Virginity Testing in Zimbabwe: Preserving Cultural Moral Values or a Violation of Women's Rights?

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Abstract: **Virginity testing of young women has been one of the most controversial and sensitive subjects in Zimbabwe. On one hand, proponents of African cultural practices view virginity testing as a stop gap measure to preserve societal moral and cultural values especially for teenage girls, whilst on the other hand exponents are of the view that the practice is a wanton violation of women's and children's rights. The aim of this paper was to examine the general perception with regards to the practice of virginity testing of teenage girls. To achieve this, data were gathered from existing sources of literature using the secondary data analysis. The findings of the study revealed that virginity testing has been practised over the years in Zimbabwe as societies claimed that it preserves their identity and culture, and that it is also a strategy of combating the spread of HIV/AIDS and other sexually transmitted infections (STIs). Furthermore, the study established that the practice is heavily criticised by the civil society organisations who argued that it violates girls and young women's rights and deprives them of the power and control over their bodies and sexuality. Thus, the study recommends traditional institutions to follow the laws of the land and protect the rights of young women and girls from abuse by families, religious and ethnic groups.**

Key words: **Virginity testing, culture, women's rights, sexuality.**

I. INTRODUCTION TO THE STUDY

Virginity testing is considered to be both a practice and a process of inspecting the genitalia of unmarried girls and women to determine if they are sexually chaste (Chisale & Moyo, 2016; Thobejani & Mdhluli, 2015; Madlala, 2001). There are several ways of testing the virginity of girls and these include the physical inspection of the inner side of the vagina with the eye, the insertion of fingers into the vagina while others make use of sponges which are marked with lines where the sponge should penetrate the vagina up to a certain point if the girl is a virgin (Durojaye, 2016; Thabethe, 2008). It has also been noted that in the absence of sponges, eggs and leaves are used to test the virginity of girls (Women's UN Report, 2006; Thabethe, 2008). In Zimbabwe, the cultural practice of virginity testing among girls and young women has been around for years and can be traced back to the pre-colonial times. In recent years, the practise has been common particularly among some of the marginalised rural women and ethnic groups such as the Valemba also known as Varemba people in Mberengwa, Masvingo, Gokwe, Hurungwe and Hwedza, the Venda people in the southern parts of Zimbabwe, the BaTonga people in some parts of Hwange as well as the Karanga people in Makoni area (Wurigan et al,. 2020; Siamonga, 2017). Apart from the highlighted ethnic groups, the practice has also been common among some religious sects dotted around the country as well as among the immigrants who permanently settled in the country particularly those from Zambia and Malawi who continued to maintain their cultural identity through some traditional rites that include virginity testing (Sithole & Dziva, 2019; Thabethe, 2008). However, the promulgation of the Domestic Violence Act in 2007 outlawed particularly harmful practices including virginity testing through section 3 (1) (i) which states that " For the purposes of this Act, domestic violence … . includes; abuse derived from the following cultural or customary rites or practices that discriminate against or degrade women—forced virginity testing" The Act was enacted after the realisation that most cultural practices including virginity testing of the girls violate bodily integrity for women just as articulated in article 4 of the African Women's Protocol (Thabethe, 2008). However, despite the enactment of the above legislation, virginity testing is still being carried out to this very day in Zimbabwe for girls and young females by different ethnic groups as well as religious sects mainly as a strategy to among other things promote sexual abstinence which is regarded as a precautionary measure to avoid unwanted pregnancies and early parenthood among the teenage girls (Wurigan et al,. 2020).

The perpetuation of the cultural practice of virginity testing in Zimbabwe after it has been outlawed by the government through the promulgation of the Domestic Violence Act has exacerbated the conflicting views and opinions of citizens and human rights organisations over the practice. Thus, concern has been raised about the potential invasion and violations of guaranteed constitutional rights of the girls and young women being tested for virginity (Sithole & Dziva, 2019; Thabethe, 2008; Women's UN Report, 2006).

There is vast literature present in Zimbabwe on virginity testing such as newspaper and journal articles which depict testing ceremonies taking place in different parts of the country. However, there is seemingly little research done that makes an analysis on the rights infringed on women and girls in terms of Zimbabwean law.

II. BACKGROUND TO THE STUDY

Many African cultures have for a long time placed a high premium on the virginity of girls and young women particularly for marriage purposes where lack of such a status would affect the marriage as well as the bride price to be paid for the wife (Chisale & Moyo, 2016; Thobejane & Mdhluli, 2015; Durojaye, 2016). Thus, the practice of virginity testing

is considered an old practice that can be traced back to the pre-colonial period in Africa. In countries such as South Africa, virginity testing is a practice that has been in existence since the pre-colonial period and has been commonly practiced among the Zulu tribe in Kwa-Zulu Natal (KZN) and to a lesser extent practiced among the Xhosa (Durojaye, 2016; Madlala, 2001). However, the practice of virginity testing has been very much revered in girls living in rural areas and townships of South Africa aged between 10-18 years. The original intention of the practice was to ascertain the chastity of a bride in order to assist the family of the bride to determine the amount of bride price to be paid by a prospective suitor as virginity was considered to increase the value of a woman (Chisale & Moyo, 2016). This has also been the case in countries such as Egypt where marriage contracts spelt out women's sexual status with ramifications for the bride price offered (Matswetu & Bhana, 2018). Similarly, in Zimbabwe among the Shona culture, and in South Africa among the Zulu, husbands have also been paying a mothers cow '*mombe yechimanda'* in Shonaand *'inkomo kamama'* in Zulu *(translated to mean a cow for recognition of virginity)*from the pre-colonial era to the present day as an acknowledgement that they have married a virgin woman (Matswetu & Bhana, 2018; Thobejane & Mdhluli, 2015; Madlala, 2001). Thus, the practice is traced back to the socialisation of African people which was intended to assure the purity of young brides who were to prove their pureness before their parents and future in-laws.

It has been noted that different cultures in Africa practised virginity for different reasons but however, there has been scholarly agreement that the practice is purely a patriarchal cultural tradition used to prepare unmarried girls and young women for marriage (Chisale & Moyo, 2016: Matswetu & Bhana, 2018). As such, the practice of virginity testing has been resuscitated over the years as people claimed that it preserves African culture. Furthermore, studies have shown that on the African continent, virginity testing is a practice that is common in countries such as Malawi, South Africa, Swaziland (now called eSwatini) Zimbabwe, Ethiopia and Kenya among other several African countries (Women's UN Report, 2006; Thobejane & Mdhluli, 2015; Chisale & Moyo, 2016). Over the years, the practice of virginity testing in most of these African countries was dying down as more communities embraced modernity through being exposed to western education and culture. However, the high HIV/AIDS prevalence in the sub-Saharan region particularly in the mid 90's necessitated the re-introduction of virginity testing as a cultural practice among most African countries to discourage particularly young girls from asserting their sexual autonomy or engaging in premarital sex (Durojaye, 2016; Madlala, 2001).

In South Africa for example, the re-emergence of the practise started to take shape around 1994 following decades of disuse and the main objective for reviving the practise was to prevent young girls from becoming sexually active at a tender age (Thobejane & Mdhluli, 2015). This saw local women in urban and peri-urban areas in South Africa organising small scale events aimed at publicly testing teenage girls. Scorgie (2002) as cited by Durojaye (2016) indicates that in South Africa, the practice was believed to have been re-ignited by two women who worked independently namely Andile Gumende and Nomagugu Ngobese. These two brought girls and young women from urban and peri-urban to the public sites for testing and the idea for all this was to promote premarital chastity among young girls. However, with the return of democracy in South Africa in 1994, the practice later on spread to other provinces such as Mpumalanga and several groups notably AmaGugu aseAfrika, Isiggi seSintu and All Africa cultural group became critical in conducting virginity testing particularly in KZN. The efforts of the groups were even promoted with the assistance of local NGOs operating in KZN namely Isivinane Samasiko (Madlala, 2001). Furthermore, to show support for the practice of virginity testing in South Africa especially in political circles, the mayor of uThukela district in KZN instituted a bursary known as the Maiden's bursary program in 2016 that specifically targeted virgin girls/females in tertiary institutions. The idea for launching the bursary was to incentive the virgin females to focus on their studies and not to prematurely engage in sexual activities so as to avoid the dangers associated with early sex indulgence (Mkasi & Rafudeen, 2016).

Studies further reflect that groups of elderly women were specifically responsible for conducting the cultural practice of virginity testing on girls and young women aged between the ages of 7-26 years (Durojaye, 2016; POWA, nd). The elderly women assigned the responsibility to carry out the tests on girls were those who had reached the age of menopause as they were no longer sexually active. In addition, such elderly women were supposed to have earlier on undergone through the same test during their youthful stage (Thobejane & Mdhluli, 2015; Siamonga, 2017). In countries such as South Africa, Malawi, and Swaziland, the practice is often carried out in traditional public ceremonies that are commonly accompanied by pomp and fare as well as pageantry in some cases (S.A Human Rights Commission, 2003; Mkasi & Rafudeen, 2016). It has been noted that in South Africa for example, the practice is commonly associated with the Traditional Zulu Reed dance ceremony also commonly known as the Royal Reed dance that have been sanctioned by King Zwelithini for years (Mkasi & Rafudeen, 2016; S.A Human Rights Commission, 2003). The available literature further notes that among the Zulu, the practice often involves "a three day ceremony in honour of *"Nomkhubulwana"* who happen to be once a prominent Zulu goddess whom the Zulu described as "female principle, immortal virgin, mother and protector of all Zulu girls, source of growth and creation" (Durojaye, 2016:229). Thus, where virginity testing has been practiced, it is usually conducted in line with laid down cultural norms, values and beliefs of the society.

In most African societies, the procedure of the actual testing involved the lining up of girls in a row where they lied down on their backs on mats spread on the ground (Durojaye, 2016).

The girls are made to part their legs wide open so that the tester (elderly woman) would peer through the girl's legs to ascertain their virginity (Durojaye, 2016; Thobejane & Mdhuli, 2015; Sithole & Dziva, 2019). In some cases, the tester would insert her fingers into the labia of the girls in order to ensure that the hymen is still intact and that it has not been tampered with. This has been done despite the fact that such a method posed the risk of breaking the hymen of the virgin girls (Durojaye 2016). In addition, studies by Thobejane & Mdhluli (2015) have also shown that the practice was also done through pouring water into the vagina of a girl using a jar. That is, if half of the water from the jar enters inside the vagina then one was considered a virgin but in the event that the whole jar was emptied inside, it then follows that one was considered a non-virgin (Thobejane & Mdhuli, 2015). This is a reflection that, the different standards used by the testers across Africa are based on indigenous knowledge systems of the society and not grounded in the biomedical science. In light of the above observations, recent developments have however shown that virginity testing can now be done using modern methods of machines to avoiding the breaking of the hymen. Thus, with the advent of technology, specially designed machines are now inserted into the vagina to test girl's virginity where if the light of the machine turns green, it symbolises that one is considered a virgin where as if it turns red, this would signify that one is a non-virgin (Thobejane & Mdhluli 2015). This is a departure from the traditional ways of conducting virginity testing in the African context as modern medical circles now involve gynaecological examinations to determine whether the hymen of the unmarried young woman is still intact or not (Thobejane & Mdhluli 2015, Durojaye, 2016).

Another important aspect to note about the practice of virginity testing among Africans is that, once the virginity of a girl had been confirmed by the tester, the crowd normally made up of mainly women would ululate to cheer up the girls. In addition, girls who passed the test were presented with awards in addition to certificates while others have their fore-head marked as a confirmation that they have been found pure (Hanzi, 2006; Thobejane & Mdhluli, 2015; S.A Human Rights Commission, 2003). In some parts of the continent, those found to have lost their virginity were given red beads in contrast to the white beads given to virgin girls to signify their purity/pureness (Thabethe, 2008). In light of the above, African traditionalists argue that an intact hymen of the women is taken as a sign of virginity and as such, the hymen is assigned a socio-cultural significance of purity and upright womanhood for those found to be virgins (Matswetu & Bhana, 2018). Equally important to note is the fact that, the cultural practice shamed and ridiculed the non-virgin girls as they were not given certificates while in some cultures they were made to wear a cloth with a hole for the whole community to see. This is a confirmation that in the traditional African set up, girls found not to be virgins were however viewed as "rotten potatoes" who should not deserve to be respected and valued (Madlala, 2001; Durojaye, 2016). Under such circumstances, it can then be argued that the inspection and the announcement of the girl's sexuality status actually violated their right to privacy (Thabethe, 2008).

Virginity testing: an African cultural practice

The term culture is broadly defined as the integrated pattern of human knowledge, belief and behaviour which is dependent upon the capacity of human society to learn and transmit knowledge about the values, ideas and beliefs to succeeding generations (Hanzi, 2006). The term culture can also be understood as the way of life of people within a society where ideas as well as habits are learnt, shared and transmit from one generation to the other (Haralambos & Holborn, 2013). This is a reflection that culture is best understood as a set of attitudes, values, customary beliefs and behaviour and social forms shared by a group of people be it of a racial, ethnic, religious or linguistic group and communicated from one generation to the next (Haralambos & Holborn, 2013; Hanzi, 2006). Furthermore, it is culture that determines how members of a society think, how they should feel while directing their actions and defining people's outlook on life. This implies that culture defines the acceptable ways of behaviour and practices for members within a particular society (Haralambos & Holborn, 2013). However, in most African countries, culture reflects more on the patriarchal norms and values that are to a larger extent insensitive to the rights of women and children (Hanzi, 2006; Haralambos & Holborn, 2013; Giddens & Sutton, 2013). Thus, more often than not, culture has been used to justify human rights violations particularly for women and children especially in patriarchal societies and this has assisted many in reflecting on the tension between culture and human rights across the globe.

Given the meaning of what constitutes culture, virginity testing is however viewed as a cultural practice which is socially constructed to give intrinsic value to the hymen in girls and young women particularly in African societies. As such, most African societies tend to value woman's virginity especially at the time of their marriage (Matswetu & Bhana, 2018). This reflects that patriarchal values have a tendency of producing sexual double standards that give men power over women where female virginity serves best the interests of patriarchal society through enhancing the status of future husbands and also, because of the general belief held across Africa that the marital fidelity of women married as a virgin is guaranteed for the husband (Matswetu & Bhana, 2018). The available literature further argue that elsewhere in Africa, the patriarchal practices, norms and values are also responsible for the shaping and perpetuation of gender inequality whereby most cultural practices strip women of control over their sexuality (Kambarami, 2006). This however is a testimony that in Africa, custom beliefs and practices are highly held as compared to laws enacted by governments. For most African societies and in line with the approach of cultural relativism, cultural rights precede over individual rights and consideration around sex and gender are largely disregarded (Laktos, 2018). Thus, cultural practices in most patriarchal

societies in Africa are viewed as oppressive to both women and young girls as they restrict women's sexual autonomy while expanding more on male sexual freedom (Thobejane & Mdhluli, 2015).

Studies have also shown that since men are the decision makers and custodians of culture and tradition in most African states, they are therefore responsible for determining what constitute culture (Durojaye, 2016; Moonga, 2015). Such a scenario helps to reflect on the undemocratic nature of African traditional settings when it comes to cultural practices, norms and values. Thus, in societies where virginity testing is practiced, the older women merely carry out a duty imposed on them by tradition, a tool men used to oppress women (Sithole & Dziva, 2019; Chisale & Moyo, 2016). This further confirms that the cultural practice of virginity testing strengthens male dominance over women as it led female to be submissive in the society and also that, it carries with it some negative implications particularly on girl's social status in the event that she is found to be a non-virgin through being exposed to ridicule and shame (Durojaye, 2016; Thabethe, 2008; Women's UN Report Network, 2006).

In Africa, virginity testing as a cultural practice is premised on the argument that it helps in preserving the moral purification of the society especially in the face of the frayed moral fabric of the society that has led to the ever increasing problems of teenage pregnancies and STIs (Chikunda & Shoko, 2009; Kambarami, 2006; Madlala, 2001). This reflects that, in terms of cultural relativism, virginity testing is practiced for the common good of the society. For example, in countries such as Kenya, the practice of virginity testing has been practiced for a long time and has been embraced by most communities as a better way to curb the spread of HIV/AIDS in the sense that the practice forced particularly girls to delay the age of their first sexual encounter (Thobejane & Mdhluli, 2015). Thus, proponents of virginity testing argue that the cultural practice is necessary in order to maintain the moral values of the society (Durojaye, 2016). The above argument reflects that virginity testing does not only serve as a means to ascertain the chastity of a girl but that it also ensures that girls have to guide their virginity jealously. Thobejane & Mdhluli (2015) indicate that the practice can also be looked at as a form of social control that helps to instil the values of premarital chastity through its emphasis on total abstinence from sexual intercourse particularly among girls and young women. Another argument put forward by the proponents of the practice in most African countries is that, virginity testing for girls and young women is considered as a practice that is critical in helping to detect child abuse while at the same time helping in preserving and instilling a sense of good morals particularly for the girl child (Wurigan et al,. 2020; Madlala, 2001; S.A Human Rights Commission, 2003) As such, many rural women among the marginalised groups across Africa view virginity testing as the only way to reinforce the lost cultural values of chastity before marriage, modesty, self-respect and the value of pride. This however reflects that virginity testing in Africa is a way that assist young females to keep away from engaging in premarital sex especially if they are fully aware that they will be subjected to scrutiny (Durojaye, 2016).

The above discussion revealed that in most African communities, virginity testing is conducted as a way to preserve societal norms and values where especially premarital sex is considered a taboo hence this gives pressure on young women to maintain their virginity until when they are married. Thus, the practice forces girls and young women to learn to fear and respect themselves until they reach an age where they can get a perfect suitor to be married with. This reflects that, the practice of virginity testing makes girls and young women to avoid promiscuity and also allows the community at large to monitor the activities of and guide their female children from abuses. However, this is despite that the methods used for testing are in some cases considered inhume and derogatory while shaming of those found to be non-virgins is viewed as a violation of one's rights.

III. THEORETICAL FRAMEWORK

The paper is premised on the universalism theory or approach. The universalism approach is centred on individualism as the basis from which all rights emanate (Laktos, 2018). It recognises that a person's rights begins with his/her existence as a human being. Human rights are inalienable, self-evident and applicable to all human beings (Lower, 2013). Universalism ideology comes from morality and natural law perspective that a person has his or her own worth which commands that a person should be respected by virtue of being a human being first. The universalism concept prioritises rights arising from existence of a person such as human dignity, equality, freedom of choice among other rights. The concept of virginity testing from a universalism approach is deemed to be an infringement on the woman or girl's right to human dignity and equality. Universalists opine that when there is a conflict over individual rights and customary or cultural rights, the individual's right may trump the custom or religion concerned (Laktos, 2018). In the cultural relativism the norms or values, culture of a particular group maybe identified as primary and individual rights come later. In terms of cultural relativism, the testing of virginity would be considered essential for "common good" that is reducing the spread of HIV/AIDS and other STIs and maintaining the general morality of the society. Proponents of cultural relativism argue that people have different cultures which should be respected. They believe that universalism is a western concept or framework that fails to take into account the culturally differences that exist world over. The arguments of cultural relativism ignores the impact of culture and effects of customary rites such as virginity testing on women. In their opinion, cultural rights precede over individual rights and consideration around sex and gender are disregarded (Laktos, 2018). It is behind this background that virginity testing becomes a contentious issue in societies where it is practiced.

Objectives of the study

The main objective of these papers is to identify why virginity testing is still being done, how it infringes on woman's rights and assess whether it is justified for society to continue with such a practice.

IV. METHODOLOGY OF THE STUDY

The study is qualitative in nature and follows an interpretive paradigm. It is based on the assumption that social reality is not singular or objective, but is rather shaped by human experiences and social context (Bhattacherjee, 2012). This approach was adopted because virginity testing is a cultural concept and as such, people view it differently depending on how they interpret the phenomenon. The study has been compiled using desk review methodology. It reviews publicly available documents such as journal articles on virginity testing. It also utilises 'grey literature'- documents that have not been formally published in academic sources and these includes items such as institutional reports, theses, newspaper articles and websites documents. These items have been obtained by using customised search engines. This method was used because of its convenience and ability to produce information with nationwide coverage that would otherwise take years to extract through ethnography study due to the coverage of the area and sensitivity of information to be obtained. The focus of the study has been on reported and publicized cases of virginity testing that took place before the enactment of the Domestic Violence Act in 2007 as well as after both the enactment of the Act and the adoption of the new Zimbabwean constitution in 2013. The validity and reliability is guaranteed as the secondary resources used are institutional reports and articles of those who actually carried out research in the different parts of the country. There are no ethical issues arising out of such a research as the used information is already in the secondary sources. The limitations of the study is that it is solely based on secondary information. The implications being that, it only covers areas where actual research was done and foregoes those areas that have not been previously studied.

V. RESULTS AND DISCUSSION

The findings of the study revealed that virginity testing is still being practised in Zimbabwe despite efforts by the government to criminalise it through the enactment of several legislatures that include the Domestic Violence Act. The practice has been identified to be dominantly practised in areas such as Makoni district, in Manicaland province, Binga and Khami districts in Matebeleland North and Bulawayo provinces respectively including other various places across the country such as in Mberengwa, Gokwe, Masvingo and Hurungwe where the Valemba tribe is mostly located. Furthermore, the study noted that in areas where virginity testing is still practiced, it is mainly conducted as a way to preserve culture, societal norms and values where especially premarital sex is considered a taboo. Such societies also believe that virginity testing promotes prevention of HIV/AIDS among adolescents and young females. However, in light of the above observations from the study, there has also been a number of Human rights organisations that are fighting for the total eradication of the practice among Zimbabwean communities arguing that the practice is a violation of girls and women's rights. Thus, focus of their advocacy and campaigns against the practice of virginity testing has been on rights related to one's dignity, equality, bodily integrity and privacy among other rights. This section elaborates on what was gathered upon research in a thematic fashion. It starts by broadly looking at virginity testing from a Zimbabwean context. Thereafter an analysis is done on the rights infringed through the practice of virginity testing.

Literature has revealed that just like elsewhere in Africa, virginity testing is a cultural practice in Zimbabwe and has been practised by different ethnic and religious groups since time immemorial both in rural and urban areas and for different reasons (Thabethe, 2008; Hanzi, 2006). For example, in the early 2000, Chief Naboth Makoni used to run annual virginity tests that were normally conducted by old women on young women in the district of Makoni in Manicaland (Hanzi, 2006; PANA, 2002). Evidence to support the above assertion is when in 2002, about 5000 girls attended the virginity testing ceremony at Osborne dam in Makoni area under Chief Makoni while in 2004, about 4000 girls in the same area had their virginity tested (Hanzi, 2006; PANA, 2002). However, such annual virginity tests were at the time necessitated by the fact the district had the highest number of people infected with HIV and as such, the practice was conducted to curb the spread of the disease. It has also been noted that it was a cultural norm for those who passed the virginity exams to be presented with certificates that acted as proof that indeed one has passed the test (PANA, 2002; Hanzi, 2006). In addition, there is also evidence that the practice of virginity testing has been practiced in some urban areas such as Norton and other mining communities dotted around the country particularly by immigrants from Zambia and Malawi who migrated into the country during the years of the federation of Rhodesia and Nyasaland. These however came and settled permanently in the country and continued with their cultural identity and as such, they continued to adhere to the practice of virginity testing as part of their other traditional rites (Thabethe, 2008).Worth noting is that the above highlighted evidence of virginity testing where prior to the enactment of the Domestic Violence Act in 2007 that criminalise virginity testing as a harmful practice.

However, while the practice in recent years appeared to have disappeared in most societies particularly as a result of the enactment of the Domestic Violence Act and other related legislations which criminalize virginity testing as well as due to spirited campaigns by women and human rights organisations against virginity testing, anecdotal and empirical evidence seem to suggest that poorer communities especially those in rural areas and those that are traditional including religious groups are secretively conducting the practice without the knowledge of law enforcement agents (Sithole &

Dziva, 2019). Under such circumstances, it has also been noted that in some cases, the practice is conducted with the blessings of traditional and religious leaders and that no consent is sought from the girls themselves as this will be done mostly within the home and by the elderly women (Sithole & Dziva, 2019). Thus, apart from current existing laws, virginity testing continues to be considered a very important part of womanhood among certain ethnic and religious groups in Zimbabwe. For example, the BaTonga people in Binga still believe and held high the belief that keeping one's virginity is often rewarded by a good marriage and a handsome bride price (Siamonga, 2017). Furthermore, the cultural practice of virginity testing among girls and young women is also part and parcel of the Valemba/Varemba people's culture which is one of the ethnic groups found in Zimbabwe and predominantly found in areas such as Mberengwa, Masvingo, Gokwe and Hurungwe (Shumba, 2016; Wurigan et al,. 2020). For the Varemba people, they embrace virginity testing as a strategy to promote sexual abstinence which they viewed as a precautionary measure to avoid unwanted pregnancies and early childhood (Wurigan et al,. 2020; Chikunda & Shoko, 2009). In addition, most of the ethnic groups including the Venda in Zimbabwe who still continue to practice virginity testing argue that the cultural practice provide benefits in combating the spread of HIV and other STIs and that it also a strategy used in identifying children who are sexually abused in the community especially by family members while also helping in preventing unwanted teen pregnancies (Mulaudzi, et al,. 2015; Sithole & Dziva, 2019).

In places such as Hurungwe, among the religious sect of the True Apostolic Faith Mission, the practice of virginity testing is common even to girls as young as 10 years who have been released for testing and counselling by the elderly women (Bulla, 2016). Further to that, the religious sect of the True Apostolic Faith Mission claimed that the practice of virginity testing have actually been yielding positive results for the congregants considering the number of girls who managed to wed within the church as a result of preserving their chastity as youths (Bulla, 2016). Under such circumstances, it is evident that in Zimbabwe just like elsewhere in Africa, virginity testing is also done to ascertain the girl's sexual purity at marriage. Thus, most religious sectsargued that the practice is a necessary response to a dire situation in a country whose moral fabric is threatened by an increase in the number of promiscuity by girls and young women and where the society fails to raise adequate awareness on issues such as teenage pregnancy, child abuse and the increasing spread of HIV/AIDS and STIs among the youths (Thobejane & Mdhluli, 2015; Women's UN Report Network, 2006). Another case in point is that of Tsetse primary school in Khami district of Bulawayo province where all grade seven girls in 2012 had their virginity tested by teachers as a way of discouraging them from engaging in pre-marital sex. However, the testing of the girls happened without their parental consent and as such, this resulted in public outcry particularly from women's and children rights groups (Sibanda, 2012).Next is an analysis of how virginity testing violates women's rights in the African context where special focus is on Zimbabwe.

Virginity testing and the violation of women's rights

However, despite the fact that virginity testing is widely practised across cultures in Africa, of late it has come under the spot light from different groups in modern day societies where especially human rights activists and women's groups argue that the practice violates the rights of the girl child in that most of the young girls are coerced into the practice without consent (Thobejane & Mdhluli, 2015; Mkasi & Rafudeen, 2016; Karombo, 2004). Thus, the cultural practice of virginity testing came under severe attack particularly from the influence of western cultural perspective which led to the emergence of gender and human rights organisations (Chisale & Moyo, 2016). The practice has also been tainted by other religious developments where the practice is criticised by some sections of Christians as archaic, barbaric and oppressive for women (Thobejane & Mdhluli, 2015).

Furthermore, the South African Human Rights Commission (2003) notes that some opponents of the practice basically argue that it endangers the lives of girls who are certified as virgins as studies have shown that the majority of such girls become easy targets for rapists/sexual perverts and other sex molesters who might prey on them looking for safe extra-marital sex. This has been found to be the case in countries such as South Africa, Botswana, Zambia and Malawi where rape and sexual abuse of young girls is considered to be high and this has been worsened by the myth and belief that having sex with a virgin girl would cures AIDS (S.A Human Rights Commission, 2003; Durojaye, 2016: Thabethe, 2008). In addition, the exponents of the cultural practice of virginity testing are of the view that there is little or no evidence to show that virginity testing among girls and young women actually does minimize the risk of HIV and other sexually transmitted infection (Durojaye, 2016). What has been found to be the case from studies conducted in most African states is that, virgins have become targets of older men who erroneously believe that sex with a virgin can cure HIV and prevent STI's. (Durojaye, 2016). Thus, the South African Commission on Gender equality described the practice as discriminatory, invasive of privacy, unfair, impinging on the dignity of young girls and unconstitutional as it strips young women of their dignity, security, freedom of privacy and choice (Mkasi & Rafudeen, 2016; Durojaye, 2016). It is in light of the above observations that a number scholars argue that virginity testing is a harmful practice aimed at subjugating the bodily integrity of women and as such, it is considered a form of violation and violence against women (Madlala, 2001; Sithole & Dziva, 2019). POWA (nd) also notes that in the majority of cases, the people who conduct virginity tests are rather not qualified medical practitioners hence this makes the whole process flawed at the same time endangering the girls as some of the methods used in testing

the intact of the hymen for the girls are unsafe and unhygienic (Madlala, 2001; Thobejane & Mdhuli, 2015; Durojaye, 2016; Thabethe, 2008).

Apart from looking at the broader African context as discussed above, an analysis of the rights guaranteed in terms of the Zimbabwean Constitution of 2013 is given below in an attempt to show how the practice of virginity testing infringes on women's rights in the Zimbabwean/local context, The Constitution is the supreme law of the land and therefore in line with the universalism approach, any law, custom, tradition or conduct inconsistent with it is deemed to be an infringement on the right to human dignity and equality.

However as earlier observed, the process of virginity testing occurs with the aim of attaching value to a girl or women depending on the state of their vagina and this constitutes an infringement of their human dignity. A girl or woman whose hymen is not damaged receives honour in her community and this is given effect to in certain cultures by the amount of cattle that is paid for her lobola (Le Roux, 2006; Matswetu & Bhana, 2018; Thobejane & Mdhluli, 2015). Effectively, the absence or presence or breaking of the hymen is used to give value to that girl or woman. Giving a girl or women value on the condition or state of their vagina infringes her human dignity. The concept of human dignity is a foundational value and principle upon which the Zimbabwean Constitution is founded. Section 51 of the Constitution states that: "every person has inherent dignity in their private and public life and the right to have that dignity respected and protected." Furthermore, sec86 (3) of the Constitution states that the right to human dignity is inherent and inalienable. This means that no person may limit or violate this right for any reason(Constitution of Zimbabwe, 2013). Thus, the infringement on human dignity for young women and girls where virginity testing is concerned manifests in many ways both in the private and public spheres. For example in the private sphere, society tempers with the women/girls body or organ as well as acquire information on the intricacies of their bodily status without her consent and against her will while in the public sphere, such women are exposed to ridicule, rejection and isolation as a result of labelling particularly for those who failed the test. What the Constitution of Zimbabwe uphold with regards to human dignity have also been buttressed by Article 3 and 5 of the African Women's Protocol to which Zimbabwe is a signatory. The African Women's protocol also guarantees the right to dignity for women which is considered inherent for a human being and calls for state parties to enact legislative measures that condemn and help to prohibit all forms of harmful practices particularly those that inhibit the enjoyment of human rights by women (Sithole & Dziva, 2019; Durojaye, 2016). This further reflects how the cultural practice of virginity testing is considered by both the Constitution and some regional treaties as a violation of the right to dignity of women and girls specifically in Zimbabwe and Africa at large. As such, civil society organisations such as Padare/ Men's forum on gender and the Apostolic Christian Council of Zimbabwe including many other human rights organisations have been critical in advocating against the practice arguing that it takes away the dignity of girls while also facilitating early marriages for the virgin girls (Bulla, 2016).

The study also established that the process of virginity testing negates the woman or girls feelings as a human being thereby undermining their right to bodily integrity. The practice of virginity testing is commonly done in a degrading way where fingers and other objects are inserted in a woman's vagina to ascertain her virginity status and in most cases this is done against the will of most women (Durojaye, 2016). In the Zimbabwean context, the practice however negates the principles of the Constitution where for example section 53 of the Constitution states that no person should be subjected to physical or psychological torture or to cruel, inhuman or degrading treatment or punishment. In S v Chokuramba CCZ10/19 to be inhuman is described to mean: "to act inhumanly towards another person with no feelings of pity or sympathy as a fellow human being when such demand a human conduct. It is to treat the person as a mere object". The nature of violation through virginity testing objectifies women in that it makes them to experience disgrace, humiliation and powerlessness over their bodies. Thus, in light of the Constitution it is therefore argued that virginity testing infringes the right of women not to be subjected to inhuman and degrading treatment (Sithole & Dziva, 2019).

Intrinsically linked to the right not to be treated in an inhuman manner is Section 52 of the Constitution which provides that: "Every person has the right to bodily and psychological integrity which includes the right (a) to freedom from all forms of violence from the public and private sources". The definition of violence is given to include use of force to inflict physical, sexual, or mental injury to a person. This section guarantees girls and women to be free of any act that could constitute violence against them. Subjecting women and girls to the process of virginity testing is therefore regarded as violent in nature and is cited as a form of domestic violence in terms of the Domestic Violence Act (Chapter 5:16). This is in view of the fact that in most cases, virginity testing occurs without the consent of the participant especially for young girls and that there is an element of undue influence or coercion on the part of society for women and girls to participate. (Le Roux, 2006). It is however in light of the above that radical feminists argue that culture imprison women because of the patriarchal nature of the Zimbabwean society as the process of testing itself subjects the victims from having no control and ability to make decisions over their bodies (Kambarami, 2006).

The Constitution further guarantees the right to privacy in the public and private sphere for both males and females where for example section 57 (6) (d) states that: "Every person has the right to privacy which includes: the right not to have their health condition disclosed". The essence of this provision is protect any sought of privacy required by an individual from unwanted individuals or state. The concept of health condition

speaks not only to any ailment or illness faced by a person but the physical and mental state (WHO Constitution, 1946). The scope of this right guarantees that no person should intrude in the autonomous development of an individual. This means a person has the right to choose to whom they wish to disclose information concerning their virginity status if they wish to do so. In any case, whatever process that disturbs a person's mental state or well-being constitutes a violation of their privacy if they do so uninvited (ZHRNGO, 2016). Virginity testing infringes on women and girl's personal space as an individual. The women or girls tested are deprived of the right to privacy of their own bodies by the tester or elders when being examined. Moreover, the virginity testers during the process acquire delicate information that impacts on the honour or dignity of the person without their consent and share it with the world (Sithole & Dziva, 2019; Thabethe, 2008). Thus in the Zimbabwean context, feminists and human rights activists critique the practice arguing that it lacks concern for women's privacy especially for some ethnic groups were adult males and other male colleagues sometimes witness girls undergoing the tests (Chikunda & Shoko, 2009; Sibanda, 2012).

As previously noted in the above sections, virginity testing is motivated by custom or religion (Durojaye, 2016). Girls or women who are required to take part in the customary rites of virginity testing are required to do so by the family elders and community leaders (Sithole & Dziva, 2019; Le Roux, 2006). In doing so, the participants or women and children involved are deprived of the right to choose a cultural life of their choice and to participate in it something that constitute a negation of the constitution since section 63 (b) of the Constitution makes a provision that: "Every person has the right to choose to participate in the cultural life of their choice but no person may do so in a way that is inconsistent with this chapter". This provision gives every person a choice to take part or not to take part in a cultural life of their choice. However given that in most societies, girls and women are subjected to the process of virginity testing for the benefit of the family in terms of lobola pricing, this reveals that their dignity is stripped to appease men (Geroge, 2006). Thus, in addition, section 80 (3) of the constitution further provides that all laws customs, traditions and cultural practices that infringe on women's rights conferred to women are void to the extent of the infringement.

The Constitution of Zimbabwe further asserts that recognition of equality of every human being together with gender equality form part of its founding values. That is, in section 56 (1) of the Constitution, it further goes to speak of all persons being equal before the law and having the right to equal protection and benefit before the law while s56 (2) provides that women and men have the right to equal treatment. Thus, the right to equal treatment envisages that whatever processes that take place in a society, men and women should be treated alike for example with regards to access to resources, opportunity, education and health among other issues (Katsande & Thandi, 2018). This means both men and women equally have the right to human dignity and all other fundamental freedoms. However, in Zimbabwe just like with the rest of African societies, virginity testing as a cultural rite has been only performed on women and not men thereby having the effect of limiting girls and women reproductive rights. Furthermore, it has also been established that subjecting women alone to the practice of virginity testing is discriminatory on the basis of sex as the burden is placed only on girls and women to be chaste for the benefit of society's morality. (WHO, 2018). Thus, under such circumstances, it is argued that the cultural practice of virginity testing basically views women as second class citizens and subordinate to their male counterparts thereby undermines the notion of equality as guaranteed by the constitution itself. This inquiry demonstrated that executing virginity testing on girls and women for whatever reason infringes on their right to equality, human dignity, bodily integrity and privacy and as such should not be tolerated in an open and democratic society.

VI. CONCLUSION

In spite of the strong legislative framework forbidding virginity testing, virginity testing is still observed and seen as a necessary customary rite in Zimbabwe by some exponents (Bulla, 2016; Thabethe, 2008; Hanzi, 2006). The Domestic Violence Act specifically prohibits forced virginity testing whilst the Constitution of Zimbabwe preserves several rights from direct or indirect infringement of a person's bodily integrity and reputation (section 3(1(i) of Domestic Violence Act and Constitution of Zimbabwe 2013). Cultural relativists and other exponents still consider virginity testing as essential customary rite in maintaining the moral fabric of society and necessary in containing the spread of HIV/AIDS and STI''s in Zimbabwe (Durojaye, 2016). It is also be believed that virginity testing promote values of chastity before marriage, modesty, self-respect and pride (Wurigan et al,. 2020; Thabethe, 2008; Madlala, 2001). The same conception is believed in other neighbouring countries such as South Africa, albeit existence of legislative framework barring virginity testing (Thabethe 2008, Le Roux 2006). The main arguments for barring the cultural practice of virginity testing is the issue that the practice of virginity testing infringes on the human dignity of the girls or women involved (Durojaye, 2016, section 51 of the Constitution, 2013). The worth of that particular girl or woman is determined by the presence or absence of virginity which is degrading. Furthermore, the outcome of the virginity testing affects the amount of lobola that should be paid for that particular girl (POWA). This practice becomes problematic in that virginity testing is used to quantify or determine the physical value of the girls or women concerned. Her self-worth and reputation is possibly diminished and her autonomy as a human being is infringed (sec 57 of Constitution 2013, Sithole & Dziva, 2019; Thabethe, 2008). The virginity testing process itself, amongst others may involve the physical checking of virginity by insertion of fingers in to the vagina and this amounts to the girl being treated in an inhumane and degrading manner

which the Zimbabwean Constitution specifically prohibits (s53 of Constitution, 2013). It also violates her right to privacy. Moreover, virginity testing is gender selective; it is the women who are subjected to the test; the same does not apply to men. This effectively violates the women rights to receive equal treatment as men (S56 of Constitution, (Katsande & Thandi, 2018). In other instances, the right of a person to choose to take part or not take part in a cultural life of their choice is also infringed when a person is forced to engage in virginity testing (s63 of the Constitution, 2013). In balancing and weighing these arguments for and against virginity testing it is worth noting that moral chastity can be achieved by other means other than virginity testing (Le Roux, 2006). Notwithstanding that the practice of virginity testing being practiced for years, it cannot and should not continue in an open and democratic societies except if it is done willingly. In any case virginity testing is not scientifically validated to be effective and efficient in reducing the spread of HIV/AIDSs as STI's (Durojaye, 2016). As such the argument by Universalist to observe individual rights seems paramount given the extent and nature of infringement that virginity testing subjects girls and young women (Sithole & Dziva, 2019). It is recommended and encouraged that all cultural and religious groups should respect the autonomy of girls and women and protect them from violation which comes with virginity testing.

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