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Understanding Gender Inequality in a rural African family unit (household): A Case Study of a village in the Greater Giyani Municipality, Limpopo Province.

A research report for submission to the Faculty of Humanities, University of Witwatersrand in fulfilment of the requirements for the degree of Master of Arts in Political Science

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2019

DECLARATION

I, Tsakane Mahlaule, declare that this research report is my own unaided work. It is submitted for the degree of Master of Arts in Political Science at the University of Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other University. Where I have used the work of other authors, I have properly acknowledged them and I have not copied any author or scholar's work with the intention of passing it off as my own. All the interviews and informal conversations that have been conducted for the purposes of this research report have also been cited correctly and I have not passed off any of my participants' work, suggestions and quotes as my own.

Tsakane Mahlaule

768454

Signature: _____

Date: 20 March 2019

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Mom…
See…I kept my promise!
22 March 2015 - 22 March 2019…r.i.p.

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Abstract

Despite gender mainstreaming through various legislation and policies geared towards addressing gender inequality in South Africa, discrimination against women remains prevalent in South Africa. Society is not only gendered, it is structured to reflect, reinforce and perpetuate divisions along variables such as customs, race and class. On the whole, it is constructed to create what Ely & Fletcher (2003: 07) refer to as interlocking systems of power. For this reason, there is need for a deeper understanding on how women in rural communities confront the issue of inheritance, especially in a dual legal system as the one they are subjected to in traditional authority-led villages. I argue that historically the VaTsonga communities are not inherently patriarchal. I claim that colonialism and apartheid policies invented traditions that forced these communities to be patriarchally structured for practical reasons. This was achieved in various ways including, land dispossession, codification of African customs into formal customary laws, migrant labour, destruction of the African family structure, and many more. I argue that gender inequality persists in rural families of the VaTsonga people of South Africa due to structural conditions that have since permeated all aspects of public and private life. Wekker (cited in Franken et al. 2009: 73) defines gender as 'a layered social system that gives meaning to the biological differences between women and men while operating on different levels such as the personal, symbolic and institutional levels.' These inequalities play out in the home and in institutional spaces. For example, role allocation and the gender division of labour in the household keep women in unpaid labour, while the economic factors which force women's perpetual dependence on men have far-reaching consequences for especially rural women. Furthermore, distorted customary laws such the *Traditional Courts Bill 2012* implied that rural women will have even fewer rights than they had under apartheid. Article 9 of the Constitution demands that 'custom, culture and religion shall be subject to the equality clause contained therein. Despite the Bill of Rights, in rural areas women are treated like minors with no substantive rights and equality. Often they are denied custodianship of the family unit's assets and resources including land. Girls are socialized to embrace set feminine roles which prescribe submissiveness and dependence. These traits and manners of existence extend into adulthood with lines drawn between them and men along gender biases and entrenched discrimination. Women are forced by convention to put their goals and needs secondary to those of their male relatives, be it the father, boyfriend, male siblings, husband and so on. It is in this context that the woman is perpetually viewed as a mere subject for the performance and satisfaction of patriarchy.

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Chapter 01

1.1 Structure of the study

There is a XiTsonga adage that goes "*nyuku wa mbyana wu helela evoyeni bya yona*" translated "*a dog's sweat disappears into its own fur-coat and therefore no one can bear witness to its hard work hence it does not have to be paid*". In essence this applies to many hardworking women who never tire to look after everybody else, cook for them, and so on, but do not get rewarded for all their good deeds and sacrifices throughout their lives.

This study is premised on the argument that there are differences in how women define and interpret gender inequality as lived experience. Women in rural communities (including their traditional leaders) experience gender inequality differently from those in urban spaces hence their reaction to it is not the same. It is the view of this study that customary law in its current form with its patriarchal structures of support treats women like hardworking dogs whose sweat is only seen and felt by women themselves with no acknowledgement or reward from their families and/ or society at large. They are often the first to be disinherited upon death of a parent or husband, they are also the ones who lose out on a lot materially in case of divorce, separation or desertion.

For the women of Zamani Village, notions of gender inequalities are rooted to a greater extent in the history of the Gazankulu homeland and the South African apartheid government together with its colonial forerunners. Zamani Village is part of three hamlets falling under one chieftaincy situated about 10kilometres distance apart from each other. The traditional authority is formally known as Nkuri Tribal Authority, with Tomu, Shirilele and Zamani as part of the whole. The nearest urbanized area is the Town of Giyani which is about 10 kilometers away from Zamani Village by road.

Giyani, also affectionately known by VaTsonga as 'the place where the people dance', was officially established in 1969 as the capital of the Gazankulu homeland and housed the 'parliament' of the Bantustan. It is one of the administrative and commercial centres of the Mopani District Municipality. It aims to be the municipality where diversified cultural tourism and agriculture thrive, ensuring access to affordable basic services to all households. (*Source: Greater Giyani Municipality website.).* It is in Giyani where the local government offices of the Greater Giyani Municipality are situated. Up until about five years ago it had only one tarred road cutting across the central business area through to the parliament buildings and the ministers and chief minister's residences. Traffic lights were only recently installed in two

intersections along this long road with two lanes. The streets have no names. The municipal area covers approximately 2 967 square kilometres area with only one semi-urban area being Giyani. It is demarcated into 30 wards and has 60 councillors. It has 10 traditional authority areas comprising of 91 villages. Giyani town is the largest centre of population concentration, employment opportunities, shopping and recreational facilities.

Zamani Village, sometimes referred to as Nkuri-Zamani Village, is a settlement in the north-eastern side of Giyani and it is where the chief's 'kraal' and tribal offices are located. *Hosi* Nkuri's tribal office continues to play a very significant role in the day-to-day administration of the three villages under his jurisdiction and traditional leadership in this study. Zamani is one of the three and it is the seat of the tribal authority. Some of the chief's duties include performance of the following: 1) allocation of land for residence, (subsistence) farming, community projects and business, 2) births and deaths registrations, 3) assisting residents with identity documents applications, 4) applications assistance for social grants and old age pensions, and 5) presiding over traditional court hearings.

Acceptance and legitimacy of the traditional authority is demonstrated by the number of people coming to consult with the chief personally almost on a daily basis. They also come to consult with the tribal council on other issues of less importance. Tuesdays and Thursdays are reserved for dispute hearings which often come as referrals from the ndhunas of the three villages as well as from the Magistrate's Court in Giyani. These range from 7 to 15 cases per week. Some cases, depending on the gravity or seriousness of the matter go straight to the chief as a port of first call. Residents do not need to have appointments to see the chief or access the tribal office and its services. On the four occasions I spent time at the tribal office I noted over 35 people ranging from approximately 23 to 70 years coming for one thing or another, and they were all able to get an audience with the chief.

Of the Nkuri Tribal Authority settlements, each of the three villages has approximately 600 family dwellings and households mostly made up of at least four to fifteen members per household residing together at any given point. In 2001 the combined population for the traditional authority stood at about ten thousand one hundred and thirty-four (10,134). It is made up of rural South African village demographics of predominantly elderly women with children from infancy to school going teenagers, and a smattering of young adults and middle-aged men and women typical of a village population. Most of the residents are unemployed and reliant on subsistence farming and livestock supplemented by the welfare grants for the elderly and children as well as remittances from migrant labour relatives in urban areas of

Gauteng. There is a primary school for each village which started off as a community school built by the villagers with their bare hands. The three villages share one high school built at Shirilele as the village halfway between the other two. The clinic is also located at Shirilele for the same reason of accessibility for all 3 Nkuri villages. See Appendices D & E for population demographics related to age, gender and educational levels of residents.

Most of the villagers of Zamani and Shirilele have historical kinship links and allegiance with the traditional leadership of Chief Nkuri who a descendant of the Maluleke clan of Vanwanati tribal lineage is. Their line of chieftaincy can be traced back to the 1640s in the Copi Country in South Africa (Mathebula 2002: 18-27; Junod 1927: 22). However, residents at the Tomu Village were resettled under Nkuri jurisdiction through forced removals of the colonial apartheid administration in 1961 and chief Nkuri imposed on them as their traditional leader (Mathebula, 2002). There is an ongoing history of residents of Tomu being regarded as disloyal renegades to the Nkuri Chieftaincy.

The former Gazankulu Bantustan and its government, which was formed in 1967, had huge influence in shaping the persistent cultural conceptions of the meaning of social development. It also impacted upon interactions in living spaces among the VaTsonga-speaking group found in the Greater Giyani Municipality in particular and the Mopani region of the Limpopo Province in general. Gazankulu was set aside for the VaTsonga speaking group of South Africa. Apartheid laws of segregation such as the Group Areas Act were thus implemented in this manner where people were categorized and put in separate living environments. In its quest to defend the levels of development that were rampant throughout, the homeland leaders invoked cultural conventions as a means to promote the rural areas as the ideal living space for the VaTsonga people. In line with the apartheid government's policy of separate development the homeland was marketed as a place where VaTsonga people would practice and follow their customs without hindrance or fear of cultural ridicule. They explained villages as places where the process through which infrastructure services such as water, schools, roads, telephones, clinics and so on would be accessed. Instead what the people found were small scattered villages clustered in small homestead plots of about 40m x 40m. There was no consideration of whether one owned livestock or not. In Zamani Village people who owned cattle suffered more from this type of settlement due to inadequate grazing land for their livestock. Local social systems became disorganized as a result while the community's means of survival disappeared. The lack of access to land affected subsistence farming as a major source of food

and most households in these new settlements were forced into migrant labour. (Bundy 1978: 221-246).

These 'invented traditions' were packaged to reflect the homeland and its impoverished villages as a space where people could live in peace with their kinship away from the bad influence of the cities. In truth land dispossession had been taking place long before the policy of apartheid was declared in 1948. Both the 1913 Natives Land Act No. 27 and the 1936 Bantu Trust and Land Act No. 18 sealed the unequal distribution of land between the races. Whites owned over 70% of South African land, while Africans were settled in less than 13% of the total land mass where most of it was not arable. (Bundy 1978: 221-246).

Various campaigns were created around this notion in the hope that repetition would result in pacifying the inhabitants. For example, what was known as Culture Day was a big day in the homeland's calendar. Women through membership to the Gazankulu Women's Association (GWA) and youths through membership to the Ximoko xa Rixaka Youth Brigade (XRYB) were mobilized throughout the year to engage in competitions culminating in the big day. These organisations provided a patronage network through which they accessed employment and study bursaries for those who joined and participated in its activities. This played well into the hands of the apartheid government and provided them with a dumping ground for their re-tribalization project of Africans and separate development policies were enforced.

Some older folk in the villages still view the presence of local government in rural areas as a tool through which the democratic government seeks to urbanize their living space while stripping it of its customary essence and originality. In the homeland system Black people had a choice to live in a village (*tiko-xikaya*) or settle in a township (e*lokixini).* Responsibilities of the day to day running of villages were left to the traditional chiefs, while the townships had local municipalities. Although they did not have much say in the overall administration of the state in rural areas where they lived, the chiefs' powers were reinforced and legalized through laws such as the Bantu Authorities Act of 1951 (Smith 1990; Price 1991) with far-reaching administrative and judicial powers over their subjects, that is the residents of the tribal reserves and settlements under their jurisdiction. Hence the former Gazankulu government directly involved traditional leaders in policy planning and decision-making throughout. They were also included in the planning phases of development projects. Although the deceased old Chief Mzamani Nkuri, the chief of the village in this study, did not form part of the bantustan central government before 1994, his successor gets invited to take part in local policy decision-making as the head of a traditional authority. The significance of the chiefs' involvement in local

development planning and implementation cannot be dismissed or downplayed. It is something the post-apartheid democratically elected government has learnt to appreciate.

1.2 Background

Since the arrival of the first white settlers in South Africa around the mid-1600s, an epic war for a non-racial, non-sexist and democratic society was fought relentlessly. Many lives were sacrificed in a process which took both military and ideological dimensions at different epochs throughout. The miracle of a democratic South Africa was realized in 1994. This study is centred around the argument that prior to colonisation African societies were not inherently patriarchal but were structured in ways that best suited the needs and conditions of the time. While strides towards the emancipation of Africans in general and Blacks in particular have been made, I observe that the struggle for a non-sexist South Africa where gender inequality is a thing of the past remains a distant mirage for the majority of women, more so for rural African women. The VaTsonga women of Zamani Village are finding ways around the constraints of custom and tradition to realise their rights as fully-fledged citizens of a democratic society as envisaged in the 1996 Constitution of South Africa. I ask if the current legal statutes are of any help towards their emancipation and if in their manner of doing things they are inventing new strategies to amplify their hidden voices and secure freedoms for themselves. Has the post-1994 democratic state opened up space for more voices to speak on issues affecting rural women and the strengthening of their agency? These women and invented traditions imposed upon them since colonial rule through to apartheid period over to the post-1994 era are the focus of this study.

In recent times African women raise children while putting up with physical and emotional abuse at the hands of men. In the colonial and apartheid period women suffered under the yoke of what is generally known as triple oppression. They bore the brunt of being working class African women in a racist, white dominated society, with patriarchy and underdevelopment. Illiteracy was highest among women as those who could read and write exercised control over whether they could attend school or not. African women suffered humiliation, insults and even beatings to silence their voices seem hidden or swallowed among those of the male family members. These are some of the dis/continuities that have been carried through from the aforementioned periods. This study is biased towards the plight of rural women and adopts a feminist approach to engage with the project from beginning to end.

In rural areas women are especially faced with daunting odds whenever they attempt to preserve their individuality and independence. They are weighed down by the yoke of tradition, custom and oppression. Under colonial-inspired customary laws Black women had very few rights and were regarded as the property of their fathers or husbands; and any male relative in the absence of a father and husband. Attempts to assert their rights as full, capable human beings and to liberate themselves was generally condemned and often harshly dealt with through various means. For example, the women would be isolated from the entire family and clan members could be discouraged from helping or fraternizing with her. She could also be forcefully married off, often to a strange older man; or exiled from her village for bringing disrepute to the family, clan or tribe. Despite the political gains of 1994 certain laws are still under construction for enactment as part of the South African legal framework directed towards rural communities under traditional authorities. The study examines the rationale behind such customary laws and implications of their co-existence with the Constitution and the Bill of Rights including their impact on the rights of rural women.

The prevailing power relations between the ruling elites and the masses of rural people is structured in a way that renders women voiceless. There is a need for rural communities to organise themselves into meaningful voices that can be distinguished from that of traditional leaders who claim to represent the people's interests. Pityana cautions that despite the challenges facing rural communities, "rural organisation has to be undertaken within the context of the strategic space that the progressive Constitution affords such movement" (2015: 173). Pityana (2015) further asks 'whether the Bill of Rights with its various provisions has been effectively utilised by rural communities towards the realisation of the promise it holds for everyone?'

This study found that despite a lack of sophisticated urbanized ways of organisation, women at Zamani Village have their own endogenous feminisms and ways through which they make the system work to their advantage. For example, some of them are engaged in informal ways of earning income and investing in goods for themselves. These ways include amongst others, *Xiseveseve (*rotational gift buying among friends*), ku horisana (*stokvels)*,* spazza-shops, beer brewing, dressmaking, bricklaying, pottery, and others. There is a realisation that theirs may appear to be muted or hidden voices when assessed from a conventional urban context, however they seem to have over time come up with ways that work best for their context, more especially because it is of their own bespoke or customized, fit-for-purpose design.

Furthermore, the study found that in relation to private spaces, although rural women may indeed not be organised into the conventional 'meaningful' loud voice as is usually the case in urban centres; there is evidence that women are coming out on their own to devise means to get around the domestic patriarchal structures of power to get their interests catered for. Since time immemorial women participated in the life and activities of their village localities and also had their own lives. The predominant ways through which rural women converged was through family alliances where women from related families would often do things together away from the menfolk. For example, from precolonial times through to the current era chores such as firewood gathering, fetching water from the river or stream or the village water pump, and foraging for wild vegetables and fruit would often be carried out in groups of related women (Junod, 1927). It was during those moments when they would find time to talk to each other about their personal issues including updates on love interests for unmarried maidens, exchanging marital and/ or intimacy tips for married women and child rearing advice for mothers and so on. Some of these kinds of intimate solidarities are still common among rural women and form part of their coping and defence mechanisms. Although their voices seem hidden or swallowed among those of their male family members and within themselves as individuals, rural women are no walkover.

1.3 Research Objectives

It is within the contexts as highlighted above that I argue against the three bills geared towards regulating rural communities. The bills are highlighted below. I posit that such only serves to reverse the gains of the 1994 dispensation while perpetuating ideas of the status of women as mere subjects with the gender inequalities prevailing under patriarchal structures that are often the norm in most rural communities. I base my argument on historical factors such as that codified customary law as applied since the colonial period does not reflect the true 'living' customary law of precolonial times. Codified customary law is a highly distorted version of African customs that got invented into tradition to suit colonial and apartheid objectives. (Simons 1968; Bundy 1978; Claassens 2015; and Pityana 2015). These should not therefore be adopted for implementation in a democratic state whose foundation is based on the values of freedom and equality for all before the law as guaranteed in the Constitution. Rural women's rights to inheritance and access to land should not be impinged upon by discriminatory laws on the basis of their gender and/ or class.

I use a rural village in the Greater Giyani Municipality in Limpopo Province as my site and case study to examine issues of land access, succession and inheritance in a family household

and production unit. Another basis for my critical view against the bills is due to the noted tendency of the government of the day to kowtow to traditional leadership elites instead of engaging with the content and implications of the bills towards rural communities. This I observed is especially the case where gender equality issues and rights of women are concerned. "Whenever there is conflict between the interests of traditional leaders and ordinary people, the inclination of the government has been to favour the former [traditional leaders]," writes Pityana (Pityana 2015: 170). He concludes on this by observing that such approach by the government "has left rural communities without any dependable platforms through which to engage the state especially when they hold views regarded as dissenting or different" (Pityana 2015: 170). As things stood at the time of conducting this research, the ruling African National Congress (ANC) is prepared to sacrifice principle at the altar of political expediency, this is demonstrated by its ambivalence on the role and place of traditional leaders in rural areas. (Pityana 2015; Claassens 2015).

Professor Shireen Hassim's chapter titled '*Postponing the National Question: Feminism'* traces the ANC's track record of postponing making emphatic and unequivocal commitment to the emancipation of women and its historical show of ambivalence from its position on the 'women question' during the exile years to its position during the Multi-Party Negotiation Process in the 1990s where it opted for a strategy of 'effective equality' outcomes rather than same treatment for all people. It claimed to be committed to the reform of customary law while being cautious how to implement it in a politically volatile environment. (Hassim 2017: 217-233). Recent developments point towards the continued unreliability by the ruling party when it comes to matters affecting rural women's right to substantive equality. Chapter 4 discusses this in detail.

Often women's identities as individuals who may have goals of self-actualisation tend to be ignored or subsumed within those of their family, especially male members. Many a time women are expected to work hard to support others while their own personal interests are delayed or suspended in favour of those of male siblings, fathers or husbands. Other times women themselves tend to put their own needs secondary while they take care of everybody else including cooking, cleaning, from nursing the sickly and caring for the elderly to providing emotional and moral support to all. This is because it is expected of them to conform to the gender-prescribed role of a supportive sister, aunt, mother or wife. They grow up seeing, hearing and doing things to serve the interests of others, particularly their male relatives to the negligence or suppression of their own self-interest. Women are burdened by unpaid household labour where they work non-stop. This study also examines the role of socialization and the

division of labour within the household and how this affects rural women especially within the context of the migrant labour system as imposed upon African communities in colonial times. Its impact on the family structure over time is also looked at. The study further examines how traditional norms and practices inform gender roles in the household in particular and within a rural village in general. It looks at how these perpetuate continuities of gender inequalities.

Numerous examples of the disruptions to family structure and division of labour that manifested through the advent of colonialism and the migrant labour system exist. There were instances where girls would be required to herd cattle in order that their brothers could attend school. This caused a disruption of sorts in that in many African communities, the role of herding domestic animals was generally considered to be the preserve of boys and men. Girls and women's chores were often restricted to the household and tending to the fields during ploughing and harvesting season. However, with time the taboos could be adjusted when it suited men.

Subsequently, the study seeks to understand how women in rural areas under traditional authority navigate their way through an environment structured in patriarchy and designed to perpetuate and sustain gender inequalities and its impact at both local and macro level contexts. It is my view that any legal statutes that promote discrimination of the sort listed in the Bill of Rights do not belong in a democratic society such as South Africa with its internationally lauded progressive constitution. These three bills are:

1) *The Traditional Leadership and Governance Framework Act of 2003*; deals with the composition of traditional councils, tribal authorities boundaries and jurisdiction, access to land and management thereof in rural communities. It is generally considered by many to be breathing life back into the apartheid laws such as the Bantu Authorities Act of 1951;
2) *The Communal Land Rights Act of 2004*; in essence provides for chiefs to obtain title deeds of tribal land giving them authority to allocate and administer land in communal areas. It discriminates against rural women;
3) *The Traditional Courts Bill of 2012*; gives traditional courts powers to resolve civil and criminal disputes between observers of customary law. It differently bestows subject-hood status on rural dwellers compared to the status of urban citizens. This therefore removes certain constitutional rights to rural people with women as the most adversely affected.

The above bills have far-reaching consequences on women, they adversely affect their rights as full citizens under the 1996 Constitution of South Africa and the Bill of Rights. These statutes and others like them promote power relations that are skewed against women both in public spaces as well as in private spaces, that is the family unit in as far as issues of access to land, inheritance and succession by women is concerned. It also affects the situation of women in relation to unpaid labour in the household and the family unit and the analogy of a dog's sweat as expressed above is perpetuated through legal statute.

1.4 Rationale Behind the Study

I therefore summarise the rationale for this social enquiry as follows:

- The former Gazankulu homeland has evolved since 1994 and yet there is not much research conducted in the area, its people, the VaTsonga, and their way of life, let alone how they navigate the customary and common law aspects of life in a democratic state.
- This study was necessitated by the realisation that since the 1994 democratic dispensation and the official reintegration of former homelands into a unitary South African state, there does not seem to be much focus springing from the needs of rural women in this case VaTsonga women. The tendency for urban dwellers, educated elites and state agents to speak on behalf of rural women is persistent.
- Rural women are full citizens of a democratic state and are entitled to substantive equality rights similar to those of all citizens of South Africa as set out in the Constitution and the Bill of Rights section 9 (1) which states that 'all are equal before the law and shall have equal protection and benefit of the law; and section 9 (3) which states that 'the state may not unfairly discriminate directly and indirectly against anyone on one or more grounds, including race gender, sex, […] culture, language or birth'.

1.5 Theoretical Resources

I explore how the South African legislative framework impacts on dis/continuities of gender inequality in issues of inheritance and access to land linked to the status of women in traditional contexts. Gqola (2010: 6) suggests that slavery, colonialism and apartheid are not distinct and mutually exclusive periods. Rather they should be seen to exist along a continuum. For, the ultimate effect of these oppressive systems was to devalue and dehumanize the 'Other'. While taking caution not to homogenize African-American slavery experiences, hook's views on them can be broadly applied to other post-colonial subjects such as the African, Asian, Filipino

and Latino women. Baderoon (2014) uses the South African context to argue that "the legacy of slavery still permeates South Africa, and the inscription of slavery is apparent today in forms of labour that are crucial yet continue to be undervalued, underpaid and characterized by systemic violence, such as farm labour and domestic labour".

To a large extent the study relied on post-colonial feminist theory which acknowledges what has been coined as 'double colonisation' where women in the developing world have simultaneously experienced the oppression of colonialism and patriarchy (Tyagi, 2014). I find this theory useful in locating the subject historically and to a certain extent geographically. A post-colonial feminist framework seeks an understanding of meaning which does not preclude history but rather seeks to see the role of history in creating meaning, hence knowledge.

Tsitsi Dangarembga, a Zimbabwean feminist writer captures this understanding in her novel set in a Southern African country during the colonial era:

"this business of womanhood is a heavy burden…when there are sacrifices to be made, you are the one who has to make them. And these things are not easy; you have to start learning them early, from a very early age, the earlier the better, so that it is easy later on. And these days it is worse, with the poverty of blackness on one side and the weight of womanhood on the other. Aiwa! what will help you my child is to learn to carry your burdens with strength". (Dangarembga, 1988:16).

Women need to be strong if we aim to trump structural and gendered inequality. We are often expected to speak only when spoken to. We are also supposed to show our usefulness and strength through our ability to carry the burdens of family, community and other life challenges in silence. For centuries and years society has been moulded around gendered and racialised structures of power. Rural women remain a group whose voices are muted from various ends, that is, across class, race, gender, in the family, and from within the community of women themselves. Often it is assumed that what is good for women in urbanized areas is also good enough for them. My view is that rural women's aspirations are drawn from untested assumptions that they aspire towards urbanized ways of life that demonstrate other possibilities. They should not be characterised as helpless being with no agency. Rather it could be that their own material conditions and positionalities in the family and society at large shape what their choices they are likely to make. The study shows that not all women wish to relocate to an urban area. Urban feminists also display a tendency to be elitist in their claims on representation. Rural women are least concerned with fancy words, concepts and talkshops;

their type of feminisms may not even have a label or ever be written about and theorised. They spring out of pragmatic engagements and activities.

Women's stories of sacrifices, triumphs and struggles are often relegated to footnotes in the process of narrating men's heroic conquests. Many women were casualties of the colonial and apartheid system while they fought it from their positionalities, yet they remain unsung heroines. When the subsistence communalistic economies of Africans were gradually eroded by the colonial money economy, the responsibilities of raising children and looking after families fell upon women as the men went to the industrialised zones and farms as migrant labour.

Women worked as domestic workers in white people's houses for a pittance while striving to keep their own families together. Often they would encounter sexual harassment and abuse from their white bosses who in the glare of daylight treated them as sub-human while in the cover of darkness and shadows made them objects of their sexual fetishes. From my narration above, it is easy to deduce that the period referred to is within the colonial era when Christianity, western education, acculturation and colonial conquest was at its peak. Such has been the displacement and tearing apart of families and damage to a people's way of life and social structure. I therefore submit that patriarchy is not an inherent feature of precolonial Africa, and that to this day empirical evidence exist of some African communities that displayed ways of life that demonstrate other possibilities. For example, Cheikh Anta Diop writes that in a city such as Ghana in 1352 'transmission of the individual was named after their maternal uncles and that nephews of the father's sister were the ones who inherited rather than the sons'. (Ibn Battuta cited in Diop 1987: 07). In essence a person bore the name of their mother in line with the matrilineal customs based on a matriarchal system of the time.

More than twenty after apartheid, South African society is still male-dominated and the structure of patriarchal culture is still intact in many spheres especially in the private or home front. Despite a progressive constitution and an array of legislation promulgated to regulate gender relations, the private sphere remains mostly unaffected. Marital infidelity by men is prevalent and often accepted without question. Sometimes a husband's cheating may be blamed on the wife as if she is the one causing the man to cheat. Cheating by a wife is considered an unforgivable abomination and a disgrace to her family too. Granted this is not unique to rural women in Zamani Village, it is more pronounced and normalised in rural contexts than it is in urban areas.

Women who reject the inferior status thrusted upon them by society are often branded renegades and accused of adopting Western ways. Refusing to accept the status quo may result in abandonment by the husband and being left to raise children alone. In many cases once men are separated from their wives they do not feel duty-bound to support their children and therefore the mother is left as a single parent. Although with the introduction of child support legislation things are improving, mothers still have to go through the humiliating and exhaustingly slow process of filing for child support via the legal system. It is not unheard of for a father to resign from his job in order to avoid child support. In some instances he simply does not attend the court hearing to deliberately delay the process.

Sometimes the history of white domination and the migrant labour system is cited as the culprit for the widespread nature of women's oppression and gender inequalities common in South Africa. The years of emasculation suffered by Black men degraded and stripped them of their manhood and pride by limiting their abilities to provide for their families. This often led to men channelling their anger and frustrations towards soft targets who could be amicable to their need for some form of absolute control, namely women and children.

The migrant labour system was created by colonialism and perfected by apartheid's spatial development policies as a means to promote tribalism among Blacks. Men would as a result cling to customs and traditional practices that had long outlived their usefulness. This led to a sense of desperation linked to a desire to feel a sense of belonging to some identity. The juxtaposition of traditional authority and modernity was thrown in as a form of relief. In a tribal context and environment men, like women, have power, authority and often command respect while in colonial and apartheid contexts they were subjects of white rule with a powerlessness that stripped them of respect and referred to them as "boys" regardless of age or social status in their own communities.

Religion is also another institution that is regarded as a sacred cow. There is a feminist focus on how patriarchy uses religion as a tool, in cahoots with culture to oppress and suppress women. It is often said that cultures are constantly evolving. However, the underlying way in which women are perceived and treated does not necessarily seem to be evolving.

1.6 The Research Question

The study is guided by the following main question:

How do rural women affected by adverse gender dynamics in a family unit within the context of traditional authorities go about asserting their rights with regards to issues such as inheritance, access to land and succession in rural areas?

1.6.1 Sub-Questions:

What is the influence of traditional norms and their practices in determining gender roles in the household?

1. How does the South African legislative framework impact on gender equality in issues of inheritance in traditional contexts?
2. Has the emergence of a modern family/household affected family relations and succession issues in rural contexts?

1.7 The Research Question

The study is structured in chapters one to seven which are divided into main themes as follows:

Chapter One has set the scene for the basis of this study through an introductory background of the research undertaken herein in relation to gender inequalities.

Chapter Two presents the research approach used for the study and the methods used in the data gathering for its purpose. It offers a reflexive account of the researcher's journey in locating the research through the extended case study method underpinned by an exploration of various strands of feminist theory. It discusses the merits and demerits of the chosen methodology and considers the ethics of using participant observation, interviews, focus groups and oral historical narratives as primary sources of data.

Chapter Three covers the period of study relied upon to ground debates about the status of African women. It outlines the roles that African women in particular from VaTsonga communities had and through which they were perceived within their broader communities, clans and families during the precolonial years. It also gives an overview of the colonial period and apartheid era and their impact on VaTsonga community's way of life. This chapter traces the journey of rural women in their communities and their conception of gender equity in such spaces over time.

Chapter Four discusses the potential emancipatory and liberatory effects of the 1994 democratic dispensation for South African women. It presents VaTsonga women's placement

in the South African context and space as citizens and subjects in a rural environment under traditional authority. It explores how the dual legal system enhances and/ or diminishes their rights as citizens in a constitutional liberal democracy.

Chapter Five provides further exploration of attitudes of the VaTsonga women at Zamani Village in relation to issues of inheritance, the rights of access to land and succession in the family unit and how it privileges men over women. It also looks at the division of labour and its impact on family relations. It explores forms of endogenous feminisms that women engage in to push back against the oppressions of patriarchy and gender bias. The chapter also gives an analysis of the findings pertaining to the South African post-1994 legislative framework in relation to rural areas and the applicability thereof. It juxtaposes the impact of customary law on rural women against the liberal *1996 Constitution* and its *Bill of Rights*.

Chapter Six discusses rural women's lived experiences in relation to gendered roles and patriarchies in both private and public spheres of their existence. It analyses adverse effects of power relations on rural VaTsonga women and the dominant masculinities of traditional authorities. Analysis of findings is biased towards feminist perspectives and examine how gendered division of labour and conformity play out in the household. I explore any shifts that may be taking place due to the emergence of the concept of a modern family and if such modernities have any influence over patterns of inheritance and succession.

Chapter Seven concludes that rural women of the VaTsonga community of Zamani Village are a reflection of different understandings of democratic freedom and its attendant rights as enshrined in the 1996 SA Constitution and laid out in the Bill of Rights. It draws on the entire study to demonstrate that these are not passive women with no conception of their own self-directed agency. They are continuously engaged in forms of daily expression of the meaning of a democracy and a free and fair society. Rural women recognise the power within and are able to navigate life through a series of endogenous feminisms that women engage in. They perform these despite not being documented in sophisticated concepts and ideologies. They engage in ways which permeate their existence and give them voice within what may seem to be an oppressive system from a distance and takes a different form and shape at proximity.

Chapter 02 Research Methodology

2.1 Introduction

In this chapter I explain the process of data gathering for this study. The explanation focuses on the combination of procedures used to guide it. My explanation covers the research methods applied, the case study, data collection techniques and analysis thereof, any limitations of the study, reflexivity and ethical issues. The main research question suggests that rural women are adversely affected by gender dynamics with regards to household division of labour, property rights and related issues such as access to land, inheritance and succession.

The objective of this study aims to understand how these women navigate their way through an environment structured in patriarchy and propped up by traditional authority designed to perpetuate and sustain gender inequalities. Despite the dawn of the 1994 democratic dispensation with its progressive *1996 Constitution* and the *Bill of Rights* which in essence promotes equality for all before the law, traditional norms and practices determine gender roles in the household in particular and rural life in general. The study into how the South African legislative framework impact on continuities of gender inequality in issues of inheritance and access to land linked to the status of women in traditional contexts thus inspired my choice of this qualitative research. The design thereof is outlined in this chapter.

2.2 Research Methods

Qualitative methodology is applied for this study with the aim of achieving a deeper understanding of the relationship of the topic taking into consideration the nature of the knowledge, how it is gathered and its contribution to the findings. Primary data sources include interviews, group discussions and observations. Research methods often deal with the steps to be followed in a given sequence to gather data. The gathered data from documents will be triangulated with interviews, group discussions, observations and oral historical narratives with concepts and themes emerging from the analysis thereof.

Part of my motivation in undertaking this study stemmed from the observation that little research has been undertaken on the topic. Creswell (2003) is of the view that a qualitative approach is merited if a concept or phenomenon needs to be understood due to little research having been undertaken on it. As alluded to in the preceding chapter, there has not been much critical or feminist analysis of the plight of rural women subject to traditional authorities in general and those in the VaTsonga communities in particular. As a result the voices of these

women remain hidden and often issues peculiar to their existential realities and conditions are generalized within mainstream feminist conceptions of gender relations issues together with those of urbanized women in the cities. Qualitative methods offer an opportunity for "the researcher to collect open-ended emerging data with the primary intent of developing themes from the data" (Creswell 2003:18) whose meanings and power relations emerging thereof can be interrogated, something which is a shortcoming in quantitative methods.

Some of the research components which may be applied in conducting qualitative research are as follows, namely; 1) *data*, which comes from various sources such as interviews, observations and documents (Strauss & Corbin 1990: 11-12). Relevant and existing literature on traditional authorities, family and its impact on rural women was considered with a view of enriching this study. Strauss & Corbin (1990: 11-12) further identifies, 2) *procedures* which are used in the organizing and interpreting of data as a second component to be considered when doing qualitative research. I also consult a variety of, 3) *written* journal articles and books as some of the sources utilised herein.

In the section following this I present the qualitative design and methods used which include participant observation, interviews, focus groups, archival material analysis and some oral historical narratives.

2.2.1 Case Study

The research adopts a case-study approach that specifically focused on Zamani Village in Giyani Greater Municipality, Limpopo Province as the preferred site. Refer to chapter 1 above for a detailed description of Zamani Village. The study used the case study method as a starting point to understand broader issues on how women are affected by gender dynamics in the household with regards to property rights and related issues such as inheritance and succession. Various aspects including the division of labour are explored. According to Barchiesi (2007) a case study is based on a micro-level understanding of the phenomenon which becomes a building block for a broader understanding which I found presented opportunity for in-depth engagement with this phenomenon by illuminating bigger questions arising from the study. Furthermore, it is more focused and allows for a reasonably extensive investigation of the case. As such, the study of selected households in Zamani Village was used as a building block in understanding broader issues on gender in the Greater Giyani Municipality and among the VaTsonga people residing in this rural region of South Africa.
I adopted a qualitative research approach where I drew on a case study. This enabled analysis of how social experience is constructed and given meaning over time. It also allowed for

opportunity to fully understand how individuals and group structures give meaning to actions and to their daily lives (Berg 1995). Furthermore, this enabled description of phenomenon drawing from the views of participants such as traditional authorities, family members and other state agents at municipality level. It is more focused and allows for extensive investigation of a particular case. The drawing of the experience of women at Zamani Village provided in-depth examination of variations and meanings while it ensured that the study is more focused in explaining continuities and discontinuities from the colonial era to apartheid period and through to post-apartheid and how these are connected to the precolonial period. Moreover, a case study allows construction of a micro level understanding of the phenomenon which becomes a building block for a broader understanding.

The study draws on Burawoy's (2007) reflexive ethnography/extended case study method as the overarching methodological framework underpinned on four critical dimensions. This extends the researcher into the participant's world and observation of time and space. Furthermore, it is based on the extension of the micro to macro processes where social situations are not insulated from the broader context as there cannot be "micro processes without macro forces or macro forces without micro processes" (Burawoy 2007: 09). Consequently, an understanding of gender inequalities at Zamani Village cannot be separated from the broader issues in the rural villages of Giyani that lead to localised struggles.

Lastly, this method aimed to extend and rebuild theory as according to Burawoy (2007: 09) "we cannot see social reality without theory just as we cannot see the physical world without our eyes". The study adopted a triangulation of interviews, observations and documentary analysis /archival material to enable investigation of meanings of silent and or hidden voices that may bring about localizised forms of endogenous feminisms from different dimensions best suited to confront the attendant and prevailing conditions for the purpose of enhancing internal validity and reliability.

Empirical evidence is also drawn from a triangulation of interviews, archival research and observations which enabled for the analysis of the phenomenon from different dimensions to ensure internal validity and reliability. In-depth interviews were conducted with women, family members and key informants with special knowledge on the subject. Focus group discussions were drawn as a source of empowerment and enabled participants to share their experiences. Interviews capture the real experiences of the rural women and their daily encounters with patriarchy and gender bias. Documentary sources are drawn from both primary and secondary

evidence and is critical in understanding the dynamics and meanings of gender inequalities over time. The researcher thus drew on reflexivity and critical analysis of all documentary evidence including triangulation of methods to compensate for limitations. Through participant observation, the researcher immersed herself in activities of the participants by spending time at Zamani Village for at least a period of over 33 days. This draws from Burawoy's (2007) thesis that researchers are part of the world they study. This involved participation in household activities, community meetings, events and observing some of the activities undertaken by traditional leaders, traditional council and ward councillors at Zamani Village. This allowed the researcher to take full account of events as they unfolded and to therefore have a better understanding and interpretation of other underlying meanings (Neuman 2000). Analysis is based on multi-layered qualitative data analysis technique that include text and thematic analysis. Underpinning the analysis is an interpretive philosophical assumption based on a subjective epistemology and ontological assumption that views reality as a social construction.

2.2.2 Qualitative Design

The research study adopted a qualitative approach which involves an interpretive, real-life approach to the world. This qualitative approach allowed the researcher to study events in their natural setting while attempting to make sense of, or to interpret, phenomena in terms of the meanings attached by people (Ritchie and Lewis, 2003). In relation to other studies Greenstein and Sitas (2003) noted that a qualitative approach enables the researcher to attain an insider's perspective captured through a thick description of events.

There is general consensus among feminists that scientific research in the past predominantly had the male figure as its default measurement in research and thus has often marginalized women (Harding, 1987). It is in part for this reason that feminist research favours qualitative methodology and methods because it allows for the subjective experiences of women. This study takes a feminist approach hence it is appropriate for me to use a qualitative approach as it is applicable to the study of individuals as well as that of institutions. Although feminist research is not averse to quantitative methods, it rather makes use of them together with qualitative research to enhance and clarify arguments as and when it is necessary to do so. It must be noted that for this study only qualitative approaches are utilised. The design utilized qualitative description and analysis as its primary approach.

All participants are in the age category of eighteen (18) years and above and is across all genders. Youth, middle-aged participants and informants, and the elderly participated in the study.

2.2.3 Orientation and Participant Observation

I am a Black African MuTsonga woman originally from Giyani. I grew up in Nkuri-Tomu Village which falls under the same tribal authority as that of Nkuri-Zamani Village under the Greater Giyani Municipality of the Mopani Region in the Limpopo Province of South Africa. I am fluent in the XiTsonga language and familiar with most of the cultural and traditional norms and practices of the VaTsonga people. Although I have spent my adult years in Johannesburg, my primary school years were spent in the village. For my high school education, I was sent away to a missionary boarding school within the municipality jurisdiction and visited home at the end of each term over a five (5) year period. Adding to the above, I am a firstborn grandchild within my extended family since my father is the eldest child from a polygamous customary marriage. Being the eldest and a woman myself, my mother's recent passing has brought dynamics of succession and inheritance into close proximity.

Today my immediate family (Western context description of family) stay in the town of Phalaborwa which is about two hours away from Giyani by road, while the rest of my family and relatives still reside in Nkuri-Tomu Village where we also have a family home and land. I have distant relatives living in Nkuri-Zamani Village which is my research site. As my family is generally known in the villages falling under the Nkuri Tribal Authority, I had not anticipated any significant challenges in getting relevant participants for my case study. The intention was to stay at Nkuri-Zamani Village at the local motel for the duration of this data gathering. Initially this seemed to be a convenient arrangement as I would be within walking distance to reach my participants without cost.

Access to participants was facilitated through a local resident. In the first instance, I contacted a person from the village who has been to university and is familiar with fieldwork for academic research. I was then referred to another resident at Zamani Village who became my contact and informant throughout. The person is an active member of the village, well-respected and sociable. To protect my sources I clarified that I am not at liberty to go into details about my research questions save to say that it is in relation to '*life in post-1994 South Africa and the experiences thereof by people living in villages*'. A deliberate identification process of possible informants was undertaken with a list emerging from the exercise.

To address the research questions, it was important that as a researcher I remove myself from the urban environment of Johannesburg for a while. I felt that before I started with the actual research there was need to reacclimatize myself with a rural setting and way of life. This allowed me to re-orient with village dynamics in an attempt to understand the lives of the people of Nkuri-Zamani Village. This research therefore incorporated a participant observation method where the researcher spent time in the village to gain an in-depth understanding of the way of life from an observer's perspective. This happened prior to the actual fieldwork and can be described as a form of scouting. I used notetaking and diary-keeping for recording of observations.

The process of participant observation took place from 30th August 2017 to 12th of September 2017 and again on 18th September to 07th October 2017. During this period, I spent my days living among the villagers. I stayed with a family I know through distant familial relations. I used this time to establish the different profiles of the households I intended to interview. Initially I had aimed to access about two (02) to three (03) households to serve as primary sources of data. I ended up with about eight (08) households which I eventually eliminated to just five (05) households.

The variables used to determine household selection include the composition of the household in terms of number of family members, gender representativity and generational dynamics. I also considered whether a household is a single or mother/father headed household. I also looked at the kind of lifestyle a household appeared to be following, for example, are they modern or traditional values oriented. I enlisted the assistance of the tribal office to identify and approach the household. A youthful *Ndhuna-nkulu* (chief headman) was allocated to me by the chief for assistance with everything related to the research and guidance on how to navigate the village.

The tribal authority office is equipped with substantive and contextual information of members of the community and its households under their jurisdiction. Although predominantly oral, the office has in-depth historical understanding of special dynamics contingent in the families. For example, they know which household lost a head of the family through death, which household is single-headed, child-headed, polygamous, more traditional or modernized than others, and so on. Sensitivity to confidentiality with regards to the content of the interviews was continuously emphasised, assured and observed for all concerned.

Data from the tribal office is based on oral recounts of events with some rudimentary records

relating to stand taxes, number of households, families with domestic livestock such as cattle and goats. There are some records of legal cases found in the office, however those with some written information are criminal cases related to serious theft and robbery, murder and assaults. The main reason cited for the selective record-keeping is that these cases fall under the auspices of the western courts and therefore subject to civil or common law litigation. It is therefore easier for the tribal office to get access to their records. The information is often filtered back to them by the relevant officials from the common law enforcements structures during their monthly meetings with them at the tribal office.

In my attempts to gather more information, I had meetings with the Greater Giyani Municipality leadership and was informed that their record-keeping is very poor, they do not have an archiving system due to lack of funding. My meeting with the gender officer also yielded very little to no documented information. As a result I did not get a scientific basis from which to determine the demographics of the community to assist with identification of households. However I managed to get some rudimentary information from their website derived from the Demarcation Board and StatsSA. Chapter 1 section 1.1 refers. Sensitivity to confidentiality with regards to the content of the interviews was continuously emphasised, assured and observed for all concerned.

2.2.4 Interviews

To understand different perspectives on gender dynamics with regards to property rights and related issues, there is need to get first-hand information from different family units and community stakeholders. This was achieved through interviews conducted with some family members and relevant members of the community. I also interacted with the traditional leadership of Nkuri-Zamani Village which included the *chief-ndhuna* and the chief himself. I conducted interviews with leaders of the Greater Giyani Municipality who gave their views according to their understanding and interpretations of the case. Although I prepared for all interviews, they were unstructured in format which provided room for flexibility within the research. It also allowed the respondents to engage openly during the interview process without feeling constrained by structure. A higher level of confidentiality and privacy was maintained while a voice recorder was used as backup for data storage.

The first phase of in-depth interviews was conducted between 24th of November 2017 and 04th of January 2018. I interviewed (05) families that were sampled from the selected geographical area. Members of the families were interviewed. Overall the researcher interviewed a total of

twenty eight (28) adults from the five (05) families. Their ages ranged from nineteen (19) to eighty nine (89) year-olds.

The study also comprised of what I refer to as key informants, that is people with special knowledge such as parents and heads of the household. Elderly community members, a municipal official and politicians (mayor, chief whip & ward councillors), and traditional leaders. It targeted mainly interviews with female members of the community who it was hoped they will be able to relate their personal and family experiences on inheritance and succession issues.

In the case of institutions, participants were accessed through referrals and identification by the relevant office. For example, the public participation officer helped organise interviews with the mayor, the chief whip and ward councillors who also serve as members of the mayoral committees (MMC). The traditional council of Nkuri Tribal Authority was also accessible to the researcher throughout the duration of the study. Overall, I conducted a maximum of eight (08) institution-based semi-structured interviews.

The second level of interviews was conducted with some of the community members of Nkuri-Zamani Village as per the identified sample. For this I did follow-up interviews with twelve (12) members, at least one from each of the five (05) families. The purpose of these interviews was similar to the first phase, however it served to verify certain information and fill up some gaps overlooked during the initial rounds of interviews. These interviews assisted in a big way as the participants were now more at ease and relaxed with the researcher. I was now a familiar face in their midst and I felt that any reservations and uncertainties they may have harbored during the initial interviews had now evaporated. I found them more welcoming and forthcoming with information, the interviews took a discussion and chatting form than and question and answer session of the earlier days/ weeks.

I also observed that women were most willing to participate in the follow-up interviews, while the men felt it best to leave it to the women seeing as the subject-matter is after all related to women as the key participants. The bias towards women as primary informants is informed by the assumption that they are the most adversely affected, while on the other hand women are also known to be promoters and defenders of same patriarchal practices that often discriminates against them in turn. As anticipated, the interviews indeed provided some insights on the variations of manifestations by the stakeholders as well as understanding thereof.

Each participant was given an opportunity to tell their own stories, share and reflect on their experiences as a member of a family in a rural gendered setting subject to tribal authority and customary rule. All interviews were conducted in the local XiTsonga language. The length of most of the interviews for informants, councilors and officials varied from forty-five (45) minutes to over three (03) hours. Time management was not as efficient as I had intended because everyone was happy to talk and expand on their views with no regard for time. Interviews with the municipality official, the mayor, the chief whip and the MMCs of the municipality were conducted in their offices to ensure confidentiality and privacy. Interviews with Zamani Village community members were conducted in their homes for the same purpose as that with municipality people. The focus groups were also conducted in safe spaces where access, security and privacy were taken care of.

I had anticipated some difficulties in obtaining permission to interview some or all members of a household from the head of the household in some families, while not in others. It proved easier since I had the help and authority of the tribal office and approval of its leadership. My presence in the community had been sanctioned by the chief and his *Ndhuna-nkulu* (chief headman). The age limit category of eighteen (18) years and above as per the ethical considerations was observed and adhered to for all participants. As already indicated herein, the age ranged from nineteen (19) to sixty seven (67) for family interviews, while it went up to eighty nine (89) including the elderly community members who participate in the tribal council. Note taking and a sound recorder was utilised for data collection.

Ndhuna-nkulu and the member of the tribal council were the most equipped with substantive and contextual information of members of the community and its households and some understanding of special dynamics contingent in families. For example, they know which household lost a head of the family through death, which household is single-headed, child-headed, polygamous, more traditional or modernized than others, and so on.

2.2.5 Focus Group Discussions

Since the question of inheritance, meaning and performance of gender, roles of members in a family unit and its nuances are not restricted to individual experiences, focus groups were conducted. This was done in order to capture the essence of shared experiences with both family members and members of the community. The data gathered is interpreted and analysed for purposes of answering main questions informing the findings.

Focus group discussions took place over two days on 04th and 05th of December 2017. A total

of two (02) focus group discussions were conducted for purposes of this study. The strengths of focus groups, lies in that they could be a source of empowerment since participants may feel more empowered when they are in groups with other people with whom they share similar experiences (Wengraf 2003; Ritchie and Lewis 2003; Neuman 1997). However, there are also limitations associated with focus groups. They may not necessarily provide insight to the phenomenon under investigation due to issues of privacy. I asked generic and broad questions initially and zoomed into more individual opinion-seeking questions as the focus group sessions proceeded. I then took decisions on who to approach separately for a more in-depth interview derived from the focus group discussions and conversations. This also assisted with regards to narrowing down my questions and sharpening them for family interviews.

Group dynamics are one of the weaknesses associated with focus group discussions in that some may not feel free to share their experiences in the presence of certain members of the village or family members, age, gender and even class. This was mitigated against and redressed in face-to-face interviews that was arranged with a participant as follow up. A mixed focus group is important in that it could give the researcher glimpses of evidence linked to how gender relations are performed and the intersectionalities involved. Such observations further assisted in bringing out variables that are integral to gender attitudes and how these play out. A sound recorder was also used as backup for data storage.

In rural contexts age hierarchy is an important variable which is observed across gender lines. Often young people wait for elders to speak first and only comment after. In some instances, they often will keep silent or affirm what the elders said to avoid being seen as disobedient or rebellious. I attribute this demonstration of social inequality to be rooted in what Hassim (2017: 228) refers to as 'cultural lag between democratic ideals of equality and the slowness of people to adjust their attitudes', it is centred on modernist ideas. To overcome this potential obstacle, I had separate focus groups of different age groups and generations. For example, the first focus group held on 04th December 2018 was with the elderly community members. The second focus group was held on 05th December with a youth cohort. This enabled the researcher to modify and ask questions directed at young people to capture the responses of the young participants independent from the views of the elders. I would have liked to hold separate focus groups by both age and gender to allow for a more open and peer aligned environment where a participant may feel freer to engage in discussions. This was however not possible due to time and resources constraints as well as availability of participants.

Sensitivity to confidentiality with regards to the content of the interviews was continuously

emphasised, assured and observed for all concerned.

The remaining sections of this chapter presents the other aspects involved in the gathering of data such as methods of analysis and the limitations of the study.

2.3 Data Analysis

Numerous ways exist through which data may be analysed, however the researcher's purpose and preference is what guides the approach. Such classifications are a guideline to help researchers process their gathered data despite some practical overlaps. Albeit it is possible to analyse data as one collects it. Classifications may include but are not limited to these three basic functions as per Tesch (1991: 17-25 cited in Dey 2005: 02);

"1. language oriented*, referring to the use of language and meaning of words as a means of understanding interactions, 2.* descriptive and interpretive*, with reference to describing and interpreting social phenomena, and 3.* theory building approaches*, which attempts to link connection between phenomena, and demonstrate that events are structured or influenced by how actors define phenomena".*

For purposes of this research project all interviews and focus groups material collected has been transcribed through the process of playing, pausing to listen and replaying of the recorded tapes to turn audio data into readable transcripts. Once the data was transcribed, transcripts were read to make sense of the data in relation to the research question and to come up with relevant themes. Mouton (1996: 161) writes of the two stages in qualitative data analysis. The first one is the collected bulk of data that should be condensed into manageable proportions and secondly, the possibility of recurring patterns and themes.

Once again attention is drawn to the fact that the process of data collection, organizing and analyzing need not always be exclusive. This is so as these may overlap and can at times be conducted simultaneously. This is often possible in cases where the researcher has significant expertise in the area of research and is therefore more familiar with the subject-matter. Due to my background as a feminist and a rural MuTsonga woman I was able to mentally classify some of the data even before the actual physical sorting. For example, my familiarity with rural dynamics and knowledge of feminist theory enabled me to identify themes and certain gaps in information as it played out in the field. Bryman & Burgess (2002: 32) are of the view that there is no set formulae when it comes to data collection and analysis but only broad guidelines

that are relevant and sensitive to specific cases which frees the researcher from a division of labour that splits fieldwork from analysis.

Another observation I made is that richness and depth of analysis of qualitative data may also rely to a certain degree on the researcher's prior knowledge of the topic and not only on extensive reading. In this respect I revisited familiar texts while also seeking out more to enrich what I was already familiar with to further provide for a rich textual analysis.

2.3.1 Thematic Analysis

It was thus within the above context in accordance with Tesch (1991)'s classification that I read through the interview transcripts and field notes repeatedly for purposes of identifying any recurring themes and patterns. I coded the data into various themes. During the coding phase similarities and differences were noted for purposes of establishing coherent arguments. Throughout this analysis process, I again had to constantly keep in mind reflexivity in relation to my position as a researcher to ensure that my cultural values and research experiences did not influence the kind of the material selected and the interpretation of the data presented.

The next section presents a discussion on potential limitations of the study and reflexivity. This includes my own experiences of being part of this research project, first as a researcher in Nkuri-Zamani Village. Secondly, it touches on the process of interpreting the findings and analyzing the data. It ends with ethical considerations I have had to navigate and observe at all times.

2.4 Limitations of the Study

There is very limited archival work on the VaTsonga people of the former Northern Transvaal, South Africa in general. Most of what exists has the VaTsonga of Mozambique as their area of focus and is mostly written in Portuguese and was therefore inaccessible for this XiTsonga and English languages oriented study. When Shaka of the Zulus sent Soshangana (Manukosi) to conquer the VaTsonga people in the area of present-day Mozambique, Soshangana found a fertile place inhabited by scattered communities of peace-loving VaTsonga people. He decided to make it his home rather than return to the warring Shaka. Information that exists in South Africa tends to erroneously group the VaTsonga people together with the Shangaan branch found in parts of the former Eastern Transvaal who are an offshoot of Soshangana who broke away from Shaka's Zulu nation in the nineteenth century. (Junod 1927; Junod 1977; Mathebula 2002). Chapter 1 refers for a brief history of the VaTsonga people. As a result of language

barriers and the differently-focused archives, there may exist information that I may not be privy to and therefore not included herein especially as part of my literature review.

Another significant limitation of the study is the scope covered and time constraints. Given that this is a Masters Research report by course work and a research report, there was very limited time and scope to conduct a full research study. In essence I spent only sixty nine (69) days or two (02) months and nine (09) days on actual fieldwork. Although I had anticipated collecting considerable data I was mindful to carefully select the data to be accommodated in a Masters Research report. Furthermore, I could not guarantee that all data collection methods such as interviews and focus groups will take place within the anticipated period. This could have had implications on the quality of the data collected as there was not enough resting and processing time in between interviews. Fatigue, lack of reflection time and lack of concentration may pose a challenge on the overall quality and depth of the report. Nonetheless, I managed to record all interviews and may therefore revisit them at a later stage as and when necessary. I also contend that sixty nine (69) days or two (02) months and nine (09) days of conducting fieldwork cannot claim to provide a deeper understanding of lived experiences of the VaTsonga practices and impact on women in relation to gender inequality, succession and inheritance at Nkuri-Zamani Village and elsewhere.

The chosen methodology seemed appropriate for the study at the time of planning, however I am aware of the limitations of using a qualitative approach since results cannot be generalized. The subjectivity of a qualitative research study the process of data collection and interpretation and analysis of the findings due to some existing cultural deposits (Corbetta 2003; Babbie and Mouton 2001; Mouton 1996) is also recognised. Lastly, I acknowledge that the findings of the study cannot be universally representative or generalizable to all families of the VaTsonga people beyond the site.

Since municipalities are public institutions it was expected that it should be easy to access them for information. However, in line with general experiences captured by Abrams in the quote below, I had anticipated some challenges. Indeed those were confirmed by the lack of archived materials and data. Although I have no reason to doubt that there are no archives in the Greater Giyani Municipality, I however take note of Philip Abrams when writing on the difficulties of studying the state:

"Anyone who has tried to negotiate a research contract with the Home Office or the Department of Health will be aware that the extreme jealousies with which such agencies

instinctively protect information about themselves. The presumption, and its effective implementation, that the 'public sector' is in fact a private sector about which knowledge must not be made public is all too obviously, the principal immediate obstacle to any serious study of the state." (Abrams 2006: 114).

I was nevertheless able to access almost all the targeted informants within the Greater Giyani Municipality, except for the speaker of council who was away seized with preparations of the African National Congress 54th national elective conference that was due to take place during my time in Giyani. The municipality do not have officials responsible for traditional affairs, who could have served as one of my main informants. There is also no archiving system and the website offers only basic information.

2.5 Reflexivity

The question of my own gender and social class arises as it ultimately positions me in relation to this topic and how my informants may have viewed and related to me. I personally believe that the female voice is constantly engaged in a struggle to be heard and must fight to assert itself in a male dominated and patriarchaly structured world. I acknowledge my strong views in relation to the voice of women and therein may lie my own subjectivities. I view the woman participant's voice as a tool through which her experiences are validated as she raises awareness about issues affecting her in the family and community within which she exists.

In addition to the voice of the participant are voices of other stakeholders such as policymakers and those tasked with implementing such policies. There may also be another layer of voices that may be fragmented or organised but serving the role of opposing and/ or suppressing the participant's voice both wittingly and unwittingly. In relation to this study such voices could be identified as structural voices of patriarchy in a form of traditional authority, institutionalized structures such as community councils and the male figurehead in the household or family unit. Through their existence they may serve to suppress gender equity and the emancipation of women.

My voice as a researcher is therefore in cognizance of the reflexivity dynamics that may have arisen which could be considered to offer some quality assurance as well as checks and balances in mitigation against outcomes dilution. According to Mansfield (2006), one must keep in mind to constantly examine their filters and lenses through which they see the world. He is of the view that the researcher should engage in a critical reflection in relation to their

study to enable them to learn, explore and understand what they bring to their research and how they could possibly influence it.

Its role requires one to acknowledge the researcher's contribution to the construction of meaning throughout the research process (Parker, 2005; Terre Blanche, et al., 2006). Parker (2005) further argues that reflexivity is more than a mere subjective framework, which the researcher (in qualitative research) assumes. Reflexivity is paramount in research and especially qualitative research. As the researcher in this study, by virtue of being a Black South African woman from a rural village of a VaTsonga community I am somewhat indeed connected to this subject and its context because of personal experience with the topics and themes the it examines, even before undertaking in-depth analysis. Possibility of bias towards a particular position as well as possible imposition of my personal worldview on the findings and the interpretation thereof are real. However, the fact that my background is shared with the subject of enquiry and scrutiny could be considered beneficial to it. It can be argued that I am better able to extract a more nuanced and real analysis of the data and findings. Adding to that, Polanyi (1958) elaborates that one can reject a positivist objectivity based on "sense data" in favour of commitment to rationality. Furthermore, Burawoy (1998) argues that the reflexive model embraces engagement rather than detachment as the road to knowledge is premised upon participation in the world we study, not ignorance. He holds the view that objectivity is not measured by procedures meant to assure accuracy, but by growth in knowledge. (Burawoy, 1998). Based on Polanyi (1958) and Burawoy (1998)'s findings on the matter, I consider it an advantage that I am in/directly affected by the subject and therefore deems it unnecessary to insulate myself from it.

The preceding views are not in contradiction with Eagle, Hayes and Sibanda (1999: 511)'s stance that Black scholarship should be unapologetic about African humanism and its opposition to 'scientific objectivity' and determinism. Therefore it should not be expected that I should be divorced from who I am. My experiences and positionality brings value to the research as it comes with an appreciation of African tradition, specifically of the VaTsonga people. As Eagle et al (1999) argued, the research subject matter is concerned with human values that I as a researcher recognise and acknowledge to be part of the VaTsonga culture. It forms part of my identity and that of my participants which is therefore inseparable from the community which although may vary in degrees yet remains in the strong sense of collective being and consciousness.

Reflexivity is very important for purposes of this research. Kathryn Haynes in Symon and

Cassell (2012) define reflexivity as:

"...an awareness of the researcher's role in the practice of research and the way this is influenced by the object of research, enabling the researcher to acknowledge the way in which he or she affects both the research processes and outcome". (Haynes 2012:72).

Standpoint is defined by Harding (cited in Henwood and Pidgeon 1995) as a term to "indicate that the researcher takes a critical stance which is made explicit and defended throughout the research process". I agree with the view that indeed research always carries interests and if not carefully scrutinised it can serve to perpetuate dominant ways of thinking and perceptions of the world. Black women, the poor and rural communities are historically the victims or subjects of such research. It is not possible for the researcher to ignore the historical and social location of the participants as part of the material reality within which they exist and where the study is conducted. By virtue of undertaking the study and interviewing the participants, I am bound to awaken or plant a seed towards an awakening that may germinate emancipatory or liberatory roots in some if not all of them.

Reflexivity was therefore critical given the subjective nature of the qualitative study; the real experiences of Nkuri-Zamani Village gained through participant observation; the cultural and personal nature and sensitivity of the study of inheritance, succession and gender issues; and the fact that the researcher is a female MuTsonga community member of a village within the broader Nkuri Tribal Authority. Contrary to what standpoint methodology advocates for with regards to maintaining neutrality and making my position transparent and explicit, I had to constantly reflect on my actions, my position as a community member and as a Wits Masters student conducting research in the area. My wish is to effect change through shaping and modifying discourses and social practices and benefiting the powerless and marginalized, however it was more important for me to first get to understand where women are at in relation to the subject matter. I believe this approach is more likely to achieve the standpoint methodology aims, namely, to put women issues on the agenda and to tackle the oppression and discrimination of women.

Throughout the study I had to keep in mind the fact that the families in which I was conducting my research may know of my family and even have historical kinship relations with me or some members of my family. Therefore, while identification with the community may have enabled ease of access and rapport, it was important to separate that relationship from my position as a researcher. My reflexivity due to my experience of being a woman and the eldest

child/ grandchild and daughter in my own family brought with it its own dynamics due to my experiences related to the family gender dynamics and the research question. While as a Black feminist researcher I am invested in bringing out women's experiences to the forefront as I am vested in tackling their oppression and discrimination, I have no intention of making the recorded data or notes available to any authorities.

I therefore had to ensure that my questions did not influence the responses of participants by not taking sides in the discussion. I had to guard against asking pointed or leading questions. This included avoiding coming across as a detached, knowledgeable researcher with the participants as objects of my investigation. I put effort in curtailing the possibility of a power imbalance between myself and the subjects where it was more an interaction than question and answer sessions. I encouraged open dialogues through my approach. For example, I would arrive at the family home dressed in simple clothes similar to how one typically dresses when they are not going to church or town or any event that required dressing up. I also sat where they sat in terms of a chair or mat and would insist on rather interacting with them as they go about their chores. In some instances I would even offer to help with dishwashing, drying of clothes on the washing line and eating with them the staple food.

In a VaTsonga household it is frowned upon to decline food when it is offered, every household will take offense if a visitor leaves the yard without having put something in their stomach. This applies to households that may seem poor and those that have the means to buy enough food to feed their family. In households where there are children I would offer to mind the baby without being asked to do so as we proceeded with the interviews as the participant carry on with their chores of cooking, ironing or handwashing clothes. Eagle et al (1999: 504) writes that feminist research is concerned with both content and the process through which it is conducted. Same as Hollway (1995. Cited in Eagles at al 1999: 504) I want feminist theory "to be capable of understanding political reality in a way that relates to people's lived realities, theorise change and do not leave a wide open space in which a backlash can become established". A demonstration of flexibility and self-examination or reflexivity was an integral part of my methodology.

The other important factor on reflexivity relates to re-writing and interpreting the narrator's story. In my interpretations of the stories of the participants to create meanings out of their interviews, I will have to take care that my interpretation retains the meaning intended by the informants. This will enable the research to retain the agency of participants while balancing it with the re-writing and translation of the narrators' stories. I have been cautious not to reduce

my participants to mere subjects, rather my goal is to portray them as informants or participants who through the rapport and trust built towards each other were able to bring out deeply-felt personal concerns. Eagle et al (1999: 506) points out that feminist researchers are often interested in what is considered personal or private aspects of people's lives and therefore are prone to use interviewing, focus groups or open-ended information seeking methods.

I believe I used a combinations of these methods for the study. While I was particularly sensitive to the ethics of the researcher-subject relationship even in terms of power dynamics, I have established relationships with some of the participants. I therefore believe that my constant self-consciousness in relation to my role identification with the participants in the research process countered or mitigated for any negative impact this may have had on the findings.

There were no challenges associated with translation given that the interviews were conducted in XiTsonga, a language which I have experience in translating from XiTsonga to English and vice versa. It is my view that there were also no challenges associated with conducting research interviews in a local African language, the informants found it easy to interact with the researcher in a more normal or naturalized manner than could have been the case had another language such as English been used. English is hardly used in Giyani except in a written form and predominantly for official purposes and at schools. The recorded interviews were transcribed in XiTsonga and only translated to English as the researcher went about analyzing the data. Transcribing itself is time-consuming as one must listen to recorded tapes several times to be able to make sense of the content and to ensure that words are put into the right context.

The second challenge is that in some cases it was not always possible to find precise English words that could directly replace XiTsonga words while retaining the same meaning and nuances as intended by the participant. It is important to note that if some of the phrases are removed from the context, the meaning of the whole sentence could be changed. As a result, some of the words are retained in their original form with only an explanation thereof offered in brackets.

2.6 Ethical Considerations

During data collection, I abided by the ethical standards as prescribed by the conventions of the methodologies selected for the study, the University of the Witwatersrand, Greater Giyani Municipality and Zamani Village community and Nkuri Tribal Authority. I took care that the

study not involve any fraudulent activities and maintain honesty by reporting real data, methods, procedures and findings without bias in research design, data review, analysis, and interpretation as per Babbie and Mouton (2001)'s advice. Sensitivity to confidentiality with regards to the content of the interviews was continuously emphasised, assured and observed for and by all concerned,

The purpose of the study was indeed fully explained to all participants. I ensured that participation in the study is completely voluntary and that participants may withdraw at any time whenever they felt uncomfortable for any reason. Issues of confidentiality and anonymity were also dealt with accordingly within the prescripts of the University of the Witwatersrand ethics. The research Participant Consent form (A), Participant Information (B) and Ethics Application form (C) samples included herein as part of Appendices with this document were made available to participants for their signatures. The elderly and those who could not read and write were explained the contents of the forms and signed using a cross sign as the conventional and acceptable form of signature.

Furthermore, this study by no means claims to be a reflection of all the VaTsonga people as a sub-group among all the other nationalities of Black Africans residing in the Greater Giyani Municipality; although generalizable to an acceptable extent it neither represents everyone who identifies as a MuTsonga. It is important to emphasise that the study could have been much more enriched by a longer period within which fieldwork could have been conducted, therefore the short period does not do maximum justice to the subject-matter.

Chapter 03 Historical Background: Pre-colonial Era Influence on Gender Relations

3.1 Introduction

This chapter presents findings that speak to the meanings of gender relations and patriarchy, as it relates specifically to the life of the VaTsonga people and in general to Africans found in the Southernmost tip of Africa. It is divided into sections that will discuss the precolonial era, the colonial era together with the apartheid period. In the first instance I present what I call "The role and limitations of Oral Narratives" followed by 'The Temporality of Invented Traditions'.

I argue that African communities were structured in ways that spoke to the practical needs of their material conditions and lifestyles practical for that period. I recognise that the use of the word tribesmen may have been acceptable at the height of colonialism, however for purposes of this study I use the phrase African communities to refer to Black Africans regardless of gender. I may at times use it interchangeably with clan, tribe or indigenous people to refer to people of African origins.

Prior to my invitation to attend the elderly members of the Zamani Village community's year-end event, I had interacted with them for a week. I had observed them playing soccer, netball, a variety of indigenous games and physical training sessions even to the point of partaking in some of their activities. I had also sat on the floor under the shade of a marula tree and shared meals with them on the days preceding their year-end party. The storytelling sessions after lunch just before their forty five minutes nap were very interesting and rich with information.

The entrenchment of patriarchy in African communities was achieved through the introduction of various colonial laws, policies and rules aimed at subjugating Africans. The colonial system and apartheid forced Africans to adopt and assimilate rules and laws that are patriarchaly structured and relegates women to a position of unequal status to whites and men thereby normalising their subjugation. The chapter then gives some nuanced discussion of the findings derived from the fieldwork as conducted on the case study. To this end I rely on oral history as narrated to me during interviews with residents of Zamani Village in Limpopo Province. I also consulted variety of texts such as that of Jack Simons, Colin Bundy , Drs H.P and H.A Junod and others for literature review and historical context.

Throughout this study I also took time to go into the recesses of my own memories and lived experiences as a young girl growing up in a VaTsonga community for real life reference. This coincidence ensures that I have a political commitment in the subject at hand. I would be

insincere if I were to undertake that I possess a clinical level of false positivism that implies my socio-political detachment with regards to this study. It is my conviction that I was able to do justice to the research question without pretending to be constructivist in approach and therefore feigning disinterest. Burawoy's (2007) thesis states that researchers are part of the world they study and argues that the reflexive model embraces engagement rather than detachment as the road to knowledge is premised upon participation in the world we study, not ignorance. In order to do justice to the subject-matter I do not have to insulate myself from the study.

As indicated in chapter 2 above on methodology, Black scholarship and postcolonial feminist perspectives make allowance for explicit critical stance that may be defended throughout the research process.

3.2 The Role and Limitations of Oral Narratives

Narratives gathered from the site and general public discourses suggests that class hierarchies did not exist among the VaTsonga people in general. It is nonetheless acknowledged that although there were those who were better off materially compared to others, this was in terms of material conditions and degrees thereof and not by structural and social design. Junod (1977: 36) states that 'despite the humble unassuming appearance dwellings that made up the capital of Nyaka in present-day Maputo, it was massive with signs of a well-organised system of governance and way of life that looked after its people in a good way'. 'It was wide and had plenty of inhabitants with well-developed narrow pathways and well-built pine-tree logs perimeter walls similar to those found in Europe with two to three controlled access points', he continues. In cases where there were differences in degrees of material possessions, they were shared with those who did not have in line with the communalistic way of life they led. In light of the picture painted by Junod above, I then posit that VaTsonga communities led an egalitarian way of life with no kings and supreme monarchies. Instead they were organised into chiefs who ruled with the help of *tindhuna* and a council with other members of the family and community. Furthermore their manner of rules and customs were grounded with the people on whose behalf they derived their mandate. (Junod, 1977).

Evidence also exists to support the view that VaTsonga communities were not exclusively and deeply entrenched in patriarchy. Archival material shows that a mixed system along both matrilineal and patrilineal lines was common. Roman Catholic church missionary Dr H. P. Junod published his father Dr H.A. Junod's ethnographical study of the VaTsonga people in a book titled '*Matimu ya VaTsonga: 1498-1650'* translated meaning is 'History of VaTsonga:

1498-1650'. This book gives a meticulous account of the VaTsonga people's origins, their traditions and customs, modes of survival, the various clans that constituted them and so on. They resided in Southern-eastern Africa spreading from modern day Mozambique all the way to St Lucia right across the Limpopo Valley and some parts of the former Eastern Transvaal (Junod, 1977). According to Junod's (1977: 37) records, "during Nuno Velho and Lavanha's…[white missionaries]…visit to the southern city of Nyaka, they discovered that the chief of one of the villages was a women when she went with her husband to meet them". "This surprised as well as proved to the Roman Catholic missionary visitors that among the VaTsonga people women chiefs were part of their custom and way of life even in areas where the rights of men within the family were usually expected to be above that of women as a norm" (Junod 1977: 37). It must also be noted that for a community to be considered non-patriarchal, it does not have to follow that they must be ruled by women. Rather the absence of patriarchy or matriarchy is what helps define or shape a non-sexist gender biased existence. VaTsonga families are generally run by both men and women with a fair distribution of responsibilities based on mutual respect and appreciation for each person's role.

The deduction I make from Junod's thesis is that there were no superior and inferior classes or people. Those who were materially well-off were obliged to assist others. I point to a similar but slightly different example of Cheik Anta Diop's characterisation of relationships among some west African communities. He states that nobles and freemen with no manual professions 'could not materially exploit artisans or any other class lower than theirs without losing face in the eyes of others as well as their own' (Diop, 1987). Diop further observes that their relationships were not based on "attitudes like those of the nobles towards bourgeoisie or the lords towards the serfs" (Diop 1987: 02). Amongst the VaTsonga people power was generally diffused equally across all members of a community and if ever there were any skirmishes or dissatisfaction it would often be among the ruling families and not from the people themselves. People who were appointed rulers were given some deference, however it was not of superior versus inferior form of deference. The position the person held was respected rather than the individual holding the position herself.

Numerous examples still exist among the VaTsonga communities. For example, when a married women dies whether through natural means or by accident the husband's family will not bury her body or touch it before her own people arrive. To this day at a women's funeral the people who carries her remains from the car to the grave and lay her on the ground are her own people. Similarly, a child could not be buried in the absence of the mother, in the case the

mother is dead then a female representing a mother figure would take her place. This is because the matrilineal family are the ones who brought her to this earth and are therefore entitled to lay her to rest in the manner befitting and in line with her people's rituals and customs. (Observations noted during visit to old age home, Zamani Village in November/December 2017).

Although I did not record all of these oral narratives or take written notes all the time I gained insight in a variety of aspects such as interactions between the male and female members of the group, how they addressed each other, and so on. The old age project also served as a sanctuary and safe haven for the pensioners resulting in glimpses into their home lives. This presented an unanticipated opportunity for the researcher to experience their current contexts. This proved useful in that it juxtaposed their current contexts against that which they painted through their storytelling sessions, oral trips down memory lane and dramatic performances at the closing party events.

They were informed of my presence in their midst by the project manager and creator of the old age project. Initially this informant was the only person in the entire group who knew the real purpose of my presence at the Mzamani Old Age Project. She had introduced me as a schoolgirl from the town of Giyani who was visiting my neighbour's family domestic worker for the school holidays and was therefore helping with chores at the old age home. I clarify that the term schoolgirl is used and understood loosely to refer to any female who attends school in general. It therefore does not make any distinction between university and high school attendance. In this case it was generally assumed that I am a high school learner, this was later corrected on my third day visiting the project. From the start the elderly group was excited to have me in their midst and were very keen to familiarise me with village life.

My eagerness to help the volunteering women prepare the elders' breakfast and lunch in open fire endeared me to everyone. It also became obvious that they were relieved to have a younger person around who they could send to run errands like fetching water, collecting their plates and helping them rise from the floor, and so on, without burdening the mostly middle-aged volunteers. By the day of the event itself I was granted permission to record the entire event, with some of the members inviting me to their homes for what they referred to as a proper chat about the history of the VaTsonga. Overall I came into close contact with about forty (40) pensioners over a period of a week. I was able to conduct interviews with at least five (05) participants from this group in their homes. The sample comprised of two females and three males ranging from the age of seventy one (71) to eighty nine (89). All of them VaTsonga,

with three (03) of them having fully resided in Zamani Village since the forced removals and 'Natives Reservations' relocation era started in the 1940s.

3.3 The Temporalities of Invented Tradition

In this section I argue that the advent of colonialism and apartheid played a big influencing role in introducing and entrenching Western patriarchal notions and hierarchies that diluted the Africans' way of life. I look at how time, customs and practices were changed by the spaces in which Africans found themselves forced into. I make an analysis of how these factors combined and split leaving new inventions of tradition in their wake. The life of the African was transported into an era of colonialism where he relied on his abilities to manipulate time and memory to travel between spaces of the past and the present. These spaces are both tangible and abstract, imagined and present. The African was promised civilisation and heaven, yet what he got was brutality and suffering.

3.3.1 Socio-cultural Impact of Invented Tradition and the Migrant Labour System

This era saw the gradual proletarianization of Africans throughout Southern Africa where the colonised got conditioned by coercive or extra-economic factors. For some time existence of a pre-capitalist sector continued while migrant labour became institutionalised, with low wages and other disabilities devised to force the Africans off their way of life. Their position was determined by the profit motives of mining companies and the greed of the white miners. The essence of Jack Simons' 1968 thesis discusses this in detail. Some of the coercive majors applied include tax and pass laws to ensure that African cheap labour came to the mines and were easily controlled once there. Some violent tricks were meted out to the African with the aim of "crowding the[m]…Kaffirs as to compel them to leave their location and seek work" writes Bundy (1979: 169). Webster (1978) refers to the Glen Grey Act which Cecil John Rhodes is noted to have believed "removed Natives from the life of sloth and laziness, teaching them the dignity of labour, and made them contribute to the prosperity of the [colonial] state and made them give some return for our wise and good government". Clearly Rhodes' attitude on Natives compliments those captured in both Bundy and Simons' works in relation to how white people perceived Africans.

At some point as foreign imposition took over in African territory the inhabitants gradually lost their ability to decide their own fates while their authority diminished and rendered powerless. Diop is of the view that this is when any chance of internal evolution of African communities were thrown off balance and thus eroded. (Diop 1987). The VaTsonga communities were

largely proletarian collectivist in social and economic orientation. They were not spared the encroachment of white dispossession. Albeit they still invented ways through which to enact some form of continuities and link with the past. For example, once the realities of the migrant labour system became a reality, despite the harshness of life in the reef mines migrant labourers created ways of forgetting and invoking the memory of song and poetic performances deep in the belly of the mines and amongst themselves during their resting days. The custom of oral renditions of clan names and totems were rejuvenated. Stick fights and dances such as gumboot dance became an integral part of mining compound life. Other than providing face-value entertainment and nostalgic expressions of a bygone era, I submit that oral narratives may serve as ritualistic challenge to the socialising neo-traditions of colonial power. Such ritualistic challenge may also serve as a distinct identity marker and affirmation thereof.

Similarly, in rural villages such as Zamani the customs of *vukhomba* (coming of age ceremony*)* for girls and *ngoma* (circumcision school) for boys were carried through to present day. VaTsonga women are known for their ability to perform elaborate dance rituals while also singing a variety of message-laden songs carried through from many generations. Junod (1927) is recorded to ascribe some of the "family roles of female elders as being to recite folk tales often containing songs with and for children gathered around them at the fireside during the evening after sundown light". Others may dismiss these forms of repetitions of the past as mere folklore that has run its course, I argue that they have their purpose even if it is that of reminding them of their distinct identity. The past can thus be carried to the present through such transmission of memory from one generation to the next. Musical institutions like *xigubu,* the work-party, the beer-drink, the exorcism and *ntwaso* rites, and the group-games all these serve the function of perpetuating the rich VaTsonga folkloristic beliefs and values. (Junod, 1927).

Africans in both rural and industrial zones had to contend with British inventions of traditions geared for Africans. The colonials' own predisposition to the idea of tradition led them to embark on a process of codifying and promulgation of tradition (Hobsbawm & Ranger, 1983). Chapter 5 of this study provides an in-depth analysis of the modalities of codified customary law. Hobsbawm & Ranger (1983) argues that this resulted in African flexible customs transforming into hard prescriptions which distorted the past and served as tools of control and exclusion of the Africans from meaningful assimilation into 'modern' life that the civilizing project was purported to usher in. In a way the future was also transported into the present in that these invented traditions attained through coercion seems to have made it difficult for Africans even after independence to free themselves from some of the false models of colonial codified African 'tradition' as invented.

My view is that christianity and the promise of salvation has led Africans continue to anticipate that something good is about to happen hence they continue to wait on the 'premonition'. In terms of time and space the colonised live in an 'affective state where they actively orient themselves temporaly' based on the colonially invented traditions (Adams, Murphy and Clarke, 2009). Simply put anticipation makes it impossible for them to go back in time to reinvent their flexible customs and traditions, and customise those according to their current needs. My analysis is that they seem to be in a state of paralysis where they are also not able to move forward because the colonial tools of control are always at hand to admonish them and urge them to display preparedness for this future that never arrives. I argue that it is in this way that invented traditions serve to displace other alternative modes of engaging the future. In economic terms and within the context of Wallerstein's world-system theory, this form of temporality keeps the African at the periphery with the perpetual promise, hope and anticipation for acceptance into the core in some unknown future. As a result they can never band together with the aim of overthrowing the core. According to Agamben (1999) such potentiality works as 'the presence of the absence'. To this end, the imported European traditions provided the colonial administrators with models of command they could deploy to pacify, control and exclude the colonised and present them as models of 'modern' behaviour which Africans should be grateful for and aspire to achieve. (Hobsbawn & Ranger 1983: 212). The Glen Grey Act cited by Webster (1978) above served as one such example of command models. I therefore contend that the compound system and the taming influence of traditional authority were some of the tools for implementing the Grey Act.

3.3.2 Oral Narratives as a Means of Navigating between Old and New Worlds

Oral transmission of historical events, though with some shortcomings, is in line with the historical practice of passing on important information, cultural practices and moral codes from one generation to the next. Such transmission may be facilitated in various ways including story-telling, narrations, songs and various performances depicting real life or imagined situations, and so on. I believe that memories may serve as a form of defence mechanism through which a community shields itself from the realities of changing times. Since they can be stored away and retrieved as and when needed, memories may be carried through from one year to another and one generation to the next, thus transcending time. They can be reconstituted over and over through repetition hence the term 'invented traditions'. This is because they are often based on real events and struggles that took place over time and place hence their temporality. Invented tradition should 'possess a certain level of predictability and

invariance and "take the form of reference to old situations"' (Hobsbawm & Ranger 1983). Any significant flexibility is most likely to result in incompatibility with precedent rendering it to lose the ability to resist change or social continuity. In Hobsbawm & Ranger (1983: 02) 'invented tradition' is defined as "the contrast between constant change and innovation of the modern world and the attempt to structure parts of social life within it into an unchanging and invariant". In this context I argue that Codified customary law as opposed to 'living' customary law is one example of colonially invented tradition that still applies to rural women in post-colonial and post-apartheid rural areas of South Africa, particularly the former Bantustan homelands.

Oral narratives employed in this study include, verbal interviews, focus groups, dramatic enactments of historical life situations performed by an old age group of senior citizens. Denis (2008: 02) points to that historical information continues to circulate by word of mouth in African societies in particular. He describes oral history as "the complex interaction between an interviewer and an interviewee about past events, which requires questioning and listening on the part of the interviewer" (Denis 2008: 02). This mode of information gathering forms part of this social enquiry on the status of rural women with reference to inheritance, access to land and other rights as posed in the research questions.

Furthermore, there were follow-up face to face interviews with some of the old age group members in the comfort and privacy of their households. This afforded the researcher the opportunity to interrogate some of the themes depicted in their drama about conflict resolution in a traditional marriage context. Most important, the subsequent interviews were instrumental in assisting the researcher draw to a distinction between what Denis (2008: 03) refers to as "oral reminiscence (a conversation between the interviewer and interviewee) and oral tradition which is a record of past events transmitted from generation to generation".

I believe I paid adequate attention to Luli Callinicos's advice that 'the uses of oral history should be explored within the paradigm of historical materialism' (Denis 2008: 07) especially in as far as the socio-economic conditions thrusted upon women in the countryside and the context of the colonial migrant labour system. I understand that the superstructures represented by colonialism and apartheid, with the attendant technological advances and growth of capitalism, indeed may have influenced how some of the narratives arising from these oral history interviews may have changed over time. Time, space and ideologies are some of the aspects to be considered as they often impact on the narratives and discourses.

3.4 Colonial Administrators' Attitudes and Ignorance towards Africans

Jack Simons starts off the first sentence of his text by declaring that "white South Africans of the last [18th] century hated the tribesmen's way of life" (Simons 1968:15). He goes further to state that these white people 'complained about that the tribesmen had too much land, leisure and sex, and that they did not work for an employer as was their destiny'. It was generally believed that the African used his wives as labour and thus the wives were nothing more than slaves. (Simons 1968:15).

3.4.1 Attitudes on the African's Marriage and its Customs

The aforementioned statement about white people's views of Africans could not be farthest from the truth. Granted polygamy was commonly acceptable and widely practiced within African communities and more so among the VaTsonga clans. It was not the norm to treat women like slaves. Simons (1968: 39) argues that the real reason behind the white's disapproval and criminalising of lobola and discouragement of polygyny was that farmers said it enabled tribesmen to escape wage employment. Furthermore, an attack on the means through which tribal marriage was validated meant an attack on marriage itself and the family structure in its entirety (Simons 1968: 39). For it was through lobola and marriage that kinship and bonds were formed and consolidated between families and across clans and communities. It is indeed a contradiction of note and hypocrisy for those who claimed to have a moral high ground and argued for the goodness of colonisation on the basis of such morality to then turn around and force a community into co-habitation and what Simons calls 'a state of concubinage'.

African moral standards, which the VaTsonga community in general subscribes to, considers it immoral to stay with a woman you have not 'produced' *lobola* for. I emphasise the use of the word "produced" instead of "paid". This is to draw attention to the distorted colonial notion that to '*lobola*' a woman is to 'purchase' or pay for her and therefore objectify women. *Lobola* is a ritual which forms part of the custom of marriage which over time became integral tradition and part of how the VaTsonga express commitment to each other, their families, and their clan. It is also a token of appreciation to the bride's family for permitting his to come into their courteous relational space. The lobola ceremony itself serves to introduce and bring the families and clan together in celebration. To this day it is frowned upon among the VaTsonga community to co-habit with no ritualistic validation of a marriage between two families, and this generally applies to both rural and urbanised VaTsonga. Hence, by denying them the right to practice their custom, Section 2 of Law 4 of 1885 confined the African to immorality as

such. Polygynous tribal marriages were "inconsistent with the general principle of civilisation recognised in the civilised world" (Simons 1968: 40). Seemingly colonial administrators conveniently forgot they were in the African's world and physical space with its own set of established rules and way of life, and not in Europe. See more on lobola in chapter…

3.4.2 Regarding the Status of Women in the Family

Although men benefited the most from patrilineal succession, this was by no means a sign that women were considered to be of an inferior status. Their status within a household was understandably fluid by virtue of the fact that they often got married and therefore physically moved away from their maternal home. Okoth-Ogendo (1982a: 24 as cited in CICLS, 2000) in reference to the Luos of Kenya agrees that as in most African cultures continentally back then, indigenous property laws were not a form of chauvinism developed by one sex for the suppression of the other for rights over immovable property, they were after all trans-generational. As a result, the clans and their communities had to somehow exercise control on the process of allocation and transmission of its primary means of survival, that is, the land and livestock. In VaTsonga practice a woman does not lose her place as a loved and valued member of her family upon marriage. She also has access to use of her family resources such as land, livestock, and so on. Chapter 4 discusses more on the place of a woman in the family.

My view is that this was for practical reasons of, firstly, ensuring that the family can rely on the communal property for posterity. In the second instance, it was to ensure that such property does not change hands from one clan to the next therefore disadvantaging the current beneficiaries and future generations along the family lineage. Although I may also argue that in line with Hobsbawn & Ranger (1983: 255) these invented traditions were used by elders as a form of managerial monopoly through which they exercised control of 'traditional' knowledge with regards to land and resources claims. They emphasised their customary, prescriptive rights which gave them control over land and women. 76 Year-old *Kokwani Makhandeni* (male) from Zamani Village had this to say about women and family property in precolonial Africa among the VaTsonga community (Interview on 05/12/2017):

> *"If I had a sister, married or unmarried, she had access to use of our family land and livestock. During ploughing season cattle from her father's kraal would go and plough her fields if the family she married into did not have cattle. The same with whenever she wanted to plant her crops, she would be allocated a portion of the*

family land where she was free to cultivate her crops. Unless she lived very far. Also, when as a family we had harvested crops, we took some to share with her and her children. It was not allowed to leave your kin to go hungry while you have corn in your barn. My sister is hahani (aunt) to my children, she was greatly respected. I could never slaughter a cow or goat without sending someone to inform her or ask her to come home, after slaughtering some of the meat must be taken to her household so that she can eat with my vatukulu (a brother's sister's children) and husband. Hahani was like a xikwembu (goddess) to her family, no family would speak to the ancestors in the absence of hahani. When my children need ku phahliwa (intercede to or appease the ancestors on their behalf) or ku tlhaveriwa mhamba (performance of ancestral rituals that included the slaughtering of livestock and interceding with ancestral spirits), the hahani is responsible for that. Otherwise if you go ahead without her whatever you wish for may not materialize because the mhamba (ritual) would be weak. If your sister dies or you do not have any, then as soon as you have children the one who gets born and gets given the name of one of the women in the family who have since passed away, she would be the one who becomes responsible for pouring down the traditional beer on the family shrine and administer snuff for the ancestors while an elder guides her on what to do and say. This way of doing things in families applied to my children and their mothers. No one person owned the land, it belonged to the family the same way it was once under the control of vakokwana (ancestors), it stayed on and continued like that in the clan. Long ago when tiko xa ha etlele (the country was still sleeping) before white people scattered us and took our land and livestock for these small stands that you see ntukulu (grandchild)…we respected our mothers, sisters, grandmothers and wives. You never did anything of significance without sitting down with your grandmother first. The women were the family's bank vaults of secrets, battering currency and other valuables".

From the interview with *Kokwani Makhandeni* above, it is clear that women were indeed held in high esteem in both a metaphysical and spiritual sense. Women were also the custodians and preservers of cultural practices and norms for both the family and the community. The VaTsonga of precolonial times had a structured way in which to ensure the preservation of family and/ or communal property. It never belonged to any one person but was held in trust of all members of that household, family or clan.

3.4.3 On Women and Arranged Marriages

There is now, as there was in colonial times, a tendency by non-Africans to equate arranged marriages to slavery or a form of human trafficking girls. The hypocrisy in this is that arranged marriages are historically not exclusively practiced by Africans only. In fact, most marriages of modern day western royal families are arranged with the most notorious one being that of Diana and Charles of the British monarchy. An array of books on the contemporary history of nobles and the wealthy also points to the prevalence of arranged marriages throughout Europe and the Americas for various reasons including acquisition of wealth by one or both parties or families involved.

In an interview with Manana Nkuna (64) at Zamani Village (25/11/2017) she was adamant that;

> *"Although most marriages back then were arranged marriages. It was not done in a malicious manner to harm women. No n'wananga (my child), it did not work that way. Sometimes it would be between distantly related families, other times it would be between children whose mothers or fathers are friends. This provided security for both families cos they knew what kind of family their daughter is marrying into. It also strengthened the parents' friendship and then such union was less likely to result in dissolution or acrimony between the two families".*

Simons is of the view that in their mind the white people they felt colonisation was good for the African. The same as Cecil John Rhodes, they reasoned that it freed him from the bondage of savagery and barbarism towards a civilised and christian way of life. They hid behind that façade of bringing light to a dark continent where their women will also be freed, instead of advancing their colonial economy which was slow in growth. Instead they blamed the slowness of the colonial economy on the scarcity of labour. Tribesmen did not need to earn wages to maintain their way of life and they were therefore not looking for what Simons (1968) refers to as 'wage work'. The whites attributed such self-sufficiency to the tribesmen's polygamous tribal marriages. I argue that such attitude as was displayed by the whites was driven by a sense of envy as much as it was the consequence of colonialism as a conquering and dispossession project.

Findings from this study attests to that VaTsonga women enjoyed a degree of social freedom and responsibility which, I contend, was contrary to what existed in the European society where women were seen as inferior people. VaTsonga women were very rooted to their culture and

way of life. For example, it was very difficult to convert a MuTsonga woman to christianity, hence to this day most VaTsonga women in rural and urban areas wear traditional attire daily as their primary dress code.

Simons' thesis demonstrates that lobola does not detract from a woman's status in either her parental or her husband's home. Even back then "women valued their daughters as important, deserving of care and respect and there was feminine dignity and respect shown to women in the archaic (precolonial) times than just material interest accruing from lobola, also sentimental interests (Simons 1968: 112). The enforced migrant labour system caused a breakdown in the family structure, it led to women and children being left alone in the reserves while their husbands and fathers were away in the cities and towns Despite such hardships, they relied on their self-assertiveness qualities independent of their husbands and fathers.

Invented traditions brought about by school education and christian teachings gradually undermined the African's faith in the ancestral spirits. It was through its propaganda which stressed the importance of the individual personality and provided rational basis for the rejection of parental dictation. It was in this way that the communalistic approach to life was undermined while kinship bonds got loosened. Subsequently, it popularized notions of romantic love through cinema, magazines, novels and rendered arranged marriages less attractive to young people. (Simons 1978: 99).

3.4.4 On Women and Domestic and Gender-based Violence

There was, as Simons (1968) observed, a minority of whites who despite looking upon African customs as inferior, albeit showed some tolerance even to a point of conceding that the tribesmen's customs had some merit within the context of his time and place. However, their colonialist self-interests overpowered their grudging admission. There was also a recognition that any form of coercion to force European practices and colonial culture on the African would be dangerous in that it had potential to produce worse evils. From this statement one can deduce that the tribesmen's way of life was the opposite of these potential evils they were cautious about. For evil to be possible, logically it follows there has to be some precedence of good in precolonial practices and customs.

Kokwani Mugiyo (79) of Zamani Village put his views on gender-based violence in this manner:

"Let me not lie to you ntukulu wa mina (my grandchild), this sickness of wife beating was there, yes it was there, but it was very rare…it was very rare because it was disapproved of and frowned upon…It was not acceptable, unlike this fashion we see now. The day it happened all the neighbours came out of their households when they heard a women's screams. If it happened that a husband beat his wife, it will be a big deal…such a big deal and the wife's family would be informed, and the husband was required to explain why he beats his wife. They will ask if his wife has become a little child who has no ears to hear him with and mouth to talk. They will ask him questions that they did not even want him to answer, just rebuking him". (Interview on 06/12/2017).

Kokwani Nwa-Makasela (71) and wife to *Kokwani Mugiyo* above had the following to add:

"Nwananga (my child) that was truly unheard of, it was taboo to raise a hand to a woman. Not with us VaTsonga…because it was a big deal…her family would take her away with them until the man and his family va ya pfhumela (formally apologise with a peace offering), and often that will be with a peace offering in the form of a domestic animal such as a she-goat or cow. Even if a woman is in the wrong…raising your hand or staff to beat her was disapproved of. The man had options to talk to the wife in an attempt to resolve the disagreement or send elders to her family to ask for help talking to her about the thing that is making you not be in harmony with each other". (Interview on 06/12/2017)

Following from the above comments as shared by the elderly couple during the interview, it is interesting how they resonate with Simons' characterisation of what he refers to as sentiments of 'misplaced pity' on the part of white people directed to the moral code and high standard of political and legal organisation governed by dignity, discipline and self-restraint that existed in African communities.

I agree with Simons' (1968) analysis that "self-interest and ignorance prevented whites from making a fair assessment of the communities' way of life based on tolerance and enlightened attitude". Indeed such an approach may have provided them with insights into the African's culture and its intrinsic qualities. "Africans could cope with their environment and achieved a fair amount of security against famine, disease, disorder and aggression" (Simons 1968: 15).

Simons' views on the existence of a 'moral code with a high standard political and legal organisation governed by dignity, discipline and self-restraint' are further supported by *Kokwani Nwa-Gilara* (89) when she clarifies that:

> *"If the case of wife beating went as far as the khorho (tribal court) the man was bound to be found guilty and fined…because under no circumstances was beating a woman approved of or condoned…No no…It meant you are not man enough as you are not able to settle disagreements with your wife through other peaceful means...I tell you that man…that stupid man…would be treated like an outcast by other men especially at the xivijo (community meeting), ekhorhweni (at the tribal court) and at community social gatherings and other minkhuvo (celebratory events). Men would refuse to share the jomela (beer calabash) or food with you if you batter women…this was because you are equal to an uncircumcised boy because you beat powerless women so it meant you are only good enough to eat and drink with boys. And this went for a woman's brothers, they were not supposed to beat up their sisters, it was simply just unacceptable, a brother was supposed to protect his womenfolk from all forms of physical harm, not batter them".* (Interview on 05/12/2018, Zamani Village).

The view that polygamy was a contributing factor enabling a majority of tribesmen and cattle owners to be able to afford their way of life may carry some truth in it. However, the opinion of white settlers which considered the African way of life to be 'a life of sensual indolence at the expense of womenfolk in general' was misplaced. According to *Mhani Nkuna*, Extra-marital affairs were rare and often frowned upon. Men were expected to marry. She further states that having extra-marital affairs carried with it the stigma of disrespecting womenfolk in general and especially the clan of the woman or girl the man is having the extra-marital affair with. (*Participant interview on 25/11/2017*). As alluded to in this study, historically the VaTsonga led a communalistic way of life. This lifestyle and practices were not limited only to consumable resources but extended to taking collective responsibility around moral and cultural issues as well as grief, shame and pride.

3.5 Culture as a Constantly Evolving Concept

Culture is not static and evolves all the time. Hobsbawn & Ranger (1983) notes that even though 'African societies valued custom and continuity, their custom was loosely defined and flexible, and helped them to maintain a sense of identity while allowing them the logic of

adaptation and spontaneity which was not understood by the colonials. Simons demonstrates this same view in in many ways too. Hobsbawn & Ranger (1983: 247) further writes that there was an 'misconceived' "assertion by whites that African society was profoundly conservative – living within age-old rules which did not change…and within a framework of clearly defined hierarchical status". My observation is that this colonial tendency continues to this day. For instance, the stance of the traditional authorities of South Africa towards the proposed parliamentary bills meant to regulate traditional communities. Their refusal to recognise women as equals is not in line with 'living' customs as they applied in the pre-colonial period but rather it conforms with codified customary law. That they do not recognise the rights of women to inherit or to have direct access to land is premised on their understanding of chiefly powers as bestowed upon them during the colonial and apartheid periods through laws that distorted the context and character of African customs. They refuse to acknowledge that African customs have always been flexible and adaptable with the times and circumstances.

3.6 The Family Structure, Culture and Agency

Since the precolonial days the African considered polygamy to be a very important symbolic token of building relations between families and across clans. They were structured in ways that spoke to the practical needs of their material conditions and lifestyles then. In an interview, one of the participants explained how marriage was structured in the precolonial times across the various VaTsonga clans:

> *"For our forefathers and mothers, taking more than one wife was not a problem. It was not a problem because you helped each other with chores. In those days people were patient and had respect and love for each other, people had a lot of vumunhu (Ubuntu). If a man is married to a wife, as time went by, he would discuss with his wife his intentions to take another wife. He wanted the new and often younger wife to come and assist the older one with household chores because life in those days was difficult for a women to fulfill all the household chores by herself…like raising kids, collecting firewood, ploughing, grinding corn, cooking, washing clothes, and many other things (including being 'happy' with him when the night comes (conjugal rights). Hence the wife needed the help of another wife or wives. What was important was that the wife must agree to the husband's request. If she did not approve cos she had a right to say no she does not want a 'younger sister', then it would be dropped or taken to the wider family to discuss her reservations or refusal. Sometimes the wife would disagree because the choice of family where the husband intends to take a wife from is dubious*

or unacceptable". (Interview with Manana Nkuna (64) at Zamani Village, 25/11/2017).

According to *Manana Nkuna*, VaTsonga women had agency and could say no to polygamy if they felt they did not want it or were not yet ready for it. During this interview with the elderly Manana Nkuna, she was adamant that contrary to the colonial narrative women enjoyed a considerable level of respect and support within a VaTsonga household and beyond. For example, the men were responsible for preparing the cattle for ploughing the fields. Men held the plough behind the span of cattle and making furrows as cattle pulled it through the field. They worked together. She further indicated that in the cases where there was no man in the family to do it, only then would women do it. My observation is that even though they complimented each other, there was a clear division of labour according to gender and perceived physical strength of members of the household.

Generally, men were considered to be physically stronger than women in terms of the ability to carry heavy loads or perform grueling tasks such as ploughing. However, those gender boundaries were easily dissolved as and when necessary like in the case of the absence of boys or men in the family, no taboos were invoked. There was flexibility in accordance with 'living' custom. *Manana Nkuna*'s narration speaks to the communalistic way of life as historically observed and practiced by most African families in general and the VaTsonga community in particular.

Drawing from the theoretical formulations presented by Andersen (1993: 31) it can be argued that respondents like *Manana Nkuna* and the other elders who share similar memories of how polygamous marriages operated and affected gender relations consider it to be a positive and practical function necessary for their social system. Andersen states that gender functions as a social category, similar to race and class, that "establishes, in considerable measure, our life chances and directs our social relations with others" (1993: 31). I understand Andersen's definition to mean that gender places women and men in different societal positions based on different expectations, division of labour, access to power and resources. I argue that this is so for practical reasons rather than as a subjugation tool. Indeed men and women's life experiences are often shaped by different contributors. (Andersen 1993: 33). Of course the danger of the modern diseases or those that were introduced by white settlers in relation to HIV/AIDS and STIs was mentioned in passing too during focus groups and interviews.

In precolonial Africa, particularly in the VaTsonga communities, contrary to Hassim's (2014: 12) contention that "African customary marriages treated women as legal minors even when their marriages ended, and polygamous marriages carried no legal protection for the women involved in them", VaTsonga women had substantial powers and were regarded highly by their families and the broader clan and society. I find Hassim's comment to be generalised in that it does not provide context or specify the period her statement refers to. It also does not specify if she is referring to women in urban areas or rural villages. There are many tribes, clans and nations within African society with various degrees of autonomy in terms of how they practice certain customs. The statement is also flawed in that it lumps women as a homogenous grouping. It is generalisation in that she refers to an era throughout which "most of the country's history considered women as minors even when their marriages ended" (2014: 12). I contend that this was not the case for rural women in the pre-colonial era, not least for VaTsonga women. As a norm women had a choice to dis/ agree to be involved in polygamous marriages. Epistemological evidence places the period which introduced labelling the status of marriages with that of the codification of African customs by the colonial administrators and should be identified and specified as such.

According to Rowbotham and Ranger (1983) this was at the height of the 'invention of tradition' and is thus placed within the colonial era onwards. Furthermore, polygamous marriages may have at some point diminished in relevance as colonialism took root. However, any significant and notable adverse effects to the institution was brought about by colonial statutes such as *Section 2 of Law 4 of 1885* which confined the African to immorality when polygynous tribal marriages were declared "inconsistent with the general principle of civilisation recognised in the civilised world" (Simons 1968: 40). The introduction of a dual legal system by the colonial administrators criminalised the practice of lobola and polygamy, thus leaving women involved in them with no protection where their rights were concerned as Simons observed. I nevertheless partially agree with Hassim's observations in so far as she acknowledges the corrupted and distorted version of customary marriage as seen through the eyes of the coloniser and modernist ideas of equality.

3.7 The Irony behind the Colonial push for African Women Emancipation

When justifying the invasion of the African territory the white colonialist claimed that he was bringing redemption to the lost communities by introducing christianity and redemption. He was bringing enlightenment through education which would civilise Africa from her savage and barbaric ways. He also intended to emancipate African women from the yoke of slavery-

like existence where according to Simons (1968) she was sold by her father to a life of hard labour which made the tribesmen live a comfortable life at her expense. The irony I refer to at this section is that instead of attaining all these 'morally noble' goals, the African women was left far worse off than she was in the pre-colonial period. In the preceding section I make reference to both Hassim (2014) and Simons' (1968) views on the legal status of married African women as well as the impact of the dual legal system during colonialism.

Another aspect the colonial administrators would have learnt about Africans had they, as Simons (1968) would observe, 'not been blinded by self-interest and greed is that a family head is a party to his daughter's marriage agreement where the lobola compact gives him and his family a right to supervise and the power to disrupt her daughter's marriage in the case it poses danger on her life'. He also acts for her in disputes and divorce proceedings between her and her husband. He is able to protect his daughter against ill-treatment on the part of her husband or his people. (Simons 1968). In western modernist contexts this kind of parental supervision is looked upon as interference. The colonial narrative tended to portray Africans as people with no logical system without analyzing the context. It also ignores that the head of the family does not act as an individual but does so on behalf of the entire family.

3.7.1 Customary Marriages and Kinship Building

Indeed polygamy was a contributing factor that enabled a majority of tribes (wo) men and cattle owners to be able to afford their way of life which white settlers considered to be 'a life of sensual indolence at the expense of womenfolk in general' Simons (1968). What the African considered to be a symbolic token of building relations between families and across clans, white colonialists considered it to be a tool holding back their own "hopes of a quick prosperity" as Simons (1968: 15) summed it up. For example, the practice of lobola was looked at with disdain and considered to be a sale transaction of daughters by fathers to the highest bidders.

During this study I observed that although there are aspects of life rural communities have discarded in favour of new inventions of tradition, there are certain practices that have become an inherent part of their identity and a lot of value is ascribed to it. All the VaTsonga women interviewed for this project validated Simons' observations made decades ago by admitting that they "would not be able to easily break free from a convention like lobola" (1968: 95). Their view is that it provides and maintains kinship among the clan and families involved in

the marriage. They also felt that it is morally and spiritually significant in the validation of a marriage, regardless of whether it is a customary or civil marriage. Another aspect that is important is that these women feel more secure in the marriage and that until lobola is provided to their family they would not feel really married. My view is that there are also underlying issues of self-worth and seeking validation of self-identity by attaching these to lobola. These sentiments around worth are also contributing to the amount of money families demand these days for girls/ women of various levels of education or employment. The children of a union where lobola has not been provided cannot use their father's surname and therefore belongs to the women's family rendering them strangers to their patrilineal family and its ancestors. (Simons 1968: 99). From a postcolonial feminist perspective, I argue that even though some continuities may have good intentions, the community should be cautious of the distortions some inventions may cause as these are likely to harm the very women lobola is intended to be protecting and providing dignity to.

Unlike decades ago, these days a daughter's lobola is no longer used *ku lovota* (to assist in providing lobola for a son) a son. Sons work and save for their own lobola as a sign of maturity and commitment to the woman they intend to marry. The practice of parents giving lobola to their son is now considered risky because he may ill-treat her, or she can desert him or be less committed to each other as they would not have appreciated the opportunity cost involved in saving towards lobola. Overall it is presumed that it therefore serves as a deterrent from dissolving the marriage. It is also considered to provide some form of social respectability and moral security and is an important part of the African heritage and more especially good because it is theirs and not the white man's. (Simons 1968: 99).

3.7.2 Invented Tradition and its Contradictions with 'Living' Customs

Lobola marriages are considered more binding to Africans that civil and church marriages because the family, clan and community are involved in its rituals, they also invoke the presence of ancestors. Marriage is a process and not an even. It involved relatives and friends who take part in the proceedings from its informal initiation to each stage of formalising the marriage. The event itself is celebrated with much publicity, and presence of lobola cattle in the kraal of the bride's people serve as physical evidence of the bride's family's consent to the marriage .(Simons 1978: 112).

However due to the inevitability of operating within a money economy over time customary marriage acquired some commercial qualities that was originally attributed to it by whites, that is. the price of a woman. The substitution of money payment for livestock had disrupted the

network of reciprocal obligations that formerly linked families together and consolidated marriages. In the colonial period whites' criticism to it was that it encouraged peasants to overstock their grazing lands with inferior cattle and retards the adoption of efficient farming methods.

3.7.3 Lobola as Social Ritual and Kinship Regulator

I concede that polygamous marriages may at some point diminished in relevance as colonialism took firm root. However, any major adverse effect to the institution was brought about by colonial statutes and policies which confined the African to immorality when polygynous tribal marriages were declared inconsistent with the general principle of civilisation recognised in the western world. Simons (1968) also notes that under colonial rule there was a breakdown of customary institutions regulating relations between sexes, such as marriage, which more often than not put women at such socio-economic disadvantage. In addition to other aspects discussed herein, *lobola* as a ritual served a "useful function in that it provided protection for married women" (Bernstein 1985: 35) while also observing a spiritual aspect of bringing different families and their ancestors together into a recognised and respectable kinship. To this day VaTsonga families and communities do not give due recognition to a marriage entered into without *lobola rituals* being observed, women take pride in having *lobola* provided for them.

3.7.3.1 'Til Death upon Lobola us Part

During interviews I gathered from some participants that within the past twenty-five years there has been at least 3 cases within villages falling under the jurisdiction of the Nkuri Tribal Authority as a whole where families of women who were co-habiting with their partners had died before the partner could produce lobola for them. The surviving partner and his family were requested to produce lobola before burial arrangements could commence. These kind of incidents are acknowledged and observed by the community and the traditional authorities. The police or civil law agents cannot dictate the terms of such arrangements and until the parties to the dispute arrive at an amicable arrangement of their own accord, the male partner and his family cannot bury the departed. Meantime they will acquire costs related to corpse storage and others during the period it takes for *lobola* negotiations to be resolved. The reason advanced for this is that it serves as a deterrent to other men and reminds all that families must respect each other by observing customs and practices of the VaTsonga.

As indicated earlier on, co-habiting is frowned upon in the VaTsonga community and considered to be one of the immoral practices brought about by modernity. Staying with a woman you have not produced lobola for is an insult to that woman and her family. It affects her dignity in society and standing in the family where she is cohabiting. The man is not recognised as a *mukonwana (*son-in-law) and generally looked upon unfavourably by members of the woman's family and her clan. It is also a sign of showing contempt to the ancestors by the cohabiting woman as it means that the ancestral spirits do not know her whereabouts as they have not been formally notified through *mphahlo* (to speak to the ancestors to inform of or ask them for important things). Such behaviour also affects the children born out of that cohabitation relationship negatively in terms of identity and belonging. (*Data gathered through participant observation notes at Zamani Village in November/ December 2017*).

3.8. The Ambivalence and Dissonance of Invented Tradition in the Household

Simons (1968) also reflected on the authoritarian and patriarchal attitudes of the whites who invented the codified customary laws. He noted the misalignment of restrictions they imposed to the modernisation project upon which colonization was ideologically based. For example, they were minors with no legal capacities, however in practice migrant labour and influx control regulations forced them to become heads of households. At the same time while still legally dependent and subject to newly invented patriarchal customs they were forced into responsibility of being decision makers. Subsequently, the 'ambivalence of their existence had significant impact on future relationships and gradually led to a declining view of marriage as a desirable institution' (Simons 1968).

Simons' argument compliments Hobsbawm & Ranger (1983: 257)'s view that when it came to men's remembrance of the good old days, their memory is accompanied by nostalgic regret in their constant appeal to 'tradition' profoundly laced with anti-feminist bitterness. Denise Paulme (1963:431 cited in Hobsbawm & Ranger 1983: 257) asserts that 'the anti-feminist spirit springs from feelings of discontent and impotence once they realize that women will not regress back to the state of dependence they were previously in". However, other scholars points us to the reality that the basis for colonial records of African 'tradition' upon which the colonialists had invented these traditions were in the first instance exclusively derived from male informants while 'indigenous female belief' remained unrecorded. Rowbotham (1975) argues that "women were hidden from history" and for some time their voices became muted and hidden. This attitude speaks to what Eagle et al (1999: 502) remind us when they state that "feminist theorists are concerned with the lack of research directed specifically towards

understanding women's experience". This is in line with feminist research's opposition of positivist methods that are patriarchal in their approach in that their aim is to understand the world in order to control and exploit its resources (Eagle et al 1999: 503). Colonialism is a project aimed at exploiting Africans and their resources, most of the research conducted during that period was aimed at helping them figure out the best and cost-effective ways to achieve that objective.

3.8.1 The Migrant Labour System and Invention of Toxic Masculinities

'The colonial period saw South Africa and other parts of the African continent being pacified into forced labour and the pillaging of the region's natural resources such as crops, rubber, minerals; and human capital in the form of male workers to work in plantations and mines ensued' (Cloud and Knowles, 1998: 252). This greatly and adversely influenced gender roles and responsibilities in the household. Women's plight increased as they got excluded from paid labour, property ownership and political rights.

Furthermore, the colonial system of marriage within the context of traditions invented by its administrators further contributed to their subjection. The codified customary legal system that applied to rural communities rendered women economically and legally helpless. It appears that within the colonial system masculinity translated into domination while the idea of femininity meant submission. Drawing from radical feminist approaches I deduce that the capitalist nature of the 'new society' meant that women were kept at a competitive disadvantage economically while their labour was not financially compensated due to its domestic nature.

The state of dependency African women lived under with its precarity and fears of desertion often meant most remained in customary unions where they submitted to forms of subjugation with their status of a perpetual minor under the tutelage of the husband (Bernstein 1985: 36). Under this colonial dispensation of customary unions as 'invented' by colonialists women had no right to property ownership except for a few personal effects and her own clothing. Neither could she enter into a valid contract without her guardian's consent and any property acquired with her money belonged to the husband. (Bernstein 1985). The disempowerment of women started in earnest and became the customary law upon which the traditional leaders of both the Colonial and post-apartheid South Africa fall back on as basis for their 'despotic powers'.

At Zamani Village the women did not seem worried about issues of access to land. My assessment is that they are perhaps not too familiar with the proposed bills or they were just caught in a bubble of blissful ignorance. The fact that currently they are able to access land as and when they need it might contribute to their nonchalant attitude on the matter. They are however affected by the following proposed parliamentary bills which speak directly to rural communities under the jurisdiction of traditional authority. Their impact on rural women's rights to land access, inheritance, succession, and so on far reaching. These are; 1) *The Traditional Leadership and Governance Framework Act of 2003* and *The Traditional Affairs Bill of 2014*; 2) *The Communal Land Rights Act of 2004*; and 3) *The Traditional Courts Bill of 2012*. They are discussed in detail in chapter 5.

3.8.2 Migrant Labour and the Reassigning of Roles in the Household

As alluded to in the first paragraph, the role of women also got re-assigned in that they had to perform difficult tasks, carry out responsibilities and play roles that were historically assigned to men through an established division of labour system in the household and the community at large. For example, VaTsonga women were now expected to build dwellings, herd cattle, plough the fields and tend to the crops until harvestime instead of planting seedlings, weeding and harvesting only as was the case before colonialism. One 89 years old geriatric participant commenting on the migrant labour system recalled as follows:

> *"…When white people came emarhumbini (the ruins meaning their family land from which they were forcibly removed) they started by taking all the men to go and work in the mines. Any boy who looked strong and had barely come of age was forcefully taken to the mines of Johannesburg. And if they leave this year you would not see them for five years sometimes, if they were gone for a short time it would be for three years at least. See here, let us take a young man who gets married in the month after the first rains when we have just ploughed the fields neh, and barely before the plants are of no height then he leaves to go work in the mines. Sometimes his young wife would start showing with pregnancy, give birth to the child and all the rituals are performed. By the time he comes back the child does not even know it is his father…he would be so scared of him. So children will grow up knowing their mothers and their grandparents. It was only elderly men who will be left in the community. You will find women having to do everything or sometimes confer with the elders, the grandfathers in the clan…but what would old men help you with when it comes to heavy jobs my child…nothing! So vatswatsi (mature women who have reached menopause) together with the elderly men*

and women were the ones who ran households and families. They took decisions on when to take puberscent girls for the vukhomba (coming of age initiation) ceremonies. Similarly with the puberscent boys, they decided on when to set up for their ngoma (initiation schools for circumcision and rites of passage from boy to manhood)". (Interview with Kokwani Nwa-Gilara at Zamani Village, 05/12/2017).

It is clear from these narrations that women's roles expanded as colonization took root and more whites spread out to the rural hinterlands where the VaTsonga clans were scattered. I caution however that despite these forms of what can be viewed as progress, there were negative effects. As with other African communities that had experienced the colonial tentacles much earlier, the family structure and way of life of VaTsonga suffered. 'The crusade launched by the whites against tribalism under the banner of Christianity, feminine emancipation, and progress provided them with a moral pretext for invading African territory and forcing the peasants on to the labour market for the benefit of the colonial economy' (Simons 1968).

3.9 A Push off the Land

Conceptions of individual property ownership, contract and status were new to traditional African culture and society. Social relations amongst and across genders were not based on competition, but rather complimentary with clearly defined positions, division of labour, and people saw themselves as kinship groups rather than individuals with separate rights. Initiative and the right to act rested with the family and was not constituted in an individual with separate rights. (Simons 1968). In addition, one should not gloss over that colonisation robbed women of their access to means of production, that is, the land. This drastically altered the existing methods of farming which also affected the household division of labour. Black women's movement into cities and industry were generally restricted. Notably, the post-war period of the mid to late 1940s the rural output of labour in the secondary industry was transformed and thus able to absorb rural women as cheap labour at the lowest level of production (Bernstein 1985).

With regards to the issue of forced removals, *Kokwani Mkhacani* (77) reflected that the forced removals made it very difficult for families to feed themselves (*Participant interview on 07/12/2017*). Both Simons and Bundy attest to Commissioner Theophilus Shepstone of the Natal territory's strategy of putting up measures aimed at crowding out the *Kaffirs* to compel them to leave their locations and seek work, therefore providing the whites with much needed cheap labour in the farms and mines. They found various ways to force the African population

into labour tenancy on their farms or increase their cost of living through random taxes. The little pieces of land that they were relocated to were not enough to yield enough food to feed their families through subsistence farming anymore. Yet again the noble intentions of whites to emancipate African women from the yoke of slavery-like existence suffered under her father was delayed. The rural African women was left far worse off than she was in the pre-colonial period.

Bundy (1979: 167) when writing about the 1830s rural economy states that 'individual *trekboers* could not sufficiently expropriate from the indigenous population their means of subsistence or render untenable their accustomed modes of production and levels of consumption'. He further observes that the *trekboers*'economy itself was characterised by low productivity and unsophisticated means of accumulation with dependence upon barter or raiding of African produce for their subsistence. One is compelled to ask the questions who was the savage and barbarian between the Africans and the white settlers. Of course their justification of these raids and military attacks was that, as Bundy (1979: 168) reports, "it is 'through God's guidance' apparently to "harvest and eat what others have planted'". One Voortrekker in Natal even went to the extent of noting in his diary that "through God's care came a great blessing for these poor emigrants" hence they could "harvest in the garden of the Kaffirs" (Bundy 1979). One again I draw attention to the irony and hypocrisy of the white colonialists I allude to throughout this thesis.

Subsequently their cost of living increased and they were compelled to rely on wage labour. (Bundy 1979; Simons 1968). It was under such trying circumstances that most VaTsonga men became *magayisa* (migrant labourers) who would only come home after years in the mines. Many of these young men never returned home, as *Kokwani Nwa-Mkhacani* puts it, some due to *ku kholwa. Ku kholwa* happens when a migrant labourer never bothers to return home or send messages or support his rural family. Often some would decide to adopt a new lifestyle and even an entirely new name and ethnicity altogether. While others would simply be killed in the mines and remain unaccounted for. She insists that this *ku kholwa* phenomena was very common among the VaTsonga men where they would often come home when they are too old or too sick to work. Often with nothing to show for all the years they were away in Johannesburg. It was thus that households headed by women, particularly in rural areas increased. I therefore advance that the roles of women as sole breadwinners was consolidated in that manner. The model of rural households headed by males and farming being the preserve

of strong men has long diminished with the expansion of colonial capitalism through industrialisation and commercial farming.

Despite efforts to fight against the invasion and encroachment into their way of life, different communities of Africans were adversely affected with some succumbing to the colonial project. Furthermore, the case study findings confirm how the family structure became fractured by the migrant labour system with the division of labour being among the first casualties. European forms of patriarchy were introduced with women being relegated to the role of unpaid domestic labour and gendered ways of access to land and other movable property.

3.10 The Policy of Separate Development: Apartheid

In South Africa, there are huge inequalities between men and women, across race and class that stems from deliberate government policies that can be traced to colonial days. For example, the policy of removing Africans from their land and confining them to 'Native Reserves' interfered with their customary practices which contributed immensely to their hardships. In addition, women tend to spend more time engaged in unpaid household work than is the case with men. This unpaid work includes time spent caring for children, men, the ill and the elderly. Budlender (2003:15) revealed that, in general, South Africans spend less time on child caring in comparison to countries such as in Canada, Europe and Australia. Men and women often have reduced access to time and access to resources leading to a reduction in women's income in both cash or in kind. These disparities have direct correlation to the big differences between men and women.

Of even greater significance was the introduction of a dual legal system by the colonial administrators which rendered the practice of lobola and polygamy criminal and left women unprotected and vulnerable. The various contestations reveal different ways in which gender relations as a concept is viewed by various actors emerging from the colonial era through to the end of apartheid. There are many continuities that got carried through to the apartheid era, with some still prevailing to date. It is common cause that during the apartheid period Africans' life roles were pre-determined at birth by their skin colour in the first instance. The second aspect was their sex and economic class. Everything else thereafter from infancy through to adolescent and adulthood; the education, jobs, status, quality of life was predetermined according to a set of segregation rules that operated within the realm of these three factors.

For rural women the impact was even more debilitating, it destroyed their indigenous way of life. Indeed the African women suffered under the effects of triple oppression entrenched through inferiority ideology which was used to destroy her pre-colonial social structure while denigrating her culture. Subsequent to that, colonial culture was then imposed on her through presentation of invented tradition which were present and African in name but distorted and colonial in context. Arguably, the third form of oppression is rooted in patriarchy and knows no colour boundaries. It finds its basis and expression through an exploitative system of the colonial capitalist economy that started with the development of industrialisation. It generally thrives of a strategy of divide and rule by the white minority rule. It derived its genesis from racial discrimination within which the factors that control women's lives the most was embedded, that is, the system of apartheid.

From the standpoint of this study, colonial conquest is the precursor and biggest contributor to apartheid. Since its inception it has survived the passage of time through an economic model dependant on mining, agricultural and industrial development based on cheap African migrant labour, pass and tax laws, and the control of land access by whites. Apartheid's peculiarity is its distinctiveness as a phenomenon with exceptional features when compared to other previously colonised and currently independent states. Hence it is described as a 'colonialism of a special type' in that when South Africa became 'independent' from Britain in 1910, the colonial power did not move back to London. Instead it became based in Pretoria under white rule. According to my assessment the 'independence' was a power sharing arrangement between the English and Afrikaners who regarded SA as their birth right and 'vaderland'.

3.11 Conclusion

This chapter demonstrated how the meanings of gender relations and patriarchy developed since the precolonial time through to the colonial and apartheid eras. I have also argued that the VaTsonga community was not inherently patriarchal by design, but may unintentionally have engaged in what tin modern times projects like gender inequality. VaTsonga women had substantial powers and were regarded highly by their families and the broader clans. VaTsonga communities were structured in ways that spoke to the practical needs of their material conditions and lifestyles.

The advent of colonialism interrupted what I argue was a moral code and high standard of political and legal organisation governed by dignity, discipline and self-restraint that existed in African communities. Colonialism uprooted the African from her historical environment and

way of life under the pretext of introducing a liberatory and emancipatory project. In any case, it soon became clear that their intentions were nefarious and driven by selfish-interest and their need to attain colonial economic gain at the expense of Africans. With time new traditions were invented based on foreign social systems which hollowed out the context of African customs replacing it with codified rigid customary law which did not compliment the conditions and way of life of the African. The colonists devised sophisticated means through which to 'free' African inhabitants from the land and get them to the farms and mines as cheap labour under the migrant labour system.

I discussed how dual power system and policy of separate development eventually followed resulting in years of a brutal system meted out on Africans throughout Black South Africa. I also pointed out to ways in which the power of the traditional chiefs and the church were used as pillars of subjugation while the state and private capital implemented the colonialist project and the policy of apartheid. The apartheid regime came into power in 1948 and dominated the state and society until its waning in the early 1990s.

The following chapter explores the South African democratic state's approach to gender relations, access to land and succession issues for rural women. Zamani Village in Giyani remains the focus of the study.

Chapter 04 Post-1994 Gender Inequalities and the Dual Legal System

4.1 Introduction

"I welcome this new democratic government with both my two hands…there are a lot of things that have changed my child, many things. Like now all of you our children, even wena as a girl…now we can all stand up now and go to Johannesburg any time. You don't need a pass or work permit, you don't need permission of a male relative, you don't even have to go to the tribal office first to beg for papers…No…you just go. So, is that not a good thing? Nothing is big in this life…nothing is bigger than having freedom". Manana **Nkuna** (A 64 years old widowed women head of household in Zamani Village).

The quote above was a common thread throughout the study with all the participant young and old expressing their relief and appreciation of the new dispensation. Although about six (06) of the participants were born around 1994 and did not live through the apartheid period per se, they nevertheless experience the structural effects of the segregationist policies in most aspects of their existence. There are contradictions that permeate rural spaces for women. Their 'bodies' are under a constant gaze and the scrutiny is behavioural and physiological justified by culture and tradition. I contend that patriarchy is what leads to this blatantly gendered power play. I am by no means promoting historical determinism as the sole factor for the state of gender relations at Zamani Village or anywhere in the world. On the contrary, I recognise the agency of women family members and the strides that women across South African villages have made. Moreover, the progress achieved by women I came into contact with at Zamani Village as per my findings are remarkable. Feminist sociology seeks to change society in order to enhance the status of women in society and in families. It aims to validate the contributions, experiences and viewpoints of women in social institutions, including the family. It is for this reason that it can be regarded as being action-oriented with a social and political agenda.

Rural communities too, as with the rest of South Africans, are governed by a constitution that vests equality in the liberal subject. On the other hand and unique to rural inhabitants, they are subject to customary law which in practice often exclude women from decision-making processes and access to some spaces and resources. For example, customary practice often do not allow women to participate in community and family meetings where decisions about issues directly affecting them are taken. I acknowledge that since 1994 this state of affairs varies from one village or chieftainship and family to the next.

Adding to the subjectivity that is thrusted upon rural women is the difference private and public spaces also contributes to the degree to which women may be accommodated to participate. Chatterjee (1993: 14) notes that the idea of colonialism as incidental to the history of development of modern institutions and their technologies of power in Africa is with us to stay. This is despite the tendency to think that we have put the colonial period behind us, we nevertheless continue to be deeply implicated by the progress of modernity which cannot be entirely divorced from the former (Chatterjee 1993: 14). South Africa inherited a colonial conceived and constructed system based on the British system of governance and administration regulated by Roman-Dutch Law principles. Despite some tweaking to customise for local use its framing speaks more readily to the urban Eurocentric mostly urbanised citizens.

At the time of this interview with Manana Nkuna, she had just commemorated the twentieth anniversary of her husband's passing on. She was left alone to fend for seven young children, the youngest being only about three months when she became widowed. She narrated the difference she observed between how she, in 1998, was treated as a women who just lost a husband and compares it to how grieving widows were generally treated before 1994. For her, the fact that the community in general and families in particular restrain themselves from ill-treating widows now compared to how they often behaved pre-1994 is a significant milestone. Women and their minor children's vulnerability escalated upon the death of a father. The traditional authority did not offer protection since this was considered to be part of customs and rituals associated with mourning. Not only was the widow physically humiliated and isolated, but members of the family would use the opportunity to dispossess her and the children of what they considered their brother or father's property. Upon closer scrutiny, she indicated that this way of doing things was in contradiction with 'living' customary law and how the VaTsonga people treated women especially widows.. The communalistic way of life as historically followed by VaTsonga dictated that her husband's family take care of her and her children, but it was not to be. Furthermore, Manana Nkuna's sentiments as stated above speaks to the issue of how colonialism and the codification of African customs had invented traditions that are contrary to their customs and practices as lived daily. Her lamentations were in support of what Simons (1968) and Hobsbawm & Ranger (1983) found in their works. She summed it up by stating that:

"it reflected the dilution of the VaTsonga cultural norms and practices that took place during the ntshikelelo and xihlawuhlawu [colonial and apartheid] era". (Interview with Manana Nkuna, 25/11/2017).

Chapter 3 discussed both precolonial and colonial contexts together with apartheid's role in ensuring the embeddedness of an equivocal dual legal system. In that period families were removed from their land and gave way to broken family structures and a weakening of kinship relations as poverty and hardship set in. The overarching and common sentiment of the participants to this study is that families were forced into a situation where they scrambled for very few resources. Subsequently, those who had less would often envy the others with a little bit more and found opportunity to get even upon death of especially the head of the family, the man.

Some participants even raised the issue of witchcraft as an important factor. Notably, it is often women who get accused of witchcraft, more so elderly women in the villages.. Hence Manana Nkuna's views about the democratic dispensation are based on real fear of what she has witnessed during the pre-1994 period. It also expresses a sense of relief attributed to the current political changes, in other words these are parts of her real and lived experiences.

This chapter discusses the positively emancipatory and liberatory effects the democratic dispensation has brought about especially for rural women. As it discusses the impact of the democratic dispensation within the family, it also explores how the household as a unit of production is affected by living under a dual legal system, that is, under traditional authority where both customary law and common law applies. It also teases out their own possible complicity in perpetuating patriarchal practices within their own households. I suggest that throughout the colonial era, distribution of power through structures that are entrenched in patriarchy has over the centuries and decades ensured a 'secure sense of meaning' for men. Similarly, it muted understanding of unchallenged conventions that remain dominant by women.

Having highlighted the above, I acknowledge the existence of some emerging hidden voices from within these rural public and private spaces such as the traditional authorities and family units. I characterise them as hidden voices because they are not yet extensively documented and do not occupy dominant public discourse and mainstream forms of feminisms yet. Neither are they organised in the conventional way that feminists or any interest group typically

organise themselves in pursuit of a cause. For example, in the village of Zamani where I conducted this study, inclusion of a set number of women in the tribal council depends on the discretion of the chief. According to some of the participants, the victory of democracy may be seen to have consolidated political power and not so much economic power, but it is nevertheless much better because it paves the way for them to be able to work towards their aspirations without the blatant and ever-present oppression like was the case during apartheid. They feel that at least now women are able to decide for themselves and can say no to many things that they would never dare say no to before.

Others conceded that for some residents, democracy in post-apartheid South Africa was understood to bring access to basic services, creation of jobs and other public goods. They however lamented that people did not give much thought to the responsibility they have towards themselves to help this democracy work and give them these things. This perhaps speaks to the conception of freedom and the meanings attached to the concept of democracy. My analysis of such findings as narrated herein is that although the participants may not necessarily identify or be aware of the concept of feminism as a theory or ideology, they are nevertheless aware of their own self-directed agency which goes with real possibilities for self-emancipation. They rather live their own brand of feminism in practice. For these women it does not matter much that their form of freedom and rights expression does not have a fancy label to it. They are content with the possibilities of the goals it can help them achieve.

On the other hand, the Zamani Village ward committee has a prescribed number of women in line with the gender parity policies of the political party that won the August 2016 local government elections. It is also a known factor that in some political parties a 50/50 gender parity must always be observed. In such cases it is acceptable for women membership in the ward committee to be over the benchmarked 50%, but non-negotiable for men to be over the threshold (*Interview with the Chief Ndhuna on 24/11/2017*). One notes the ambivalence and potential contradictions that exists between two systems that rule over the same subjects, namely, a democratic state and traditional authority with common law and customary law applying respectively.

Chapter 3 discussed in detail how the colonialism and apartheid diluted the customs and replaced them with their version of invented traditions to suit their own colonial objectives. It also details how African traditional leaders were used as tools through which to implement the codified version of customary law. I use the post-colonial feminist critic to look at the essential

destabilisation of a shared meaning of dis/empowerment by this dual legal system as applied by its agents.

4.2 The State of the Family

Different societies all over the world have different types of families. For example, in Africa, Asia and most of South America, families that follow their indigenous systems still exist despite widespread changes sweeping through those continents. One can link those changes to the continuing spread of Western culture and values which were diffused through colonisation and imperialism (Giddens 1999: 477). Adding to that is the introduction of modern systems of governance that have replaced small groupings of chieftainships and kingdoms. Often the colonial administrations and structures of governance that came about through colonialism put a lot of effort towards altering the indigenous people's way of life. The fight against colonisation undertook by liberation movements also gave rise to nationalist political organisations which further modified the way of thinking around identity. Giddens, [ibid] and Macionis et al (1994), observed that employment in the mines, plantations, government bureaucracies and industrial firms had the effect of disrupting the family systems upon which landed production in the local community was previously centred.

The household is the basic unit of human socialisation, and encourages the unequal distribution of power between men and women in many ways. It is in the household that stereotypical roles of who does what chores get reinforced. These ways of socialisation also receive a receptive platform within which to thrive in institutions like the traditional authorities and councils. The family unit serve as reliable tributaries on the traditional structures of patriarchy. They should therefore be considered in line with the participation and inclusion of women into the politics of such institutions when analysing this thesis.

4.2.1 Normalisation of the Migrant Labour System

Urbanisation continues to have a huge influence on family structure and life due to the migration of rural people to urban centres in search of a better life and job opportunities. As alluded to in chapter 1, in the colonial period migrant labour policies only African men were allowed permission to enter and work in the urban centres and industrial zones such as mines. This meant that their wives and children were left in the rural areas to fend for themselves. With time concessions were made and a nuclear family was allowed to join the husband and father and settle in the towns and cities. Both colonial and postcolonial governments introduced

and implemented population control measures like family planning and intervention methods such as contraceptives to encourage small families. These are some of the ways through which the concept of a traditional family and kinship as referred to in the introduction above became further weakened.

From the context of western Europe where the industrial revolution had taken place a century earlier, Max Weber (1864-1920) noted that state bureaucracies began to take over family functions and reduced families to dependent client populations. Same as the erstwhile colonisation and apartheid in South Africa, the industrial revolution in Europe had required more and more men to work for their colonial economy as cheap labour. As a result men used to nomadic lives in communal areas with their families were forced to move away in search of what seemed to be greener pastures. Albeit in the case of South Africa one could hardly call it greener pastures.

The 'industrial revolution' in South Africa resulted in a considerable increase in white domination where repressive powers of the state were extended beyond segregation in the cities. 'It perfected the system of cheap migrant labour through the perfection of its coercion instruments such as blatant racial oppression,' (Wolpe 1972). Industry required consistent access and availability of cheap labour to sustain its production operations, while the migrant-worker also required access of the product of the reserves including the reciprocal obligations of the family as these has a direct impact on the availability of the agricultural product and social services of the African society to the worker. Chatterjee (1947: 147) observed that the rational-bureaucratic modern state brought to India by the colonial power was premised upon denial of citizenship to the colonised Indians. This is a similar strategy as that applied to pre-1994 South Africa. In both situations the western notion of a modern state would have far-reaching impact on the life of the community's practices in the context of what Chatterjee refers to as the spiritual space and the material space. In these Indian and South African contexts material space was surrendered to the colonial powers where subsequently the spiritual space also got affected, albeit at varying degrees. The solidarity of cultural communities could thus be weakened in this manner including gender relations and family life, to the benefit of the colonial powers.

The African's mode of pre-capitalist production in the reserves had to be maintained as it offered a fall-back for the state with regards to abdicating social services and security. It is partly for these reasons that the traditional authorities were strategic tools and allies of the state where maintenance of a familial community was vital in the survival and seamless functioning

of the capitalist system in its newly restructured apartheid format. The symbiotic relationship that the state together with industry implemented was very important for capital's continued replication in that various factors such as the allocation of land, soil erosion and nature conservation, the role of chiefs, urban spatial planning, and so on were designed in a manner that ensured just enough yield for Africans to survive. It was designed to feed into the capitalist system of labour provision and production in a cycle that was primarily beneficial to the whites but destructive to the family structure and the familial community in the long term. (Wolpe 1972: 425-437).

4.2.2 Migrant Labour and Family Relations

The structure of the African family disintegrated substantially with the introduction of migrant labour. Men who remained in the villages and not go job-seeking in the urban centres were often regarded as useless by their wives. From reading Chatterjee (1947) it becomes possible to imagine women as 'complicit players in framing and entrenchment of the hegemonic strategies that sustains patriarchy'. For example, the wives of the new middle class in India and migrant labourers in South Africa were happy to benefit from the dividends of patriarchy as much as they would at times be resistant to the imposed subordination. In simple terms, patriarchy dictates that the man provides resources such as food, shelter, clothing and other essentials for women, children and entire household. According to this arrangement a woman is dependent on the man while she is responsible for household chores, child birth and rearing. She does not get remunerated at the end of the week or month for her labour, her work is not attached to monetary value and therefore remains unpaid. Her own domestic work in the household remains undervalued, unrecognised as labour and gendered.

The hegemonic strategies breathe life into patriarchy by existing safely in its midst as a provider, protector as well as defender of the nuclear family as it is known, hence the negative tone towards the husband who does not want to go seek for work in the urban areas and his branding as a coward. The dominant existence of the family as the primary unit is fertile ground where patriarchal values and practices either take root to thrive or could get deliberately decimated. This is due to the obvious fact that socialisation of humans begins in the family as a primary sphere of socialisation where behaviour is both passively and actively learned at very early stages of life.

Migrant labour is entrenched and normalized within most VaTsonga communities. To this day people would rather work elsewhere but maintain a 'home' in their village of origin. This also

comes through in their vocabulary such as referring to a place where they live and sleep as just a residence but referring to their village dwelling where they spend about 5 days a month as 'home'. This distinction is continuously and consistently made despite the amount of time they spend at the urban place of 'residence' in proportion to the number of times they visit 'home' in a year. For example, each December and Easter holiday period VaTsonga people flock to their 'homes' in the villages in large numbers as a norm. In addition, often when a woman loses a husband while they were both residing in an urban residence it is very common for such residence to be sold in favour of going back 'home'. These are some of the legacies of colonialism and apartheid that became normalized over a long period.

4.2.3 The Right to Choose to Marry or not to get Married

Another way in which family life is affected is the general trend towards the freedom to choose a spouse. Such free choice applies to both women and men. Arranged marriages are becoming very rare if not entirely extinct among the VaTsonga community. These kind of marriages were characterized by marital unions among extended families. Family group dynamics were paramount and there were obligations towards establishing and maintaining family ties. At the moment, the rights of women are recognised. They play a central role when it comes to choice of spouse. Families accept that they can no longer force their daughters to marry into a family of their preference. Neither can they force them into getting married if they are not ready or prepared for marriage. According to Simons (1968: 112) even though not forced in the manner of violent coercion, arranged marriages used to be the norm in precolonial times, chapter 3 refers. In modern society single women are no longer openly ostracised or frowned upon by the community. Zamani Village generally has many households run by single women some of whom were never married while others divorced or became widowed at a young age and chose not to remarry.

"We are amazed when a woman who lost her husband remarries and moves away from her children to go live with another man. It just comes across as strange because in this day and age it is no longer taboo for women to have a boyfriend, but they do not have to move in with the man. What is to happen to her dead husband's children if she goes and live with another man in his household? It is quite sad because the children get neglected and government has to intervene, while more often than not those children grew up traumatised without a mother's love and guidance." Manana **Ndaheni**, 51 (Interview on 11/12/2017 at Zamani Village).

4.2.4 Responsibility shifts between men and women

As the men flocked to the cities, the social disintegration of families set in and so was the beginning of single-headed families. Within the VaTsonga village of Zamani this continues into the post-apartheid era, only now there is an increasing number of women moving into urbanised and industrialised areas in search of the elusive greener pastures. Young women who remain in the village after their matric year are expected to go away to further their studies at a college or university. Alternatively, they are expected to seek jobs in urbanised towns and cities. Although the extended family structure has evolved, family members are bound together economically by an obligation and expectation to support each other economically. In democratic SA such expectations are also directed at women. My empirical observation is that there appears to be more expected of girls or daughters in relation to their obligations to assist their families economically. This kind of outlook can be attributed to the long held communal way of life and Ubuntu/ Vumunhu principles of sharing responsibility and helping each other. Sesi Ndaheni (51) who lost her husband in 2005 aptly covers her dreams as follows:

"Nwananga, my wish is that at least two of my eldest girls can matriculate and go to college or university to study so they can help themselves and each other. These days when you have girl-children it's like you have sowed in fertile soil. This is because girls will always look after you and each other as siblings. It the old days people used to value boys more, but now even old men and women they can see that boys get on with their lives once they are successful or you will look after them until you are grey. Girls are more independent but they always remember their mother, their family because they know a life of a woman is not an easy one in this male dominated world. I teach my girls to know that education is their key to freedom from dependence on men and poverty of food". Sesi Ndaheni, interview (11/12/2017).

What Sesi Ndaheni relates is a common thread among the 28 men and women including youth over 18 that I interviewed. While two of the young male participants stated that the life of men is difficult since the prioritisation of women in government offices, 13 of the participants are of the view that women are more focussed and mature quicker thus being able to navigate life better. I also gathered from my field notes that thirteen participants agreed with the sentiments about girls being more responsible, matured and focussed. They felt that the absence of active father figures and positive male role models in the lives of the boys was partly to blame for the lack of direction and irresponsibility. Such notions of masculinity and femininity could pose a challenge as no causal relationship exist between the two modes. According to Connell (1995) being male or female should not be understood in a simple and singular narrative. My analysis

of the findings is that the heteronormative assumption that girls and women are feminine and homogenous; and that their relationship to the masculine men is direct and hierarchical seems to be crumbling as women find practical ways of asserting themselves in Zamani Village.

Changes in social expectations between men and women within the same households across cultures should be happening substantively for the good of society. One cannot help but expect that in the current rights-based environment, access to resources, opportunities, roles and responsibilities underpinned by perceptions, views and behaviour should be reflected as people's behaviours. Arguably, women have always contributed much towards the economy of the family and the community. South African historian Luli Callinicos notes the heavy tasks that rural women were saddled with in the absence of the menfolk which included ploughing the land, hoeing, sowing, cultivation and harvesting of crops in addition to their other traditional gendered roles of child-rearing and housekeeping (Callinicos 2007: 168). It therefore makes logical sense that they should be afforded full recognition within the community and the family unit than they are customarily getting currently. Moreover, such recognition is a well-deserved and fundamental human right.

In addition to the above, I argue that the assertions by girls and women at Zamani Village are not necessarily through public proclamations of emancipatory feminisms. My observation is rather that they manifest through their pragmatic actions of doing things for themselves, and notably things that were historically reserved for men. These are what I earlier on referred to as hidden voices in 4.1 above. For instance, instead of rushing to get married once they come of age girls opt for furthering their education and financial independence. In tandem with Munro (2010), this is what I agree is a "disruption of the common regard for the superiority of the masculine through grounding it in the understanding of the expectations that these were of the sexes, that is, the biology of men and women".

The norm is that the concept of masculinity is used in such a way that it refers to the manly characteristics of an individual as in a man is supposed to be the breadwinner of the household. I contend that these developed around the idea of what is traditionally seen to be male or female in terms of roles and obligations as already discussed above. Connell (1995) provides an in depth analysis of the different forms of masculinities broadly recognised. It is not surprising that a major feature in his work is the idea that the male is somewhat naturally superior to the female regardless of the masculine variations between the two. The concept around politics of domination as explored by bell hooks supports Connell's notion. She describes it as "an ideological grounding based on the belief in notions of superiority and inferiority with women

considered inferior to men" (hooks cited in Smith 1990: 221-238). Similarly, both concepts are based on power relations between women and men and the structural configuration thereof. It was very interesting to hear men talking about their inferiority as compared to women and how they would check themselves around the realities of what is going on around them. Instances such as having a single mother who is the sole breadwinner as well as sisters who are either at university or working, thus contributing towards the very men's wellbeing. (*Participant observation notes at Zamani Village in November/December 2018*).

4.2.5 Village Contexts and Getting with the Program

The migrant labour system impacted negatively on family relations. This integration was also the beginning of single-headed homes. The nuclear family gained momentum as extended family bonds got broken down. Goodes (1963, 1970) concurs with the shift that occurred towards increased predominance.

For ***Sesi*** **Mphephu** this phenomenon followed her family right at Zamani Village in post-apartheid South Africa. During the interview this is what she had to say:

"I lived at my father's household before I got this stand and moved here in 1996. There was disharmony in the household because it is a polygamous family with three (03) wives. Our brother from the first and main wife lived with us in our father's household and the wife was having difficulty co-existing with us. So as the situation escalated my father looked for a stand for my mother to diffuse the situation. But the chief refused allocating a stand to my mom because he said my mom is too old to have her own household and she does not have a son to look after her. He was adamant that the people who must vacate are my brother and his wife because it is the norm that the male child must start his own household. So, it was decided that the stand be registered in my name. Even though according to customs and norms my mother as the middle wife and junior to the first wife should not have had to relocate, it was agreed that we move". Sesi **Mphephu** (A 47 years old single woman head of a household at Zamani Village on 11/12/2017).

The above demonstrates how family relations started shifting in earnest especially once political freedom was attained in SA in 1994. Women were now able to start their own households where they could live in relative peace and liberty compared to the confinement of the bigger family and being subject to a father's rules. Much as the chief protested and was inclined to insist on maintaining the colonial brand of customary norms and way of life, the

reality that things were evolving persuaded him to do as the family wished. Over and above that he conceded and allocated a residential stand to a female child, something which was very rare in the colonial and apartheid eras. In this case we see a further fragmentation of the family from husband and wife living together to the wife moving with a daughter to form a new household and a micro-nucleus family. This attests to the further weakening of family relations due to changes in access to residential land for women.

The above scenario played out in the mid-1990s at a time when the concept of multi-party democracy was sweeping across Southern Africa. Ntsebeza (2006) states that resistance against traditional authorities re-emerged in the rural areas with these as a primary target stemming from their historical association with the colonial and apartheid regimes. Ntsebeza also observes that they were considered authoritarian and despotic in nature especially in relation to land allocation. In the case of Zamani and surrounding villages I suspect that the amicable stance and willingness to be flexible by the elderly Chief Mzamani Nkuri was motivated by the desire to want to be seen to be on the side of the people. He made good attempts to move with the times in keeping with the newly found democratic principles of the constitution by shedding the image of being an active representative of the hated apartheid state of yesteryear.

4.3 Traditional Authorities and Change

In Zamani Village the chief found favour in the community by speedily reading the mood, then transforming and aligning with the ruling party for protection. In this manner his position as a traditional leader never came under real threat except for a few whispering voices that got silenced easily. I believe this was made possible because generally the community did not see themselves outside of their rural village context. Rather they expected any improvements on their lives to find them in their locality without the pressure and disruption of relocating to urban areas. Moreover, the ambivalence and equivocation of the ANC-led government on the issue of traditional authorities' role in rural communities confers a lot of unprecedented powers over chiefs. (Ntsebeza 2006; Claassens & Smythe 2013). But for the residents of Zamani Village experience has shown that they practice 'living' customary law while invoking common law as and when the situation dictates, as shall be demonstrated below.

4.3.1 "Hosi I Hosi hi Malandza" ~ 'A chief is a chief through/ because of his followers'

For this study, my finding is that the extent to which chiefs can exercise their will over their 'subjects' depends on the local context and conditions prevailing in that chieftaincy and village. For example, the participants reported incidents of threats of deposal and protests against the chief due to some of the bad decisions and dereliction of duty observed on the part of the chief during 2016 and early 2017. There were also feelings of discontent around how the tribal council was constituted at some point.
There were also allegations of nepotism as well as the undeclared sale of communal resources such as construction sand and farming land to outsiders for financial gain that was unaccounted for. The chief was alleged to have engaged in corrupt practices by allowing construction companies to dig for building sand in village communal land. This caused soil erosion and dangerous dongas which depleted an irreplaceable natural resource which residents rely on for stock grazing, thatch-grass and foraging.

The main problem the community had was around the chief's non-consultation and treating communal resources as if they were his personal property, instead of a resource the tribal authority is holding in trust on behalf of the entire community. The chief was chased away from the village and lived in various places for over the following eighteen months until there was mediation by other chiefs who begged *tiko* (the village) to forgive him and to allow him to return to Zamani Village and chieftaincy. Indeed, he was allowed back in mid-2017 with conditions. These include that he builds his own house outside the original homestead of the late Chief Mzamani, where the tribal offices are located. He was also requested to carry himself in a manner befitting a chief with regards to gravitas and relations with women. Other conditions include vigilance around protection and use of communal assets, and so on. *(sourced through interviews with various participants at Zamani Village, 11 & 12/2017).*

The incident described above demonstrate the extent to which the dual system can be fluid. It also shows that some rural people exercise their rights as willing subjects to traditional authority, however they are also able to exercise their agency, as and when the need arises, by seeking relief under common law and invoking the supremacy of the constitution. Legal precedent exists with reference to the Chief NwaMitwa where she contested against her male relatives and her right to be chief was upheld by the Constitutional Court (*Shilubana and Others v Nwamitwa* 2009 (2) SA 66 (CC). Such case law provides hope to rural communities

that they do have avenues though which their voices could be listened to and their interests protected in case of unfair breaches at a traditional authority and customary context.

4.3.2. Negotiating Gender Relations in a Rural Village

Similarly, women in their diversity are able to differentiate between practical gender interests and strategic gender interests. According to Maxine Molyneux (1985), practical gender interests concerns the need for practical services and goods arising out of women's socially constructed roles; while strategic interests refers to the transformation of patriarchal relations into a society with real substantive equality between women and men. Mthintso (2003) uses Molyneux's analysis to highlight how the day-to-day material contexts in which African women live their lives is of primary concern. This is before they can even begin to grapple with the relationship between their contexts and the strategic gender relations. In the case of the participants interviewed for this study I find the general thread to be pragmatic feminisms that translate into transformative gender interests at play than theoretical strategies.

The law also plays a significant role in the subjugation of women to men. In colonial times through to apartheid South Africa and in post-1994, history is littered with the proverbial skeletons of women subjected to discriminatory application of laws that reveals alignment of power relations between genders. Examples of variables used to discriminate against women include marital status, race, social class, religion and culture and more.

4.4 Meaning of Democracy and Freedom for women at Zamani Village

During focus groups and in one-on-one interviews it became evident that freedom and democracy is understood differently yet with some convergence. For example, in a group of thirteen participants comprising both female and male youths they attached various meaning to freedom and democracy. For 22 year-old Hlawu, freedom means being empowered with information that speaks to his material conditions and can assist him navigate through life at a fairly easier pace than is the case currently. Whereas for 28 year-old Ntsakelo, freedom means the ability to ensure there is sufficient food on the table for her son, siblings and parents, and taking positive advantage of the free public goods the government provides for the people. These are free transport to school for high school learners, free health services, access to a social worker stationed at the tribal office, free education, the prospect of a tuition-free tertiary education, the child support grant and many more.

On the one hand 24 year-old Ntombi feels democracy brought a lot of good things but failed to empower citizens about what this democracy is and how they can best make it work for them beyond just voting every five years. *"I feel like father Christmas came and delivered plenty of sweets, cakes and chocolates, but did not bother to warn people about the dangers of eating too many sweets at a go. It is like all we had to do is eat, not knowing that the sweets are not water from a well and will at some point get finished. So what we have been doing since 1994 is to eat without thinking we need to stand up and work for money so that we can afford to buy if we need more sweets,*" elaborates Ntombi.

For 21 year-old Musa, his view is that 1994 was a miracle in that it created space for women like his mother to be able to decide how they want to live their lives. He is from a single-parent household and his mother's only child. He regards his mother as his role model. "*She does not take nonsense from anyone, and emphasises self-respect and responsibility to self and others. With my mother you must know your story,*" says Musa.

All the participants were able to link freedom and democracy as co-dependant variables that need each other for the one to exist and thrive. My deduction from these sentiments is that there is a common understanding that for freedom and democracy to be worthwhile it has to translate into something tangible, practical and useful for the individual. It must have positive transformative value for the people whose lives it touches. Postcolonial feminist perspectives are in tune with this kind of approach.

According to Hudson-Weems (1993 and 2004) as well as Gordon (1987) access to education and employment for especially women became a reality which improved in the late 1980s and escalated into free basic education post-1994. These have also contributed to changes in decision-making powers within families. Consequently kin marriages have given way to marriages outside kinship groups with a marked trend towards the extension of the rights of children.

Increasingly more and more women have their own conceptions of how they want to live their lives and raise their children linked to the notion of a post-1994 democracy and freedom of choice. Access to free education and other public goods is helping make such hopes a reality for most families. From the above focus group participants' views, I find that there was a slight divergence between female and male participants in terms of emphasis on collective and individual outcomes deriving from freedom and democracy. For example, both Ntombi and Ntsakelo were concerned about the ultimate impact of freedom to their family, whereas Hlawu

and Musa emphasised individuals' experiences in their descriptions of what they think democracy and freedom should be about.

Another post-1994 developmental aspect that, according to some participants, has played a big role in rural people's lives is technological advancements and access thereof. It is yet another motivating factor as especially young people get exposed to modern ways of life. All the participants I interviewed at Zamani Village had a working mobile phone, most of which were smartphones. Over and above this, 25 of the 28 participants had access to satellite television and radio. This attests to an inclination or desire to achieve a certain level of what is perceived to be a modern way of life as witnessed on TV and social media. It is however important to keep in mind that women are not homogeneous, hence their interests and priority areas for transformation differs according to context and socialization.

Overall, my analysis of the findings is that women believe in their own agency and that they can live a decent life that does not include dependence on a father or husband. They also do not subscribe to the notion that culture must relegate them to a status of secondary citizenship. There is generally a recognition by men and the Nkuri Tribal Authority that women are a force to be reckoned with and that for development to be substantive their voices must be heard.

Women are actively involved in decision-making about their lives and futures with the support of the state and promulgated acts of law. The tribal council has since modified some customs and rules that excluded women from participating at the *swivijo* (community meetings) and other community forums. "Here there are many of us with stands registered in our own names. For example, it is up to you if you want to use your son's name to register it, even if it's a small boy," says *Sesi* **Mphephu**. With regards to education, health and welfare another participant had this to say:

"The government provides three (03) buses for this village to take learners to school daily. And on top of the home-based health workers who visit each family at least once a week to check if there is no one requiring medical attention, there is also a clinic in the next village that falls under our chief where we receive free treatment for anything. The ambulance takes you to regional hospital in Giyani free of charge if you need serious attention by specialists. This benefits us women especially because we are not left burdened to take care of our sick relatives. The tribal office also has a social worker if you have problems with your children or anyone is troubling you. And in this communal society of Zamani Village there is no way you

can go to bed on an empty stomach" Manana Ndaheni, 51 (Interview on 11/12/2017 at Zamani Village).

Deveaux (1994) describes the body as a political field wherein different power relations are observed through the notion of a docile and policed body and a normalised gaze. For Foucault the real danger lied not with the repression of the individuals by the social order, but with the fact that they are repressed and "carefully fabricated in it" (Foucault, 1977). In the context of this study such panopticonism is observed in how the bodies of women in spaces dominated by customary laws are a under constant scrutiny and observance just in case it deviates from customary norms. It is for this reason that women should empower themselves with knowledge of what constitute customary law and social power behind traditional authority. This will enable them to mobilise their own powers to counter it and form a resistance against its perverse gaze and intrusion. It is my view that the women of Zamani Village in their focus on creating their own spaces and modes through which to attain equality for themselves, and not to chase after sophisticated means of organisation or loud protests, they are actually confronting power head on. They are approach is to help themselves one stride after another. (Foucault, 1980).

Foucault argues that where there is power there is always resistance to be found. My understanding of how power is exercised in Zamani Village is that it goes beyond just that of a hierarchical structure and form. Rather I see it as multiple relations where women in patriarchal communities such as rural villages often can nevertheless seek empowerment and emancipation through various forms of resistance. I also consider women at Zamani not as subjects but rather people who through their knowledge and participation in the activities of the traditional authority are able to influence the customary laws and conventions that do not favour them. From my interactions with the community of Zamani Village, I got a sense that although the Foucauldian conception of power has its usefulness, it should be used as a starting point towards attainment of material freedoms.

According to Sesi Mphephu since 1994 women, regardless of age, are allowed to speak during tribal authority community *xivijo* (gatherings/ meetings) where everyone is taken seriously as long as what the woman or man says makes sense. Therefore, women should also be or feel empowered and confident with regards to internal freedoms. Deveaux (1994: 235) suggests that we reflect upon the internal obstacles that gets in the way of women's ability to exercise choice. In the case of Zamani Village's tribal authority this would refer to any practices and conventions that have disempowering effects not easily discernible to theorists who focus exclusively on political power as Deveaux points out. Such could be in the form of restrictions

that leave women feeling scrutinised as well as belittled and could be through insisting that they sit on the floor while men sit on chairs, wearing doeks and clothes that cover their shoulders and arms when in community gatherings, and so on.

4.5 Is there Feminism in Rural Villages?

Feminism is generally perceived as a White women's issue and whenever an African woman assert herself she is more likely to get accused for diluting the Black women's way of life and defiling customs. According to Maart there is a general disregard for feminism within the African community especially the rural areas with feminism perceived as a 'White women's issue, not a cause that Black women felt strongly about' (Maart et. al 2014: 112). I am in agreement with Hassim (2017)'s view that the status quo could be perpetuated by the liberation movements' reluctance to embrace and entrench feminist ideology from the beginning.

Hassim further argues that even during the exile years the ANC was hesitant to resolve on what they coined 'the women question' choosing rather to see "the emancipation of women as a secondary goal […]… contingent to national liberation" (Hassim 2017: 220). There is renewed interest in feminism by Black women in South African metropoles especially in institutions of higher learning. The resurgence of calls for universities and related spaces to decolonise by student activists aligned to the #FeesMustFall movement has been of interest outside of campuses. How far this can go to reach rural women depends on accessibility in terms of language, space and even modes of dissemination such as technology. The content of the public discourse in terms of how far it speaks to rural women's context remains to be seen.

Another challenge with feminism is its historical positioning as an urban concept by educated upwardly mobile women with a tendency of speaking on behalf of rural women without even attempting to understand their problems and contexts. Although at a macro-level African women are located within a socio-economic and political space that, from a constitutional point of view, is supposed to be similar to that of every woman and man in South Africa, their reality is that at a micro or local level their experiences differ from women located even less than 15 kilometres away in a semi-urban town like Giyani. The urban and rural divide is compounded by the duality of the legal system that governs their lives and therefore largely pre-determining their responses to their contexts. The duality of the South African legal system on rural communities affects them differently from women in urban areas even though there may be some intersectionalities.

As a leading force in South African society and subsequently in the post-liberation state, the ANC seems to be failing to mobilise South African women around the ideal of fighting gender inequality. Since the inception of the ANCWL as an organisation that claim to represent women's interest, Hassim (2014:11) argues that for much of its history the league disavowed feminism. Yet rural women subscribe to its membership in their numbers. The ANCWL is also visible in Zamani Village but I could not measure its impact at a local level as the lines tend to be blurry when it comes to the ANC mother-body and its leagues at a local level. I did not ask my participants any questions related to political party membership. My family is well known for its political activism in the area, hence I did not want to run the risk of antagonising or intimidating any of them into thinking what I was doing through the fieldwork had anything to do with party politics. Sadly, feminists like Hassim are in urban areas and their area of focus on those familiar spaces. As a result rural women fall victim to being treated and portrayed as a homogenous group in their works.

The politics of gender are about power relations between men and women. Cock (1991) advocates for a shift in gender organisation in all social structures and processes as well as from exclusive emphasis on women's disadvantages and differences. In the case of Zamani Village the question I ask is if such an approach is practical within the context of a rural setting, The duality of the applicable legal frameworks and the realities that women are confronted with daily may dictate a customised approach. Indeed both men and women are oppressed by patriarchy, albeit in different respects and levels. The sad reality is that women occupy a subordinate position in the social structure that characterises patriarchy which allows it to thrive. It is magnified in rural contexts and spaces. This takes us back to the importance of being able to draw distinctions between practical gender interests and strategic ones as alluded to in an earlier section herein.

Discourse leadership also contribute to people's familiarity and influence their interest in issues. The dominant voices heard through popular media represent similar views. Organisations that historically led the discussion have diminished their focus on feminism and gender related issues. Although the ANC is the largest political party in South Africa and was known to promote the agenda of women, internal dynamics has diminished its voice as a leader of public discourse. Its Women's League often get embroiled in campaigns that pits it against women organisations and feminist interest groups. Its credibility as an organisation that stands for women's interest has thus been a blow.

Nevertheless, the triple oppression rhetoric so often referred to in most of the ANC documents and speeches is broadly reflected in gender questions confronting African women in South Africa in particular especially during the apartheid period. This still continues in democratic South Africa where for rural women it gets compounded through the guise of customs and cultural norms. I draw a distinction between the impact of culture for urbanized and rural African women in that although both experience patriarchy through the yoke of cultural norms and traditions, the degree to which it affects both is disproportionate.

Urbanized women enjoy more protection and some emotional distance from patriarchy as opposed to their village counterparts. It is not always glaring at them with the same constant gaze as is the case for rural women. For example, urbanized women's dresscode and mannerisms are not under the constant scrutiny of openly entitled patriarchs and traditional authorities who makes it their business to police rural African women's 'bodies'. I deliberately specify African women bodies because the very same men who have lots to complain about African women's dresscode for example, are more accepting of a white woman dressed in the same or even more revealing manner. There are various forms of hypocrisy and double standards including taboos around a woman having multiple relations while it is acceptable for a man to openly change sexual partners constantly.

4.6 The politics of gender

A close analysis of Cock's reflections on gender politics in South Africa shows that not only does she highlights the dualities of women and men, she transcends her analysis to one that integrates race, class and culture (Cock 1991: 29-30). The fascination is embedded on how the gender hierarchy takes precedence over race or culture with regards to the superior social position of men. On the other hand it reflects the intersectionalities of race and gender differently in specific contexts. It is in this manner that the traditional dichotomy of the public versus the private as characterised by Block (1991) also comes into play. I emphatically identify the family as a site of gender struggles where responsibilities of leadership and provision tend to automatically go to men. Responsibilities of caring, nurturing and general household chores and labour tend to be the responsibility of women. This common irrespective of whether the woman herself is employed and able to make financial contributions in the family home (Cock 1991: 40-42).

In a nutshell, Cock (1991) analyses the performance of gender superiority and provide some perspectives with regards to the limitations of structure and how these intrinsically serve to

oppress women. Additionally, the analysis reveals the positionality of African women in relation to their urban and white counterparts as well as with Black and white men.

The participants in this study are Black, working class, and generally fall within the most vulnerable category in society, and in this case in the context and locale of a rural VaTsonga village. This study engages with the various texts from the perspective that recognises the specific circumstances and conditions of rural women as pertaining to the legal frameworks applicable to them. Such circumstances and conditions emphasise the complexities of the struggles encountered by women while recognizing that such were not resolved by the statutory end of apartheid in South Africa. I concede that compared to the pre-1994 period, the law is generally more accommodating of women and gender relations issues. Women have to play an active role to ensure that both gender, racial inequalities and the rural/urban divide in law are addressed. The historically inherited burdens from the years of structural inequalities that continue to limit women's quality of life and full participation in social and political spaces should come to an end.

4.7 Conclusion

In this chapter I highlighted the contradictions that permeate rural spaces for women. I demonstrated how their 'bodies' continue to be under a constant patriarchal gaze and the scrutiny of culture and tradition. The dis/continuities from the colonial era through to the post-1994 dispensation was also discussed. I showed how gendered powerplay leads to and entrenches patriarchy and its attendant masculinities.

I also emphasised the concept of self-directed agency demonstrated by women despite the structural impediments and odds stacked against them in rural contexts. This I did through use of excerpts from interviews and focus groups conducted at Zamani Village. Women recognise the potential that exist for them under the democratic dispensation while grappling with their own conceptions of the freedoms and rights guaranteed in the constitution. The recognition of the tribal authority and the duality such brings them under was also discussed in detail with relevant examples provided

The next chapter discusses women and access to land in relation to communal land. I highlight the idea of succession and rights of women to inheritance in relation to the prevailing structural gender inequality in rural and customary law contexts. I explore how these concepts relate to

the constitution of South Africa and the liberalist trajectory in a democratic society that South Africa claims to be.

Chapter 05 Legal Statutes behind Traditional Authority

5.1 Introduction

This chapter explores how women at Zamani Village experience and possibly contest relations impacting on their rights to inheritance, succession and access to land. I delve into what could be behind attitudes of the VaTsonga when it comes to inheritance. The one thing that became clear from the start was that women are the ones who work the land. Working the land includes looking after the residential land as well as the ploughing fields for subsistence farming. I also examined if any signs existed of some awareness of feminist approaches among the women, either as individuals or as part of organised groupings. It is therefore within this context that the relationship between land ownership, access and utilisation is explored.

The questions I ask concerning customary law and traditional leadership are related to people's perceptions about their traditional leaders' place in society. Do they think chiefs serve the people's interests or do they feel chiefs have entitlement attitude towards village residents? Do village residents themselves live according to cultural practices and customs? Is it important for traditional leaders to be accommodated in a contemporary democratic world to start with? At the core of this study is the question of rural women and customary law as it applies to them in rural areas currently. Mamdani, Claasens, Ntsebeza, Pityana are some of the scholars I consult as I probe these questions.

These questions are posed to illicit information deemed important to examine the relevance of traditional authorities in an open democratic society based on principles of equality of all before the law. The common approach by some traditional authorities is a top-down style of leadership instead of a bottom-up approach of "*Hosi I hosi hi malandza ya yona*" ~ 'a queen/king is queen/ king through the voluntary will of her/his followers'. Certainly, there are some who do not seem to grasp the idea or difference between citizen and subject. How does the governance system straddle the lanes while operating within the parameters of the *1996 Constitution* of South Africa and its *Bill of Rights* especially in as far as it concerns inalienable rights of individuals and rural women. These are some of the pertinent questions that are looked at herein.

5.2 The law, women and the land

Professor Aninka Claassens is one of the few recognised voices at the forefront of issues pertaining to the rights of rural women and traditional authorities in post-apartheid South

Africa. Claassens and Smythe (2013: 26) raises concern about "the extent to which ordinary people are able to participate in the making of custom and rights, and their ability to hold traditional leaders to account." They point out that the enactment of such traditional leadership laws carried with them a message that government has shifted away from the Constitution's spirit of equality and democracy in support of traditional leaders' lobby for political expediency (Claassens & Smythe, 2013). Feminist activist and scholar Professor Shireen Hassim supports Claasens and Smythe's view that the introduction of the Traditional Courts Bill indeed implies that formal equality between women and men is under threat, especially for African women in traditional authorities jurisdictions as they risk being compelled to contend with systems of governance in which they will have even fewer rights than under apartheid (Hassim 2017: 229). The separation of African women in the administration of law is indefensible in a country renowned for its progressive Constitution and Bill of Rights. South Africa's post-1994 trajectory is premised on aspirations of a free democratic society based on human dignity, mutual respect, freedom and equality for all who live within its borders, including rural women.

The Traditional Courts legislation affects rural women's rights and reaches out to those in urban areas with ties in villages. Village dwelling women are however 'the most affected due to a wider ambivalence that exists towards participatory democracy' (Claassens & Smythe, 2013). Often the authoritarian attitudes to chiefly power and customary law disempowers rural women and strips them of the rights linked to property, inheritance and succession as well as access to land which they could use for subsistence farming and other activities to develop themselves without being at the mercy of male relatives. All cultures have positive and negative practices depending on one's positionality in society. There should be a willingness to merge the good that exist in both customary law and common law while getting rid of redundant laws. For example, Claassens & Smythe (2013) note that the changes that took place immediately upon the 1994 transition to democracy happened in the absence of the implementation of specific laws and policies focusing on women's land rights in communal areas. They rather manifested because of the adoption of the Constitution. Thus, the political environment of that time facilitated and legitimized gender equitable access to land as part of progressive change negotiated locally upon the destabilization of entrenched colonial and apartheid facilitated traditional power relations (Claassens & Ngubane, 2008).

Generally, unlike in developed countries, women in developing countries are faced with lack of direct access to productive resources such as land. The colonial and apartheid periods vanquished the leverage women had in precolonial times as referred to in chapter 3. This

limitation of land ownership or even lack of decision-making on land use remains one of the major constraints to women's ability on self-directed agency towards emancipation and women's attainment of substantive freedoms that includes socio-economic empowerment.

Jegede (2009) states that patriarchy influences women to respond in defined ways, often accommodating and deferring to male interests. This is the case in most rural areas in post-apartheid South Africa. In a patriarchal society, a woman is deemed to be inferior to a man. In some communities boys are preferred over girls for children. Albertyn (2009: 171)'s argument points to a similar trend that in patriarchal societies women are indeed deemed in subjection to men. She further submits that "the enforcement of traditional gender roles largely defined by their sexual and reproductive capacity perpetuates women's place as that of inferior power positions dependent upon men for status and resources" (Albertyn 2009: 171).

Foucauldian conception of power relations is worth exploring. For Foucault, social actors are not necessarily free as a result of the effect of historical conditioning. Feminist theory on the constant gaze and the Foucauldian panopticon power concept can be utilised to understand women subjectivity under traditional authority and colonial-distorted customary rule. Women can use the networks that power offers and come up with practices around us that could assist instil behaviours that helps us achieve equality. The very same methods of coercion used by men and traditional authorities can be used by women to switch the gaze around and claim control mechanisms. I believe that it is possible for rural women to make patriarchy and its supporting structures aware of our knowledge of how they operate. We could be on constant guard against their actions towards us and not accept anything less than equal treatment from them.

South Africa's liberal Constitution and the Bill of Rights are legitimate instruments at our disposal, however it can only work when we use it. The theory states that knowledge is power:

"*Knowledge linked to power, not only assumes the authority of 'the truth' but has the power to make itself true. All knowledge, once applied in the real world, has effects, and in that sense at least, 'becomes true.' Knowledge, once used to regulate the conduct of others, entails constraint, regulation and the disciplining of practice. Thus, 'there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time, power relations".* (Foucault 1977, 27).

Foucault's theory as cited above demonstrates the importance of women's understanding of how power operates in order to change our subordination. We need to understand the relations of domination around which society is structured. As a start women need to engage the basis upon which traditional authority claims its legitimacy. This may assist us to understand how to come up with new or customised theories that are practical to make fruitful contributions in creating a more just society.

Men have shut women out of history for too long, we must arrive at a point where society's indifference to the plight of rural women ends. The colonial and apartheid periods introduced effective methods that subjugated women throughout the colonised world. Women themselves should arrive at a point where men's accusing and constant gaze on them does not worry them anymore. We must ask why it is that traditional customary law stresses on those aspects that separate us rather than those that unite us as the human race. In our endeavour for emancipation and to rid our families and villages of gender inequalities, we must aspire towards the creation of laws that contribute to a common humanity where we are all equal before the law. Traditional authorities became pliant students of subjugation, they embraced discriminatory statutes of codified customary law and show no willingness to explore precolonial living customary codes upon which African traditions, norms and values may be based. Chapter 3 above discussed invented traditions and reasons behind such a project by the colonialists in detail.

It is the position of this study that traditional customary law's tendency to always find ways of justifying inequality across genders is no different from colonialism, racism and various other forms of isms that are socially constructed to massage and/ or appease the perpetrator's ego. Coincidentally these are almost always male and masculine. The *Traditional Leadership and Governance Framework Act of 2003*, the *Communal Land Rights Act of 2004* and the *Traditional Courts Bill of 2012* are instruments through which patriarchal structures are supported. These parliamentary bills are tools through which traditional leaders aim to ensure that women remain under constant surveillance and live their lives at the mercy of discriminatory rules and customs. They are instruments they want to use to constantly police the behaviour of women and ensure their perpetual acceptance of objectification in line with Foucault's theory on the conception of power relations.

Most traditional leaders are men who often do not see women's right to access to land and property as progressive to the communities they lead. Claasens and Smythe (2013) argue that rather than see value in it, often traditional leaders view it as an indictment and the cause of the

declining rate in women's desire for and commitment to marriage. They consider it as democracy and modernity's way of taking power away from them and view it as damage that the post-1994 changes ushered in (Dubbeld, 2013).

In South Africa Roman-Dutch law is the common and applicable law of the land, with African Traditional law as customary law in rural areas. Colonial-distorted customary practices are responsible for women's dispossession and discrimination with regards to access to land, inheritance and succession. The prevailing condition is that there has not been progress towards aligning customary law with the fundamentals of the Constitution and the Bill of Rights. Moreover, there is a reluctance by traditional authorities to revisit codified customary law with a view to aligning it with African 'living' customary law as a basis for the powers that they claim to derive from tradition. Disproportionate and inadequate representation of women in dispute resolution forums is inconsistent with the spirit of the Bill of Rights and perpetuates the status quo in relation to promotion of gender equality premised on consensus seeking. Living customary codes upon which African traditions, norms and values could be reformulated would operate on the basis of a fluid, and transparent system that responds to the prevailing circumstances of its citizens. Due consideration would be given to the material conditions of all people in a fair and just and humane manner seeking to promote common goodwill for all regardless of gender.

5.2.1 History repeating itself through gender discriminatory laws in post-apartheid SA

Anything else that excludes rural women participation can be very prejudiced against and disempowering for them while perpetuating the dissonance created by the colonial and apartheid rulers. Budlender (2013: 51) cites the example of the Communal Land Rights Act of 2004 which "was rejected by rural women for codifying a biased version of custom that undermined the promotion of their rights." Budlender states that there was evidence suggesting bias towards entrenchment of elite minority rights while further marginalizing vulnerable groups such as single women, widows, children from polygamous marriages, and so on.

Feminists, gender activists and liberal proponents alike continue to decry the undemocratic position in which the dual legal system places rural women. Hence I support the show of disgruntlement by women and calls made by freedom loving citizens of the world in lamenting the legitimised hypocrisy manifested throughout the rural communities of South Africa. I argue that the prevailing status quo as far as rural women's rights and freedoms are concerned is given oxygen to thrive by the continued recognition of gender biased and discriminatory

practices sanctioned by the legal recognition of laws that legitimise gender inequality in some parts of the country. As alluded to herein, I am of the view that such discriminatory practices, whether common law based or customary, have no place in a national democratic society.

The ANC Gender Paper (2012: 05) defines patriarchy as "an ideological construct of a system encompassing ideologies, beliefs, values and practices underpinning the organization and structure of society which results in unequal power relations between women and men". The rural areas are hotbeds of patriarchy where subordination of women's rights and liberties has become normalised and deeply embedded. Dickerson (2013) laments that there are still rural areas led by chiefs and other forms of traditional leadership such as regents, kings and tindhuna, who serve to reinforce the subordination and suppression of women in all spheres of rural life. It is disconcerting and beyond logic that the South African Constitution and the Bill of Rights as the supreme law of the land recognises customary law and its agents. More so as both of these legal instruments are widely hailed as progressive and outstanding models of democratic rule for the developing world. Customary law in its current form serves to reinforce gender stereotyping and suppression of women according to their biological makeup. Men are the major beneficiaries of patriarchy in that they enjoy privileges and entitlements that are closed off to women. This is clear discrimination and cannot be acceptable in any free society.

Another basis for my critical view against these legal statutes is due to the real or perceived tendency of the government of the day to kowtow to traditional leadership elites instead of engaging with the content and implications of the bills towards rural communities; and especially in as far as gender equality and the rights of women are concerned in accordance with the Constitution and the Bill of Rights. "Whenever there is conflict between the interests of traditional leaders and ordinary people, the inclination of the government has been to favour the…[traditional leaders]…former" writes Pityana (Pityana 2015: 170). He concludes on this by observing that such approach by the government "has left rural communities without any dependable platforms through which to engage the state especially when they hold views regarded as dissenting or different" (Pityana 2015). As things stand, it appears the ruling African National Congress (ANC) is prepared to sacrifice principle at the altar of political expediency demonstrated by its ambivalence on the role and place of traditional leaders in rural areas. (Pityana 2015; Claassens 2015).

Professor Shireen Hassim's chapter titled '*Postponing the National Question: Feminism'* traces the ANC's track record of postponing making emphatic and unequivocal commitments to the emancipation of women and its historical show of ambivalence from its position on the

‘women question’ during the exile years to its position during the Multi-Party Negotiation Process in the 1990s where it opted for a strategy of ‘effective equality’ outcomes rather than same treatment for all people. The ANC claimed to be committed to the reform of customary law while being cautious how to implement it in a politically volatile environment. (Hassim 2017: 217-233). Recent developments in relation to the customary law bills points to the continued unreliability by the ruling party when it comes to matters affecting rural women’s right to substantive equality. Chapter 4 discusses this in detail.

The promulgation and enactment of legal statutes such as the *Communal Land Right Act of 2004* served to entrench the role of traditional authorities in land allocation. Claassens (2015: 68) draws us to the similarities in the “modus operandi and rationale of past and recent bodies of law that perpetuate the geographical division of South Africa into two legal zones”. Similar observations were made earlier on by scholars such as Jack Simons (1968), Colin Bundy (1979), and Lungisile Ntsebeza (2006), and others. Claassens further clarifies that in the post-apartheid South African state the continuities are along the former Bantustans and those areas that were formerly set aside for ownership by white settlers within or bordering the former homelands. The fundamental distinctions are justified on the basis of what is differentiated as the ‘customary’ realities and law, and the ‘modern’ realities and common law that applies to the rest of South Africa. Similar to Dickerson’s view above, Claassens (2015) is in agreement that this state of affairs exist in tension with the transformative intentions of the *South African Constitution of 1996*.

The customary law distortions that took place during colonialism and apartheid have not changed much in communal rural areas. Despite the inclusion of principles of equality found in the constitution, traditional practices rooted in patriarchal systems remain the major obstacles to women’s access to land. The customary distortions have been adopted by traditional leaders beyond the prohibition of apartheid. These traditional leaders are doing nothing to restore women’s rights to land lost during the colonial period. Instead their trajectory is to entrench the discriminatory versions of customary law which forces women to depend on their male relatives for access to land. Weidemann (2005), and Cross and Hornby (2002) blames such stances for traditional leaders being viewed as agents of oppression to women in general and rural African women in particular. Even if there was never a period where African women enjoyed equal rights, it is no justification for such to be carried forward. The position of women throughout the length and breadth of South Africa must change for better.

5.2.2 Contested legislation affecting rural women in post-apartheid SA

Since 1994 there are numerous pieces of legislation affecting women and their rights and freedoms that have been enacted. For purposes of this study I limit focus to those that directly affect rural women in particular. Laws referred to herein are the *Traditional Leadership and Governance Framework Act of 2003*, the *Communal Land Rights Act of 2004* and the *Traditional Courts Bill of 2012*. Residents of Zamani Village were not directly affected by labour tenancy practices in their locale, hence this study does not say much about its impact.

Both Claassens and Hassim contest the ANC-led government's argument that these pieces of legislation give effect to constitutional requirements as laid out by *Section 21 of the Constitution*. The questions arising from these Acts are whether their nature and content are in the spirit of the *Bill of Rights* with regards to promoting and upholding equality of all before the law. The scope of chiefly powers over land remains diluted by colonial and apartheid era approaches where traditional leaders behaved as owners of what is supposed to be communal property. The codified laws that chiefs are clinging to for legitimacy were determined by political power as opposed to knowledge of the African systems of customs and its contexts.

Colonial administrators and jurists who did not live the life described by African law adjudicated on issues arising from disputes among Africans without requisite social insight into the pertinent aspects of the Africans way of life. A rigid regime of distorted codified customary law was the end-product. In chapter 3 I discussed how in the pre-colonial period traditional leaders did not own land but rather managed and administered it on behalf of and in consultation with community members. This should not be interpreted to presuppose that the pre-colonial era was perfect, such notions would be misleading if not ahistorical as no evidence exists that such a utopian society has ever existed in the history of humankind recorded or recalled. However we must not throw the baby with the bath water and should rather revisit the positive aspects of both pre and post-colonial eras with the view to creating a new, different and better reality for all. Women are a very real part of such a reality.

The issue of the manner in which chiefs understand the transformation of their roles and traditional leadership accountability by the colonial ruler and apartheid regime is also discussed in chapter 3. In chapter 6 I also offer insight using case studies to demonstrate how the community of Zamani challenged the legitimacy and correctness of both the Chief and the elected ward councillor when they were perceived to be acting outside of the communal

interests of the residents of Zamani Village and the surrounding villages affiliated with the Nkuri-Zamani Traditional Authority.

There is also the aspect of customary law as 'living law' (Claassens 2015: 69) as opposed to 'official' or codified customary law which according to a court judgement of 2005 was rejected "on the basis that it represents past distortions and discrimination". This in my view implies that 'living' customary law evolves over time and has to conform with the times and patterns of life to suit the needs and fluidity of its community. It is so aptly named because it should be part of every aspect of the everyday life and lived experiences of the people it serves and apply to. Various sources including Junod (1927), Junod (1977), Mathebula (2002), and others record that the VaTsonga community was in the main arranged in kinship with related families forming a clan with a line of authority proceeding from the family head up to the community head. Junod (1927) specifically noted the existence of woman chiefs as a widely accepted fact of pre-colonial history of these people.

It is common cause and generally accepted that the VaTsonga people as a group of various clans had no one supreme queen/king, hence even in post-1994 they are the only commonly identified group of people in South Africa with no supreme queen/king or common regent. It could be that individual interest was not allowed to cause conflict with overriding collective interests of the community as a whole. In line with rationally conceivable and universally accepted normative principles the VaTsonga community functioned in a way that was legislated, with laws administered and disputes adjudicated in the interest of the common good. Hence the same traditional leaders participated in the same community organs with no concern of bias or notions of separation of powers ever raised. (Junod 1927, 1977).

In support of this notion Mamdani conceptualizes that 'although tribes were under the domination of elders, they had redistributive mechanisms that worked against tendencies of reproducing inequalities in a cumulative manner' (Mamdani 1996: 41). Nowhere does Mamdani indicates that women were inferior or treated like second class humans in his thesis. Much as the opposite could have been the case, evidence supporting presence of forms of subordination does not exist either. Perhaps we can contest the ageist stratification of precolonial African societies in general, but it is not a given that such should lead to a conclusion about historical subjugation of women in those communities.

It is generally agreed that official codified customary law is in essence based on illegitimate colonial and apartheid inventions which deserves no recognition by our current system of

governance. In the judgements of Bhe, Alexkor and Shilubana the constitutional court applied customary law in its 'living' context as described above. They were hence able to ignore discriminatory codified customary law, and opted for the recognition of indigenous land and succession rights which logically and normatively gave effect to the right to equality clause of the 1996 Constitution, respectively. The distorted version of customary law occurred during a period when that system had no full recognition by the colonial and apartheid legal systems as is the case in the post-1994 era. Neither was it ever willingly and legitimately recognised by those it was meant to apply and rule over. History books are littered with the horrors that system of rule wrought to Africans as individuals and collectively. Traditional leaders, rural people and the SA judiciary should as a matter of principle prioritise reversing the distortions. Continuation of the application of codified or official customary law as it is now misrepresents the people who ordinarily follow customary norms, therefore making a mockery of the African customary systems and traditions as a whole. It should not be getting constitutional recognition in its current state and as such recognition can only acquire true meaning and credibility only if it represents African law in the true sense and form and in line with what is relevant, just, fair and humane according to the Constitution and the universal principles of human rights. There are a lot of invented traditions based on foreign conceptualizations of what white people wanted to use it for. That we still have leaders who are not ashamed to push for continued recognition and application of such laws is an indictment on rural Africans as a people and the traditional leadership system as a whole.

That distorted 'official' customary law forms part of our racist past should be justification enough to cross the historic bridge provided by the post-amble to the *Interim Constitution* which conferred authority for discarding discredited versions of our law. The rigidity of patriarchal systems and power relations in rural societies implies that women should remain vulnerable under codified customary law. Most post-apartheid traditional authorities and leaders have not demonstrated a desire to explore or look back into the pre-colonial era to examine and resuscitate the communalistic, or pastoral yet gender inclusive ways that characterised traditional leadership and household life as was highlighted in the works of Simons (1968: 15-276) and Bundy (1979: 29-237). Contrary to expectation, one observes the tendency to fight to uphold the discriminatory bills and return to what Ntsebeza (2005: 296) calls "apartheid-era tribal authorities dominated by unelected traditional authorities and their appointees […] unrepresentative and unaccountable where rural people become subjects" rather than citizens. It is for this reason that rural women should mobilise themselves to agitate against attempts to reverse the gains of the 1994 democratic dispensation.

5.2.3 Connection to the Land and the VaTsonga community

Historically in most African communities, land has always been the main source of power, status and livelihood. The attempt at giving statutory recognition to the *2004 Communal Land Rights Act* by the state was rejected by rural women all over South Africa who are against its biasness and hence undermines the promotion of women's rights. Like most legislation it typically favours elite and minority rights while further marginalising vulnerable groups such as single women. (Claassens 2015: 51).

Muhibbu-Din (2011: 6) noted that there continues to be no existing credit facilities for rural women and policies that for years have been ignorant of these entrenched discriminatory practices still have a life. Over 22 years since the ushering of a democratic form of government, South Africa in practice still discriminate against women in many ways. These include access to land usage and ownership thereof. Some argue that the racially skewed land ownership contributes to the difficulty women have in accessing land for their own productive activities and commercial farming. I contend that race is not the only factor that has dictated women's limited access to land thus far. Rural women are side-lined with respect to issues of land access and inheritance in the name of distorted culture or tradition.

If traditional authorities as a sphere of African society want to gain credibility, they should commit themselves to serving their communities in a transparent manner. Notable is how most of the prominent traditional leaders who grace national TV screens and appear on high society pages actually lead very westernised lifestyles. Most of them are even degreed christians who have accepted prescribed western values such as monogamy. They live a dual life in which when it suits them they shun traditional morality and revert to it when it is materially beneficial to them. Such blatant opportunism is part of the hypocrisy that further diminishes the value of traditional leadership. For example, they are happy to inherit a deceased brother or father's estate instead of leaving it for his wife and children, but are quick to invoke western values and christianity when they are supposed to *nghena (inherit a deceased father or brother's widow)* their brother or father's widow.

In other instances these men who subscribe to western values and lifestyle promote values of democratisation in the political system where they are most likely to benefit from political power and office. However, they are only happy to support traditional authorities who rule over a system that is not democratised nor promotes equality among all citizens across gender. Despite the general unaccountability to the people by virtue of colonial despotic powers, the

very same leaders often make public pronouncement in support of transparent democratic systems of governance. Even in cases where they are successors to customary positions such as that of chief, king or ndhuna through a process that clearly does not follow democratic principles, they will hardly support the ascension of African women to position of chief or queen even though they are likely to hastily and happily rush off to London for a few minutes of high noon tea with the British queen.

If traditional authorities are genuine about being custodians of culture and tradition of the people they rule over, they should not be selective about which aspects of such practices they promote and uphold. The historical respect accorded women and their role in the family and community should compel them to respect, uphold and protect the rights of women as fully fledged citizens, humans and beneficiaries. This should include their access to, succession and inheritance of both movable and immovable property accruing from the family estate or communal resources including land. If the family tradition dictates that all members benefit from the estate, then this should not be linked to gender to exclude widows and their dependants.

According to the VaTsonga community, the special relationship and connection between women and land transcends the physical realm. At Zamani Village I found that some of the old practices are still observed by especially senior citizens and those households that lean more towards a traditional way of life. For example, during crop planting and weeding period, it is normal to find women with bare upper bodies and feet working the fields. The semi-nakedness symbolizes proximity with the soil and allows for better connection and oneness with nature in all manner of existence. As can be deduced from my interview below, there is a general belief that women have mystical powers that better connects with the soil hence it is more receptive to their needs and requests, and therefore most inclined to heed them by yielding good crops if the seeds are planted by women. Most of the elderly women and men participants interviewed shared this sentiment. Kokwani Mugiyo, an elderly male had this to say:

"Old women are responsible for preparing the seeds in anticipation for ploughing season. And then young girls and women are responsible for distribution and planting of seeds in the loose soil during ploughing. That is why even now when it takes long to rain, it is us women who go out in a group to sit on the soil as we speak to the ancestors asking for rain and a good harvest. Men don't get involved in such rituals because they don't have the powers." Kokwani Mugiyo, 79 (interviewed on 06/12/2017).

Another 89 year-old female participant (interviewed on 05/12/2017) explains that it is the reason why aunts and sisters continue to occupy a special place of reverence in an authentic VaTsonga household. She points out that even the most difficult, foul tempered and feared male relative will calm down the moment his sister, aunt, mother or grandmother directs him to sit down and listen or to modify certain negative behavioural patterns and habits. This is because women are the ideal and effective interlocutors between the ancestors and the living and such connections are made possible via women's ability to connect with the spiritual realm through the soil or land.

I see the aforementioned as indication that Afrocentric feminist notions of family and community may be modified and reconceptualised to reflect 'living' customary law as demonstrated in the above manner. Hill (1990) states that "Black women's experiences as blood mothers, other mothers, and community other mothers reveal that the mythical norm of a heterosexual, married couple, nuclear family with a nonworking spouse and a husband earning a "family wage" is far from being natural, universal and preferred but instead is deeply embedded in specific race and class formations".

Alternatively, if customary law is to remain relevant in a post-apartheid state based on progressive, democratic principles and positively impact on women emancipation, its custodians must strive to observe those customs and norms that are not in contradiction with the 1996 SA Constitution and its Bill of Rights. Gender equality matters and customary laws continue to be distorted in the post-1994 legal frameworks meant to regulate and rule rural African communities. Weinberg (2013: 26) is of the view that 'women's customary land rights were curtailed and diminished through the intervention of officials and distorted versions of custom became adopted as official customary law'.

5.3 Strategies for Women involvement in land and policy-making

In my interactions with especially women, and some men, at Zamani Village I got more convinced of the importance of engaging the law from a feminist approach in order that women's forms of subordination and inequality can be engaged. I therefore submit that the implications of feminist theory is important for strategic choices of litigation and judicial decisions thereof. Pellat (2000)'s view is that it is necessary to engage law from a feminist standpoint. Her argument is that the law's way of envisioning women's realities and translating the substance and circumstances of their lives tend to be dominated by the harsh exclusionary gender-based politics that marks the social realm. She further points to the cultural myths and

stereotypes about women and the narrow, dualistic constructions of difference that have dictated the way in which law has historically conceptualized and responded to women and women's subordination. Her point of departure is that the law must be conscious and responsive to existing gender oppressions in all its manifestations, hence it is necessary to challenge the signifying rules and conventions that denigrate and erase the difference while also finding ways of reworking the discourse so that women are represented in who they are and what they experience in real and full terms. (Pellat 2000). Foucault's theory on the principle of power relations again becomes relevant.

Drawing from the above, I am then inevitably drawn to government policies and formulation thereof by the various stakeholders. It begs the question the extent to which women are active participants in policy-making including the making of laws impact on society as a whole and especially women in particular. Parpart (2000) is of the view that some approaches tend to push the narrative that women's development was impeded by cultural assumptions and practices that define gender roles. As a result it 'called for attention to the gender roles and relations, socio-economic and culture inequalities, as well as the experiences and voices of poor women, their collective action in particular' (Parpart 2000: 03). The contradictions that seem to exist from within the SA legal framework is not helping women's cause. For example, South Africa's constitution makes provision for land reform while under the same breath it entrenches property rights as they existed during the apartheid period.

I again emphasise the ambivalent stance in advocating for the protection of traditional and customary practices which infringe the very right it seeks to safeguard. The example of the constitution and its contradictions demonstrates a muting of a feminist perspective and gender sensitivity during its gestation period. However, there is hope that things are changing for the better. The fact that the offending bills have still not seen light of day could be proof that women are not slumbering away in the hope that men will protect their interests. Since 2014 the presence of the Economic Freedom Fighters (EFF), albeit chaotic at times has awakened parliament from a napping parlour to a lively house where law-makers engage robustly on issues. This has ignited interest in civil issues across a variety of contexts, with people in the rural areas watching the parliament TV channel and following developments in current affairs. Hopefully the momentum will prevail and with it a culture of questioning things and wanting to be involved in civic matters including those that affect women. Democracy has an educational and freeing factor, in the past four years South Africa has experienced the empowering effect of participatory democracy at play.

Hassim (2017) points out that the introduction of the *Traditional Courts Bill of 2012* by the ANC-led government serves as proof "that rural black women continue to contend with systems of governance based on the denial of equality, something their urban sisters do not have to face". I partially concur with Hassim's argument, however there are many women based in urban areas who are still subject to rural systems and customary laws. Patriarchal practices exist in all forms and shapes, they come covered in race, disguised as religion, wearing a mask of marriage and so on. The incident of an Orange Farm woman who on 05 February 2018 was beaten up in broad view of the police and members of the media and general public during a protest in the Johannesburg CBD follows after the next paragraph.

One need look no further than some areas in KwaZulu-Natal and Gauteng. The urban areas themselves are not devoid of residents who still defer to customary laws and observance of traditional customs and norms. This researcher has been to the northern suburbs of both Durban and Johannesburg in South Africa where traditional initiation ceremonies and rites of passage events known as umemulo and vukhomba for girls were held. I have also witnessed the circumcision ceremonies or ngoma for boys. These were organised by affluent, educated, urbanised Black people residing in urban spaces and mostly considering themselves as modernised. I contend that the practice and observance of systems of governance that are traditionally inclined and crucial to gender equality are not preserved for rural areas only. Hence I find Hassim's (2017) statement that "their urban sisters do not have to face denial of equality" to be a generalisation that is uninformed by the realities of life of African woman in both urban or rural areas. It is such assumptions that lend credence to the notion that academics and feminists in urban areas with public platforms tend to project themselves as the voice of African women with authority over their lived experiences and have the tendency to theorise and speak on their behalf without necessarily engaging them first. Mohanty (2003) in her article *'Under Western Eyes'* as cited in 5.4 below emphasises this point further.

Patriarchal tentacles are far-reaching and stalks women in whatever space they find themselves in including suburbs, townships, churches, academic spaces and so on. A shocking incident occurred as I was writing this paper. On 05 February 2018 the evening news channels and social media in South Africa were abuzz with shocking images of an elderly woman being assaulted live in front of journalists, rolling cameras and police officers. A protest march between rival groups turned violently confrontational when the one group dared to cross the invisible line drawn between them outside the ANC headquarters in downtown Johannesburg. What compounded the gravity of the situation is that the women from the opposing faction was

assaulted by a man wearing party branded paraphernalia. It transpired that he is a branch leader and elected ward councillor for the ruling ANC in Johannesburg.

As if the physical violence suffered in the public space by the woman was not enough, at home she was further subjected to secondary violence and public humiliation from her husband in a private space. Although the culprit handed himself over to the police that same evening, they could not detain him since no one had opened a criminal case of assault with the police. The culprit further sent a delegation to the victim's home as a sign of remorse and to ask for forgiveness. The husband requested for an amount of R20 000 to be paid as recourse to him for the assault of his wife. I cite this violent incident to demonstrate how patriarchy can hide behind the mask of customs and traditional norms regardless of where women are situated. This is because in most African traditions when a woman is attacked by another man, it is to her male family members that the culprit apologises. In most cases she will not even get to meet the culprit let alone be canvassed for her views. It is the prerogative of the menfolk to decide on a recourse.

The above incident serves as a perfect example and rebuttal of Hassim's (2017) statement that rural women's urban sisters do not have to face' governance systems that deny them of their right to equality. In the second instance this incident shows how a customary practice was able to take precedence over common law in a highly urbanised space. It also shows that other intersecting issues such as structural and institutionalised patriarchy, class, identity, socialisation, agency and so on impact on women's rights and freedoms.

5.4 Rural women participation in policy and law-making programmes

There is no one jacket fits all solution. Mohanty (2003) in the article *'Under Western Eyes'* cautions Western feminisms not to assume that 'Third World' women are 'a coherent and homogenous group with identical interests, experiences and goals prior to their venturing into the socio-political and historical field' (Mohanty 1995: 21 cited in Tyagi 2014: 49). Strategies that might work for women in urban contexts may not necessarily work for women in rural spaces. Indeed policy and law-makers should recognise that women are different and should therefore not be treated as an undifferentiated group. I reiterate that they come from a variety of categories in terms of class, race and context with other intersectionalities that further differentiates them into even smaller categories. Real efforts should be made to ensure that the needs of poor, illiterate women are also heard, considered and even met.

As noted earlier on and in agreement with Pellat's (2000) view, policies and laws must indeed speak to the realities and contexts of these women, and such can only be achieved by involving them in active participation throughout all the stages from conception through to implementation. Involving them means that information about the various government activities towards policy formulation and law-making should not only be accessible on the internet but also in women's own indigenous languages. Mohanty's critique is relevant to this study as women in rural villages are often lumped as having similar goals and interests. They are therefore assumed to be undifferentiated and unitary. Often customary law tends to be applied in a uniform manner to women in rural settings regardless of their domestic conditions or even which system of law they are most comfortable with and should prefer be applied over their issues. It does not recognise their specific material conditions and the fluidity of time and community values.

In a community where the state has never been sufficiently present or accessible through awareness creation and educational programmes on gender issues and other civic matters, a section of the community remains marginalized and ignorant of their rights and responsibilities. Drawing from my fieldwork observations and the experiences of Zamani Village women on gender inequality in the family and access to inheritance and land, my conclusion is that educational campaigns would promote and deepen the residents' conceptions of democracy, the basic principles of law and justice applicable to them as rural dwellers; and help them locate themselves knowingly under a legal system that best suits them. This would also help deepen their grasp of democratic principles in a substantive manner. The promise of democracy as a freedom giving phenomenon would be realized for most residents because they will no longer be in the dark. This may even serve as a tool through which to address Pityana's (2015) question on "whether the Bill of Rights with its various provisions has been effectively utilised by rural communities towards the realisation of the promise it holds for everyone?"

Poor, illiterate folks from disadvantaged backgrounds should be kept in mind and prioritised during the designing and implementation of policy-making processes if rural communities, especially women are to be heard. Mass participation programmes such as government imbizos and parliamentary visits to provinces are good symbolic gestures through which to illustrate taking government to the people and listening to them. However, these are mostly public relations exercises that do not cater for substantive engagement on issues. In most cases these kind of public engagements with the public are suspected to be choreographed political spectacles by the incumbents.

Among scholars and feminists of all races and class orientation there is a tendency to engage issues affecting African women through a Eurocentric lens with less recognition that many of them may wish to conduct their lifestyles, and that of their families, based in African culture and norms. Any legislative reforms and policy reviews that may come into being should consider African 'living' customary law within the context of lived experiences of its proponents in the rural areas. Proper consultations should include engagements with rural women in their numbers. In South Africa there is a tendency to hold public meetings in urban centres and semi-urban areas and then pass it off as consultations with 'the people'. Over 22 years since democracy, women in Zamani Village have never had an opportunity to interact with law and policy-makers from the national structures of governance and the state agencies tasked with research.

Urban and educated women do not represent the interests of all women in South Africa. Rural women must be engaged in their spaces using language and contexts relevant to them. Having said that, I also submit that the attempts by the South African Parliament to steamroll the *Traditional Courts Bill of 2003* that happened in recent years was far from the ideal way of involving all stakeholders, especially rural and directly affected women. Any process of formulating laws that are geared towards the interests of rural women and all South African citizens must be accessible to all affected. Government must ensure a substantive shift away from the dominant Eurocentric narratives that have come to be considered the panacea of development and civilization. Granted some of the positive aspects of western approaches should be considered and tested within context. For example, there is talk that parliament will soon be launching a revised version of the Traditional Courts Bill. Amongst the key highlights of the bill is the recognition of women's rights in the traditional leadership system. In addition to this it also allows for appeal on matters heard by a traditional court to be taken to the magistrate's court or any other court of law in SA.

Although hooks does not write about South Africa, her argument against liberal feminism identifies the approaches upon which some post-apartheid women empowerment movements such as Women in Development (WID) are derivatives of liberal feminism and therefore relevant to the South African context. It must be noted that these organisations enjoy significant support from government under the guise of promoting women economic empowerment. Again I draw attention to the urban and elitist nature of mobilisation of its membership and its constitution which excludes rural women by its design. More often than not women who participate in WID are mobilised from the educated, urban, Black middle-class. On the other

hand when one looks at Gender and Development (GAD), one notices a more inclusive form of gender mainstreaming at different levels of society including some women from villages across the board. However, a majority of rural women are not aware of these empowerment programmes as they rarely reach their villages.

None of the 28 participants in this study had ever heard of or participated in a women empowerment or gender equality project, neither have any of them ever been a participant in a development targeted research program. They however acceded to having heard of or participated in health-related research and elections and census research as respondents.

According to Hassim (2017), the *Traditional Courts Bill of 2012* allows traditional chiefs to deny women in rural areas the benefit of an equal voice and further adds that the introduction of this Bill by the state proves that it is "less reliable in upholding the rights of women". Albertyn (2009) thinks that patriarchy, culture and traditions continue to prolong women's inequality and subordination in the country while male interests and power is sustained and perpetuated for the benefit of men and patriarchy. This study found that the women at Zamani Village were blissfully unaware of this *Traditional Courts Bill*.

This then leads the study back to the matter of participation of rural women in policy-making. A 64 year old participant had this to say:

"My child I have been working in government since 1988 under the leadership of the former Gazankulu homeland chief minister. I was a grounds women working in the garden at the ministers' residences and the parliament precinct. Old man Prof. Holobye-nkulu Ntsanwisi used to have tea with us grounds workers and cleaners at least once a month. He told us that this land is ours as women because it us who look after families, who build communities and families because no matter how far away we work from home we will always know what our children and the elderly are eating back home. If they are sick, need new clothes or a new blanket it is us women who knows. You see this democratic government we elect every five years, we love it but it leaves a lot to be desired. I have never seen anybody come down to us to talk to us about women issues or holding workshops for us to teach us how to deal with the new things that democracy brought us. How are we going to benefit if we do not know what democracy means between voting? We see them on TV moving around in their luxury black cars, but never here." Interview with *mhani* Nyanisi (64) at Zamani Village on 09/12/2017).

Mhani Nyanisi's views were echoed across the board by all participants, regardless of gender and age, in one-on-one interviews as well as in focus groups. The democratic state and its agents is characterised by the social distance between it and the citizens. Rural women, at least most of those I interviewed at Zamani Village, are of the view that they are the forgotten citizens whose existence gets remembered each five years closer to the elections. These periodic interaction often do not even reach their villages, but are often confined to the small urbanised rural towns where there is tarred roads for their luxury cars and air-conditioned community halls. Rural peoples are generally intimate people in that they prefer face to face interactions than remote TV interactions, tele-conversations or WhatsApp chatgroups. The social distance encouraged by technology is not acceptable for serious matters such as policy-making and discussing issues that impact on the lives of citizens and residents, hence the concept of *xivijo* (community meeting) remains popular and more effective.

5.5 Municipalities as Agents of the Modern State and Custodians of Local Government

There is often tensions between traditional authorities and municipalities in rural areas. Such tensions tend to sift down to the village traditional chiefs and democratically elected ward councillors. The dual system is always tested and often common law principles triumphs. In the case of Zamani Village the younger generation are not afraid to assert their rights according to the Constitution by challenging customary laws they consider backward. For example, women used to receive fines for collecting firewood under the pretext of the old colonial and apartheid conservation laws. This was a source of conflict among residents and the tribal chief and his council. When electricity was installed in all households in 1995 there was an attempt to invoke such a by-law. Young women openly defied its enforcement and questioned the practicality of its implementation in such a rural environment with many indigent households that rely of firewood for their daily existence. They highlighted that for them usage of firewood is part of their existence and is the difference between starving and feeding their families. They felt discriminated upon as women and complained about being soft targets of the chief. They also pointed to the fact that when it suits the tribal authorities women are expected to fulfil a certain gender roles along traditional and customary lines, while on the other hand they get victimised and penalised for performing their roles the way their mothers and ancestors have always done.

It transpired that the municipality was supportive of the notion of village residents moving away from using firewood to adopting using electricity. The benefits the women were going to derive from it was less hard labour from fetching firewood from the veld and that they would

spend less time cooking as electricity is quicker. There were also health considerations such as the harshness of fire smoke on the eyes and the physical strain of cooking on an open-fire. The residents' argument was that they cannot afford the cost of using electricity as a primary source of energy. Elderly citizens lamented that food cooked on fire and that cooked on the stove top does not taste the same, they preferred fire-cooked food. For some women it was simply the fear of electricity, while for others it was a matter of not affording a stove to use for cooking. Another variable they pointed to was that they cannot cook adequate quantities of their staple food on the stove top due to the size of the stove-plate and the practicality of cooking pap with one hand on a stove top. There was suspicion that the municipality may be promoting electricity usage due to the fact that there is a financial benefit accruing to them from the utility company.

For purposes of this study I interviewed the mayor of the Greater Giyani Municipality, the chief whip of the majority party and three members of the mayoral committee. I also interviewed the municipal gender officer. All the elected officials referred to incidents where they had encountered resistance from tribal authorities falling within their jurisdiction. They also indicated persistent clashes between Chief Nkuri and the democratically elected ward councillor of the July Mawewe Ward 05.

Another area of conflict and confusion is the issue of decision-making powers between the two spheres of governance. Service delivery is often a casualty when the chief and the ward councillor disagree. For example, the ward councillor has direct access to the roads and public works unit at the municipality and can get speedy service for the gravel road fixing in case of rain storms outside normal scheduled maintenance. However the chief often has to follow protocol, often taking him longer to effect service. Moreover it is a sphere that he is not supposed to enter, however contestation often makes it necessary for him to be hands on so that the community sees him as being involved and useful to the community.

With regards to criminal and civil law related issues, the community generally goes straight to the police, magistrate court or government departments for services that requires state authority or intervention. For example, when a parent requires and identity book or birth certificate for a child, they find it easier and quicker to go to the Department of Home Affairs. The July Mawewe ward is named after a local political activist who died just a few months before South Africa's first democratic elections of April 1994.

The entire ward comprises of three villages all falling under the same traditional authority. Since 1994 this ward has been demarcated and re-demarcated no less than three times. During

the most recent re-demarcation one of the three villages had been merged away from July Mawewe Ward and outside of the Nkuri Tribal Authority ward 05. Between the local government elections period of 2011 and 2016 residents of the chopped off village went through challenges. Loyalists of the chief felt as if they have been exiled from their home. My analysis led me to conclude that for most of the residents it had more to do with social and emotional affiliation of knowing they 'belong' than with practical challenges. For example, for all intents and purposes they still belonged to the Nkuri Tribal Authority for services rendered by the tribal office and chief. There was a general feeling that the municipality had a hand in their being demarcated off the July Mawewe ward which they perceived to be trying to dilute their Chief Nkuri's powers and jurisdiction. For the best part, both the mayor and the chief whip of the municipality indicated that they are always juggling a balance between chiefly expectations and the implementation of policies and service delivery in accordance to the South African Local Government and Municipality Act including championing gender equity issues with regards to all residents.

The mayor related how as a woman herself she at times experienced difficulties dealing with men within the council as well as in the traditional authorities due to patriarchal beliefs and habits. The chief whip pointed mostly to issues that were policy related and clashes with expectations from chiefs and ndhunas. The municipality has a poorly funded gender relations office with one male gender officer. At the time of my interview with him there were no gender related programmes in plan. He also lamented how the municipality as an institution does not have a culture of gender relations promotion. In the end my analysis is that the office exists as part of a tick box imperative and nothing more.

5.6 Conclusion

In this chapter I discussed the impact of patriarchal systems of governance and power relations in rural context. I criticised how the post-1994 legislation mirrors the colonial and apartheid era regimes in how they promote the inequality of women in rural areas by subjecting to a dual system created and perfected by those segregationist epochs of pre-1994.

I discussed the context within which the *Traditional Leadership and Governance Framework Act of 2003*, and the *Traditional Courts Bill of 2012* were enacted and their impact on the rights and status of rural women. I also discussed the various context in which the enactment of *the Communal Land Rights Act of 2004* which according to Claassens (2007) entrenches the role

of traditional authorities in land allocation and administration and therefore entrenching the prevailing status quo.

Another aspect I looked at is how the gender bias around the issues of inheritance, succession and land access is configured in rural areas under traditional chiefs. I also explored if any changes are forthcoming at Zamani Village with regards to usage and access to communal land and the manner in which such unfolds.

The relationship between the two agents that represent the two forms of law, that is the traditional authority as custodian of customary law on the one hand, and the municipality, courts and other government departments as agents of common law was also explored.

For my theoretical framework I included various approaches including various feminist perspectives. I referred to various texts written by scholars and theorists such as Hassim, Claassens, hooks, Dubbeld, Foucault, and others.

The next chapter looks at rural women's lived experiences in relation to gendered roles and patriarchy in both private and public spheres of their existence. I also examine how gendered roles and conformity plays out in a household. I explore if there has been any shifts in patterns of inheritance and succession. I provide a case study with respect to challenges around inheritance and how both the traditional and civil authorities handled and resolved it at Zamani Village.

Chapter 06 Rural Women and the Struggle for Equality

6.1 Introduction

In this chapter I provide a case study with respect to challenges around inheritance and how both the traditional and civil authorities handled and resolved it at Zamani Village. I look at the issue of the accessibility of both traditional and civil courts and access to both in terms of practice, knowledge, cost and understanding of these legal systems. Among other issues I look at how the residents of Zamani Village navigate the daily contradictions and complimentaries of living under a dual legal system.

Furthermore, the study discusses the relationship and interactions with the traditional chief and the elected councillor on issues of communal interest in detail and conclude by giving a case study of specific incidents. I discuss rural women's lived experiences in relation to gendered roles and patriarchy both private and public spheres of their existence. I posit that power relations affect rural women adversely and they are often left with no options but to submit to the dominant masculinities of traditional authorities. The *2006 Constitution* means nothing to these women for as long as they cannot relate its usefulness to their daily lived realities and experiences.

I use grounded theory with a bias towards feminist perspectives in my analysis of findings. I also examine how gendered roles and conformity play out in a household. I explore if there has been any shifts in patterns of inheritance and succession. Again I cite texts of well-known feminist theorists and writers with interest in gender issues including matters of rights and governance for rural women. These include texts by Hassim, Claassens, hooks, Cornwall, Gqola and others.

I argue that balance could be found between the two systems of governance and how the CLRA bill affects women without compromising the universal principle of equality. I also recognise the responsibility of residents to ensure that both systems are observed in the best interests of the entire community. I contend that the state and its agencies could do more to reach out to rural women with a view to empowering them and creating awareness of their rights in both systems through substantive and practical understanding. As it is currently, women are mostly left at the mercy of a patriarchaly entrenched system that often sees them as a nuisance at the least.

The previous chapter discussed the impact of patriarchal systems of governance and power relations in rural context. I criticised how the post-1994 legislation mirrors the colonial and apartheid era regimes in how they promote the inequality of women in rural areas by subjecting them to a dual system created in pre-1994. I also discussed attempts made towards the enactment of *the Communal Land Rights Act of 2004* and how it entrenches the role of traditional authorities in land allocation and administration and therefore perpetuating the prevailing status quo in rural spaces.

6.2 Rural Women Activism and the Fight against Legitimised Patriarchy

A variety of women's movements have long been involved in the fight against patriarchy. Patriarchal conventions about women and men's roles continue to be problematic with not much changes in the domestic space in relation to the division of labour. Not only is this status quo perpetuated in South Africa, it is very rife in other developing countries and their governments are equally to blame. Jegede (2009) compares the prevalence of patriarchy in urban areas to rural areas and characterises it as being overly rife and acceptable, where Black women bear the brunt of oppression meted out to them by male domination in post-apartheid SA.

6.2.1 Rural Women and Self-directed Agency

Much as I agree with some of the observations as posited above, I am also of the view that in rural areas access to land by women could be less complicated and difficult as it is currently made out to be. In rural areas the state does not 'own' most of the land, but rural and communal land is often held in trust of its rural communities by traditional authorities. The patriarchal manner in which traditional authorities are configured can arguably be blamed for their lack of inclination or willingness to allocate land to women in their communities despite them being the major workers of the land. Rural women's lack of visible solidarity in relation to united action is one aspect that contribute to this self-defeat. Women could organise themselves into a force with goals directed towards fighting inequalities in their localities. In the case of Zamani Village women constitute an overwhelming majority of residents at any given moment throughout the year. The Chief Ndhuna estimated the ratio of women and men at 65:35, this estimation was later confirmed by a tribal office official. Migrant labour patterns contributes to this more than any other factor. *(courtesy data collected by the researcher from the Nkuri-Zamani Tribal Authority Office in November 2017)*

During a dramatic performance at the old age project where I spent a week, at their year-end closing event on 04 December 2017 the elderly members did a drama performance. The cast included both men and women aged over 70. One of the scenes depicted how men are able to attend community or family gatherings and be able to unilaterally contribute towards decisions affecting everyone. They would then come home and inform the wife and household about the decisions already taken at the gatherings. However in the case of women, the scene depicted how they deferred taking any decisions until they have canvassed approval and permission from their absent husbands. The overall message and rationale of the drama in a nutshell was to demonstrate how women self-censor themselves and unnecessarily slow their own progress on issues that could improve their living conditions. It showed how women give away their power without giving much thought to the consequences on themselves.

6.2.2 Ascribing meaning to Lived Realities

As things stand currently, rural women are at the mercy of traditional leaders in the form of chiefs and *tindhuna* to arbitrarily allocate them land for both residential and subsistence farming use. The status quo at Zamani Village is that generally the chief and his tribal council allocate land for ploughing by anyone who wants it, including women. However, this is often in smaller tracts when compared to that which gets allotted to men. I must clarify that land allocated for residential use is the same size for all, that is 30 by 30 metres stand per person. Everyone I interviewed attested to and confirmed this aspect.

During one of my regular chats with the tribal chief Ndhuna on the demographics of the village, he let on that although they interrogate each request for residential land, they hardly ever turn anyone away. A few instances where that had happened involved applicants coming from outside the village and had no tribal authority testimonial papers or police affidavit about where they hail from. I learned that it is important for the authorities to know who they are bringing into the community. This is so that they can avoid unwittingly welcoming criminals and people of dubious reputation. People exiled from their original places of residence due to allegations of witchcraft are also avoided. In most case elderly women are often the ones accused of witchcraft. Often having close family members already residing in the village can help the applicant's case, but it is not a foregone conclusion that one will be welcome and allocated a stand in their midst. This process is easier for women applicants due to assumptions of inherent goodness and natural innocence. Another finding is that the more affluent members tend to be allocated bigger tracts of ploughing land quicker and easier than women. At a glance this may imply a level of elitism but the context is explained in the next section.

Wicomb (2013) explores the idea that 'the recognition of customary law tenure systems may be a solution to Africa's problems of poverty and unequal distribution of resources'. She cites 'the African Union Commission (AUC), the African Development Bank (ADB), and the UN Economic Commission for Africa (UNECA) as some of the regional and multinational structures' (Wicomb 2013). According to her these aforementioned structures "encourages countries to acknowledge the legitimacy of indigenous land rights and the recognition of the role of local and community-based land administration/ management institutions and structures together with the state" (Wicomb 2013: 50). However this approach is criticised by some in that it may only end up serving the elites within rural communities in the same way as it has been the case during the colonial years. I found that a few elites or what I refer to as the village middle class are indeed able to access more than one stand of 30x30 metres right next to each other. This village middleclass comprises of a handful of teachers, nurses, other civil servants and professionals. The lack of uniformity in such allocations is what raised my eyebrows in relation to possible elitism, nepotism and corruption.

Upon investigation with the tribal authority office responsible for residential stands allocation, the explanation offered is that indeed there are some people who are allocated residential land in that manner. The reason for such practice is that any member of the community may approach the tribal authority office for a double stand for as long as they can demonstrate the ability to utilise that piece of land within a period of at least two years. In the case where two years passes by without any sign of utilisation, the tribal authority may re-allocate it to other residents who may be interested in it.

Another condition attached to the allocation of residential land is that stands double the size of a normal sized one is taxed double the amount of annual residential stand tax regardless of utilisation. For example, two stands of 30x30 metres each will cost only ZAR60. Add to that R50x2 annual stand tax would therefore mean the resident pays the amount of ZAR100. One more condition is that any structure built must be occupied by humans. This is to ensure that people don't acquire a stand, build on it and leave it vacant as this may promote criminality because criminals may use the empty structures to hide from authorities or hide stolen goods. There has been instances where gender-based violent crimes such as rape were committed in such empty dwellings. In essence the tribal authority office gave assurance that the process is open and transparent as agreed upon after consultation and discussion at a well-attended *xivijo.*

6.3 Gender Dynamics with regards to Inheritance in the Family

Thus far the study has demonstrated in various ways how traditional norms and social values hinder women's full participation in the economy. Emphasis is on how such norms and values prevent women from accumulating assets such as property and land. In some instances they are even unable to act as legal persons even when such would open doors to much needed financial access. Despite having one of the most progressive constitutions in the world South Africa remains a patriarchal society. This prevailing status directly contributes to the high levels of gender inequalities and discrimination against women based on a biological aspect which according to feminist theory should have nothing to do with women's abilities and rights.

6.3.1 Feminist Perspectives and Gender Role Conformity in the Household

In most rural dwellings it is still normal to find girls and women busy with household chores while boys and men are sitting around doing nothing. More often these males expect the womenfolk to bring them water with which to wash their hands as well as food. A 23-year-old female participant related her observations like this:

"*as if that is not enough, a thank you to the person bringing the food is a rare gesture and often not even expected by the womenfolk either. Once the men are finished eating it is normal for them not to take the plates and utensils they were using to eat to the kitchen, if anything at all the very men who were indulging are most likely to ask for drinking water to be brought to them in the comfort of the tree shadow or verandah*". (Interview on 25/11/2017).

Such is the lack of appreciation and lack of recognition of the labour women engage in daily. It remains unpaid for yet demanded and/ or expected as something women should do as part of their daily routine. For instance, it is normal to hear men, and most times women, complaining about the slowness of a girl who is busy doing laundry for the entire household. They can accuse her of laziness just because of cooking late while they are loitering and going hungry as a result. Most rural men do not see anything wrong in expecting to be fed by someone who is performing other chores as they sit around.

In rural areas household chores are even more grueling due to the time and labour it takes to complete a chore. Cooking often involves several trips up and down the household yard fetching firewood, water, starting a fire, and washing pots and dishes in different parts or corners of the yard. This in itself can be time-consuming and energy draining on one person.

"But girls work hard and do household chores compared to boys. Girls are always working, they cook, fetch water, clean, sweep, hand-washing…there is a lot that girls are expected to do. I don't know why but it is because most household chores are performed by girls. But boys can cook when or if there is no girl. It is not like boys cannot do these chores, it's just the norm, its convention, and my sister phela this happens while most of the time us boys are just sitting around bored nje, then we get hungry and we look at the girls or mother for food. It's unfair but it happens daily". Interview with **Musa** (19, male) on his observations of household division of labour among boys and girls (25/11/2017).

The Marxist perspective's proposition is that the family, is an exploitative social institution. This approach implies that the family is primarily responsible for women's oppression (Bernard, 1973). I find such view to be narrow and should therefore be broadened to include others if not all spheres of human existence. The feminist perspective challenges the notion that the family has lost its productive functions and has become only a unit of consumption. It challenges this way of looking at the family as it ignores the contributions that women make as wives, sisters, aunts and as mothers. However, the example of the loitering men and overworked cooking and washing girl mentioned above is the norm.

The excerpt above from the interview with Musa is a fitting example of how women's labour is disregarded even by their own siblings. Sisters and mothers spend most of their time and energy tending to their brothers and fathers' needs, but when it comes to inheritance they are simply overlooked as if their effort and contribution towards the wellbeing of the family is inconsequential and therefore deserves no reward or recognition. Women are constantly engaged in unpaid labour in various forms which has unlimited hours in terms of value. Nevertheless their hard work, selflessness and prioritisation of family care goes unremunerated in terms of currency value. It is as if women are born for such work and should therefore be content and take personal emotional pride in their unremunerated contribution.

It is within this context that feminist perspective questions the view that the family functions as an emotional refuge (Bernard, 1973). While family life is structured to offer the family the benefit of emotional refuge for its members, this can be highly taxing to women. Who offers women similar refuge be it emotional, physiological or spiritual? Eichler (1983) is of the view that such an argument is overly simplistic because social life involves overlapping and interdependent contexts. The feminist perspective is therefore looking at both interrelationships between work and family patterns. My opinion encompasses a view that even if indeed all that women offered was emotional refuge only, the value thereof surely deserves recognition and

some form of gratitude beyond just the typical dismissal attached to it currently. Women deserve to be part and parcel of inheritance and succession of the family estate be it in the form of financial, immovable and immovable goods in the same way that they are cultural custodians of traditional norms and religious practices in families and communities.

6.4 Social Institutions: their Culpability in Perpetuating Gender Inequality

In chapter 4 I posited that feminist sociology is action oriented and that it seeks to change society in ways that contributes to the enhancement of women's status in families and society. I reiterate that it is in this manner that women contributions, viewpoints and experiences should be validated in the arenas of social institutions including the family. Black Feminist theory argue that the domination of women continue to be experienced on the third level of social institutions such as churches, schools, organisations and in the case of rural areas the traditional authorities as controlled by the dominant group, that is men. (Smith 1990). Smith believes that it is through these institutions that women are exposed to the interests and standpoints of the dominant groups and institutions in return for docility and passivity. Hence there are many women who participate in and defend patriarchy and its oppressive ways.

6.4.1 Social Institutions and Gendered Power Relations

Feminist theory as a radical discourse is growing and continues to seek real shifts in power relations. It threatens to transform the distribution of power and capital in society. This is the case in rural areas such as Zamani Village where hard working women are sometimes depicted as powerful and resourceful individuals in direct contrast to their lived experiences. Although evidence is clear that men are not sitting on their laurels as they constantly seeks ways to counter such resistance, women are also relentless in their quest to live life beyond a survivalist mode.

What is clear is that the patriarchal system is deeply embedded in South African society regardless of race or class. My view is that the feminist strands that sprung out from post-colonial feminist perspectives such as Black feminism offers an intersectional critic of women empowerment and the means through which gender inequality can be approached. Power relations are at the centre of gender inequality as a phenomenon that oppresses women through use of tools such as culture, customs and norms, religion, discourse and so on, including institutional structures of governance. I posit that time and space also play an important role. In other words the period within which it persists and the spaces within which such manifest, such as private or public spaces is of importance. For example, the colonial period used

patriarchy to destabilised the African family structure. The repercussions of the colonialist policies have been carried over to the post-apartheid period and should be challenged on the basis of strides society has made based on the universal principles that regulates the behaviour of citizens currently. There is no justification in continuing with archaic oppressive laws that do not makes sense to our current existentialism as humankind.

According to Williams (2005: 106), the theorists listed above demonstrate post-structuralism as an efficient weapon of disruption of society's secure sense of meaning and reference in language. Often customs and laws designed to subjugate women are left unchallenged under traditional practices in villages and their households. Men and traditional leaders are default custodians of such practices, they often involve women as proxies and cheerleaders who uphold and applaud patriarchy. Probing its meaning and origin is itself considered a taboo as it is not to be questioned in so far as it affects women and their position. For example, it is often taken for granted that the first or last born son inherits the family property upon a father's death. Daughters, mothers and wives, or any other surviving female relative is not given consideration at all when it comes to issues of succession or inheritance. I then propose that this lack of consideration, discussion or information sharing can be referred to as silent discourse where there is unspoken expectation that women know this as a fact of life, and therefore part of the nature of things as dictated by custom and tradition.

Women are not expected to question anything related to succession and inheritance, their silent acquiescence is expected and part of the silent discourse. According to bell hooks (1990) poor women under immense pressure from structural inequality with no [sustainable] means of livelihoods adopt terms synonymous with power and self-sufficiency in order to foreclose the absence of proper provision of public goods from the state and requisite assistance from men.

Theorists such as Gqola (2007) points out that there are versions of empowerment that are being actively deployed [especially by the state and its agents] which lacks a feminist grounding. Hence it is complicit with violence against women as it does not challenge the 'cult of femininity' and its gendered expectations of women. Gqola's view is that such cult of femininity's goal is to empower women by inserting them into an unchanged capitalist environment with its patriarchal institutional structures intact. For example, it is still very common that hard work, selflessness and prioritisation of family care by women in their communities and families gets hailed in moralistic tones. Cornwall et al (2007: 03) share this view adding that women are portrayed as victims with curtailed choices, a triple work burden and on the receiving end of male oppression and violence. Often when men are involved in

such activities similar to the ones that women are expected to be content with, the tone changes to that of pitying and almost hero-worshipping the man. Meanwhile, other times the mediated narratives of gender and development vacillate between women being both victims and heroines. At times it seems as if there is a general agreement that being a rural Black-woman-in-the-world, to paraphrase Manganyi (1973), is equivalent to a life of looking after everybody else despite your own pain and strife, desires for self-actualisation and responsibility to self. It is as if as a woman one is expected to self-sacrifice for the good of the rest of especially mankind, but like a nun expect no reward even in the form of inheritance as part of the norm.

In the weeks of conducting this study, as researcher at Zamani Village I constantly came across sentiments that assumed that once I graduate with my MA degree, the only thing left to seal my fate as an accomplished MuTsonga woman is to get married and have children. Some commentators would even go as far as add that my husband and his family will be very lucky as I will not only afford to look after them financially but will also afford household help while at work. Such comments came from both men and women.

6.4.2 Daughters and the Black Tax Burden

The feminisation of responsibility is yet another emerging phenomena in development politics with women encouraged to worker even harder to look after everyone. Currently in South Africa talk about the so-called black tax is gaining momentum. Its characterisation thus far is that women, especially daughters, are the most affected by it because they are expected to be able to sacrifice their hard earned income to look after their parents, siblings and extended family back in the rural areas without uttering a single word of complaint about it. In rural areas it is becoming gendered and openly talked about. For example, it made for robust discussion during one of the focus groups with views exchanged by both male and female participants. The overriding view is that girls are expected to assist their family members even when they cannot adequately support themselves. The pressure is they may be considered ungrateful for the family sacrifices made by their parents to get them where they are if they do not support others. What seems to compound the situation more is the expectation that when a woman is unmarried she does not have much use for money and should therefore provide fully for her family. On the other hand sons are rarely subjected to similar pressures as daughters. Moreover once they get married there is a somewhat automatic acceptance that they should be left alone to fend for their new family with as little expectations and interference as possible from their parents and siblings. The same can hardly be said for daughters.

My conversations with one of the two focus groups brought the above very sharply. Both men and women shared similar views, with the men adding that this could be the result of a successful regime of gender empowerment by the state. They stated that women should be able to carry such a burden with relative ease because policies of gender equity and recruitment in the job market generally favours them more than it does men. The burden of care for sickly and elderly parents was also placed on daughters in the main. *(Focus Group 2 participants at Zamani Village on 05/12/2017).*

In response to the question on whether all children get equal benefit and consideration when it is time for parental inheritance, the general consensus across the group was that things are no longer the same as in the old days for most households. The view is that perhaps in old-fashioned families headed by equally old men it may exist. They were adamant that in families with parents under 65 years old children are treated more or less equally in terms of supporting them. Note that 'treated equally' excludes division of household labour, which is still very much along gender lines. Some male participants insisted that are these days girls are the most favoured by parents because of their ability to hustle for financial opportunities. The sentiment is that girls are most likely to be successful in relation in life when compared to boys. It was also felt that the close relations girls often enjoyed with mothers also affects the dynamics. A mother is inclined to share things with her daughter, meanwhile the same is rarely said about sons and fathers. *(Focus Group 2 participants at Zamani Village on 05/12/2017).*

Both Smith (1990) and Cornwall et al (2007) touches on elements contributing to the above, however more is yet to be researched about the black tax phenomena in as far as it affects rural women. This is by no means an entirely new trend, similar versions existed for women migrant labourers in the colonial years right through the apartheid era.

6.5 Lefu la gago lang philisa ~ Your Death Gives Me Life

This is an excerpt from a popular SeSotho church hymn referring to the concept that Jesus died so that people may live. In essence it means that one benefits from the death of another. For purposes of this study I use this analogy within the context of inheritance upon a death of especially a family head, that is a father and husband. Its relevance lies in how in most cases when such a person dies in a family, relations between children, siblings and the widow of a deceased tend to get adversely affected. Following are views on inheritance in the case of Zamani Village:

"We have seen family members especially the sons and uncles, fighting and intimidating the younger siblings and taking advantage of their widow's while still in mourning. Or the first- and last-born boys fighting over their father's inheritance. It is even worse in cases of polygamy or where there are step-sons involved. The sisters are ignored because they are told they are just women and therefore not entitled to get anything…Some even take things from their mother and she does not have a say. Also, this thing of accusing the wife of witchcraft when the husband dies still happens. But when it's a woman who dies first everyone pities the man a lot...Although Mom tells me it is much better these days cos people are scared to accuse another due to fear of being reported to the police, but still you can hear them whisper. It is not nice." Musa, a 19-year-old male explaining his experiences on inheritance issues over a recent deceased's estate neighbor. (Interviewed on 25/11/2017).

The above scenario is common in most rural villages including Zamani Village as well as neighbouring communities around the Greater Giyani Municipality of Mopani Region in Limpopo Province. The role of women in perpetuating patriarchal tendencies also come into play.

Historically, in rural communal contexts all property belongs to the members of that household and the head merely manages the property for and on behalf of other members and himself. This means that the head would not take important decisions without consulting the members of the household, especially the mother of the family. Family heads' powers over family property is based on their responsibility to account for its use to the household, the physical world and to the spiritual world in the form of ancestors. This is all done in the interests of future generations, because the basis upon which of property is looked after was never about the individuals but about the past, present and future family. The family heads were aware that the capacity to appropriate property is in the interests of the communal collective, never in the context of individual and/ or private ownership in the Western sense. In this way, the rights of access to the family's collective property and benefits accruing from it for women and children are protected in this manner.

6.5.1 Women, Children and Legal Protection of their Right to Inheritance

A closer look at this reveals that the benefits women derive from displaying acceptance, docility or passivity towards the hierarchical structures that reinforces gendered interests however nominal often fuels women's complicity. There are instances where mothers will go along with the notion that sons are the ones whose opinion is more important in resolving issues

of inheritance and succession once the husband is dead to the exclusion of daughters. Nyavani (56) ascribed such attitudes to arise from the norm that historically the sons would be the ones expected to get a job to look after his mother and siblings. As a widow with no source of income to fend for herself and her young children, the mother often felt she had to pass on the baton of duty, responsibility and decision-making to the eldest son or sons to safeguard her future and that of her household.

Also, the deceased's male relatives are often in on such expectations and the treatment of the mother and sisters as minors is perpetuated. Nyavani argues that it was more a practical consideration than something stemming from actively undermining the daughters. This was the case as by convention daughters got married and would therefore move away and not be able to support their siblings and mother back home. However, she contends that with things changing with the passage of time, democracy has brought opportunities for girl-children to be able to delay marriage to pursue their studies. They invest in careers so they can look after themselves and be able to support their parents and siblings without being forced to get married for lobola.

Nyavani further conceded that:

"Although things have changed, they are not yet where I can say all is done fairly to girls…because sometimes relatives can interfere with negative influences on the sons. This may result in you the mother and your children of the deceased getting left destitute. This is where the 'lefu la gago le yang philisa ~ your death gives me life' plays out and the looting of the widow's property while justifying it as custom that only the male relatives inherits…Yhuu…my child I know it, I went through hell when my husband died in a mine accident on 20th February 2005. I will never forget how my in-laws treated me and my young children. I was told I even have girls only so they are useless I was treated like an outcast". Interview with Nyavani (56) unemployed widow with 05 children all girls (09/12/2017).

This kind of behaviour from family members as described by Nyavani is in clear contradiction with even the customary law principles of holding property in trust of all its beneficiaries in the family. In most instances male relatives who confiscate the deceased's property are most likely to utilize it for their benefit only to the exclusion of the family collective.

6.5.2 Practical Application of the Law and Access to Courts

Nyavani's case was eventually taken to the Master of the High Court. Despite her having been in a legally recognised and recorded customary marriage the Nkuri-Zamani Traditional Authority was not able to handle the case in a satisfactory manner. At best they were biased towards the deceased's uncle while on the other hand clearly inept.

6.5.2.1 The Dual Legal System and Rural Women's Right to Inherit

A combination of statutes passed to deal with matters of rural people under traditional authorities as it stands right now leaves many rural women vulnerable. They often have to rely on their own tenacity and strong-will to fight for what is rightfully due to them. The state through, parliament and the judiciary, has for all intents and purposes effectively abrogated its responsibility to an institution that they are fully aware is very biased and discriminatory against women. The lack of awareness campaigns to educate women on their rights and empower them with the life skills that may equip them with the knowledge and confidence to know it is possible to protect their rights and insist on being treated indiscriminately in line with the 2006 constitutional provision and guarantee that "all are equal before the law" (SA Constitution 2006). The above findings are difficult to fathom especially as this is happening in a country globally applauded for being a shining example that a developing country in Africa can democratize and be human rights inclined in its outlook.

In rural areas, as in Zamani Village, often the first port of call in such circumstances is the traditional authority where customary law will be applied often leaving the widow and younger children with no recourse other than to accept the gender discriminatory judgement and verdict. There have been instances where complainants are turned away from the magistrate courts and directed to go and sort out their domestic matters at home or through the traditional authority and customary law system and its colonially distorted version. bell hooks refers to this as 'politics of domination'. She describes it as an ideological grounding based on the belief in notions of superiority and inferiority with women considered inferior to men (hooks cited in Smith 1990: 221-238). Hopefully the recent additions to the Traditional Courts Bill with respect to the ability to appeal in any court of law will go a long way to curb the attitude displayed by some of the common law courts.

6.5.2.2 The Law and Social Distance from Citizens and Subjects alike

Adding to this is the epistemological remoteness of the statutory laws and its agencies. For starters the South African legal framework is based on Roman-Dutch Law, which to many uneducated rural folks is imposed and foreign in conception. Many rural folks find magistrate offices and courts to be inaccessible spaces meant for educated, urbanized people. They also associate them with a highly sophisticated system and process which includes completion of forms in English and in a format that does not speak to them. Even though Nyavani has gone as far as high school in her education acquired during the apartheid years, she admits to feeling intimidated by the western form of legal system, the Roman-Dutch law-based system.

In the case of Zamani Village many married women have not gone as far as grade 8 in terms of education, while most are functionally illiterate, I found that often in their grieving state they give up and do not even attempt to open a case with the police when they come across incidents of their resources being forcefully taken by their deceased spouse's male relatives. Nyavani is not the only one who have suffered a worst fate in the hands of those that she may have expected moral support from in her time of grief. In most cases the widow does not have family members willing to come out and publicly offer moral and/ or financial support. This further aggravates the situation and adds to their vulnerabilities. It is in this manner that they lose out on their livestock, vehicles, furniture, money and other valuables with no recourse. Sometimes such loss includes their home.

Nyavani admitted that although still in existence, the custom of widows getting inherited by the late husband's male relatives is no longer prevalent. Often when that happens it is mutual and consensual between the parties involved. She believes that if and when it happens consensually it tend to be not predatory in relation to stripping the widow of her late husband's resources. I argue that referring to the estate as belonging to the late husband in itself is also wrong because the widow also contributed through her labour and years of dedication and regimes of care for everyone. She therefore earned her share in it and should be referred to as a joint estate between her and her deceased spouse. I share Eichler (1983)'s view that according to the feminist perspective we should look at both interrelationships between work and family patterns in recognition that social life involves overlapping and interdependent contexts. In this case Nyavani and her husband shared a life and were intertwined in both working and accumulating physical and emotional assets.

Alternatively, due to the communal considerations in which property is historically premised in rural VaTsonga communities, the property can be controlled, managed and held in trust or custody of the household by the widow. Indeed, the VaTsonga community and most households generally subscribe to a communalist way of life where property is collectively owned and utilised in line with the precolonial conceptions of property ownership. Most residents of Zamani Village still live a communal life.

6.5.2.3 Not All Rural Residents Want to Live in Urbanized Spaces

One of my participants is Lizzy, who is 52 years of age and married through a civil marriage contract. In light of the standard of her household she seemed affluent enough to can afford relocation to an urbanized area with better infrastructure and other public goods. I asked why she and her family prefer to stay in the village rather than relocate to Giyani town. Her response was that they are happy with life in a rural environment. Lizzy's household comprises of herself, her husband, two children, a daughter-in-law and a grandchild.

She believes she would not be able to survive in an urban environment because it is very individualistic. *"People could be neighbours for years but not know how the other's kitchen looks like or if you are starving, I don't want isolation for my children"*, Lizzy lamented. In her rural setup she interacts with her neighbours daily and is able to share food, chores and even clothes. She added that: *"I like the idea of being able to leave my grandchild with any neighbor to rush off to town without worrying if the child will be starving, dirty, safe or alive by the time I get back"*. Her husband (Risimati) agreed with her sentiments by adding that:

"Here at Zamani Village we are able to acquire any additional land we may require for our growing number of cattle without paying an arm and a leg for space to build a cattle or goat kraal. In addition to that, we know we know that when and if we have domestic problems, we do not have the police and magistrate as our only options because we can call a neighbor to mediate and not worry about rumour mongering. Here in the village it is not the end of the world for neighbours to be aware of each other's domestic and marital issues. Us VaTsonga we believe that a problem shared is a problem solved and it is normal and human to have family problems and life challenges, as long as we don't hit each other or divorce". Lizzy's husband, Risimati (57) during interview at their household in Zamani Village (29/11/2017).

Moreover, Lizzy cited the fact that the village environment is a good one for her children and grandchild to grow up in because they will learn their customs and language. It is important for her and Risimati that the children grow up knowing their XiTsonga roots and to be socialized

in VaTsonga ways. She has seen that such tend to be forgotten and disappear as soon as people reside in towns and cities and adopt an urban way of life.

To a large extend, Lizzy's attitude corresponds with what the homeland system aimed at achieving. When apartheid laws of segregation, like the Group Areas Act, were implemented people were categorized and put in separate living environments. The homeland leaders defended the homeland system by invoking cultural conventions. In the case of the former Gazankulu bantustan it was used as a means to promote rural areas as an ideal living space to for VaTsonga people to live in. This was informed by the imperatives of the apartheid government's policy of separate development. The homeland was marketed as a place where VaTsonga people will be able to practice and follow their customs without hindrance or fear of cultural ridicule. Chapter 1 of this thesis refers to this aspect in detail.

Contrary to how the homeland system was promoted, the impact of the small homestead plots of about 40m x 40m on those who owned livestock was devastating and made it impossible for it to survive. Like in other betterment settlements, in Zamani Village people who owned cattle suffered more from this type of settlement due to inadequate grazing land for their cattle. Local social systems became disorganized as a result while the community's means of survival disappeared. The lack of access to land aggravated the situation in that subsistence farming as a major source of food could no longer produce enough to feed families, and most households were forced into migrant labour. (Bundy 1978: 221-246).

These 'invented traditions' were packaged to reflect the homeland and its impoverished villages as a space where one could live in peace with their kinship away from the bad influence of the cities. Both the 1913 Natives Land Act No. 27 and the 1936 Bantu Trust and Land Act No. 18 sealed the unequal distribution of land between the races. Whites owned over 70% of South African land, while Africans were settled in less than 13% of the total land mass where most of it was not arable. (Bundy 1978: 221-246). Even in the post-apartheid era, South Africa is still plagued by shortage of arable land for Africans. I argue that the tensions around land access and inheritance for women could also be directly compounded by this shortage. If land could be redistributed equitably across the colour line, perhaps its relative non-scarcity would loosen the attitudes of men and chiefs around extending equal benefit of land access and usage to all. The more nuanced aspect around whether anyone, man or woman could own or inherit land would then be engaged with and resolved in a way that applies and affects all genders equally. The merits and demerits of whether communal lands can be 'owned' by individuals could nevertheless be amicably resolved in line with 'living' customary law. However, this

depends on whether traditional authorities are willing to come to their senses and admit that they serve the people who fall under the jurisdiction of villages for which they are leaders. '*Hosi I Hosi hi malandza'* ~ a chief/ leader is so based on the followers, not the other way around. Therefore, the chief should lead his people in a manner which ensures them incentive to continue following him/ her, lest they stop following and go the other way which may result in him being left with no one to lead and be followed by. In principle, where traditional leadership is concerned, the VaTsonga traditional leadership is based on the premise that the body controls the head and not vice versa.

During the homeland system various campaigns were created around the notion of cultural autonomy in the hope that repetition will result in pacifying the inhabitants. For example, what was known as Culture Day was a big day in the homeland's calendar. Women through membership to the Gazankulu Women's Association (GWA) and youths through membership to the Ximoko xa Rixaka Youth Brigade (XYB) were mobilized throughout the year to engage in competitions culminating in the big day. These organisations provided a patronage network through which they accessed employment and study bursaries for those who joined and participated in its activities. This played well into the hands of the apartheid government and provided them with a dumping ground for their re-tribalization project of Africans and separate development policies were enforced.

Lizzy's example as narrated above is proof that in villages there are people who view the presence of local government in rural areas as a tool through which the democratic government seeks to urbanize their living space while stripping it of its customary essence and originality. In the homeland system Black people had a choice to live in a village (*tiko-xikaya*) or settle in a township (e*lokixini).* A development which is appealing to most residents is that contrary to the apartheid period, the responsibilities of the day to day running of villages are no longer solely left to traditional chiefs, members of the community and democratically elected representatives also participate in the decision-making processes. Chiefs are no longer able to use patronage and the promise of jobs through the migrant labour system to 'buy' the allegiance and loyalty of residents. The overall administration of the rural areas is no longer subject to the despotism of the chiefs' powers that were reinforced and legalized the Bantu Authorities Act of 1951 (Smith 1990; Price 1991). It is for this reason that when the CRA bill was proposed it sparked a huge uproar among progressive citizens. Its promulgation would be tantamount to bringing back the Bantu Administration Act and other apartheid laws that promoted inequalities with far-reaching impact on especially rural women.

6.6 Inheritance dynamics not static and shifts over time.

When I probed *tatana* Risimati (57) about his views in relation to inheritance with respect to his son and daughter, his believe is that his daughter and son are both his children and should all benefit from his sweat equally. However, he emphasised that although he is interested in seeing his family name succeed beyond his last breath, his wife must not fall victim of his relatives' envy in his absence. He declared that it is the reason why a written will is a very important document to leave behind because in his own words "it speaks for you when you are no more".

He further indicated that the legacy that is best to leave his children is education. In that way they will not have reason to fight for his crumbs, instead they will preserve and perhaps even add to it. It is for that reason that Risimati's main goal is to ensure that in the main his wife is secure and well cared for when death eventually forces them to part ways. Risimati emphasised that he is vocal and open about what his relatives must not attempt to do to his wife, children and property when he is not around to protect or defend them. He also indicated that he wishes for all their property to remain in the family for the benefit of his wife and children, and in due course whoever his wife and children wants to share it with.

One of my findings in relation to inheritance is that often times upon the death of a female parent there seems to be a seamless transition in relation to transfer of ownership from one parent to the next or from the deceased parent to the children. Focus Group 2 participant Thembi (24 female) further observed that when one of her friends lost a mother in 2015, days after burying their mother the family appeared to be moving on far easier than she had anticipated. She noticed that there was less conflict and that the relatives left the household quicker than would have been the case if a man had died. Another participant had the following to share about Thembi's observations:

"I suspect that because it was the man who had lost a wife and not the other way round, the extended family had more empathy and compassion towards him…it is like they were not inclined to cause trouble for the man hence it was a very quiet and sombre period unlike what villagers are used to when a man has passed away. There was not going to be contestation over who owns what or who should inherit what item". Focus Group 2 participant Hlayisani (28, male) at Zamani Village (05/12/2017).

In the paragraphs above I emphasised more on the family or what in modern terms is considered a nucleus family, that is a spouse and children of the deceased, in the context of general

inheritance and succession upon death. There are complex dynamics in issues of inheritance and succession. When asked about their views on who has a right to the family inheritance upon the death of a parent/s, most women participants responded that in this day and age all children should have equal access to their parents' property.

There was consensus that other factors such as need, preservation and potential effective utilization should be taken into consideration. For example, a school-going or unemployed beneficiary must derive more financial support from the common property than one who has a job. In relation to effective utilization, a vehicle may be driven by the child beneficiary with a drivers' license but with the understanding that the others should also be able to access its convenience as and when required. With regards to preservation and utilization, land belonging to the family may be cultivated by any of the children with the inclination towards subsistence farming. If all children want to farm, they can divide the land into equal plots for each child while ensuring the land remains under the ownership of the family as a whole. Some families are still static while others move with the times.

6.7. A Community Asserting its Rights and Place

In the case of Zamani Village there community seem to be gravitating towards a balance between the 'living' customary law and modern common law. A participant related how the community reminded the chief of the truth found in the adage that "nothing about us without us". This was with reference to a 2011 case where the chief allowed construction company owners to come into the village grazing fields and rivulet to harvest soil and sand for use in building RDP houses and for sale in the nearby town to their customers. It transpired that the companies were paying the chief considerable amounts of money for access to the soil and sand. These monies did not go to the official coffers of the tribal authority, rather he was pocketing it for himself and living it up. In this instance angry community members organised a protest march to the chief's residence.

The chief was rescued by police who managed to whisk him off to safety in the nick of time. Subsequently, the chief could not enter the village and was banished from the community for a period of over eighteen months. He was only allowed back after he had apologised to the community for his corrupt and selfish behaviour. Amongst the conditions the community insisted on to allow his return to the village came from women. Women in particular were concerned of his roving eye and constant change of partners. They emphasised that he must curb such behaviour and be a proper role model for the community he is supposed to lead,

especially young people. Concern had been previously raised that his general behaviour was undignified and helped normalise bad behaviour in the community and among young men in particular. There is a general agreement that he has since toned down, built a house for himself and seem to be putting effort at mastering some chiefly gravitas.

6.7.1 Common Law and "living' Customary Law: can the Duality ever be Complimentary?

On the one hand a Focus Group 2 participant admitted that the tribal authority actually protected them from falling prey of predatory capitalist tendencies in relation to communal assets and natural resources of the community. For instance, in the middle of 2017 a well-known Limpopo tomato grower and commercial farmer agreed with the local councillor to start a commercial farming venture on communal land. The narration is as below:

"Instead of calling for general community meetings to discuss this development programme, the equally well-known, popular ward councillor (name withheld) gathered a few of his comrades and decided to go ahead with the programme. We later discovered that the tribal authority and civic structure did not know anything because they were not consulted. Instead we were alerted of the strange activities when we started seeing big trucks with water drilling equipment coming into the village and through to the nearby bushes. The loud drilling noise and the sounds of bulldozers felling trees continued for at least two days non-stop. When nothing was forthcoming from the chief in a form of a xivijo (community meeting), we the then stood up on our feet and went to the chief to enquire about the suspicious activities". This was related by ***Singita*** (28, female) Focus Group 2 participant at Zamani Village on 05/12/2018).

According to the participants, once the chief was alerted he went with a group of community members to examine the activities of the big trucks. In the end police had to be called in to stop the drilling and clearing of bushes that had ensued. Subsequently the commercial farmer and ward councillor were taken to the high court where the judgement reinforced the community's communal right to the land and protection thereof. Although the project had potential to bring much needed development as well as jobs for community members, the manner in which the wealthy farmer and his politician friend conducted themselves was in breach of the established way of doing things at Zamani Village, in other words 'living' customary law was applied and implemented.

The irony within which the law was applied in these two cases demonstrates that a balance may indeed be struck between customary law and common law application provided the interests

of the community is paramount and all stakeholders are consulted. In the second instance, the case demonstrates how the modern form of governance can clash with the traditional authority if not properly implemented. For example, the councillor felt that as a democratically elected community representative through the local government elections process there was no need for him to consult with the traditional authority. It is important however to note that on close examination it could be concluded that in his manner of doing things the councillor himself had not followed the democratic principles of consulting or sharing information with the community he was elected to represent. The good intentions he had of job creation and bringing development to the villagers got scuppered due to lack of transparency and accountability.

These two incidents as narrated herein may give an impression that traditional systems are always complimentary with common law systems. The Zamani Village situation is somewhat exceptional in that to a considerable extent it is dependent on the community's ability, capacity and inclination based on their social awareness of their rights as citizens. It is not common that villagers rise up against traditional authorities without fear of being victimised. Hence the legal system should be tightened around the issue of equality in traditional authority-led areas of jurisdiction.

Moreover, the level of education and age of the residents also play a role. Taking a village where most of the young people are away on migrant labour, the majority of elderly people left behind may feel constrained from standing up and showing their discontent. Factors such as fear of witchcraft and victimisation are some of the considerations that may affect their willingness to publicly and openly voice their discontent. Claassens (2007) also observes that outside interest may not be as easy to challenge as may be in the case of internal interest.

6.8 Benefits of Living at Zamani Village

The two foregoing incidents are but some of the many examples where constant mediation happens and a balance between the two systems of governance is sought and observed. For most women that were interviewed one of the most important aspect that made them remain in a rural village is the cost attached to access to land in a rural village as compared to the nearby urbanised town of Giyani. In the village it cost them only ZAR30 for a 30x30 metres residential stand compared to a same size stand less than 20 kilometres away where it costs anything from ZAR15 000 to ZAR75 000 depending on the perceived affluence of the area. Annual stand tax per annum is ZAR50 with exemptions for pensioners and indigents. These amounts are referred to as administrative costs for stationery costs towards printing the document the tribal authority

office issues for each stand allocated. In essence the cost of the stands is 'free'. Adding to that, those with livestock do not pay extra for access to land on which to build a kraal. They contribute equally to the cost of chemicals used for dipping cattle in the communal dipping culvert.

Another attraction is that the apartheid era situation where residents got penalised for not paying taxes is no longer the norm, households pay the tax voluntarily rather than mandatorily. The tribal authority office can no longer withhold any social benefits or services in lieu of annual stand taxes. Such benefits and services often include provision of proof of residence, affidavits, and so on. The only service-related cost a household bears is for purchase of prepaid electricity for household consumption, which more often than not is mainly used for lights and electronic appliances such as TV, mobile phone recharging and radio. Otherwise the majority of the 600 plus households still rely of firewood for cooking and heating. (*Information provided by participants and verified with the Nkuri Tribal Authority Office of which Zamani Village falls under in December 2017).*

Whereas in the neighbouring town of Giyani one still has to pay for rates, water, sewerage, refuse collection and other services with minimal access to usage of land outside their perimeter fence. Some participants added the minimal social interaction offered by village life as an aspect that adds to the rural environment attraction and its people's good quality of life. For women the social solidarity of rural life have its advantages compared to the often inward-looking, isolationist, individualistic existence they associate with urban life.

6.9 Conclusion

In this chapter I discussed the impact of patriarchal systems of governance and power relations in rural contexts. I looked at rural women's lived experiences in relation to gendered roles and patriarchy in both private and public spheres of their existence. I used grounded theory with a bias towards feminist perspectives in my analysis of findings. Various texts written by scholars and theorists such as Hassim, Claassens, hooks, Gqola and others were consulted for theoretical framing.

I provided a case study with respect to challenges around inheritance and how both the traditional and civil authorities handled and resolved them. I examined the duality of the legal system as practically applied at Zamani Village, its areas of convergence and contradictions. This I did through exploring if possibilities for striking a balance exist. This I did through

narration of a case study to demonstrate such interactions. Furthermore, I also observed the community's handling of a wayward traditional chief and the elected councillor on issues of communal interest and importance thereof.

I also explored whether any improvements are forthcoming at Zamani Village with regards to inheritance, access to communal land and the manner in which such unfolds. I also demonstrated through the findings the reasons behind the preference for settling in a rural village with its attendant limitations.

In the next chapter I present my conclusions reached on findings derived from this study. I also provide a brief summary of the approach applied for such conclusions. I also outline some recommendations as gleaned from the research findings and analysis.

Chapter 07 Conclusions

7.1 Introduction

This last section draws some conclusions on this research project based on reflections on the research questions, objectives of the study and an interpretation of findings. The purpose of this study was to locate the voice of rural women at the centre of debates on gender inequality and the role of the dual legal system in as far as it affects their right to inheritance, access to land, succession and related issues in their locality of Zamani Village. It was aimed at exploring the interpretations and meanings that women attaches to their daily struggles and triumphs. The study aimed to understand their context of what the post-apartheid state represent for them as women on matters of gender equality. This it did through probing their lived experiences and daily expressions of life in a democratic society in an environment where they are deemed to be both citizen and subject.

My time spent living and interacting with the villagers was important in that it gave me context of understanding and shaping interpretations of the findings. It is important to note that the research cannot be generalizable or considered a universal representation of all women in rural villages where VaTsonga people reside including Giyani and across South Africa. The findings are context specific and therefore only applicable to Zamani Village. However, some of the findings may be helpful in illuminating broader questions on rural women and the South African dual legal system as it applies for rural communities under traditional authority in post-apartheid South Africa underpinned by principles of a liberal constitutional democracy.

7.2 Research conclusions

Although the post-1994 democratic dispensation in South Africa recognizes gender equity and equal rights for women, inheritance matters and land ownership are still widely gender biased in favour of men within the VaTsonga rural ethnic group in general and South Africa as a whole.

I use Bundy's (1979) and Simons' (1968) texts to thread through how colonisation eroded the family structure of the African family. With land dispossession and the enforcement of the migrant labour system, families were forced into reserves where they could no longer rely of subsistence farming to feed themselves. As their cost of living increased they were compelled to rely on wage labour. (Bundy 1979; Simons 1968). It was under such trying circumstances

that most VaTsonga men became *magayisa* (migrant labourers) who would only come home after years in the mines. See chapter 3 section 3.9.

The separation of Africans, in this context African women, in the administration of law is indefensible in a country renowned for its progressive Constitution and the Bill of Rights. South Africa's post-1994 trajectory is premised on aspirations of a free democratic society based on human dignity, mutual respect, freedom and equality for all who live within its borders, including rural women. See chapter 5 for a detailed discussion.

My reflections are that albeit women in Zamani Village navigate their way through life in an environment that dictates unquestioning acquiescence to patriarchy, they have created their own forms of endogenous feminisms that originates from within their microcosm, that is their family and village. The study recognizes women's lived experiences and identities and suggests that a feminist theoretical, conceptual and ideological response be constructed towards what Gasa (2007: xvii) calls "an endogenous feminist thinking". This approach might assist in moving away from the dominant narrative where most of gender studies conducted in African communities have come from a Western oriented trajectory and often investigated in comparison to white middle-class women experiences which then get generalized to all women (Nkomo & Ngambi, 2009). Chapter … refers.

Although at a macro-level these women are located within a socio-economic and political space that, from a constitutional point of view, is supposed to be similar to that of every woman and man in South Africa, their reality is that at a micro or local level their experiences differ from women located even less than 15 kilometres away. The urban and rural divide is compounded by the legal systems that governs their lives and therefore defining their responses to their context. The duality of the South African legal system on rural communities affects them differently from women in urban areas even though there may be some intersectionalities. See chapter 4 section 4.5.

At this macro-level women at Zamani Village are affected by the content of the following parliamentary bills which speak directly to rural communities under the jurisdiction of traditional authority. Their impact on rural women's rights to land access, inheritance, succession, and so on far reaching. These are; 1) *The Traditional Leadership and Governance Framework Act of 2003* and *The Traditional Affairs Bill of 2014*; 2) *The Communal Land Rights Act of 2004*; and 3) *The Traditional Courts Bill of 2012*. See chapter 3 and chapter 5.

During this study I observed that although there are aspects of life rural communities have discarded in favour of new inventions of tradition, there are certain practices that have become an inherent part of their identity and a lot of value is ascribed to it. All the VaTsonga women interviewed for this project validated Simons' observations made decades ago by admitting that they "would not be able to easily break free from a convention like lobola" (1968: 95). Their view is that it provides and maintains kinship among the clan and families involved in the marriage. They also felt that it is morally and spiritually significant in the validation of a marriage, regardless of whether it is a customary or civil marriage.

Another aspect that is important is that these women feel more secure in the marriage and that until lobola is provided to their family they would not feel really married. My view is that there are also underlying issues of self-worth and seeking validation of self-identity by attaching these to lobola. These sentiments around worth are also contributing to the amount of money families demand these days for girls/ women of various levels of education or employment. The children of a union where lobola has not been provided cannot use their father's surname and therefore belongs to the woman's family rendering them strangers to their patrilineal family and its ancestors. (Simons 1968: 99). Some continuities have good intentions; however, the community should be cautious of the distortions some inventions may cause as these are likely to harm the very women lobola is intended to be protecting and providing dignity to. Refer to chapter 3 for a detailed discussion.

Unlike decades ago, these days a daughter's lobola is no longer used *ku lovota* (to assist in providing lobola for a son) a son. Sons are supposed to work and save for their own lobola as a sign of maturity and commitment to the woman they intend to marry. The practice of parents giving lobola to their son is now considered risky because he may ill-treat her, or she can desert him and be less committed to each other as they would not have appreciated the opportunity involved in saving towards lobola. Overall it is presumed that it therefore serves as a deterrent from dissolving the marriage. It is also considered to provide some form of social respectability and moral security and is an important part of the African heritage and more especially good because it is theirs and not the white man's. (Simons 1968: 99). For more on lobola see Chapter 3 section 3.3 and 3.4.

At a micro-level together with other residents they participate in existing local structures where they are able from time to time to assert themselves against both the traditional authority and the democratically elected representatives of the local government whenever the need arise. In

its manner of doing things and engaging with authority the Zamani Village community is creating precedents that may serve it well in future. The incidents of the ward councillor with the wealthy commercial farmer and the chief selling off of communal assets through the backdoor to construction companies are narrated in detail in Chapter 6. As a result the residents at Zamani Village and that of the Nkuri chieftaincy as a whole are known for not being afraid to confront their traditional leadership and calling it out on wrong decisions or actions. In this way they are already moving forward with the train of a dual legal system laden with 'living' customary law and common law based on robust engagement based on open, participatory democracy as envisaged by the SA Constitution. See chapters 3 and 6 for more discussion on this matter.

The study found that where private spaces are concerned rural women are indeed not organised in ways similar to those prevalent in urban areas. For example, in the case of Zamani Village, they hardly subscribe to formal organizational memberships but avail themselves in large numbers to participate at community *xivijo* and celebratory events even without a formal invitation directed towards them. They also converge at the 'visiting point' where the government mobile clinic for primary healthcare and inoculation of children come. They are also found in numbers in one place on the day of government welfare payouts for child grants and old age. It is in these spaces and moments that they are able to talk to each other about a variety of issues, either in groups or pairs. This demonstrated that rural women are willing to find time for things that have a direct impact on them and are tangible. For example, the mobile clinic and pension day directly affects them as they often are caregivers to the children or the elderly pensioner or both. Therefore, their presence makes material sense when compared to attending a meeting with an agenda for discussion and then going back home with words only. Refer to chapter 5.

Although their voice may seem muted or hidden by those of their male counterparts and at times self-policed, evidence of strategies through which they fight for and protect their interests against domestic and institutional patriarchal structures of power is emerging. Rural women are now able to open a bank account where they can save money. They are also able to participate in *swiseveseve* (rotational gift-buying parties) where they buy each other movable goods through their stokvels-like savings. Goods exchanged may include household furniture such as wardrobes, beds, stoves, fridges, music systems; cooking utensils such as big three-legged pots, catering equipment, galvanized steel baths, and so on. Due to the public nature of these gift-exchanging sessions these movable goods remain the property of the woman and cannot be taken from her by the husband or his relatives in the case of the husband's passing.

The woman's ownership, rights and entitlement to the goods are as a result indisputable as many people can bear witness. See chapter 6.

Women are aware that they can report their plights to the police in cases where the relatives of a deceased spouse withhold property or attempt to chase the surviving spouse away from her home. They are no longer bound by the custom of staying indoors for the duration of the week prior to the burial and the subsequent week. This provides them with opportunity to see or know what is going on in their household so that in the case there is looting of any sort such behaviour may be addressed without delay. They feel empowered by common law and know it is their right to stand up and protect their inheritance and that of their children. However, the attitudes of magistrate's courts to their disputes and grievances should change and laws on this must be tightened to protect women's interests. See chapter 6.

I noted that new tools of activism are nevertheless needed to confront extreme cases of gender inequalities and that for this to happen rural women should participate in the design and formulation of the strategies. Nothing must be imposed on them so that they can fit their context and environment therein. A combination of old and new ways of engaging with decision-making and powers structures of cultural and religious institutions must be sought. Rural women are often unimpressed with talkshops but prefer pragmatic approaches to problems that speaks to their condition. Gender inequality is understood differently from the conceptualisation in urban areas. In the past there has been instances where the voices of people who claimed to be speaking on behalf of rural women were contested, their legitimacy as rural women was questioned because they looked young and urbanized while also some of them were said to articulate ultra-left rhetoric not associated with rural women (Hassim 2004: 334). This study supports Claassens' (2007) view that a 'one size fits all' approach to empowerment of rural women is not appropriate and therefore less likely to succeed. Please refer to chapter 5.

In post-apartheid Zamani Village, women participate in the various structures of governance such as the tribal council both as elected members as well as through nomination and appointment by the chief. The proportional representation (PR) councilor is a woman and the constituted ward committee is in line with the gender parity policy requirements of a minimum 50% representation of women by the political party she represents. This gives impetus to the voice of women on issues of their community. Chapter 4 refers. Given the historical forms of exclusion of rural women from speaking at community meetings and the levers of decision-making, the Nkuri Tribal Authority and its chief are exemplary in their approach to exercising

chiefly powers over residents of Zamani Village. That the chief went further and decided to appoint to his council a number of women beyond the legally prescribed one shows commitment to democratic principle in terms of representation.

That residents of Zamani Village have never encountered social research other than the population census and health-related surveys they encounter during visits to the clinic at Shirilele Village is an indictment to the democratic state and its agents. This study was also an information sharing project with participants I interacted with. It sparked interest on a variety of issues they have never sat down to engage on while also offering them a voice as well as an opportunity to listen to fellow participants' views on issues. It was empowering to both the participants and to the researcher. Chapter 5 Section 5.4 above addresses the issue of going beyond the internet and township community halls only but encouraging the involvement and participation of rural women in activities towards policy formulation and law-making by going to their localities where they can be engaged in their local languages.

The imposition of a migrant labour system led to the emergence of a nuclear family unit of husband, wife and children and has caused a decline of the joint family system which has become individualized. I contend that the loosened kinship ties also serve to protect women's interests and right to inheritance, it is not easy for a relative who does not reside in the same yard as the widow to go to her dwelling to harass his or her father or brother or son's widow. Common law with respect to trespassing, stealing, and harassment may be applied to deter such behaviour. This therefore offers some emotional relief and physical protection for women and children of the deceased in relation to inherited property. See chapter 3 above.

Although at other times a smaller circle of close family members may mean less people to go to for help, a bigger extended one may also have negative impact on the family's overall security on food and other basic needs if it is too large. There are some positive spin-offs that emerged as an unintended consequence of the enforced migrant labour system. For example, 'women and children developed self-assertiveness qualities in the absence of their husbands and fathers away in the cities and towns' noted Simons (1968: 95). The view of this study is that the nuclear family is easier to manage even in times of want when compared to larger, extended families residing in one household. The woman's family are often able to come forward and contribute towards their welfare until such time that they are able to fend for themselves. At Zamani Village I noted that most households do not exceed four children and are happy to stop giving birth at two children. See chapter 3 for a detailed discussion.

In a community where the state has never been sufficiently present or accessible through awareness creating and educational programmes on gender issues and other civic matters, a section of the community remains marginalized and ignorant of their rights and responsibilities. Drawing from my fieldwork observations and the experiences of Zamani Village women on gender inequality in the family and access to inheritance and land, my conclusion is that educational campaigns would promote and deepen the residents' conceptions of democracy, the basic principles of law and justice applicable to them as rural dwellers; and help them locate themselves knowingly under a legal system that best suits them. This would also help deepen their grasp of democratic principles in a substantive manner.

The promise of democracy as a freedom giving phenomenon would be realized for most residents because they will no longer be in the dark. This may even serve as a tool through which to address Pityana's (2015) question on "whether the Bill of Rights with its various provisions has been effectively utilised by rural communities towards the realisation of the promise it holds for everyone?" Chapter 5 refers. The impact of colonisation and the policies of separate development will haunt South Africans for generations to come. It is therefore important that such deep-lying and emotive issue is not transported across time into the new dispensation which still carries a promise of equality for all including rural women. The 1996 Constitution's tone and spirit must be upheld by all freedom and equality loving citizens regardless of gender, class or race.

The study was guided by the following main question:

How do rural women affected by adverse gender dynamics in a family unit within the context of traditional authorities go about asserting their rights with regards to issues such as inheritance, access to land and succession in rural areas?

It is my view that reasonable effort has been made to shed some light onto the questions as posed at the beginning of this study, namely the main as well as the sub-questions as follows:

- What is the influence of traditional norms and their practices in determining gender roles in the household? Refer to all chapters.
- How does the South African legislative framework impact on gender equality in issues of inheritance in traditional contexts? Refer to chapter 04.
- Has the emergence of a modern family/household affected family relations and succession issues in rural contexts? Refer to chapters 05 and 06.

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Appendix A

Research Participant Consent Form

Title of study: Understanding Gender Inequality in a rural African family unit (household): A Case Study of a village in the Greater Giyani Municipality, Limpopo Province.

I, _____ consent to participate in the study conducted by Tsakane Mahlaule on her research for her Masters' research report on the experience of members of the Nkuri Village in Giyani, Limpopo Province. The research will ask questions around experiences within my family, why membership of my community influences my thinking of gender issues and how my family and community deals with gender issues on succession, inheritance and access to land. This research is being conducted through University of the Witwatersrand, Johannesburg.

I have read the participant information sheet which outlines the research topic and the extent to which my participation in this study is required and I have addressed my concerns, if any with the researcher. I confirm that I fall within the 18 year-old and above age category.

I am aware that the study will be anonymous and will therefore not be used to victimize me as a participant. I have discussed with the researcher the use of my name in the research and I understand that I will be able to use a different name for the sake of protecting my identity.

I am also aware that I do have the option to withdraw from this study at any point I choose and that my participation in this study is voluntary. I am aware that I can choose whether or not I would like the interview to be recorded and that if I choose to have the interview recorded, it will be safely stored and still guarantee my anonymity.

I understand that I can contact the researcher should I have questions after this interview process and her contacts have been provided for such. A summary of the research will be made available to me should request it.

I confirm that I understand the above, below are my details:

Signature: _____ **Date:** _____

Recording of Interview:

I consent to this interview being recorded to the purposes of the researcher, I understand that this will be safely kept and only used for the purposes of writing the research report.

Name: _____ **Signature:** _____

Date: _____

Appendix B

Participant Information Sheet

Title of research:

Understanding Gender Inequality in a rural African family unit (household): A Case Study of a village in the Greater Giyani Municipality, Limpopo Province.

Invitation to participate

You are invited to take part in a research study. Before you decide whether or not to take part, it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully.

Purpose of the research

This research aims to better understand the dynamics of a rural family unit (household) in relation to continuities of gender inequalities among the VaTsonga families in a rural context. Furthermore, this study will try and understand the customs and laws that may help perpetuate continued existence of gender inequalities and impact thereof at community level. Finally, this research will try to understand how a rural VaTsonga household navigate the post-1994 democratic dispensation with its recognition and promotion for gender equity and equal rights for women in relation to inheritance matters, succession and land ownership. The study will run through October 2017 to February 2018. The research will be used as part of writing a report in completion of my Master's Degree in Political Studies.

Your role in this study and the interview process

You have been asked to form part of this study because you are member of the Greater Giyani Municipality political leadership and/or administration. I have asked other Greater Giyani Municipality leaders and officials to be part of this study and I will be interviewing about 20 other individuals overall for this research study.

Your participation in this research project is voluntary and you can choose not to do the interview at any time, should you wish to do so. You may refuse to answer any question for whatever reason. Please note that there will be no direct benefit for you in participating in this study. There are not likely to be any risks involved.

Your anonymity can be guaranteed in the writing of the research report following the interview. This means that the researcher will protect your identity and personal information and will not release this. In addition, all information gathered in the interview will be used only for the purposes of writing the Masters research report. Whilst records of the interview will be kept, this will be done so in a password protected laptop and a safe archival facility at the University of the Witwatersrand and the details of the interview may only be used in later research.

Each interview should run for approximately one hour, during this time the researcher will ask questions about yourself, your family and your involvement in the Nkuri Village community.

Should you wish to participate in this study you will be required to read and sign the consent form attached to this letter. This consent form is to certify that you have read and understood the purpose of the interview and are

voluntarily participating in the research. In addition, you will be asked to give permission on whether the interview can be recorded. The recording will be used in writing up the report and will be kept under safe conditions on a password protected laptop. The recording will, at no stage, be released to any other person and will be kept confidential.

Should you require any further information - at any stage - about this research please find my contact details below as well as the contact details of my supervisor, Dr. Ahmed Veriava, Prof. Edward Webster and Prof. Lawrence Hamilton from the University of the Witwatersrand.

Thank You,

_____

Tsakane Mahlaule
MA Student Researcher
University of the Witwatersrand
Johannesburg
+2779 903 9704
tsakane.mahlaule@students.wits.ac.za

Supervisors details:

1. Dr. Ahmed Veriava
+2779 866 3026
ahmed.veriava@wits.ac.za

2. Prof. Edward Webster
+2784 467 0192
Edward.webster@wits.ac.za
3. Prof. Lawrence Hamilton
+2711 717 4363
Lawrence.hamilton@wits.ac.za

Appendix C

University of the Witwatersrand, Johannesburg

Ethics Application Form* for *Human Research Ethics Committee (HREC Non-Medical)

(Revised December 2012)

Use this form in applying for clearance of research involving human participants

Instructions

1. Completed applications must be submitted to the Research Office approximately three weeks before each of the monthly meetings. The deadlines are available on the Wits Research website http://www.wits.ac.za/academic/research/ethics.htm/7075/ethics.html
2. Applications must be submitted as hard copies, one of which must be an original (see checklist below for numbers of copies required). Electronic submissions will not be accepted.
3. All submissions and materials must be typed. Handwritten submissions are **NOT** acceptable.
4. Incomplete applications will **NOT** be considered.
5. Applications will **NOT** be processed if signatures from applicant or supervisor are missing.
6. Photocopying should be done 'back-to-back' to save paper.
7. Glossy and fancy binding is **NOT** necessary.
8. Necessary supporting documents (e.g. *Participant Information Sheet, Consent Form*, copies of instruments), must be stapled to the *Ethics Application Form*.

Complete this checklist to show what documents you have submitted.

☑	**Check list**	**No. of copies required**
For all research:		
	Completed *Ethics Application Form*	**1**
	Copies of the research proposal	**1**
	Copies of proposed research instruments (e.g. questionnaires/interview schedules)	**0**
	Participant Information Sheet (for each different sample group)	**1**
	Consent Form [*Assent Form* for under 18s] (for participant's signature) (for each different sample group)	**1**
Where applicable (Attach to this form):		
	Relevant permissions (from, e.g. company's HR department, National authorities such as Education, Correctional Services, etc.) or other legally required consent	**0**
	Any other appropriate consent forms (e.g. consent forms for members of focus groups, consent forms (for video or photography), etc.	**0**
	Guardian *Consent Form* (for participants under the age of 18)	**0**
	Other (please specify)	**0**

Declaration

I recognise that it is my responsibility to conduct my research in an ethical manner according to Guidelines of the University of the Witwatersrand, according to any laws and/or legal frameworks that may apply, and according to the norms and expectations of my discipline.

In preparing this Application for Ethics Clearance form, I have consulted the ***Guidelines for Human Research Ethics Clearance Application /non-medical*** (available on this web site http://web.wits.ac.za/Academic/Research/Applications.htm) and have familiarised myself with the ethical guidelines specific to my discipline.

Signature _____

Name of researcher/applicant _____

1. Researcher's personal data

Surname: MAHLAULE							Name: TSAKANE				
Title:		Prof		Dr		Mr	X	Ms		Mrs		Other:
School:	POLITICS – Political Studies										
Staff / Student number:	768454						x	Full time		Part time		Staff
Your telephone(s): +2779 903 9704											
Your Email: tsakane.mahlaule@students.wits.ac.za											
Name of Supervisor (if applicable): Dr. Ahmed Veriava, Profs. Edward Webster and Lawrence Hamilton											
Supervisor's email address: ahmed.veriava@wits.ac.za edward.webster@wits.ac.za lawrence.hamilton@wits.ac.za											
Supervisor's tel number(s): Dr Veriava-079 866 3026 Prof Webster-084 467 0192 Prof Hamilton-011 717 4363											

2. Specifics about the research project

Title of research project

Understanding Gender Inequality in a rural African family unit (household): A Case Study of a village in the Greater Giyani Municipality, Limpopo Province.

Is this research for degree purposes?	X	**Yes**		**No**			
If so, for what degree?		**Honours**		**Masters (dissertation)**	x	**Masters (research report)**	
		PhD		**Other (specify):**			
Has it been approved by the relevant higher degrees committee or other relevant unit?		**Yes**		**No**		**Submitted & pending**	

List the names and affiliations of any *additional* researchers who will be covered by this ethics protocol

Where will the research be carried out?

Nkuri-Zamani Village in the Greater Giyani Municipality, Limpopo Province.

What are the aims and objectives of the research? (Please list; be brief)

1. To seek understanding of the dynamics of a rural family unit (household) in relation to continuities of gender inequalities among the VaTsonga families in a rural context.

2. To try and understand the customs and laws that might help perpetuate continued existence of gender inequalities and impact thereof at community level.
3. To seek understanding on if/ how a rural VaTsonga household navigate the post-1994 democratic dispensation with its recognition and promotion for gender equity and equal rights for women in relation to inheritance matters, succession and land ownership.
4. To use the findings as part of writing a report in completion of my Master's Degree in Political Studies.

Do you have any financial or material interest associated with your research participants or with the organisations that you will work with during your research?		
[ ] Yes	[x] No	[ ] Potential conflicts of interest may exist
Please explain how you will manage any existing or potential conflicts of interest, if applicable.		

INFORMATION RELATING TO ETHICAL MATTERS
Protocols submitted to the Committee must have sufficient information to enable the committee to judge the ethical implications of the proposed research. Please be brief and concise but also as specific and informative as possible

3. Formal permission		
Has appropriate formal permission been obtained, if required (e.g. employer, government department, land owner, etc.)?		
[ ] Yes (attached)	[ ] Not required	[ ] Pending (must be supplied before permission is granted)
Obtaining permission is necessary when conducting research *within the premises* of a particular site such as an ethnography of the functioning of a supermarket or a school, or the way staff interact with clients in a clinic, or of how the HIV Unit in the City of Johannesburg functions. Please read the detailed guidelines on the Ethics website http://web.wits.ac.za/Academic/Research/Applications.htm		

	4. How will data on human research participants be collected (instruments, methods, procedures)? (Attach instruments as an appendix)
[ ]	In written format (e.g. questionnaires, diagnostic tests, etc.)
[ ]	Completion of on-line instruments (e.g. questionnaires)
x	Individual interviews (e.g. structured, semi-structured, etc.)
x	Group interviews (e.g. seminar/discussion groups, focus groups, etc.)
x	Ethnographic observation, participant observation, other informal descriptive, and/ or interactive methods
[ ]	Community-based methods or techniques such as drama workshops, community theatre, training workshops, participant rural appraisal (PRA), rapid rural appraisal (RRA), etc.
[ ]	Research on/in therapeutic or counselling contexts
[ ]	Observation of public performance, and/or public behaviour observation
x	Photography, video and/or audio recording (**specific separate consent forms may be required**)
[ ]	Other research methods or techniques (specify in this line).

Brief details of instruments to be used (attach instrument or draft to this application)

Audio recording. See attached for more info on interviews. To be conducted in person

5. Who will the research participants be?				
Brief description of human participants, including age range and sample size, for each sample: A maximum of 03 households will be sampled from the selected area with some representatives of the households to be interviewed. Approximately 15 adults overall will be studied via interviews, whereas ethnographic and participant observation as well as two (02) focus groups will add to the total number studied.				
Does this research expose either the participant or the researcher to any potential risks or harm that they would not otherwise be exposed to?		Yes	x	No
If 'yes', explain: N/A				
Will research involve vulnerable categories?		Yes	x	No
If so, state which ones: N/A				
How will any existing vulnerabilities among research participants be addressed? N/A				

NB: The term 'vulnerable categories' includes, among others, children under 18, orphans, prisoners, persons with cognitive or communication disorders, people who are traumatised or currently in traumatic situations.

Where necessary, include details of steps to be taken to facilitate data collection across language barriers (e.g. interpretation or translation).

6. How will informed consent be obtained?				
How will potential participants be identified / selected / recruited? Households will be sampled by location and type. Representatives will be recruited by physically visiting the site and making enquiries for willing participants				
What will participants be told about the research (including the promises to be made)? See attached participant information				
How will informed consent be obtained?				
x	Formal (Signed form)		Informal (e.g. verbal)	Other
Briefly explain your strategy for ensuring informed consent Willing participants will be requested to sign the consent form, see attached.				
Attach *Participant Information Sheets* and *Consent Forms* for each sample group, and/or other related materials				

NB*: **Consent*** in social science and humanities research involving human participants: Where informal ethnographic or participant observation methods are used, or where signed *Consent Forms* are not possible, or for research involving group contexts (focus group, Participant Rapid Assessment, Rapid Rural Appraisal, public performance, workshops) **state how the quality of informed consent will be assured**. It is essential that participants in research be fully informed and agree, on this basis, to participate in the research.

6. Protecting participant identities				
Can **confidentiality** be guaranteed?	x	Yes		No
Can **anonymity** be guaranteed in resulting reports, theses and/or publications?	x	Yes		No

Explain how this will be done? (What will participants be told in this regard?) See attached participant information. Names will not be used in the report, however it may be possible for readers to identify the site being referred to using the map or job titles of political office bearers and officials at the municipality; and could thus possibly trace the contribution to a particular person.

NB: While confidentiality may be desirable, it cannot be guaranteed in, for example, focus groups, or ethnographic observation. Similarly anonymity should be preserved in questionnaires, but cannot be offered in workshop methodologies, focus group research, etc. Participants should have the right to remain anonymous in the final report, and this must be respected in handling of all data relating to them. Participants need to be informed about these issues.

7. Protection of data during and after the research			
How will the data be protected while the research is in progress? (This includes how the identities of participants will be protected). Data will be kept on a password protected private laptop. Identities will use pseudonyms through a coding system. The diaries and notebooks will be safeguarded and locked away at all times during the research period and once written data is scanned for e-filing it will then be password protected for access by the researcher only.			
What is to be **done with the research data** after completion of the project?			
	Stored in archives (specify)		Stored in on-line data base (specify)
x	Stored in password protected computer	x	Stored in digital form with all identifying feature removed
	Destroyed after … years (insert numbers of years)		
Explain how the data will be securely stored during this time Raw data will be in my sole custody and safeguarded from unauthorised access at all times. Any hard copies will be destroyed after scanning for e-filing/ digitising.			

NB: 'Raw' or unprocessed data, especially **where the identity or personal data of research participants is included, must be safeguarded** and preserved from unauthorised access. Data may be destroyed after use, but **preservation in an archive or personal collection** may also be appropriate, desirable or even essential. For instance, data sets that contain **historically important information** or information that relates to **national heritage** must be preserved and should be placed in a public archive where possible and appropriate.

All data should be preserved in a way that **respects the nature of the original participants' consent**. If you are unsure about the procedure of data management and storage, please contact Nina Lewin (ninalewin@gmail.com)

8. Access to the research results / reports
How will the results be **reported**? The results will form part of a Masters research report
Who will have access? The report will be submitted to the humanities faculty and therefore made publicly available on the internet
Note: All Wits Masters and PhDs are stored in the main library as well as being made available on the www.

SIGNATURES (REQUIRED)

In signing this form, the researcher and supervisors (if any) of this project undertake to ensure that any amendments to this project that are required by the Human Research Ethics Committee are made before the project commences.

Declaration: We, the signatories, declare that all information on this form is correct and that we will strive to maintain the highest ethical standards in this research at all times, according to disciplinary and university expectations, recognising that ethical practice in research is always a continuing process.

	Date	**Name**	**Signature**
Applicant		Ms Tsakane Mahlaule	
Supervisor		Dr. Ahmed Veriava	
Co-Supervisor		Prof. Edward Webster	
Co-Supervisor		Prof. Lawrence Hamilton	

Appendix D

Education Levels 1996 to 2001

Table 1.5.5b presents the situation with regard to the highest level of education attained by persons older than 20 years, for 1996 and 2001. It is interesting to note that the population with no schooling decreased percentage wise from 47.6% to 42.1% in 2001, however in terms of numbers those with no schooling increased from 40 050 to 43 371 in 2001. The percentage of the population with an educational level higher than Secondary school increased from only 4.7% in 1996 to 7.4% in 2001 with the actual number almost doubling during this period. A possible reason for this may be unemployment, forcing people to obtain tertiary qualifications as well as the increased employment opportunities for highly educated individuals in Greater Giyani.

Table 1.5.5b: Highest Education Levels attained by over 20 year olds, 1996 & 2001

Persons	**1996**	**%**	**2001**	**%**
No Schooling	40050	47.6	43371	42.1
Some Primary	8204	9.8	12598	12.2
Complete Primary	4238	5.0	5175	5.0
Secondary	16879	20.1	21579	20.9
Grade 12	10794	12.8	12713	12.3
Higher	3945	4.7	7636	7.4
Total	**84110**	**100**	**103072**	**100**

Demarcation Board, 2003

Appendix E

Population by Ward

Table 1. Greater Giyani Municipality : Population by Ward

Ward	Male	%	Female	%	Total	
1	3636	44.0	4636	56.0	8272	3.48
2	4531	43.9	5798	56.1	10329	4.35
3	4607	42.9	6123	57.1	10730	4.52
4	4411	44.3	5537	55.7	9948	4.19
5	**4482**	**44.2**	**5652**	**55.8**	**10134**	**4.27**
6	4663	44.1	5922	55.9	10585	4.46
7	3487	43.8	4468	56.2	7955	3.35
8	4704	44.4	5882	55.6	10586	4.46
9	3113	44.2	3934	55.8	7047	2.97
10	6363	47.5	7027	52.5	13390	5.64
11	8829	44.3	11119	55.7	19948	8.40
12	2432	44.5	3029	55.5	5461	2.30
13	4122	44.4	5161	55.6	9283	3.91
14	4172	43.8	5359	56.2	9531	4.01
15	4057	42.9	5390	57.1	9447	3.98
16	4487	44.6	5572	55.4	10059	4.24
17	3512	44.3	4419	55.7	7931	3.34
18	2045	42.6	2755	57.4	4800	2.02
19	4362	44.3	5494	55.7	9856	4.15
20	4583	44.1	5799	55.9	10382	4.37
21	3682	43.6	4761	56.4	8443	3.56
22	4464	43.9	5698	56.1	10162	4.28
23	3313	44.9	4072	55.1	7385	3.11
24	3305	44.5	4114	55.5	7419	3.12
25	3732	44.8	4605	55.2	8337	3.51
TOTAL	**105094**	**44.27**	**132326**	**55.73**	**237420**	100.00

Source: Census 2001