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## Southern African Women's Struggle to both Uphold Tradition and Promote Women's Equality in the Family

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Southern African Women's Struggle to both Uphold Tradition and Promote Women's Equality  
in the Family

A woman in modern Limpopo, South Africa explained traditional marital expectations by re-telling what her aunt once said to her: "Lady, you must know that this man is your head, you are the neck. Whatever he is telling you, or whatever he is saying, that's the word, he's the head, you don't have to challenge him".<sup>1</sup> This quote shows that unequal familial structures pervade Southern Africa. The traditional structure of marriage in Southern Africa empowers mothers while disparaging wives, consequently minimizing young women's economic opportunities, while preserving older women's economic security. Traditional Southern African marital customs have significant influence over the current institution of marriage, as do colonial impositions on marriage. After South Africa established independence, the Recognition of Customary Marriage Act demonstrated the ongoing conflict between upholding tradition and protecting women's rights. This paper progresses through history from immediately before colonization to the early 2000s, identifying the legal and social sources of conflict for women, as they struggle to maintain traditionalism's empowerment of mothers, while maximizing wives' equality and opportunities.

Throughout this paper I will use the term "wife" to refer to young wives and "mother" to refer to older women. Of course, most women are simultaneously a wife and a mother. The multiple familial roles that women possess influence their social position in a given scenario.<sup>2</sup>

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<sup>1</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 817.

<sup>2</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 820.

We will see that a young wife, who has not yet established influence and respect in her new family, is often subject to the power of an older mother who has the influence and respect of her sons, co-wives and husband. Additionally, I use the term “Southern Africa” because I am referring to studies on South Africa and Lesotho.

Let’s begin by examining marriages in Southern Africa before British colonization. Marriage was the central institution in Southern African society and life. Marriage was more than a union of individuals; it was a union of families.<sup>3</sup> In BaSotho society, marriage marked social maturity for young people.<sup>4</sup> Marriage enabled a man to obtain his allotment of land and start a new generation.<sup>5</sup> For a woman, marriage brought her “social recognition and security. When a girl married, she brought honour to herself and her kin” (ibid). Upon marriage, the husband’s family pays “baholi” (Sesotho)/ “ilobolo” (Zulu) to the wife’s family and the wife joins the husband’s household. Baholi/Ilobolo symbolizes a joint commitment to the union of two families.<sup>6</sup> Baholi/Ilobolo is in part, recognized as compensation to the wife’s family since their daughter will be contributing to the husband’s household.<sup>7</sup>

Wives were brought into their husband’s families as outsiders, and thus had little social influence early in the marriage.<sup>8</sup> A wife was subject to the authority of her husband and her new

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<sup>3</sup> Xavier Livermon, "Usable Traditions: Creating Sexual Autonomy in Postapartheid South Africa," *Feminist Studies* 41, no. 1 (2015): 14-41. Accessed November 2, 2020. doi:10.15767/feministstudies.41.1.14.

<sup>4</sup> Pule Phoofolo, “Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900,” *Journal of Religious History* 31, No. 4, (Dec 2007): 365.

<sup>5</sup> Pule Phoofolo, “Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900,” *Journal of Religious History* 31, No. 4, (Dec 2007): 367.

<sup>6</sup> Tallie, T. J., “Queering Natal: Settler Logics and the Disruptive Challenge of Zulu Polygamy,” *Journal of Lesbian and Gay Studies* 19, No. 2, (2013): 181.

<sup>7</sup> Pule Phoofolo, “Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900,” *Journal of Religious History* 31, No. 4, (Dec 2007): 365.

<sup>8</sup> Elena Moore, “Forms of Femininity at the end of a customary marriage,” *Gender & Society* 29, no. 6 (2015): 820.

family.<sup>9</sup> This often created a conflict between a wife and her husband's mother<sup>10</sup>. Mothers had "the power to determine whether the needs of younger women in the family are met" (ibid). Legally, wives were treated as minors, with no more authority than children.<sup>11</sup> Though older women, mothers, were seen the same way legally, their social influence protected their needs and empowered them over their daughter-in-laws. No woman is permanently empowered or subordinated, given the many different roles that women assume throughout their lifetimes.<sup>12</sup> Power is situational, depending on "who is present in any given setting or interaction".<sup>13</sup>

Although young wives lacked power in their families, they were highly valued for their fertility. Women's procreative capacity enabled them to further the family lineage. Family lineage was of utmost importance in Southern Africa.<sup>14</sup> A senior counselor in Lesotho was quoted saying "We do not marry women, we marry their womb" (ibid). In general, wives encouraged polygyny.<sup>15</sup> When a husband took another wife, the first wife's responsibilities were lessened (ibid). Older wives were especially supportive of polygyny, since once they were too old to have sex or continue laboring, a new wife would take over her domestic duties.<sup>16</sup> Though not all women approved of her husband's later marriages, polygynous marriages protected a mother's economic security and made her life less burdensome in her later years (ibid).

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<sup>9</sup> Pule Phoofolo, "Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900," *Journal of Religious History* 31, No. 4, (Dec 2007): 367

<sup>10</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 832.

<sup>11</sup> Ntombizozuko Dyani-Mhango, "The Consent of the First Wife in a Polygamous Marriage as a Requirement for the Validity of her Husband's Subsequent Marriage under South Africa's Recognition of Customary Marriages Act: *Mayelane v Ngwenyama*," *Journal of African Law* 60, no. 1 (April 2016): 155-169.

<sup>12</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 820.

<sup>13</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 835.

<sup>14</sup> Pule Phoofolo, "Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900," *Journal of Religious History* 31, No. 4, (Dec 2007): 367

<sup>15</sup> Pule Phoofolo, "Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900," *Journal of Religious History* 31, No. 4, (Dec 2007): 370

<sup>16</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 831.

Polygyny ensured that a man's full reproductive capacity was met. A consequence of polygyny was men's unrestricted sexuality. Polygamy and concubinage were institutionalized for men, but illegal for women.<sup>17</sup> However, when women practiced adultery, they were not legally punished for their crimes, though they did face domestic turmoil (ibid). Women were depicted as "weak, vulnerable to seduction, and incapable of true consent", and therefore, cases of wifely adultery were legally treated as legal disputes between two men (ibid). Polygyny had benefits for mothers, but subordinated wives to the power of their husbands, their co-wives and their mother-in-laws. The traditional legal systems and social structures in Southern Africa established customs that remained after colonization. Traditional practices that diminished a wife's power were primarily due to her outsider status in her husband's family. Because wives were valued for their fertility, traditional institutions protected their welfare needs, but diminished their agency. The onset of colonial impositions complicated gendered structures of marriage, slightly increasing a wife's agency, but diminishing her familial social position.

British colonizers came into Southern Africa with the belief that practices unlike their own were barbaric and in need of saving. The primary impositions were attempts to enforce monogamy and the introduction of divorce processes. Missionaries were motivated to enforce monogamy for two reasons. The first was that the British believed polygamy to be inhumane.<sup>18</sup> The British thought that it was their moral responsibility to save African women from cruel black men's enslavement, and transition the culture "to create domestic home in the bourgeois Victorian model" (ibid). However, British motives were not merely cultural; they had economic incentives. With monogamous marriages, black men were more likely to work for whites since

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<sup>17</sup> Pule Phoofolo, "Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900," *Journal of Religious History* 31, No. 4, (Dec 2007): 372

<sup>18</sup> Jeremy Martens, "'Civilised domesticity', race and European attempts to regulate African marriage practices in colonial Natal, 1868-1875," *History of the Family* 14, no. 4, (2009): 342.

their familial labor unit would be smaller (ibid). Missionaries incentivised monogamous marriage by taxing polygamous men more than monogamous ones.<sup>19</sup>

Missionaries's second change to marital institutions was the introduction of divorce. Before 1871, there was no formal method to dissolve a marriage, and thus, ending a marriage was extremely difficult.<sup>20</sup> Colonization institutionalized divorce. However, a general lack of familiarity with colonial legal systems limited Southern Africans use of the new process (ibid). The divorces that did occur were more frequently initiated by women, since missionaries primarily encouraged women to divorce. They did so by teaching women about Christianity, and then encouraging wives to separate from their so-called heathen polygamous husbands.<sup>21</sup>

Missionaries constructed two options for marriage ceremonies: either Christian or traditional. Since missionaries incentivised Christian marriages, it was common practice for a husband to have a Christian marriage with his first wife, and then have traditional marriages later, taking advantage of tax benefits and still maintaining traditional social customs (ibid).

While husbands were able to take advantage of legal loopholes, wives suffered the consequences. When her husband married a second wife, the first wife, married by Christian rites, lost her status as the principal wife".<sup>22</sup> The wife with Christian marital status had no protections from the extended family when her husband died, leaving her children and herself at risk (ibid). Christian marriages reduced the role of extended families in marriages, therefore reducing the influence of mothers (ibid). Though these marriages increased young men and

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<sup>19</sup> Pule Phoofolo, "Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900," *Journal of Religious History* 31, No. 4, (Dec 2007): 374.

<sup>20</sup> Pule Phoofolo, "Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900," *Journal of Religious History* 31, No. 4, (Dec 2007): 366.

<sup>21</sup> Pule Phoofolo, "Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900," *Journal of Religious History* 31, No. 4, (Dec 2007): 379.

<sup>22</sup> Pule Phoofolo, "Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900," *Journal of Religious History* 31, No. 4, (Dec 2007): 375.

women's freedom in marital decisions, social customs pervaded in time, maintaining men's authority and reducing women's protections in old age (ibid).

The majority of divorce filings arose from wives' accusations of their husband's infidelity, and Christian wives' resentment at husbands who took second wives by customary marriage.<sup>23</sup> Traditionally, husbands had absolute authority over their family (ibid). Disputes erupted when wives questioned their husbands' whereabouts or did anything without their husbands' approval.<sup>24</sup> Infidel husbands were outraged at their wives' adultery, despite their own (ibid). Fortunately, colonialism established divorce as an option for unhappy wives. Though these divorcée-wives are sometimes seen as breaking from patriarchal normals, in actuality, this is a consequence not an intention. Wives were dependent on support from their husbands' families; their decisions to divorce were more often "the result of poverty and desperation rather than deference to patriarchal norms".<sup>25</sup>

Divorce disrupted Southern African marital institutions. Marriage was "an opportunity for women to improve their social status and access to economic resources", but the opportunity required women to uphold traditional gender stereo-typing practices.<sup>26</sup> These practices were often empowering for mothers, yet belittling for young wives. Divorce complicated women's familial roles by introducing a wife's agency into the maintenance of her marriage. Her agency was limited however, due to the unequal power relations and lack of economic opportunity after a divorce (ibid). Black Southern African divorcées expressed experiencing "a struggle to

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<sup>23</sup> Pule Phoofolo, "Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900," *Journal of Religious History* 31, No. 4, (Dec 2007): 379.

<sup>24</sup> Pule Phoofolo, "Holy Weddings, Unholy Marriages: Christian Spouses and Domestic Discords in Early Colonial Lesotho, 1870-1900," *Journal of Religious History* 31, No. 4, (Dec 2007): 382.

<sup>25</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 836.

<sup>26</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 818.

maintain a sense of self, community, and financial well-being”.<sup>27</sup> Wives had to try to be respectful to their husbands, family and elders while breaking apart from an unhappy relationship (ibid). Women experienced an internal struggle seeking fair treatment while also preserving their cultural values.

Apartheid law moved women’s agency backwards. Apartheid-era judgements were based in intolerance of diversity and prioritization of the minority heteronormative white-male ruling class.<sup>28</sup> The Marriage Act of 1961 was the first attempt for the South African legal system to acknowledge customary marriages. However, the law did not give customary marriages the same legal consequences as civil marriages. Further, neither Muslim nor Hindu marriages were recognized by law.<sup>29</sup> Muslim marriages were disdained because of their potentially polygynous nature (ibid).

Apartheid laws aimed to limit women’s economic equality. By the Black Administration Act (BAA) in 1927, women were not allowed to own property.<sup>30</sup> A wife’s personal property and earnings belonged to her husband and she was not allowed to go to court without the assistance of her legal guardian - meaning her husband (ibid). African chiefs and elder men were supportive of BAA since they “were anxious about the control of unruly African women ” in response to urbanization (ibid). Some women refused to show compliance with these laws. Zulu women

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<sup>27</sup> Elena Moore, “Forms of Femininity at the end of a customary marriage,” *Gender & Society* 29, no. 6 (2015): 835.

<sup>28</sup> Manjoo, Rashida. "Compromising of Gender Equality Rights – Through the Recognition of Muslim Marriages in South Africa." In *Islam & Europe: Crises Are Challenges*, edited by FOLETS Marie-Claire and CARLIER Jean-Yves, by ABOUTALEB Ahmed, AHMED Durre S., AN-NA`IM Abdullahi AHMED, ALI Shaheen SARDAR, BENZAKOUR Mohammed, MIR-HOSSEINI Ziba, LAROUFI Fouad, LEYSEN Bettina, MANJOO Rashida, PAREKH Bhikhu, ROHE Mathias, RYNGAERT Cedric, and SHAH Prakash, 202. Leuven: Leuven University Press, 2010. Accessed November 1, 2020. doi:10.2307/j.ctt9qf1dm.15.

<sup>29</sup> Budlender, Debbie, Ntebaleng Chobokoane, and Sandile Simelane. "Marriage Patterns in South Africa: Methodological and Substantive Issues." *Southern African Journal of Demography* 9, no. 1 (2004): 2. Accessed November 3, 2020. <http://www.jstor.org/stable/20853261>.

<sup>30</sup> Elena Moore, “Forms of Femininity at the end of a customary marriage,” *Gender & Society* 29, no. 6 (2015): 819.



protested through song (izigiyo) and by wearing modern clothing.<sup>31</sup> Despite women's resistance, Apartheid brought no developments to wives' empowerment, only the formation of formal laws institutionalizing common practices.

After Apartheid ended, Southern Africa enacted laws with the intent of protecting customary practices as well as individual rights. Under the South Africa's Recognition of Customary Marriage Act of 1996, customary law is recognized as valid civil law, including recognizing marriages performed "under any tradition or system of religious, personal or family law... as observed among indigenous African peoples of South Africa".<sup>32</sup> In 2000, The Promotion of Equality and Prevention of Unfair Discrimination Act "forbids customary, religious or other practices which impair the dignity of women and undermines equality between women and men and forbids any policy or conduct that unfairly limits access of women to land rights, finances or other resources".<sup>33</sup> These two acts demonstrate South African's struggle to uphold both traditional cultural practices and gender equality. The constitutional court has made efforts to compromise on the two values. In *Mayelane v Ngwenyama*, the court ruled that the first wife must consent before her husband can contract another marriage, as lack of consent would undermine the wife's equality.<sup>34</sup> *Mayelane v Ngwenyama* shows that sometimes, there is a clear balance between tradition and women's rights.

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<sup>31</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 821.

<sup>32</sup> Ntombizozuko, Dyani-Mhango, "The Consent of the First Wife in a Polygamous Marriage as a Requirement for the Validity of her Husband's Subsequent Marriage under South Africa's Recognition of Customary Marriages Act: *Mayelane v Ngwenyama*," *Journal of African Law* 60, no. 1, (2016): 156-169.

<sup>33</sup> Manjoo, Rashida. "Compromising of Gender Equality Rights – Through the Recognition of Muslim Marriages in South Africa." In *Islam & Europe: Crises Are Challenges*, edited by FOLETS Marie-Claire and CARLIER Jean-Yves, by ABOUTALEB Ahmed, AHMED Durre S., AN-NA'IM Abdullahi AHMED, ALI Shaheen SARDAR, BENZAKOUR Mohammed, MIR-HOSSEINI Ziba, LAROUFI Fouad, LEYSEN Bettina, MANJOOR Rashida, PAREKH Bhikhu, ROHE Mathias, RYNGAERT Cedric, and SHAH Prakash, 204. Leuven: Leuven University Press, 2010. Accessed November 1, 2020. doi:10.2307/j.ctt9qf1dm.15.

<sup>34</sup> Ntombizozuko, Dyani-Mhango, "The Consent of the First Wife in a Polygamous Marriage as a Requirement for the Validity of her Husband's Subsequent Marriage under South Africa's Recognition of Customary Marriages Act: *Mayelane v Ngwenyama*," *Journal of African Law* 60, no. 1, (2016): 156-169.

The Recognition of Customary Marriage Act had both benefits and consequences on familial relations for women. The act created structural processes which promoted women's equality, but its implementation fell short of true progress. Further, the act was not inclusive to all women, leaving Muslims and LGBTQ+ persons unprotected.

The new laws improved women's access to economic resources, particularly by the provision on community property, which protected women's property rights after divorce.<sup>35</sup> Further, the laws provided a legal system to deal with matters of women's equality, as opposed to customary systems, which did not directly include women's voice.<sup>36</sup> Further, the court's judgement on the Bhe case set the precedent that "where equality rights clash with rights to culture, the equality right will override the right to culture".<sup>37</sup>

Although the Recognition of Customary Marriage Act intends to promote women's rights, structural and cultural barriers hinder its successful implementation.<sup>38</sup> One structural barrier is the lack of legal consequences for disobeying the court's ruling on *Mayelane v Ngwenyama*, requiring the consent of the first wife.<sup>39</sup> This raises questions about the extent to which gender equality is protected. One cultural barrier is that muslim law claims that a woman "inevitably and voluntarily places herself under the 'legal risk' of her husband marrying other

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<sup>35</sup> Budlender, Debbie, Ntebaleng Chobokoane, and Sandile Simelane. "Marriage Patterns in South Africa: Methodological and Substantive Issues." *Southern African Journal of Demography* 9, no. 1 (2004): 4. Accessed November 3, 2020. <http://www.jstor.org/stable/20853261>.

<sup>36</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 819.

<sup>37</sup> Manjoo, Rashida. "Compromising of Gender Equality Rights – Through the Recognition of Muslim Marriages in South Africa." In *Islam & Europe: Crises Are Challenges*, edited by FOLETS Marie-Claire and CARLIER Jean-Yves, by ABOUTALEB Ahmed, AHMED Durre S., AN-NA'IM Abdullahi AHMED, ALI Shaheen SARDAR, BENZAKOUR Mohammed, MIR-HOSSEINI Ziba, LAROUFI Fouad, LEYSEN Bettina, MANJOO Rashida, PAREKH Bhikhu, ROHE Mathias, RYNGAERT Cedric, and SHAH Prakash, 212. Leuven: Leuven University Press, 2010. Accessed November 1, 2020. doi:10.2307/j.ctt9qf1dm.15.

<sup>38</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 819.

<sup>39</sup> Ntombizozuko, Dyani-Mhango, "The Consent of the First Wife in a Polygamous Marriage as a Requirement for the Validity of her Husband's Subsequent Marriage under South Africa's Recognition of Customary Marriages Act: *Mayelane v Ngwenyama*," *Journal of African Law* 60, no. 1, (2016): 156-169.

women” (ibid). Though some women fully support polygynous marriages, the presumption that women voluntarily assume the legal risk of polygyny ignores the economic pressures and unequal power dynamics that can lead women into polygynous marriages. For instance, Researcher Elena Moore found that in 2015, “black African men and women in customary marriages have lower educational attainments, lower level of employments, and lower income compared to their counterparts in civil marriages”<sup>40</sup>. Lack of education can lead a woman to find a polygamous marriage that will protect her financially after she can no longer work a labor based job.

Another shortcoming of the Recognition of Customary Marriage Act is the lack of full recognition of Muslim and Hindi marriages.<sup>41</sup> Muslims are not a homogenous group in Southern Africa and disagreements have prevented comprehensive legislation (ibid). In 2010, the court ruled to permit polygyny as long as the husband maintains equality between his spouses, as dictated by the Quran (ibid). However, not all traditions are to women’s advantage. Muslim law disadvantages the spouse who does work inside the home, and prevents them from inheriting family assets.<sup>42</sup> Note that a spouse who works inside the home is almost always a woman. Mothers uphold such laws as they protect their sons’ finances, which resultantly protect their own security (ibid). On the other hand, wives are economically pressured to refrain from divorce,

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<sup>40</sup> Elena Moore, “Forms of Femininity at the end of a customary marriage,” *Gender & Society* 29, no. 6 (2015): 823.

<sup>41</sup> Manjoo, Rashida. "Compromising of Gender Equality Rights – Through the Recognition of Muslim Marriages in South Africa." In *Islam & Europe: Crises Are Challenges*, edited by FOLETS Marie-Claire and CARLIER Jean-Yves, by ABOUTALEB Ahmed, AHMED Durre S., AN-NA`IM Abdullahi AHMED, ALI Shaheen SARDAR, BENZAKOUR Mohammed, MIR-HOSSEINI Ziba, LAROUFI Fouad, LEYSEN Bettina, MANJOO Rashida, PAREKH Bhikhu, ROHE Mathias, RYNGAERT Cedric, and SHAH Prakash, 206. Leuven: Leuven University Press, 2010. Accessed November 1, 2020. doi:10.2307/j.ctt9qf1dm.15.

<sup>42</sup> Manjoo, Rashida. "Compromising of Gender Equality Rights – Through the Recognition of Muslim Marriages in South Africa." In *Islam & Europe: Crises Are Challenges*, edited by FOLETS Marie-Claire and CARLIER Jean-Yves, by ABOUTALEB Ahmed, AHMED Durre S., AN-NA`IM Abdullahi AHMED, ALI Shaheen SARDAR, BENZAKOUR Mohammed, MIR-HOSSEINI Ziba, LAROUFI Fouad, LEYSEN Bettina, MANJOO Rashida, PAREKH Bhikhu, ROHE Mathias, RYNGAERT Cedric, and SHAH Prakash, 210. Leuven: Leuven University Press, 2010. Accessed November 1, 2020. doi:10.2307/j.ctt9qf1dm.15.

as muslim law prevents them from attaining the financial means to support themselves on their own.

Cultural barriers of the Recognition of Customary Marriage Act extend to same-sex couples. For many South Africans in the LGBTQ+ community, tradition is still valued and it is important to uphold ilobolo exchanges.<sup>43</sup> For the LGBTQ+ community, “while marriage surely is about love and the union of two people and families, there also is an important goal of social visibility, acceptance, and recognition that is central to the desire to meld African tradition to queerness” (ibid). However, same-sex sexuality is constructed as outside of South Africa’s Recognition of Customary Marriage Act.<sup>44</sup> Under South African law, customary marriage is only permitted for heterosexuals, though LGTBTQ+ couples can marry under civil law.<sup>45</sup> While ilobolo may seem to restrict customary marriages to heterosexuals only, throughout Southern African history, same-sex marriages between women were were ample, and these marriages did involve the exchange of ilobolo.<sup>46</sup> Wendy Isaack expresses her discontent in saying, “I am a lesbian. I can access the Civil Union Act. But I am also a black Zulu woman, and there is a law in this country that makes provision for Zulus in terms of recognizing marriage. Why should I not have that?” (ibid). Again, Southern African women believe that they should not have to sacrifice tradition for their rights.

Modern day changes such as urbanization and globalization have influenced gender dynamics on economics, which in turn impact familial dynamics. For instance, the rise of dual-

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<sup>43</sup> Livermon, Xavier. "Usable Traditions: Creating Sexual Autonomy in Postapartheid South Africa." *Feminist Studies* 41, no. 1 (2015): 33. Accessed November 2, 2020. doi:10.15767/feministstudies.41.1.14.

<sup>44</sup> Livermon, Xavier. "Usable Traditions: Creating Sexual Autonomy in Postapartheid South Africa." *Feminist Studies* 41, no. 1 (2015): 16. Accessed November 2, 2020. doi:10.15767/feministstudies.41.1.14.

<sup>45</sup> Livermon, Xavier. "Usable Traditions: Creating Sexual Autonomy in Postapartheid South Africa." *Feminist Studies* 41, no. 1 (2015): 25. Accessed November 2, 2020. doi:10.15767/feministstudies.41.1.14.

<sup>46</sup> Livermon, Xavier. "Usable Traditions: Creating Sexual Autonomy in Postapartheid South Africa." *Feminist Studies* 41, no. 1 (2015): 31. Accessed November 2, 2020. doi:10.15767/feministstudies.41.1.14.

income families increases wives' influence in their families, as they become contributors to the family income.<sup>47</sup> Resultantly, some women's husbands have moved away from traditional masculine roles and are engaging in emotional work.<sup>48</sup> Despite this trend, the perception of the father as the head of the household is still held by most women (ibid). Women continue to place men in powerful roles in their family, but women will not allow men to abuse the familial power they hold.

A woman's decision to comply with or resist unequal power relations during a divorce is based in both her role as a wife and her role as a mother. Women must negotiate their relationship with their husbands, their families and the financial consequences of divorce.<sup>49</sup> Southern African women have the autonomy to leave unhappy marriages, but wives face internal conflict when dealing with divorce. By contesting the financial consequences of a divorce, a wife risks spoiling relationships with her wider family.<sup>50</sup> Despite the consequences, more and more wives are paving the way to seek redress and demand the resources for economic stability after a divorce.<sup>51</sup>

Southern Africa's long history created conflict between women's rights and traditional culture. Before colonialism, traditional marriage empowered mothers, but belittled wives to the authority of their extended family. Missionaries introduced divorce, increasing women's autonomy in marriage, but economic and social pressures prevented significant change. Changes in legal systems attempted to balance the values of tradition and equality, but the task unveiled

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<sup>47</sup> Sooryamoorthy, R., and Mzwandile Makhoba. "The Family in Modern South Africa: Insights from Recent Research." *Journal of Comparative Family Studies* 47, no. 3 (2016): 315. Accessed November 2, 2020. <http://www.jstor.org/stable/44109628>.

<sup>48</sup> Sooryamoorthy, R., and Mzwandile Makhoba. "The Family in Modern South Africa: Insights from Recent Research." *Journal of Comparative Family Studies* 47, no. 3 (2016): 316. Accessed November 2, 2020. <http://www.jstor.org/stable/44109628>.

<sup>49</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 827.

<sup>50</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 830.

<sup>51</sup> Elena Moore, "Forms of Femininity at the end of a customary marriage," *Gender & Society* 29, no. 6 (2015): 834.

complications. Despite legal difficulties, women resist biased power dynamics within the family, showing promise that Southern African women will one day form laws that do not choose between individual rights and tradition.

### **Copley Research Award 300 Level Application**

In fall 2020, I took African Feminisms, a history class taught by Dr. T.J. Tallie, which culminated in a final research paper. This paper required me to utilize advanced research skills. In searching for scholarly sources, I began by using Copley Library's online database archive. Searching by subject, I examined the relevant databases in fields of ethnic studies, history, and sociology. The tools that I found most useful were Academic Search Premier, Sage Journals, JSTOR and ProQuest Dissertations & Theses Global. These tools all have vast archives and are accessible to many fields of study. My familiarity using these tools for other classes aided my success with these tools. I found some of the more niche databases to have less resources.

When searching through these databases, the primary struggle among young researchers is knowing what to search. I have found that to find strong relevant sources, the research topic must be decided first; and the topic must be extremely focused and exact. However, at the start of a research project, it's difficult to know the exact pin point topic. To combat this dilemma, I start by searching in broad terms. I searched things like, "South Africa marriages women" and "Colonialism Marriage South Africa". After conducting some broad preliminary research, I was able to find the area in which my interests and availability overlapped. I decided to write about married women in Southern Africa, across time from immediately before colonialism to the early 2000s, considering marriages of different sexualities and different religions. Having found an extremely focused research topic, it was then essential to search for my exact topic, running multiple searches with each time period, sexuality, and religion I chose to study. No source has all the information you need, otherwise, you wouldn't need to write this paper. Therefore, it is imperative to identify the multiple areas that the research paper will examine, and search for each area separately. My strategy was to find all the sources I need before beginning to write the

paper. This was necessary for me, because I began my writing process by organizing every worthwhile piece of information from the sources into my outline. Without all the major areas of research finished, it is easy for me to leave out an essential area of my paper. After writing a first draft, my search strategy changes again slightly. In editing my paper, I look for claims in my paper that are not supported, and I then go back to the research process, searching for support. A research paper is more effective at stating even the most basic claims with support to back them up. For example, in this paper, I stated a generally agreeable claim that not all muslim traditions are advantageous for women. Anyone with basic knowledge of muslim ideology and culutres would agree witht this claim, but I went and found an exact example to make this statement more powerful; mentioning that “Muslim law disadvantages the spouse who does works inside the home, and prevents them from inheritting family assets.<sup>52</sup>”. My search strategy aims to be all encompassing at the start, but I recognize that I must adjust my search process as I write. I begin with a broad preview of the scholarly work. Then, I focus onto an exact topic, running multiple searches for each area of my topic. And finally, I search for the perfect pieces of information to enhance my claims.

My research methods resulted in credible scholarly sources. My sources included academic journals, scholarly articles, dissertations, and novels. My sources were appropriate for the class, as they were primarily written by Southern African scholars, indicating that the paper takes a native perspective to a largely colonial problem. A couple of my sources were written by authors foreign to Southern Africa. My sources varied greatly in publication year, because this

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<sup>52</sup> Manjoo, Rashida. "Compromising of Gender Equality Rights – Through the Recognition of Muslim Marriages in South Africa." In *Islam & Europe: Crises Are Challenges*, edited by FOLETS Marie-Claire and CARLIER Jean-Yves, by ABOUTALEB Ahmed, AHMED Durre S., AN-NA`IM Abdullahi AHMED, ALI Shaheen SARDAR, BENZAKOUR Mohammed, MIR-HOSSEINI Ziba, LAROUFI Fouad, LEYSEN Bettina, MANJOO Rashida, PAREKH Bhikhu, ROHE Mathias, RYNGAERT Cedric, and SHAH Prakash, 210. Leuven: Leuven University Press, 2010. Accessed November 1, 2020. doi:10.2307/j.ctt9qf1dm.15.



suited my research topic, which analyzed marital cultures over time. However, due to the variance in publication year, I practiced extra caution in trusting the intent of the sources, as some of the older sources actively disparaged Southern Africans from a position of white dominance. Because I included a wide range of sources, I am confident that my research process resulted in appropriate, credible sources for my topic.