women in the area to come to his homestead and conduct the virginity tests (Rakubu, 2019). However, research has highlighted that individual mothers and grandmothers would also test their granddaughters and daughters in their own homes. The main reason as to why this practice was prevalent in the nineteenth and twentieth century, among the IsiXhosa and IsiZulu speaking populaces, was centered on the fact that girls who were virgins fetched huge bride prices for their families (Mokoboto-Zwane, 2016). Therefore, virginity testing originated among the IsiZulu population with the idea of confirming chastity among young brides before they got married (Rakubu, 2019). Other scholars support the notion that testing was carried out as a form of regulating fertility to guarantee children were born within patrilineal boundaries. Nevertheless, during the twentieth century, the above virginity testing disappeared due to urbanisation and industrialisation.

The practice was revived in the 1990's because of the high number of deaths related to HIV/AIDS in South Africa (Scorgie, 2002). Advocates of the practice believed that the practice was necessary because of the HIV/AIDS prevalence amongst girls (Rakubu, 2019). Another explanation for the re-emergence of the practice has been linked to Patience Gugu Ngobese's dream in 1994 about *Nomkhubulwane*, a name ascribed to the Zulu goddess, an *intombi* who was immortal, which can be translated to "a girl who is still a virgin" (Scorgie, 2002). Celebration for the above goddess starts on a Friday amid prayer, dance, burning of rituals, songs and speeches by the traditional healers (Mhlongo, 2009). The ceremony goes on until Saturday morning when the girls are tested by elders to verify their virginity. Girls who pass the test then go on to participate in the remaining events set for Saturday and Sunday (Mhlongo, 2009).

Thembi (2008) clarified that the event started initially when girls (maidens) residing in the palace went to collect firewood in the forest, a chore that was part of their housework. During firewood collection young boys approached these girls in an attempt to "steal" their virginity. It unleashed a fight amongst the young boys and girls, and the girls used the firewood to fight off the young boys. Having finally won the fight and as a sign of triumph, the young girls abandoned the firewood and went down to the river, where they cut reeds, put them in piles like firewood and then carried them back to the palace. When they arrived back at the palace, the girls sang traditional hymns (*amahubo*), indirectly narrating what had taken place and their triumph. Hence, the reed dance signified that the girls had managed to protect and preserve their virginity (Nkosi, 2019). Before participating in the *Umkhosi Womhlanga* ceremony, the girls have to undergo virginity testing. The ceremony may not take place before virginity tests have been carried out. Virginity tests are the epistemological characteristic of the *Umkhosi Womhlanga* ceremony (Nxumalo, 2014).

In the view of Nkosi (2019: 1), "*Umkhosi Womhlanga* (Reed Dance) is an annual ceremony celebrated by the Zulu nation of South Africa in the month of September. Thousands of Zulu maidens and visitors gather at the Zulu Royal Residence, eNyokeni in KwaNongoma and later eMachobeni Royal Residence in Ngwavuma to participate".

The *Umkhosi Womhlanga* is enshrouded in a lot of controversies involving accidents as well as other incidents that are unsafe, which could dissuade girls from participating in the cultural practice, however, maidens still travel to celebrate the event every year (Rakubu, 2019). The

*Umkhosi Womhlanga* in KwaZulu-Natal is conducted in two phases, with the main events taking place at the palace, eNyokeni in KwaNongoma, and the next phase of the ceremony conducted at eMachobeni in Ngwavuma. This final phase of the ceremony, which is a replica and smaller version of the key ceremony, is usually conducted a week after the *Enyokeni* ceremony in KwaNongoma (Mdhluli, Lee and Matshidze, 2017). The goal of the *Umkhosi Womhlanga* is to rejoice in the purity of the girls, have the girls show pride in their bodies while preparing for femininity, provide the king with a show, and ensure that the nation marvels and motivates the girls through joy and words. According to a myth from the Zulu people, if girls have reeds but are not virgins, their reeds will break, which will embarrass them in public (Maytham-Bailey, 2014).

The *Umkhosi Womhlanga* takes three days to be concluded; however preparations for the main ceremony are made three weeks beforehand (Mdhluli, Lee and Matshidze, 2017). The event begins when a regiment or group of men (ibutho) head to eHabeni, which is 30 km west of eMpangeni, where they collect reeds in their thousands, to be transported by truck to the Royal Palace of Enyokeni in KwaNgoma. The initial place where the reeds were picked was in KwaSokhulu, which is about 50 km north of Empangeni. But because of the increasing number of reeds that need to be gathered each year, and the fear of depleting these natural resources, a new location has been established at eHabeni.

On the Wednesday before the virgins arrive, a ceremony is conducted to apprise the ancestors of the event, and a cow is sacrificed (Mdhluli, Lee and Matshidze, 2017). A princess is chosen by His Majesty the King to lead the maidens that year (lead princess).

Together with the other girls from KwaNgoma, the princess sets out for the King's homestead in oBuka by bus (Mokoboto-Zwane, 2016). According to the Zulu tradition, a goat is slaughtered by the king, as a way of welcoming the maidens, and the lead princess will have a cow slaughtered for her as a special welcome gift. The lead princess will carry the cow's gall bladder (dried, emptied and inflated) on her head at the Reed Ceremony (Mdhluli, Lee and Matshidze, 2017). The gall bladder is a symbol that denotes that this princess has been chosen to lead the maidens in that year's ceremony. The following morning, which will be a Thursday, the maidens and the lead princess are joined by maidens from oBuka to go and take a bath in the uMhlathuze River Bed (Mdhluli, Lee and Matshidze, 2017). The princess leading the maidens cuts the first reed using a tassel (*itshakaza*), which is viewed as a unique reed. This

action symbolises that the maidens have left to cut reeds. When they come back from the river, they go into a rehearsal session, where they sing and dance in preparation for the main ceremony, the famed Reed Dance (George, 2008). The maidens pack their belongings on the Friday morning, depart from oBuka and go back to kwaNongoma, taking with them the special reed (George, 2008). During the Reed Dance ceremony the girls line up in a queue to be publicly tested. Elderly women instruct the girls to lie down face-up and remove their pants, and then inspect each girl to see if her hymen has been ruptured (Khuzwayo, 2000). Those who pass the examination are given certificates and white clay is put on their foreheads those girls who fail the test and are noted not to be virgins are marked with red clay and interrogated as to what happened to their virginity (Khuzwayo, 2000).

## **2.3 Participation in the *Umkhosi Womhlanga***

### **2.3.1 Defining participation**

Section 10 of the Children's Act (Children's Act, 2005) as amended, outlines child participation as "Every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child has a right to participate in an appropriate way and views expressed by the child must be given due consideration". This means active involvement of children in the processes, decisions and policies that have a bearing on their lives.

According to Cuevas-Parra (2017), participation of young people and children under the age of 18 years includes the ability to contribute to decisions on issues that have a mark on their lives. This is achieved by children empowerment and the cultivation of positive relationships between communities, adults and children, which are based on partnerships and mutual respect at family, community, national and global level. The participation of children entails that they can discuss and make decisions on all the matters that affect them: such as school, family matters, community matters, legal policies, and community policies (Stein, 2014). This ensures that their voices are heard. Policies relating to children are frequently made about them, but they are not included in the formulation process (Stein, 2014) and this is problematic.

In the opinion of Willow (2010 : 52 ), "participation in the context of the convention means all children being able to express their views freely and all decisions making processes being informed by children views". This further meaning that in everything that is happening in the child's life, they must be informed and also be allowed to share their views. This notion is also

supported by Sutherland (2014) in the statement that listening to the views of the child is the right thing to do, because it symbolises acknowledgment and respect of the child's distinct identity.

Participants in virginity testing indicate that the ceremony promotes their preservation and it unifies them with past cultural practices (Nxumalo, Msimang and Cooke, 2003). The participants further argue that the ceremony creates a gender identity and sexual identity that links the community to the broader world (Rakubu, 2019). Virginity testing is a cultural practice of the Zulu nation to build an identity under their king. It is a non-formal way of education, whereby the elderly women instil knowledge within the young women on how to behave and how to be gratified by their semi-naked bodies and virginity (Mhlongo, 2009). Therefore, the impact that virginity testing has is of high priority because it enables the young women to gain respect from their suitors and it is a portentous marker for historical consciousness.

### **2.3.2 Factors that influence participation in the *Umkhosi Womhlanga***

In order for girls to be allowed to participate in the *Umkhosi Womhlanga*, they firstly need to undergo virginity testing, to ensure they prove their purity as young maidens. The main motivation for participating in this ceremony is for the girls to prove their purity. Participants believe that partaking in the ceremony increases their chances of escaping sexually transmitted diseases, remaining as virgins, and at the same time protecting themselves from getting pregnant before marriage (Nxumalo, 2014). Another factor which leads girls to participate in the ceremony is the belief that they are the custodians of African culture; they have to maintain their moral values. Reasons for participation are further enhanced by the message given to the girls by the Zulu king that they are custodians of the Zulu nation and they must respect the nation's historical accomplishments (George, 2008). Thus, young girls participate in the ceremony as a way of promoting the African spirit of nationalism. Therefore, participation in the ceremony implies that the girls strengthen the unity of the African people.

Another factor that contributes to the participation of girls in the ceremony is that virginity testing acts as a ritual passage for young African women. The ceremony provides a guided and clear shift from a different life stage to a circle of accountability (LeClerc-Madlala, 2001). This stage is characterised by the girls maturing from being children to being adults, hence the extra motivation for participating in the ceremony. Participation in the *Umkhosi woMhlanga* ceremony thus marks a new beginning for the girls as they move from one stage of life to

another, and it serves as a symbol of shared morality (Nxumalo, Msimang and Cooke, 2003). Participating in the ceremony links the individuals to the community and at the same time links the community to the spirit world. Additionally, participation in the ceremony by the girls ensures that their fathers, who are family heads, are given the right number of cows when *lobola* (bride price) is paid for their virgin daughters (Mdhuli, Lee and Matshidze, 2017).

Furthermore, George (2008) argues that virginity testing is a native response to the AIDS epidemic that has affected South Africa. Virginity testing is viewed as a solution to stopping the spread of the disease in South Africa, and it is also a means of stopping citizens from using contraceptives and condoms. (LeClerc-Madlala, 2001) argues that resurrection of the practice enables the young women to be taught about practicing abstinence from any sexual activities, because supporters of the practice believe it can stop the spread of HIV/AIDS. On a cultural level, virginity testing is an African renaissance that brings to the forefront traditional practices and indigenous knowledge.

Regardless of the guidelines that are provided for in the Children's Act, traditionalists have vowed not to abandon the practice, nor will they follow the requirements set by legislation for lawful virginity testing (Martin, 2011). Research has highlighted that there are two schools of thought that justify the practice of virginity testing (Rakubu, 2019). The first school of thought is held by traditionalists; that individuals have to view values as a distinct structure of philosophies, practice and customs which come first and are determined by the world (Thornberry, 2015). The second school of thought tries to explain cultural practices in terms of functionalism, which puts forward the idea that each cultural element contributes to society's well-being (Mhlongo, 2009). The functionalist approach states that social patterns, practices, institutions and culture contribute to the overall stability of society and social order. Thus, functionalists believe that virginity testing is a way of protecting society from HIV/AIDS (Nevondwe, Odeku and Raligilia, 2016).

### **2.3.3 Challenges associated with participation**

Participation in virginity tests has its own drawbacks, as highlighted by some of the girls who participate in these ceremonies. Individuals argue that virginity testing infringes on their human and individual rights (Thornberry, 2015). Young women, particularly those from the urban areas, are more modernised compared to those that come from the rural areas, therefore they do not view the ceremony as a means of re-installing self-respect, discipline, cleanliness and of

promoting purity. Some of the young women do not take part in the ceremony because they believe that the practice is unlawful, because those found not to be virgins are barred from the whole ceremony as well as other traditional ceremonies (Rakubu, 2019). Hence, they believe that the practice is discriminatory, and they further argue that the practice violates their right to dignity, because they are violated by their parents and those coordinating the ceremony (Constitution of South Africa, 1996: Section 9).

Individuals have raised several concerns, particularly for the young children that are exposed to the practice (Rumsey, 2012). They argue that there will be confusion amongst the children as to who accesses their bodies and they won't have the know-how with regards to their rights and sexual limitations. The fear exists that this may lead to high probabilities of abuse and increased vulnerability (Scorgie, 2002). Attempts are made to educate children that their bodies are theirs, but at the same time they are sending the children to have their bodies violated (South African Human Rights Commission, 2005). Thus, the children become mystified about their own rights when it comes to the preservation of their own bodies.

Child activists and feminists also believe that virginity testing puts girls that have been celebrated to be virgins in danger. Individuals who oppose these virginity tests fear for the safety of all the girls who pass the tests, because they are labelled as untouched in the community and there exists the myth that girls who are virgins cure HIV/AIDS (George, 2008). Anti-virginity testing activists argue that the ceremony contributes to the high numbers of rape incidences and attacks against children and South African women, and this endangers the young women who are identified as virgins and augments HIV/AIDS infections, thereby defeating the purpose of the whole practice (Mdhuli, Lee and Matshidze, 2017).

According to George, (2008), the *Umkhosi Womhlanga* is a ceremony in which the virginity of a female is celebrated. In South Africa the practice is celebrated by the Zulu ethnic group that are found in the Zulu community and other groups. In July of 2005, the South African Parliament passed legislation (The Promotion of Equality and the Prevention of Unfair Discrimination Act and The Children's Act) that prohibited virginity testing of minors (South Africa, 2000; 2005). These new laws provoked outrage and protests amongst the Zulu people. The State opted for the strict path of prohibition of virginity testing, but did not take the same stance against traditional male circumcision.

## **2.4 International Law on the *Umkhosi Womhlanga***

### **2.4.1 United Nations Convention on the Rights of the Child (UNCRC)**

Stein (2014) states that the United Nations Convention on the Rights of the Child (UN, 2014) is the most extensively ratified human rights accord in force: 194 states, including South Africa, have agreed to implement the rights under this Convention; with only Somalia, South Sudan and the United States of America not implementing the rights stated by the Convention (Gordon, 2015). The UNCRC also has strengthened participation rights, many of which are enshrined in the Convention. There are four general principles at the heart of the Convention that protect children and these are: Article 2 Non-discrimination / Equality; Article 3 Best Interest of the Child; Article 6 Survival and Development; and Article 12 Participation. Article 2 of the UNCRC directs governments to protect children against discrimination of any kind. Article 3 of the Convention “advocates for the best interest of the child in all actions concerning children”. Article 6 directs governments to guarantee the maximum extent possible for the development and survival of children. Finally, Article 12 states that the government has to ensure that children who are able to form their own views have a right to freely express those views in matters that affect them (United Nations Convention on the Rights of the Child, UNICEF, 2019).

The Articles highlighted above are referred to as the “four P’s” and are summarised as follows: children’s participation in decisions that have an impact on them; protecting children against all forms of mistreatment, discrimination and abuse; prevention of maltreatment and: providing assistance for their basic requirements (Rakubu, 2019). Articles in the UNCRC are relevant to the study, because virginity testing is mostly carried out on girls who are below the age 16 years, regardless of the availability of legislation that only allows girls who are over the age of 16 to engage in testing (Rakubu, 2019). The UNCRC recognises the child as a human being with fixed rights in terms of both national law and international law (Maimela, 2009). When it comes to children, the UNCRC emphasises that they require special protection because of their vulnerability with regards to their age and immaturity. Article 12 therefore states that governments must ensure that children who have the capability to come up with their own views have the right to freely air their views in matters that impact them. Even though the UNCRC does not make specific reference to virginity testing, it prohibits traditional customs that are detrimental to the health and life of the child and these prohibitions focus on the negative elements of tradition. Evidently Article 24 (3) of the Convention states that governments must take appropriate and effective measures to abolish traditional practices that

are harmful to the health of the children. In terms of the UNCRC, girls that are below the age 18 years but over 16 years are deemed as children, thus they should be protected against virginity testing (United Nations Convention on the Rights of the Child 2014). As South Africa is a party to the Convention, it has to implement measures that prevent these practices.

#### 2.4.2 Universal Declaration on Human Rights (UDHR)

Article 2 of the Universal Declaration on Human Rights (UDHR, 1948) states that “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, gender, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. In accordance with the provision, children are entitled to the same human rights as women and men, as well as those provided for in Article 5, which states that “no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment” (UDHR, 1948). Hence, forcing them to give in to virginity testing, which is physically invasive, is harsh and shameful. Article 12 of the UDHR prohibits the subjective intrusion on privacy and attacks on one’s reputation and honour (UDHR, 1948). It further emphasises that everyone has the right to be protected by law against such attacks or intrusions (UDHR, 1948). Virginity testing is an intrusion on the child’s privacy and it is conducted in the context of questioning the child’s reputation and honour, thereby violating Article 12. According to Hanzi (2006: 8), culture is viewed as one of the major impediments in Africa with regards to the implementation of children’s rights.

Furthermore, the UDHR is universal and predicts that the accident of birth in a particular communal group, culture or society is irrelevant, since human rights are considered the basic intrinsic value of an individual and their right to be treated with dignity. Consequently, Article 2 establishes that all persons, including girls and young women who undergo virginity tests, have the right to all freedoms and rights established in the Universal Declaration of Human Rights without any differences such as sex, race, religion or language. These rights are also not affected by the jurisdiction or the country of origin (UDHR, 1948). The UDHR has legal significance, as the South African Constitution (South Africa, 1996 section 39) states that "when a court, tribunal or forum interprets any right contained in the Bill of Rights, it must consider international law". Article 1 of the (UDHR 1948) establishes that "all human beings are born free and equal in dignity and rights".

### 2.4.3 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) outlaws discriminations against women. Discrimination is defined in Article 1 as “any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field” (UN, 1995). The existence of the practice of virginity testing constitutes discrimination due to the fact that men are not subjected to this testing. CEDAW came up with several possible positive actions, including refraining from engaging in the practice or act of discriminating against women and making sure that the institutions and public authorities conform to these obligations. Another suggestion was considering applicable measures that remove the discrimination of women by some individuals, organisations or enterprises and considering measures that are appropriate, such as legislation, to abolish or modify present regulations, laws, practices and customs that constitute discrimination against women (UN, 1995; Lasco, 2002).

South Africa also ratified the Convention on the Elimination of All Forms of Discrimination against Women (first treaty on women, known as the International Bill on Women's Rights). Article 1 of the Convention requires South Africa to implement a policy aimed at eliminating discrimination in order to denounce the discrimination against women. It alludes to the fact that the patterns of social and cultural behaviour of women and men must be modified in order to realise the eradication of habitual discrimination and other practices based on the impression of superiority and dependency of both sexes, and stereotypical positions for women and men (UN, 1995). Fairness is the foundation of South Africa's Constitutional democracy, and because men and boys are not subjected to virginity tests that apply primarily to girls and women, the practice of virginity testing is discriminatory.

## 2.5 Regional Instruments

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

The African Charter on the Rights and Welfare of the Child (ACRWC) is another Convention ratified by South Africa (OAU, 1994). Article 7 of this Charter states that “every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are

prescribed by laws” (OAU, 1994). In line with this provision of the charter, the girl child has a right to participate in the decision to undergo virginity testing. The State parties have the obligation to protect children from cultural practices that will lead to their exploitation under the pretext of cultural practices whilst they are in the care of their guardians or parents. This is articulated in Article 21 (OAU, 1994) which states that:

*State Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:*

- (a) Those customs and practices prejudicial to the health or life of the child; and*
- (b) Those customs and practices discriminatory to the child on the grounds of sex or other status.*

The ACRWC specifically outlaws harmful traditional practices on girls. It further outlaws customs and practices that are detrimental to the health of the child (Hanzi, 2006). Virginity testing is often performed in unsterile environments and without clean instruments. This is in contravention with Article 21 discussed above. The Convention states that children have a right to equality (OAU, 1994). The traditional practice of virginity testing is only carried out on girls, therefore their right to be treated equally is violated. The boy child is not discriminated against if he is not a virgin, his body is not marked with a symbol, he is not subjected to inhumane treatment, and he is not excluded from other cultural practices and society. Furthermore, the Convention states that only best practises that have the best interest of the child can be promoted (OAU, 1994). The question is: how is this practice of virginity testing in the child’s best interest? How does it benefit the child? It is the family that receives a higher *lobola* if the child is a virgin; it is the family that enjoys pride. Article 35 of the Convention protects children from all forms of mental or physical violence, neglect or negligent conduct or abuse. The Article may speak to the fact that girls identified as virgins may be exposed to sexual abuse because of the myths held by people that sleeping with them may be a cure to HIV/AIDS (Rakubu, 2019).

Blank (2007, in Nnazor and Robinson, 2016) stipulates that African societies traditionally advocate for young girls to maintain their virginity, meaning that they are not to engage in any sexual intercourse, noted as penetration by the penis into the vagina, before they are married. Naturally, societies in Africa impose virginity testing through rites of passage and ceremonial rituals, which range from evidence of a hymen that is intact, virginity testing and circumcision.

Young women who remain virgins until marriage bring honour and pride to their kin and societies (Rakubu, 2019). Losing their virginity before marriage attracts serious consequences, for example, dishonour to the family, social rejection, low bride wealth, ostracisation and failure to secure a husband (Rakubu, 2019). Traditionally, virginity is viewed as a “virtue” in Africa. Remaining a virgin is therefore fundamental in African society, and this strong belief leads to parents failing to identify their children’s rights to be heard and their decisions not to take part in virginity testing being ignored. The child’s best interest is thus not considered at all.

## **2.6 National Law: Legislation in South Africa Regulating Virginity Testing**

Cultural practice contravenes the new Constitution. Hence, the challenge is to seek a balance between the recognition of cultural practices, while valuing the Constitutional framework that promotes human dignity values, the achievement of fairness and human freedoms and rights (Rakubu, 2019).

### **2.6.1 The Constitution of South Africa**

In South Africa the Constitution is the supreme law (South Africa 1996) and it is founded on the above principles. Rights that regulate virginity testing in South Africa echo similar rights to those in the international and regional instruments discussed above. These rights consist of the right to equality, human dignity, privacy, health, religion and culture, as well as the best interests of the children.

Section 9 of the Constitution provides that no person may be treated differently or unfairly, and it states that:

*Everyone is equal before the law and has the right to equal protection and benefit of the law.*

(South Africa, 1996: Section 9).

Substantively the equality right underpins the key values of the Constitution. Section 9(3) provides the grounds of relevance regarding matters for which one may not be unfairly discriminated against, including gender and sex. The Section has been further promoted by the Promotion of Equality and the Prevention on Unfair Discrimination Act (PEPUDA) (South Africa, 2000; Mokoboto-Zwane, 2017). Section 9 of the Constitution also forbids the State and

all individuals from illegally discriminating, both indirectly and directly, against anybody on grounds including culture (South African Human Rights Commission, 2003).

Section 10 of the Constitution states that all individuals have inborn dignity and they have a right to have their dignity protected and respected (Constitution, 1996). Section 1(a) of the Constitution provides that human dignity is one of its founding provisions and accordingly the right to dignity is a value that is significant in the interpretation of all the rights enshrined in the Bill of Rights (South Africa, 1996). Dignity is defined as a concept that is linked to freedom, humanity and equality (Rakubu, 2019). Every individual, by being born, has self-respect and has the right to be treated with decency and respect. The right to dignity is identified as the “mother right”, and the majority of the rights are derived from it (Nxumalo, 2003). The Constitutional Court highlighted the significance of this right in the case of *S v Makwanyane* (1995) CC 3, thus the right to dignity acknowledges that individuals have to be treated with intrinsic respect and concern. It is therefore questioned whether this practice protects the dignity of the girl child who is expected to lie face-up in public while being examined intimately. In addition, the marking of her body also results in the manner in which the girl child is subsequently treated by society. Thus this practice can be argued as violating her rights to human dignity, which is considered a central value.

The South Africa Constitution states that all citizens have the right to psychological and physical honour, including the right to make decisions relating to reproduction and for the safety and control of their bodies (South Africa, 1996: Section 12(2); George, 2008). The Constitution also extols the right to dignity and prevents any person from being subjected to cruelty or torture, inhuman punishment and degrading treatment (Zulu, 2009).

The South African Constitution (1996) is among the most advanced Constitutions globally, and it encompasses the Bill of Rights that stipulates all forms of human rights (Rakubu, 2019). The distinctiveness of the South African Bill of Rights is the inclusion of contentious cultural and socio-economic rights (Mubangizi, 2012). According to Mubangizi (2012: 38) virginity testing violates and is in conflict with some rights provided for in the Bill of Rights. It does not respect the right to privacy that is protected under Section 14 of the Constitution. The manner in which virginity testing is conducted involves inspection of the females’ vaginas publicly, and this violates their right to privacy. Girls who fail the test are marked and this means that their test results are made public, further compounding the violation of their rights. The Commission on

Gender Equality (2000) also highlights that it is an attack on the girls' privacy to disclose their virginity status without their consent.

The Constitution of South Africa protects cultural rights, as enshrined in the Bill of Rights (South Africa 1996: Section 15). The protection of cultural rights is provided for in the Constitution because of the systematic attacks on the indigenous African way of life by colonial laws and apartheid (Grant, 2006). The protection of cultural rights by the Constitution does not give the power to establish a norm that perpetuates practices of any nature that can support violence and discrimination against girls and women. In reality, the Bill of Rights is intended to undo discriminatory practices. The Constitutional framework that discriminatory practices have developed is thus outside the law, regardless of its foundation (Nkani, 2012). The South African Constitution, with respect to cultural rights, states that no institution or person that practices these cultural rights may do so in a manner that is not in line with the provisions of the Bill of Rights (South Africa, 1996). Therefore, society in South Africa must engage in constructive and detailed discussions on how to guarantee the respect and practice of cultural rights in line with the laws and the Constitution; including doing away with all harmful practices against women and girls. This involves analysing exhaustively issues such as virginity tests, rituals for widows, breast-pressing and customs such as "cleansing" after male circumcision (Maytham-Bailey, 2014).

Section 28(2) of the Constitution outlines that a child's best interests are of utmost importance (South Africa, 1996) and this is reiterated in Section 7 of the Children's Act (South Africa, 2005). In a family the best interests of the children are of utmost importance, but this now encompasses all other facets of the law, thus it is a regulatory principle when constructing decisions relating to children. The best interest of the child concept as such has is regarded as a determining factor in decisions relating to guardianship, access and custody of children. The best interests of a child in a particular case would depend on the circumstances of that case, and have to be determined for each case individually. (The best interests of the child: From complete indeterminacy to guidance by the Children's Act Ferreira 2010 (73) THRHR 201). The South African Constitution in Section 28(2) states that the child's best interests are "of paramount importance" when dealing with matters that concern children. This section highlights that there is a need to understand that children have rights that are independent of their parents and caregivers. The best interest of the child shall be a primary consideration in all matters concerning a child. The principle is used to show the outcomes that may be best for

the child in a certain situation (South Africa, 1996). The South African Constitutional Court in *S v M* 2008 (3) SA 232 (CC), gave deliberate and careful consideration to the “child’s best interests”, and it made it clear that the importance of this right is not an absolute trump *vis-à-vis* other rights. The best interests of the child may be limited (as long as such limitations are justifiable and reasonable), if there is a requirement to compare them with other rights (*S v M* 2008 (3) SA 232 (CC)). Should a child’s best interest be limited in respect of the practice of virginity testing? A careful weighing up of the competing rights is needed. Does the overall benefit and purpose of this practice outweigh the rights of the child? There is a need to recognise the cultural practices of society and virginity testing does serve an important purpose of encouraging abstinence; however regard must be had for the laws that restrict the practice, such as the age of the child, the marking of the body of the child, and the procedures and protocols to be adhered to. These are ignored, resulting in the destruction of several rights of the child. What is needed is better implementation of the laws to guarantee the protection of children.

It is clear that any cultural practice exercised must be in accordance with the Constitution. Failure to do so will amount to a violation of the rights enshrined in the Constitution. From the above analysis of the various rights under the Constitution, it is evident that this practice tends to encroach on several rights of the girl child.

Below is an analysis of the Children’s Act which aims to firstly give effect to the rights of the child, and secondly to provide regulation on this cultural practice.

### **2.6.2 The Children’s Act**

Section 7 of the of the Children’s Act provides for the best interest of the child standard which emphasise that in all actions concerning children their best interest shall be a primary consideration. This section of the Act sets out the factors to be taken into consideration in determining “what is in the best interest of the child”

Section 10 of the Children’s Act states that “every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration” (South Africa, 2005). Looking at the legislation, it is not easy to identify when the children’s right to be heard and to contribute to decisions affecting them must be considered. The Children’s Act provides rights to children that are enshrined in the Constitution. The Act incorporates the principles of the Constitution and it responds to the socio-cultural problems

that affect South African children (South Africa, 2005). What is thus clear is that children's views should be heard on matters concerning them, provided of course that they are of an age and level of maturity to fully understand the impact of their decisions.

Section 12(1) of the Act provides that children have the right not to be exposed to cultural, religious and social practises which are harmful to their wellbeing (Rakubu, 2019). Under international human rights, virginity testing by means of vaginal inspection has been equated to torture and rape. In *Miguel Castro Castro Prison v Peru*, the courts ruled that:

*The act of submitting a female detainee to a vaginal finger "inspection" conducted by several individuals at a police hospital, constituted sexual rape and because of its effects it also constituted torture. This practise was also regarded as violation of the right to humane treatment, provided in the American Convention of Human Rights and in the Inter-American Convention to Prevent Torture to Detainees (Inter American Court of Human Rights, November, 2006 in Miguel Castro Castro Prison v Peru).*

Courts in South Africa have a commitment to considering international laws when interpreting rights enshrined in the Bill of Rights. With the high number of sexual abuse cases in South African society, the South African judicial system could thus condemn virginity testing as an act that constitutes a criminal sexual offence.

Section 12 (4) of the Children's Act No. 38 of 2005 outlaws virginity testing of children who are below the age of 16 years. However, Section 12 (5) permits for virginity testing on condition that the child has consented to the process in the approved manner and that the child has received proper counselling. In addition Section 12 (6) states that disclosing virginity testing results may not be done without the consent of the affected child, while Section 12 (7) forbids marking the body of the child who has undergone virginity testing (South Africa, 2005). One may clearly note that from the above provisions in the Children's Act that only girls that are over the age of 16 may be tested and they must give their consent in the prescribed manner. In addition to the age limit prescribed by the Act, the girl must firstly provide consent to the testing and this consent will be deemed valid if it is given in the prescribed form:

- Done in writing and signed by the child;
- The individual carrying out the testing has signed up for the procedure;

- There is proof of the age of the child, as highlighted by Regulation 4(3); and
- A Commissioner of Oaths has commissioned it (Mokoboto-Zwane, 2016).

It is important to note that the practice of virginity testing is not prohibited per se, and therefore does not overstep the rights of society. However, the Children's Act attempts to regulate how the practice is performed to guarantee protection of the girl children. The rights of the girls to equality are violated by the practice though, because the practice is only applicable to young women and girls. Hence it can be argued that virginity testing perpetuates sexual double standards; where boys are allowed to experiment with several sexual partners to prove their virility while the same perceptions expect the girls to be sexually passive and virgins (Maluleke, 2012). The fact that boys do not undergo virginity testing raises the problems of differentiation and gender inequality. The ritual results in girls having their bodies policed; which is a manifestation of patriarchy and places the young women as second-class citizens, thus undermining their inherent dignity (Nxumalo, Msimang and Cooke, 2003). This is not in line with the clause on equality of the Bill of Rights.

Le Roux (2006) highlights that virginity testing involves the gathering of close to fifty-six girls at a time and they are examined one after the other, whilst lying on a straw mat with their legs spread apart. Le Roux (2006) further highlights that the number of participants tested on a single day varies from forty to three hundred girls. A white mark is made on the foreheads of girls found to be virgins and they are also awarded certificates, whereas those deemed not to be virgins are given a red marking and given advice on abstinence before marriage (George, 2008). This is in conflict with the Children's Act, as Section 12 (7) outlaws body marking after the child has undergone virginity testing. This Section also prohibits the releasing of results without the consent of the child (South Africa, 2005).

With regards to virginity testing as a form of vaginal inspection, the Children's Act states that individuals can attract criminal liability and penalties. Vaginal inspection of girls under the age of 16 years is a violation of Section 12 (4) of the Children's Act, which carries a financial penalty or a sentence that does not exceed ten years, or both. A second-time offender can face a prison sentence of up to twenty years. Virginity testers may also be guilty of a crime if they contravene Sections 12 (5), 12 (6) or 12 (7) highlighted above, with the risk of receiving the same punishment for illegally evaluating girls under the age of 16 years (South Africa, 2005).

It is evident that Section 12 of the Children's Act provides protection for children regarding cultural practices such as virginity testing; the problem is that there are no effective follow-ups and observations on the implementation of these laws. Stringent implementation strategies of the above Sections are therefore needed.

### **2.6.3 The Criminal Law (Sexual Offences and Related Matters) Amendment Act**

The Criminal Law (Sexual Offences and Related Matters) Amendment Act (South Africa, 2007) penalises all forms of forced sexual penetration. The inhumane and abusive nature of virginity testing renders it illegal for children less than 16 years of age to participate. Organisers of these events are required to revise the manner in which they conduct virginity testing because they may be charged with rape; which is much more severe and therefore opposite to the minor offence of flouting statutory regulations on the welfare of children (Bennet, Mills and Munnick, 2010). The rape charge has been made possible by the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 which repealed the common-law crime of rape and substituted it with a much more expanded crime (Bennet, Mills and Munnick, 2010). The new offence that is provided for in Section 3 provides that individuals who illegally and purposefully commit an act of sexual penetration, without the consent of the person will be guilty of rape. Virginity testing may be included in this provision, because the inspection is probably considered under the definition of "sexual penetration". Furthermore, if the child's consent is not obtained or freely given it may fall within the definition and amount to rape.

South Africa is a key campaigner in the eradication of all customs that harm women and girls. Notwithstanding legalities, if the nation seeks to dismantle the patriarchal traditions in all their forms, and the violence and discriminations accompanying these traditions, then the country needs to commit itself to the eradication of all practices that are harmful to girls and women. However, the current legislation is not doing enough to achieve this (Nkani, 2012).

### **2.6.4 The Promotion of Equality and Prevention of Unfair Discrimination Act**

Section 8 (d) of the Promotion of Equality and Prevention of Unfair Discrimination Act No. 4 of 2000 (PEPUDA) refers to "any practice, including traditional, customary or religious practice, which impairs the dignity of a women and undermines equality between women and men, including the undermining of the dignity and well-being of the girl child" (South Africa, 2004: Section 8 (d)). This implies that PEPUDA also prohibits virginity testing since this testing is only performed on girl children, and it negatively impacts on the dignity of those who are

not willing to be tested or those who fail the test for various reasons that may include rape (South African Human Rights Commission, 2003).

Le Roux (2006) is also of the opinion that virginity testing is discriminatory and infringes girls' Constitutional rights to equality since the practice is not applied to boys as well. In 2005 during the Children's Bill law hearing, traditional leaders and virginity testers publicly stated that they would not act in accordance with the law and would carry on practicing virginity testing because it was a tradition (Le Roux 2006). This shows a problem in policy implementation.

## **2.7 The Health and Safety Procedures Followed in Virginity Testing**

Most of these tests are done using unhygienic procedures that can pose the risk of contracting sexually transmitted diseases (Le Roux 2006:18). The girls can experience a range of physical problems, for example blood loss, vaginal infections or even death in more severe cases (Mubangizi, 2012). Furthermore, those against virginity testing highlight that it takes place in conditions that are unhygienic and sometimes intimidating, and the results of the tests are not always correct. Virginity testing has been associated with adverse psychosocial and physical effects that have both long-term and short-term consequences. The examination itself is excruciatingly painful (Pieterse, 2008) because of its forcible and invasive nature the inspection damages the genitalia, leading to infections and bleeding. Virginity testing that is conducted on several girls consecutively, in unhygienic settings with the repetitive use of the same unsterilized instrument, potentially also increases the risk of STI and HIV transmission (LeClerc-Madlala, 2003).

Kunene (2015) agrees that virginity testing occurs in conditions that are intimidating and unhealthy. This poses a danger to the health of the girls undergoing these tests because the practice does not take into consideration the health implications that may follow because of the use of unsterilized equipment and the unsanitised hands of those carrying out the tests (LeClerc-Madlala, 2003). The testing procedure involves the girls lining up in rows and lying on their backs on mats that are on the ground (Mhlongo, 2009). The girls are instructed to spread their legs open to let those testing them ascertain their virginity. At times, before a conclusion is made the tester will insert their fingers into a girl's vagina (George, 2008) as well to guarantee that the hymen is still unbroken (if this piece of flesh inside the vagina is still intact, it confirms that the girl is still a virgin). When testers confirm the virginity of each girl the multitude, which is usually made up of women, ululate and cheer in felicitation (Thornberry, 2015).

Afterwards, girls that have ‘passed’ the test have white clay smeared on their foreheads and are awarded certificates to indicate their success in ‘passing the test’ (LeClerc-Madlala, 2001). Girls who are unsuccessful in the test are pulled aside and individually interrogated, so as to figure out what happened to their virginity. Questions are asked to determine which boy was responsible for stealing the girl’s virginity, and if they consented to it or were sexually abused (Mhlongo, 2009). Even though one may argue that the procedure is not a way of ridiculing the girls, the manner in which it is conducted, with the awarding of certificates to those who pass the test, makes it difficult for those who fail to escape stigmatisation. Sometimes the girls who fail the test are denoted as “rotten potatoes” that have to be separated from those who succeed, to ensure that they don’t “spoil the bunch” (Women’s Legal Centre, 2010).

Le Roux (2006: 67) states that those who conduct virginity testing mainly look for something that resembles a white veil (a sign that the hymen is still intact) in the canal of the vagina, however there are girls who resort to inserting meat that is freshly cut, or even toothpaste into their vaginas to mimic the white veil and give the appearance of a ‘tight’ vagina to trick the testers.

Fear of shaming their families and failing the tests has led some young girls to partake in practices such as the ones above that endanger their health. This is in addition to the fact that the virginity testing itself compromises the girls’ health and psychologically impacts on them and exposes them to sexual abuse (Durojaye, 2016). Virginity tests may fail to come up with conclusive results for several reasons. They can fake their virginity, in this situation, the presence of the hymen. Even in the olden days, some midwives and doctors assisted brides with herbal astringents, tightening agents and drying irritants to tighten their vaginas. They are also sometimes supplied soft capsules or sponges that could be filled with blood as a way of tricking bridegrooms into the belief that deflowering had indeed happened (Blank, 2007).

None of these young maidens have familiarised themselves with phoney hymens complete with blood yet (Addison, 2010), or gone for medical procedures (hymen therapy) with the intent of recreating their hymens (Blank, 2007).

“This cosmetic surgery procedure is designed to restore the structure of the perforated hymen. The operation enjoys popularity in certain cultural and religious contexts. Plastic surgery length

is 30 to 45 minutes. Conscious sedation with local anaesthesia is preferred. The procedure is done on a day-basis and no hospitalisation is required. Recovery is usually prompt and painless. Sexual activity is discouraged for four to six weeks” following the procedure (Fayman: 2018 at [http://www.doctorfayman.co.za/other\\_hymen.html](http://www.doctorfayman.co.za/other_hymen.html)).

## **2.8 Mixed Perceptions of the *Umkhosi Womhlanga***

In many countries virginity tests have continued unrestricted, regardless of the policies and legislation that makes them unlawful. This is inclusive of thousands of girls who have been tested for virginity throughout the Southern African region, South Africa included. Arguments by those who defend the practice of virginity testing are that the practice is a strategy to reduce pregnancy and the spread of HIV/AIDS among teenagers. However, these arguments are at best a case of hiding patriarchal practices that serve to oppress girls and women (Zulu, 2009).

Virginity testing is not only an African problem, but it is one more element in the harmful practices that subjugate the bodily integrity of women. It complements other unsafe customs that include mutilation of the female genitals, practices that are guided by the belief that for women, sex should not be pleasant, but be exclusively destined for procreation (George, 2008). In most cases the virginity tests are ineffective, conducted under poor hygienic conditions and a serious infringement of human rights. In addition to not being a dependable measurement of virginity, the woman's hymen may be broken due to other factors that have nothing to do with sex. In the context of South Africa, where many first sexual encounters are unwanted, women lose their virginity when violently assaulted sexually. Despite all this, there is great stigma that accompanies girls who do not pass the test of virginity (Zulu, 2009).

This translates into putting the health of girls in danger by incurring practices known as "saving virginity" (George, 2008). This includes the insertion of objects into the girl to determine whether the hymen is intact. Middle-class girls and women in places like Egypt have opportunities to undergo reconstructive surgery of the hymen (George, 2008). Such is the humiliation related to not being a virgin in countries that are patriarchal. In South Africa though, the poor have no such option, leading doctors state that this situation increases the incidences of unprotected anal sex which also increases the risk of these young girls contracting HIV/AIDS (Shange, 2012).

The prevention of HIV may be best achieved by proven measures, for example, sex education that is comprehensive, access to forms of contraceptives and strategies that diminish enforced

sexual encounters (George, 2006). Thus the greatest means of fighting the spread of HIV/AIDS is to educate girls and women, and not to enforce cultural practices that are equivalent to sex crimes (Kyrkander and Germundson, 2018).

A study conducted in Mtubatuba by Gqibitole (2015), investigating the conditions surrounding HIV/AIDS among adolescents, revealed that some of the girls showed a lack of commitment to the virginity testing; did not arrive on time to be tested; went to the site but avoided being tested; and some of them also intentionally dropped out of the ritual (Kunene, 2015). In some cases, it was reported that the girls would leave their homes and appear as if they were going for testing, but on arrival at the venue they would not take part in the testing process (Kunene, 2015). Parents thought that their girl children had been tested but they had not (Kunene, 2015). This was because they did not want to be tested, and their voices were not heard even though the virginity tests affected them directly. Their parents had not given them the option to decide whether to participate or not.

## **2.9 Views in Favour of Virginity Testing**

### **2.9.1 Health perspective**

Advocates for virginity testing believe that by preserving virginity the country will have a great defence against the spread of HIV/AIDS. Traditionalists argue that they have no intentions of abolishing the practice (Mhlongo, 2009). They argue that it must be treated as a cultural practice. Virginity testing encourages abstinence from sexual intercourse as part of the “Abstain, Be faithful and Condomise” (ABC) strategy to prevent the spread of HIV/AIDS (Mhlongo, 2009). To clarify, this can be understood to mean that if girls submit themselves to virginity testing, the chances of them engaging in sexual intercourse in fear of being exposed as non-virgins during the following test are reduced. In the Zulu culture, if a girl is discovered not to be a virgin, she and her status are associated with negative labelling such as “promiscuity” (Mhlongo, 2009). Thus, a girl will abstain from engaging in sexual activities and the spread of HIV will be prevented.

### **2.9.2 Social ills**

Virginity testing is also viewed as an answer to some social ills by some activists, as it helps prevent pregnancies among teenagers and detects incest and cases of child sexual abuse

(Commission on Gender Equality, 2000). According to Wickstrom (2010), it helps girls postpone penetrative sex and also inspires men to respect the sexual integrity of the girls.

A study conducted in KwaZulu-Natal on approaches regarding virginity testing exposed fascinating findings. Kunene's (2015) research focused on the perceptions of both sexes, because men dominate decisions in the Zulu culture. Participants who were part of the study felt that the practice had more advantages compared to disadvantages. Taylor, Bogdan and DeVault (2007) found that many boys and girls agreed that virginity testing was beneficial, hence they respected and acknowledged the traditional custom. Several of the girls believed that virginity testing provided them with many reasons to be full of pride in themselves and it also enabled their parents to have a source of pride in them. However, other girls and boys in the study were of the idea that virginity testing was a practice that brought humiliation to the girls.

### **2.10 Virginity Testing in Other Countries**

Virginity testing is not exclusive to South Africa only; in other parts of Africa including Zimbabwe, Swaziland and Egypt virginity testing is also practiced (Kunene 2015). King Goodwill Zwelithini and Swaziland King Mswati III both advocate for virginity testing and they ensure its practice in their nations (Hanzi, 2006). They applaud it for reducing HIV infection in their nations. Rumsey (2012) also notes that virginity testing is not exclusive to South Africa. It is carried out in several other countries in Africa, the Middle East and Asia.

A study conducted by Roselyn in Zimbabwe discovered that virginity testing is traditionally used as a means of bargaining for high bride prices (Hanzi, 2006). Within the Shona culture, virginity testing is significant for the identity of the girl and value is placed on girls who are virgins. In Zimbabwe in 2005, some traditional leaders issued instructions in areas under their control to resume the practice of virginity testing, but regardless of these directives virginity testing among Zimbabweans still remains concentrated in the rural areas only. Hanzi (2006) reports that in a study conducted in 2002, close to 5000 girls took part in virginity testing ceremonies in Zimbabwe, and in 2004, 4000 girls took part in virginity testing in Zimbabwe. Girls that passed these tests were awarded certificates as proof (Hanzi, 2006).

In a study conducted in Turkey, Rumsey (2012) stated that virginity testing was carried out as a method of ensuring a family's reputation and honour before marriage, and as a means of determining the harshness of punishment for female prisoners (who were mainly incarcerated for being political activists or having behaved immodestly). The study also revealed that

virginity testing was required for girls who applied for jobs in government or in specialised schools, for example, nursing schools (Lasco, 2002). Regardless of the fact that Turkey had put in place a ban on virginity testing, the study noted that factors that included doctors' ignorance, family pressure, claims that virginity testing prevented and detected rape, and a fear of being questioned about their virginity contributed to women becoming submissive to the testing.

In Egypt it is believed that virginity is directly associated with heaven. When a male makes his way to his throne in heaven upon his death, he is rewarded with a virgin. In this instance, virginity is the same heavenliness (Swanlek, 2013)

### **2.11 Conclusion**

The chapter reviewed the literature relating to the *Umkhosi Womhlanga* and several international and local protocols and legal instruments pertinent to the variable underpinning this study. Reviewed literature showed that virginity testing is a predominantly Zulu custom in South Africa, and that this process or custom is utilised as a form of curing social ills. The chapter also highlighted that support for the practice amongst girls is somewhat divided, with those who reside in the urban areas being against the practice because it violates their human rights.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

Research methodology is defined as a set of techniques and procedures applied in a systematic and orderly manner when conducting research. Methodology is one stage in the research process whereby the performance of a task is divided. In this chapter the following subsections will be discussed: research methodology, characteristics of the participants and sampling method, procedures for data collection and the instrumentation used for analysing the data.

#### **3.2 Research Paradigm**

A paradigm may be defined as a set of hypotheses that define the manner in which things work or a “worldview”. According to Rossman and Rollis (2010), a paradigm is a "shared understanding of reality". Qualitative and quantitative research techniques comprise of very dissimilar assumptions regarding the manner in which research is conducted and the researcher’s role (Creswell, 2009.)

A research paradigm may be defined as a "set of common beliefs and agreements" that are shared by researchers with regards to "how problems should be understood and addressed" (Kuhn, 1962:186). Hence, a research paradigm is a detailed way of perceiving the world (worldview), shaping the manner in which one understands answers to research questions. Guba (1990 : 18) claimed that “a research paradigm is characterised mainly by its ontological, epistemological and methodological dispositions”.

Positivist ontology asserts that there is a unique objective reality to every research situation or phenomenon, regardless of the beliefs and perspectives of the researcher (Hudson and Ozanne, 1988), and that the world is peripheral (Carson et al., 2001). Thus, Carson et al. (2001:53) assert that “positivists adopt a controlled and structural approach in conducting research by identifying a clear research topic, building appropriate hypotheses and adopting an appropriate research methodology”. This means that positivist approach or view of the world is structured in nature as all the processes are controlled and done in a sequential manner. Researchers who make use of the positivist paradigm tend to create a distance between themselves and the research participants, which is vital as it allows them to remain emotionally neutral, thereby

creating a clear distinction between reason and feeling. Furthermore, it is also critical for positivist researchers to utilise logical approaches and coherent rationale, and also to seek objectivity in any study (Carson et al., 2001). This paradigm is mainly used in a quantitative study.

The interpretivist point of view regarding ontology and epistemology is that certainty is multiple and relative (Hudson and Ozanne, 1988). Lincoln and Guba (1985: 19) assert that, “these multiple realities also depend on other systems of meanings, which makes interpretation even more difficult in terms of fixed realities”. This means that this paradigm focuses on the subjective meanings that are shared by people. Knowledge gained from a subject is not determined objectively; it is socially constructed and observed (Carson et al., 2001), as people are the co-constructors of their own realities. This subjectivity is believed to allow the researcher the opportunity to generate deeper understandings of the meanings that people attach to their experiences within the context where these experiences emerge. Interpretivists tend to evade structures in research that are rigid, for instance in positivist studies they embrace structures that are more personal and flexible, and are open to appreciating connotations found in social interactions and providing an understanding to what is observed as reality (Carson et al., 2001). The study adopted an interpretivist approach, for the reason that the approach is more flexible. The study was not only limited to the collection of data; it also extended to the interpretation of values that emerged from the collected data and provided suggestions. Furthermore, this paradigm is in line with the research aim and objectives.

### **3.3 Qualitative Research Methodologies**

The “Qualitative methodology is used to address research within the field of social and humanistic sciences. As such, it focuses on all those aspects that cannot be quantified, that is, its results are not transferable to mathematics, so that it is a rather interpretive, subjective procedure, in contrast to the quantitative methodology” (Lewis, 2015). This means that it is a non-numerical method into doing research that allows the researcher to tap into the meanings that people attach to their experiences by means of listening to their own interpretation of the phenomenon. This reasoning technique is inductive; it moves from the specific to the collective. The researcher in this case gets access to data for interpretation and analysis through interviews, direct observations or documents.

The study adopted the qualitative research methodology, which is consistent with the interpretivist paradigm approach. According to Yin (2015:17), the qualitative research method relates to the collection of data, and the observations of discourses, natural activities and open reactions provide the basis for the ensuing explanation of values. Furthermore, Yin highlighted that qualitative research is “studying reality in its natural context, as it happens, trying to make sense of, or interpret the phenomena according to the meanings the people involved have” (Yin 2015 : 17 ). Qualitative research encompasses the collection and usage of personal experiences, interviews, life stories, historical texts, observations, sounds and images that provide a description of routines and situations that are problematic and have meaning in the lives of individuals (Yin 2015 : 17 ). Qualitative methodology is utilised by factual or natural scientists, who make use of quantifiable data that they access through observations and measurements. Qualitative data is analysed through the identification of variables and the use of statistics and patterns that are constant (Yin 2015; 19). The method utilises deductive reasoning, and it is based on representative samples of the situation being studied (McCusker and Gunaydin, 2015). Qualitative research methodology is suitable for this study because of its flexibility in finding new information, as it allows probing.

Quantitative research focuses on the collection of quantitative data, which will be numerical. A quantitative research method usually follows scientific validation approaches because its main focus is on testing hypotheses (Creswell, 2013). Academics make use of deductive reasoning when deducing the observable consequences of their hypotheses, and this usually occurs when there is observed data to be used to validate their hypotheses (Creswell, 2013). When conducting studies using the quantitative method, behaviour and cognition are assumed to be explainable and predictable. The main emphasis of quantitative research is to make assumptions about the objectivities obtained from the positivist paradigm. Objective positivists are of the belief that reality occurs autonomously of social players, hence they can be understood and measured independent of the social situation. Questionnaires that are standardised and several quantitative measuring instruments are utilised to come up with measurements for observed scenarios (Creswell, 2014).

The researcher utilised the qualitative approach, because it enabled her to have some autonomy when analysing the data. The researcher was able to expose certain boundaries and give impetus to some theoretical insights when gathering the data; and this showed that she was able to incorporate the data analysed with relevant literature and the developing theories of the study.

The qualitative approach that was utilised referred to research that provided descriptive data, whereby individuals clearly and openly expressed themselves orally (Creswell and Clark, 2017).

### **3.4 Research Design**

According to Yin (2017), the main objective of any research design is to gather evidence which addresses the objectives and questions of the research. Basically, there are several means for researchers to achieve this. Even though the research questions are unique, some objectives may be achieved by making use of the three forms of research designs: descriptive, explanatory and exploratory. This section will focus on the different research designs.

Explanatory research is conducted when there is a new problem to be studied that has not been studied before, and it requires precedence, provides a model that is well researched and generates definitions that are operational (Creswell, and Clark 2017). This type of research design pays attention to the explanation of detailed facets of the study. The researcher formulates a general idea and utilises research as an instrument that will lead to the addressing of future issues. The main emphasis of explanatory research is to augment the researcher's understanding of a topic (Lewis, 2015). Secondary sources, for instance published data or literature, are usually utilised in explanatory research (Lewis, 2015).

Exploratory research is not anticipated to come up with conclusive and absolute answers to research questions, however it is restricted to the exploration of the research topic on a diverse level. Exploratory research has been noted to be the initial research that forms the foundation of more conclusive research. Furthermore, exploratory research may determine the sampling methodology, research design and data collection methods (Singh, 2007). New problems, where little or no previous research has been carried out can be addressed by exploratory research (Brown and Brown, 2006). The most common method of collecting data when conducting exploratory studies is unstructured interviews.

The descriptive research design is a scientific approach that consists of descriptions and observations of the behaviour of subjects without influencing them (Creswell, and Clark 2017). Descriptive research is a research method that provides a description of the characteristics of a population. The methodology focuses on the research subjects, rather than the why of the research subjects (Creswell, 2014). Descriptive research, in other words, mainly focuses on

describing the nature of demographic segments, rather than why a particular phenomenon has occurred. It describes the subject under study, and does not describe why that phenomenon has occurred.

The study adopted an exploratory research because it intended to come up with a conclusive and final answer to the research questions, hence it was restricted to the exploration of the research topic in depth. With the design the researcher managed to dig deeper into the issues and controversies surrounding the *Umkhosi WoMhlanga* practices.

### **3.5 Study Site**

The study was piloted in the Usuthu locality in the Nongoma District. Nongoma is amongst the five local municipalities that form the Zululand District and is found in the east of the Zululand District Municipality. Referred to as the seat of the Zulu monarch, Nongoma is largely a rural municipality. The population's education level is low and there is a high dependency on government grants. Annually in September thousands of young girls attend the Reed Dance festival at Nyokeni palace (South Africa, Nongoma Municipality, 2017). The palace is located in the Usuthu area, thus this study was undertaken in the relevant area directly linked to the study. It was essential to cover the study area with thorough investigations, consultations and think through the research journey carefully. The study area refers to the geographic boundary that was created to define the extent of the analysis. The study area was created when the study was beginning, to ensure that the data from the study was confined to a specific area, in this case the Nongoma District.

### **3.6 Population**

The study population is a set of units or individuals for which the study intends to determine something (Silverman, 2016). Population denotes the overall number of objects, characters, or processes that have similar observable individualities at a specific time or place. When conducting research, there are some vital characteristics, for example the area under study and the population that have to be taken into consideration when picking the population for the study (Taylor, Bogdan and De Vault, 2015).

For this study, the population consisted of all caregivers, who were usually women and girls who participated in the *Umkhosi WoMhlanga*. Chapter 1 of the Children's Act defines a

‘caregiver’ as any person other than a parent or guardian, who factually cares for a child and includes-

- a) *A foster parent;*
- b) *A person who cares for a child with the implied or express consent of the parent or guardian of the child;*
- c) *A person who cares for a child while the child is in temporary safe care;*
- d) *The person at the head of a child and youth care centre where a child has been placed;*
- e) *The person at the head of a shelter;*
- f) *A child and youth care worker who cares for a child who is without appropriate family care in the community; and*
- g) *The child at the head of a child-headed household (South Africa, 2005).*

In the present study a caregiver referred to the parent (mothers and/or fathers) of the girl child.

### **3.6.1 Sample and sampling technique**

The sample for this study was drawn from the population using a sampling process which is defined by Kumar (2014 p.228) as "a process of selecting a few individuals from the bigger group to become the basis for estimating or predicting the prevalence of an unknown piece of information, situation, or outcome regarding the bigger group". Two types of sampling methods exist in research, namely non-probability and probability sampling. The former is more likely to render a sample representative of the population under study (Rubin and Babbie, 1997). Yin (2017:25) defines non-probability sampling as “a sampling technique in which the researcher selects samples based on the subjective judgment of the researcher rather than random selection”. Within non-probability sampling method, the sampling techniques used are convenience sampling, quota sampling, purposive sampling and snowball sampling techniques. The researcher drew the sample from the caregivers of the girl children who participated in virginity testing. When selecting the research participants, the gender issue was addressed by selecting both female and male caregivers, because some male caregivers sent their children to participate in virginity testing. The sample was drawn from the caregivers residing in the Nyokeni locality.

In order to select a sample for this study, the researcher made use of purposive sampling technique and snowball sampling technique.

*Purposive Sampling technique:* According to van Rensburg (2010: 162), “purposive sampling is when the researcher selects a sample that can be judged to be representative of the total” population being studied. This technique allows the researcher selects a sample that can be judged to represent the actual population that is under investigation and thus, the researcher uses his/her own judgement and handpicks participants from a target population for inclusion in the study based on the criteria for inclusion. Marshall (1996: 23) claims that “purposive sampling is when the researcher actively selects the most productive sample to answer the research question”. In this way the researcher is also able to select people who are information rich about the phenomenon under investigation. In the current study the researcher used purposive sampling because only the caregivers of children who participated in the *Umkhosi woMhlanga* were sampled as participants; this assisted the researcher to get rich information on the topic. Also, the sampling was based on purpose rather than the probability of being selected for the study.

*Snowball sampling technique:* This technique was used in conjunction with purposive sampling. “A sampling procedure may be defined as snowball sampling when the researcher accesses informants through contact information that is provided by other informants. This process is, by necessity, repetitive: informants refer the researcher to other informants, who are contacted by the researcher and then refer her or him to yet other informants, and so on” (Noy, 2008: 76). Consistent with this theory the researcher engaged in snowball sampling since the researcher was not a resident of the Nyokeni locality so it was not easy to know all the caregivers of the girl children participating in virginity testing and attending the *Umkhosi Womhlanga* ceremony. Since the snowball sampling was based on referrals, one participant referred the researcher to another participant as the participants knew each other. The referrals were repeated until the sample size was achieved by the researcher.

### **3.6.2 Sample size**

Gentles et al. (2015: 52) claim that “smaller samples are used in qualitative research, and this is because the general aim of sampling in qualitative research is to acquire information that is useful for understanding the complexity, depth, variation, or context surrounding a phenomenon, rather than to represent populations as in quantitative research”. The main aim of this study is to investigate the perceptions of caregivers and therefore a smaller sample is used to gain that in depth understanding and to also allow the participants to share their stories within the context surrounding the phenomenon under investigation. On sample size, Marshall et al.

(2013: 45) argue that “there are no rules for sample size in a qualitative inquiry. Sample size depends on what you want to know, the purpose of the inquiry, what’s at stake, what will be useful, what will have credibility, and what can be done with available time and resources”.

The researcher drew a sample of ten caregivers from the Nyokeni locality.

### **3.7 Data Collection**

#### ***3.7.1 Data collection instruments***

An interview guide was utilised as the main tool for data collection. The “interview guide is a list of questions that will be asked to the participants during the interview. The order of the questions and the grade level in which you deviate from your list of defined questions will vary according to the type of interview you choose to complete” (Kallio et al., 2016). Interview guides that lists in outline form the topics and issues the interview will be asking about. Interview guide questions were aligned with the main research questions. The instrument was piloted with two caregivers before the actual data collection, to determine if the questions meant the same thing to different people.

#### ***3.7.2 In-depth interviews***

The research also utilised in-depth interviews. In-depth interviews are defined as “a qualitative research technique where, intensive individual interviews are conducted. In such interviews there are smaller numbers of respondents so that on a particular program, idea, or subject the respondent's perspectives are explored” (Yin, 2019: 7). These interviews are a means of collecting qualitative data. There are mainly based on analysing discourses individually and where the opinions, ideas and evaluations of the participants are applicable to the objectives of the research. During the in-depth interview the interviewer will attempt to get the interviewee to exposes his or her intimate feelings, experiences, motivations, perceptions and desires. In the process of the in-depth interview, the interviewer must maintain the interviewee’s interest and trust, and deepen the discourse so that the interview remains focused on the subject of study for the duration of the interview (Johnston, Huisman and Pemberton, 2018).

An in-depth interview can cover a wide range of situations, from a brief informal talk to a structured interview regulated in space and time.

The main advantages of an in-depth interview are that it allows for the obtaining of very valuable information regarding complex behaviour, sensitive issues or those which are susceptible to high reactivity, as well as situations subject to rigid social regulations (Andrews, 2003). Similarly, it implies a high level of consciousness, since the interviewee is the continuous focus of attention, and it also eliminates the pressure and much of the burden of social desirability inherent in a group interaction. The conclusions are attributable to the person, although the role of the interviewer is very important, since he or she does not have to intervene by cutting free speech. The interviewer has to control that there are not too many or too few questions, and interpret the nonverbal communication of the individual as they reply to the questions. The main drawbacks are inherent to most qualitative techniques; mainly the high need for personal resources and time (Bell, Bryman and Harley, 2019). Semi-structured interviews were used in this study as they were flexible and allowed for probing. The interviews were conducted on a one-on-one basis, and audio recording was used throughout the process. The participants were assured of their anonymity during the research process.

### ***3.8 Data analysis***

Data was analysed using thematic analysis, which is also a type of qualitative data analysis. It was most relevant to the study which sought to discover answers to the research questions using the interpretation of the data. It gave the researcher the chance to have an understanding of the probable issues more broadly. Namey et al. (2008: 48) argue that “thematic analysis moves beyond counting explicit words or phrases and focuses on identifying and describing both implicit and explicit ideas. Codes developed for ideas or themes are then applied or linked to raw data as summary markers for later analysis, which may include comparing the relative frequencies of themes or topics within a data set, looking for code co-occurrence, or graphically displaying code relationships”. The researcher used thematic analysis as it assisted her to get rich, detailed and complex data from the research participants.

During the analysis of the data, the researcher took charge of constructing the interviewees’ realities. The data analysis phase is where the researcher reflects on the data and goes past the availed information to have access to the principles of the study (González and Cano, 2010). The researcher then extends the data past the descriptive narrative (Dicks et al., 2005) and comes up with modifications that are based on the findings (Day, 1993). Several authors have come up with applicable recommendations as a way of initiating the process. For example, Hernández (2003) states that every piece of material has to be reviewed before it is organised,

labelled or classified according to logical criteria and then it is evaluated when it is complete, clear and legible. According to Ratcliff (2002), the development of the data must produce optimal results when it is coded, categorised and put into sub-categories, and these must be monitored and connected to the issues in the investigation.

Taylor and Bogdan (1990) recommend that an exploration must be conducted in three stages: coding, discovery and relativisation. The discovery stage entails that all recorded data must be sorted and examined, and all interrelated topics have to be searched. The stage begins by reviewing cautiously every transcript, equating it with the comments, notes and narratives which were transcribed during the consultations, and going through the courses of the topics logically, because it is imperative to construct interpretations and concepts accurately. There is a need to include any emerging themes if the researcher finds them. This data enables the researcher to elaborate on typologies and classifications, thereby aiding the researcher in the development of solid arguments.

Coding encompasses the absorption of data that refers to topics which are similar concepts and ideas, and their analysis. Hernández (2003) states that if one needs to achieve this; there is a need to achieve it in two coding phases. Firstly the data have to be collected by categories of analysis, and secondly a comparison has to be made between them, by grouping those different themes and coming up with possible connections. The study made use of these data analysis steps in this qualitative study (De Vos et al., 2011).

#### **(a) Audio recordings**

Audio recordings of the interviews were conducted in the IsiZulu language, and these audio recordings were later transcribed and translated into the English language. Some meanings may have been lost during the translation because transcripts differ from one language to another. Muller (2007: 207) states that translations lead to the loss of meaning and mistranslation issues; and the researcher may fail to transfer the fruitfulness of the words, which have social, traditional and historical implications.

## **(b) Transcripts**

Transcripts were read by the researcher cautiously and repeatedly, to ensure they were interpreted correctly from the audio recordings, to overcome inconsistencies and gaps and also to gain a broad understanding of the content.

## **(c) Analysis**

The study utilised thematic analysis to ensure that she identified, categorised, and sorted the report patterns. The whole process was done repeatedly, for all of the transcribed interviews.

## **(d) Findings**

The research findings will be discussed in Chapter Four of the study.

### ***3.7.1.5 Reduced number of research participants***

Three participants who consented to participate in the research were in mourning during the data collection process, and according to their tradition they had to partake in a cleansing ceremony before they could take part in the study, so the researcher was limited in terms of data collection from these participants. The researcher failed to replace these participants, but despite this managed to find rich and far-reaching data from the remaining participating caregivers.

## **3.9 Reliability and Validity**

Reliability and validity are viewed as vital concepts when one is conducting research. However, De Vos et al. (2011) argue that comprehensive validity and reliability cannot be achieved; instead they assert that these are goals that need to be aimed for. Researchers thus focus on attaining some measures of validity and reliability when they conduct their research (De Vos et al., 2011). In qualitative research, researchers view reliability and validity as a viewpoint that is consistent with their assumptions and they make use of terms which have relevance to their area of research, for instance trustworthiness (Merriam, 2009).

In qualitative research, trustworthiness is assessed using the concepts of credibility, transferability, dependability and confirmability.

*Credibility.* According to Babbie and Mouton (2001), credibility refers the value of the research findings being trusted and believed. Bryman (2012: 49) also states that credibility is about “how

believable are the findings”. It also looks at the relationship between the constructed realities of the participants and those that are attributed to them. Informed consent forms were given, read in the language of choice and signed by participants to create an opportunity for them to participate willingly in the research study. Interviews were recorded using a digital voice recorder to document the findings. Interview notes were taken for the participants who did not consent to being audio taped. The interviews transcripts are to be reviewed by the supervisor and other peers in order to get critical feedback. Shenton (2004, p. 64), states that, “this fresh perspective and feedback by peers, members and supervisors allows them to challenge assumptions made by the researcher that can lead to biasness”. Furthermore, the researcher gave feedback to the participants at two stages, after data analysis and after report writing. Giving feedback after data analysis assisted the researcher to ensure that everything has been captured and the themes are a true reflection of their experiences.

*Transferability.* Refers to the degree to which the findings can be generalized or transferred to other contexts or with other respondents (Babbie and Mouton, 2001). This is done by providing thick descriptions of the research findings which enables other researchers who want to replicate the study to be able to do so (Creswell, 2009). The researcher believes that by providing thick descriptions of perceptions of caregivers about children’s participation in the Umkhosi Womhlanga, other researchers will be able to transfer and replicate the findings of the study with people within the same context.

*Dependability.* Refers to the stability of data over time, in other words will the research findings remain the same, if it were to be repeated with the same or similar respondents (Babbie and Mouton, 2001). This is concerned with whether the findings can be applicable in a different time if the study were to be repeated. The research methodology process has been explained in detail in the research report to allow the reader to assess the degree to which proper research practices were followed. The population, sampling procedures followed, data collection tools as well as the analysis process has been clearly outlined and explained in order to allow the reader to assess proper research practice and the ability to repeat the study in a different time.

*Confirmability.* Babbie and Mouton (2001) define confirmability as the extent to which the findings are the result of the focus of the inquiry and not of the biases of the researcher. In simple terms, confirmability is concerned with the researcher’s honesty in reporting the data that was collected during the research study. Terreblanche et al. (2006) suggests that

confirmability can be achieved by providing an audit trail which involves documenting in detail every step of data gathering and analysis process meticulously. The authors also recommend providing an appendix of the raw material such as the interview transcripts, in order to give the reader an opportunity to evaluate at least some of the material in the raw state. To ensure confirmability, the researcher have kept all the original raw data, including the interview schedule, interview notes, recordings and transcripts of the data and findings to be reviewed and confirmed by a third party, should the need arise.

### **3.10 Conclusion**

Having highlighted the chosen research design and the choice of a case study as the key research strategy, the chapter provided an overview of the research methodology. The chapter provided the primary data source including the selection of in-depth interviews and non-probability sampling as the means of collecting the qualitative material. The study opted for thematic analysis for analysing the data. The ensuing chapter is going to provide a detailed presentation of the study's outcomes and an analysis of the findings.

## **CHAPTER 4**

### **PRESENTATION OF DATA AND ANALYSIS**

#### **4.1 Introduction**

The chapter is going to present the findings of the research collected from interviews conducted with the study participants. The first section presents the participants' detailed demographic data, the main findings of the study will follow and the final section will present an analysis of the findings. The findings are categorised in accordance with the themes that emerged during the interviews.

#### **4.2 Response Rate**

The participants were selected on the basis of snowball sampling, were a participant referred the researcher to other caregivers as potential participants. There was a 100 per cent response rate as all the participants approached were willing to partake in the study. They provided rich information for the study, which is presented and discussed in this chapter.

#### **4.3 Objectives**

The objectives of the study were as follows:

- 4.3.1 To determine the perceptions of caregivers on the participation of girl children in virginity testing.
- 4.3.2 To determine whether the participation of the girl children was voluntary.
- 4.3.3 To explore the opinions and views of caregivers on whether the procedure used was appropriate for young girls.
- 4.3.4 To determine whether caregivers were aware of legislation regulating virginity testing.
- 4.3.5 To analyse whether caregivers complied with the legislation.

Data gathered in the study was analysed to conclude on whether the objectives of the study were achieved.

#### 4.4 Presentation and Analysis of the Data Collected

##### 4.4.1 Section A: Demographic information of participants

Below is a discussion of the demographic profiles of the participants.

**Table 4.1: Age of Participants**

Participant	Age
Participant 1	49
Participant 2	40
Participant 3	52
Participant 4	69
Participant 5	48
Participant 6	52
Participant 7	47

The above findings illustrate that all participants were above the age of 40 years. The study made use of participants above the age of 40 years as it assumed that they had a better understanding of how virginity testing had to be done. They were fully aware of what needed to be done and what the practice meant to the community.

**Table 4.2: Gender of Participants**

Participant	Gender
Participant 1	Female
Participant 2	Female
Participant 3	Female
Participant 4	Female
Participant 5	Male
Participant 6	Male
Participant 7	Male

Table 4.2 indicates that the majority of the caregivers who participated in the study were women, with fewer male caregivers. The number of females in the study was higher because they were the ones who were knowledgeable about the practice and were the ones actively

conducting the virginity testing; compared to men who only enforced the practice in their homes rather than taking part in the testing themselves.

**Table 4.3: Education Level of Participants**

<b>Participant</b>	<b>Level of Education</b>
Participant 1	Matric
Participant 2	Matric
Participant 3	Standard 5
Participant 4	Standard 6
Participant 5	Grade 1
Participant 6	Grade 2
Participant 7	Standard 8

The data above shows that the participants had some level of education. Three participants did not complete Matric (Grade 12), one completed Standard Five (Grade 7), another completed Standard Six (Grade 8) and another Standard Eight (Grade 10). Two participants managed to complete Matric, and the remaining two participants reached year one (Grade 1) and year two (Grade 2) respectively. The level of education of the participants showed that the participants might not have understood that the girl children’s human rights were being violated with the practice of virginity testing. These participants were not likely to have been exposed to open-minded forms of information or education that would have provided them with a better understanding of human rights.

**Table 4.4: Race of Participants**

<b>Participant</b>	<b>Race</b>
Participant 1	Black
Participant 2	Black
Participant 3	Black
Participant 4	Black
Participant 5	Black
Participant 6	Black
Participant 7	Black

The data above shows that all participants were Blacks. This practice was commonly performed among the Zulu ethnic group, who were mainly from the Black population. It was therefore expected that the participants in this study would belong to the Black population group. Culturally the Zulu ethnic group believed that the practice of virginity testing was not an abuse of the girl children's rights, but rather that it was a norm that they had to continue following. Thus, it would be difficult for the Zulu people to let go of the practice because of it being a generational norm. It could thus be stated that race played a crucial role in the lack of understanding about the fact that the practice violated the girl children's rights. This argument was based on the fact that the Zulu people believed that they did not have to stop practicing their cultural norms, and that this one protected the purity of the girls.

According to Hanzi (2006: 8) parents of girls believed that human rights had no bearing on their children; hence it would be difficult to get them to stop this practise. Also, race may have had an impact on the understanding of the concept of violations of the girl children's human rights, because Black people who took part in this practice believed that culture played an integral part in their society's well-being (Maimela, 2009). They believed that their cultural practices contributed to society's stability and social order; hence Maimela (2009) also believed that it would be difficult to stop the practice.

The demographic information (age, gender, educational level and race) presented above showed that the caregivers were predominantly females over the age of 40 years. Most virginity testing was done by elderly women. Rumsey (2012) stated that virginity testing related to inspecting a girl to determine if she had engaged in sexually activities, and virginity inspectors usually checked for the absence or presence of a girl's hymen. Caregivers viewed the participation of girls in this festival as a means of restoring the dignity of the girl child when she was confirmed to still be a virgin in front of her peers and her elders. According to the Royal Reed Dance Magazine (2004), the "invitation of young maidens to participate in the Reed Dance ceremony [was] accepted with pride and dignity by the family of the young maidens as it symbolise[d] that the maiden [was] still pure and a virgin".

#### **4.4.2 Section B: Main Findings of the Study**

##### ***4.4.2.1 Objective one***

To determine the perceptions of caregivers on the participation of girl children in virginity testing.

After being questioned on whether they thought it was appropriate for a girl child to participate in virginity testing, the participants made the subsequent submissions. Please note that the responses reflected below are written in the words of the participants (their responses were recorded verbatim).

**Table 4.5: Responses to Question One**

<b>In your opinion, is it appropriate for a girl child to participate in virginity testing? Elaborate.</b>	
<b>Participant</b>	<b>Response</b>
<b>Participant 1</b>	Yes. Virginity help protect the girl child from contracting diseases such as HIV and AIDS. Further, the girl's parents gain dignity and pride because of the girl who is sexually pure. Participating in virginity testing allows the girl's <i>lobola</i> to be paid with 11 full cows. But if she is not, one cow will be minus from her <i>lobola</i> . Then as a mother you be disappointed that your cow is drawn back and you will not get it from the person who found your girl when her virginity was already lost. According to the custom, the person who took the girl's virginity must pay a cow to the girl's mother. Due to these reasons a girl must keep her virginity to avoid these problems.
<b>Participant 2</b>	Yes, it is appropriate because as the girl child grows up she must know that in order to be protected from early pregnancy and sexually transmitted diseases she needs to keep herself a virgin. And the only motivation for keeping virginity is participating in virginity testing. If you do not participate in virginity testing you cannot be part of the girls who go in front of King Zwelithini during the <i>Umkhosi WoMhlanga</i> event.
<b>Participant 3</b>	Yes. It encourages the girl to remain a virgin because when she is not a virgin then the test will reveal that she has lost her virginity. When the girl has lost her virginity it is an embarrassment to her parents but when she is still a virgin it is of pride to her and parents as well.
<b>Participant 4</b>	Yes, because when they do it as a group it motivates them to continue keeping their virginity. But if the girl can do it alone she can be demotivated and end up losing her virginity before time. Seeing others do what you do makes you do it to your level best, because you do not want to be defeated

	or experience the stigma experienced by girls who fail to keep their virginity and give it to boys.
<b>Participant 5</b>	Yes. Because I want the full amount of 16 cows when she gets a husband who will pay <i>lobola</i> . If she loses her virginity I will not get these cows, and so it is very important for the girl to undergo virginity testing.
<b>Participant 6</b>	Yes. I want my cows to be perfect for 11. If the girl is not tested, the boys will get her pregnant, leave her with the child and pay no <i>lobola</i> . I have seen many girls getting pregnant at the age of 13... 14. So I do not want to experience that pain experienced by the parents of those girls.
<b>Participant 7</b>	Yes. Firstly, it is cultural; a culture that preserves our girls from early pregnancy, and contracting diseases like HIV and AIDS. It also teaches our girls that no sex should be had before marriage. Again it teaches young girls about the pride of being a virgin.

Participants of the research were asked at what age it was appropriate for girls to participate in virginity testing, and they were requested to provide a reason why they felt that the age they stipulated was appropriate. The ensuing are the submissions made by the participants.

**Table 4.6: Response to Question Two**

<b>Which age do you think is appropriate for a girl child to participate in virginity testing? Motivate your answer.</b>	
<b>Participant</b>	<b>Response</b>
<b>Participant 1</b>	From as young as 10 years a girl can start testing. My child started at this age because I wanted her to learn while she was still young that as parents we are expecting her to remain sexually pure.
<b>Participant 2</b>	At the age of 6 years. The child should know as early as possible so that she will be afraid to start the affair with a boy and also to sleep with a boy. This can also help the child to be able to share with a parent when she is sexually abused because she knows that she must keep her virginity. No one should touch her private part except the testers.
<b>Participant 3</b>	From 10 years it is appropriate, because when she is 16 or 17 it will be impossible to introduce that culture to her because of peer pressure and other social problems. It is better to start early, even before boys start

	noticing her. Nowadays girls get pregnant as early as 12 years while they are still in primary school, so for virginity testing 10 years is perfect.
<b>Participant 4</b>	At the age of 10 to 11 years, before reaching menstruation a girl must start going for virginity testing. You can never send her when she is an adolescent. Adolescence is a difficult stage so it must reach her already undergoing the practise.
<b>Participant 5</b>	Eight years. Because I want her to be groomed as a virgin and grow up with that spirit of virginity, and also you can never allow a child to do as she pleases then later tell her your rules. You must tell the child your rules while she is still young.
<b>Participant 6</b>	10 Ten years, because children begin to have sex at an early age while parents still think they know nothing, and they know more.
<b>Participant 7</b>	For me, 10 years is a perfect age for the girl to start testing. Because of the food children eat nowadays, they eat cheese, eggs etc. Children were not allowed to eat that food back then because it makes them sexually active. So for them to be able to fear having sex they must do virginity testing and start at an early age.

#### ***4.4.2.2 Data analysis and interpretation***

##### **(a) Question one**

Responses regarding whether it was appropriate to carry out virginity testing for girls indicated that all participants believed that it was appropriate. All the participants regarded virginity testing as a cultural method of preserving the dignity of the girl children and their families. Also, the participants believed that virginity tests taught the young girls that they should only engage in sexual activities after marriage and that by not engaging in sex before marriage this maintained the dignity and respect of their families, thereby allowing the parents to receive the full *lobola* or bride price when their daughters got married. In addition, this practice prevented the spread of HIV/AIDS infections. These findings were supported by the results from the study conducted by Blank (2007 in Nnazor and Robinson, 2016), who noted that virginity loss before marriage attracted serious penalties in the African culture, for example dishonour to the family, social rejection, being shunned, a low bride price and failure to find a husband. Thus, the outcomes showed that virginity was an asset in African traditional beliefs. It could be concluded

from submissions made by this study's participants that virginity testing was still an important and respectable practice of benefit to the girl children and their families.

It was, however, fascinating to note that none of the caregivers indicated that the practice could amount to infringing on the rights of the girl children. The caregivers were of the opinion that testing had to be carried out when the children were still young. However, this opinion infringed on the children's rights stipulated in Section 12 (4) of the Children's Act, which outlawed virginity tests on children under the age of 16, and Section 12 (5) which stipulated that children could only participate after giving consent (South Africa, 2005). Hence, by forcing the children to undergo virginity testing the parents took away their right to consent. Children could be tested when they were above the age of 16 years and could understand the implications of these tests being carried out and thus give consent.

**(b) Question two:**

Submissions regarding the appropriate age for virginity testing clearly showed that all participants were of the opinion that virginity testing should be carried out at a very young age. The participants believed that if the girls started participating in virginity testing between the ages of 6 and 12 years they would be able to understand the dangers of having sex early and would grow up knowing that their virginity was something to be protected. However, this contradicted Section 12 (4) of the Children's Act, which prohibited virginity testing for children who were under the age of 16 years. Furthermore, the Children's Act in Section 12 (5) allowed for virginity testing, provided there was consent from the children for the testing (South Africa, 2005). The ages recommended by the participants meant that the girls would not have attained the age of consent yet. In order to give consent, the children had to have an understanding of the nature of the test and such consent had to be given freely and voluntarily. The question that arose was firstly whether a child age six years could appreciate the nature of the testing, and secondly whether such participation at this age would be free and voluntary.

Even though in South Africa cultural practices have been marginalized for a long time (Maimela, 2009), they have been properly recognised since 1994, and they must be addressed in a balanced manner. Therefore, when practicing cultural traditions, Constitutional values must be respected, including the right to human dignity, the realisation of equal opportunities and the improvement of human rights and freedoms. However, as mentioned earlier, the

reappearance of virginity tests as a cultural practice has raised doubts that this is a violation of the assured Constitutional rights of the girl child.

One may argue that carrying out virginity tests on girls who are between the ages of 6 and 12 years is a violation of their rights, which are protected in the Constitution and Section 12 of the Children’s Act (South Africa, 1996; 2005). The girls are marked after the tests have been completed, and these markings differentiate between those who are still virgins and those who are not (Rakubu, 2019). Section 12 (6) of the Children’s Act states that without the child in question’s consent, results of virginity tests may not be published, however when these tests are concluded the children are marked, which is a violation of Section 12 (7) of the Children’s Act which prohibits marking of the bodies of children who have undergone virginity testing. Those who are found to be non-virgins may be victimised by their community because of the markings on their bodies. This practise thus allows for the victimisation and ostracisation of these girls, leaving them traumatised as they can lose opportunities of employment in their community.

**4.4.2.3 Objective two**

To determine whether the participation of the girl children was voluntary.

**4.4.2.4 Data presentation**

The participants were asked if the children participated voluntarily in the virginity testing practice, and secondly, if the children were aware of the ramifications and meaning of the process. The following submissions were made by the participants.

**Table 4.7: Response to Question Three**

<b>Do girl children participate voluntarily in virginity testing?</b>	
<b>Participant</b>	<b>Response</b>
<b>Participant 1</b>	It was my opinion in the first place but now she is the one who tells me when she is going for virginity testing, and I can see she really enjoys the practice.
	Yes because the testers do educate them about it and the importance of undergoing it

<b>Participant 2</b>	Yes. She is very comfortable with the practice; I always hear from her when the testing is due. She will ask for refreshments and the transport fee and I always give her that because I support her with my whole heart.
	At first she was not clear, but when they get there they are always educated about virginity testing and they end up with full understanding of the reasons behind the practice. They are also proud of being virgins; nothing keeps the girl child's pride better than being sexually pure.
<b>Participant 3</b>	The testing was initiated by parents because children are always guided by parents, but now they like it as if it was initiated by them.
	Always when they get to the place of testing they are educated and reminded why they need to do the testing. They even sing songs that explain the beauty of keeping your virginity, and so they end up understanding the whole thing and they end up comfortable with the practice.
<b>Participant 4</b>	After giving an explanation to the child about how virginity testing protects her, she learns and she will definitely see a need to take part in the testing. The truth is, as parents we must take decisions that are the best for our children and sending your child for virginity testing is the best decision ever.
	Through an explanation of how virginity helps, she ends up understanding what it entails. They also understand that virginity testing qualifies them for the big ceremony which is <i>Umkhosi WoMhlanga</i> (Reed Dance). Only virgin girls are allowed to participate in the event. If you have lost your virginity there is no way you can go to the palace for celebrating with other girls.
<b>Participant 5</b>	It is my rule as the head of the family and every girl child in this family will abide by this rule. If one cannot do that then she must pack her bags and move away from my shelter.
	She does not understand and that is why a parent must take that decision, and this is the best decision a parent can take for her girl child. It so painful to see your child pregnant and now you need to support her and her baby too.

<b>Participant 6</b>	It is the parent's decision that the child must participate. The child is not matured enough to take that decision and the parent as caretaker does take that decision.
	At first she does not understand what is happening, but as time goes by she becomes aware what it entails and how it will help her.
<b>Participant 7</b>	I cannot say it is voluntary and I cannot say it is imposed, but what happens is you tell the girl child that you want her to keep her virginity until marriage because you do not want any grandchildren born by a girl in your house, you only want grandchildren when the girl is married. The only way that will help the girl to not get children while still in her maiden surname is to undergo virginity testing, because it will tell when she has started sleeping with boys. And trust me the girls end up enjoying virginity testing. The thing that motivates them most is the Reed Dance ( <i>Umkhosi WoMhlanga</i> ) event. Someone with broken virginity does not become part of the Reed Dance since it is the celebration of virginity.
	They do not know during their first time, but when they get there the testers does educate them what virginity testing entails. As they frequently go for testing they become aware what it entails.

#### ***4.4.2.5 Data analysis and interpretation***

Submissions made by the participants clearly showed that most of the girls who participated in these virginity tests did not consent to participate in the process, as the decision was made for them by their parents. All the participants were in agreement that the decision was made by the parents and the children had no say in it. These sentiments were in contradiction of the views of Sutherland (2014: 55), who claimed that there was a need to listen to children's views, especially if the children illustrated maturity and understanding, because this showed that the children's views were being recognised and the identity of a child as a separate individual was being respected. Furthermore, the participants stated that the girls were not initially aware of the process, but after attending several virginity tests they acquired the necessary knowledge regarding the practice; what it entailed and the benefits derived from the exercise. This can be considered problematic as it is a requirement that the consent of the children be obtained before the practice is performed. If a child does not fully understand the nature and impact of this

practice, how can they give informed consent? This can thus be argued as a violation of many of the child's rights.

Virginity testing, as a cultural tradition, emphasises the diverse nature of the South African society. The Children's Act incorporates the principles of the Constitution and responds to the socio-cultural challenges facing South African children today. Section 12 (1) states that every child has the right not to be subjected to cultural, social and religious practices that are harmful to their welfare. Sections 12 (4) to 12 (7) of the Children's Act, which govern virginity tests, are appropriate to this investigation (South Africa, 2005).

South African law advocates for the operational practice of customary and legal laws. However, this leads to the violation of girl children's rights. The government of South Africa is a party to several Conventions that protect girl children from harmful cultural practices that violate their human rights. It is important to emphasise that while the Constitution allows for the exercise of cultural practices, these practices must be aligned with the principles of the Constitution.

The Constitution in Section 28(2) (Nevondwe, Odeku and Raligilia, 2016) states that the best interests of the child are of utmost importance, and this is reiterated in Section 10 of the Children's Act (South Africa, 2005) which asserts that, "every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration". Nxumalo (2003) also reported on this. However, from the submissions made by the participants, children have no say when it comes to participation as their parents do not seek their consideration or opinions on the matter. Thus these caregivers are violating these children's rights which are enshrined in the Constitution and the Children's Act.

#### ***4.4.2.6 Objective three***

To explore the opinion and view of caregivers on whether the procedure used is appropriate for young girls.

#### 4.4.2.7 Data presentation

The participants were also asked if they knew the procedure for virginity testing and if the methods for virginity testing were appropriate for the young girls. The participants were also asked about their views concerning body markings and if the testers were properly trained to perform the testing. The ensuing submissions were made by the participants.

**Table 4.8: Response to Question Four**

<b>How do caregivers view the procedure for virginity testing: is it appropriate for the young girls?</b>	
<b>Participant</b>	<b>Response</b>
<b>Participant 1</b>	According to me there is nothing wrong with the procedure since it does not cause any harm.
	Body marking is the sign that shows you as a parent that your girl is still a virgin and thus you become proud. When there is a white mark it shows that the girl still has her virginity.
	Yes because they do not touch the hymen. The girl opens the legs herself so that she is not harmed and then the tester checks the hymen - if it is still present or absent.
<b>Participant 2</b>	The procedure is good. There is nothing harmful with lying and opening your legs if you know that no boy or man has touched your vagina. The testers do not look for any things; they just want to check the presence of the virginal membrane that shows if a girl is still a virgin.
	The issue of body marking is very simple: it tells the whole story without hearing from the girl or the tester. I really like that body marking because if the girl is lying that she is still a virgin, then the mark will prove her wrong or right.
	Yes, because no one holds the girl's hands and legs. The girl just lies down on her own, opens her legs and then the tester will look for the virginal membrane. If it is still there she congratulates the girl. If it is not there she shares her disappointment as a tester to that girl concerned.

<b>Participant 3</b>	I have never thought of the procedure as a good or bad thing because I have never heard that the girl feels any pain during the testing. So I can say there is nothing wrong with the procedure, especially if it does not cause any pain to the girl.
	Body marking is the way of exposing results of the testing. When the girl comes home with that white mark you rejoice as a parent and you thank God that your child is still a virgin.
	I think so because they start by doing awareness talks where they educate girls about the importance of keeping their virginity, as well as dangers of giving your virginity to boys.
<b>Participant 4</b>	The procedure for virginity testing is not harmful. The girl just lies on her back, legs up and wide open, then the tester looks for the hymen.
	Body marking is a great idea because you know as a parent that when there is a mark your girl is sexually pure, but with no mark it shows her virginity is gone with boys.
	Yes they are well trained because they do not lie, and as they continually do the testing they are gaining more experience and their skill of testing is strengthened.
<b>Participant 5</b>	It is a good procedure because the testers are female people, they cannot cause any harm to the girls.
	Body marking is also a good thing. It motivates the child to remain a virgin because she knows that once her virginity is broken the truth will come out easily.
	Yes, because most of the testers are the queens, they know very well about virginity testing.
<b>Participant 6</b>	There is no discomfort because both the tester and the girl are female. There is no possibility for rape; the girl opens her legs freely for the tester to examine her.
	Body marking helps the parent to see that her child is still a virgin because as parents we cannot test the girls on our own. So body marking is the only way that helps us to see the results of the test.
	Yes. Testers do not change. They have been practicing it for years and as they do it they gain more and more experience.

<b>Participant 7</b>	There is nothing wrong with the procedure. All I know is the girl lies down with her legs up and then wide open the legs, for the tester to do the examination properly. Also I am saying there is nothing wrong because I have never heard that a girl was hurt during the examination of her virginity.
	Body marking is a motivational factor because when there is no white mark on the forehead the girl will have to face difficulty of explaining why there is no white mark on her forehead. It is the non-verbal sign that tells everyone about the results, without asking from the girl what the results of the examination was.
	I think so because testers do not quit and so they have the experience of this job. As much as they are not getting paid but they love it and do it carefully; they do not hurt girls.

#### ***4.4.2.8 Data analysis and interpretation***

From the participants' submissions, there was consensus that no harm befell the girls during virginity testing. The participants stated that the girls lay on their backs and the testers checked for the presence of a hymen. However, this was an infringement of Article 21 of the African Charter on the Rights and Welfare of the Child, which stated that practices and customs that were prejudicial to children's health should be avoided (OAU, 1994). Although Section 12 of the Children's Act prohibited virginity testing when a girl is below the age of 16 years, research revealed that younger girls were still being evaluated without consequences for those who were carrying out the virginity testing (World Health Organisation, 2018). This study found that even when performed on girls 16 years of age or older (as allowed by the Children's Act), this practice violated several fundamental rights, namely those related to privacy, human dignity and psychological and physical integrity (Olson and García-Moreno, 2017).

Furthermore, Article 5 of the African Charter stated that "no one should be subjected to torture or to cruel, inhuman, or degrading treatment or punishment". This indicated that the girls could not be forced to take part in virginity testing if it posed a risk to their health. Most of these tests were done using unsterilised instruments that could harm the girl children. According to Kunene (2015), virginity testing occurred in conditions that were intimidating and unhealthy. This posed a danger to the health of the girls undergoing these tests as the examinations could lead to infections, STIs and HIV/AIDS because the instruments were not sterilised between

use, and because the practice did not take into consideration the health implications that could arise because of the use of unsterilised equipment and unsanitised hands by those carrying out the tests.

Secondly, the participants all agreed that body markings were a noble idea, as they showed that the girls were still virgins, and that these would act as a motivator for them to remain pure. These views were in contradiction with the provisions in Sections 12 (7) of the Children's Act, which stated that markings on the bodies of children who had taken part in virginity testing was prohibited. The Act further stated that these results were not to be publicised without the consent of the girl children, some of whom were still very young and had not reached an age where they could consent to a practice that they were not aware of (South Africa, 2005). The Commission on Gender Equality (2000) asserted that revealing the virginity status of the girls without their consent was an invasion of their privacy.

Lastly, the participants all agreed that the testers had the experience to carry out these tests because they had carried out many tests; hence they have the knowledge and skill to perform the tests. However, Kunene (2015) claimed that the tests were done in conditions that were unhygienic, they could be frightening, and the tests were at times incorrect. This contradicted to the views of these participants who claimed that the testers were experienced, as they showed no regard for hygiene and there was no mention of these testers having received any medical training. Regardless of the experience these testers had, failure to follow the correct health protocols could lead to the spread of infections, because the testers carried out tests without gloves and disinfectants. The girls faced several possible consequences (vaginal implications) caused by the insertion of unsterilised fingers or equipment that were used in these tests. Also, the respondents stated that body marking improved the motivation to remain as virgins. However, this violated Section 12 (6) of the Children's Act which prohibited marking the bodies of those who had been tested. There was no need to publicise the results of these tests, because this action violated the girl children's rights and resulted in victimisation of those found not to be virgins any longer.

#### ***4.4.2.9 Objective four***

To determine whether caregivers were aware of the legislation regulating virginity testing.

#### 4.4.3.0 Data presentation

The participants were questioned on their understanding of the laws regarding the participation of girls in virginity testing, and if they understood the requirements of the laws. The following submissions were made by the participants.

**Table 4.9: Response to Question Five**

<b>Are the caregivers aware of the legislation relating to girls' participation in virginity testing?</b>	
<b>Participant</b>	<b>Response</b>
<b>Participant 1</b>	For me virginity testing means that the girl must remain sexually pure until she gets married. If she does not get tested then she can start sexual intercourse at any age, but through this practice the girl will fear to have sex because testing will expose her; that she is no longer a virgin. I have my own legislation in my household, and that legislation is a girl child must remain a virgin and that is supervised through virginity testing.
<b>Participant 2</b>	My understanding of virginity testing is to test if virginity is still there in a girl. There is nothing that has to do with legislation. Remember the girl is mine, I do not have to ask permission from legislation to send her for virginity testing.
<b>Participant 3</b>	I have never heard that there is legislation in place regarding virginity testing. I think those who passed that legislation had their own agendas towards the practice but since we send our own children for testing, I don't think we need to explain anything to them.
<b>Participant 4</b>	Virginity testing does not interfere with legislation as it only aims to check virginity, nothing else.
<b>Participant 5</b>	Legislation is for government, not my home. Legislation ruins our culture and we as Blacks need to keep our culture in place.
<b>Participant 6</b>	I do not accept the other man's legislation in my home. Many things have fallen apart because of this legislation! We do not tell those government people how to behave in their homes, so why should they tell us? A real man must rule his family, not interfere with other families.
<b>Participant 7</b>	Virginity testing has nothing to do with legislation. Legislation is always amended but virginity testing does not change. It is done with consistency,

	but with legislation there is no consistency they always change it according to how it suits others.
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#### ***4.4.3.1 Data analysis and interpretation***

Responses from the participants revealed that there was a complete disregard of the legislation. Several of the participants noted that the legislation was only for the government and that it ruined the cultural norms of the community. Other participants felt that the government laws could be amended, but the practice of virginity testing could not be changed. Further, the only law that took precedent when it came to virginity testing was the law of the house. They felt that the parents had the final say and not the government when it came to the participation of their children in this practice. Thus it could be concluded that these participants were aware of the existence of the legislation, but chose not to follow the laws. This was a battle between existing legislation and cultural practices. However, it had to be noted that any ‘law’ or conduct in violation or contradiction of the Constitution was invalid (Olson and García-Moreno, 2017). Thus caregivers who continued with the practice without complying with the legislation were in violation of the law and the Constitution.

The question of who ensured / enforced that Section 12 was implemented in order to protect the rights of children arose? The answer, according to the researcher’s observations and experience, was that children who had undergone virginity testing had not consented in the prescribed manner. Some of them were younger than 16 years of age, and they participated without receiving any counselling. Their bodies were marked with white or red marks as a symbol of their state of purity. This was a clear violation of the children’s right to participate and be heard (South Africa, 2005: Section 12). There was thus no enforcement of the law when it came to virginity testing and instead cultural practice won out, at the expense of these girl children’s rights.

The views of the participants were not consistent with the argument postulated by Maluleke (2012), who argued that virginity testing was a traditional practise that violated international and national human rights laws of children, and this practice continued unabated because individuals viewed it as being moral. Mubangizi (2012: 38) was also of the opinion that the practice violated several rights in the Bill of Rights and it infringed on the right to privacy stipulated in Section 14 of the South African Constitution. Thus, continued participation of girls in this practise was a violation of their rights.

#### 4.4.3.2 Objective five

To analyse whether caregivers complied with legislation.

#### 4.4.3.3 Data presentation

The participants were asked if they complied with the laws that regulated virginity testing. In addition, they were questioned on their knowledge of children's rights with respect to virginity testing. Finally, the participants were asked about the consequences children faced when they refused to participate in virginity testing. The following submissions were made by the participants.

**Table 4.10: Response to Question Six**

<b>Do caregivers comply with legislation regulating virginity testing?</b>	
<b>Participant</b>	<b>Response</b>
<b>Participant 1</b>	Virginity testing is not against the children's rights. It is the traditional practice that was here when those children's rights were not in place. When children's rights came in place they were not meant to remove virginity testing.
	How can she not listen to parental orders? We do not force her but we tell her what are the rules of the household and as a child she must do as parents rule at home.
<b>Participant 2</b>	The testers who conduct virginity testing do communicate with me as a parent and I give my consent that the child must go for testing. There is nothing wrong. I think we are not working against the children's rights but we are in line with it.
	The girl cannot refuse to go for virginity testing when she is still a virgin. If she refuses it means she has lost her virginity and fears that body marking will expose her. My child still goes for testing.
<b>Participant 3</b>	Children's rights come from our government, not us as parents. We do not even know what those rights entail; we just know that government says our children have rights. But even then we will raise our children the way we were raised because it did not harm us, and today we are the wives in our homes because our parents taught us good behaviour.

	Even if she does not want to go in the first place she will not tell that because as a child she must abide by the rules of her parents. A child cannot oppose the rules of her parents.
<b>Participant 4</b>	<p>I do not know about children's rights. I only know about what I want my child to do as she grows up. Even the Bible says we must teach our children what is right, so for me virginity testing is right and it will keep my child safe until the time comes that she finds someone who will marry her, because almost every man wants to marry a girl who is a virgin.</p> <p>She can't say she refuse if she is still maintained by me. She will refuse my orders only when she has her own house, but under my roof no ways!</p>
<b>Participant 5</b>	<p>Children's rights do not apply in my home, they only apply at school and it ends there. No child can tell me about her rights under my shelter.</p> <p>I cannot hear from the child what she wants; the child will do what I want as the father and head of the family.</p>
<b>Participant 6</b>	<p>I do not believe in children's rights. If I can believe in that it means I am not the real man. I cannot give birth to a child, raise her and then tell her that she got a right to disagree to what I say as the head of the family.</p> <p>The child cannot disobey her parents like that. She will definitely go for it whether she likes it or not.</p>
<b>Participant 7</b>	<p>What are those children's rights? What do they do for our children? Nothing other than killing them, telling them to do wrong things just because we cannot beat them since they have rights. In my home I am the head and since I did not approve those children's rights, no one can tell me about them. Those rights must go to hell; they will never oppose my rules as a man in this house. My children know very well that they do not have a say over my rules as their father.</p> <p>There is no way that they can refuse to do that. They know it is a rule they will never disobey. The other thing... I do not ask them if they will do it or not, I just tell them. It is the order they must follow.</p>

#### ***4.4.3.4 Data analysis and interpretation***

Practice was a traditional norm that could not be transcended by any form of children's rights. Some of the participants felt that the rights actually harmed their children more than virginity testing did. Hanzi (2006: 8) noted that culture was the key obstacle to enforcing these rights for the children when it came to virginity testing, because parents disregarded these rights, claiming that they had no bearing on the lives of their children. Furthermore, the participants stated that the children could not refuse to participate in virginity testing as this was an order given by their parents. These views infringed on the children's right to consent or deny consent for the testing. The African Charter on the Rights and Welfare of the Child (ACRWC) stated that "every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws" (OAU, 1994) Article 7). This right was constantly violated by the parents as the children did not have a say in whether they wanted to participate or not. Thus, it could be noted that both parents and testers had no regard for the girl children's human rights. The girl children were forced to participate in a practice that they had not agreed to take part in. These parents stated that their children had to do what they told them to do, and in this instance it meant that they took away their children's right to consent. Some of the participants in this study were parents of girls who were subjected to virginity testing and thus provided responses as parents. Their role in this study was primarily as caregivers under the definition of the Children's Act.

#### **4.5 Thematic Analysis**

In this chapter, the main results of the study exploring the caregivers' perceptions of virginity tests have been discussed. Not a single participant recorded undesirable consequences of virginity tests, and all were positive about their children participating in the virginity testing. After carrying out the in-depth interviews, the researcher was able to obtain information on the perceptions of the participants regarding virginity tests. Many of them were of the belief that virginity testing was a practice that helped prevent their daughters from engaging in premarital sex. According to the participants, these camps for their daughters were not only to test for virginity. They were also an opportunity to learn and share information on how to behave as young women and discussions were held on issues related to sex. Some viewed the camps as platforms for their daughters to meet other maidens and learn good behaviour from them. The participants thus had positive perceptions of virginity testing.

Two major themes arose from the findings of this study, the first related to the perceptions of the participants and the second referred to non-compliance with the law, both national and international. A detailed discussion follows below.

#### **4.5.1 Theme one: Perception of care givers: moral, cultural and health benefits**

Two key topics have been studied in backing virginity tests: the prevention of HIV and AIDS and the need for moral cleansing. Advocates for virginity tests stated that this traditional practice was significant to the ethical values of the communities that practiced the ritual (Olson and Garcia-Moreno, 2017). Virginity tests were viewed as a cultural practice that not only ascertained a girl child's chastity, but also protected a girl child's virginity (Nxumalo, 2003). According to Madlala (2001), several rural women who formed part of the marginalised groups of South Africa believed that virginity tests restored the cultural values of chastity before marriage, pride, self-esteem and modesty. This argument was deemed appropriate because when the girls are aware that their virginity was being monitored and controlled, they abstained from premarital sex. Their abstinence also helped reduce the spread of HIV and AIDS (Nxumalo, 2003). The argument was further advanced by the notion that when it was discovered that girls were no longer virgins, they were shamed and ridiculed. Fear of this shame and ridicule helped control the girls' behaviour. However, the argument also reinforced gender stereotypes. It seemed that the main principles of virginity testing related to the preservation of a culture that embraced chastity before getting married. Women were expected to preserve themselves for their husbands.

Gender stereotyping relates to the cultural and social construction of women and men because of their biological, physical, sexual differences, and social functions. In substance, gender stereotyping is a kind of genre; a genetic model which relates to "structured acts of beliefs about the personal attributes of men and women" (Coetzee, 2013:97). These "gender stereotypes" could lead to customs that were discriminatory and compromised the major freedoms and rights of women.

In general, virginity tests tended to emphasise abstinence before marriage for girls, which emphasised the importance of sex education for them (Coetzee, 2013). This represented a serious challenge, in the sense that it sent the wrong message that virginity tests would always guarantee sexual abstinence before marriage. However, the truth was that, unless girls were taught the importance of sex education and received such education, they were unlikely to take

control of their bodies and make informed decisions about their sexual behaviour (Maimela, 2009). In addition, there were reports of corruption and inappropriate behaviour among the evaluators. For example, there had been situations in which girls were certified as virgins had given birth a few months later (George, 2008). Therefore, the reliability of the process was questionable and reinforced the notion that the practice was not free from corruption or manipulation.

The second hypothetical virginity testing justification, which somewhat connected to the first justification, argued that virginity testing helped reduce the spread of HIV and AIDS. Advocates for virginity testing argued that frequent inspection of the chastity of young girls would make them refrain from sexual activities, thereby avoiding contracting sexually transmitted diseases and HIV (Maimela, 2009). The government of Swaziland cited this argument in 2001 when it restored the practice. King Mswati III contended that the country was faced with a high incidence of HIV infection; hence there was a need for abstinence and virginity testing before marriage in order to combat the spread of HIV and AIDS (Board of Education and Information on Sexuality of the United States, 2005).

Evidently though, virginity testing was not considered a civil custom and those who took part in it were not liberals, to the point that by continuing to participate in the practice they ran the risk of excluding participants, at least temporarily, of citizenship through criminalization (Vincent, 2006). Here one was presented with a moral narrative in which the supposed proponent of progress was harmful.

The practice of virginity testing signified that the people had lost their morality, culture, personal integrity and family life. With regards to HIV/AIDS, history could realistically take the view that this disease was a warning that life itself was susceptible to this loss. This counter-narrative supporting the return of the cultural practice took the indigenous population back to its cultural roots so that it could counteract and overcome these losses, and become renewed. This return remedied the problems brought about by colonialism and its forced forms gave the people back their integrity (Rakubu, 2019). The restoration of the virginity testing practice was categorised in this description as being part of a larger movement aimed at the restoration of the "indigenous knowledge systems" inhibited during the apartheid era (Gordon, 2015).

Thus, it was noted that virginity testing was harmful to those who were found to be non-virgins because these girl children had to face the wrath of their parents and explain why they were no longer virgins. Exposure led to their possible victimisation and abuse by the community (Blank, 2007) and the possibility of them being viewed as social outcasts, with some perhaps even being forced into prostitution as a result. Therefore, despite the testing being a cultural practice, there was a need to protect those who failed to test as virgins so that they did not face any form of discrimination in their community.

#### **4.5.2 Theme two: Compliance with the law**

During the interviews Participant Three showed a lot of enthusiasm in the way she answered the questions. The participant was also proud of the practice and noted that the process educated their children so that they came to know about the dangers associated with engaging in early sex before marriage. The participants were of the opinion that by marrying their girl children off as virgins they would be able to get the highest price for them in the form of *lobola*, hence the need to preserve their virginity, which could only be monitored by their daughters taking part in virginity testing ceremonies.

Furthermore, Participant Six was unconcerned about children's rights, stating that he did not believe in them. He further implied that while his child was living under his roof she was going to be forced to participate in the Reed Dance, so that she did not bring shame to herself, her parents or her family. This opinion by the participant was a complete violation of his child's rights and the laws governing her rights (UN, 1989; OAU, 1990; South Africa, 1996; 2005). One could note that those who opposed this harmful practice of virginity testing were of the opinion that the practice was a contravention of the rights of the girl child, however, one could also note that the submissions by the participants regarding their beliefs were sustained by their right to culture and religion, as enshrined in the Constitution (South Africa, 1996).

By the end of their interview, Participant Four enquired of the interviewer whether the discussion was viable. The interviewer gave her a reply, supported by legislation on how the practice was in a way violating the rights of the children. The interviewee wanted clarity on how a traditional norm could be deemed to be infringing on children's rights, and the interviewer gave the interviewee a general perspective of what the law said. Submissions from the participants showed that they were of the opinion that virginity testing had to be carried out when the girl children were still young so that they came to learn what was expected of them

in terms of behaviour from a young age. Some participants felt that the testing had to start when the girls were between the ages of six and twelve years. The participants for the most part also stated that they as parents made the decision to undergo testing on their children's behalves, with some indicating that their children did consent to participation in virginity testing. Furthermore, submissions from the participants confirmed that the girls were marked to differentiate between virgins and non-virgins after the virginity tests had been conducted; a practice viewed to be prejudicial to some girls because of the stigma that followed them if they are found to be non-virgins, and therefore a violation of their Constitutional rights (South Africa, 2005).

#### **4.6 Conclusion**

The chapter presented the findings of the study regarding the issues that arose from the interviews. An analysis was presented after each presentation. The ensuing chapter will conclude the study by presenting a summary of the study, together with recommendations.

## **CHAPTER 5**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **5.1 Introduction**

This is the concluding chapter in the study and it will provide a summary of the dissertation and then present recommendations for strengthening calls for the abolishment of virginity testing, recommendations for policy makers and for the need to raise awareness, and then recommendations for future research. The chapter concludes with the study's summary.

#### **5.2 Summary of the Dissertation**

The dissertation traced the history and origins of virginity testing, which was historically connected with the idea that the parents of a girl child wanted and could receive a large bride price if their daughter was a virgin at the time of her marriage. However, the study noted that the advent of industrialisation and urbanisation led to the death of the practice and it only resurrected in the 1990s. Virginity testing has also been utilised as a custom for re-energising the fight against the social ill of HIV/AIDS. Furthermore, the study identified and briefly outlined the international, regional and local instruments that focus on the practice of virginity testing. The common thread within these instruments was the fact that virginity testing was a dangerous traditional practice.

The Committee of the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) (UN, 1995), and the International Law on Women's Rights, have clearly criticised the legalisation of virginity tests, seen in Article 12 of the Children's Act (South Africa, 2005). Their strongest recommendation was that virginity testing should definitely not be allowed because it was a practice that discriminated against girls based on gender and could not be justified as a culture. It turned out to be an affront to numerous rights provided for in international and national laws. Also, it was not in the children's best interests, as their consent was not really considered. Although it can be described as culture, which is a Constitutionally rooted right in terms of Sections 30 and 31, it cannot be practiced, as it violates some of the rights in the Bill of Rights (South Africa, 2005).

The study noted that caregivers were of the opinion that virginity testing was a practice that was appropriate for girl children. Caregivers perceived that the practice was meant to teach girls about the preservation of their dignity, and they were also of the opinion that the practice

had to begin when the girls were still young. However, these opinions were in violation of Section 12 (4) of the Children's Act which outlawed virginity testing for children who were below the age of 16 without their consent, as stipulated in Section 12 (5) of the Children's Act (South Africa, 2005).

With regards to the voluntary participation of girls in virginity testing, the study noted that the children had no say as this decision was made for them by their parents. This highlighted the fact in most instances the children did not consent when it came to participation, because participation was a law set down by their parents, and their refusal would mean that they had undermined the authority of their parents. Furthermore, results from the study showed that caregivers were of the opinion that virginity testing was not harmful as the girls did not have their legs forced open and the testers merely inspected their hymens, however, most of these tests were done in unhealthy environments. Article 21 of the African Charter on the Rights and Welfare of the Child (OAU, 1990) was violated, because the practice was prejudicial to the children's health. Caregivers also showed that they had a disregard for the law, because they believed that their customary practices were above any legislative statutes.

### **5.3 Recommendations**

#### **5.3.1 Strengthening the abolishment of virginity testing**

South Africa has existing legislation that focuses on protecting the physiological and psychological bodies of children and women specifically, since they are the more vulnerable groups in society. The existing pieces of legislation may be interpreted widely to contribute to the outlawing of virginity testing as a harmful cultural practice. Relevant legislation that may be used includes the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA) (South Africa, 2000), and the Criminal Law (Sexual Offences and Related Matters) Act (Sexual Offences Act) (South Africa, 2007). Virginity testing as argued by the study is an act of unfair discrimination and it falls under section 8 of PEPUDA, which not only prohibits unfair discrimination against the girl child, but also puts specific prohibitions on gender based violence (Rakubu, 2019). Since PEPUDA provides prosecution for unfair discrimination in the Equality Courts, individuals who carry out virginity testing on girls, without their consent, must be brought before the courts for prosecution. The new laws on the eradication of virginity tests, as described above, can be strengthened and implemented by players inside and outside the legal system.

### **5.3.2 Recommendations for policy makers**

It has been determined from the collected data that the participants in this study were aware of the existence of legislation that regulates the practice of virginity. The problem, however, is the disregard for the legislation. This therefore makes the implementation of the legislation problematic and a serious concern. This implies that the rights of the girl child are restricted and at times completely denied. Policies must be reviewed and harmonised with existing laws that regulate virginity testing. The law prohibits the practice of testing of virginity in children younger than 16 years of age. The synchronisation of the laws on the protection of the girl child with the regulations of virginity testing is recommended. The study recommends that the government enforces laws that will contribute to the outlawing of virginity testing as a harmful cultural practice. This will be achieved by arresting any individuals that carry out vaginal inspection of girls who are under the age of 16 years, as this is a violation of Section 12 (4) of the Children's Act. In South Africa, there is legislation that focuses on the specific protection of the psychological and physiological bodies of children and women, since these two groups have and continue to be the most marginalised and vulnerable in society.

Section 16 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 penalises the sexual violation of a child, regardless of consent to the act. The study has already established that the virginity testing is being performed on children younger than 12 years of age, and even where the children are older; their consent is often the result of one or other pressure. The law on sexual crimes can be extended to the cultural practice of virginity tests, in that evaluators may be prosecuted in accordance with its provisions. In an incident where it is suspected that a girl or a young woman is at risk of undergoing virginity tests, protection systems with identification, reports, references and support should work together to avoid upcoming virginity tests.

Protection orders can be issued on the basis of national legislation already in force. When the test has already been performed, it can be treated as a crime and the perpetrator prosecuted according to the Children's Act 38 of 2005 or current legislation on sexual violence. These protection orders will allow the girl children to have some form of protection as their parents will be bound by law not to force them to participate in a practice that they have not consented to. Thus it is recommended that better implementation strategies be considered by policy makers.

### **5.3.3 The need to raise awareness**

The Departments of Education and Social Development should come up with a strategy to ensure that primary and high school students know their rights on virginity testing. In addition, the communities need to be made aware of the rights of the girl children, the law on virginity testing and the implications of non-compliance. Thus it is submitted that while there is existing legislation that offers guidance on how to perform the practice and guarantee the safeguarding of the rights of the children, the application of such legislation is problematic and children's rights continue to be violated day in and day out while there is legislation in place protecting them.

Also, it is recommended that the Department of Education create educational programmes in schools that teach girls about virginity testing. Furthermore, the government ought to devise facilities that train these testers in conducting healthy tests, so as to reduce the spread of infections. Monitoring systems should be created which will allow health professionals to assist the testers to conduct virginity testing in healthy environments. In addition, there is a need for proper interpretation of the law to the parents, regarding the violation of their girl children's rights. Parents need to be taught that according to the law, their child has the right to consent or refuse the synchronize practice, hence there is a need to find a balance between the cultural relevance of the practice and the statutes that govern girl children' rights.

### **5.4 The Need for Future Research**

Future research should look at a Constitutional and comparative analysis of how this issue is treated in other countries to come up with clear mechanisms on how to end this practice.

### **5.5 Conclusion**

This study contributes to the dialogue about the test for virginity by presenting the perceptions and opinions of the care givers of girl children subjected to testing. Participants used their experiences as part of the reality they described. Participants' perceptions generally varied from what could be considered as Western feminist ideals and those based on science. The important thing here was the belief of the participants that girls should delay their sexual debut. The value and protective role of care givers is backed by a cultural perspective; however, it is necessary to assess the extent to which this traditional practice is beneficial for HIV prevention in young women.

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## **Case Law**

*S v Makwanyane 1995 (3) SA 391*

*S v M 2008 (3) SA 232 (CC)*

*Miguel Castro Castro Prison v Peru*



**UNIVERSITY OF  
KWAZULU-NATAL**  
**INYUVESI  
YAKWAZULU-NATALI**

**COLLEGE OF HUMANITIES**

**MASTERS/PHD RESEARCH PROPOSAL AND ETHICAL CLEARANCE APPLICATION  
(HUMAN AND SOCIAL SCIENCES)**

**PLEASE NOTE THAT THE FORM MUST BE COMPLETED IN TYPED SCRIPT. HANDWRITTEN  
APPLICATIONS WILL NOT BE CONSIDERED**

**SECTION 1: PERSONAL DETAILS**

- 1.1 Surname of Applicant : Mchunu  
1.2 First names of applicant : Fikile Ruth  
1.3 Title (Ms/ Mr/ Mrs/ Dr/ Professor etc) : Mrs  
1.4 Applicant's gender : Female  
1.5 Applicant's Race : African  
1.6 Student Number (where applicable) : 217077649  
Staff Number (where applicable) : N/A  
1.7 School : University of KwaZulu Natal  
1.8 College : College of Law and Man Studies  
1.9 Campus : Howard College  
1.10 Existing Qualifications : Bachelor of Social work  
1.11 Proposed Qualification for Project : Masters in Child care and Protection (LLM)  
(In the case of research for degree purposes)

**2. Contact Details**

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**3. SUPERVISOR/ PROJECT LEADER DETAILS**

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## **SECTION 2: PROJECT DESCRIPTION**

### **2.1 Project title**

The perceptions of caregivers regarding a child's participation in Umkhosi woMhlanga (Reed Dance) in the Nongoma district.

### **2.2 Location of the study**

The study will be piloted in Nongoma District. Nongoma is one of five local municipalities that make up the Zululand District and is located in the east of the Zululand District Municipality (ZDM). The Nongoma Municipality covers an area of approximately 2,184 km<sup>2</sup> and is second largest in terms of area in the ZDM.

The area is made up of 21 wards and has 42 councilors. Nongoma is popularly known as the seat of the Zulu monarch. It is predominantly a rural municipality. The level of education is low and there is a high reliance of government grants. Culture is mostly practiced since Nongoma is the home of King Goodwill Zwelithini. Annually in September thousands of young girls attend the reed dance festival at Nyokeni palace. The palace is situated in Usuthu locality and this is the specific locality where the study will be conducted. There are three Traditional Councils in Nongoma which are Usuthu, Matheni and Mandlakazi Traditional Council and there are 363 settlements, only one of which (Nongoma) has some urban characteristics whilst 98.34% of the population lives in rural areas.

### **2.3 Objectives of and need for the study**

Umkhosi woMhlanga is the cultural celebration of a young girl's virginity and it aims to encourage the girl child to abstain from sexual activity until they get married. Since it is a celebration of virginity it means a girl child shall preserve being a virgin and this is confirmed through undergoing the practice of virginity testing. It is practiced among others by the Zulu ethnic group who live mainly in the province of KwaZulu Natal. The girls who participate must be certified virgins. Caregivers view Umkhosi Womhlanga with the perception of restoring the dignity of the virgin girl child and thus encourage girl children to participate in the event from the very early stage of development. Girls as young as six years are subjected to invasive inspections of their genitals in order to determine if they have had sex or not, and leaders then publicise the girls' sexual "statuses" within the community. However, section 12 of the Children's Act provides that "Virginity testing is prohibited from children younger than 16 years old. The Children's Act further states that the results of the virginity test may not be disclosed without the consent of the child". The Commission on the Gender equality (CGE) describes virginity testing as an act that is discriminatory, unlawful, lacks privacy, unfair and violates the dignity as well as rights of young girls. In

addition, it is reported that virginity testing often takes place in unhygienic conditions that are sometimes intimidating, and the tests are inaccurate.

The problem or the driving force behind the study is the issue of participation. The researcher aims to determine whether caregivers involve the girl child in taking the decision to participate in virginity testing; and how do they (caregivers) perceive participation of the girls in virginity testing. Secondly, this study aims to address the issue of girl child younger than 16 years participating in virginity testing.

### **2.3 Objectives**

- 2.3.1 To determine the perceptions of caregivers on the participation of the girl child in virginity testing.
- 2.3.2 To determine whether the participation of the girl child is voluntary.
- 2.3.3 To explore the opinion and view of caregivers on whether the procedure used is appropriate to young girls
- 2.3.4 To determine whether caregivers are aware of legislation regulating virginity testing.
- 2.3.5 To analyse whether caregivers comply with legislation.

### **2.4 Questions to be answered in the research**

- 2.4.1. What are the perceptions of caregivers regarding the participation of the girl child in virginity testing?
- 2.4.2. Do girl children participate voluntarily in virginity testing?
- 2.4.3. How do caregivers view the procedure for virginity testing; is it appropriate to the young girls?
- 2.4.4. Are caregivers aware of the legislation relating to girls participation in virginity testing?
- 2.4.5. Do caregivers comply with legislation regulating virginity testing?

### **2.5 Research approach/ methods**

The research employed a qualitative method. The motive behind using qualitative method is because it is exploratory, thus it goes deeper into the issues of interest. Qualitative research helps the researcher to explore, describe, and interpret the personal and social experiences of the research participants. (Cresswell 1994). Creswell (2009) further emphasise that qualitative approach allows the researcher to produce data that is holistic, contextual, descriptive and in-depth.

The study will be largely exploratory and less descriptive because the researcher will explore from caregivers; what their perception of child participation in virginity testing is? The researcher will seek to

find more information from the participants by probing with open ended questions which will allow the participants to share descriptive information.

### **2.5.1 Location of the study**

The study will be undertaken in Usuthu locality under Usuthu traditional council as mentioned earlier on that Nongoma has three traditional councils. This locality is the domain of virginity testing and this is due to Nyokeni palace located here also. Nyokeni palace is where the annual reed dance ceremony takes place. This ceremony does not rotate to other palaces, but there are four other palaces in different localities. Virginity testing is also practised in other localities in the 21 wards of Nongoma district but it is dominating in Usuthu locality. It will be much easier for the researcher to reach the sample size in Usuthu locality.

### **2.5.2 Target population**

Van Rensburg et al (2010) argue that “a population can be defined as the entire group of persons or set of objects and events the researcher wants to study”. Population is the whole group of people in which the researcher is interested to do her study but due to time and money limitations the researcher cannot include the whole population in the study and thus the researcher will draw a sample.

### **2.5.3 Sampling method**

There are two types of sampling methods that exist in research, namely probability and non-probability sampling. The former is more likely to render a sample representative of the population under study (Rubin & Babbie 1997). According to Du plooy-Cilliers (2014: 135) “a sample is a subset of a population that is considered to be representative of the population”. The researcher will draw the sample from the caregivers of girl children who participate in virginity testing. When selecting the research participants the gender will be represented by selecting both male and female caregivers, this is due to the fact that some male caregivers send their children to participate in virginity testing. The sample will be drawn from the caregivers residing at Nyokeni locality.

Under non-probability sampling method, the sampling technique to be used is purposive sampling and snowball sampling. According to van Rensburg (2010:162), “purposive sampling is when the researcher selects a sample that can be judged to be representative of the total”. Marshall (1996) claims that “purposive sampling is when the researcher actively selects the most productive sample to answer the research question”. In this study the researcher will use purposive sampling to select only the caregivers

with children who participated in Umkhosi woMhlanga as participants; this will assist the researcher to get rich information.

After purposive sampling snowball sampling will be used until the required sample size of 20 has been attained. "A sampling procedure may be defined as snowball sampling when the researcher accesses informants through contact information that is provided by other informants. This process is, by necessity, repetitive: informants refer the researcher to other informants, who are contacted by the researcher and then refer her or him to yet other informants, and so on." Noy (2008). Consistent to this theory the researcher will engage snowball sampling since the researcher is not the resident of Nyokeni locality it will not be easy to know all caregivers of the girl child participating in virginity testing and attend Umkhosi woMhlanga ceremony. The researcher will first ask for a known caregiver of the known former participant of the Umkhosi woMhlanga ceremony. Then after establishing one snowball sampling comes into play based on referrals one participant will refer the researcher to another participant since the participants know each other. The referrals will be repeated until the sample size is achieved by the researcher. Data will be analysed through the thematic analysis; this also is the type of qualitative data analysis. It is most relevant to the study which seeks to discover using the interpretations. It gives the researcher the chance to understand the potential of the issue more broadly.

Namey et al (2008) argue that "Thematic moves beyond counting explicit words or phrases and focus on identifying and describing both implicit and explicit ideas. Codes developed for ideas or themes are then applied or linked to raw data as summary markers for later analysis, which may include comparing the relative frequencies of themes or topics within a data set, looking for code co-occurrence, or graphically displaying code relationships." The researcher will use thematic analysis as it will assist the researcher to get rich, detailed and complex data from the research participants.

#### **2.5.4 Sample size**

Marshall et al (2013) argue that "There are no rules for sample size in qualitative inquiry. Sample size depends on what you want to know, the purpose of the inquiry, what's at stake, what will be useful, what will have credibility, and what can be done with available time and resources".

Gentles et al (2015) claims that "smaller samples are used in qualitative research, and this is because the general aim of sampling in qualitative research is to acquire information that is useful for understanding the complexity, depth, variation, or context surrounding a phenomenon, rather than to represent populations as in quantitative research". In line with the quoted academics the researcher will

draw a sample of twenty (20) caregivers from the Nyokeni locality. The research instrument to be used to collect data from the sample is to conduct interviews.

### **2.5.5 Data analysis**

During this stage the researcher takes care to build the reality of the interviewees. The analysis is a reflection process where the "researcher expands the data beyond the narrative" (Dicks et al, 2005) and develops changes according to the results (Dey, 1993). To start this process some authors make relevant recommendations: Hernández (2003), proposes that all materials be reviewed before any start; label them, organize them and classify them. Ratcliff (2002) considers that the development will have optimal results if one works from codes, categories and subcategories; these should be checked and linked to the topics as the investigation progresses.

The study is also going to review already published content. The first task of a researcher is to know the documentation about the problem under study; therefore, a basic phase in all research is the analysis of documents related to the subject (Elo - & Kyngäs, 2008). Legislation related to the study will be reviewed and submissions by the participants will be analysed in relation to the reviewed legislation. Its classification, however, is difficult given its abundance and heterogeneity, so we can highlight:

### **2.5.6 Ethical Considerations**

According to Strydom (2002) ethical considerations refer to," the undertaking by an individual to respect the specific ethical values governing a particular profession, trade or industry". The current researcher will observe the maximum probable safety measure and respect of facts and activities which ensure the safety, humane treatment and which safeguards freedom on the part of the study participants. The researcher will apply for an ethical clearance certificate through the Ethics Committee of the University of KwaZulu Natal and after receiving the certificate the study will be conducted and the following ethical considerations will be observed;

### **2.5.6.1 Voluntary participation**

The researcher will observe the principle of voluntary participation which entails that, “no participant under whatever circumstance will be forced to participate in the research”. The Australian Law Reform Commission (ALRC) refers to voluntary participation as “the conscious willingness of respondents at every stage of the research process. Emphasis is put on the aspect of every stage of the process since participants need not only agree to enter the study but also to stay in the study”.

### **2.5.6.2 Informed consent**

The ALRC (undated) refers to informed consent as, “the researcher’s efforts to inform research respondents of the possible consequences, risks and benefits of the study before engaging them into the study including that at any point, they can choose to discontinue with the study and no explanation will be sought from them. In this study, this process will be done verbally”.

### **2.5.6.3 Confidentiality**

Schi and Tao (2008) discussed in depth the confidentiality principle. An important aspect as per their discussion is the issue of relativity of confidentiality. According to them this refers to “the fact that whilst respondents’ personal names may not be published yet their collective contributions to the study form the larger part of the findings of a study without implicating them in any way. The researcher will explain to the participants how confidentiality would be handled in the study including that they could either opt out of the study or seek clarity where they feel the confidentiality of their responses and/or identity would be compromised”.

## 2.6 Proposed work plan

STEPS	DATES
Approval of Research proposal by Supervisor	May 2018
Approval of Research proposal by Ethics Committee	March 2019
Submission of Research Chapter 1	March 2019
Submission of Research Chapter 2	April 2019
Submission of Research Chapter 3	May 2019
Submission of Research Chapter 4	June 2019
Submission of Research Chapter 5	July 2019
Corrections and final submission	August 2019

## SECTION 3: ETHICAL ISSUES

The UKZN Research Ethics Policy applies to all members of staff, graduate and undergraduate students who are involved in research on or off the campuses of University of KwaZulu-Natal. In addition, any person not affiliated with UKZN who wishes to conduct research with UKZN students and / or staff is bound by the same ethics framework. Each member of the University community is responsible for implementing this Policy in relation to scholarly work with which she or he is associated and to avoid any activity which might be considered to be in violation of this Policy.

All students and members of staff must familiarize themselves with, AND sign an undertaking to comply with, the University's "Code of Conduct for Research".

### QUESTION 3.1

Does your study cover research involving:	YES	NO	MAYBE / UNKNOWN
Children		X	
Persons who are intellectually or mentally impaired		X	
Persons who have experienced traumatic or stressful life circumstances		X	
Persons who are HIV positive		X	
Persons highly dependent on medical care		X	
Persons in dependent or unequal relationships		x	
Persons in captivity		X	
Persons living in particularly vulnerable life circumstances		X	

If "Yes", indicate what measures you will take to protect the autonomy of respondents and (where indicated) to prevent social stigmatization and/or secondary victimisation of respondents. If you are unsure about any of these concepts, please consult your supervisor / project leader

### QUESTION 3.2

Will data collection involve any of the following:	YES	NO
Access to confidential information without prior consent of participants		X
Participants being required to commit an act which might diminish self-respect or cause them to experience shame, embarrassment, or regret		X
Participants being exposed to questions which may be experienced as stressful or upsetting, or to procedures which may have unpleasant or harmful side effects		X
The use of stimuli, tasks or procedures which may be experienced as stressful, noxious, or unpleasant		X
Any form of deception		x

If "Yes", explain and justify. If appropriate, indicate what steps will be taken to minimize any potential stress/harm.

**QUESTION 3.3**

<b>Will any of the following instruments be used for purposes of data collection:</b>	<b>YES</b>	<b>NO</b>
Questionnaire		x
Survey schedule		X
Interview schedule	X	
Psychometric test		X
Other/ equivalent assessment instrument		X

If "Yes", attach copy of research instrument. If data collection involves the use of a psychometric test or equivalent assessment instrument, you are required to provide evidence here that the measure is likely to provide a valid, reliable, and unbiased estimate of the construct being measured. If data collection involves interviews and/or focus groups, please provide a list of the topics to be covered/ kinds of questions to be asked.

**QUESTION 3.4**

<b>Will the autonomy of participants be protected through the use of an informed consent form, which specifies (in language that respondents will understand):</b>	<b>YES</b>	<b>NO</b>
The nature and purpose/s of the research	x	
The identity and institutional association of the researcher and supervisor/project leader and their contact details	X	
The fact that participation is voluntary	X	
That responses will be treated in a confidential manner	x	
Any limits on confidentiality which may apply	X	
That anonymity will be ensured where appropriate (e.g. coded/ disguised names of participants/ respondents/ institutions)	x	
The fact that participants are free to withdraw from the research at any time without any negative or undesirable consequences to themselves	x	
The nature and limits of any benefits participants may receive as a result of their participation in the research	X	

Is a copy of the informed consent form attached?	x	
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If NO to any of the above: (a) please justify/explain, and (b) indicate what measures will be adopted to ensure that the respondents fully understand the nature of the research and the consent that they are giving.

### QUESTION 3.5

**Specify what efforts have been made or will be made to obtain informed permission for the research from appropriate authorities and gate-keepers?**

The letter to a Community leader (Induna) and the Ward Councilor requesting permission to conduct the study in their area as gatekeepers of the locality have been written. The letter explains all the details of the researcher as well as the details of the study itself.

It is also clarified in the letter that the study is voluntary, participants are allowed to withdraw at any time

Without giving any reasons for withdrawal, Confidentiality is retained and the names of participants will not be revealed.

### QUESTION 3.6

**STORAGE AND DISPOSAL OF RESEARCH DATA:**

**Please note that the research data should be kept for a minimum period of at least five years in a secure location by arrangement with your supervisor.**

**How will the research data be secured and stored? When and how (if at all) will data be disposed of?**

The data will be stored electronically and the researcher will ensure adequate arrangements for the back-up. The primary data will be stored in the school in which the project is based for ensuring safety and integrity.

The data will be retained by the University and will be destroyed after 5 years

**QUESTION 3.7**

**In the subsequent dissemination of your research findings – in the form of the finished thesis, oral presentations, publication etc. – how will anonymity/ confidentiality be protected?  
How will you give feedback to your research participants?**

The participants will be informed that the final research report will be made available to the University of KwaZulu Natal. The data will be kept confidential before publication. No real names of participants will be used in the research report. Participants will be reported as Caregiver 1, Caregiver 2 up to the last caregiver of the sample.

**QUESTION 3.8**

<b>Is this research supported by funding that is likely to inform or impact in any way on the design, outcome and dissemination of the research?</b>	<b>YES</b>	<b>NO</b> <b>X</b>
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**If yes, this needs to be explained and justified.**

**If yes, please indicate what the conditions are.**

**QUESTION 3.10**

**Do you, or any individual associated with or responsible for the design of the research, have any personal, economic, or financial interests (or any other potential conflict of interests) that could reasonably be regarded as relevant to this research project?**

**YES NO X**

**If you answered YES to Question 3.10 please provide full details:**

## CHECK SHEET FOR APPLICATION

### PLEASE TICK

1. Form has been fully completed and all questions have been answered	X
2. Questionnaire attached (where applicable)	
3. Informed consent document attached (where applicable)	X
4. Approval from relevant authorities obtained (and attached) where research involves the utilisation of space, data and/or facilities at other institutions/organisations	X
5. Signature of Supervisor / project leader	X
6. Application forwarded to School Research Committee for recommendation and transmission to the Research Office	

**SECTION 4: FORMALISATION OF THE APPLICATION**

**APPLICANT**

I have familiarised myself with the University's Code of Conduct for Research and undertake to comply with it. The information supplied above is correct to the best of my knowledge.

**NB: PLEASE ENSURE THAT THE ATTACHED CHECK SHEET IS COMPLETED**

DATE: 11 June 2018      SIGNATURE OF APPLICANT: F.R Mchunu

**SUPERVISOR/PROJECT LEADER/DISCIPLINE ACADEMIC LEADER**

**NB: PLEASE ENSURE THAT THE APPLICANT HAS COMPLETED THE ATTACHED CHECK SHEET AND THAT THE FORM IS FORWARDED TO YOUR SCHOOL RESEARCH COMMITTEE FOR FURTHER ATTENTION**

DATE: .....

SIGNATURE OF SUPERVISOR/ PROJECT LEADER/DISCIPLINE LEADER

\_\_\_\_\_

**RECOMMENDATION OF SCHOOL RESEARCH ETHICS COMMITTEE/HIGHER DEGREES COMMITTEE**

The application is (please tick):

<input type="checkbox"/>	Recommended and referred to the Human and Social Sciences Ethics Committee for further consideration
<input type="checkbox"/>	Not Approved, referred back for revision and resubmission
<input type="checkbox"/>	Other: please specify:

**NAME OF CHAIRPERSON:**

Name \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

DATE .....

**RECOMMENDATION OF UNIVERSITY RESEARCH ETHICS COMMITTEE (HUMAN AND SOCIAL SCIENCES)**

**NAME OF CHAIRPERSON:** \_\_\_\_\_ **SIGNATURE** \_\_\_\_\_

DATE.....