

## The Impact of Ukuthwala on the Schooling and Livelihood of a Girl Child: A Case of the eMangwaneni Tribe in Bergville, KwaZulu-Natal

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**ABSTRACT** The incidents of the abduction of young girls who are forced into marriage by older men under the pretext of the ukuthwala cultural practice have been on the rise in recent years. This study sought to investigate the impact of ukuthwala cultural practice on the schooling and livelihood of a girl child. The findings of this study revealed that girl children who are forced into marriages are deprived of their learning opportunities, innocence and childhood, they are exposed to preventable health risks, and also fall into a trap of early pregnancies, domestic violence and as a result simply drop out of school.

### INTRODUCTION

In recent times, the ukuthwala custom has come under much scrutiny in both print and electronic media due to the public outcry about the growing number girls as young as 12 years of age being forced into marriage with older men, who are sometimes old enough to be their fathers or even grandfathers. Rice (2014) concurs that the practice of ukuthwala features frequently in South African popular media. However, these articles tend to take a sensationalist approach, focusing on the most grotesque examples of ukuthwala.

Generally, the culture is practiced differently by Black people of South Africa. It is found among Basotho, the amaNdebele, amaXhosa, amaZulu, and so forth. Evidence suggests that while this culture is still practiced by many, it is only the Nguni groups especially in some former Transkei areas in the Eastern Cape and KwaZulu-Natal in South Africa where this custom is prevalent. There is no appropriate English translation for the word ukuthwala, and some people refer to it as “forced marriage”, as the act of “stealing the bride” and others say it is an “arranged marriage”.

Mtuzze (1990) contends that there are certain cultural issues that are very difficult to put across in other languages, worse still if that language is a ‘non-indigenous language’ such as English. That is why, in many cases, earlier language practitioners or lexicographers, especially in the legal profession, wisely decided to borrow terms

directly from the Nguni languages, for example, **ukuthwala** instead of “abduction” or **ukunge-na** custom, instead of something like “inheriting a deceased person’s wife” and **lobola** instead of “bride-price” or “dowry”.

If one tries to translate such words into other languages, as Mtuzze (1990) correctly points out, there is the risk of losing the intended meaning and taking the meanings completely out of context. For instance, this custom of ukuthwala, when it was started, did not have the elements of abduction in it. It did not have the elements of kidnapping either, but it was simply a way used by men of marriageable age when they wished to marry girls of marriageable age, and there was always agreement. In most instances then, people who “thwala’d” each other were either lovers or preparing to be lovers. In other words, both parties generally knew what would happen, and it happened with the full consent of both adults. For the purpose of this study, the researcher would refer to ukuthwala as an act of abducting the wished-for bride by a potential husband, which may or may not result in a marriage. The researcher uses the word abduction purposefully even though Mtuzze (1990) observes that unlawfulness is an essential element of abduction, whereas **ukuthwala** is traditionally lawful.

The ukuthwala custom was widely practiced in Nguni communities. The intending bridegroom, together with his friends, would waylay the intended bride and they would forcibly take her to the man’s home. In many instances, the girl was caught unaware, but in some instances

she would be caught according to plan, and agreement between her parents and the groom's parents. On the same day of ukuthwala, those who had initiated the ukuthwala custom were required to report to the girl's home that her parents need not be worried as the girl was safe with them. They also then had to indicate how many cattle (lobolo/dowry) they proposed to pay and how soon that could be done ([http://wiki.ulwazi.org/index.php5?title=Ukuthwala\\_Kwentombi](http://wiki.ulwazi.org/index.php5?title=Ukuthwala_Kwentombi)).

A friendly relationship would then be established between the two families and the status of the girl was immediately elevated to that of a young wife. Sooner or later, some cattle would be paid to the girl's father as lobola. Where ukuthwala took place and there was no offer of marriage, a fine of one beast, known as the ukuthwala or the ukubopha, was imposed by custom and in those cases the ukuthwala girl would be returned home to her parents and there would be no marriage. It was against customary law for the man who captured the girl under ukuthwala custom to have intercourse with her. She was immediately placed in the midst and care of the woman folk and was treated with the utmost kindness and respect. This was one of the inducements for her to wish to go ahead with the marriage and be part of the caring family that captured her ([http://wiki.ulwazi.org/index.php5?title=Ukuthwala\\_Kwentombi](http://wiki.ulwazi.org/index.php5?title=Ukuthwala_Kwentombi)).

Mwambene and Sloth-Nielsen (2011) identify three forms of *ukuthwala*. First, the practice occurs where a girl is aware of the intended abduction and there is collusion between the parties, that is, where the girl or woman being abducted conspires with her suitor. Mwambene and Sloth-Nielsen (2011) argue that the 'force' used in the act of abduction is therefore for the sake of performance only. For that reason, *ukuthwala* in this model could be suggested to be equivalent to elopement. If after the *ukuthwala* has taken place, the girl's parents refuse to give their consent, there cannot be a valid ensuing customary marriage.

Second, *ukuthwala* also takes the form of where families would agree on the union, but the girl is unaware of such an agreement. It has been observed that this type of *ukuthwala* often happened in cases where the girl might not otherwise agree with her parent's choice. It also happens in situations where a girl happens to be of high rank but, for various reasons, attracts

no suitors of equal status. After the girl has been *thwala'd* and both families' desire and consent to the union established, the girl is watched until she gets used to the idea of the marriage. Mwambene and Sloth-Nielsen (2011) point out that consent, understood in Western terms, might be more difficult to argue in this model.

The third version is where the custom occurs against the will of the bride-to-be. Under this form, a girl is taken to the family home of the young man by force. Representatives are then sent to her family to open marriage negotiations. The family of the girl may refuse negotiations in which case a beast is payable and the girl is taken back to her family.

Ntlokwana (2009), citing Koyana and Bekker (2007), states that the practice was used for a number of purposes including to:

- ♦ Force the father of the girl to give consent
- ♦ Avoid the expenses of a wedding
- ♦ Hasten matters if the woman was pregnant
- ♦ Persuade the woman of the seriousness of the intent to marry her

From the reviewed literature it is clear that the chief aim of ukuthwala was used to negotiate a marriage or speed up the process towards it. On the contrary, evidence suggests that this is not how the ukuthwala custom is currently practiced. Instead, ukuthwala has now turned into an unfortunate abduction of girl children and a violation of their human rights. Like all the other cultures of the world, the African cultures are dynamic too and they change for better or worse over time. Ukuthwala is therefore not immune to this change and it has, unfortunately, changed for worse. Some communities though have defended these absurdities as customary. However, the Congress of Traditional Leaders of South Africa (Contralesa) to its credit and some women organizations in South Africa have constantly considered these forced marriages as against the custom and the law.

Soucie (2011) contends that ukuthwala is a violation of the female child's human rights, as it denies her a choice of whether or not to participate in marriage, thus threatening her rights to survival, development, protection and participation. However, while women and girls are owed individual rights, it seems counter-intuitive to the goals of human rights proponents to frame them strictly in an individual manner.

The South African Constitution envisages a place for customary law in the legal system. Cer-

tain provisions of the Constitution put it beyond doubt that the basic law specifically requires that customary law should be accommodated, not merely tolerated, as part of South African law, provided the particular rules or provisions are not in conflict with the Constitution. Sections 30 and 31 of the Constitution also entrench respect for cultural diversity.

According to Ntlokwana (2009), "The South African Constitution acknowledges the existence of customary law. However, it does so only to the extent that such customary law is consistent with the Bill of Rights. Moreover, it protects the rights of all citizens to participate in the cultural practices of their choice, but again only to the extent that the exercise of such cultural rights is not inconsistent with any provision in the Bill of Rights. Despite these constitutionally guaranteed provisions, customary law continues to affect the personal life and rights of women and children. This is so, since men continue to be treated as the head of the family with guardianship rights over women and children."

Today, ukuthwala, particularly in the Eastern Cape, the Pondoland area and in KwaZulu-Natal (eMangwaneni tribe in Bergville and Umzimkhulu areas) increasingly involves kidnapping, rape and forced marriage of minor girls as young as 12, by grown up men, old enough to be grandfathers to the girls. This practice has been widely criticized in here South Africa as some activists argue that it takes one back to the times where women rights were unashamedly violated. In its current form, this practice can no longer be regarded as ukuthwala, it is now abduction disguised as ukuthwala. Ukuthwala negatively impacts the livelihood and the schooling of a girl child.

Chibba (2012) quoting attorney Duncan Duka-da, a one-time lecturer in African customary law in a Business Day report, said "genuine" ukuthwala custom did not involve violence. He further states:

*"When a woman was 'taken', she was immediately taken to the new home. The following day, they will go and report to the mother, to the parents of the girl, to say don't look for the girl, the girl is here. And she will not be touched. She will not be harmed. And if the parents disapprove of this intended marriage, they would say so. The man would be fined. And that would be the end of the matter. That was proper customary law. So what has been*

*happening is really an illegal act, done under the pretext of custom."*

Maluleke (2009) argues that ukuthwala as currently practiced is in blatant violation of the rights of the child as articulated in the UN Convention on the Rights of the Child (CRC) of which South Africa is a signatory. She maintains that having sex with a child with or without her consent, following her kidnapping and abduction (ukuthwala), constitutes rape in violation of the Criminal Law (Sexual offences) Amendment Act of 2007 (Section 15). This piece of legislation, which is known as the Sexual Offences Amendment Act of 2007, prohibits sex with a person without their consent. Regarding a child, the age of consent is 16 meaning that sex with a child under the age of 16 constitutes statutory rape, irrespective of whether the child consented to that sexual encounter or not.

### Objectives of the Study

This paper therefore sought to answer the following pertinent questions:

- ♦ What is the impact of ukuthwala cultural practice on the schooling and livelihood of a girl child at eMangwaneni tribe in KwaZulu-Natal?
- ♦ What measures and initiatives have been taken by stakeholders to deal with the negative impacts of the cultural practice?
- ♦ Are the measures effective given the increase in the number of incidents related to the practice?

### Theoretical Framework

This study is underpinned by cultural relativism theory. Cultural relativism is a theory about the nature of morality. The theory challenges the ordinary belief in the objectivity and universality of moral truth. It says in effect, that there is no such thing as universal truth in ethics, and there are only the various cultural codes, and nothing more. Moreover, the own code has no special status, as it is merely one among many (Rachels 1986).

Rachels (1986) states the following claims as put forth by the proponents of the theory (cultural relativists):

- ♦ Different societies have different moral codes
- ♦ There is no objective standard that can be used to judge one societal code better than another

- ♦ The moral code of one's own society has no special status; it is merely one among many
- ♦ There is no "universal truth" in ethics, that is there are no moral truths that hold for all peoples at all times
- ♦ The moral code of a society determines what is right within that society, that is if the moral code of a society says that a certain action is right, then that action is right, at least within that particular society
- ♦ It is mere arrogance for one to try to judge the conduct of other people. One should adopt an attitude of tolerance toward the practices of other cultures.

Cultural relativism theory argues that the importance of a particular cultural idea varies from one society or societal subgroup to another, the view that ethical and moral standards are relative to what a particular society or culture believes to be good or bad, right or wrong (<http://dictionary.reference.com/browse/cultural+relativism>).

When looking at cultural relativism, Donnelly (1984) distinguishes between the internal and the external evaluations of a cultural practice. An internal judgment asks whether the practice is defensible within the basic value framework of that society. It looks whether a plausible and a coherent explanation of the practice can be made in response to universal criticism. Practices that do not even stand up to such evaluations can in no sense be defended on cultural terms. Donnelly (1984) further argues that an external judgment applies the standards of an evaluator (modified by realistic arguments) in order to determine whether the practice can be or should be accepted or defended, all things being considered. He states that the most important controversies are likely to arise over practices that are defensible, according to internal standards but unacceptable by external standards, and these are practices that are most concerned within the discussion of cultural relativism and the universal human rights.

Teson (1984) observes that the rights *inter alia*, to life, to physical integrity, to fair trial, freedom of expression, freedom of thought and religion, freedom of association, and the prohibition against discrimination are all rights upon which international instruments agree. He argues that these rights should essentially have the same meaning regardless of local traditions and that

cultural diversity should not be used as a justification for failure to observe human rights. In addition, White (1999) cautions that when cultural-relativist arguments on cultural variations are transferred to the international political arena, general principles of cross cultural understanding and respect for the ways of life of others are often misused, hijacked by governments who wrongly translate them into an idea that 'nations' must be immune to external criticism.

Zechenter (1997) contends that the modern system on international human rights treaties is based on the concept of universalism, which holds that there is an underlying human unity, which entitles all individuals, regardless of their cultural or regional antecedents, to certain basic minimal rights known as human rights.

In applying the theory of cultural relativism on the ukuthwala cultural practice, it is the researcher's assessment that the practice can no longer withstand the public scrutiny within the basic value framework of the society, there is no justification whatsoever for continuing the practice. The practice has come under heavy criticism in recent times both in South Africa and internationally for violating a girl child's human right to enter into marriage freely and with full consent. In South Africa, having sex with a minor with or without her consent constitutes rape in violation of the Criminal Law (Sexual offences) Amendment Act of 2007 (section 15). This piece of legislation, which is known as the Sexual Offences Amendment Act of 2007, prohibits sex with a person without their consent. Regarding a child, the age of consent is 16 years, meaning that sex with an under 16 years constitutes statutory rape.

South Africa is a signatory to international human rights treaties, and this country has a history of human rights violation under the apartheid regime, and the people cannot allow their country to slide back to that unfortunate era. South Africa is a multicultural society, where every culture is recognized by the constitution. The constitution protects the rights of all citizens to participate in the cultural practices of their choice as long as they are consistent with the Bill of Rights. The ukuthwala cultural practice as practiced nowadays stands against the values and rights of women as enshrined in the constitution. Young women continue to be violated under the pretext of a cultural practice and it is about time that the society and the law en-

forcement agencies, non-governmental organizations, and the private sector stand up for the rights of women.

Cultural rights and autonomy can no longer be used as an excuse to perpetuate unjust practices against women and children. South African citizenry, especially the custodians of different cultures and their respective communities have a moral responsibility and obligation to determine what is wrong within their cultures and remedies it so that people do not suffer injustices of their own culture. Culture in any society is dynamic and changes to respond to the changing nature of life and the environment around, so the cultural practice of ukuthwala should be informed by the context, which one finds oneself in nowadays.

## RESEARCH METHODOLOGY

### Sampling

The study used a purposive sampling technique. The purpose of using this sampling technique is not to assure representativeness in statistical terms, but to ensure that data on perceptions and experiences of those who are directly involved in a phenomenon being investigated are collected. The sample for the study included 20 girl learners, four school principals, four school governing body members and four Life Orientation teachers drawn from four different schools, and two traditional leaders from eMangwaneni tribe in Bergville. The power of purposive sampling lies in selecting information-rich cases for in-depth analysis related to the central issues being studied and can be used with both quantitative and qualitative studies

### Instrumentation

#### *Semi-structured Interviews*

Semi-structured interviews were conducted with four school principals, four school governing body (SGB) members, four Life Orientation teachers drawn from four different schools and two traditional leaders from eMangwaneni tribe in Bergville. Case D.D (1990) states that:

*“Semi-structured interviews are conducted with a fairly open framework, which allow for focused, conversational, two-way communication. They can be used both to give and receive*

*information. Unlike the questionnaire framework, where detailed questions are formulated ahead of time, semi-structured interviewing starts with more general questions or topics. Not all questions are designed and phrased ahead of time. The majority of questions are created during the interview, allowing both the interviewer and the person being interviewed the flexibility to probe for details or discuss issues”.*

In this study, the interview schedules were used to guide the discussion with the interviewees.

### *Focus Group Discussions*

The focus group discussions were conducted with a group of 20 girl learners from four different schools in order to collect data. The purpose of the focus group discussion is to produce qualitative data to provide insights into the attitudes, perceptions, and opinions of participants (Krueger 1994). Consent to tape-record the interview was established with the participants. Pseudonyms were used when referring to each other throughout the discussion to protect the identity of learners. The focus group discussions guide covered three broad areas:

- ♦ The nature of ukuthwala practice in the area and their experiences
- ♦ Factors associated with ukuthwala practice in the eMangwaneni tribe
- ♦ The impact of the practice on the livelihood and the education of a girl child with specific reference to eMangwaneni
- ♦ Strategies for dealing with the scourge of the practice at eMangwaneni area.

Thematic analysis was used to analyze the data.

## FINDINGS AND DISCUSSION

The findings of data collected from the semi-structured and focus group interviews generated the following themes, that is, factors associated with ukuthwala (cycle of poverty, non-action to the perpetrator), the impact of ukuthwala cultural practice on girl children (school drop-outs, early pregnancy, health risks, domestic violence, deprivation of childhood and a future), and measures to curb ukuthwala practice. All the themes are supported by verbatim quotes from the participants, which are interpreted and further supported by literature.

## Factors Associated with Ukuthwala

### *The Cycle of Poverty*

Poverty is one of the contributing factors that perpetuate the scourge of forced marriages in rural communities. Most young girls who fall victims of this cultural practice come from poor families. Maluleke (2012) concurs that there is a proven link between lack of education, underdevelopment and poverty. He argues that lack of education and underdevelopment due to ukuthwala deepen their poverty and perpetuate the cycle of poverty particularly in rural areas, where ukuthwala is rife. The following statement by a member of a school governing body in the area is a clear indication that poverty does influence some parents to be co-conspirators of ukuthwala practice:

*I blame this on parents for selling their own children. They accept lobola from these dodgy men who violate girls' rights and effectively forcing them to get married when they have not matured enough for that stage. I tell you, if it were not for lobola benefits, parents would not allow this situation to continue unabated. Hunger can make people do strange things including this ukuthwala practice. These parents simply forget that whatever proceeds, money or cattle they receive as part of lobola, will not sustain them for the rest of their lives, but unfortunately permanent damage would have already been done on the young girls' lives.*

A UNICEF Report (2003:11) cited by Rembe et al. (2011) stipulates, "A man's wealth is the overriding factor in child marriages, not his potency. The richer a man, the larger the number of child brides he can afford."

In such communities parents marry off their young girls in exchange for livestock and money. The principal in school C attested to this by saying:

*Most of the victims of this practice (ukuthwala) are adolescent girls from poor families with very little or no education at all. One consequence of being forced into marriage is those young girls' educational prospects are usually cut short.*

These sentiments were also echoed by a Life Orientation teacher who has this to say:

*Parents of these girls should be ashamed of themselves for allowing their children to be abducted by these\*\*\*\* because they stand to ben-*

*efit through ilobolo (bride price) in the form of money or cattle. This is not a way of dealing with poverty in rural communities. We need to empower both men and women through education and skills and train them how them to make ends meet. This will partly deal with the issue of ukuthwala in the sense that families will no longer rely on this unacceptable way of dealing with poverty. They, instead, will sustain themselves.*

One traditional leader in the area also points to poverty as one of the determinants for the sustained practice of ukuthwala. This is what he says:

*This culture is no longer practiced as it used to be in the olden days. It is now wrongly used sometimes by parents to benefit through the lobola proceeds in the form of cows or cash from the prospective husbands. What is sad about this is that most of these girls are too young to get married. This cultural practice used to involve matured women. In community meetings we warn people to respect the law.*

In most of these cases, poverty is the driving factor behind the practice. Families resort to desperate measures and encourage their young girls to get married at an early age with an aim of getting the bride price in order to ease the financial burden in the family.

### *Non-action to the Perpetrators*

According to Chelete (2013), the South African criminal justice system has not adequately responded to the incidents of violence against women as it seems to place more value and consideration on the rights of the accused. Non-action to the abductors of young girls by the traditional authorities in rural communities and the police exacerbates the practice as the perpetrators act with impunity knowing very well that there will be no ramifications for their actions on both civil and customary law. Incidents of ukuthwala have been previously reported to the village headmen and the police but nothing noticeable is done to the perpetrators to face the consequences of their actions. Some perpetrators get away with the slap in the wrist in the traditional courts where a fine in the form of money or a cow is paid to the family of an abducted girl. One SGB member paints a picture that there is a sense of despair in the community about dereliction of duty by the authorities. This is what she had to say:

*The community has lost confidence in both police and traditional leadership. Young children (girls) are abducted on a daily basis. Parents who are opposed to their girl children being abducted have registered their complaints with the headmen in the village. But the problem is that the powers of headmen are limited in terms of sentencing, as they cannot hand down heavy sentences, which would serve as a deterrent to the would-be perpetrators. The abductors only get away with a warning or small fines determined by the traditional council and the harshest fine would be the payment of a cow to the aggrieved family. As for the police, they take time to investigate and finalize the case. It could take up to a year or even more before one case is heard by the magistrate. What this means is that the complainant loses a lot of money and time trying to bring the perpetrator to book and in the end the complainant get tired and bored of all this. In short, there is no satisfactory recourse both in the traditional and civil courts.*

The inaction on the ukuthwala perpetrators was corroborated by a girl learner who stated the following:

*These incidents of ukuthwala are reported to the police, but my experience in this community generally is that such complaints have not produced any positive result. Sometimes if the headman is involved in resolving the ukuthwala case, he asks the concerned families to come to some sort of an agreement and this does not help the situation at all. Girls in this village continue to live in fear, whether they go to school, to the shop, to fetch water they have to be on the lookout because some man might be stalking them without them even realizing that they are being targeted.*

What all this shows is that authorities, parents and the community at large, are all failing to protect girl children as their rights continue to be violated in their presence, and instead, they become accomplices by omission. The fact that they do not actively participate in the incidents of ukuthwala does not exonerate them from the responsibility of ensuring that the rights of girl children are protected as enshrined in the Constitution.

### **The Impact of ukuthwala Cultural Practice on Girl Children**

Incidents of ukuthwala cultural practice are widely reported in South African media (both print and electronic) but not much is reported

about the negative consequences of these incidents on girl children livelihoods and schooling. This study therefore reports on the plight of these young girls who unwillingly, and in most instances, unwittingly become young wives.

### **School Dropouts**

When a girl is forced to marry through ukuthwala practice she is essentially removed from school. Her future husband can no longer allow her to continue with her schooling for fear that she may disappear and not come back home. Maluleke (2012) contends that dropping out of school deprives the girl child basic education opportunities, including tertiary education. The social development of the child is also inhibited as she is introduced at an early age to adulthood in the process skipping critical stages of her childhood development. A girl learner had this to say about school dropping out:

*One of the girls in our school was abducted in the middle of her Grade 12 trial examinations, she managed to escape from the man who had captured her for more than a week, because her uncle who is her guardian had consented to abduction, the girl did not return home but went to live with her aunt who lives in another village far from here. As a result of this incident she could not continue with her schooling. It is unfair that she had to abandon her studies like that because of this crazy custom. We live in fear. We don't know who might be the next target among us.*

Van den Heever (2013) contends that young girls are further deprived of education opportunities essential in becoming contributing citizens in the country. The practice also impacts the child's community, thus, reflecting the vicious circle of gender inequality and poverty, and a lack of development in the form of health, knowledge and education, skills and resources. Nkosi (undated) further argues that most of the girls are denied compulsory education, as they are abducted as early as at the age of 12 and their abductors do not allow them back to school. Other girls get abducted, and are absent from school for a very long time. Fortunately, some manage to escape from their forced marriages and come back to school during the very same year.

### **Domestic Violence**

Domestic violence is another consequence of forced marriages. According to the Report on

Violence against Children (2009:24), there is a link between ukuthwala and an increase of domestic violence cases. In the study conducted by the Department of Justice and Constitutional Development, it was reported that between 20 and 27 cases of domestic violence are reported daily to police stations in the Eastern Cape alone. The majority of victims are young girls. However, most of these cases receive little attention from the police for fear of reprisal and intimidation from the perpetrators. Furthermore, reports to the police are allegedly discouraged, as it is often viewed as an unwelcome probe into another family's business, or even jealousy of the "marriage" of another family group's daughter. One SGB member relates the plight of young girls as follows:

*These girls are subjected to hardships, which even I, as an old woman, cannot endure. I mean they are supposed to fetch water from the river, collect wood to make fire, do the washing for the entire extended family and do all the other house chores. They are not treated as human beings either by their prospective husbands or their new families. What kind of man would beat their loved one? A man should not instill fear in women in order to be respected in the house.*

Rembe et al. (2011) argue that child marriage is among a list of harmful cultural practices, which maintain the subordination of women in society and legitimize and perpetuate gender-based violence. Maluleke (2012) concurs that early marriage is a symptom that exacerbates gender inequality. He further argues that if it were not for gender inequality and child abuse, ukuthwala would have no place in the society. This is confirmed by a Life Orientation teacher in one of the schools visited when she says:

*In most cases, ukuthwala will only go through when a man in the girl's family consents and accepts lobola for a forced marriage from the man intending to marry a young girl, even if women are against the arrangement unfortunately nobody listens to them because they don't have much of a say on what happens in the family. We have seen many incidents of ukuthwala not being successful either because the father of the girl or the uncles stood up against it, so it depends on who agrees to the practice in the family.*

### Health Risks and Early Pregnancy

Girls forced to marry at such a young age fall pregnant before their bodies and reproductive organs have fully developed. Consequently, many women and girls die from complications during pregnancy and childbirth. Besides pregnancy-related complications, young married girls are also at high risk of contracting HIV/AIDS because their much older husbands may already be infected from previous sexual relationships. Ntlokwana (2009) contends that ukuthwala is detrimental to the wellbeing of a child. The practice puts her at the risk of contracting HIV and teenage pregnancy. This is confirmed by a Life Orientation teacher from School A, who states that:

*This practice places young girls at risk of contracting sexually transmitted diseases such as HIV/AIDS from these older men who sometimes are polygamous. We do warn children about the dangers of ukuthwala but they have no control over the situation, as some of the parents would be party to the forced marriage of their own flesh and blood.*

Medical Research Council (2011:11) reports that over fifty-six percent of HIV/AIDS positive young girls and women with ages ranging between 12 and 19 years had been forcibly married through ukuthwala. The UN Secretary General's Report on Violence Against Children (2006) and UN Agencies such as WHO, UNICEF and UNIFEM have reported a host of health problems experienced by girls in countries that are bedeviled by forced and early marriages. These range from HIV and other multiple sexually transmitted infections (STIs) to pregnancy-related complications such as infant mortality and maternal mortality.

### Deprivation of Childhood and a Future

(Malhotra 2010) contends that, more than anything else, early marriage deprives girls of their childhood. They are thrust into the full burden of domestic responsibility, motherhood and sexual relations rather than playing with friends, dreaming about a career or fretting about a school exam. Malhotra further argues that in many countries, young married girls move away from their parents' home to live with their new-found husbands and their husbands' families, where they have no friends, no support, and

little say in their own lives or in household matters. These girls are often isolated and powerless. They are unable to negotiate or obtain support for issues in their own interests and they are frequently exposed to violence and threats of abandonment and divorce. A school principal narrates the predicament of young girls as follows:

*Sometimes after getting married through ukuthwala if they are lucky they are allowed by their in-laws to continue with schooling. But even then, they just cannot cope with their schoolwork when they come back to school and eventually dropout owing to various circumstances they find themselves in, they fall pregnant, I meant they are wives now, they have to bear children, they have to raise kids and they have to deal with a lot of family issues. Schooling and family responsibilities become very challenging for them to manage.*

Clearly at this age, young girls are not matured enough to deal with the responsibilities of being a wife and a mother, and this places undue stress on them to live up to the expectations of being a married woman. One schoolgirl has this to say regarding the forced marriages:

*When I finish Grade 12, I would like to go to the university, but I have seen some of my friends' dreams of going to the university being shattered when they were forced to marry at a tender age. Now, they are housewives and have kids and there is no hope that they will ever get an opportunity of realizing their dreams. They are now condemned to a married life.*

If women continue to be deprived access to education because of ukuthwala cultural practice, they will never realize their potential in developing themselves, their communities and their country. According to Amnesty International (2007), all girls have the right to education and this right is essential not only for girls to grow and learn, but also so that they can become independent and make their own choices in their lives.

### Gender Equality

Monyane (2013) correctly points out that ukuthwala is only applicable to the unmarried women and girls. Men and boys are not subjected to this practice. This raises the question of gender equality. He further argues that only girls or females are taken into forced marriages and in

most cases without their consent. According to research conducted by the South African Medical Research Council (2011), 24 out of 30 young girls interviewed indicated that they did not have any prior relationship with the men who married them. For instance, in Msinga, a 13-year-old girl was forcibly married to a 65-year-old man. Their rights are clearly violated because they cannot choose who to marry and besides, they are married way before they reach the age of maturity and the age of consent, as they are still regarded as minors by the law. The following statement by the traditional leader indicates power dynamics in terms of gender equity:

*Ukuthwala is a cultural practice gone bad, young girls' rights are being violated in the name of the culture and a man can just wake up in the morning and decide that he wants to marry a particular girl, without even getting her consent. These men think they are entitled to the women that they have identified as their suitable wives. As traditional leaders we are the custodians of customary law but I must concede that we are fighting a losing battle here, only the police can come to our rescue. If parents or family members of the girl being abducted are party to it, then our hands are really tight, there is nothing much we can do about the situation.*

Inequality of rights endured by women and children throughout the world is deeply embedded in tradition, culture and religion. Every social grouping in the world has specific traditional cultural practices and beliefs, some of which are beneficial to all members, while others are harmful to a specific group, such as women and children (Ntlokwana 2009). This is confirmed by the Life Orientation teacher who says:

*Ukuthwala cultural practice is taking us back to the olden days when a woman's place was said to be in the kitchen. We see that mentality still being perpetuated in nowadays by some of the men in the area who still think they are superior to women. As a result of this mentality, women have no say in most of the issues affecting them in their families in particular and in the community in general.*

In most rural communities in South Africa, women still assume a submissive role and do not have much say on major issues affecting themselves, their families and the community at large. This largely perpetuates the injustices that women have suffered over the years.

## CONCLUSION

The study concludes that there are no tangible measures in the community to curb the scourge of escalating forced marriages. While bodies such as the Commission for Gender Equality (CGE), the Ministry for Women, Children and People with Disabilities and Contralessa have spoken against the ukuthwala cultural practice, their impact, however, has not been felt in these communities. Ukuthwala practice is now a human rights issue, which needs to be fought with the same vigor used to fight apartheid. Therefore, a concerted effort must be made to address the plight of girls who fall victim to this illegal ukuthwala practice. Section 12 of the Children's Act provides that every child has the right not to be subjected to social, cultural and religious practices, which are detrimental to his or her wellbeing. A child below the minimum age set by law for a valid marriage may not be given out in marriage or engagement, and above that minimum age may not be given out in marriage or engagement without his or her consent. *Ukuthwala* is detrimental to the wellbeing of a child. In applying the theory of cultural relativism on the ukuthwala cultural practice it stands to reason that there is no justification whatsoever for continuing the practice.

## RECOMMENDATIONS

The lives of young girls are put at risk of contracting HIV and teenage pregnancy. There is a need for a synergistic approach where all the stakeholders should stand up to ensure that the interests and rights of these girls are protected. These should include government departments (health, social welfare, justice, police, education), traditional leadership (kings, chiefs and headmen), non-governmental organizations (NGOs), non-profit organizations, South African business and the communities at large.

Children who have been victims or survivors of an attempted abduction must receive the necessary quality counseling and be reintegrated into childhood. A remedial program and negative effects of ukuthwala should be included in the curriculum of all rural schools, especially in the Life Orientation subject. The perpetrators and those who collude with them must be brought to book and face the full might of the law.

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