



Investigation report on the implications of cultural practices and norms on realisation of sexual and reproductive health rights in Zimbabwe

The Case of Ward 7 of Chilonga Communal Lands, Chiredzi

5-7 December 2019

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1) The investigative mandate of the Zimbabwe Gender Commission

The Zimbabwe Gender Commission (ZGC) is one of the five Independent Commissions which are established in terms of Section 232 of the Constitution. The establishment and functions of the ZGC are provided for in Sections 245 and 246 of the Constitution as well as the Zimbabwe Gender Commission Act. Within its broad mandate of monitoring and ensuring implementation of gender equality provisions in the Constitution, some of the functions of the Commission are to monitor issues concerning gender equality, investigate possible violations of rights relating to gender, secure appropriate redress where rights relating to gender have been violated and to do everything necessary to promote gender equality. In pursuance of this mandate and on its own initiative, the ZGC conducted an investigation into the implications of cultural practices on realisation of sexual and reproductive health rights in Zimbabwe. The investigation was conducted in Ward 7 of Chilonga Communal Lands in Chiredzi as from 5-7 December 2019.

Since the investigation was focusing on the implications of cultural practices and norms on sexual and reproductive rights, a brief discussion of the concepts is necessary. Sexual and reproductive health is a human rights concept, which encompasses four aspects namely: sexual health, sexual rights, reproductive health and reproductive rights. According to the World Health Organisation, sexual health is a state of physical, mental and social well-being in relation to sexuality. It requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. According to the World Association of Sexual Health, sexual rights include sexual pleasure and emotional sexual expression. The Platform for Action for the Beijing Conference on Women, established that human rights include the rights of women freely and without coercion, violence and discrimination, to have control over and make decisions concerning their own sexuality, including their own sexual and reproductive health rights.

Reproductive health on the other hand, addresses the reproductive processes, functions and system at all stages of life. It therefore, implies that people are able to have a responsible, satisfying and safer sex life and have the capability to reproduce and the freedom to decide if, when and how often to do so. The World Health Organisation views reproductive rights as legal rights and freedoms relating to reproduction and reproductive health. Reproductive rights rest on the recognition of the basic right of all couples and individuals to decide freely and

responsibly, the number, spacing and timing of their children and to have the information and means to do so, and to attain the highest standard of sexual and reproductive health. These rights also include the right of all to make decisions concerning reproductive, coercion and violence.

2) **Background**

The Zimbabwe Gender Commission conducted a field investigation of the impact of social and cultural practices of Ward 7 of the Chilonga Community of Chiredzi to the enjoyment and realisation of sexual and reproductive health rights of both women and men, boys and girls. The investigation was influenced by a Community Dialogue, which was held by the Zimbabwe Peace Project in August 2019, as part of a series of Provincial Human Rights Community Dialogues. The Zimbabwe Gender Commission was invited to a Community Dialogue meeting, which was held at Chitsanga Community Hall in August 2019. During the Dialogue, representatives of the Ward 7 in Chilonga Communal Lands extended an invitation to the Commission to carry out an investigation on the beliefs and practices of the community, which seemingly have an impact on the sexual and reproductive health rights of young women and men.

The prominent cultural practice amongst the Shangaan who reside in the Chilonga community is *khomba*, which is an initiation rite for both boys and girls as they progress from childhood to adulthood. It was also highlighted that as from around July to August 2019, the Chilonga Community was invaded by commercial sex workers who engaged in transactional sexual activities with both older and young men within the community in backyard rooms at a local business centre. These sexual escapades were dubbed *magate*. The name emanated from a popular song (50 Magate) by a dancehall artist from Harare known as Enzo Ishall, which the commercial sex workers danced to in order to lure men for transactional sexual activities. With time, the term *magate* was localised to refer to the women who were providing sexual services. It was alleged that a local businessman, acting as a pimp, brought commercial sex workers to Chilonga Community, where the women provided sexual services to the local men and he pocketed the payments. It also emerged that even male high school students had joined the *magate* bandwagon with some of them engaging in stock theft of goats so that they could acquire money to pay for transactional sexual activities.

3) **Purpose of the investigation**

The purpose of the investigation was:

- to carry out an assessment of the implications of cultural practices of the Shangaan people of Chilonga Communal Area in Chiredzi on enjoyment and realisation of sexual and reproductive health rights;
- to assess if the cultural practices and norms in the Chilonga Community are systemic and prejudicial to gender equality, gender equity and gender mainstreaming as defined in section 2 (2) of the Zimbabwe Gender Commission Act [Chapter 10:31].

4) **Guiding Legal framework**

Since Section 46 (1) (c) of the Constitution acknowledges the application of international law as well as treaties and conventions to which Zimbabwe is a party, the Commission was guided by the following standards from the international, regional and domestic normative frameworks on gender and women's rights:

i. The International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR), which was adopted in 1966 but came into force in 1976, commits member states to work towards the granting of economic, social and cultural rights to their citizens. Article 2 prohibits discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 12 of the ICESCR addresses health concerns. In its General Comment 14, the Committee on Economic, Social and Cultural Rights underscored the interdependence and interrelatedness of rights. The Committee stated that socio-economic and cultural rights are closely related to rights to life, health, privacy, and dignity, freedom from torture, degrading and inhuman treatment, non-discrimination as well as freedoms of association, movement and assembly. In relation to the right to health, the Committee highlighted that the right to health does not mean being healthy. The right to health is a broad right, which covers the enjoyment of various facilities, goods, services and conditions in order to achieve the highest attainable standard of health. The right also encompasses sexual and reproductive health issues. Article 15 provides for the right to cultural freedoms.

ii. The Maputo Protocol

Article 1(f) of the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (Maputo Protocol), defines discrimination against women. It states that discrimination entails any distinction, exclusion, restriction or any differential treatment based on sex and whose objectives or effects compromise and destroy the recognition, recognition or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life. Article 1(g) states that ‘harmful practices’ means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity.. Article 1 (j) outlines acts which constitute violence against women. Violence against women means any acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including, the threat to take such acts, or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life, in peace time and during situations of armed conflict or of war. Article 2 of the Protocol on elimination of discrimination against women emphasises that States Parties should enact and effectively implement appropriate legislation or regulatory measures, including those prohibiting and curbing all forms of discrimination, particularly those harmful cultural practices which endanger the health and general well-being of women.

iii. The Constitution of Zimbabwe

The Constitution of Zimbabwe complies with women’s rights standards by guaranteeing rights of women in the Declaration of Rights, guarantees and providing mechanisms for protection and enforcement of the rights. Sections 2 of the Constitution states that the Constitution is the supreme law of Zimbabwe such that any law, practice, custom or conduct inconsistent with it is invalid to the extent of the inconsistency. Section 16 provides for the right to culture. It states that all State institutions and agencies at every level should promote and preserve cultural values and practices which enhance the dignity, well- being and equality of Zimbabweans. Section 56 of the Constitution, the equality and non-discrimination clause prohibits discrimination on several grounds including tribe, ethnic or social origin, custom and culture amongst other grounds. Section 80 of the Constitution outlaw discrimination and marginalisation of women. Section 80 (3) reiterates on the supremacy clause of the Constitution by outlawing all laws, customs, traditions and cultural practices that infringe the rights of women conferred by the Constitution to the extent of the inconsistency.

From a personal rights perspective, section 51 of the Constitution provides for the right to dignity. It states that every person has the right to dignity in his or her private and public life, and the right to have that dignity respected and protected. Further, section 52 provides for the right to personal security. It states that every person has the right to bodily and psychological integrity, which includes the right to freedom from all forms of violence from public or private sources.

4. Investigation methodology

The investigation was conducted through desk research and field investigations. The investigations team initially reviewed legal frameworks and literature on sexual and reproductive health rights. The field investigation was then carried out by way of key informant interviews and two focus group discussions in Chipedzi and Mpopoma Villages. This methodology enabled the investigators to effectively elicit information from representatives of the Chilonga community. The investigators interviewed 112 respondents who comprised of 73 females and 39 males. Of these 112 respondents, there were also 11 village heads and the Councillor of Ward 7.

5. Findings

From the investigation, the Commission came up with the following findings:

- i. Shangaan Cultural practice/s relating to sexual and reproductive health and rights**
 - It emerged from the investigation that in terms of sexual and reproductive health rights, the majority of the Shangaan people of Chilonga Communal Lands in Chiredzi practise *khomba*. *Khomba* is a cultural practice for initiation into adulthood for both boys and girls. The practice is shrouded in secrecy and all the respondents were saying that they are not allowed by custom to divulge the processes and procedures of *khomba* to uninitiated people
 - It entails education on Shangaan social values and norms such as interpersonal skills (respect for others), spousal responsibilities including the reciprocal duty to provide conjugal rights as well as family care and protection. Boys undergo circumcision as part of the initiation process. It was explained that the Ministry of Health and Child Care was now providing medical practitioners and modern surgical equipment to use for the circumcision during *khomba*. The community highlighted that according to the

knowledge, which has been imparted on them, circumcision reduces the rate of infection by the human immuno- deficiency virus (HIV) by 60 %, so according to them, it is a good practice which has health benefits and also compliant with religious practices from Judaism.

- *Khomba* used to run for three months but due to the need to respect children’s right to education, the initiation school is now run for only one month annually, in August when learners are on vacation
- Previously children below the age of 18 years were eligible for *khomba initiation school* but due to the intervention of the Ministry of Health and Child Care, the age for initiation was reviewed upwards to 18 years in line with section 81 (1) of the Constitution of Zimbabwe and the Children’s Act [Chapter 5:06]. It was explained that nowadays if a child below the age of 18 unilaterally goes for *khomba*, the parents or guardians have the right to withdraw the child from the initiation school, without having to pay to the Chief the traditional fine of a cow, as was the case before.
- Before, parents used to compel their children to go for *khomba* but due to increasing awareness of children’s rights, coercion to participate in *Khomba* was viewed as a form of child abuse so parents are now leaving it up to the children to decide if they want to go through initiation or not. The consensus amongst both adults and the youth was that *khomba* is a practice, which gives the Shangaan a sense of belonging to the community and distinguishes the ‘adults’ from the ‘children’. An uninitiated person is more or less like a child and cannot take part in some activities, which are the preserve of adults. A person who has not been initiated commands less respect in comparison with an initiated person. This social exclusion makes some adults go for initiation later on in life. Even non-Shangaan women who marry Shangaan can voluntarily go for *khomba* if they want to feel that they truly belong to the marital family and to be mentored on the cultural expectations of the husband’s family.

ii. Denouncing of *magate* as a non-Shangaan cultural practice

- Respondents from both Chipedzi and Mpopoma Villages strongly denounced *magate*, which they said was not part of Shangaan culture.
- It was clarified that sometime in July-August 2019, a businessperson from Chiredzi brought commercial sex workers to a local business centre to provide transactional sexual services to the local men. He received payments while the women provided

sexual services. The clients included both the old and young men, even high school students. The women would come dressed skimpily and perform raunchy dances at the back of open trucks. They danced mostly to the popular dancehall song '50 Magate' by a Harare based artist, Enzo Ishall, hence the naming of these sexual escapades, to *magate*. With time, the local people started referring to the commercial sex workers as *magate* such that if a man wanted to go for transactional sex with the commercial sex workers, he would indicate that he was going to buy a *gate*.

- At the peak of *magate*, it was reported that men would make queues at the rendezvous where the sexual escapades took place. The sexual exploits were timed so that the women would serve as many clients as possible and the businessperson who acted as a pimp maximised on profits, while benefiting from the commodification of the women who were treated as sex objects.
- The practice stopped after the local community led by the local leadership took a stand and denounced the practice.

iii. Ancillary issues emerging from the investigation

Besides the issue of sexual and reproductive health rights in relation to cultural practices in Chilonga Communal Lands of Chiredzi, the following ancillary issues also arose:

- There was a general sentiment that of late there has been commercialisation of the cultural practice of *khomba*. The community elders who organise the initiation ceremonies were accused of profiteering from the practice by making numerous demands for financial contributions expected from parents. The issue of lack of transparency and accountability on the expenditures made was also raised.
- One respondent pointed out that there was partial adherence with the age limit for initiation. She said that in spite of the fact that the community is aware that children below the age of 18 should not go for *khomba*, some parents were still sending minor children for initiation and the trainers were not enforcing the age limit by sending back home under age children. As a result, child marriages continue since the minor children who go for initiation often get married after graduation from the initiation school.
- Conflict between parents and children due to misunderstanding of children's rights by children. It was explained, in both Chipedzi and Mpopoma Villages that parents and guardians were no longer able to chastise or discipline children out of fear of being

reported to the police or to the children's rights organisation known as Childline through the 116 Toll free facility.

- The community has limited knowledge of sexual and reproductive health issues so there is need for extensive awareness on that topic. It was said that when the immoral practice of *magate* were taking place, the commercial sex workers used a single female condom when having sexual relations with all the clients whom they had, resulting in more than thirty cases of sexually transmitted infections being recorded at the local clinic in August 2019. The men were not even aware that they were engaging in risky sexual behaviour, which could affect not only them but their spouses as well.

6. Recommendations

From the findings presented above, the following recommendations are being proffered:

TO: The traditional leadership of Chilonga Community

There is need to demystify the *khomba* initiation process. Some members of the community said that they involuntarily go for *khomba* because of cultural and moral persuasion, not personal choice. Without a full appreciation of the curriculum and extra curricula activities of the *khomba* initiation school, it becomes difficult to apply a human rights barometer to the cultural practice to check if it constitutes a barrier prejudicial to gender equality, gender equity and gender mainstreaming as stated in section 2(2) of the Zimbabwe Gender Commission Act.

- There should be strict enforcement of the age limit for initiation by the local leadership. In order to avert child marriage, children below the age of 18 should not go for *khomba*.
- There is also need to monitor the logistical processes in preparation for the initiation ceremonies to prevent abuse of funds collected from parents and guardians by the organisers and the trainers.

TO: The Zimbabwe Gender Commission and civil society organisations

The Zimbabwe Gender Commission and civil society organisations such as the Zimbabwe Peace Project and children's rights organisations were requested by the Chilonga Community to conduct public awareness in schools on children's rights in order to end the current conflict between parents and children. The conflict is emanating from their different understanding of what constitutes children's rights. The parents should also receive the same sensitisation so that there is a common understanding on the issue.

The area of sexual and reproductive health rights is also another area where public awareness by organisations specialising on HIV and AIDS is necessary in order to stop further engagement in risky sexual behaviour such as the infamous *magate*, which affected marital relations and sexual health of the community.