

**AN INVESTIGATION OF PROPERTY AND INHERITANCE RIGHTS OF THE  
SPOUSES IN POLYGYNOUS CUSTOMARY MARRIAGES AMONG VATSONGA  
PEOPLE**

**IN VHEMBE DISTRICT**

**by**

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**for the degree of**

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## Abstract

This study sought to explore the proprietary consequences of the Vatsonga customary marriages. The study seeks to investigate the constitutional rights of the spouses in polygynous customary marriages, as well as to explore the property and inheritance rights of spouses in polygynous customary marriages and to investigate how spouses of polygynous customary marriages can be informed about their rights and be protected from losing their property and inheritance. A qualitative exploratory design was adopted in this study. Non-probability purposive and snowball sampling methods were used to select second women married in polygynous marriages. All participants live in the Vhembe District. It was envisaged that a sample size of five women and five husbands married in polygyny would be interviewed. A voice recorder was used to record data from the participants. An interview guide was used to explore property and inheritance rights from spouses of polygynous customary marriages. The data was transcribed verbatim and analysed using Tech's ten steps of open coding. The study adopted two theories, for example, the resilience theory and the social exchange theory in integration with the study.. The researcher, through probing, realised that there is a need for the HMA to educate people about these marriages and help them through registering them so that their marriages can be recognised. Also, the community can empower women so that they can stand up for themselves and avoid the issue of them being under someone. Also, the issue of counselling and guidance, if there might be issues like disputes, so that they can be resolved in harmony.

**Keywords:** African Customary Marriages, Inheritance, Lobola, Polygamous Marriage, Polygynous Marriage, Property, Proprietary Consequences

## Declaration

I, **Wisani Charles Nwankoti (11611220)**, hereby declare that the dissertation titled “***AN Exploration Of The Proprietary Consequences Of The Vatsonga Customary Marriages In Vhembe District***” hereby submitted for the degree, Master of Arts in Anthropology (MAA) at the University of Venda has not previously been submitted for a degree at this or any other university, and that it is my own work in design and execution and that all reference material contained therein has been duly acknowledged.

Signature: 

Date: 14 August 2024

## **Dedication**

I would like to dedicate this dissertation to all the women in polygynous customary marriages.

## Acknowledgement

To the Almighty God, who gave me the strength and protection from the beginning until I completed my mini-thesis and opened my way academically and intellectually.

I would like to convey my sincere thanks to the following people for providing support for me to succeed:

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## List of Abbreviations and Acronyms

<b>ACL:</b>	African Customary Law
<b>ACM:</b>	African Customary Marriage
<b>CL:</b>	Customary Law
<b>CM:</b>	Customary Marriage
<b>CRSA:</b>	Constitution of Republic of South Africa
<b>HA:</b>	Home Affairs
<b>MAA:</b>	Master of Arts in Anthropology
<b>PC:</b>	Proprietary Consequences
<b>PCM:</b>	Polygynous Customary Marriage
<b>PM:</b>	Polygamy Marriage
<b>PO:</b>	Polygyny Marriage
<b>RCL:</b>	Recognition of Customary Law
<b>RCM:</b>	Recognition of Customary Marriage
<b>RT:</b>	Resilience Theory
<b>SET:</b>	Social Exchange Theory
<b>UACM:</b>	Unregistered African Customary Marriage
<b>UDR:</b>	Universal Declaration Rights

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## CHAPTER ONE

### INTRODUCTION AND BACKGROUND OF THE STUDY

#### 1.1. Introduction and Background

Practically, when a husband is in multiple marriages simultaneously, whichever wife is first able to make a claim and prove her marriage's existence, will officially be recognized as his spouse. This happens regardless of the legal status of competing marriages under the RCMA, which would have to be argued between the wives in court if a dispute arose. As a result, spouses who are in customary marriages that are not registered are denied the ability to claim the rights that are supposed to flow from those marriages now that they are legally recognized (De Souza, 2013:58).

Mamacos (2019) stressed that as much as the RMCA defends women married in several African marriages, it is impossible to obtain a declaration of support for polygyny from single women. In 2000, after the recognition, the Recognizing Customary Marriage Act protected the property of women and established an involuntary arrangement for communal property ownership, but prenuptial agreements are permitted (Smith, 2019). So, Mamacos (2019) noted that for example, this is a must *"if an African customary husband who marries another woman is required to obtain court approval to manage the matrimonial property of his former wife and him"* (Mamacos, 2019), but that differs because in the Vatsonga tradition, if a husband wants to marry another woman, he must first be permitted by the first wife to do so and proceed to the court and marry another one (Merdad, Elbedour, Lau, and Barker, 2022). That is why many second wives are unable to have property or anything else because their marriages are considered invalid.

Tapsoba (2022) denotes that African polygynous marriage is a practice that is widely practiced by many countries, including South Africa as a whole. Kanazawa and Larere (2022) note that in Britain, the government was against the practice of polygamy, and as a result, they introduced popular television shows that discouraged the practice of polygamy. Hayes and van Baak (2002) stipulate that in all these countries, polygamy

received much-needed attention both in legal and political theory. To add, Kanazawa and Larere (2022) denote that the other question concerning polygamy marriages in the above countries was whether the respective states should punish, tolerate, or recognize polygamous marriages. Tapsoba (2022) stipulates that African polygyny has shown more negative individual concepts of some areas in Africa because of jealousy and competition for positions within the family.

In addition, Dierickx (2022) denotes that in countries in the Sub-Saharan regions like Senegal, a huge number of high school students were against polygamy. Dierickx (2022) stresses that the reason is jealousy and competition that occurs between wives of polygynous marriage, and in turn the fight between the wives overlaps with the children and tends not to consider themselves as siblings but rather as rivals who fight for the time and attention of their fathers as the father cannot be able to see all the children of his wives at the same time.

Akinyemi, Banda, De Wet, Akosile, and Odimegwu (2019) denoted that in many Sub-Saharan African societies, inheritance is one of the most important means by which physical property is transferred from one generation to another. In addition, Akinyemi, Banda, De Wet, Akosile, and Odimegwu (2019) stressed that the inheritance systems in Sub-Saharan African countries have garnered growing attention in research and policy. The main reason for this attention is concern about women's property rights and women's vulnerability and poverty. Mkhize (2022) stipulates that marriage laws such as customary law have been demonstrated to be essential to women's property. Previously, in many African countries, women did not have independent property rights to inherit; instead, statutory and customary laws often stipulated that those women had access to the property through their fathers, husbands, or adult sons (Tenkorang, 2022).

According to Garenne, for the Tswana people from Botswana, most of marriages practiced by indigenous people of Botswana are patrilineal, (Garenne, 2022). In addition, Vahed (2022) denotes that most of the property owned or acquired by the couple during the marriage belongs to the husband and will be passed to the eldest son when his father dies. Moreover, Mkhize (2022) stipulates that in South Africa, blacks have the option of entering either a marriage by the law of the land, which is a civil marriage or a customary

union. According to Starbright (2020), civil marriage is the process through which a state bestows legal recognition of a couple's partnership by the marriage laws of the nation, and the Marriage Act 25 of 1961 is the piece of legislation that governs civil unions between spouses in South Africa. In addition, Himonga (2022) denotes that in African customary marriage, polygyny is permissible, while it is strictly forbidden in civil marriages. Also, Himonga (2022) stipulates that in customary laws, the relationship extends beyond the two individuals and includes the respective families.

According to, Badejogbin (2022) a customary union develops gradually and does not come into effect immediately with one specific ceremony, as is the case with civil marriages. Also, Xulu-Gama (2022) states that in South Africa, polygyny is recognized by law and is still relevant (Zeitzen, 2010) even though former president Jacob Zuma is a polygamist. Marco-Gracia and Fourie (2022) argue that previously, under polygynous customary marriages, each wife had her own rank and status and formed a separate proprietary and family unit within the family structure. More so, Yorgun (2022) highlights that when it comes to property and inheritance rights, the main wife and her children take a prime position in the family structure. In addition, Hayes, and van Baak (2022) denote that those wives are therefore neither equal to their husbands nor equal, although all the wives were under the guardianship of the husband. Moreover, Moosa and Abduroaaf (2022) denote that before 1998, African polygynous customary marriage was not legally recognized; the marriage was known as a union, and the only recognized marriage was civil. Radebe (2022) notes that in 1998, the Recognition of Customary Marriage Act No. 120 of 1998 was introduced to ensure that all marriages are legally recognized including polygynous customary marriage.

According to, Moore and Himonga (2017) state that in the time of apartheid, the Act that governed marriages in South Africa was the Marriages Act of 1961, which was biased in terms of race and culture. The Act did not recognize the relationships which were formalized in terms of indigenous African rites (Dyani-Mhango, 2016). Hence, the law and practice of inheritance and property resulted in women being discriminated against. When it comes to inheriting property, women tend to receive a smaller share of the husband or father's property when they die as compared to men and sons (Stofile & Mpya, 2022). As

a result of this literature, the researcher decided to go further to understand by exploring the 'proprietary consequences of the Vatsonga customary marriages. This was done to understand the proprietary consequences of the Vatsonga customary marriages.

## **1.2. Problem Statement**

In 1996, the South African Constitution was enacted, which afforded every citizen a right to equality. Subsequent to that, in 1998, the RCMA was also promulgated, which accorded equality status to spouses in clause 6. Despite those two pieces of legislation, in polygynous customary marriages, the complex dynamics of property and inheritance rights among spouses present a significant and underexplored area of inquiry. The traditional legal framework often lacks clarity in addressing the distribution and succession of property within such marital structures. The issue that needs exploration, is to examine the extent to which existing legal and cultural norms accommodate the rights of spouses in polygynous customary marriages concerning property ownership and inheritance by exploring the gaps and challenges within this context. The study appreciates the challenges of implementing the Recognition of Customary Marriages Act of 1998 in South Africa or any similar legislation.

## **1.3. Aim of The Study**

The aim of the study is to explore the proprietary consequences of the VaTsonga customary marriages in the Vhembe district.

### **1.3.1. Objective of The Study**

To achieve the above-mentioned aim of the study, the following objectives were adhered to:

- To demonstrate an understanding of polygamous marriages amongst Vatsonga people,
- To explore the proprietary consequences among Vatsonga upon the dissolution of marriage
- To determine ways to resolve proprietary consequences encountered by the Vatsonga people.

### **1.3.2. Research Questions**

To achieve the above-mentioned aim of the study, the following research questions were adhered to:

- What is the understanding of polygamous marriages amongst Vatsonga?
- What are the proprietary consequences encountered by Vatsonga women upon the dissolution of the marriage?
- What are ways to resolve the proprietary consequences encountered by the Vatsonga people?

### **1.4. Significance of the Study**

The findings of the study are envisaged to benefit the following categories: men and women married in African customary marriages; also, the Department of Home Affairs, as follows:

#### **1.4.1. Men and Women married in African Customary Marriages**

This study benefits men and women who are married and want to be married in an African customary marriage. The reason is that most people think these African customary marriages are no longer in existence because of these new marriages. Hence, it is true that our African customary norms and values are being withered and washed away because less has been instilled in the next generation. So, the study findings will be of record to show the whole world that in South Africa, there are still some villages that are still recognizing African or indigenous customs. Therefore, that is why the findings will help married men and women to be educated on their rights while in those marriages, being aware that their African customary marriage can be registered like any other

marriage since it is recognized by the Republic of South African Constitution. So, married men and women will gain knowledge of the practice and existence of marriages. Also instilling knowledge in them about the importance of marrying in African customary marriage and will be of benefit to women who are being robbed of their inheritance rights by most men who end up marrying according to civil marriages.

#### **1.4.2. South African Communities/Villages**

The study findings ought to benefit many South African villages. In South Africa, there are still some villages that are still practicing African customary marriages. In general, each culture has its own norms and values that govern and guide it to function not properly. So, some of the villages have abandoned this practice because a lot of people have been losing properties for some reason. Hence, the knowledge that they study will be shared by many people in several villages who will later understand the importance of their African customary marriages. During apartheid, many marriages that were under African customary law were not recognized by any law; however, after independence and democracy were introduced, they were later recognized, and many people were now able to claim the right to inheritance as compared to a long time ago. Since they were not recognized, they still enlighten many communities about the existence of these African customary marriages and the issue of them being recognized by the RCM of 1994.

#### **1.4.3. Department of Home Affairs**

To some extent, the study findings will open the minds of some of the workers who are working in the Department of Home Affairs and who deal with the issue of papers (migration, national ID, passports, and marriage certificates). The issue is that few people are aware that African customary marriage can be registered as civil marriage, meaning there is limited knowledge among African people. So, this will end up making them educate people or even do some campaigns to educate people about the registration and the dangers of not registering the marriage.

### **1.5. Delimitation of the Study**

Participants in the study comprised second wives and husbands in polygynous customary marriages, ranging in age from forty-three to sixty-seven years, residing in Jimmy Jones

sub-villages under Mavambe Village in the Vhembe district, Collins Chabane Municipality, Limpopo Province, South Africa. All the data in this study is not generalized.

## **1.6. Definition Of Key Concepts**

Below are the definitions of key terms used in the study:

### **1.6.1. Polygyny Marriage**

Polygyny marriage is a form of polygamy marriage wherein a man marries several women at the same time (Koos & Neupert-Wentz, 2020). In other words, polygyny marriage is a type of marriage in which a man can marry many wives at the same time.

### **1.6.2. Polygamy Marriage**

Polygamy is a form of marriage in which there are more than two spouses and allows a man or woman to have more than one partner (Koos & Neupert-Wentz, 2020). In other words, polygamy marriage is one of the marriages in which a man or woman marries several spouses at the same time and regards it as a union. Based on the study, polygamy marriage is the type of marriage in which men or women are married to one to two spouses at the same time (women married to several different men) or (men marrying several women) at the same time.

### **1.6.3. Customary Marriage**

Customary marriage refers to a marriage that is negotiated, celebrated, or concluded per any of the systems of indigenous African customary law that exist in South Africa (Golding, 2022). In other words, customary marriage is one of the African customary marriages in which marriages are based on negotiating with the women's side and, at the end, celebrating the union of two people, but lobola must be paid following African customs. Based on the study, customary marriage is one of those types of marriage in which men or women are married based on African customs.

#### **1.6.4. Property**

Property is viewed as any movable/immovable object, land /real estate, or intellectual property i.e., any physical or virtual entity that is owned by an individual or jointly by a group of individuals in a capitalist socio-economic system (Lou & Wu, 2022). In other words, property can be something that can be inherited or owned by someone as a result of working for them. Based on the study, property is something that is owned by someone, and they have the right to the same stuff.

#### **1.6.5. Lobola**

*Lobola* is defined by the Recognition Act as “property in cash or kind of value which a prospective husband or head of his family undertakes to give to the head of a prospective wife’s family in consideration of a customary marriage (Osman and Baase, 2022). Herbst and Du Plessis (2008) denoted that Lobola or lobola in Zulu, Swazi, Xhosa, Silozi, Shona, northern and southern Ndebele (mahadi in Sesotho, magadi in Setswana, lovola in Xitsonga, and mamalo in Tshivenda) is a property in livestock or kind that a prospective husband or head of his family promises to give to the head of a prospective wife's family in exchange for marrying their daughter”. In other words, lobola is a form of thank-you or appreciation that a husband gives to the family from which he wants to marry to thank them for raising the wife to be. Based on the study, lobola is a form of appreciation that is given by the prospective husband to the family of the daughter that he is intending to marry.

#### **1.6.6. Marriage**

According to Golding (2022), marriage is a relationship between two people that produces a formal and recognized partnership that is significant on multiple levels, including social, cultural, and legal. It is a fundamental institution that can be found in majority of nations around the globe, yet the form of this institution and the reason for its existence might differ significantly between cultures and religions. In other words, the purpose of marriage is to establish a relationship between two individuals that is committed and long-lasting. This is typically done with the intention of starting a family and providing a secure setting in which to bring up children. It entails joint rights and obligations between the couples, in addition to

the partners' relationship being recognized legally and socially by third parties. Based on the study, marriage is the union between two people.

### **1.6.7. Proprietary Consequences**

According to Dexter (2022), the proprietary consequences of a customary marriage are in terms of property, denoting that in the event of a divorce, both parties have the right to a proportionate share of the jointly held property, which includes every property as well as debts. Based on the study, proprietary consequences as for customary marriages happen when there might be an event in which maybe both parties want to divorce, and both sides have the right to the share of the properties and anything that they used to own.

## **1.7 Structure of the Study**

### **Chapter One: Introduction and Background of the Study**

Chapter One gives background and an introduction to Xitsonga customary marriages, and it covers how the laws governing customary marriages have changed over time. It also covers the history of polygamous marriage worldwide, in South Africa and Africa as a whole. Chapter One also covers the problem statement of the study, the objectives of the study, the research questions that guided the researcher, the rationale of the study, the delimitation of the study, and the definition of key terms.

### **Chapter Two: Literature Review and Conceptual Framework**

Chapter Two focuses on the conceptual framework employed in the study of Vatsonga customary marriages. In addition, it deals with the literature review of the study, in which the researcher explores the “*The Proprietary Consequences of the Vatsonga Customary Marriages*”.

### **Chapter Three: Research Design and Methodology**

Chapter Three focuses on several themes that make up the research methodology. For example, research approach and design, location, population, sampling and procedures,

data collection methods, data analysis, the trustworthiness of the research findings, ethical considerations, pilot testing, and chapter summary.

#### **Chapter Four: Presentation of the Study Data**

Chapter Four focuses on the presentation, coding and analysis of the data that the researcher collected. Since the study is qualitative, thematic data analysis was employed in the study. This chapter presents the findings from a study conducted in Malamulele under Vhembe district, Collins Chabane Municipality, Limpopo Province, South Africa. This section of the study presents data collected under the following topic: “***Proprietary Consequences of the Vatsonga Customary Marriages.***” Hence, to achieve this goal, there are several themes that were created or formulated that were guidelines for this maturation of the study. For example, understanding polygamous marriages amongst Vatsonga people; contributing factors leading Vatsonga people into polygynous marriages in South Africa; the proprietary consequences encountered by Vatsonga women upon the dissolution of the marriage; the implication of customary marriages; the Act regarding polygynous marriage amongst the Vatsonga people; and ways to resolve proprietary consequences encountered by the Vatsonga people.

#### **Chapter Five: Discussion of the Study Results and Recommendation**

Chapter Five focuses on interpreting the analysis and discussing the findings that are linked with the literature review. In addition, giving recommendations to be implemented by the country in future since the study is exploring the “*Proprietary Consequences of the Vatsonga Customary Marriages*”

The purpose of the study was to explore the proprietary consequences of the Vatsonga customary marriages. The study findings indicate that the second wives are losing property on a day-to-day basis. Also, their marriages are not registered and recognised in accordance with Act 1996 of the RCM. The reason is that the first wife was not consulted by the husband, making the marriage of the second wife invalid and void in some cases.

## 1.8. Chapter Summary

This chapter focused on the introduction and background of the study, it also focused on the problem statement, aims and objectives of the study, definition of the major concepts used in the study, delimitation of the study, significance of the study, and lastly the structure of the study.

## CHAPTER TWO

### LITERATURE REVIEW & CONCEPTUAL FRAMEWORK

#### 2.1. Introduction

This chapter consists of two sections. The first section focuses on the reviewed literature about polygamous marriages amongst Vatsonga people; the proprietary consequences encountered by Vatsonga women upon the dissolution of the marriage; the implication of customary marriages, the Act regarding polygynous marriage amongst the Vatsonga people; documents, the narrative in proprietary consequences encountered by Vatsonga women; an appraisal recommendation or ways to resolve proprietary consequences encountered by Vatsonga people. The last section focuses on the conceptual framework of the study that integrates with the study.

#### 2.2. African Customary Law (ACL)

Rautenbach (2022) denoted that African Customary Law (ACL) is protected in the Bill of Rights as it mentions freedom, belief, and opinion, the personal right to language and tradition, and the collective right, especially concerning cultural, religious, and linguistic societies (Sections 15, 30, and 31). Also, the Universal Declaration of Human Rights is premeditated to defend ACL as applicable only to the Legislature (and other Bill of Rights rights) and is solely limited (Section 36) and the general restrictions clause. Hence, the Bill of Rights on the issue of its protection to ACL is not subordinate to the same circumstances (Section 211, sub-Section 3), namely the requirement that it be used where relevant and subject to relevant legislation (Radebe, 2022). Also, Section 211 of the South African Legislature recognizes African customary law. Still, there is no textual connection to the communities recognized in Section 31(1), and ACL is regulated by the Constitution and any legislation that deals with it (Dyani-Mhango, 2016).

##### 2.2.1. African Customary Marriage (ACM) in South Africa

A customary marriage is negotiated, celebrated, and concluded under African customary law. Customary law governs customary marriages in South Africa (*also referred to as traditional marriage*) and regulates customary marriage and lobola (Recognition of

Customary Marriages Act 120 of 1998). According to RCMA 120 of 1998, all African customary marriages in South Africa are governed by customary law. Hence, before the Act, African customary women were under their husbands' marital power (the husband was superior to the wife) (Mkhize, 2022). More so, the same African customary law limited a wife's capacity to own property, get credit, contract, and access the courts (Aburabia, 2022). On November 15, 2000, several more traditional customs and laws remained in effect after the Act's passage. The Recognition of Customary Marriages Act 120 of 1998 regulates, registers, and dissolves traditional marriages and validates both partners' equal capacity. More so, the RCMA upholds pre-existing traditional marriages on their effective date, and this is true if a person had multiple customary marriages before the Act (Garenne, 2022).

Furthermore, Yorgun (2022) denotes that as far as Indigenous customary marriages are concerned, they must be regarded as valid only if, for example, both parties must be eighteen for them to say that they are going to get married under ACM, in which ACM should not be to minors; if so, they should have consent from the parent/legal guardian if she is under. Stofile and Mpya (2022) add that all traditional marriages are governed and monitored by African customary laws, and if one needs to be married under customary marriage in South Africa, they need to register three months after marriage. So, in registration, they should provide their spouse's ID number books, the wedding date, and any lobola arrangements for a customary marriage. Only can the marriage office or minister offer both parties a certificate that they are married if not so, the African customary marriage will be considered void (Dyani-Mhango, 2016).

In addition, the African Customary Marriage Act managed to gain momentum when it managed to put women as equal to men in the sense that women now have the ability or capability to buy, sell, and sue over assets (Chhabra & Bhanu, 2022). Before the Act, African customary women in marriages were subject to the rules of customary law regarding their intellectual property (the rights towards ownership of the property) (Chhabra & Bhanu, 2022). Hence, the husbands were the legal owners of their wives' possessions, but now, because of the Act, married couples can petition the High Court for permission to alter their matrimonial property arrangement (Chhabra & Bhanu, 2022).

More so, this can only be done if all the prerequisites are satisfied. The court has the authority to make an order that the pre-existing method of conflict resolution is no longer valid and that the parties involved can enter into a postnuptial contract (Dyani-Mhango, 2016).

In addition, Gaffney-Rhys (2012), states that after passing of the Act, even the so-called African traditional monogamous marriage of one husband and one wife will be community property; all parties are now allowed to share their estate, and both parties can also marry outside of community property, but an antenuptial contract is required. Furthermore, Chhabra and Bhanu (2022) stipulate that in some the cultures, like the Vatsonga people, if a man is married in an African customary marriage, he should petition the High Court to validate both his first and subsequent marriage contracts if he wants to enter a second or subsequent traditional marriage. Thus, it is encouraged to register the African customary marriage before three months after marriage to protect the marriage. Stofile and Mpya (2022) insinuate that even if there is no High Court order, marriage is legal but does not create a marriage of community of property where both parties' marriage is in accordance to say that even if there is a divorce, the property is divided in half. Under Sections 7, 8, 9, and 10 of the 1979 Divorce Act (No. 70) that govern this divorce (Divorce Act), even if there is a divorce in the marriage as long as that marriage was registered, both parties are protected and governed by the Act, even if marriage is in African customary marriages (Osman & Himonga, 2017).

Furthermore, even a court can help in dissolving an African traditional marriage and order the division of assets, maintenance payments, asset redistribution, and benefit forfeiture under the Divorce Act. Pre-Act marriages can now receive these instructions (Stofile & Mpya, 2022). In 2019, around July, thirty women in African customary marriages were given full legal rights to matrimonial assets, and all South Africans deserve to have their constitutional rights respected (Rautenbach, 2022). Hence, these changes strengthened women's equality in civil and traditional marriages, which is why the Act also stipulated constitutional protections for all affected parties in customary marriages and their dissolution (Stofile & Mpya, 2022; Chhabra & Bhanu, 2022).

### 2.2.1.1. Recognition of Customary Marriages Act 120 of 1998

As noted by the Recognition of Customary Marriages Act 120 of 1998, on November 15, 2000, the South African Parliament passed Act 120 of 1998, Recognizing Customary Marriages. RCMA 120 of 1998 accepts all African customary weddings in South Africa to redress past injustices against African women, and these laws allow the wives married in ACM to get civil law rights, for example, as they introduced husband-wife equality. Committed relationships and polygynous marriages are legalized (Machedi, 2020). More so, South Africa's Customary Marriages Act promotes gender equality, recognizes indigenous weddings, and protects their children's rights, while the African Customary Marriages Act protects women from discrimination (Mamacos, 2019).

Before going anywhere with this salivating issue, one needs to know or understand something about African customary marriages in South Africa. As noted by Section 1 of the RCMA, African customary laws are African customs (Section 1 of the Recognition of Customary Marriages Act 120 of 1998). Machedi (2020) stated that African marriages allow polygamy, include lobola, and require tasks. A settlement between two families. Furthermore, these African traditional marriages continue after one partner dies, meaning that even if the husband's death causes wealthy bride-to-bride marriages (Mamacos, 2019). In addition, Khumalo (2021) says that the Recognition of Customary Marriage Act does not discriminate against first wives when it comes to polygynous marriages, or even also, Christian marriages. The Act recognizes these marriages, making sure that rights are not violated and no one is being discriminated against based on anything, but both parties deserve to be equal in their union in the customary (Mkize, 2021). In other words, RMCA guarantees customary marriage women property ownership, meaning that they can own property after the death of the husband (Mamacos, 2019).

Mamacos (2019) stressed that, as much as the RMCA defends women, married in several African marriages, it is impossible to obtain a declaration of support for polygyny from single women. In 2000, after the recognition, the Recognizing Customary Marriage Act protected the property of women and established an involuntary arrangement for communal property ownership, but prenuptial agreements were permitted (Smith, 2019). So, Mamacos (2019) noted that, for example, this is a must *“if an African customary*

*husband who marries another woman is required to obtain court approval to manage the matrimonial property of his former wife and him"* (Mamacos, 2019), but that differs because in the Vatsonga tradition, if a husband wants to marry another woman, he must first be permitted by the first wife to do so and proceed to the court and marry another one (Merdad, Elbedour, Lau & Barker, 2022). That is why many second wives are unable to have property or anything because their marriages are considered invalid.

However, all African customary marriages that began before the recognition of the Act are valid, as noted in Section 2 of Sub-Section 3, and all marriages that violate Section 2(4) are dissolved (Stofile & Mpya, 2022). More so, Osman (2022) and Yorgun (2022) denote that in an African customary marriage, if the husband entails marrying another wife or second wife, he must get consent from his first wife. The reason is that the first wife, if their marriage is registered with RMCA 120 of 1998, is protected by the Act. Therefore, if anything happens, that second marriage will be regarded as void and not valid, and that person will not be able to claim inheritance rights after the husband is deceased (Dyani-Mhango, 2016).

In other words, all marriages are recognized by Sections 112 and 15(3), especially those that are regarded as African customary marriages, which is why they are protected to avoid suppressing the other party (Chhabra & Bhanu, 2022). In addition, the primary mandate of enacting the Polygamous Customary Marriages Act (RCMA 120 of 1998) was to curb or prevent discrimination against second wives in such unions (Mamacos, 2019). To concur, in mostly the Vatsonga culture and other several cultures, a husband who wants to marry another woman must first get government approval by uploading a written contract outlining their prospective personal law system (Machedi, 2020). Thus, the Act intends to protect wives who are married in African marriages before and after marriages so that they will not lose any property to another second wife who might be married under civil marriage (Haque, Hossain, and Ullah, 2022; Gaffney-Rhys, 2012). In other words, the Act specifies conventional marriage requirements, such as age difference and no minors (Recognition of Customary Marriages Act, Act 12 of 1998). In some cases, wives might suffer GBV from their husbands and decide to remarry another wife, so the Act is there to stand up for these vulnerable wives and make them the most protected victims

(Mamacos, 2019). More so, if we can look at Section 112 of the RSA Constitution 15(3), we could realize that the government itself recognizes marriages, and in Section 9, everyone is equal in the eyes of the law, thus why the RCMA 120 of 1998 protects and recognizes traditional forms of matrimony, as its name implies. Secondly, women are not only protected, but they can also follow cultural practices without being harassed (Mamacos, 2019). In some cases, even if there is no written certificate, they might consider it valid only if they ask for the certificates, but only African customary marriages receive marriage certificates after the traditional lobola and celebration. Institutions won't recognize a traditional marriage without a certificate (Mamacos, 2019).

However, the issue happens when the higher office, like the Higher Court, will 'only accept a marriage certificate or proof of registration of a customary marriage as evidence of a marriage, and a surviving spouse in a customary marriage is unable to provide evidence that they were married to the decedent to inherit from the estate' (Machedi, 2020). Even after the death of the husband, the people who are left have a chance of registering the marriage, and to confirm the marriage, officials from Home Affairs may ask the wife to bring a member of the husband's family with her (Moore & Himonga, 2017).

However, the husband's relatives may contest the marriage if the deceased passed away without leaving a will. If a non-registered customary marriage has been in existence for a significant amount of time and one of the spouses passes away, Home Affairs may not have the resources necessary to investigate; in this case, the surviving spouse must make an application to the court to have the marriage recognized (Mamacos, 2019). More so, Mamacos (2019) added that legal certainty requires that traditional marriages be registered because either party can register a marriage, and rural women need education on the process (Mamacos, 2019).

Additionally, Osman and Himonga (2017) denoted that people married in African customary marriages should be both adults, and they can only give consent about their marriages; and they should not be married somewhere. More so, since all polygamous customary marriages are marriages under RCMA 120 of 1998, they should be regulated by the High Court before the groom can marry again (Mwambene & Kruise, 2015). Hence, within three months of the ceremony, all required procedures must be completed

to validate the customary marriage (Osman, 2022). More so, Osman (2022) stresses that a marriage certificate is official proof of marriage, and to register a customary marriage with Home Affairs, both parties need to present their identification along with a lobola agreement letter and a witness or family representative.

### **2.2.1.2. Universal Declaration of Human Rights**

In Sub-Section (1) of Section 16 of the Universal Declaration of Human Rights, men and women of full age have the right to marry and have children without regard to race, nationality, or religion (Mamacos, 2019). They are entitled to equal rights in marriage, during the marriage, and after divorce. (2) Marriage may only be entered into with the free and full consent of the intended spouses. (3) The family is society's natural and fundamental group unit, and it is entitled to protection from both society and the state (Mamacos, 2019).

### **2.2.1.3. Constitution of the Republic of South Africa [No. 108 of 1996]**

In 1994, South Africa's final Constitution was passed, and its mandate was to protect and cover African customary law, which is based on the right to culture (RSA No. 108 of 1996). As to sections 30 and 31, and section 211(3), courts no longer have a choice about applying customary law to a given case," and "courts must adopt customary law while still being bound by the Constitution and other laws (Mamacos, 2019).

The Commission for the Promotion and Protection of Cultural and Linguistic Communities is set up by Section 181(1)(c) of the Constitution. Section 235 of the Constitution says that cultural and linguistic communities have the right to decide for themselves (RSA 108 of 1998). More so, Section 235 of the Constitution and other laws have made customary law more respected, and the Bill of Rights does not guarantee the right to culture, but the Constitution does, in which this right may be limited by the rights of others, national interests like order, safety, and health, and democratic values (Rautenbach, 2022). More so, according to Mamacos (2022), the Bill of Rights is limited by Section 36 of the South African Constitution, and it is only limited by general law if the limits are reasonable and fair in an open, democratic society based on human dignity, equality, and freedom. Factors that matter include the nature of the right, how important the purpose of the

limitation is, and the nature and extent of the limitation, and whether limitation relates to the purpose of the limitation. Also, no law can limit a right in the Bill of Rights unless it says so in another part of the Constitution (Mamacos, 2019).

In other words, the RSA Act 108 of 1996 made African customary law the same as common law but still aligned itself with other laws. Thus, Sections 39 (2) and (3) state that "every court, tribunal, or forum must promote the spirit, purpose, and goals of the Bill of Rights" (Rautenbach, 2022). So, the Bill of Rights does not take away other rights or freedoms that are recognized by common law, customary law, or other laws. But when it comes to African customary law, the Constitution and other laws say that courts must follow it. Any customary law rule that goes against the Bill of Rights or the Constitution is against the Constitution (Garenne, 2022). According to Mamacos (2019), in the era of post-apartheid, the Constitution of South Africa recognized African customary law, which helped keep it alive in other parts of Africa, and many South Africans lived and respected African customary laws. Also, African customary laws are considered not to be documented or written down, but they are passed from one generation to another in the form of enculturation (Osman, 2022).

### **2.3.2. The Nature of Polygyny Marriages Amongst Vatsonga People**

According to Alphonse (2023), the Vatsonga people, also known as the Tsonga people, are an ethnic group in South Africa with a rich cultural heritage. Baloyi, Nene and Mavhandu-Mudzusi (2022) added that Vatsonga African traditional practices and customs, including marriage, are diverse and may vary among different communities and individuals. It's important to note that cultural practices and attitudes can evolve over time, so it's possible that some aspects may have changed since then. In addition, Bishop (2021) argued that regarding polygynous marriages, polygyny is a form of marriage in which a man is allowed to have multiple wives simultaneously. Baloyi and Phumzile (2023) add that historically, African polygyny has been practiced among various African ethnic groups, including some within the Vatsonga community. However, Bishop (2021) argued that not all Vatsonga marriages are polygynous, and the practice may be more common in rural or traditional settings than in urban areas.

In addition, Diala (2022) postulated that in African traditional Vatsonga society, polygyny was often associated with social status and wealth. Fataar (2020) stressed that having multiple wives was seen as a sign of a man's prosperity and ability to support and protect his extended family. Additionally, Masinga (2021) argued that it was believed to enhance the lineage and ensure the continuation of family traditions. In recent times, with increasing urbanization, Western influences, and changes in legal and societal norms, the prevalence of polygynous marriages has decreased in South Africa, including among the Vatsonga (Muthivhi, 2018). Mutseta (2020) added that monogamous marriages have become more common due to legal and social changes that promote gender equality and women's rights. According to Mwambene (2017), it is essential to recognize that South Africa is a diverse country with various ethnic groups, each with its own unique cultural practices and customs. Therefore, Ndlovu (2016) stated that practices within the Vatsonga community may differ from those in other groups and regions of South Africa. For the study, most of the second wives find themselves unaware that their husband is married to the first wives, since the husbands do not disclose to them that they are indeed married.

### **2.3.3. Contributing Factors Leading Vatsonga People into Polygynous Marriages in South Africa**

Ross (2023) and Weeks (2021) denoted several contributing factors that have historically led Vatsonga people into polygynous marriages in South Africa. Below are some of them identified and discussed, as follows:

#### **2.3.3.1. Cultural and Traditional Norms**

Alphonse (2023) denotes that cultural and traditional norms have been identified as some of the contributing factors that have historically led Vatsonga people into polygynous marriages in South Africa. According to Baloyi, Nene, and Mavhandu-Mudzusi (2022), the majority of the Vatsonga people are deeply rooted in culture, and they follow their culture to its roots, meaning they are bound by their African customs. That is why today they are still practicing polygynous marriages. In addition, Baloyi and Phumzile (2023) add that many VaTsonga people who enter into these marriages are a result of following their customs, which they considered to have existed a long time ago and they still live

under them. Bishop (2021) argued that polygynous marriages are still widely practised around these tribes or clans, and most people who follow them regard it as a good way of living because they were passed from generation to generation through enculturation. Diala (2022) stated that is why, when they practice such, they view it as upholding and preserving their culture and cultural identity and heritage.

Previously per Vatsonga tradition the husband used to seek permission from the first wife in order to marry the subsequent wife. The first wife used to go back to her home in order to look for a suitable candidate for her husband and she (the first wife) used to be part of lobola negotiations for the second wife. The husband's failure to follow the custom and tradition of seeking permission from the first wife to marry the subsequent wife result in the suffering of first wife relationship with her husband, because the husband will shift focus from the first wife to the subsequent wife.

#### **2.3.3.2. Social Status, Prestige and Economic Factors**

According to Fataar (2020); social status, prestige, and economic factors were identified as some of the contributing factors that have historically led Vatsonga people into polygynous marriages in South Africa. Since poverty and unemployment are increasing in South Africa, many Vatsonga people are entering polygynous marriages because of poverty, and some are trying to find social status and prestige to be known and feared in the community (Masinga, 2021). More so, Muthivhi (2018) added that when one is married in such marriages, one is considered wealthy, and possesses mighty powers, and is respected in the community. Also, Mutseta (2020) stated that one will be considered to uphold the African customs that are reigning in the community, and they are carriers of the norms and values of the community. In some cases, some people are married in polygynous marriages because they want to be protected from hunger (feeding their own families); also, there is the issue of increasing agricultural production and greater economic stability (Mwambene, 2017).

#### **2.3.3.4. Fertility and Reproduction**

Fertility and reproduction have been identified as some of the contributing factors that have historically led Vatsonga people into polygynous marriages in South Africa (Ndlovu,

2016). According to Nhlapo (2017), the primary purpose of marriage is reproduction, meaning people marry to have children. So many people enter such marriages because they want to give birth and are expropriate. More so, Phamphe (2021) added that it is a norm that when people marry, they give birth to children, as many children are aborted around South Africa. Rikhotso (2017) added that it does not remove the issue that people enter into these marriages because they want to give birth and start their own families ensuring the continuity of the family and community.

#### **2.3.3.5. Extended Family Support**

Alphonse (2023) denotes that extended family support has been identified as one of the contributing factors that have historically led Vatsonga people into polygynous marriages in South Africa. According to Baloyi, Nene, and Mavhandu-Mudzusi (2022), the purpose of marriage is to unite two families that have different values and norms. Also, Baloyi and Phumzile (2023) add that when two families are united, this creates a stronger bond between them. So, many people who enter into such marriages look for support that might come from the husband's side or the wife's side, depending on who has money and who does not. However, Bishop (2021) argued that above all, many people enter polygynous marriages because they look for someone who comes from the other side of the family. In other words, polygynous marriages could create strong bonds among extended family members, as they are all part of the same lineage. This support network could be beneficial in times of hardship or need (Diala, 2022).

#### **2.3.3.6. Gender Roles and Expectations**

According to Fataar (2020), gender roles and expectations have been identified as some of the contributing factors that have historically led Vatsonga people into polygynous marriages in South Africa. Masinga (2021) denoted that most of the people that end up in marriages do so because they need to share their conjugal roles or because they want the other part to cook or even wash for them. In addition, Muthivhi (2018) added that most of these African gender roles often assign specific roles and responsibilities to men and women. Hence, Mutseta (2020) stressed that the marriage of polygyny has been identified as one of the marriages that allow women to play their part in the marriage,

being carers and homemakers while husbands also perform their duties, which is seen as a way to fulfill these roles, being providers for women.

### **2.3.3.7. Religious and Spiritual Beliefs**

Religious and spiritual beliefs have been identified as some of the contributing factors that have historically led Vatsonga people into polygynous marriages in South Africa (Mwambene, 2017). Ndlovu (2016) stated that in some of the cultures in South Africa, polygynous marriages are a religion, and they believe that a husband can marry another wife, but they should consult first with the first wife as a protocol or respect of the culture, for example, the Vatsonga people. In addition, Nhlapo (2017) highlighted that if a husband decides to marry another wife, he has to consult the first wife to show respect of their culture and religion. Phamphe (2021) added that for some, in some regions or African traditional practices, they view polygyny as a way to honour ancestors or follow divine instructions.

### **2.3.4. Proprietary Consequences Encountered by Women upon the Dissolution of the Marriage**

Below are some of the proprietary consequences encountered by women upon the dissolution of marriages in African customary marriages or marriages in general.

#### **2.3.4.1. Loss of property or inheritance**

According to Staff Reporter (2018), a lot of people who are married according to African customary laws are losing their inheritance due to their unregistered African customary marriages (polygynous). Staff Reporter added that due to the lack of knowledge that married people are in polygynous marriages, a lot of them are struggling to win inheritance in many cases (Staff Reporter, 2018). To add, Fisher-French (2021) assert that most women who entered unregistered customary law are losing their inheritance, most of them due to the fact that it was not registered before the husband passed away. The staff reporter added that most of these people are losing their inheritance because the husband of the person did not register the marriage as much as lobola was paid, but lobola does not mean that the marriage is registered; it only shows that the procedures

for marriage have been performed. More so, not only women are suffering from this kind of prejudice, but also children are losing their father's inheritance (Staff Reporter, 2018). To concur, the Staff Reporter cited some of the words of the widow that was affected by the situation where she was married in an African customary marriage, and it was not registered, and she lost her property and even her children too:

'Children can also lose out on inheritance whether they are born in marriage or out of it. Given the low rates of marriage and how the validity of a customary marriage can be questioned, the number of extramarital children who are denied access to their deceased father's property is a deep concern. The right of extramarital children to inherit is often questioned and must be negotiated with the deceased's family members (Staff Reporter, 2018).

In other words, based on the above words by a widow, this shows how much effect one can encounter if they do not register their African customary marriages under the Recognition of Customary Marriages Act 120 of 1998.

#### **2.3.4.2. Unregistered African Customary Marriage as accordance with (RCMA 120 of 1998).**

Machedi (2020) denoted that amongst the proprietary consequences that are encountered by people in polygynous marriage, their ACM is unregistered of their ACM in accordance with RCMA 120 of 1998. Osman (2022) denotes that most women who are regarded as married in African traditional marriage are not married according to RCMA 120 of 1998. So, most of them will realize that, because of a lack of knowledge, their ACM is not registered with the law, and the challenge comes in when the husband passes away, and another person who is married to the same husband under a civil marriage, ends up taking or possessing the inheritance (Fisher-French, 2021). Therefore, if the African customary marriage is not registered, one is obliged to register with Home Affairs and should produce a letter signed by all lobola delegates, photos from a ceremony confirming the marriage, and wedding witnesses (Recognition of Customary Marriages Act 120 of 1998).

### **2.3.5. An Appraisal Recommendation to Resolve Proprietary Consequences Encountered by Vatsonga People**

There are several ways that can be implemented to resolve the proprietary consequences encountered by people who are in polygynous marriages.

#### **2.3.5.1. Registering of the Customary Marriage**

According to Smith (2019) and Mkize (2021), African customary marriages should be registered following RCMA 120 of 1998. So, usually, the Recognition of Customary Marriages Act, 1998, makes provision for the recognition of customary marriages, provides the requirements that need to be met for a customary marriage to be deemed valid, regulates the registration of customary marriages, and regulates the proprietary consequences of customary marriages and the capacity of spouses of such marriages (Mkize, 2021).

In addition, Smith (2019) argued registration is very important because one will not be able to lose their assets, and this prevents disputes on properties after the death of the husband during marriage under African customary marriage. More so, the RCMA makes it easier for people who are married under CM to claim a right to the assets of a deceased spouse, to prove rights to a deceased estate, and for a wife to enforce her property rights if her husband takes other wives (Staff Reporter, 2018). To support this view, Fisher-French (2021) and Osman (2022) note that Section 4(2) of the Act states that either spouse may apply to the registration officer in the prescribed form for the registration of their customary marriage and that they must provide the prescribed information as well as any additional information the registering officer may require to satisfy themselves as to the existence of the marriage. Fisher-French and Osman both agree with this interpretation (Smith, 2019). According to the Act's Section (4)(a), a registering officer is required to register a valid customary marriage by recording the identities of the spouses, the date of the marriage, and any lobola that was agreed to at the time of the marriage (Mkize, 2021).

Mkize (2021) says that even though Section 4(9) of the Act says that a customary marriage is not invalid if it is not registered, it is hard to prove what marriage is without

even factual proof, like a certified copy of the marriage, if the marriage itself has not been registered. Customary marriages that have never been registered are often not recognized (Smith, 2019). Many wives expect their husbands to register their marriages because they don't think they have the power or because they live in a rural area where they can't easily get to the Department of Home Affairs (Mkize, 2021). Most wives find out after their husband dies that their marriage wasn't recognized (Mkize, 2021; Smith, 2019).

#### **2.2.5.2. Educational Campaigns/ Awareness to spouses especially women**

According to Djuikom and van de Walle (2022), education campaigns are very important in bringing awareness to people, especially in the context of African customary marriage, the Universal Declaration of Human Rights, and the Republic of South Africa Constitution Act of 1996. Machedi (2020) denoted that education is one of the key elements of life that is needed, especially around polygynous marriage and the recognition of customary marriage. Khumalo (2021) stipulates that most people who are married around customary marriage, or civil law, are not aware of their rights, that is why in law there is a proverb which says, '*Ignorance is not an excuse.*' Mkize (2021) avers that most marriages nowadays are falling apart because one party was not aware of their rights, or some only signed papers without scrutinizing, or some never signed any paper regarding marriage, but they consider themselves married. In addition, Mamacos (2019) added that women who are married under African customs or African customary law are not aware that there is a need to sign a marriage certificate, which is under the Customary Marriage Act 120 of 1998. As much as African people are not able to afford civil marriages, they can only marry under African customary law. A long time ago, no Act governed these marriages, especially in South Africa (Smith, 2019). Hence, because of the Bill of Rights and the SA constitution, these marriages end up being recognized (Djuikom & van de Walle, 2022).

Moreover, Merdad, Elbedour, Lau and Barker (2022) avow that since these marriages are now recognized by the law, most people are not aware of these facts, especially those people living in villages and who are only married under customs. Therefore, there is a need to educate African or indigenous people about their rights, making sure they know that their marriages or customs can be registered under the Customary Marriage Act 120

of 1998 and they can have marriage certificates the same as people married under civil marriage (Kyegombe, Stern & Buller, 2022); hence, the reason is that most of these people or women married under customs turn to lose properties or even inheritance when the husband dies. More so, according to Morelli (2022) and Xulu-Gama (2022), education is needed; it can be passed through mass campaigns or even education through social media or through educating chiefs so that they can pass the message to people married under customs. In addition, according to Mengistu, Shumye, Tesfaye, Haile, Bayisa, Yimer, Tadesse, Markos, Madoro, Assefa and Molla (2022), some people lose their properties because they are not married under civil marriages; hence, a lot end up committing suicide or even suffering from depression for the rest of their lives.

#### **2.2.5.3. Legal Assistance**

Aburabia (2022) denoted that legal assistance has been identified as one of the ways that can be implemented to resolve the proprietary consequences encountered by people who are in polygynous marriages. Ahmed, Khuwaja, Brohi, Othman, and Bin (2018) denoted that most of the people who end up losing property, like second wives, do so because they do not have lawyers who can guide them or who can advise them to be married under in community of property because it helps a lot when the husband dies, and she will also benefit from it. Also, Dexter (2020) added that the wife will not be able to lose after the dissolution of marriage; in other words, some second wives do not know anything about these marriages, so they need legal assistance to assist them in choosing the right type of marriage to be married to.

#### **2.2.5.4. Mediation and Counseling**

Mediation and counseling have been identified as some of the ways that can be implemented to resolve the proprietary consequences encountered by people who are in polygynous marriages (Akinyemi, Banda, De Wet, Akosile & Odimegwu, 2019). In most cases, before the divorce, most people need counselling that will help them make sure that it will not happen (Alwahaby, Cukurova, Papamitsiou & Giannakos, 2022). To add, Badejogbin (2022) stated that the issue is that a lawyer, psychologist or social worker should help the husband and wife to resolve their disputes so that the second wife won't lose any property after the divorce.

#### **2.2.5.5. Family Agreements**

Baloyi, Nene and Mavhandu-Mudzusi (2022) denoted that family agreements have been identified as one of the ways that can be implemented to resolve the proprietary consequences encountered by people who are in polygynous marriages. In some cases, Baloyi and Phumzile (2023) state that families are not involved when there is a conflict. For example, when the husband in a Vatsonga culture wants to marry another woman, the first wife will think that the husband is cheating her. Baloyi (2017) added that this can lead to unnecessary disputes, so that is where families can come in and try to resolve such disputes to prevent divorces and the loss of property of children during the tragedy.

#### **2.2.5.6. Support Networks**

According to Nhlapo (2017), support networks have been identified as one of the ways that can be implemented to resolve the proprietary consequences encountered by people who are in polygynous marriages. Smith (2019) stated that the majority of these marriages break down because people do not have support that comes from the community. Also, when people begin to engage with each other, one will end up realizing that someone was also in the same situation, but they ended up managing to find a way out through sharing (Smith, 2019). In that notion, Fisher-French (2021) highlighted that community engagement is very important in many marriages around the world because people there will give proper advice, share their personal experiences, and even find solutions to such proprietary challenges that can come because of misunderstanding, and they offer emotional support and practical guidance.

#### **2.2.5.7. Women's Empowerment through Entrepreneurship**

Women's empowerment through entrepreneurship has been identified as one of the several ways that can be implemented to resolve the proprietary consequences encountered by people who are in polygynous marriages (Osman, 2022). Smith (2019) postulated that most of the women who are in polygynous marriages - some are in those marriages because they need support, and they are running away from poverty. So, there is a need to empower a black child or woman so that they can be dependable to themselves even after the dissolution of marriage (Mkize, 2021). Also, they can be taught about business so that they can stand up for themselves and not rely on men. That is why

there is an African proverb which says: “*By educating a woman, you have empowered a nation*” (Mkize, 2021). In other words, empowering women to know about their rights in marriage and to know when to get their marriage registered.

## **2.4. Theoretical Framework**

For this study, the researcher focused on theoretical approaches, namely social exchange theory. This theory is relevant to the study the behavior of the people is the result of maximizing benefits and minimizing the costs of the relationship, therefore Social Exchange Theory maximizes the benefits and minimizes the cost. The Social Exchange Theory assumes goal-oriented people in a competitive social system where exchange processes lead to power and privilege differentiation.

### **2.4.1. Social Exchange Theory (SET)**

G. Homan developed the social exchange theory in 1958, according to Cherry and Harperjun (2022). Homan founded behavioural sociology, led Harvard's sociology department, and was president of the American Sociological Association (Cherry, 2022; Harperjun, 2022; Cardwell & Flanagan, 2016). Cardwell and Flanagan name Homan's coworkers as John Thibaut, Harold Kelley, and Peter Blau. Social exchange theories by Homans, Blau, and Emerson (Saffarinia, Sharifian & Fard, 2020) and Thibaut and Kelley should have studied individuals. Blau warned that psychological considerations shouldn't cloud interpersonal interactions (2022). Michaels, Edward and Acock (1984). say social behaviour is the result of maximizing benefits and minimizing costs. Social exchange theory says relationships end when costs outweigh benefits (Cherry, 2022). Most relationships aren't balanced (Harperjun, 2022). The social exchange indicates the importance of weighing the benefits and costs of our relationships (Michaels, Acock & Edwards, 1986). Saffarinia, Sharifian and Fard (2020) propose a cost-benefit analysis of romantic relationships. However (Cherry, 2022). Harperjun (2022) says the SET prolongs some marriages. Thibaut and Kelly view social interactions as transactions in which each participant seeks to maximize 'profit' while minimizing 'cost' (Cardwell and Flanagan, 2016) and individuals do what's best for themselves.

Moreover, SET assumes goal-oriented people in a competitive social system where exchange processes lead to power and privilege differentiation (Harperjun, 2022). Social interactions are competitive (Saffarinia, Sharifian & Fard, 2020). Those with more money have more influence and gain more in negotiations (Cardwell & Flanagan, 2016). SET assumes people maximize profits or benefits, especially when satisfying basic needs (Cardwell & Flanagan, 2016). Social exchange theory says human interactions are essential (Cardwell & Flanagan, 2016). Cherry (2022) says payoffs shape social interactions. Social interactions help and hinder people. People seek relationships that meet their needs, but they're also influenced by others (Cardwell & Flanagan, 2016).

Sprecher and Schwartz (1994) say people seek social benefits and avoid drawbacks. Rusbult and Buunk (1993) say humans choose beneficial social behaviours after considering all information. More so, Cherry (2022) denoted people as repeat rewarded or low-cost behaviours because they are expensive. Social exchanges are reliable, according to Cardwell and Flanagan (2016). Homans (1961) noted people are happiest when they get back roughly what they put in, and many family relationships encourage inequality between siblings, parents, and spouses (Cardwell & Flanagan, 2016). Reciprocity underlies equal exchange, and social interaction is reciprocal. Balanced reciprocity improves social interactions (Cardwell & Flanagan, 2016). Furthermore, SET suggests that people who perceive reciprocity in their social relationships are happier and more likely to maintain them. SET focuses on several concepts that help describe social interactions (Cropanzano, Anthony, Daniels & Hall, 2017). Humans' base decisions on the rewards and costs of their options. Cross and Dundon (2019) added that rewards are benefits traded in personal relationships that reward a social exchange. One person may view spouse praise as a reward, while another may not (Cardwell & Flanagan, 2016); hence, your spouse's rewards will motivate you to behave properly (Cardwell & Flanagan, 2016).

The social education theory suggests subtracting a relationship's costs from its benefits to determine its value, and relationships cost money, time, and effort (Jahan & Kim, 2020). A lender loses money if a borrower does not repay. Benefits include emotional, social, or psychological companionship (Zhao & Detlor, 2021). In social exchange theory,

expectation and comparison levels involve cost-benefit analysis (Wallenburg & Handfield, 2022). Furthermore, there are several obstacles behind SET. For example, evaluating SET's costs and benefits is highlighted by Hsu, Yin, and Huang (2017), who point out that these factors are subjective. One example would be that some people will notice benefits where others won't (Cardwell & Flanagan, 2016). Cardwell and Flanagan (2016) mentioned Liltejohn; Harperjun (2022) who emphasized that relationships are dynamic, meaning that they change over time, so certain characteristics may be rewarding but can later become a burden. Furthermore, Cardwell and Flanagan (2016) assert that it is hard to quantify relationship costs and benefits. This business-focused theory discusses costs and benefits (economic jargon). Costs and benefits prevent SET use in relationships (Harperjun, 2022). The theory can't be applied to romantic relationships because costs and benefits are hard to measure (Harperjun, 2022; Cardwell & Flanagan, 2016). According to Cropanzano, Anthony, Daniels and Hall (2017), SET ignores factors that lead to relationship satisfaction. Married people automatically live by their beliefs, so they're more committed to their relationship. Hence, Cardwell and Flanagan (2016); Harperjun (2022) denote that SET does not explain relationship satisfaction differences.

## **2.5. Chapter Summary**

This chapter needed to review the literature about the polygynous marriages among Vatsonga. The first section focused on the reviewed literature about polygamous marriages amongst Vatsonga people; the proprietary consequences encountered by Vatsonga women upon the dissolution of the marriage; the implication of customary marriages, the Act regarding polygynous marriage amongst the Vatsonga people; documents, the narrative in proprietary consequences encountered by Vatsonga women; an appraisal recommendation or ways to resolve proprietary consequences encountered by Vatsonga people. The last section focuses on the conceptual framework of the study that integrates with the study.

## CHAPTER THREE

### RESEARCH METHODOLOGY

#### 3.1. Introduction

Chapter Three focuses on several themes that make up the research methodology. For example, research approach and design, location, population, sampling and procedures, data collection methods, data analysis, the trustworthiness of the research findings, ethical considerations, pilot testing, and chapter summary.

#### 3.2. Research Approach

A research approach is both a strategy and a technique that consist of stages that range from high-level hypotheses to techniques for gathering information, assessment, and understanding, or it is dependent on the characteristics of the research that has been investigated (Chetty, 2016). Solanki (2022) denoted that research approaches are the strategies as well as planning processes that are put in place throughout the research methodology, from the pre-conceived notions to the finer points of information gathering, analysis, and perception.

According to Bouchrika (2022), the research approach is a way of learning anything new or improving one's understanding of a topic or problem accomplished through the research method. However, there are numerous types or categories of approaches in research, namely mixed methods that involve the use of qualitative and quantitative approaches, there is a qualitative approach and finally, a quantitative. Therefore, it is key to know the type of approach that suits the study so that one will not make a mistake in making the wrong decision.

There are several types of research approaches that are used by researchers when they are collecting their data. For example, quantitative, qualitative, and mixed methods (Baran, 2022). However, because of the nature of the study, the researcher chose qualitative research approach which best helped the researcher understand the project being researched.

### 3.2.1. Qualitative Research Approach

Qualitative research involves collecting and analyzing non-numerical data (e.g., text, video, or audio) to understand concepts, opinions, or experiences and can be used to gather in-depth insights into a problem or generate new ideas for research (Bhandari, 2020). In other words, qualitative research is the process of collecting, analyzing, and interpreting non-numerical data, such as language, and can be used to understand how an individual subjectively perceives and gives meaning to their social reality.

In addition, Alvesson, Sandberg, and Einola (2022) stressed that qualitative research is quantified as methods used to answer questions about experience, meaning, and perspective, most often from the standpoint of the participant, and these data are usually not amenable to counting or measuring. In research, Bhandari (2020) added that there are several kinds of techniques used to collect data, for example, small-group discussions for investigating beliefs, attitudes, and concepts of normative behaviour; semi-structured interviews, to seek views on a focused topic or, with key informants, for background information or an institutional perspective. Also, Hammarberg, Kirkman, and de Lacey (2016) added that in-depth interviews' help the researcher understand a condition, experience, or event from a personal perspective and analysis of texts and documents, such as government reports, media articles, websites, or diaries, to learn about distributed or private knowledge.

Therefore, the reason why the researcher chose a qualitative research approach was because qualitative research methods allowed the researcher to collect or gather in-depth data and create further probing and questioning of participants based on their responses, where the interviewer or researcher also tried to comprehend their motivation and feelings (Alvesson, Sandberg & Einola, 2022). In addition, McLeod (2019) stressed that the qualitative research approach helped the researcher understand how participants takes decisions can help derive conclusions in market research. That is why the researcher needed a proper understanding of the study about spouses in polygynous customary marriages.

In other words, the qualitative research approach helped the researcher gather in-depth data from the participants about customary marriages that are happening in the village. Also, gathering experiences about the participants and what they go through during these customary marriages.

### **3.3. Research Design**

Research design refers to ‘the comprehensive research strategy that identifies a concise and logical approach for addressing established research question(s) through data gathering, interpretation, analysis, and discussion’ (Alvesson, Sandberg & Einola, 2022). Alvesson, Sandberg and Einola (2022) stressed that research design is a set procedure or strategy which moves the underlying philosophical assumptions to specify the selection of participants, the data-gathering techniques to be used, and the data analysis to be done.

In other words, research design is a plan or structured framework of how you intend to conduct a research process to solve research problems or procedures that guide the research in the process of verifying a hypothesis or explanation. Since the researcher chose qualitative research, the research design that the researcher looked for followed qualitative research design, for example, exploratory, explanatory to mention but the few (Creswell & Creswell, 2018).

However, for the determination of the qualitative research design. The researcher chose or employed an exploratory qualitative research design. This design has been explained and elaborated as follows:

#### **3.3.1. Exploratory Qualitative Research Design**

According to Creswell and Creswell (2018), exploratory research is defined as ‘research used to investigate a problem which is not clearly defined and has a better understanding of the existing problem but will not provide conclusive results and is used by the researcher to answer queries or questions like what, why, and how.

However, the reason why the researcher chose this type of design was because the design helped the researcher have a better understanding of the existing problem, which

usually doesn't lead to a conclusive result. The most important reason why the researcher opts for this design is that it helps him or her when trying to gain familiarity with an existing phenomenon and acquire new insight into it to form a more precise problem (proprietary consequences of the African customary marriages around the Vatsonga people).

More so, it might start with a general idea, and the outcomes of the research are used to find out related issues with the topic of the research. The findings of the study help the researcher find better outcomes by providing answers to questions like what, how, and why. In other words, exploratory qualitative research design helps the researcher gather in-depth data that is not known to him or others. Since the researcher wants to understand the proprietary consequences of the Vatsonga customary marriages in the Vhembe District. An exploratory qualitative research design was used because it helped the researcher investigate a problem that has not been studied or thoroughly investigated in the past.

### 3.3. Location of The Study

For this study, the researcher gathered participants who resided at Malamulele under Vhembe district in Collins Chabane Municipality, Limpopo Province, South Africa.

#### STUDY AREA: MALAMULELE COMMUNITY/VILLAGE MAP

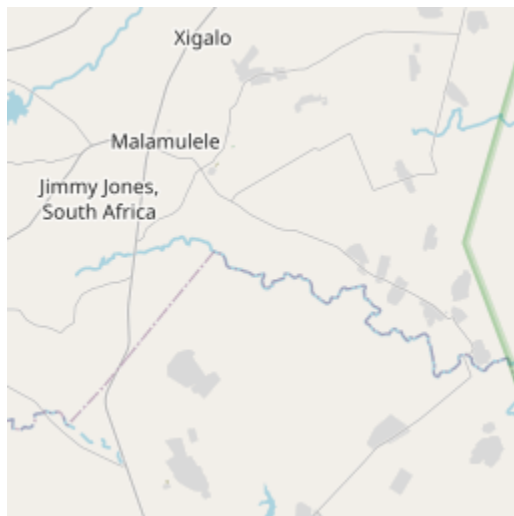


Figure 1

According to Gumbo, Malaka, Odiyo, and Nare (2010), Malamulele is a town located in Limpopo, South Africa, primarily inhabited by the Tsonga people. Mathonsi (2017) denoted that it is surrounded by the R81 and R524 roads, including the Punda Maria Gate of the Kruger National Park. Amedzo (2007) stated that the town is situated between the Levubu River to the west, the Letaba River to the east, and the Shingwedzi River to the south. Baloyi (2017) added that the Shingwedzi River flows from west to east, eventually merging with the Olifants River in Mozambique before reaching the Indian Ocean. Shivambu (2014) stressed that the Collins Chabane Local Municipality is located in Malamulele.

In addition, Mabunda, Moeti and Ntshangase (2021) assert that Malamulele consists of approximately 101 villages and has a population of around 500,000 people. According to the 2011 census conducted by Stats SA, Mushwana and Ngonyama (2015) reported that there were 206,646 individuals residing in 82 villages of Malamulele, excluding the township. Shibambu, Malatji, and Maluleke, and Ssirc (2022) added that in 2001, Thulamela recorded a population of 199,807 individuals in 16 primary regions, excluding the township. Musitha (2016) stressed that these figures are believed to include the count of autonomous chiefs.

Baloyi, Gumbo and Muzerengi (2014) noted that Malamulele is positioned between Giyani to the east, starting at the Letaba River, and Thohoyandou to the northwest, starting at the Rivhubye River. Rasila and Musitha (2017) added that the town is located along the Tete-Gauteng Cahora Bassa HVDC power transmission route. Mabunda and van Graan, (2022) stated that in August 2016, the Malamulele Area municipality became independent from Thulamela, but remained under the jurisdiction of the Vhembe District Municipality.

Rembuluwani, Dacosta and Gumbo (2014) stated that Kruger National Park is located in the northeast of Malamulele Town, with various distances from different points within the park. Khosa (2012) denoted that Malamulele Town itself is located 243 km from Polokwane, the capital of Limpopo Province, 453 km from Pretoria, and 580 km from Johannesburg. Additionally, Mabasa and Makhubele (2019) stated that Malamulele is

equidistant, approximately 60 kilometers from both the Zimbabwe border and Mozambique. It shares borders with both countries.

Mokgopo (2016) denoted that Malamulele has historical significance, as it was established during the apartheid era as part of the homeland settlement program. It served as a settlement for people migrating from the banks of the Rivhubye. Chauke, Litshani, Muthambi, Mudau and Ncube, (2022) stated that various communities and lineages, such as Phaphazela, Makhuvele, and Magwamba, have contributed to the development of Malamulele. Netswera and Nealer (2020) stressed that the town has experienced population movements, including relocations from Rivhubye and transfers to Venda.

In terms of governance, Musitha (2016) argued that Malamulele preceded Giyani as the initial settlement in the former Gazankulu territory. Mabunda, Moeti and Ntshangase, (2021) stated that the Levubu-Shingwedzi Transitional Local Municipality was formed in the post-apartheid era, replacing the former Malamulele. Shivambu (2014) added that the merger with Thohoyandou faced opposition between 2000 and 2015, resulting in protests and property damage. Baloyi (2017) added that the establishment of the Malamulele municipality was eventually declared in July 2015, and the Collins Chabane Local Municipality assumed control of Vuwani and Bungeni from Makhado in August 2016. Amedzo (2007) denoted that geographically, Malamulele is located at a low altitude and characterized by hills rather than significant mountains. The soil is gray and sandy, referred to as ntlhava. Gumbo, Malaka, Odiyo and Nare, (2010) stated that the town covers an area of approximately 1551.93 km<sup>2</sup> and is surrounded by an area of 178.283 square kilometers. Mathonsi, (2017) denoted that settlements in the region are segregated by bush, and the climate is tropical, with long, warm, and wet summers and short, cool, and arid winters.

In terms of politics, Shibambu, Malatji, and Maluleke Ssirc (2022) denoted that Malamulele has consistently voted for the African National Congress (ANC) since the enfranchisement of black South Africans in 1994. Baloyi, Gumbo and Muzerengi (2014)

added that the town has an 80% vote share for the ANC, which is twenty percent higher than the national average. Rasila and Musitha (2017) denoted that the population of Malamulele consists of around 500,000 individuals residing in approximately 101 villages.

### **3.4. Population of The Study**

For this study, participants who participated in the study were five-second wives married in an African polygynous marriage and five husbands married in an African polygynous marriage.

### **3.5. Sampling Procedures**

According to Tuovila (2020), sampling refers to the procedure of selecting the components of the sample group that are going into the scope of the study. This selection is made in accordance with the criteria of the research. In addition, sampling refers to the procedure of choosing a few particular characteristics from a broader sample to form the foundation for calculating or making predictions about the preponderance of an undiscovered data item, circumstance, or output and this selection is done using a sample (Turner, 2020). In research, there are two categories of sampling, both in qualitative and quantitative research, namely, non-probability and probability. Since the study adopted a qualitative research approach, the researcher chose a non-probability sampling technique.

#### **3.5.1. Non-Probability Sampling Technique**

According to Tuovila (2020), the choice of a subset of a group of people, as opposed to a representative sample at random, is known as non-probability sampling. Non-probability sampling procedures do not ensure population the accuracy in the same way that probability sampling does, and so they cannot be used to calculate statistical measures of sample variance and the ability for generalization (Tuovila, 2020). There are several types of non-probability sampling techniques in research. However, for this study, because of the nature of the study on African polygynous marriages among the Vatsonga people. The researcher first chose purposive sampling, which helps the researcher first identify the people married in polygynous marriages using his judgment. Secondly, the

researcher used snowball sampling which acted as a spider web in identifying some of the hidden participants who belonged to the African polygynous marriage.

### **3.5.1.1. Purposive Sampling**

According to Tuovila (2020), purposive sampling is 'based entirely on the judgment of the researcher in that a sample is an attribute of the population that serves the purpose of the study best. To add, Turner (2020) defines qualitative research as the classification and screening of relevant data cases with the intention of making the best use of constrained capacity that is typically accomplished using a methodology known as purposeful sampling. Turner (2020) stressed that it involves locating and choosing people or collections of people who have a particularly thorough understanding of, or expertise with, a subject that interests them. The collection of non-probability sampling methods known as purposeful sampling is known as purposive sampling. Whenever it emerges to choose the units (such as people, situations, events, and data items) that are going to be investigated, purposive sampling, which is also known as judgmental, selective, or subjective sampling, depends on the expertise of the researcher (Cash, Isaksson, Maier, and Summers, 2022).

Since the study focuses on African polygynous customary marriages, the researcher opted to use non-probability sampling because it focuses on characteristics of a population that are of interest, which will best enable you to answer your research questions. Also, the sample being studied is not representative of the population, but for researchers pursuing qualitative or mixed-methods research designs, this is not considered a weakness. Rather, it is a choice, the purpose of which varies depending on the type of purposive sampling technique that is used. For example, in homogeneous sampling, units are selected based on their having similar characteristics because such characteristics are of interest to the researcher. By contrast, critical case sampling is frequently used in exploratory, qualitative research to assess whether the phenomenon of interest even exists (among other reasons). In other words, this sampling method chosen by the researcher, had the same characteristics that were needed for the study. Second-wives and husbands in polygynous customary marriages who were purposively

sampled provided the researcher with relevant and informative data that were needed in the study.

The researcher chose the first participant purposefully knowing that the selected participant is a second wife in a polygynous marriage and that she knows more about the Xitsonga customary polygynous marriages. The first participant doesn't leave very far from the researcher, so it was purposive for the researcher to select that participant.

### **3.5.1.2. Snowball Sampling**

According to Tuner (2020), snowball sampling is a process of gradually accumulating a sufficiently large enough sample through contact and personal reference. To stress this, Cash, Isaksson, Maier and Summers (2022) assert that snowball sampling is also known as chain referral sampling which is a method whereby participants with whom contact has already been made are used to penetrate their social networks to refer the researcher to other participants who could potentially take part in or contribute to the study. The researcher adopted snowball sampling methods in selecting certain criteria of people who were relevant to the study and unknown to the researcher, but known to the participants (Cash, Isaksson, Maier & Summers, 2022).

After the first interview with the participant (the second wife married in an African customary marriage), the participant referred the researcher to another second wife in a polygynous marriage who knew and understood the Xitsonga customary marriages. After every interview, the participants would always refer the researcher to the next second wife in polygynous marriage whom they know. In other words, snowball sampling helped the researcher to identify the relevant participants who were married in the African customary marriage and who were second wives and who were able to help the researcher to ask for a meeting so that interviews could be carried out. In addition, these referrals were very important in the study because some of the participants were not known by the researcher, and they made the work of the researcher very easy. Data was gathered and information preserved.

### **3.5.1.2.1. Sample Size**

In a qualitative research approach, Malterud, Siersma and Guassora (2016) posit that the sample size should be large enough to sufficiently describe the phenomenon of interest and address the research question at hand. On the other hand, the sample size should be enough because a larger sample size carries the risk of having repetitive data, which makes the data biased and bogus. Therefore, the mandate of this approach, called qualitative, is to reach or attain data saturation. Malterud, Siersma and Guassora (2016) highlighted that data saturation happens when adding more participants to the study does not result in obtaining additional perspectives or information. So, one can think of diminishing returns with larger samples, as it leads to more data but does not necessarily lead to more information (Cash, Isaksson, Maier and Summers, 2022).

On that notion, the researcher chose only ten participants to take part in the study. In other words, a sample size of five women who were married as second wives in polygynous marriages aged forty-seven to sixty years and five husbands in polygynous customary marriages aged forty-nine to sixty-three were selected using purposive sampling. Also, both groups of men and women had to meet the criteria of having been married for at least ten years in a polygynous customary marriage and residing around the Malamulele community or village in Vhembe District in Limpopo Province, South Africa.

### **3.6. Data Collection Methods**

Data collection methods are 'procedures specifying techniques to be employed, measuring instruments to be utilized and activities to be conducted in implementing a research study (Creswell & Creswell, 2018). In qualitative research, there are several types or kinds of data collection methods, namely, surveys, observation, interviews, and focused group discussions, to mention but a few. However, for this study, the researcher chose semi-structured interviews to gather data from participants married in a polygynous marriage.

### 3.6.1. Semi-Structured interview

According to Creswell and Creswell (2018), semi-structured interviews are types of qualitative data collection methods with partially structured questions that consist of questions that are open or close-ended but administered face-to-face. Creswell and Creswell added that these semi-structured interviews are also referred to as in-depth interviews, which merely extend and formalize the conversation and are referred to as a conversation with a purpose (Creswell & Creswell, 2018). Based on the study, the primary purpose for the researcher to choose this type of DCM was because the interviewer and participants were engaging in a formal interview which had a scheduled time to sit and speak with each other about the research topic, and the researcher was also allowed to ask questions.

The research was conducted in rural areas and most of the participants were old people who could not read or write, so reading all the interview questions was necessary to make the participants aware of the information the researcher was looking for. In other words, open-ended questions often take the form of a conversation with the target that the researcher explores with the participant his or her views, ideas, beliefs and attitudes about certain events or phenomena. Open-ended interviews are normally spread over a period and consist of a series of interviews. In open-ended questions, participants may propose solutions or provide insights into the event, but the focus is mainly on their perceptions of the event or phenomenon studied. The researcher used open-ended questions because of a formal conversation which emerged between the researcher and the second wife in a polygynous marriage to share information about the property and inheritance rights of spouses in customary polygynous marriage. After several series of interviews using open-ended questions, some of the participants revealed important information that was needed.

Semi-structured in-depth interviews are commonly used in qualitative research and are the most frequent qualitative data sources in health services research. This method typically consists of a dialogue between researcher and the participant, guided by a flexible interview protocol and supplemented by follow-up questions, probes and comments (DeJonckheere & Vaughn, 2019). The method allows the researcher to collect

open-ended data, explore participant thoughts, feelings and beliefs about a topic and delve deeply into personal and sometimes sensitive issues. Semi-structured interviews provide an effective and feasible research method for family physicians to conduct in primary care research settings (Creswell & Creswell, 2018).

To add, DeJonckheere and Vaughn (2019) denoted that researchers using semi-structured interviews for data collection should take on a relational focus and consider the skills of interviewing to ensure quality. Semi-structured interviewing can be a powerful tool for family physicians, primary care providers and other health services researchers to use to understand the thoughts, beliefs, and experiences of individuals (DeJonckheere, & Vaughn, 2019). Despite the utility, semi-structured interviews can be intimidating and challenging for researchers not familiar with qualitative approaches (Creswell & Creswell, 2018). To elucidate this method, DeJonckheere and Vaughn (2019) provide practical guidance for researchers, including novice researchers and those with few resources, to use semi-structured interviewing as a data collection strategy. They provide recommendations for the essential steps to follow to best implement semi-structured interviews in family medicine and primary care research settings.

However, before the interview, participants were informed about the interview. This was very crucial because it was done to avoid harming the participants' right to know about what was taking place since this was a key and was for academic purposes, and the researcher is a student at the University of Venda, under the Department of African Studies, all this were detailed in the consent letter and explained in the same way. The passion and preparedness of the participants in the study were shown by some of the participants while the interview was on. During the interview, the researcher would ask one question and participants would respond to the question and elaborate more and more on the answer given. This shows that indeed, the participants were enjoying the interview, and that they had more information needed by the researcher. These questions were open-ended to allow probing of what had been said. This allowed the participants to share their experiences and knowledge about Xitsonga customary marriage, inheritance, and property rights. It was a wise move for the researcher to use open-ended

questions because close-ended questions would not have allowed the participant to do so.

Since the researcher adopted semi-structured interviews, it was very simple to gather numerous pieces of data from the participants by scheduling dates. For example, the researcher was able to arrange the date and time for interviews with the participants which lasted for about thirty minutes. The researcher managed to interview participants, and the interviews took place at the participants' homestead. Language was not a barrier, but for the study, interpretations were done from English to Xitsonga. To be able to have proper data collection, a tape recorder was used in the interviews, and notes were taken during the interviews for backup purposes. After the interviews, the researcher submitted the interview recordings to the translator to help with interpretations to avoid loss of translation.

### **3.7. Data Analysis Methods**

According to Clarke and Braun (2017), data analysis is an interpretative philosophy that is aimed at examining the meaningful and symbolic content of qualitative data. To stress more further, Clarke and Braun (2017) explained that, phrased differently, it tries to establish how participants make meaning of specific phenomena by analyzing their perceptions, attitudes, understanding, knowledge, value, feelings, and experiences to approximate their construction of the phenomena. In other words, qualitative analysis is the non-numerical examination and interpretation of observation to discover underlying meanings and patterns of relationships. Based on this study, the researcher adopted thematic data analysis, which will be elaborated in more detail below.

#### **3.7.1. Thematic Qualitative Data Analysis**

Clarke and Braun (2017) observed that thematic qualitative data analysis happens when the 'researcher starts with some collection of qualitative data and then processes it through analytical procedures into a clear, understandable, insightful, trustworthy, and even original analysis. Varpiom, Ajjawi, Monrouxe, O'Brien and Rees (2017) indicate that open coding is done after going through the collected data several times and that makes it easy for the researcher in the interpretation of data. In addition, Varpio, Young,

Uijtdehaage and Paradis (2019) stressed that themes are also generated from different responses of the participants, different cases emerge from the analysis, and the tape-recorded interviews and the camera are reviewed several times for transcription purposes. Clarke and Braun (2017) added that the researcher also uses the open coding method of data analysis.

For this study, the researcher used qualitative thematic data analysis because it offers researchers great flexibility concerning the type of research questions it can address, from personal accounts of people's experiences and understandings to broader constructs in various social contexts; the type of data and documents examined; the volume of data analyzed; the choice of theoretical and/or epistemological framework applied; and the ability to analyze data with an inductive, data-driven approach or a deductive, theory-driven approach (Kiger, Meyer, Hammond, Miller, Dickey, Hammond and Varpio, 2019). The researcher adopted the following six steps of data analysis by Clarke and Braun (2013):

### **Step 1: Familiarizing yourself with the data**

Kiger and Varpio (2020) state that the first step in the thematic analysis process is becoming familiar with the entire data set, which entails repeated and active reading through the data. Depending on the study, the data set might include interviews, focus groups, recorded observations, field notes, journal entries, or other media such as photographs or videos (Nowell, Norris, White & Moules, 2017).

While it can be tempting to begin coding data and searching for themes immediately, familiarizing oneself with the entirety of the data set first will provide a valuable orientation to the raw data and is foundational for all subsequent steps (Clarke & Braun, 2017). For audio data that needs to be transcribed, the process of transcription can be time-consuming but also serves as an excellent way to become familiar with the data (Varpiom, Ajjawi, Monrouxe, O'Brien & Rees, 2017). If researchers use voice-recognition software or hire transcription services to facilitate this step, checking the transcripts against original audio recordings for accuracy may be similarly useful (Kiger, Meyer, Hammond, Miller, Dickey, Hammond & Varpio, 2019).

## **Step 2: Generating initial codes**

According to Kiger and Varpio (2020), the first truly analytic step in the process, coding helps to organize data at a granular, specific level. After step 1's familiarization work, researchers can begin to take notes on potential data items of interest, questions, connections between data items, and other preliminary ideas (Varpio, Young, Uijtdehaage & Paradis, 2019). This is the beginning of Step 2's coding process (Clarke & Braun, 2017). This phase of work generates codes, not themes. Clarke and Braun (2017) defined a code as the most basic segment, or element, of the raw data or information that can be assessed in a meaningful way regarding the phenomenon.

Kiger and Varpio (2020) noted that a code should be sufficiently well-defined and demarcated such that it does not overlap with other codes and should fit logically within a larger coding framework or coding template (sometimes also called coding manuals) that guides the coding process by outlining and defining the codes to be applied (Nowell, Norris, White & Moules, 2017). Like distinctions among themes, codes can be tied to more semantic or latent meanings, and the coding framework can be inductive, reflective of pertinent issues raised by the data alone, or deductive, guided by specific theories or theoretical frameworks (Nowell, Norris, White & Moules, 2017). By recording how codes developed from observations and ideas, the researcher can begin the process of creating an audit trail to support the trustworthiness of a researcher's interpretations and analysis (Kiger & Varpio, 2020; Clarke & Braun, 2017).

## **Step 3: Searching for themes**

Kiger and Varpio (2020) stipulated that the third step involves an examination of the coded and collated data extracts to look for potential themes of broader significance. Nowell, Norris, White and Moules (2017) denoted that the search for themes offers an analogy that, if your entire analysis is seen as a house, the individual codes are the bricks and tiles, and themes are the walls and the roof (Varpio, Young, Uijtdehaage & Paradis, 2019). The process of theme identification' how those walls and roofs are built, is fundamentally active and interpretive. Themes do not simply emerge from the data (Nowell, Norris, White & Moules, 2017). Instead, themes are constructed by the researcher by analyzing,

combining, comparing, and even graphically mapping how codes relate to one another (Kiger & Varpio, 2020).

In inductive analysis, researchers derive themes expressly from the coded data, so the themes identified will be more closely linked to the original data and reflective of the entire data set (Kiger, Meyer, Hammond, Miller, Dickey, Hammond & Varpio, 2019). Conversely, in deductive analysis, predefined theories and/or theoretical frameworks will inform theme development, so these themes often focus more on an aspect of the data set or a specific question of interest (Nowell, Norris, White & Moules, 2017). When creating and organizing themes, thematic maps are useful for visually demonstrating cross-connections between concepts and among main themes and sub-themes (Clarke & Braun, 2017). Themes should be independently meaningful but also ‘work together to form a coherent whole and analytic story’ (Kiger, Meyer, Hammond, Miller, Dickey, Hammond & Varpio, 2019). The searcher should make note of any themes of potential significance, whether they seem directly related to the study question, and regardless of the volume or quantity of data that fall under them (Clarke & Braun, 2017).

#### **Step 4: Reviewing themes**

Clarke and Braun (2017) described step 4 as a two-level analytical process. In the first level of analysis, the researcher looks at coded data placed within each theme to ensure proper fit. Data within each theme should have adequate commonality and coherence, and data between themes should be distinct enough to merit separation (Kiger & Varpio, 2020).

At this point, data extracts can be re-sorted and theme modified to better reflect and capture coded data (Clarke & Braun, 2017). Themes can be added, combined, divided, or even discarded. This first level of analysis is complete when the researcher is confident that the revised thematic map adequately covers all the coded data to be included in the final analysis (Nowell, Norris, White & Moules, 2017). Throughout this process, researchers should keep detailed notes, or memos, regarding their thought processes and decisions made regarding how themes were developed, modified, and/or removed (Varpio, Young, Uijtdehaage & Paradis, 2019). Such memos can help researchers make

connections between themes and create an audit trail that bolsters the trustworthiness of their findings (Kiger & Varpio, 2020).

### **Step 5: Defining and naming themes**

Kiger and Varpio (2020) state that in this phase, the researcher creates a definition and narrative description of each theme, including why it is important to the broader study question. The names of themes to be included in the final report are reviewed to ensure they are brief and adequately descriptive (Nowell, Norris, White & Moules, 2017; Kiger, Meyer, Hammond, Miller, Dickey, Hammond & Varpio, 2019). The researcher then hones in on the most important aspect of each theme and which aspects of the data set it covers, creating a coherent narrative of how and why the coded data within each theme provides unique insights, contributes to the overall understanding of larger questions, and interacts with other themes (Kiger & Varpio, 2020). While addressing these questions, the researcher looks for areas of overlap between themes, identifies emergent sub-themes (which can be used both to provide more detailed accounts of themes and to describe hierarchies within the data), and delimits the scope of what each theme entails or includes (Kiger, Meyer, Hammond, Miller, Dickey, Hammond & Varpio, 2019). This is a good time to select data extracts to be presented in the final report that illustrate key features of themes and to create narratives surrounding them that provide context to explain their importance to the broader story each theme tells (Clarke & Braun, 2017; Kiger & Varpio, 2020).

### **Step 6: Producing the report/manuscript**

Clarke and Braun (2017) pointed out that this step involves writing up the final analysis and description of findings. Elements of the writing process have already begun through the processes of notetaking, describing themes, and selection of representative data extracts in prior steps (Kiger & Varpio, 2020). Clarke and Braun (2017) described the final step of presenting findings as a 'continuation' of the analysis and interpretation that has already happened, as opposed to a 'separate stage.' The final report should move beyond a mere description of codes and themes (Nowell, Norris, White & Moules, 2017).

The report should weave a narrative that provides a clear, concise, and logical account of not only how a researcher interprets the data but also why his or her selection of themes and interpretation of the data are important and accurate (Kiger & Varpio, 2020). The analysis should describe the data and provide an argument for why the researcher's explanation richly and fully answers the research question (Varpio, Young, Uijtdehaage & Paradis, 2019). Any direct data extracts should contain adequate context to understand their meaning and be supported by interwoven textual descriptions (Kiger, Meyer, Hammond, Miller, Dickey, Hammond & Varpio, 2019).

### **3.8. Trustworthiness of The Findings**

In order to achieve trustworthiness in qualitative research, the four elements should be adhered to: credibility, transferability, dependability and confirmability.

#### **3.8.1. Credibility**

According to O'Reilly and Parker (2013), credibility is the criterion for evaluating the truth value or internal validity of qualitative research. Li, Qi, Liu, Di, Liu, Pei, Yi and Zhou, (2023) state that a qualitative study is credible when its results, presented with adequate descriptions of context, are recognizable to people who share the experience and those who care for or treat them. In order to achieve credibility in research, Grimmelikhuijsen (2023) stresses that the researcher uses multiple data collection methods, establishes rapport with participants, maintains a reflexive journal, and engages in member checking.

#### **3.8.2. Transferability**

Enworo (2023) maintains that the transferability of the research findings is the criterion for evaluating external validity. Kornbluh (2015); O'Reilly and Parker (2013) assert that a study is considered to meet the criterion of applicability when its findings can fit into contexts outside the study situation and when clinicians and researchers view the findings as meaningful and applicable to their own experiences. Ravn (2023) states that 'saturation' is often used in decisions about sample size in research using qualitative methods. Peels and Bouter (2023) state that emerging from grounded theory, where filling theoretical categories is considered essential to the robustness of the developing

theory, Magnani and Gioia (2023) stress that data saturation has been expanded to describe a situation where data tend towards repetition or where data cease to offer new directions and raise new questions. However, Carter, Andersen, Stagg, and Gaunt (2023) denote that the legitimacy of saturation as a generic marker of sampling adequacy has been questioned.

However, O'Reilly and Parker (2013) and Sandelowski (1986) argued that caution must be exercised to ensure that a commitment to saturation does not assume an 'essence' of an experience in which limited diversity is anticipated; each account is likely to be subtly different, and each 'sample' will contribute to knowledge without telling the whole story. Steltenpohl, Lustick, Meyer, Lee, Stegenga, Reyes and Renbarger (2023) denote that it is expected that researchers will report the kind of saturation they have applied and their criteria for recognizing its achievement; an assessor will need to judge whether the choice is appropriate and consistent with the theoretical context within which the research has been conducted.

In order to achieve transferability in research, Grimmelikhuijsen (2023) stresses that the researcher must provide a detailed description of the research context and participants, use purposive sampling, and offer thick descriptions of experiences and the research process.

### **3.8.3. Dependability**

Vianello, Laine and Tuomi (2023) state that dependability of the results, is the criterion for assessing reliability. Rawhani, (2023) highlight that this does not mean that the same result would necessarily be found in other contexts but that, given the same data, other researchers would find similar patterns. Maras, Arsovska, Wandt and Logie (2023) add that researchers often seek maximum variation in the experience of a phenomenon, not only to illuminate it but also to discourage fulfilment of limited researcher expectations. In dependability Chatterjee, Rakshit and Mandal (2023) argue that qualitative researchers sometimes describe the processes by which verification of the theoretical findings by another team member takes place.

In order to achieve dependability in research, Grimmelikhuijsen (2023) stresses that the researcher must follow a systematic and transparent research process, establish an audit trail, and involve multiple researchers or peer debriefing.

#### **3.8.4. Confirmability**

Jenkins, Monaghan and Smith (2023) avow that confirmability emphasizes freedom from bias in the research procedures and results. van Haastrecht, Brinkhuis, Peichl, Remmele and Spruit (2023) state that confirmability in research is guarding against imposing ideas on the participants to make sure that accuracy, relevance, and meaning are maintained. Also, Ravn (2023) stresses that as the research uses reflexivity by making use of field notes to identify characteristics and elements relevant to the study and monitor non-verbal cues, further analysis of raw data and conclusions will be formulated to maintain confirmability (Carter, Andersen, Stagg & Gaunt, 2023; Magnani & Gioia, 2023).

In order to achieve confirmability in research, Grimmelikhuijsen (2023) stresses that the researcher must maintain a reflexive stance, clearly document research decisions and procedures, and consider using an external auditor or independent reviewer. For the purpose of the study, the researcher's awareness of an analytic focus on the relationship to the field of study. As a way to adhere to such the researcher was sensitive or conscious about the cultural practices of Vatsonga.

#### **3.9. Ethical Consideration**

According to Wexler and Largent (2023), ethics are guidelines for research that enable the researcher to ensure that participants participate voluntarily and are not harmed. Horton and Lucassen (2023) stress that ethics is a field of applied principles that seek to ensure that the welfare of the research participants is protected. Sui, Sui, Liu, and Rhodes (2023) state that ethics is a system of moral beliefs about what is right and what is wrong. In research, there are systems of moral beliefs about what a researcher cannot do to research participants, including humans and animals. For the study, the researcher adhered to the following ethics:

### **3.9.1. Adherence to All African Indigenous Protocols in Accessing the Community**

Since the study focuses on African customary marriages, the researcher observed the protocol that is under the village by first asking for permission from the chief of the village so that he or she will conduct the study in the village. The reason is that it is crucial to observe protocol in the village since these are the carriers and they are the indigenous knowledge holders (Kaddoura & Al Husseiny, 2023).

However, a week before the interviews started, it was important to travel to the villages selected for the study and solicit permission from the chiefs because, in African communities, they are the ones who are responsible for everything that happens to those villages. After the initial entry, meetings were held with chiefs who granted permission as they were all interested in the studied phenomena. They then allowed for contact with women who were married as second wives in polygynous marriages to conduct the research. The next step involved going to women who were married as second wives in polygynous marriages to request for their permission to take part in the study. After they had agreed to participate in the study, arrangements were made regarding the schedule and venue for interviews. The participants were requested to provide their contact numbers so that they could be reminded of the interview dates. The interviews were conducted using Xitsonga which is the language of the indigenous people in the study.

### **3.9.2. Informed Consent**

Hennesy, Dennehy, Doherty and O'Donoghue (2022) stated that attaining informed consent implies that all possible or adequate information on the goal of the investigation, the procedure that will be followed during the investigation, the possible advantages, disadvantages and dangers to which participants may be exposed as well as the credibility of the researcher, be rendered in potential subjects or their legal representative. Carew, French and Morgan (2023) denote that participants should never be coerced to be part of a research project, because, participating must always be voluntary. Lathan, Kwan, Takats, Tanner, Wormer, Romero and Jones (2023) state that informed consent is the right of participants to be informed of the purpose for which the information they

supply will be used and to judge the degree of personal risk involved in answering questions, even when the assurance of confidentiality has been given.

Based on the study, participants were informed about the usefulness and relevance of the study before the interview. The nature and the aim of the study were explained to the participants, and it was done to ensure that participants understood the information and voluntarily participated in the study by signing the consent forms. The researcher informed the participants about their rights to participate in the research as well as their rights to withdraw during the interview process, whenever they felt uncomfortable. The researcher further informed the participants about the importance of the study to be carried out which included the maintenance of anonymity, confidentiality, and privacy.

### **3.9.3. Voluntary Participation and Right to Withdraw Anytime**

Rivera, Aiyegbusi, Ives, Draper, Mercieca-Bebber, Ells, Hunn, Scott, Fernandez, Dickens and Anderson (2022) maintain that voluntary participation happens when the participants in the study have the choice to make their own decision to volunteer or not. Individuals have the right to choose what they want and what they do not want. Pilbeam, Anthierens, Vanderslott, Tonkin-Crine and Wanat (2022) state that the researcher allows the participants to feel free to take part in the study. Gregg, Kidd, Bekessy, Martin, Robinson and Garrard (2022) noted that the right to withdraw at any time happens when the researcher advises the participants that if they are no longer willing to continue with the study, they are free to withdraw from the study.

Mirbabaie, Heredity, Frick and Stieglitz (2022) added that one thing that can make participants withdraw, might be the nature of the questions or the time taken to finish the interviews. Alwahaby, Cukurova, Papamitsiou and Giannakos (2022) stressed that assurance should be given to them so that they can participate freely without being forced. Squires, Roberts and Márquez-Grant (2022) emphasize that since the questions are structured differently, some participants may view them differently, so the researcher must assure them that they can withdraw if they feel they are no longer comfortable, but the participants continued with the study. Since the researcher assured the participants from the beginning about confidentiality and that nothing would be shared, and that their

names would not be disclosed, this made them feel free to take part in the study and no one withdrew from the study.

#### **3.9.4. Confidentiality and Privacy**

Schnellert, Tidey and Hole (2023) state that confidentiality is of paramount importance in research, information provided by participants, particularly sensitive and personal information, should be protected and made inaccessible to anyone other than the researchers. Therefore, data collected from participants should always be kept under secure conditions. Mena and Hilhorst (2022) added that confidentiality is the ethical protection for those who are studied by holding research data in confidence or keeping them secret from the public, not releasing information in a way that permits a linking specific individual to a specific response.

To ensure confidentiality, the recorded interview, the camera used in the interview, and the interpreted data were made available to the researcher and the supervisors, except for one instance in which the participant wanted the researcher to disclose the activity that she engaged with the researcher. Such activity is portrayed in the picture in which the participant was with the researcher in her home during the interview. The researcher ensures that any kind of information gathered from second women in polygynous marriages remains confidential. The researcher made sure that confidentiality is maintained by allocating numbers to the participants. Information provided by the participants will be treated as confidential, and by no means shall the information be disclosed or made available to any other person except the researcher, unless the researcher has been granted explicit permission to share the information. For the study, the researcher ensured privacy by visiting the participants at their homes, one at a time.

#### **3.9.5. Anonymity**

Wexler and Largent (2023) state that anonymity means that people remain anonymous or nameless, for example, a field researcher provides a social picture of an individual but uses a fictitious name and location of the individual and alters some characteristics. Horton and Lucassen (2023) note that the standard of anonymity was maintained by ensuring that the identities of the participants were not disclosed. In the process of data

analysis, the term “participants” was used to ensure that the participants’ identities remained anonymous. Sui, Sui, Liu and Rhodes (2023) stress that the researcher did not even mention the name of other participants to the next participant, this was done to ensure that the identities of the participants remain unknown.

For example, in one of the interviews, the participant started the conversation by asking why the researcher chose him to participate in the study and who told the researcher that the participant was relevant to what the researcher was looking for. Even though the researcher knew the person by name, and that the person was close to the participant who asked the questions, the researcher didn’t mention any name. By so doing, the researcher was ensuring anonymity. The researcher avoided the link between the participant and the information by allocating numbers to the information provided by the participant. The participant's identity will not be made available in reports and research publications.

### **3.9.6. Dissemination of Research Finding**

The copies of the research report will be distributed to the supervisors and made available to the library at the University of Venda to be used as references for further studies related to the topic. The research findings will also be presented to the research participants. The study report will also be submitted to the Department of Home Affairs (provincial and district), as well as presented at conferences and published in accredited journals for referrals. Information dissemination will be done through various methods such as University seminars.

### **3.10. Pilot Testing**

Kaddoura and Al Husseiny (2023) denote that pilot testing refers to small-scale research conducted before a large piece of research to determine whether the methodology, sampling, instrument, and analysis are adequate and appropriate. Lathan, Kwan, Takats, Tanner, Wormer, Romero and Jones (2023) state that pilot testing involves the actual program on a small sample taken from the community where the program is planned. In other words, Carew, French and Morgan (2023) stress that it is normally used in

preliminary studies on a small group of samples that help to identify potential problems with the design, particularly the research instrument.

Therefore, the researcher wanted to check his questions, which is why he did pilot testing, which allows or checks how sensitive questions are and if there is a need to revisit or rectify them. Hence, as a researcher, pilot testing was conducted because of the need to assure that the instrument chosen to formulate the questions was related to what the research was aiming for and directing to find out from the participants. So, from those questions that were constructed, the researcher used purposive sampling to interview only two people who knew about polygynous marriage.

### **3.11. Chapter Summary**

In summative terms, the researcher carefully chose the research design that was appropriate for the study. Also, the same applies to the research approach. It was very important for the researcher to choose these designs and approaches because they determine how the study is conducted. On the other hand, the researcher made use of purposive and snowball sampling in selecting certain participants who were very important in the study, who are married wives and husbands of African customary marriage. Also, semi-structured interviews (*open-ended with face-to-face questions*) were administered by the researcher to collect or gather data from participants, and more probing was done because the instrument allowed the researcher to do so. In other words, the above section focused on the research approach and design, location, population, sampling and procedures, data collection methods, data analysis, the trustworthiness of the research findings, ethical considerations, pilot testing, and chapter summary

## CHAPTER FOUR

### RESEARCH FINDINGS, DATA ANALYSIS AND INTERPRETATION

#### 4.1. Introduction

This chapter presents the findings from a study conducted in in the region of Malamulele which is located within Collins Chabane local municipality of Vhembe district in Limpopo Province, South Africa. This section of the study presents data collected under the following topic: “***Proprietary Consequences of the Vatsonga Customary Marriages.***” Hence, to achieve this goal, there are several themes that were created or formulated that were guidelines for this maturation of the study. For example, understanding polygamous marriages amongst Vatsonga people; contributing factors leading Vatsonga people into polygynous marriages in South Africa; the proprietary consequences encountered by Vatsonga women upon the dissolution of the marriage; the implication of customary marriages; the Act regarding polygynous marriage amongst the Vatsonga people; and ways to resolve proprietary consequences encountered by the Vatsonga people. Furthermore, the themes to be discussed in this chapter are based on the objectives of the study and the recurrent ideas that emerged from the interviews. This study was oriented on the following themes: biological information, data verdicts, and the chapter summary.

#### 4.2. Biographical Information

Below is the discussion and analysis of the biographical information of the participants who participated in the interviews. This biographic information consisted of the age, number of years in polygynous marriage, number of wives within polygynous marriage, and occupation.

Participants	Age	N# of years within the P.M	N# within the PM	Gender	Occupation
A	47	11	2 <sup>nd</sup>	Female	Carer at Day care
B	50	13	2 <sup>nd</sup>	Female	Street Vendor
C	55	15	2 <sup>nd</sup>	Female	Cashier
D	57	16	2 <sup>nd</sup>	Female	Domestic worker
E	60	18	2 <sup>nd</sup>	Female	Pensioner

Table 4.1.1: show the information about second wives who took part in the study

Participants	Age	N# of years in P.M	N# of wives within P.M	Gender	Occupation
F	49	10	2	Male	Teacher
G	52	13	2	Male	Self-employed
H	55	15	2	Male	Taxi Driver
I	59	16	2	Male	Taxi driver
J	63	18	2	Male	Retired clerk

Table 4.1.2: show the information of husbands who took part in the study

Tables 4.1.1 and 4.1.2 indicate the biographical information of the participants of the studied phenomenon across two units, whose ages range from forty-seven to sixty-three, who participated in the study either as husbands or second wives in polygynous marriage. There are five second wives and five husbands in polygynous marriages. It was important to have husbands as participants in the study because some questions that were directed to second wives directly concerned the husbands, so it will be good to find out directly from the horse's mouth (husbands). Above all, all these participants are in different occupations, for example, carer at day-care, street vendor, cashier, domestic worker, pensioner, teacher, self-employed, taxi driver, and retired clerk.

The second wives are indicated by the letters from A to E. The husbands are indicated by letters from F to J.

### 4.3. Data Findings

In this section, the outcomes of the study are available and analyzed. However, to have a better understanding of the proprietary consequences of the Vatsonga customary marriages, there was a need to ask the participants several questions to see and understand their way of thinking about the study.

Table 4.1.3. Emerging themes and sub-themes

Emerging Themes	Sub-Themes
<ul style="list-style-type: none"> <li>The nature of polygynous marriages amongst the Vatsonga people</li> </ul>	<ul style="list-style-type: none"> <li>Understanding about the term marriage.</li> <li>Comprehension about polygynous marriages.</li> <li>Procedures that are followed in the Vatsonga polygynous marriages.</li> <li>Understanding about lobola and was it paid</li> </ul>
<ul style="list-style-type: none"> <li>The contributing factors leading Vatsonga women into polygynous marriages in South Africa</li> </ul>	<ul style="list-style-type: none"> <li>The reasons for people to enter polygynous marriages</li> </ul>
<ul style="list-style-type: none"> <li>The proprietary consequences encountered by Vatsonga women upon the dissolution of marriage</li> </ul>	<ul style="list-style-type: none"> <li>Understanding about proprietary consequences.</li> <li>Challenges people encountered in dissolution of marriage.</li> </ul>
<ul style="list-style-type: none"> <li>The implication of the customary marriages, the Act regarding polygynous marriage amongst the Vatsonga people</li> </ul>	<ul style="list-style-type: none"> <li>Understanding about the recognition of Customary Marriage Act 120 of 1998.</li> <li>Recognition of polygynous marriage by the customary Marriages Act 120 of 1998</li> </ul>
<ul style="list-style-type: none"> <li>Ways to resolve proprietary consequences encountered by Vatsonga people</li> </ul>	<ul style="list-style-type: none"> <li>Strategies that the South African Home Affairs employ to help the Vatsonga women who are married under the polygynous marriages</li> <li>Ways to resolve the disputes happening amongst Vatsonga polygynous marriages by community</li> </ul>

## **Theme 1: The Nature of Polygynous Marriages amongst the Vatsonga People**

In this section, the researcher wanted to gain a better understanding of the nature of polygynous marriages practised by the Vatsonga people. It is important for the researcher to have a better comprehension and understanding because this is the core of the study. This is done to help future readers have more clarity on some of the key terms of the study, as this was so important. Also, this section gives birth to some of the questions that come up in the study; hence, there was need to understand from the minds of the participants if they understood the matter presented since, from the beginning, they mentioned they knew the whole gist of the phenomena.

### **Sub-Theme 1.1: Understanding about the Term Marriage.**

The first part of the findings looked at understanding, comprehension, or knowledge about the term marriage. The main question asked by the researcher at this point to the participants was, *“In your understanding, what do you think is marriage?”* The aim of the question was to try and determine participants understanding of or knowledge of marriages. In that regard, different views were aired by participants, and these are discussed below from the second wives.

**Participant A** *“From my View, I think marriage depends on which one, but it can be joining of two people into one union by a pastor, magistrate or even at home affairs who at the later end have a family (children).”*

**Participant B** *“What I think about marriage is that it is the joining of two opposite or same sex into a certain union, nowadays laws have agreed that (men can marry men, women and women or even sibling to siblings) as long as they end up having children.”*

**Participant C** *“It is the union that comes in when two people agreed to enter into, and some can be a forced union depending on the culture like the Indians or even some upcoming white garment churches.”*

Since this study was also focusing on males, there was also a need to ask them the same question that was answered by the females to grasp their understanding of the term marriage. Below are some of the responses from the husbands:

**Participant F** *“What I think of marriage neh. Is that marriage is the union of two people who decided to build a family and decided to get married under different laws it can be civil or African way but at the end they are in union which create in them bond.”*

**Participant H** *“Honestly, people talk about marriage. But few people understand this term, as for me in short I think marriages it is union that can come from God or from people or culture that bind two people together to form a family in which in some point can end up having children of their own.”*

**Participant J** *“Marriage it is something big my son. But what I think marriage is, it it’s when two people that have been in relationship decides to settle down into a union. This union can be joined by a Pastor, Home Affairs, Magistrate or even African Traditional people (Knowledge Holders and offer them a certificate to show that they are in a well recognised union.”*

Based on the study findings on both sides (males and females), the responses highlight that the majority of the participants who took part in the study had the same understanding of the term ‘marriage’. However, the responses were different in the way they were answered, but when checking their responses, majority centered on the issue of the union between two people to form a family. Therefore, based on the study or responses by the participant, marriage is the union of two opposite people who decided to stay and live together in one accord to start a family. It can be according to the magistrate, pastor, or even the home affairs or African traditional knowledge holders. To concur, Golding (2022) defines marriage as a relationship between two people that produces a formal and recognized partnership and is significant on multiple levels, including social, cultural, and legal. Golding stressed that marriage is a fundamental institution that can be found in the majority of nations around the globe, yet the form of this institution and the reason for its existence might differ significantly between cultures and religions. In other words, the purpose of marriage is to establish a relationship between two individuals that is committed and long-lasting. This is typically done with the intention of starting a family and providing a secure setting in which to bring up children. It entails joint rights and

obligations between the couples, in addition to the partners' relationship being recognized legally and socially by third parties (Golding, 2020).

### **Sub-Theme 1.2: Comprehension About Polygynous Marriages**

The response above shows that the participants had enough knowledge or understand much about the term marriage. Hence, the researcher ended up probing or asking a question related to marriage again. The researcher asked the following question to find out their responses: *“In your understanding, what do you think is polygynous marriage?”*

In that regard, different views were aired by second wives, and these are discussed below.

**Participant A** *“In my own understanding and what I heard and experiences is that this is a type of marriage in which a man marries several wives same times but not on the same day.”*

**Participant C** *“What I understand is that polygynous is that type of marriage in which a husband decides to marry another wife whilst another one present and in some culture the husband has to marry second wife after consulting a first wife as for the Tsonga culture.”*

**Participant D** *“Mmmm, this type of marriage it looks like polygamy. But on this one a husband marries another woman but in the consent of the first wife.”*

The researcher needs to ask both sides of this question because husbands are the ones who do the marrying. So, the same question was popped as to hear from the males: What do they think is polygynous marriages? Below are some of the responses from the husbands:

**Participant G** *“From my own knowledge, I think polygynous is mainly practiced in the Vatsonga people. Where me as a husband if am married to a wife as accordance to our traditional and I need another one, am forced to ask for permission from the first wife to marry another”.*

**Participant H** *“I think, this happens when a husband marries another wife, but they have to ask permission from the second wife. So, in other words, it is the marriage of one husband and two women but, at different times.”*

**Participant J** *“This happens when the husband marries another wife but with the consent of the first wife as given permission to do so”.*

Based on the responses above, the findings demonstrate how much knowledge the participants have about the subject of polygyny ecology. In other words, the findings show us that the majority of the participants understood the phenomena presented as much as many had different understandings, but they were saying the same thing but with a different narrative. As both husbands and wives were being interviewed, they demonstrated their reasoning towards the question asked by the researcher. In other words, the participants denoted that polygynous marriage is that type of marriage usually still practiced in the Vatsonga people in which a husband marries different wives but has to consult the first wife for approval. To corroborate, Koos and Neupert-Wentz (2020) denoted that polygyny marriage is a form of polygamy marriage wherein a man marries several women at the same time. In other words, polygyny marriage is a type of marriage in which a man can marry many wives at the same time, for example, Jacob Zuma or King Swathi.

### **Sub-Theme 1.3: The Procedure That Are Followed In The Vatsonga Polygynous Marriages.**

In this section, the researcher wanted to understand from both the husband and the second wife if there are certain procedures that husbands can follow if they want to marry a second wife under the Vatsonga culture. Therefore, the researcher ended up asking the following question: *“In your own understanding, what kind of procedures does a husband married to one wife follow when he wants to marry a second wife in the Vatsonga culture or practices?”* In that regard, this is what the participants, more like the second wife, responded to the question asked by the researcher:

**Participant A** *“In the Vatsonga cultural practices if a husband wants to marry another second wife, what they need to do is to ask permission from a first wife*

*and they are allowed to marry. If they are no permission given by the first wife, then that marriage is considered to be invalid.”*

**Participant B** *“What I know is that If the husband wants to marry me as his second wife, they need to follow certain procedures and if they do not follow I will not be following our cultural practices as a Tsonga woman. So, permission from the first wife must be given as a sign to show that they have another wife.”*

**Participant C** *“It is very important to note that wives around the Tsonga respect their culture, and even the men understand the importance their culture. This culture has been there for ages. So, when the husband wants to marry a second wife as something that is allowed, they should ask for permission not from anyone but from the first wife because that is how our culture says.”*

As much as the participants above responded to the question asked by the researcher, it would yield biased responses if the researcher did not ask the husbands if they would also know that there are procedures they need to follow when they want to marry another wife or second wife. In that regard, this is how the husbands (*participants*) responded:

**Participant F** *“Aaaah, my son you know what as a Tsonga man, we are bound to follow our culture and sometimes some they do not follow at all because they know the type of wives they have at their homestead. So, as the Tsonga culture, if I wants to marry a second wives I need to go and ask permission from my wives (first) so that I can marry another person as a second wives and it is very important as our cultural in heritage to do so.”*

**Participant G** *“Many men in our culture they are no longer following our traditional way of practice in which a husband when he wants to marry another wife he has to go and ask the first wives for permission to take in another second wife. However, the challenge comes in when the wife refuses and the husband proceed to marry it will be considered to be invalid marriage, but opposite is the same. So, as our culture we are supposed to ask the first wife. From my personal experience I never asked for permission to marry the second wife. I do not care how she reacts but that is how a men should do to have man wives.”*

**Participant I** *“From my own personal experiences, I never asked for permission from my first wife to marry the second wife.”*

Based on the responses above, the findings indicate that the majority of the participants are aware of the procedures that Tsonga husbands follow when they want to marry a second wife; they need to consult the first wife. In other words, as a husband, if he needs a second wife, he needs to ask for permission from the first wife, because if he does not, he will be neglecting the first wife’s dignity and equality. In other words, the participants’ responses, indicate that husbands are bound to their culture, and they need to respect it. However, husbands seem to neglect their culture by not following it as they should be. The issue is that if a man asks for permission from the first wife, she will think that he has been cheating. So, many husbands are no longer consulting their first wives.

However, looking at the findings, there seems to be a lack harmony with the above findings because the majority of the husbands have second wives, and the wives are also considered to be second to the husband. Meaning that as much as they know the culture, they are not following it. That is why Golding (2022) argued that the right of the husband to consult or ask permission from the first wife to marry subsequent wives was raised by the Constitutional Court in 2013. In addition, Maithufi (2013) denoted that, for example, the court ruled in favour of the first wife in the case of Modjadji Florah Mayelene V Mphephu Maria Ngwenyama and another, since customary law requires the husband to consider the first wife before marrying the following wives. Manthwa (2022) denotes that the second marriage to the subsequent wife was deemed to be unlawful due to the husband's lack of consultation, as the first wife was not notified and did not give her husband permission to remarry.

#### **Sub-Theme 1.4: Understanding about lobola and was it paid**

Through probing, the researcher discovered that after the husband is given permission to marry another wife by the first wife, he is also bound to pay lobola. In that case, the researcher realised the need to ask the participants if their husbands paid lobola. In that regard the researcher asked the following question the data gathered is from second wives: *“In your understanding, what do you think lobola is, and was it paid for you as per Vatsonga culture?”*

**Participant B** *“This is one of the old African practices that has been done for ages in which a husband, before they are husband, will have to go to the family of the girl and pay a bride price as a token of appreciating how the family took care of the child until today, she is married. Also, on the issue of being paid lobola. What I can say is No, my husband did not pay lobola to my parents since I was coming from my parents and stay with the man, he has to pay the bride price. The reason was the first wife did not allow it because she was the one for whom lobola was paid as per the culture”.*

**Participant C** *“I think it is one of the African customary law practices which is done as a way of thanksgiving the parents of the lady for raising the child until she is married. It can be in form of monetary or cows or anything that can unite the family at large. From my side my husband did not pay lobola at my family because consent was not given by the first wife, though I consider him as my husband.”*

**Participant D** *“From my personal experiences, I think lobola it is one of the African cultural practices in which an African man come and pay a certain agreed amount of money to the side of the family it can be through damages or anything but as long as the person is appreciating it is still a bride price. It is so much painful that the family of my husband the only know the first wife as for me they consider me as someone who came and took husband from someone, and he did not pay the bride prize”.*

The data gathered below is from husbands:

**Participant F** *“ I think lobola it is a token of appreciation that one can give to the parents when taking their daughter and stay with them it can be inform of money, house or anything that show you appreciate them for taking care of their daughter My son, as for me I only paid lobola to my first wife. The second one she did not approve of it.”*

**Participant G** *“In my culture, taking someone into your house from their parents one has to pay full lobola and it is considered to be vital in our live. So, what I think lobola is it can be a way of appreciating the parents of taking care of their child*

*through monetary or anything that one can see that you are thankful. No, I didn't not get consent from my first wife because she would see me as I cheated her".*

**Participant I** *"Lobola it is a form or an African practice in which a man has to honor the family that he is marrying by paying a certain amount of money to show them that they are appreciating them for taking care of their child. This is an African practices in which as Vatsonga people practices every time when we taking someone from their parents and it can be negotiated based on the money you can afford. As from my side the first wife yes, I paid full lobola, but the second wife I didn't because if I needs to marry one, the first wife has to give me a consent and allow me to marry that second one, but it never happen".*

Based on the responses above, the study findings indicate that the majority of the participants who took part in the study were well aware of what lobola is. Also, for most women who took part in the study, their lobolas were not paid, and the husbands also did not pay lobolas to their second wives. By how much the participants responded to the question asked by the researcher, the researcher realised that for the Vatsonga people, the issue of lobola is something that is a cultural practice, and many people abide by the customs that have been there for ages, and it is only given to the first wife. In other words, based on the responses presented above, the term lobola denotes that it is an African cultural practice in which African people like the Vatsonga abide, and they are bound to undergo it as a way to appreciate the family that has raised their children.

However, as we look at the findings, we realise that the participants did not follow the cultural norms of paying lobola, which is done by asking for permission from the first wife. Though Osman and Baase (2022), define lobola in accordance with the Recognition Act, as "property in cash or kind of value which a prospective husband or head of his family undertakes to give to the head of a prospective wife's family in consideration of a customary marriage. To stress more, Herbst and Du Plessis (2008) denoted that Lobola (lobola in Zulu, Swazi, Xhosa, Silozi, Shona, northern and southern Ndebele; mahadi in Sesotho; magadi in Setswana; lovola in Xitsonga; and mamalo in Tshivenda) is a property in livestock or kind that a prospective husband or head of his family promises to give to the head of a prospective wife's family in exchange for marrying their daughter". In other

words, lobola it is a form of ‘thank you’ or appreciation that a husband gives to the family that he wants to marry to thank them for upraising their wife to be.

In summary of the nature of polygynous marriages, there were several themes that emerged during the data analysis, for example, the understanding of participants about marriage. On this sub-theme, the researcher realised that the majority of the participants were aware of the term marriage, in which they denoted that it is a union or African union between two different people who can be of the same sex or opposite sex. More so, on the issue of polygynous marriage, the researcher realised that the majority of the participants were aware of the term, and they denoted that polygyny is a form of polygamous marriage in which a man can marry the second wife. First, they need to consult with their first wife. Furthermore, on the issue of the procedure that Vatsonga people follow when they want to marry a second wife, the majority of the participants, since they are all Tsongas, were aware of the issue when the husband has to consult the first wife as a sign to respect the cultural values, as well as what the Act denotes about the issue of respecting the first wife. Lastly, on the issue of the term lobola, and whether these participants respected lobola, the researcher realised that the majority of the participants paid lobola and received lobola from their husbands. Also, people had enough knowledge of what is called lobola, which they denoted as an African practice in which a husband pays to the in-laws as a sign or token of appreciation. It can be in the form of money or anything else that is well recognised by the in-laws.

## **Theme 2: The Contributing Factors Leading Vatsonga Women Into Polygynous Marriages In South Africa**

As much as participants were able to answer the question asked by the researcher about the nature of polygynous marriages amongst the Vatsonga people, the researcher, through probing, realised that there could be valid or contributing factors or reasons why Vatsonga people enter polygynous marriages. So, the researcher decided to dig more or probe more so that, at the end of the day, the contributory factors could be known. Since the researcher was using an exploratory qualitative research design, it could actually help uncover some mysteries behind polygynous marriages.

### **Sub-Theme 2.1: The Reasons Why People Enter Into Polygynous Marriages.**

In this section, through probing, as said earlier, the researcher discovered that there could be some contributing factors why Vatsonga people enter polygynous marriages. In that notion, the researcher ended up asking the participants the following question to understand the African customary marriage called polygyny. The researcher asked the following question: *“In your own understanding, what do you think is the reason or factor that is making many Vatsonga to enter into the African customary marriage called polygyny?”* The primary purpose of the question was to unveil the tenacity of the issue and its conundrum. In that regard, this is how the participants responded to the question:

Below are responses from second wives

**Participant A** *“In our Tsonga culture, we are adhering to our customs. Also, we respect our culture of polygamist and every woman who wants to enter into the polygynous marriage husband they have to first consult with their first wives for me to be taken as second wife.”*

**Participant B** *“The Vatsonga people were adhere to our culture and it is our culture we respect the marriage that is why there is lobola that is paid to the in-laws.”*

**Participant D** *“Let men tell you something my son. When one gets into a polygynous marriage, we need support from the other side. Sometime because of poverty we need people that have money that can help us or support our families when we’re going through a lot. So, for example, my husband is wealthy rich, so being married by him, it helps my family a lot through support in anywhere that we need, and we are no longer struggling, by that who does not want to be in that type of a marriage.”*

Below are responses from husbands

**Participant F** *“As much as African customary marriage called polygynous religious is an African practice widely practiced amongst the Vatsonga people. Most of the people marry because they believe that marrying a lot of women is considered to be spiritual. Also, in some cases, it can be a religion that one has to marry a lot of*

women. but as for me, it was because I looked into the bible and I realised that other people in the bible were having many wives. So, I decided to have other wives who can be there to help me and to procreate or to give many children.”

**Participant G** *“My son. Let me tell you something important, one day you will grow up and understand. Sometime when you see us marrying many wives it is not that we love women that much, but you know our culture sometimes forces us and women they are many in South Africa. So, for one to be recognised as a real man it is because you have more wives, and it shows prestige and power too so some extent and it is our heritage and cultural norms and values for a man to have many wives.”*

**Participant J** *“The reason why I had to marry a second wife is that my first wife is only giving me females/girls and we have been trying many times and even my family contributed to it. Also, having any children it is good not to have many children with one wife no, but many children with many wives it is a good thing. Reproduction.”*

Based on the responses above, the findings of the study discussed hereunder relate to the contributory factors leading the Vatsonga people to enter into polygynous marriages. The study findings showed the researcher that the majority of the participants believe that it is because of their culture and that the norms are the ones which are making them to enter into a polygynous marriage. In other words, the participants denoted that the factors that make them marry in the African polygynous marriage are the cultural values; they see it as something that they need to do to be considered a man or a woman. To corroborate this notion, Alphonse (2023); Baloyi, Nene, and Mavhandu-Mudzusi (2022) affirm that the majority of the Vatsonga people are deeply rooted in culture and they follow their culture to its roots, meaning that they are bound by their African customs. That is why today, they are still practicing polygynous marriages. In addition, Baloyi and Phumzile (2023) added that many Vatsonga people who enter into these marriages do so as a result of following their customs, which they considered to exist long time ago, and they still live under them. Bishop, (2021) argued that polygynous marriages are still widely practised around these tribes or clans, and most people who follow it regard it as a good

way of living because it was passed from generation to generation through enculturation. Diala (2022) stated that when they practice such, they view it as upholding and preserving their culture and cultural identity and heritage.

More so, the researcher realised that some of the participants denoted that they entered into an African customary marriage called polygyny because they needed support from the side of the person marrying. In other words, some women who are married, did this because of poverty; they need support from the other part so that they can survive in their day to day lives. To corroborate this, Alphonse (2023); Baloyi, Nene and Mavhandu-Mudzusi (2022) affirm that the purpose of marriage is to unite two families that have different values and norms. Also, Baloyi and Phumzile (2023) added that when two families are united, this creates a stronger bond between them, so many people enter into such marriages for support that might come from the husband's side or the wife's side, depending on who has money and who does not. However, Bishop (2021) argued that above all, many people enter into polygynous marriages because they look for support that comes from the other side of the family. In other words, polygynous marriages could create strong bonds among extended family members, as they are all part of the same lineage. This support network could be beneficial in times of hardship or need (Diala, 2022).

In addition, the researcher, through the findings, discovered that some participants indicated that they entered into the African customary marriage called polygyny because they believe it is something spiritual, or because of their religion, one needs to have many wives like the one in the Bible, who had thousands of wives. In other words, some of these participants believe much what has been taking place in the Bible in which one has to marry many wives as much as consent from the first wife is needed. To concur on this notion, Mwambene (2017) and Ndlovu (2016) highlighted that in some of the cultures in South Africa, polygynous marriages are a religion, and they believe that a husband can marry a second wife on condition that he first consult with his first wife as a protocol or a gesture of respect of Vatsonga culture. In addition, Nhlapo (2017) highlighted that if a husband decides to marry another wife, he must consult the first wife to show respect of the culture and their religion. Phamphe (2021) added that for some, in some regions or

African traditional practices, they may view polygyny as a way of honouring ancestors or following divine instructions.

Furthermore, from the responses of the participants, the research findings indicate that some of the participants enter into African customary marriages called polygyny because they want to have more children, or because the first wife is not giving birth, or she is giving birth to children of the same sex. In other words, some of the participants are in polygynous marriages because maybe the first wife is not giving birth or the first wife is only giving birth to girls, and the man, because of culture, needs an heir to take care of the lineage, that is why some end up committing into marrying the second wife. To corroborate the above sentiments, Ndlovu (2016) and Nhlapo (2017) affirm that the primary purpose of marriage is reproduction, meaning that people marry to have children. So many people enter into such marriages because they want to give birth. More so, Phamphe (2021) added that it is a norm that when people marry, they give birth to children, as many children are being aborted in South Africa. Rikhotso (2017) added that it does not remove the issue that people enter into these marriages because they want to give birth and start their own families, ensuring the continuity of the family and community.

### **Theme 3: The Proprietary Consequences Encountered By Vatsonga Women Upon The Dissolution Of The Marriage**

Due to the responses by the participants, the researcher ends up creating this theme in order to understand the issue that happens after there is divorce in the community of property.

#### **Sub-Theme 3.1: Understanding About Proprietary Consequences.**

In this section, the researcher wanted to understand if the participants were aware of the so-called proprietary consequences. Since we are discussing proprietary issues or the consequences of the dissolution of property, the researcher, through probing, ended up asking the participants the following question to understand the whole issue that happens when there is a divorce. The following question was asked: *“In your own understanding, do you know anything about the proprietary consequences of customary marriages?”*

Below are responses from second wives

**Participant A** *“In my understanding I think it is a situation that happens when there is divorce between both parties and both of them have the right to the shares and owing of properties.”*

**Participant C** *“I think this is when both husband and wife married under African customary marriages divorces and have both right to own share of their properties.”*

**Participant E** *“This is the situation that happens when they are divorce between two parties which might be forced by different thing and both parties have the right to own properties after that happens.”*

Below are responses from husbands

**Participant F** *“From me, my son. I think this is an event that happens with a marriage when both parties after divorces have the right to share of properties that they accumulated during their marriage.”*

**Participant H** *“Proprietary consequences I think when after divorce people need to share equal possession as stated by the law.”*

**Participant J** *“This is a situation in which people after break up will have to have equal shares to properties that they had before the divorce took place.”*

Based on the study findings above, the responses by the participants indicate that the majority of the participants were aware of the term proprietary consequences. As much as they were saying it in different ways, at the end, their responses were the same, though they were different people. In other words, what the participants were saying about proprietary consequences is that it is a state that happens in marriages in which, after divorce, both parties have access to the sharing of properties that were owned during the African customary marriage. To concur, Dexter (2022) argues that the proprietary consequences of a customary marriage are in terms of property, denoting that in the event

of a divorce, both parties have the right to a proportionate share of the jointly held property, which includes every property as well as debts. In other words, proprietary consequence as for the customary marriages happens when there might be an event in which both parties want to divorce, and both sides have the right to the share of the properties and anything that they used to own.

In that notion, the researcher realised that there was a need to do some extra probing on the question asked. The reason is that the researcher realised that the participants did answer the question, but something emerged after their responses, that is why the researcher had to probe for more answers.

### **Sub-Theme 3.2: The Challenges People Encountered In Dissolution Of Marriages.**

After probing, the researcher ended up asking the participants whether they had encountered challenges during the dissolution of their marriages while they were married in African customary marriage called polygyny. The researcher asked the following question to the participants: *“In your understanding, what are some of the challenges that you have encountered after there is divorce in the marriage that you are married to?”* Below are their responses to the question asked:

Below are responses from second wives

**Participant A** *“From my own understanding I think usually people who are married in such marriage especially the second wife always loses properties because you might realise that their marriages were not registered. So, they might end up failing to win the shares and some cases they might not be married to property.”*

**Participant B** *“Many people are facing the issue of their marriages not registered like it should be and just imagine losing everything that you have worked for.”*

**Participant C** *“I think the most or the primary core of these challenges most people are facing in this generation is the issues of their marriages not registered according to the specified act. Many people are losing properties because of another woman because some marriage that are from customary marriage are not registered at all. So, someone that will come in the marriage will end up getting*

*married maybe under community of property in which they will equal shares if there are proprietary consequences.”*

Below are responses from husbands

**Participant G** *“People are losing properties and their inheritance to other people due to unregistered customary marriages of which people are not aware that they can be registered.”*

**Participant H** *“Let me honesty with you, my son. Many African marriages are not registered on any act, so when there is divorce many people turn to lose their properties and this is a challenge in families around, not just us but globally if they are still following such customs. We couldn’t see the need to register these marriages when people are married under their customs.”*

**Participant J** *“Unregistered marriages and lose of properties are tow issue challenging many marriages around the Vatsonga people. Of which they are many cases in which people especially first wives end up losing properties due to failure or ignorance to register their marriage.”*

Based on the responses of the participants, the researcher, through questioning, realised that majority of the participants who took part in the study pointed out that one of the intrigue challenges that people married in African customary marriages lose is property or inheritance. In other words, what the majority of these participants was noting is that when one is married or marrying in the African customs, if the marriage is not legally recognised or registered, chances of them losing properties to those who are registered is very high, and this is one of the problems affecting many people married in the African customary marriages; if they are not registered by the Act that governs those marriages. To corroborate the notion above, Staff Reporter (2018) denoted that a lot of people who are married in the African customary laws are losing their inheritance due to their unregistered African customary marriages (polygynous). Staff Reporter added that due to the lack of knowledge, married people in polygynous marriages are struggling to win inheritance in many cases (Staff Reporter, 2018). To add, Fisher-French (2021) stated that most women who entered unregistered customary law are losing their inheritance,

most of them due to the reason that it was not registered before the husband passed away. Staff Reporter added that most of these people that are losing their inheritance are losing because the husband of the person did not register the marriage, as much as lobola was paid, but lobola does not mean that the marriage is registered, but it only shows that the procedures for marriage were performed. It is not only women who are suffering from this kind of prejudice, but children are also losing their father's inheritance (Staff Reporter, 2018). To concur, the Staff Reporter cited some of the words of the widow who was affected by the situation where she was married in an African customary marriage which was not registered, and she and her children lost their property.

*'Children can also lose out on inheritance whether they are born in marriage or out of it. Given the low rates of marriage and how the validity of a customary marriage can be questioned, the number of extramarital children who are denied access to their deceased father's property is a deep concern. The right of extramarital children to inherit is often questioned and must be negotiated with the deceased's family members (Staff Reporter, 2018).*

Therefore, based on the above words by a widow, this shows how much effect one can encounter if they do not register their African customary marriages under the Recognition of Customary Marriages Act 120 of 1998.

To add to that, some of the participants indicated that the challenges they encounter as second wives are when the husband does not pay lobola. Meaning that the second wife is not recognised, and their marriage is invalid because there was no consent from the first wife. In other words, the family does not even recognise the second wife, and this is happening in many cases. In other words, based on the responses of the participants, the challenges they are facing in their daily lives are when the husband does not pay lobola, and that marriage is not registered under customary law. To concur, Machedi (2020) argued that among the proprietary consequences that are encountered by people in polygynous marriage, is their ACM which not registered in accordance with the RCMA 120 of 1998. Osman (2022) denotes that most women who are regarded as married in African traditional marriage are not married according to the RCMA 120 of 1998. So, most of them will realize that, because of lack of knowledge, their ACM is not registered with

the law, and the challenge comes in when the husband passes away and another person who is married to the same husband under civil marriage ends up taking or possessing the inheritance (Fisher-French, 2021). Therefore, if the African customary marriage is not registered, one is obliged to register with the Home Affairs and produce a letter signed by all lobola delegates, photos from a ceremony confirming the marriage, and wedding witnesses (Recognition of Customary Marriages Act 120 of 1998).

#### **Theme 4: Assess The Implication Of The Customary Marriages, The Act Regarding Polygynous Marriage Amongst The Vatsonga People**

The researcher discovered that there are some propriety consequences that people married in polygynous marriages encounter on a daily basis. The researcher realised that there was a need to probe more, especially on the issue of whether the participants were aware of the law that governs these marriages.

##### **Sub-Theme 4.1: Understanding About The Recognition Of Customary Marriages Act 120 Of 1998.**

In this section, the researcher wanted to understand the participants' knowledge regarding any general understanding of the Act that governs the African customary marriages. On that note, the researcher went on asking the participants the following question: *"In your understanding, what do you think is the recognition of Customary Marriage Act 120 of 1998?"*

Below are responses from second wives

**Participant A** *"I believe the Customary Marriage Act 120 of 1996 aims to preserve and recognize the cultural diversity of South Africa by giving legal recognition to marriages conducted according to customary practices. It ensures that second wives are protected by the law."*

**Participant C** *"In my understanding, the Customary Marriage Act 120 of 1996 is crucial for safeguarding the rights of women in customary marriages though married like us. It provides legal protection for second wives, ensuring they are not unfairly disadvantaged and are entitled to an equal share of the marital property and support in case of divorce."*

**Participant E** *"From my perspective, the Customary Marriage Act 120 of 1996 offers clarity and certainty to couples marrying under customary law. It establishes clear guidelines and requirements for the validity of customary marriages, making it easier for couples to navigate the legal aspects of their union and safeguard their rights."*

Below are responses from husbands

**Participant F** *"The recognition of the Customary Marriage Act 120 of 1996 is all about acknowledging and giving legal validity to marriages conducted under customary laws and traditions. It ensures that traditional marriages are treated with the same respect and protection as civil marriages under the law. Also, protecting those second wives."*

**Participant G** *"For me, the Customary Marriage Act 120 of 1996 represents a significant step towards promoting equality and fairness. It allows for equal recognition of both civil and customary marriages, granting spouses in traditional marriages the same legal rights and protections as those in civil marriages."*

**Participant I** *"The recognition of the Customary Marriage Act is a way of honoring and preserving our cultural heritage. It acknowledges the importance of traditional customs and practices while also ensuring that these marriages are treated with respect and are legally recognized."*

Based on the above responses, majority of the participants understood what African Customary marriage Act 120 of 1996 is, and its implications to second wives. In other words, the participants displayed outstanding understanding of Act 120 of 1996 and pointed out that it protects the rights of people who are disadvantaged and makes sure that everyone is treated equally, and everyone is protected by the law through recognizing that they are in an existing marriage. To concur, Mamacos (2019) supports what the participants said by saying that the primary mandate of enacting the Polygamous Customary Marriages Act (RCMA 120 of 1998) was to curb or prevent discrimination against second wives in such unions. To concur, in mostly the Vatsonga culture and other several cultures, if a husband wants to marry another woman, he must first get

government approval by uploading a written contract outlining their prospective personal law system (Machedi, 2020). That is why the Act intends to protect wives who were married in African marriages before, during, and after marriages, so that they will not lose any property to another second wife who might be married under civil marriage (Haque, Hossain & Ullah, 2022; Gaffney-Rhys, 2012). Mamacos (2019) stressed that South Africa's Customary Marriages Act promotes gender equality and recognizes indigenous weddings and protects their children's rights, and the African Customary Marriage Act protects women from discrimination.

#### **Sub-Theme 4.2: Recognition of polygynous marriage by the customary Marriages Act 120 of 1998**

Since the participants had an idea about the Recognition of Customary Marriages Act 120 of 1998, the researcher, through curiosity, wanted to understand from the perspective of the participants if their polygynous marriages are recognised by Act 120 of 1998. On that note, the researcher asked the following question to comprehend the participants' knowledge regarding the application of Act 120 of 1998 (RCM) *“In your understanding, do you think your marriage with your husband is recognised by Act 120 of 1998 (RCM)?”*

Below are responses from second wives

**Participant C** *“To tell you the truth. Since my husband did not seek consent from the first wives. This marriage according to our culture it is not valid. That is why even the family from my husband side they do not even recognize me as their daughter in law. So automatically our marriage is regarded as invalid, and the challenge comes in when our children have to inherit something we suffer a lot”.*

**Participant D** *“An African marriage is recognised as valid when the first wife knows about me and approved that the husband has to pay lobola for me. Then it will be recognised. So, because of this, I think it is not recognised under the 120 of 1998 (RCM).”*

**Participant E** *“The truth hurts a lot am telling you. Just imagine being with a husband and not paid lobola for it is something am telling you. The reason is that since my husband did not ask the first wife for the consent to marry me. I don't*

*think I can be recognised even by the Act 1996. If I needs to be recognised the first wife must give the husband the consent to marry me as our culture of the VaTsonga and it will give me a go ahead to be recognised by the Act, though I can still be protected by the Act.”*

Below are responses from husbands

**Participant G** *“One thing I know as per Vatsonga culture for me to marry a second wife, I have to go and speak to my first wives and ask for permission so that I can remarry other women as a second wife. But the challenge is that if I tries to do that most women, they end up saying am cheating her. So, we as men end up not even asking for any consent though sometimes these second wife since they are not known they might not get any inheritance because I did not follow the cultural practice. So, I does not think they are recognised though it is part of the African customary marriage of marrying, any wives like our former President Jacob Zuma.”*

**Participant H** *“I do not think the marriage I have with the second wives is recognised as per our Tsonga culture because I did not ask for consent from my first wife. I do not know but I believe it still fall under the African customary practices. Also, I thinks our marriage is considered to be invalid because even the court will even ask me if they were consent from the first wife. If not, it is invalid.”*

**Participant I** *“Such marriages, I does not think they are recognised. Because I did not follow certain procedure that is why you see many second wives suffer on the death of the husband because they are not recognised but maybe if we marry according to civil marriage it might work.”*

Based on the responses above, the researcher discovered, through the asking of questions, that the majority of the participants did not ask for permission to marry another wife or second wife from their first wives. Hence, when looking at such marriages in accordance with the Vatsonga culture, it is considered to be void or invalid. So, when the marriage is invalid, it actually means that when the husband dies or when they are divorcing, the second wife will not inherit anything from the husband, and even the second wife’s children will not be entitled to anything. In other words, that is why there are many

cases in which many second wives' lose cases because they think they were married, whereas in fact they were not as they did not follow the right procedures. To concur with this notion, Mamacos (2019) argued that in the Vatsonga tradition, if a husband wants to marry another woman, he must first be permitted by the first wife to do so and proceed to court to marry another wife (Merdad, Elbedour, Lau & Barker, 2022). That is why many second wives will never have property or anything because the marriage of the second wife is considered invalid. Osman (2022) and Yorgun (2022) concurred that in any African customary marriage, the husband, if he intends marrying another wife or second wife, he must get consent from his first wife because if the first wife's marriage is registered with RMCA 120 of 1998, such a marriage is protected by the Act. Therefore, if anything happens, that second marriage will be regarded as void and not valid, and the second wife will not be able to claim inheritance rights after the husband has died (Dyani-Mhango, 2016). Also, Stofile and Mpya (2022) argued that all African customary marriages that began before the recognition of the Act are valid as noted in Section 2 of Sub-Section 3, and all marriages that violate Section 2(4) are dissolved. In other words, all these marriages that husbands and second wives are entering into are considered to be void, and when there is a divorce, they face challenges as they will not be able to get anything as per entitled.

### **Theme 5: Ways To Resolve Proprietary Consequences Encountered By The Vatsonga People**

In this section, the researcher, through probing, found out that the Vatsonga people were encountering proprietary consequences. There was a need to find out from them if there might be a way in which their problems could be handled by both the home affairs department and the community.

#### **Sub-Theme 5.1: The Strategies That The South African Home Affairs Employ To Help The Vatsonga Women Who Are Married Under The Polygynous Marriages.**

Below are responses from second wives

**Participant A** *"As for me I think the Home Affairs should educate people about these African customary marriages, the disengages and advantages of being in those marriages."*

**Participant D** *"What I think is that the HA should educate us as women on the type of marriages that should be entered because most women, they do not know the dangers they get themselves into especially if they are married to a man who know about such laws. So, when people are going to HA, they need to sit down with them and tell them the different kinds of marriages and which one id the best one to enter into."*

**Participant E** *"Most women that are in marriages nowadays they end up losing property or their right or even being abused on their right. So, education is a key to everything so that us as women we can be empowered at the end."*

Below are responses from husbands

**Participant F** *"As much as am the husband some of these marriages we do not know until we lose our property to people who know. Just imagine marrying someone because you want their riches. So, there is a need to educated people and help them to registered on the right marriages so that when divorce happens everyone will be safe, and their right not violated."*

**Participant H** *"The Home Affairs department should conduct awareness campaigns to educate the public about the legal rights and responsibilities of polygynous marriages. This could help to dispel misconceptions and promote acceptance of our cultural practices."*

**Participant I** *"The Home Affairs department should made efforts to address issues of inheritance and property rights within polygynous marriages. They should educate people by providing them with relevant information on how to navigate these legal aspects to ensure fairness and protection for all wives and children involved."*

Based on the responses given by participants pertaining to the topic being asked, the researcher discovered, through probing, that the majority of the participants, both males and females alluded that the HA should educate people or do some educational campaigns so that they can empower people with knowledge about their rights and interests. Also, such knowledge can empower people, more especially women, who seem to be the ones violated by their husbands, especially on inheritance and divorce. To concur with this notion, Djuikom and van de Walle (2022) avow that education campaigns are very important in raising awareness to people, especially in the context of African customary marriage, the Universal Declaration of Human Rights and the Republic of South Africa Constitution Act of 1996. Machedi (2020) affirms that Education is one of the key elements of life that is needed, especially around polygynous marriage and the recognition of the Customary Marriage. Khumalo (2021) stipulates that most of the people who are married around customary marriage, or civil law, are not aware of their rights. That is why in law there is a proverb which says, '*Ignorant is not an excuse.*' Mkize (2021) affirms that most marriages nowadays are falling apart because one party was not aware of their rights, or some only signed papers without scrutinizing, or some never signed any paper regarding marriage, but they consider themselves as married. In addition, Mamacos (2019) added that women who are married under African customs or African customary law, are not aware that there is a need to sign a marriage certificate which is under the Customary Marriage Act 120 of 1998. As much as African people are not able to afford civil marriages, they can only marry under the African customary law. A long time ago, there was no Act that governed these marriages, especially in South Africa (Smith, 2019). Hence, because of the Bill of Rights and the SA constitution, these marriages end up being recognized (Djuikom & van de Walle, 2022).

Moreover, Merdad, Elbedour, Lau and Barker (2022) argue that since these marriages are now being recognized by the law, most people are not aware of these facts, especially those people living in villages, and who are only married under customs. Therefore, there is a need to educate Africans or indigenous people about their rights, making sure they know that their marriages or customs can be registered under the Customary Marriage Act 120 of 1998, and they can have marriage certificates which are similar to those of people married under civil marriage (Kyegombe, Stern & Buller, 2022). Hence, the reason

is that most of these people or women who married under customs tend to lose properties or even inheritance when the husband dies. Morelli (2022) and Xulu-Gama (2022) maintain that education is needed and that it can be passed through mass campaigns, through social media, or through educating chiefs who will in turn, pass the message to people married under customs. In addition, Mengistu, Shumye, Tesfaye, Haile, Bayisa, Yimer, Tadesse, Markos, Madoro, Assefa and Molla (2022) highlight that some people lose their properties because they are not married under civil marriages; hence, a lot end up committing suicide or even suffering from depression for the rest of their lives.

In addition, some of the participants indicated that the HA must help its citizens by registering their marriages so that when the time comes for dissolution, the second wife will also get something like an inheritance from the husband. The reason is that many marriages around the Vatsonga people are not registered in accordance with Act 1996 of the RCM. That is why many of the time, second wives end up losing properties because the first wife refuses to give the husband permission to marry because she will see the husband as a cheat. In other words, what the participants are saying is that there is a need for the HA to educate people or help them register their marriages according to those customary laws so that their marriages will be recognised at the death or dissolution of marriage so that the children will not suffer. To support the notion above, Smith (2019) denoted that African customary marriages should be registered following RCMA 120 of 1998. So, usually, the Recognition of Customary Marriages Act, 1998, makes provision for the recognition of customary marriages, provides the requirements that need to be met for a customary marriage to be deemed valid, regulates the registration of customary marriages, and regulates the proprietary consequences of customary marriages and the capacity of spouses of such marriages (Mkize, 2021).

In addition, Smith (2019) argued registration is very important because one will not be able to lose their assets, and this prevents disputes on properties after the death of the husband during marriage under African customary marriage. More so, the RCMA makes it easier people who are married under CM to claim a right to the assets of a deceased spouse, to prove rights to a deceased estate, and for a wife to enforce her property rights if her husband takes another wife (Staff Reporter, 2018). To support this view, Fisher-

French (2021) and Osman (2022) note that Section 4(2) of the Act states that either spouse may apply to the registration officer in the prescribed form for the registration of their customary marriage and that they must provide the prescribed information as well as any additional information the registering officer may require to satisfy themselves as to the existence of the marriage. Fisher-French and Osman both agree with this interpretation (Smith, 2019). According to the Act's Section (4)(a), a registering officer is required to register a valid customary marriage by recording the identities of the spouses, the date of the marriage, and any lobola that was agreed to at the time of the marriage (Mkize, 2021).

Mkize (2021) says that even though Section 4(9) of the Act says that a customary marriage is not invalid if it is not registered, it is hard to prove what marriage is without even factual proof, like a certified copy of the marriage certificate if the marriage itself has not been registered. Customary marriages that have never been registered are often not recognized (Smith, 2019). Many wives expect their husbands to register their marriages because they don't think they have the power or because they live in a rural area where they can't easily get to the Department of Home Affairs (Mkize, 2021). Most wives find out after their husband dies that their marriage wasn't recognized (Mkize, 2021; Smith, 2019).

### **Sub-Theme 5.2: Ways to resolve the disputes happening amongst Vatsonga polygynous marriages by community.**

In this section, the researcher probed the participants about the issue around HA, what can be done to make sure that in the future people will not lose their marriages or lose anything? After the participants deliberated on the issue presented, the researcher also did not realise that the same people who are in marriages are also the same people who stay in the community. So, the researcher, through questioning, created a follow-up question as follows: *“In your understanding, what do you think the community where you are residing can do or is doing in trying to resolve disputes from happening to prevent marriage dissolutions?”*

In that regard, this is how the participants responded to the questions asked by the researcher:

Below are responses from second wives

**Participant A** *"Women in the community have formed support networks where we can discuss our concerns and seek advice from those who have experienced similar challenges in polygynous marriages. These support groups provide a safe space to share our feelings and find solutions together."*

**Participant B** *"I think the community should empower women with skills or even community building projects so that they can be able to stand for themselves and avoid the issue of relying on men. By doing this can reduce issue of dependance in women and allows them to stand for themselves".*

**Participant C** *"Empowerment is a key to everything in women lives. The reason why women end up in such marriages it is because they need a man to stand for themselves in term of food or security. So, the community they need to empower women through skills to do well in business, if it is not done, many people are taken advantage of because they are not empowered, or they are not doing business as others."*

**Participant E** *"In our community, there are elders and respected leaders who play a significant role in resolving disputes in Vatsonga polygynous marriages. They act as mediators and help couples navigate their issues through open dialogue and traditional conflict resolution methods."*

Below are responses from husbands

**Participant G** *"Our community holds regular meetings and workshops to raise awareness about the importance of communication and understanding in polygynous marriages. By promoting open communication and empathy, we can address disputes before they escalate."*

**Participant H** *"Some families in our community have designated elder members who act as family counselors. Whenever disputes arise in polygynous marriages,*

*these counselors' step in to offer advice and guidance to both husbands and wives."*

Based on the responses presented above by the researcher, the research findings indicate that the majority of the participants who took part in the study believe that women should be empowered to stand up for themselves so that they will not depend on their husbands for their livelihood. In other words, this is one of the reasons why many women are becoming second wives because of poverty. So, if they are empowered and given skills and knowledge on how they can run the marriage and how they can deal with issues in the marriage. To concur, Osman (2022) argued that women's empowerment through entrepreneurship has been identified as one of the several ways that can be implemented to resolve the proprietary consequences encountered by people who are in polygynous marriages. Smith (2019) added that most of the women who are in polygynous marriages are in those marriages because they need support and are running away from poverty. So, there is a need to empower a black child or woman so that they can be dependable to themselves even after the dissolution of marriage (Mkize, 2021). Also, they can be taught about business so that they can stand up for themselves and not rely on men. That is why there is an African proverb which says, "By educating a woman, you have empowered a nation" (Mkize, 2021). In other words, empower women to know about the rights in marriage and to know when to get their marriage registered.

More so, some of the participants indicated that in their community, there are elders who are there to make sure that they are there to advocate if there might be disputes, or maybe dissolution that need to take place. They are there to offer counselling to these people and advise them to do the right thing, which is, making sure that their marriage is registered. In other words, elder in the communities - not just them, but also social workers, are there to offer support so that these people in African customary marriages can understand that they should make the right decisions. To corroborate the above notion, Akinyemi, Banda, De Wet, Akosile and Odimegwu (2019) found that in most cases, before the divorce, most people need counselling that will help them to make sure that it will not happen (Alwahaby, Cukurova, Papamitsiou, and Giannakos, 2022). To add, Badejogbin (2022) stated that the issue is that a lawyer, or psychologist, or social worker

should help the husband and wife resolve their disputes so that the second wife won't lose any property after the divorce.

Also, some of the participants indicated that the community should empower people with knowledge about customary marriages and what is expected of them. In other words, some people enter into marriages without knowing the type of marriages they are entering, and this ends up creating dissolution of fights because another party is not aware of the marriages that he or she has is in. To support this notion, Merdad, Elbedour, Lau and Barker (2022) state that since these marriages are now recognized by the law, most people are not aware of these facts, especially those people living in villages and who are only married under customs. Therefore, there is a need to educate African or indigenous people about their rights, making sure they know that their marriages or customs can be registered under the Customary Marriage Act 120 of 1998 and they can have marriage certificates the same as people married under civil marriage (Kyegombe, Stern & Buller, 2022). Hence, the reason is that most of these people or women married under customs tend to lose properties, or even inheritance when the husband dies. According to Morelli (2022) and Xulu-Gama (2022) education is needed, it can be passed through mass campaigns or even education through social media or through educating chiefs so that they can pass the message to people married under customs. In addition, according to Mengistu, Shumye, Tesfaye, Haile, Bayisa, Yimer, Tadesse, Markos, Madoro, Assefa and Molla (2022), some people lose their properties because they are not married under civil marriages; hence, a lot end up committing suicide or even suffering from depression for the rest of their lives.

#### **4.5. Summary**

In summation, the five themes emerged from the responses of the participants regarding the nature of polygynous marriages. The findings of the study revealed that the majority of the participants were aware of the term marriage as well as the issue of polygynous marriages. Also, on the procedure that husbands follow to take a second wife and the issue of the lobola, the study findings indicated that the majority of the participants were aware about the whole gist of the project. More so, of the contributory factors leading many people into such marriages, the researcher realised that there are several factors

like culture, fertility or even reproduction to mention but a few. To add on the next theme about the proprietary consequences, the research findings revealed that majority of the participants who took part in the study lost property due to unregistered marriages. They pointed out it is something that is affecting a lot of marriages in the African customary, and that these are common consequences that they encounter daily. On the implication of the Act, the findings revealed that most of these marriages are not recognised because the first wife did not give consent; hence, the husband did not pay the lobola as a sign of respecting the customs of the Vatsonga people. In other words, these marriages are invalid and void (*there is no marriage*). In addition, when looking at the last theme which speaks about way to resolve the proprietary consequences encountered by Vatsonga people, the researcher, through probing, found out that there is a need for the HMA to educate people about these marriages, and help them by registering them so that their marriages can be recognised. Also, the community can empower women so that they can stand up for themselves and avoid the issue of them being under someone. Also, the issue of counselling and guidance, if there might be issues like disputes, so that they can be resolved in harmony.

## CHAPTER FIVE

### CONCLUSION, LIMITATIONS AND RECOMMENDATIONS

#### 5.1. Introduction

The primary purpose of this study was to explore the proprietary consequences of the Vatsonga customary marriages. This section deals with the findings established during the progression of this study. The researcher thematically structured the findings in an attempt to respond to the themes which are: understanding polygamous marriages amongst Vatsonga people; contributing factors leading Vatsonga people into polygynous marriages in South Africa; the proprietary consequences encountered by Vatsonga women upon the dissolution of the marriage; the implication of customary marriages, the Act regarding polygynous marriage amongst the Vatsonga people; and ways to resolve proprietary consequences encountered by the Vatsonga people.

#### 5.2. An Overview of Research Findings

The purpose of the study was to explore the proprietary consequences of the Vatsonga customary marriages. The study findings indicate that the second wives are losing

property on a day-to-day basis. Also, their marriages are not registered and recognised in accordance with Act 1996 of the RCM. The reason is that the first wife was not consulted by the husband, making the marriage of the second wife invalid and void in some cases. Also, the findings indicate the importance of making sure that people abide by their culture because if they do, the chances of dissolution and loss of property would be reduced.

### **5.3. Discussion of the Major Findings of the Study**

The study findings are discussed in this section under the following themes:

#### **Theme 1: The Nature of Polygynous Marriages amongst the Vatsonga People**

##### **Sub-Theme 1.1: What Is Your Understanding About The Term Marriage?**

The responses highlighted that the majority of the participants who took part in the study had the same understanding of the term 'marriage. However, the responses were different in the way they were answered, but when checking their responses, the majority centered on the issue of the union between two people to form a family. Therefore, based on the study or responses by the participant, marriage is the union of two opposite people who decided to stay and live together in one accord to start a family. It can be according to the magistrate, pastor, or even the home affairs or African traditional knowledge holders. To concur, Golding (2022) defines marriage as a relationship between two people that produces a formal and recognized partnership and is significant on multiple levels, including social, cultural, and legal. Golding stressed that marriage is a fundamental institution that can be found in the majority of nations around the globe, yet the form of this institution and the reason for its existence might differ significantly between cultures and religions. In other words, the purpose of marriage is to establish a relationship between two individuals that is committed and long-lasting. This is typically done with the intention of starting a family and providing a secure setting in which to bring up children. It entails joint rights and obligations between the couples, in addition to the partners' relationship being recognized legally and socially by third parties (Golding, 2020).

### **Sub-Theme 1.2: What Is Your Comprehension About Polygynous Marriages?**

The findings indicate how much knowledge the participants have about the subject, polygynous marriages. In other words, the findings show that the majority of the participants understood the phenomena presented as much as many had different understandings, but they were saying the same thing but with a different narrative. As both husbands and wives were being interviewed, they demonstrated their reasoning towards the question asked by the researcher. In other words, the participants denoted that polygynous marriage is that type of marriage usually still practiced by the Vatsonga people in which a husband marries different wives but has to consult the first wife for approval. To corroborate, Koos and Neupert-Wentz (2020) denoted that polygyny is a form of polygamy marriage wherein a man marries several women at the same time. In other words, polygyny is a type of marriage in which a man can marry many wives at the same time, for example, Jacob Zuma, or King Swathi.

### **Sub-Theme 1.3: What Is The Procedure That Are Followed In The Vatsonga Polygynous Marriages?**

The findings revealed that the majority of the participants are aware of the procedures that Tsonga husbands follow when they want to marry a second wife. They need to consult the first wife. In other words, as a husband, if they think that they need a second wife, they need to ask for permission from the first wife because if they do not ask, they will be neglecting the first wife's dignity and equality. In other words, when looking at participants responses, it shows that husbands are bound to their culture, and they need to respect it; however, they seem to neglect it by not following the culture as it should be. The issue is that if a man asks for permission, the first wife will think he has been cheating, so many men are no longer consulting.

However, looking at the findings, there seems to be a lack harmony with the above findings because the majority of the husbands have second wives, and the wives are also considered to be second to the husband. Meaning that as much as they know the culture, they are not following it. That is why Golding (2022) argued that the right of the husband to consult or ask permission from the first wife to marry subsequent wives was raised by the Constitutional Court in 2013. In addition, Maithufi (2013) denoted that, for example,

the court ruled in favour of the first wife in the case of Modjadji Florah Mayelene V Mphephu Maria Ngwenyama and another, since customary law requires the husband to consider the first wife before marrying the following wives. Manthwa (2022) denotes that the second marriage to the subsequent wife was deemed to be unlawful due to the husband's lack of consultation, as the first wife was not notified and did not give her husband permission to remarry.

#### **Sub-Theme 1.4: What is your understanding about lobola and was it paid?**

The study findings show that the majority of the participants were aware of what lobola is. Also, for most women who took part in the study, their lobolas were not paid, and the husband also did not pay their lobola to their second wives. By how much the participants were responding to the question asked by the researcher, the researcher realised that for the Vatsonga people, the issue of lobola is something that is a cultural practice, and many people abide by the customs which have been there for ages, and it is only given to the first wife. In other words, based on the responses presented above, the term lobola indicates that it is an African cultural practice in which African people like the Vatsonga abide by, and they are bound to undergo it as a way to appreciate the family that has raised their children.

However, the findings revealed that the participants did not follow the cultural norms of paying lobola which is done by asking for permission from the first wife. Osman and Baase (2022) define lobola in accordance with the Recognition Act as property in cash or kind of value which a prospective husband or head of his family undertakes to give to the head of a prospective wife's family in consideration of a customary marriage. To stress more, Herbst and Du Plessis (2008) maintain that lobola or (lobola in Zulu, Swazi, Xhosa, Silozi, Shona, northern and southern Ndebele; mahadi in Sesotho, magadi in Setswana, lovola in Xitsonga, and mamalo in Tshivenda) is a property in livestock or kind that a prospective husband or head of his family promises to give to the head of a prospective wife's family in exchange for marrying their daughter". In other words, lobola it is a form of way to thank or appreciate that a husband gives to the family that he wants to marry to thank them for raising up their wife to be.

In summary of the nature of polygynous marriages, there were several themes that emerged during the data analysis, for example, the understanding of participants about marriage. On this sub-theme, the researcher realised that the majority of the participants were aware of the term 'marriage' in that they denoted it as a union or African union between two different people who can be of the same sex or opposite sex. More so, on the issue of polygynous marriage, the researcher realised that the majority of the participants were aware of the term, and they denoted that polygyny is a form of polygamous marriage in which a man can marry one wife first, but then consults with his first wife if he wants to marry the second wife. Furthermore, on the issue of the procedure in which Vatsonga people follow when they want to marry a second wife, the majority of the participants, since they are all Tsongas, were aware of the issue that when the husband wants to marry the second wife, he has to consult the first wife as a sign of respecting the cultural values, as well as what the Act denoted about the issue of respecting the first wife. Lastly, on the issue of the term lobola and whether these participants respected lobola, the researcher realised that the majority of the participants paid lobola and received lobola from their husbands. Also, people had enough knowledge of what lobola is, which they denoted as an African practice in which a husband pays to the in-laws as a token of appreciation, it can be in the form of money or anything else that is well recognised by the in-laws.

## **Theme 2: The Contributing Factors Leading Vatsonga Women Into Polygynous Marriages In South Africa.**

### **Sub-Theme 2.1: What Are The Reasons Why People Enter Into Polygynous Marriages?**

This section focuses on the study findings pertaining to the contributory factors leading the Vatsonga people to marry in polygynous marriages. The study findings indicate that the majority of the participants believed that it is because of their culture and that the norms are the ones that are making them enter into a polygynous marriage. In other words, the participants denoted that the factors that make them marry or married in African polygynous marriage are the cultural values. They see it as something that needs to be done if one is to be considered a man or a woman. To corroborate this notion, Alphonse (2023); Baloyi, Nene and Mavhandu-Mudzusi (2022) assert that majority of the

Vatsonga people are deeply rooted in culture, and they follow their culture to its roots. This means that they are bound by their African customs. That is why today they are still practicing polygynous marriages. In addition, Baloyi, and Phumzile (2023) add that many Vatsonga people who enter into these marriages do so in pursuit of their customs, which they consider to have existed a long time ago, and they still live under them. Bishop (2021) argued that that is why polygynous marriages are still widely practiced around these tribes or clans, and most people who follow them regard it as a good way of living because it was passed from generation to generation through enculturation. Diala (2022) stated that is why, when they practice such, they view it as upholding and preserving their culture, cultural identity, and heritage.

The research findings revealed that some of the participants indicated that they entered into African customary marriage because they need support from the person marrying. In other words, some women who are married do this because of poverty; they need support from the other so that they can survive in their day to day lives. To corroborate this, Alphonse (2023); Baloyi, Nene and Mavhandu-Mudzusi (2022), argue that the purpose of marriage is to unite two families that have different values and norms. Also, Baloyi and Phumzile (2023) add that when two families are united, this creates a stronger bond between them, so many people who enter into such marriages look for support that might come from the husband's side or the wife's side, depending on who has money who does not. However, Bishop (2021) argued that above all, many people enter into polygynous marriages because they look for someone who comes from the other side of the family. In other words, polygynous marriages could create strong bonds among extended family members, as they are all part of the same lineage. This support network could be beneficial in times of hardship or need (Diala, 2022).

In addition, the findings revealed that some of the participants enter into polygynous marriages because they believe it is something spiritual; or because of their religion, one needs to have many wives like the one in the Bible who had thousands of wives. In other words, some of these participants believe much of what has been taking part in the Bible in which one has to marry many wives as much as consent from the first life is needed. To concur with this notion, Mwambene (2017) and Ndlovu (2016) stated that in some

South African cultures, polygynous marriages are a religion, and they believe that a husband can marry another wife, but he should first consult with his first wife as a protocol or respect of the culture, for example, the Vatsonga people. In addition, Nhlapo (2017) highlighted that if a husband decides to marry another wife, he has to consult the first wife as to show respect of the culture and their religion. Phamphe (2021) added that for some, in some regions or African traditional practices, they may view polygyny as a way of honouring the ancestors or following divine instructions.

Furthermore, the research findings revealed that some participants enter into polygynous marriages because they want to have more children, or because maybe the wife is not giving birth, or she is only giving birth to the same sex. In other words, some of the participants are in polygynous marriage maybe because the first wife is not giving birth or the first wife is only giving birth to girls, and the husband, because of culture, needs an heir to take care of the lineage. That is why some end up committing into marrying a second wife. To corroborate the above sentiment, Ndlovu,(2016) and Nhlapo (2017) affirm that the primary purpose of marriage is reproduction, meaning that people marry to have children. So, many people they enter into such marriages because they want to give birth and expropriate. Phamphe (2021) added that it is a norm that when people marry, they give birth to children, as many children are aborted in South Africa. Rikhotso (2017) added that it does not remove the issue that people enter into these marriages because they want to give birth and start their own families, ensuring the continuity of the family and community.

### **Theme 3: The Proprietary Consequences Encountered By Vatsonga Women Upon The Dissolution Of The Marriage**

The responses by the participants indicate that majority of the participants were aware of the term proprietary consequences. As much as they were saying it in their different ways, but at the end, their responses were the same, though they were different people. In other words, what the participants were saying about proprietary consequences is that it is a state that happens in marriages in which after divorce, both parties have access to the sharing of properties that were owned during the African customary marriage. To concur,

Dexter (2022) states that the proprietary consequences of a customary marriage are in terms of property, denoting that in the event of a divorce, both parties have the right to a proportionate share of the jointly held property, which includes every property, as well as debts. In other words, proprietary consequence for customary marriages happens when there might be an event in which, maybe both parties, want to divorce and both sides have the right to the share of the properties and anything that they used to own.

### **Sub-Theme 3.2: What Are The Challenges People Encountered In Dissolution Of Marriages?**

The research findings revealed that majority of the participants that believed that one of the intrigue challenges that people married in African customary marriages face is loss of properties or inheritance. In other words, what the majority of these participants noted is that when one is married or marrying in the African customs, if the marriages is not legally recognised or registered, chances of them losing properties to those who are registered is very high, and this is one of the problems affecting many people married under African customary marriages if they are not registered according to the Act that governs those marriages. To corroborate the notion or response above, Staff Reporter (2018) pointed out that a lot of people who are married in the African customary laws are losing their inheritance due to their unregistered African customary marriages (polygynous). Staff Reporter added that due to the lack of knowledge that married people are in polygynous marriages, a lot of them are struggling to win inheritance in many cases (Staff Reporter, 2018). To add, Fisher-French (2021), indicated that most women who entered unregistered customary law are losing their inheritance, most of them due to the reason it was not registered before the husband passed away. Staff Reporter added that most of these people that are losing their inheritance are losing because their husbands did not register the marriage as much as lobola was paid, but lobola does not mean that the marriage is registered, but it only shows that the procedures for marriage were performed. More so, not only women are suffering from this kind of prejudice, but children are also losing their father's inheritance (Staff Reporter, 2018).

To add to that, some of the participants indicated that the challenges they encounter as second wives is when the husband did not pay lobola. This means that the second wife

is not recognised, and their marriage is invalid because there was not consent from the first wife. In other words, the family do not even recognise the second wife, and this is happening in many cases. In other words, based on the responses from the participants, the wives are facing challenges in their daily lives because their husbands did not pay lobola, and that the marriage is not registered under customary law. To concur, Machedi (2020) pointed out that among the proprietary consequences that are encountered by people in polygynous marriage, is unregistered marriage, their ACM, in accordance with RCMA 120 of 1998. Osman (2022) states that most women who are regarded as married in African traditional marriage are not married according to RCMA 120 of 1998. So, most of them will realize that because of a lack of knowledge, their ACM is not registered with the law, and the challenge comes in when the husband has passed away and another person who is married to the same husband under civil marriage end up taking or possessing the inheritance (Fisher-French, 2021). Therefore, if the African customary marriage is not registered, one is obliged to register it with the Home Affairs and should produce a letter signed by all lobola delegates, indicating photos from a ceremony confirming the marriage, and wedding witnesses (Recognition of Customary Marriages Act 120 of 1998).

#### **Theme 4: Assess The Implication Of The Customary Marriages, The Act Regarding Polygynous Marriage Amongst The Vatsonga People**

##### **Sub-Theme 4.1: What Is Your Understanding About The Recognition Of Customary Marriages Act 120 Of 1998**

Majority of the participants understood what African Customary Marriage Act 120 of 1996 is, and some of the duties that it imposes to second wives. In other words, the participants indicated that Act 120 of 1996 protected the rights of disadvantaged people and makes sure that everyone is treated equally and protected by the law through recognizing that they are in an existing marriage. To concur, Mamacos (2019) supports what the participants said by saying that the primary mandate of enacting the Polygamous Customary Marriages Act (RCMA 120 of 1998) was to curb or prevent discrimination against second wives in such unions. To concur, in mostly the Vatsonga culture and other several cultures, a husband who wants to marry another woman must first get government approval by uploading a written contract outlining their prospective personal

law system (Machedi, 2020). That is why the Act intends to protect wives who are married in African marriages before, during and after the marriages so that they will not lose any property to another second wife who might be married under civil marriage (Haque, Hossain & Ullah, 2022; Gaffney-Rhys, 2012). Mamacos (2019) stressed that South Africa's Customary Marriages Act promotes gender equality, recognizes indigenous weddings, and protects children's rights, and women from discrimination.

#### **Sub-Theme 4.2: Do you think your polygynous marriage is recognised by the Customary Marriages Act 120 Of 1998?**

The research findings revealed that majority of the participants did not ask for permission from the first wife to marry another wife or second wife. Hence, when looking at such marriages in accordance with to the Vatsonga culture, it is considered void or invalid. So, when the marriage is invalid, it means that when the husband dies, or when they are divorcing, the second wife will not get anything from the husband and even the children will not be entitled to anything. In other words, that is why there are many cases in which many second wives lose cases because they think they were married, but they were not because they did not follow the right procedure. To concur with this notion, Mamacos (2019) argued that in the Vatsonga tradition, if a husband wants to marry another woman, he must first be permitted by the first wife to do so and proceed to the court and marry another one (Merdad, Elbedour, Lau & Barker, 2022). That is why many second wives never have property or anything because the marriage of the second wife is considered invalid. Osman (2022) and Yorgun (2022) concurred also with Osman that in many African customary marriages, the husband, if he intends marrying another wife or second wife, he must get consent from his first wife. The reason is that the first wife, if their marriage is registered with RMCA 120 of 1998, is protected by the Act. Therefore, if anything happens, that second marriage will be regarded as void and not valid, and that person will not be able to claim inheritance rights after the husband has died (Dyani-Mhango, 2016). Also, Stofile and Mpya (2022) argued that all African customary marriages that began before the recognition of the Act are valid as noted in Section 2 of Sub-Section 3, and all marriages that violate Section 2(4) are dissolved. In other words, all these marriages that husbands and second wives enter into, are considered to be void,

and when there is a divorce, they face challenges in which they are not able to get anything as per entitled.

## **Theme 5: Ways To Resolve Proprietary Consequences Encountered By The Vatsonga People**

### **Sub-Theme 5.1: What Are The Strategies That The South African Home Affairs Employ To Help The Vatsonga Women Who Are Married Under The Polygynous Marriages?**

The research findings revealed that majority of the indicated that the HA should educate people or do some educational campaigns to empower people with knowledge regarding their rights and interests. Also, such knowledge can empower people, more especially women who seem to be the one violated by their husbands, especially on issues of inheritance and divorce. To concur with this notion, Djuikom and van de Walle (2022) emphasise that education campaigns are very important in bringing awareness to people, especially in the African customary marriage, the Universal Declaration of Human Rights, and the Republic of South Africa's Constitution Act of 1996. Machedi (2020) asserts that education is one of the key elements of life that is needed, especially in polygynous marriage and the recognition of customary marriage. Khumalo (2021) stipulates that most of the people who are married around customary marriage, or civil law, are not aware of their rights. That is why in law, there is a proverb which says, '*Ignorance is not an excuse.*' Mkize (2021) avers that most marriages nowadays are falling apart because one party was not aware of their rights, or some only signed papers without scrutinizing, or some never signed any paper regarding marriage, but they consider themselves as married. In addition, Mamacos (2019) added that women who are married under African customs or African customary law are not aware that there is a need to sign a marriage certificate which is under the Customary Marriage Act 120 of 1998. As much as African people are not able to afford civil marriages, they can only marry under the African customary law. A long time ago, there was no act that governed these marriages, especially in South Africa (Smith, 2019). Hence, because of the Bill of Rights and the SA constitution, these marriages end up being recognized (Djuikom & van de Walle, 2022).

Moreover, Merdad, Elbedour, Lau & Barker (2022) indicate that since these marriages are now being recognized by the law, most people are not aware of these facts, especially those people living in villages and who are only married under customs. Therefore, there is a need to educate African or indigenous people about their rights, making sure they know that their marriages or customs can be registered under the Customary Marriage Act 120 of 1998, and they can have marriage certificates the same as people married under civil married (Kyegombe, Stern & Buller, 2022). Hence, the reason is that most of these people or women who are married under customs tend to lose properties or even inheritance when the husband dies. More so, Morelli (2022) and Xulu-Gama (2022) hold the notion that education is needed, and that it can be passed through mass campaigns, or even through social media, or through educating chiefs so that they can pass the message to people married under customs. In addition, according to Mengistu, Shumye, Tesfaye, Haile, Bayisa, Yimer, Tadesse, Markos, Madoro, Assefa and Molla (2022), some people lose their properties because they are not married under civil marriages; hence, many end up committing suicide or even suffering from depression for the rest of their lives.

In addition, some of the participants indicated that the HA must help its citizens by registering their marriages so that when the time for dissolution comes, the second wives will also get something like an inheritance from the husband. The reason is that many marriages around the Vatsonga people are not registered in accordance with Act 1996 of the RCM. That is why many of the times, second wives end up losing properties because the first wife refuses to give the husband permission to marry because she will see the husband as a cheat. In other words, what the participants are saying is that there is a need for the HA to educate people or help them register their marriages according to those customary laws so that their marriages will be recognised at the death or dissolution of marriage, and so that the children will not suffer. To support the notion above, Smith (2019) argues that African customary marriages should be registered following the RCMA 120 of 1998. So, usually, the Recognition of Customary Marriages Act, 1998 makes provision for the recognition of customary marriages, provides the requirements that need to be met for a customary marriage to be deemed valid, regulates the registration of

customary marriages, and regulates the proprietary consequences of customary marriages and the capacity of spouses of such marriages (Mkize, 2021).

In addition, Smith (2019) argued that registration is very important because one will not be able to lose their assets, and this prevents disputes on properties after the death of the husband during marriage under the African customary marriage. More so, the RCMA makes it easier for people who are married under CM to claim a right to the assets of a deceased spouse, to prove rights to a deceased estate, and for a wife to enforce her property rights if her husband takes other wives (Staff Reporter, 2018). To support this view, Fisher-French (2021) and Osman (2022) note that Section 4(2) of the Act states that either spouse may apply to the registration officer in the prescribed form for the registration of their customary marriage and that they must provide the prescribed information as well as any additional information the registering officer may require to satisfy themselves as to the existence of the marriage. Fisher-French and Osman both agree with this interpretation (Smith, 2019). According to the Act's Section (4)(a), a registering officer is required to register a valid customary marriage by recording the identities of the spouses, the date of the marriage, and any lobola that was agreed to at the time of the marriage (Mkize, 2021).

Mkize (2021) says that even though Section 4(9) of the Act says that a customary marriage is not invalid if it is not registered, it is hard to prove what marriage is without even factual proof, like a certified copy of the marriage if the marriage itself has not been registered. Customary marriages that have never been registered are often not recognized (Smith, 2019). Many wives expect their husbands to register their marriages because they don't think they have the power or because they live in a rural area where they can't easily get to the Department of Home Affairs (Mkize, 2021). Most wives find out after their husband dies that their marriage wasn't recognized (Mkize, 2021; Smith, 2019).

### **Sub-Theme 5.2: What is the community doing in trying to resolve the disputes happening in the Vatsonga polygynous marriages?**

The findings revealed that majority of the participants believed that women should be empowered to stand up for themselves so that they will not depend on their husbands for

livelihood. In other words, many women are becoming second wives because of poverty. So, they should be empowered, and given skills and knowledge on how they can run the marriage, and how they can deal with issues in the marriages. To concur, Osman (2022) argued that women's empowerment through entrepreneurship has been identified as one of the several ways which can be implemented to resolve the proprietary consequences encountered by people who are in polygynous marriages. Smith (2019) added that most of the women are in polygynous marriages because they need support, and they are running away from poverty. So, there is a need to empower a black child or woman so that they can depend on themselves, even after there is a dissolution of marriage (Mkize, 2021). Also, they can be taught about business so that they can stand for themselves and not to rely on men. That is why there is an African proverb which say, "educating a woman, you have empowered a nation" (Mkize, 2021). In other words, empowering women to know about their rights in the marriage and to know when to get their marriage registered is essential.

The participants indicated that in their community, there are elders who are there to make sure that they are there to advocate if there might be disputes or maybe a dissolution that needs to take place. They are there to offer counselling to these people and advise them to do the right thing, which is to make sure that their marriage is registered. In other words, elders in the communities - not just them but also social workers - are there to offer support so that these people in African customary marriages can understand that they should make the right decisions. To corroborate the above notion, Akinyemi, Banda, De Wet, Akosile, and Odimegwu (2019), found out that in most cases, before the divorce, most people need counselling that will help them to make sure that it will not happen (Alwahaby, Cukurova, Papamitsiou & Giannakos, 2022). To add, Badejogbin (2022) stated that the issue is that a lawyer, or psychologist, or social worker should help the husband and the wife to resolve their disputes so that the second wife won't lose any property after the divorce.

Also, some of the participants indicated that the community should empower people with knowledge about customary marriages and what is expected of them. In other words, some people enter into marriages without knowing the type of marriages they are

entering; and this ends up creating dissolution of fights because another party is not aware of the marriage that he or she has been in. To support this notion, Merdad, Elbedour, Lau and Barker (2022) argue that since these marriages are now recognized by the law, most people are not aware of these facts, especially people living in villages and who are only married under customs. Therefore, there is a need to educate African or indigenous people about their rights, making sure that they know that their marriages or customs can be registered under the Customary Marriage Act 120 of 1998, and that they can have marriage certificates in the same as people married under civil married (Kyegombe, Stern & Buller, 2022). Hence, the reason is that most of these people or women married under customs tend to lose properties, or even inheritance when the husband dies. Morelli (2022) and Xulu-Gama (2022), indicate that education is needed, it can be passed through mass campaigns, or even education through social media, or through educating chiefs so that they can pass the message to people married under customs. In addition, according to Mengistu, Shumye, Tesfaye, Haile, Bayisa, Yimer, Tadesse, Markos, Madoro, Assefa and Molla (2022), some people lose their properties because they are not married under civil marriages, hence, a lot end up committing suicide or even suffering from depression for the rest of their lives.

#### **5.4. Limitations of the Study**

The study was limited to the following key areas:

- ❑ This research focused more on the proprietary consequences; hence, sometimes some people might not know much about some of the terms; hence, the researcher had to explain more. The reason is that they knew it using different terms not than one the researcher was using, but at the end, everything was fine, but one can realise that researching on such topics might be limited and participants might not have the answers to the questions to gather comprehensive data.
- ❑ As much as participants were picked because they were Tsonga and respected, the researcher realised that language was a problem for some participants. The researcher had to make sure that some terms were clarified, and some words the participants were saying were very deep that the researcher did not understand,

but that did not stop the researcher though it affected the communication to some point.

- ❑ In most cases, people are not scared to share their personal experiences even though they are told about the ethics that the researcher follows. So, in these cases, the researcher realised that some of the participants were no longer saying things based on their experiences but based on their mind; however, at the end, the researcher remained impartial and aware of potential biases throughout the research process.
- ❑ Since this study focused on investigating what is happening in their marriages, some participants seemed to hesitate to take part in the study. Also, some were very scared that the information might be linked to the interview or social media and the community would know about it, since the researcher was recording some point.
- ❑ Lastly, since the topic was more about the legal terms, to some point, the researcher would realise that some participants were not really aware of the legal terms used, and, in some cases, it actually needed people who were aware of these terms.

## **5.4. Recommendations of the Study**

### **5.4.1. Recommendations For The Future Researchers**

The researcher recommends that future researchers explore the topic of polygynous marriages as there is still a gap between theory and practice when it comes to customary marriages and the inequality between men and women. Such gap needs to be filled through continuous research. More so, there is a need to motivate future readers to investigate more on the dynamics that evolve around Vatsonga customary marriages, bearing in mind the influence of societal, financial, and cultural vicissitudes on property rights and ownership.

### **5.4.2. Recommendations For The Community**

Since the study focused on the polygynous marriages around the Vatsonga people, both males and females, there is a need to recognize and uphold human rights and asset ownership in the Vatsonga society. Therefore, it is imperative that members of the

community be made conscious of the proprietary repercussions of customary weddings. Moreover, women are disproportionately affected by property disputes, so there is a need for the community to support initiatives that increase women's agency throughout traditional marriages and guarantee them an analogous distribution of wealth, power, and influence. Additionally, efforts should be made to improve the efficiency of traditional systems in handling disagreements regarding property arising out of customary weddings.

#### **5.4.3. Recommendations For The Policy Makers**

Even though this research focused on men and women equally, there is still a need for improvement in the law to better protect the rights of everyone in customary marriages and ensure equitable division of assets in the event of separation or the passing away of a partner. More than that, an additional responsibility is to work with legislators to create equitable regulations that safeguard the needs of all, while addressing the proprietary repercussions of traditional weddings.

#### **5.5. Conclusion**

In a nutshell, the chapter covered the conclusion of the study, limitations and recommendations that can be addressed in future research. The recommendation that was made can be useful because one needs to know and understand polygynous customary marriage before deciding to be part of such polygynous marriage settings.

#### **5.6. Future Research to Be Done**

Future research should aim at making sure that there is more justice done on polygynous marriages, as there is still a gap between theory and practice when it comes to customary marriages and the inequality between men and women. Such a gap needs to be filled through continuous research.

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## Appendix A: Consent Form

I am **Wisani Charles Nwankoti** and studying for Masters in Anthropology at the University of Venda. You are kindly invited to participate in this study on the following theme.

### 1) Procedures

I, \_\_\_\_\_ (Name), understand that participation in this research is voluntary, and that I have the right to pull out from participation at any time. I understand that I can contact the researcher about any concerns I have about this project and may also contact the following contacts with any questions concerning this research and about my rights as a participant:

- Dr. Pfarelo Matshidze ([Pfarelo.Matshidze@univen.ac.za](mailto:Pfarelo.Matshidze@univen.ac.za).)
- Ms. Dolphin Mabale ([Dolphin.mabale@univen.ac.za](mailto:Dolphin.mabale@univen.ac.za).)

You may be asked to answer questions contained in a face-to-face discussion or individual group interviews.

### 2) Right to Refuse Participation

Participation in this project is voluntary and participants have the right to withdraw at any time. You may skip any questions you do not want to answer. Your decision whether to participate in this study will not in any way be prejudicial to you. This consent form may contain words that you may not understand. Therefore, feel free to stop me and ask any questions concerning the consent form and other things related thereto. I will take my time to answer and explain to you all you need to know.

### 3) Confidentiality

All information obtained in this project will be kept private and confidential and would be used for purposes of research only. You will be assigned a code or number that is unique to you for this study. No one will know whether you participated in this interview. All information will be stored in a locked file cabinet. It can be viewed only by authorized research staff members. No information about names will be released and recorded other

than in terms of the consent forms. All personal information about you will be kept private. When the study is completed, all information linking participant's names to the study will be destroyed and your name would not be used in any report.

#### **4) Risks and Benefits**

Risks of participating in this study are negligible. Participating in this study will help the researchers to better understand how effectiveness the voluntary medical male circumcision amongst male learners in Mazowe District, Zimbabwe is. It may also tangentially benefit your community. There are no direct benefits to be given to participants.

#### **5) Participants with limited legal capacity**

I will endeavor to obtain consent of the guardians on behalf of persons with limited legal capacity and those with disabilities.

#### **6) Informed Consent**

By signing this consent form, you indicate that you have read the procedure described above and that you voluntarily agree to participate in the procedure and you have received a copy of this form. You also consent that this interview will be audio recorded.

#### **7) Signature**

Signature of participant: \_\_\_\_\_ Date: \_\_\_\_\_

With my signature, I affirm that I am 18 years of age and that I have received a copy of the consent form to keep.

## **Appendix B: Semi-Structured Questions**

### **Instructions to Participants**

The following questions are meant to understand the “**Explore The ‘Proprietary Consequences of The Vatsonga Customary Marriages’**”.

### **Section A: Research Questions**

#### **Theme 1: The Nature of Polygynous Marriages Amongst The Vatsonga People**

**Sub-Theme 1.1:** What is your understanding about the term marriage?

**Sub-Theme 1.2:** What is your comprehension about polygynous marriages?

**Sub-Theme 1.3:** What is the procedure that are followed in the Vatsonga polygynous marriages?

#### **Theme 2: The Contributing Factors Leading Vatsonga Women Into Polygynous Marriages In South Africa**

**Sub-Theme 2.1:** What are the reasons why people enter into polygynous marriages?

#### **Theme 3: The Proprietary Consequences Encountered By Vatsonga Women Upon The Dissolution Of The Marriage**

**Sub-Theme 3.1:** What is your understanding about proprietary consequences?

**Sub-Theme 3.2:** What are the challenges people encountered in dissolution of marriages?

#### **Theme 4: Assess The Implication of The Customary Marriages, The Act Regarding Polygynous Marriage Amongst the Vatsonga People**

**Sub-Theme 4.1:** What is your understanding about the Recognition of Customary Marriages Act 120 of 1998?

**Sub-Theme 4.2:** Do you think your polygynous marriage is recognised by the Customary Marriages Act 120 Of 1998?

## **Theme 5: Ways To Resolve Proprietary Consequences Encountered By The Vatsonga People**

**Sub-Theme 5.1:** What are the strategies/intervention that the South African Home Affairs employ to help the Vatsonga women who are married under the polygynous marriages?

**Sub-Theme 5.2:** What is the community doing in trying to resolve the disputes happening in the Vatsonga polygynous marriages?