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2nd Edition

ISANGQA NEWSLETTER

The Eugenia Nothemba Gxowa Foundation

Welcome to *Isangqa* – The Circle

Advocate Mandisi Planga -
Deputy Chairperson of the Eugenia Nothemba Gxowa Foundation

PONDERING CRIMINALISATION OF CHILD MARRIAGE

Welcome to the Second Edition of ***Isangqa – The 'Circle'*** Newsletter. This edition is published at a time when the whole world is observing, reflecting and celebrating the rights of children, and I am happy that its theme ponders the criminalisation of child, forced, under-age marriage - what we call in this part of the world, *ukuthwala*. *Ukuthwala* is one of the heinous cultural/traditional practices violating the rights of the girl child.

Child marriage is a project of one of the Eugenia Nothemba Gxowa Foundation's (ENGF) flagships, "Knowledge production and application".

The main aim of this edition is to deepen the awareness of the South African public, lawmakers, activists and professionals about the state of child marriage in South Africa, with the intention of seeking lasting solutions. The article authors in this edition are professionals and experts who have extensive experience in contributing to studies and policies seeking to curb this atrocious practice.

We have as a lead contributor, **Ms Maite Modiba,** South African State Law Advisor in the Department of Justice and Correctional Services (South African Law Reform Commission - SALRC). Her article looks at the practice's prevalence, the government's response including the work undertaken by SALRC to curb it, and she provides professional guidance on what needs to happen to criminalise it.

Other contributors include:

ENGF Board Member, **Ms Nomso Kana**, whose contribution focuses on the ENGF's Theory of Change

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A MEMBER OF

GIRLS NOT BRIDES
The Global Partnership to End Child Marriage

ISANGQA
A circle has no beginning and no end — the circle represents continuity and a sense of community.

ENG FOUNDATION
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for ending child marriage. Ms Kana is a renowned young business person specialising in the Fourth Industrial Revolution, specifically broadband. She is a multi-award winner.

Advocate Dr Nyaradzayi Gumbonzvanda is the founder and chief executive officer of the Rosaria Memorial Trust in Zimbabwe, and the African Union Goodwill Ambassador for ending child marriage in Africa. Her submission provides the Africa regional perspective, as well as the role of traditional leaders to curb the practice and "best practices".

Dr Shakira Choonara is an award-winning public health practitioner, former African Union Youth Councillor and Operation Smile Ambassador for South Africa. Her commentary looks at how patriarchy compromises young women's control over their bodies and how this affects the health of the survivors of this practice.

We hope you will find this edition useful and that it will add value to your work on this emotional issue. Stakeholders and readers are encouraged to subscribe through our website www.engfoundation.org.za/isangqa. ⚥

Advocate Mandisi Planga is an experienced public services manager who, since 2017, has been Director of Community Services for Blue Crane Route Municipality. He has served brief periods as Acting Municipal Manager for both Blue Crane and Makana Municipalities. Planga served the Makana Municipality from 2007 to 2017, first as the Director of Community and Social Services and then as the Director of Public Safety and Community Services. Prior to that, he worked in various organisations as a Training Coordinator, Programme Implementation Manager, and Community Facilitation Coordinator. From 2004 to 2006 he directed his own Mandisi Planga Consultancy. Planga has a Bachelor of Social Science, Honours (Rhodes University 1992), an MBA (Potchefstroom University 2001) and a Bachelor of Law (UNISA 2017). He is currently studying for a Master of Law degree specialising in corporate law. ***Ukuthwala*** *is an issue close to his heart.*

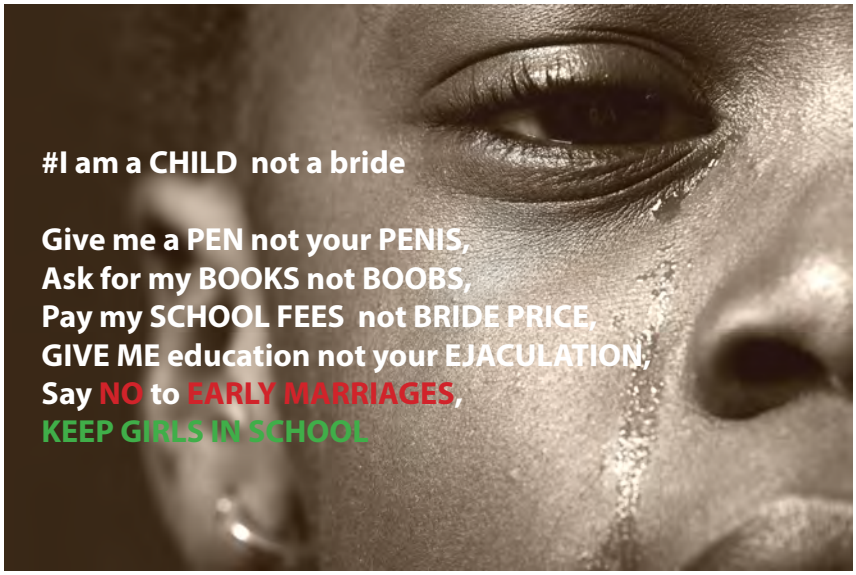
The Practice of *Ukuthwala*: Does it still have a place in society?

Ms Maite Modiba : State Law Advisor at the Department of Justice, Law Reform Commission

There is consensus that *ukuthwala* itself is not marriage but a prelude to marriage.

Ukuthwala - what is it?

Ukuthwala involves the act of taking a marriage partner in unconventional ways, seemingly forceful, with the aim of coercing the girl's family to enter into negotiations for the conclusion of a customary marriage. The practice of *ukuthwala* is aimed at satisfying the traditional standards or norms relating to marriage, and sometimes accommodating unconventional ways of doing so. Although often referred to as custom, tradition or even culture, *ukuthwala* can actually be seen as a strategy to counter the influence of extreme authority. The overbearing preferences of people who hold traditional or cultural power and control over the lives of young men and women seeking to establish conjugal relationships may, therefore, be linked to some instances of *ukuthwala*. Popular references to *ukuthwala* as "culture" thus unduly create an impression that the practice



is a rigid and formalistic prescript, whereas it was originally devised as an optional "safety valve" against too extreme a parental authority. Some of the current versions of the practice of *ukuthwala* are challenged because they countenance, justify or sanction violence against women and girl children.

There is abuse of this practice to such an extent that young girls are abducted and kidnapped under the name of *ukuthwala*. It seems clear, from the newspaper reports and anecdotes about women and young girls who have been threatened with or affected by this practice, that what is impugned and found distasteful are those forms of *ukuthwala* that affect girl children or involve coercion. There is consensus that *ukuthwala* itself is not marriage but a prelude to marriage. However, this distinction becomes tenuous in circumstances where a person is abducted despite her bona fide resistance; where ilobolo/dowry (however negligible) is paid; and where the abducted person is forced to perform the chores of an umakoti (young bride), e.g. cooking and doing laundry for the entire family, seeing to the upkeep of the homestead, to name a few. In these circumstances, *ukuthwala* would be tantamount to a "forced marriage". And if the victim is a child below the age of 18, which is the legal age for marriage in South Africa, it would amount to a "child marriage". There is concern that the practice has contributed towards drop-out from schooling as well as early, unwanted and dangerous pregnancies among girls, not to mention other health hazards.

Another source of concern is the low number of cases that are reported, investigated and successfully prosecuted, despite evidence of the widespread practice of *ukuthwala* in certain communities. Today, poverty seems to be a critical factor that has contributed to the resurgence of the custom. The reports that seizures of young girls may take place with the consent and knowledge of the girls' parents or guardians – and indeed that in many instances the abduction is orchestrated by parents or guardians who are in dire economic straights and are tempted by the lobola offered by the prospective husband – bolster this conclusion.

Is the current legislation adequate to deal with 'distorted' *ukuthwala*?

The question to be asked is whether the current legal framework provides adequate protection from and redress against those forms of *ukuthwala* (or corollaries of it) alluded to in the preceding paragraph. The assessment prompted by this question will hopefully shed light on the following issues:

- Whether there is a need for new legislation to combat the harmful effects of distortions carried out in the name of *ukuthwala*;
- What form such law should take (for example criminal offence, civil legislation, or amendments to existing legislation).

The current legislation and other relief are spread out too widely across the laws of South Africa to be readily accessible to deal with this scourge. Current pieces of legislation deal with the requirements of marriage. The inclusion of culturally sanctioned options such as *ukuthwala* in legislation dealing with marriage further runs the risk of codifying and thus formalising customary options, which were never formal, into law and rendering them normative, even if social trends indicate that they are actually phasing out. South Africa has signed and/or ratified various international and regional instruments that condemn forced and child marriage. South Africa has an obligation under international human rights law to ensure that all marriages, including customary marriages, are entered into with the free and full consent of the intending spouses; to ensure that harmful cultural and social practices prejudicial to the health, development, normal growth, welfare and dignity of children are abolished; and that harmful cultural practices affecting the rights of women are eliminated.

And if the victim is a child below the age of 18, which is the legal age for marriage in South Africa, it would amount to a child marriage.

The Children's Act 38 of 2005 makes it clear that children should not be subjected to social, cultural and religious practices which are detrimental to their wellbeing. It also provides that a child below the minimum age set by law for a valid marriage may not be given out in marriage or engagement; and that a child above minimum age may not be given out in marriage or engagement without his or her consent. The current law relating to the age of consent cannot be regarded as settled and a new definitive statement would go a long way towards clarifying this area of the law.

How prevalent is *ukuthwala* in South Africa?

Instances of *ukuthwala* commonly take place during times when men, mainly workers in the big cities of South Africa, visit their rural homes. They are typically mine workers, factory workers, taxi drivers, and long-distance truck drivers, among others. Many cases are reported to have occurred during the festive season as well as during major holidays such as Easter long weekends and school holidays. On returning to their rural villages, it seems that some men feel a heightened and urgent need to have a wife who will be responsible for domestic chores and fulfilling the man's sexual needs. Some

girls have reported that after being captured they were often beaten up and assaulted in many ways if they tried to escape. Violence almost always accompanies these cases. There are obstacles in collecting statistical data to assess the prevalence of *ukuthwala* given the elusive nature of the practice and indications that the perpetrators do not want to be known. Even the media reports do not dwell much on the identity of the perpetrators. It has also become clear that there are "hot spots" within South Africa where the practice is rife.

What can be done to curb the prevalence of the distorted *ukuthwala*?

The South African Law Reform Commission recommends that enactment of a new statute is required to deal specifically with the issue of forced marriage to send a powerful symbolic message to perpetrators and ordinary South Africans alike. The seriousness of problems associated with distorted *ukuthwala* is of such a magnitude that a clear law is necessary. If this was outlined in law, it would also compel stakeholders to do what they are supposed to do to curb the practice and deal appropriately with victims. The new legislation would be an opportunity to make an unequivocal statement against forced marriages, clarifying in the process the question of marriageable age. It would also consolidate the applicable principles in one instrument; and send a powerful symbolic signal in defence of women's rights.

The South African Law Reform Commission published a Report on the Practice of Ukuthwala which includes a draft Prohibition of Forced Marriages and Regulation of Related Matters Bill to deal with the scourge of *ukuthwala*. The draft Bill provides for creation of the following offences: forced marriage and child marriage. Forced marriage refers to a marriage relationship or union entered into where one or both of the parties have not personally expressed their full and free consent to marriage and includes those marriage relationships or cognate unions purporting to be contracted in pursuit of practices such as *ukuthwala* or any similar practice. A person commits the offence of child marriage if he or she enters into a marriage or cognate union with a child, unless he or she complies with section 3(3), (4) and (5) of the Recognition of Customary Marriages Act 120 of 1998. The Bill also provides that it should be a criminal offence for anyone to attempt; conspire with any other person; or aid, abet, induce, incite, instigate, instruct, command, counsel or procure another person to enter into a forced marriage or child marriage. The Bill also provides that victims of forced marriage and child marriage or any person may apply for a forced marriage protection order which is a remedy that may contain such prohibitions, restrictions, requirements or other terms that the court may consider appropriate for the purposes of granting the order. The Bill further provides that a court may, in addition to any punishment which it may impose in respect of any offence provided for, in the suggested legislation, order a person convicted of such offence to pay appropriate compensation to the victim of the offence for any damages suffered by the victim.

The Bill further provides that victims of forced marriage and child marriage be afforded with a suitable accommodation and receive treatment until such time that they are fit and ready to face the world.

The South African Law Reform Commission recommends that there is also a need for non-legislative measures to curb the scourge of this illegal practice carried out under the guise of customary marriage. These forms of non-legislative interventions, which include education, training and awareness-raising campaigns by relevant service providers, civil society organisations and professionals, both in urban neighbourhoods and rural communities, will strengthen the protection of children and women.

The seriousness of problems associated with distorted *ukuthwala* is of such a magnitude that a clear law is necessary.

*Ms Maite Modiba: State Law Advisor at the Department of Justice and Correctional Services, Law Reform Commission. Ms Modiba is a self-motivated hard worker with qualifications and experience in law and tertiary education. Before joining SALRC, she worked as a senior lecturer of Corporate Law at UNISA for 12 years. She boasts numerous academic qualifications and achievements and a variety of certificates and short courses, e.g. Legislative Drafting (Universities of Nelson Mandela and Pretoria); Advanced Certificate in Labour Law (UNISA); A short course in Outcomes-Based Assessment in Higher Education and Open Distance Learning with distinction; and LEAD (School for Legal Practice). Ms Modiba holds a Master of Law (Mercantile Law) from the University of Pretoria and participated in the Master of Law Programme at the Vrije Universiteit Amsterdam (Netherlands). She acquired her Bachelor of Law Degree from the University of the North with four distinctions, after completing her Baccalaureus Procurationis at the same university with 11 distinctions. She is an experienced professional researcher who has contributed to many LRC's Projects, e.g. Discussion Paper on the Review of the Maintenance Act 99; Revised Discussion Paper 138: The Practice of Ukuthwala in provinces; Discussion Paper 132: The Practice of **Ukuthwala** across South Africa.*

The Eugenia Nothemba Gxowa Foundation's (ENGF) Theory Of Change on ending child marriage in SA

Ms Nomso Kana : Entrepreneur - broadband infrastructure sector and ENG Foundation Board member

1. DEFINTION OF CONCEPTS

Gender-based violence

Gender-based violence against women and girls (GBVAW/G)

One of the particular focal points of the ENGF is GBVAW/G as women and girls are the predominant victims of both GBV and child-marriage

Knowledge production and application

Processes and activities undertaken with a multitude of stakeholders in various contexts to arrive at truth or further our understanding

Child, forced, under-age marriage,

Practice in which girls and young women are abducted from their homes and forced into marriage - a form of GBVAW/G as it violates the rights of girls

2. PRACTICAL STRATEGIES TO PREVENT CHILD MARRIAGE

1. Promoting the economic empowerment of girls and women
2. Encouraging girls to remain in school
3. Strengthening and enforcing legal prohibitions against child marriage
4. Initiating community-based educational interventions
5. Exploiting the benefits of the Fourth Industrial Revolution (4IR) technologies to end child marriage

3. OUR APPROACH

Based on the following assumptions :

1. Dominant gender practices involve relations of power in which women are positioned as subordinate to men along a binary classification
2. The ways in which we are socialised into our gendered roles as men and women are culturally specific
3. Gender relations are learned and therefore can be unlearned

SUMMARY OF ACTIVITIES

1. Conducting community-based, participatory action research
2. Soliciting 'buy in' by local communities
3. Promoting high levels of accountability

4. OUTCOMES

1. **Multi-Stakeholder Community-Based Support Structures (MSCBSS) are established at each community**
2. **Teenage girls' voices are strengthened**

A work in progress

The above should be read with the discussion on page 6-7

Unpacking the ENGF's Theory Of Change on ending child marriage in SA

1. Definition of concepts

Gender-based violence (GBV) refers both to violence perpetrated against an individual as a result of their gender and/or violence stemming from internalised beliefs, values, and attitudes relating to gender as traditionally conceived along a binary. GBV is a broad category, under which gender-based violence against women and girls (GBVAW/G) falls and is one of the focal points of the Eugenia Nothemba Gxowa Foundation (ENGF), as women and girls are the predominant victims of both GBV and child marriage.

Under-age marriage is known in the Eastern Cape Province as *ukuthwala* and refers to a cultural or customary practice in which girls and young women are taken involuntarily from their homes and forced into marriage. Whilst this seizure often takes place without the consent of the abducted girl's parents, this is not always the case. Indeed, child marriage—including *ukuthwala* in particular—is often arranged by the girl's parents or relatives as a means of alleviating the family from abject poverty. We, at the ENGF, consider this tradition to be a form of GBVAW/G as it violates the rights of girls. However, to ensure we have a comprehensive understanding of the complex contexts of GBVAW/G, we work with a multitude of stakeholders in South Africa, since child, forced, under-age marriage is still regularly practised in various parts of the country.[1]

2. Practical strategies to prevent child marriage

Informed by global and local studies, the ENGF's approach to both prevent child marriage and cultivate girls' sense of agency over their own lives, includes the following strategies:

(i) Promoting the *economic empowerment* of girls and women, as child marriages are less likely to occur when the girl-child is educated and has the potential to bring in, or is actively bringing in, an income.[2]

(ii) Encouraging girls to *remain in school* has proven to be an effective approach to reduce the incidence of child marriage but is often complicated by the attached financial implications.[3]

(iii) Strengthening and enforcing *legal prohibitions* against child marriage.

(iv) Initiating community-based *educational interventions* focused on challenging the status quo that positions women and girls as second-class citizens and sees their value as connected (either purely or primarily) to domestic work and child-rearing.

(v) Exploiting the *benefits of the Fourth Industrial Revolution* (4IR) technologies to end child marriage. The 4IR era is positively impacting human history where the physical, digital and biological merge, leading to improved and optimised life. These technologies can be used to enhance efforts to combat heinous practices such as *ukuthwala* by boosting strategies aimed at the prevention, reach, response, and monitoring and evaluation of incidents of child marriage. For example, we could use artificial intelligence to enhance service provision; create digital platforms to reach, respond, and guide members of the public in reporting cases; and enable reliable, safe and confidential data collection, electronic case referral and remote collaboration between service providers, caseworkers, community-based support structures, teenage girls' forums and supervisors.

NB: We are mindful of the fact that women are the primary victims and survivors of online abuse, however technological applications remain a tool that can be used to report cases, provide a safe space, and record evidence of harm.

3. Our approach

When working towards the eradication of child marriage, the ENGF reviews local and international studies and employs multi-faceted, interlinked strategies. Our approach is based on the following assumptions:

- Dominant gender practices involve relations of power in which women are positioned as subordinate to men along a binary classification.

1 ENG Foundation: https://engfoundation.org.za/see-all-campaigns/

2 Melanne Verveer (for the US Department of State), 'Targeting Girls in the Name of Tradition: Child Marriage' (2010)

3 USAID runs an extensive basic education programme in an effort to reduce the gender gap in education around the world and keep girls in school. This programme has helped to keep girls around the globe in school and has significantly impacted the number of child marriages occurring globally. According to Verveer (cited above): 'Greater efforts need to be taken to improve the capacity of families and communities to cope with the change presented by keeping daughters in school. Strategies to gain parental buy-in and the support of village elders and community leaders must be developed and implemented to produce sustainable results.' (retrieved from: https://2009-2017.state.gov/s/gwi/rls/rem/2010/144989.htm)

- The ways in which we are socialised into our gendered roles as men and women are culturally specific.

- Gender relations are learned and therefore can be unlearned.

By conducting community-based, participatory action research on the structural and underlying causes and consequences of child marriage, as well as the attitudes associated with it, we can solicit 'buy in' from local communities. This is the bedrock of ownership and sustainability, and so we consult all stakeholders, e.g., women's and youths' community-based organisations, teenage girls' formations, democratically elected leaders (i.e., ward councillors), traditional leaders, religious leaders, government service providers, etc. Thus, we can promote high levels of accountability within the community, establishing multi-stakeholder reference groups (MSRG) who are responsible for the collection and analysis of data, as well as any recommendations that are put forward by others. Participants are encouraged to interact and exchange skills and solutions.

The Fourth Industrial Revolution (4IR) is useful in the valuation of the influence and impact of reliable data on policy change and implementation.

4. Outcomes

Multi-Stakeholder Community-Based Support Structures (MSCBSS) are established at each locality to oversee, document, monitor and evaluate the implementation and performance of laws. Additionally, they can ensure there is reliable data provided on incidents of child marriage, and lobby those responsible for making, implementing, and monitoring the enforcement of relevant laws.

Finally, the ENGF is determined to establish and leave behind functional, viable teenage girls' forums that can influence policy direction, strengthening the girls' voices in the community. ⚥

Ms Nomso Kana *works as an entrepreneur in the broadband infrastructure sector. She is a lobbyist for sustainable resource use and led the South African Delegation to the World Sustainability Energy Forum. In 2019, she was appointed to serve as a Commissioner for the Fourth Industrial Revolution (4IR): an initiative of the South African President. Ms Kana has studied nuclear science and serves as a governor for the Nuclear Energy Foundation Agency, a commercial African group that advocates for alternative energy sources in 43 African countries. She has been actively involved in youth development through the SADC and the African Women leadership network. Ms Kana has received several international accolades for her social entrepreneurship work; the most recent is the Young Entrepreneur award by the African Women Innovation, Entrepreneurship Forum. In addition, she is a programme director for Taungana Africa, a non-profit movement that provides high school girls from rural and extremely underexposed sub-Saharan communities with world-class internet access and exposure to education and career options in science, technology, engineering, entrepreneurship and mathematics. Ms Kana is deputy chairperson of the Nelson Mandela Science Centre and Small Enterprise Development Agency. She is the recipient of the 2022 South African Department of International Relations and Cooperation Ubuntu Social Responsibility Award in Africa. She is a part-time advisor to the Premier of the Eastern Cape Province on Digital Economy, Information Communication Technology and Innovative Projects.*

Challenging child marriages through teenage girls' agency and voice

Dr Shakira Choonara is a multi-award-winning public health practitioner appointed to both the World Health Organisation and UN Women. Tweet @ChoonaraShakira

During June 2022, I spent a few days at the Regional Interagency Task Team on Children and AIDS in Eastern and Southern Africa (RIATT-ESA) Learning and Linking Platform. There were a number of presentations with rich insights, but the one which most impressed me was, **"I am a Great Child"**, an initiative which started during the COVID-19 pandemic. The initiative provides easily downloadable online tools for parents and teachers, and allows for young children to have conversations increasing self-confidence, and ultimately instilling leadership at a young age. **"I am a Great Child"** is now active in up to 1000 settings across 13 countries.

Sitting at the convention, I realised that the solution to addressing harmful social practices actually begins at an early age with a generation that is able and ready to challenge these harmful norms. It goes back to the age-old sociology debate of "structure and agency"; at a young age we are almost subsumed by the social structures encompassing us, we are told to be respectful, quiet, to "listen to our elders". Throughout our lives, we are taught about our religion, our cultures, and it is instilled in us that these are "right". This, coupled with power dynamics, which will realistically never be balanced, such as those between a child and parent or teacher, is the configuration of society.

Indoctrinated young girls who cannot comprehend the implications of being married are also told by their parents that this is the way of life. Ideally, if we did shift our societies, a strong, young woman would not merely be "accepting" but instead, would speak out against being married herself or when her peers or siblings were forced into marriage. "I am a Great Child" resonated with me because the power of youth, specifically girl children's agency and instilling a sense of leadership at a very young age, holds enormous potential. This is where investments are needed - the foundation for advocacy is critical. Youth agency alone, of course, will not be sufficient to halt the pandemic of girl brides. We also require the support of external factors including new legislation and effective mechanisms to report child marriages.

Many countries have national legislation that conflicts with cultural and traditional legislation, and this lack of clarity leads to fewer prosecutions and minimal redress against perpetrators. For as long as there are inadequate legal restrictions and loopholes in the law, child marriage is likely to ensue. It is critical for us to continue to advocate for relevant legislation which will afford justice and protection for young brides and under-age girls, coupled with necessary changes in our society.

Finally, we need to make a concerted effort to nurture and empower a generation of strong women who can say "no" to harmful practices such as child marriages or female genital mutilation (FGM), protecting themselves and their peers. Early or immediate intervention at the early childhood development stage would provide a clear solution to many of the sexual and reproductive health and rights issues that we currently face. ⚥

For as long as there are inadequate legal restrictions and loopholes in the law, child marriage is likely to ensue.

"I am a Great Child" is now active in up to 1000 settings across 13 countries.

Dr Shakira Choonara is an award-winning public health practitioner, former African Union Youth Councillor and Operation Smile Ambassador for South Africa. As a public health specialist, Shakira describes herself as not a traditional researcher; she wants to see impact and implementation, everywhere, all the time. Heading a consultancy firm specialising in advocacy, she is able to merge research, implementation and action, to begin to craft programmes which have meaning for women and the youth, as well as people living with HIV. Dr Choonara is a go-getter, a dreamer, a visionary, an activist, eager to to build communities in Africa. Her vision is to create lasting change in Africa.

Make your daughters so capable that you won't have to worry who will marry her.

Instead of saving money for her wedding day, spend it on her education.

And most importantly, instead of preparing her for marriage, prepare her for herself.

Teach her self-love, confidence

Originally written by Indian Women's Hockey team captain Rani Rampal, the statement was about educating daughters, making them financially independent and more confident.

Reclaiming positive customs and traditions to accelerate actions to end child marriage in Africa

Advocate Nyaradzayi Gumbonzvanda (Dr of Laws Hon. Causa)
AU Goodwill Ambassador on Ending Child Marriage/Founder & Executive Director, Rozaria Memorial Trust

In 2014, the African Union launched a campaign to end "child marriage" as a key strategy towards achieving Agenda 2063. This initiative, begun during Dr Nkosazana Dlamini-Zuma' s tenure on the African Union Commission, has had far-reaching, positive consequences for children, and especially girls. As the project has unfolded over the last decade, its implementation has not only unleashed the potential of the continent's greatest human resource, its children, striving to secure rights for their future, but has also forced many countries and communities to have a fresh discourse with culture and religion - the social norms that shape social relations and define the equality of men and women in society.

While the dominant discourse had originally centred on how customs and traditions cause or perpetuate child marriage, in recent years, my work has focused on how African culture and traditions can be transformative, positively affirming human rights while still fostering the sense of identity and community that defines us as African people.

It is a truism that in Africa, most African legal systems practice dual legal systems of general law and customary law. Colonialism and the advent of modern religions led to the stifling of the growth of customary jurisprudence on women and children's rights. Most post-independent African states have not invested in the development of this customary law compared to other branches of law.

The traditional role of chiefs in the dispute resolution framework can be appropriately understood from an access to justice perspective.

It is a truism that in Africa, most African legal systems practice dual legal systems of general law and customary law.

Traditional leaders operate at a grassroot level, and their customary laws are widely accepted and respected in the communities they lead. For the community, the general law courts are procedurally complicated to approach. The civil procedure requirements to present a case before a judicial officer are too technical for laymen and approaching the general law courts is very expensive for many people. The procedures in general law courts require a legal practitioner to be engaged and invariably, the subsequent tariffs are unaffordable. On the other hand, customary law courts are procedurally friendly, conducted in the native language and their process conforms to the local culture. These courts are accepted widely in communal areas. The presence of these courts affirms that traditional courts are more accessible and economical to rural communities than their modern counterparts.

Collaborating with traditional leaders to fight child marriages

Investing and collaborating with traditional leaders as champions in this fight is key, because in many countries like Zimbabwe, traditional leaders are custodians of culture; they are part of the justice system with recognition of customary courts; they are in the legislature through the Council of Chiefs or directly consulted during legislative process; and the traditional leaders are part of the development and coordination structures through the Ministries of Local Government. It is compelling, therefore, that a systematic approach of engaging with traditional institutions should go beyond a single focus on shifting norms.

I would like to share three innovative initiatives that I have influenced, facilitated, or engaged in to accelerate actions to end child marriage:

a) **The establishment of the Council of Traditional Leaders in African to End Child Marriage and FGM (COTLA)**

The COTLA has a strategic relationship with the AU in advancing the continental commitment. It strategically engages with traditional leaders on the continent, galvanising their leadership and influence towards not only ending child marriage but also other harmful practices such as female genital mutilation (FGM), the betrothal of young women and eradicating a culture of tolerance towards violence against women. Traditional leadership has also provided effective champions for ending early childhood marriage (ECM). This is due to their influence not only at a community level (in behavioural and attitudinal change among community members) but also in terms of being able to influence national policies and, more importantly, advocate for the implementation of mechanisms which member states will have already signed up for.

b) Development and documentation of traditional leaders' by-laws/commitments to end child marriage

This work, which started with Chieftainess Kachindamoto of Malawi banning child marriage in her chiefdom, has grown in depth and in approach. In Malawi, Chiefs like Madzimahwe and Chamuka have developed bylaws, and in Zimbabwe, Chief Mnagwende in Murewa, as well as Bushu in Shamva, have developed bylaws with the support of the Rozaria Memorial Trust. These are community and traditional leaders' driven codes of conduct setting new norms, revitalising positive cultural practices, and aligning traditions with constitutions as well as SADC and AU standards.

c) Nhanga

The "Nhanga" is a culturally rooted, safe space model which is currently being implemented by the Rozaria Memorial Trust (RMT) and other partners in southern Africa as both a tool for psychosocial support and as an advocacy tool in policy influencing spaces. A regional study confirmed that culturally we had girl-led and intergenerational spaces for girls where girls were mentored, received sexuality education, acquired life skills, and accessed counselling and psychosocial space. This was known by various terms such as, egumeni, nyumba ywasikana, ixiba, and chinamwali in different societies. The revitalisation of this practice is to retain a culturally rooted safe space for girls and to modernise the content to ensure it is rights based, progressive and advancing African feminism.

Since 2017, RMT has been introducing and amplifying the Nhanga to bodies such as the African Union Summit Heads of State and Government, the United Nations Commission on the Status of Women and the SADC People's Summit. RMT has promoted the concept in its sub-national, national, regional, and international work as part of creating a girls' agency and social movement building on education, adolescent sexual and reproductive health rights (ASRHR), and leadership. Nhanga has been enabling and creating space for young women and girls to influence policies and laws that defend them, and allows them to enjoy their rights at sub-national, national, and regional levels. During the last two years, there has been a concerted effort to research the concept and its cultural underpinnings within a framework that supports the setting up and establishment of a Nhanga in any given community and provides a training manual and an adaptable syllabus.

Conclusion

This is the time for a cultural renaissance that affirms the true essence of ubuntu and reclaims our positive cultural identity. Child marriage, which is an illegality and a crime, will remain a scar on the conscience of the African continent, unless our traditional institutions and leaders reject harmful practices and traditional practices, drawing from deep within our internal resources to resurface a culture that protects its own children, and advances respect, dignity and the equality of all in its society. ⚥

Advocate Nyaradzayi Gumbonzvanda (Dr of Laws Hon. Causa) is currently the Executive of Rozaria Memorial Trust, based in Zimbabwe, an organisation she founded in memory of her late mother, and she has been an African Union Goodwill Ambassador on Ending Child Marriages since 2014. A Zimbabwean national, Dr Gumbonzvanda is a trained human rights lawyer with vast experience in working with girls and young women and has worked on issues involving women and children's human rights, especially violence against women, health and HIV and AIDS, for almost 30 years. Whilst at the UN, she was, for a decade, with UNICEF and UNIFEM (now UN Women). She served as a member of the UN Commission on Accountability for Women and Children's Health; and was a member of the WHO Director General Advisory Group on Ebola. She also served as a member of the UN Civil Society Advisory Group on Women, Peace and Security. In addition, Dr Gumbonzvanda served on many civil Boards including CIVICUS and Save the Children UK. She is the current Chair of Action Aid International, a member of the External Advisory Group to the Managing Director of the IMF, and a member of the Steering Committee for the African Women Leaders' Network, as well as the Gender is My Agenda Campaign (GIMAC). In Zimbabwe, she was among the founder members of the Women & Land Lobby Group, and the Zimbabwe Women Lawyers' Association. She is the Chair of the COVID19 Frontline Responders Group for the Women's Coalition of Zimbabwe.

Key facts on child brides:

- Worldwide, an estimated 650 million girls and women alive today were married before their 18th birthday.
- Globally, the total number of girls married in childhood is estimated at 12 million per year.
- South Asia is home to the largest number of child brides with more than 40 per cent of the global burden (285 million or 44 percent of the global total), followed by sub-Saharan Africa (115 million or 18 percent of the global total).
- Increasingly, the global burden of child marriage is shifting from South Asia to Sub-Saharan Africa, due to both slower progress and a growing population. Of the most recently married child brides, close to 1 in 3 are now in sub-Saharan Africa, compared to 1 in 7 25 years ago.
- In Latin America and the Caribbean, there is no evidence of progress at all, with levels of child marriage as high as they were 25 years ago.
- Child marriage occurs in high-income countries too. In the United States, the majority of all 50 States have an exception in law that allows children to marry before the age of 18. As of 2017, in the European Union, only four countries tolerate no exceptions to the minimum age of 18 for marriage.
- Marrying in childhood has repercussions across many areas of a girl's life.

From : https://www.unicef.org/press-releases/fast-facts-10-facts-illustrating-why-we-must-endchildmarriage

UNICEF is working to end child marriage in 64 countries globally.