

THE IMPACT OF THE CUSTOMARY MARRIAGES ACT (ACT 120 OF 1998) ON THE
PREVALENCE OF DIVORCE AMONG THE VHAVENDA IN THE VHEMBE DISTRICT
OF LIMPOPO PROVINCE IN SOUTH AFRICA

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ABSTRACT

This study investigates the impact of the *Recognition of Customary Marriages Act (Act 120 of 1998)* on divorce. The family is a critical part of the society that both the law and society have always sought to protect. This societal desire to protect marriage is what might have motivated a culmination of practices into customs that protect and promote the institution of marriage. Customary practices of the Vhavenda community zealously guarded the institution of the family, and for that reason, divorce was an extreme option. Within the last two decades though, there has been a crumbling of an oppressive legal order which was replaced by a new democratic South Africa. This new order does not seem to have affected only the apartheid legacy, but also other spheres of life, marriage being one of them. Concerning marriage, an Act of parliament known as the *Recognition of Customary Marriages Act (Act 120 of 1998)* (RCMA) was enacted to give effect to the new legal order in particular to address inequality that had been midwifed by customary practices. This Act however seems to have impacted negatively on the institution of customary marriages as it appears to have modified, varied and even abolished the long established customary practices that sought to protect the institution of marriage. It is the reason for this study which investigates the impact of *the RCMA* on divorce among the Vhavenda of the Vhembe district, Limpopo, South Africa.

Key words: Family, marriage, practice, customs.