

Sexual Dalliance in Zimbabwe: A Constitutional and Human Rights Perspective

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Abstract

Cultural norms and practices play an influential role especially in most communities across the globe. This is also true in Zimbabwe where these form the moral ingredient that epitomises a sense of identity, purpose and belonging. Despite these high moral values, the paper argues that the cultural practice of sexual dalliance, indigenously known as chiramu, violates the rights of girl children and yet, has not received enough scholarly criticism. This argument finds its basis from the recently enacted 2013 Constitution that has a strong bias towards the protection and promotion of human rights. In this regard, the article firstly gives an overview of the practice. Secondly, it highlights the negative effects of sexual dalliance on girl children. Thirdly, it shows that the custom of sexual dalliance does not pass the constitutional muster in safeguarding the rights of girls. Finally, the paper suggests possible recommendations that maybe useful in protecting girls against discriminatory cultural practices, such as chiramu.

Keywords: 2013 Zimbabwean Constitution, children's rights, culture, girls, sexual dalliance.

1. Introduction/ The brief overview of sexual dalliance

Sexual dalliance, locally known as *chiramu*, is a “practice in which a brother in law can indecently assault his unmarried sister in law under the guise of culture”.¹ Importantly, the practice targets the wife's younger sister(s) despite their ages.² This paper, however, focuses on sexual dalliance with its relation to girls who are below the age of 18. The traditional justification of sexual dalliance is that it teaches young girls how a man proposes and how to avoid him.³ The practice also teaches young girls how to look after their future husbands, as they would be doing it for the brother-in-law.⁴ In other words, the practice prepares girls into marriage and womanhood. In addition, Mahachi-Harper observed that sexual dalliance gives a brother in law the “rights and/or privileges” to have a casual romantic or sexual relationship with his wife's younger sister.⁵ In support of this view, the practice is “perceived as according sexual rights to the unmarried sister(s) of the wife”.⁶ Mahachi-Harper further observed that men regard sexual dalliance as a socially acceptable harmless “innocent, flirtatious banter”.⁷ Despite the abovementioned cultural justifications, the practice of sexual dalliance exposes girls to abuse. In view of these facts, part two of the discussion highlights some of the negative effects of sexual dalliance on girls as well as their enjoyment of human rights in Zimbabwe. Although they are many, this paper only focuses on unwanted pregnancies, child marriage and social stigma.

¹Tshabangu, I. (2017). *Global Ideologies Surrounding Children's Rights and Social Justice*. Pennsylvania: IGI Global, p. 25.

²Museka, G., & Machingura, F. (2014). Interaction of the Old Testament with the Shona traditions on children. In L. Togarasei & J. Kügler (Eds.), *The Bible and Children in Africa* (pp. 127-140). Umschlaggestaltung: University of Bamberg Press.

³Chinodya, S. (2007). *Chairman of Fools*. Harare: Weaver Press, p. 43.

⁴The Herald (2010), *Unmasking chiramu, virginity*. [Online] Available: <http://www.herald.co.zw/unmasking-chiramu-virginity/> (20 June 2017).

⁵Mahachi-Harper, S.N. (2004). *Echoes in the shadows*. Gweru: Mambo Press, p. 47.

⁶Australian Government (2010), *Country Advise-Zimbabwe*. [Online] Available: <http://www.refworld.org/pdfid/4d9998442.pdf> (23 June 2017).

⁷Supra note 5, p. 15.

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2. The negative effects of sexual dalliance on girls in Zimbabwe

2.1 Unwanted Pregnancies

The nature of sexual dalliance allows a brother-in-law to flirtatiously and/or sexually indulge with his sister in law, if he so wishes. Since Zimbabwe is a patriarchal milieu, men have overarching power to make decisions over women and children.¹⁴ In this light, sexual dalliance disregards the girl’s consent to engage in sexual intercourse with her brother in law. This unequal power relationship compromises the ability of the sister in law to refuse any sexual overtures from her elder sister’s husband.¹⁵ As a result, decisions on how and when to have sex, let alone protected sex, remain exclusively those of the brother in law. Either without the ability to deny sex or negotiate safe sex, sexual dalliance increases the risks of girls to forced and/or unwanted pregnancies.

Impregnated girls become prone to suffer from childbirth complications such as prolonged labour and *obstetric fistula*.¹⁶ Dube rightly concurs with these assertions observing that pregnant adolescents have underdeveloped pelvis bones incapable of facilitating the normal vaginal delivery of babies.¹⁷ According to Laurie, these birth complications are life threatening and may lead to death.¹⁸ More worrisome is that pregnant girls may lack the “insight and experience” to medically take care of their offspring.¹⁹ For these reasons, *chiramu* does not only lead to unwanted pregnancies, but also to child mortality and morbidity.

⁸ Australian Government (2010), Country Advise-Zimbabwe. [Online] available:<http://www.refworld.org/pdfid/4d9998442.pdf> (23 June 2017).

⁹ Supra note 5, p. 15.

¹⁰ Australian Government (2010), Country Advise-Zimbabwe. [Online] Available:<http://www.refworld.org/pdfid/4d9998442.pdf> (23 June 2017).

¹¹ Supra note 5, p. 15.

¹² Australian Government (2010), Country Advise-Zimbabwe. [Online] Available:<http://www.refworld.org/pdfid/4d9998442.pdf> (23 June 2017).

¹³ Supra note 5, p. 15.

¹⁴ Hindin, M.J.(2000). Women's power and anthropometric status in Zimbabwe. *Social Science & Medicine*, 51, 1517-1528.

¹⁵ Mashiri, L. (2013). Conceptualisation of Gender Based Violence in Zimbabwe. *International Journal of Humanities and Social Science*, 3, 95-103.

¹⁶ Laurie, R. (2015). *Weaving a Malawi Sunrise: A Woman, A School, A People*. Alberta: University of Alberta Michigan, 193.

¹⁷ Phipps, M.G., & Sowers, M. (2002). Defining Early Adolescent Childbearing. *American Journal of Public Health*, 92, 125-128.

¹⁸ Supra note 10, p. 195.

¹⁹ Pinzon, J., & Jones, F. (2012). Care of Adolescent Parents and Their Children. *Pediatrics*, 130, 1743–1756.

In addition, sexual dalliance considers a girl as the second wife to her elder sister's marriage without necessarily getting married.²⁰ The brother in law then assumes connubial rights over the young sister in law until another man eventually marries her. During this time, the brother-in-law has the responsibility to nurture the younger sister-in-law into a well-mannered and responsible woman once she gets married.²¹ Such responsibility includes teaching young sisters in law how to please their husbands in bed.²² It is therefore clear that sexual dalliance, by its nature, encourages men to abuse their wives' young sisters sexually. More so, the practice can arguably force girls to engage in unprotected sex with their brothers in law. By allowing such acts, the Zimbabwean society promotes promiscuity in terms of extra marital affairs that can leave girls at the mercy of contracting sexually transmitted diseases, such as HIV and AIDS.²³ Clearly, sexual dalliance has the effect of violating the health rights of girls in Zimbabwe.

2.2 Social Stigma

Sexual dalliance has direct linkages with social stigma because the Zimbabwean society is predominantly patriarchal.²⁴ For instance, victims of sexual dalliance fail to report the sexual abuse due to fear of castigation from society as well as their families.²⁵ In some cases, when girls would report the sexual abuses, their claims would be simply be swept under the carpet.²⁶ In other cases, girls get the blame for enticing their brothers-in-law to sleep with them.²⁷ They are also reminded that that a brother-in-law has every right to indulge with them.²⁸ Girls in families that believe in spirit mediums also shy from reporting sexual abuse claims due to fear of antagonising the ancestors.²⁹ Given the castigation and intimidation of victims of sexual dalliance by the society, the practice violates the dignity and privacy of girls while it remains shrouded in secrecy.

2.3 Child marriage

A child marriage refers to the conclusion of a marriage when one or both of the intending spouses are below the age of 18.³⁰ Due to the social stigma associated with unmarried pregnancies, sexual dalliance usually forces girls into child marriages. The author argues that impregnated girls because of sexual dalliance end up marrying so that the children can have father figures. Some parents and guardians force girls to marry so that they legitimise the sexual abuse that would have resulted in the girl falling pregnancy. In addition, an impregnated girl that belongs to a poor family would prefer to marry while young so that the spouse bears the responsibility of the child's upkeep. Impregnated girls can also end up joining their sisters in marriage (polygamy) due to desperation and fear of exclusion. This affects girls in their exercise and enjoyment of rights, such as education, equality and human dignity.

²⁰Gwandure, C. (2009). Mubobobo: Women have no Sexual Fantasies in their Sleep. *The Open Anthropology Journal*, 2, 74-81.

²¹Allison, J. (2011). Conceiving silence: Infertility a discursive contradiction in Ireland. *Medical Anthropology Quarterly*, 25, 1-21.

²²Gwandure, C. (2012). Sexual Desire and Expression among Girls in a Traditional Shona Context. *Anthropologist*, 14, 415-423.

²³The Zimbabwean (2011), Traditional practices put women at HIV risk. [Online] Available: <http://www.thezimbabwean.co/2011/09/traditional-practices-put-women-at/> (25 June 2017).

²⁴Page, R.M. (2015). *Stigma*. Hove: Psychology Press, p. 108.

²⁵Makwenda, J. J. (2014), Virginity and the ugly face of chiramu. [Online] Available: <http://www.joycejenjearchives.co.zw/virginity-and-ugly-face-of-chiramu/> (25 June 2017).

²⁶The Manica Post (2015), Some cultural practices harmful to children. [Online] Available: <http://manicapost.co.zw/some-cultural-practices-harmful-to-children/> (28 June 2017).

²⁷A song by a local artist clearly illustrates a girl seducing her brother in law. See, Winky, D. (2015), Chiramu. [Online] Available: <https://www.youtube.com/watch?v=h0XI0aJxqfw> (30 June 2017).

²⁸Her Zimbabwe (2016), Chiramu: Cultural Practices that Compromise Women's Rights. [Online] Available: <http://herzimbabwe.co.zw/2016/04/chiramu-cultural-practices-compromise-womens-rights/> (30 June 2017).

²⁹Hlupo, T., & Tsikira, J. (2012). Still Caught-Up in the Cultural Abyss: The Plight of the Girl Child. *Journal of Emerging Trends in Educational Research and Policy Studies*, 3, 234 - 240

³⁰Mutyaba, R. (2011). Early marriage: A violation of girls' fundamental human rights in Africa. *International Journal of Children's Rights*, 19, 339-355.

Having established the negative effects of sexual dalliance, the article now turns its focus on contextualising the practice with the Zimbabwe's constitutional and human rights paradigms. The aim is to assess the compatibility of sexual dalliance with these human rights standards.

3. Analysis of sexual dalliance vis a vis the Constitution

The new 2013 Constitution of Zimbabwe (Constitution) is now the “supreme law of Zimbabwe and any law, practice, custom or conduct inconsistent with it is invalid to the extent of the inconsistency”.³¹ Section 2 of the Constitution has a binding effect to render laws and/or customs that do not conform to the supreme law invalid. In addition to the supremacy of section 2, Masunungure and Shumba rightly observe that section 3 of the Constitution verbalises the importance of the Constitution, as “sovereign and all state organs operating under it must be consistent with it”.³² What is clear is that the Constitution is the watchdog that ensures all laws, customs and conduct of the public or private organs of the State adhere to the new concept of constitutionalism.³³ By incorporating the notion of constitutionalism, it is also clear that the practice of sexual dalliance is not exempt from the rule of constitutional supremacy. In this regard, the subsequent section analyses the practice of sexual dalliance against section 81 of the Constitution that protects the rights of children with the view of assessing its conformity to human rights standards.

3.1 Sexual dalliance vis a vis section 81 of the Constitution

Section 81 of the 2013 Zimbabwean Constitution provides that,

“(1) Every child, that is to say every boy and girl under the age of eighteen years, has the right

- (a) to equal treatment before the law, including the right to be heard;
 - (b) to be given a name and family name;
 - (c) in the case of a child who is
 - (i) born in Zimbabwe; or
 - (ii) born outside Zimbabwe and is a Zimbabwean citizen by descent; to the prompt provision of a birth certificate;
 - (d) to family or parental care, or to appropriate care when removed from the family environment;
 - (e) to be protected from economic and sexual exploitation, from child labour, and from maltreatment, neglect or any form of abuse;
 - (f) to education, health care services, nutrition and shelter;
 - (g) not to be recruited into a militia force or take part in armed conflict or hostilities;
 - (h) not to be compelled to take part in any political activity; and
 - (i) not to be detained except as a measure of last resort and, if detained—
 - (i) to be detained for the shortest appropriate period;
 - (ii) to be kept separately from detained persons over the age of eighteen years; and
 - (iii) to be treated in a manner, and kept in conditions, that take account of the child's age.
- (2) A child's best interests are paramount in every matter concerning the child.
- (3) Children are entitled to adequate protection by the courts, in particular by the High Court as their upper guardian”.

Section 81 is fundamentally relevant to all children, including girls, in Zimbabwe since it is the Constitution's principal child protection provision. Firstly, the provision domesticates the various international human rights instruments, including the Convention on the Rights of the Child and African Charter on the Rights and Welfare of the Child.³⁴ For this reason, this section assesses the compatibility of sexual dalliance with section 81 of the Constitution. The subsequent section discusses sub sections (1)(a), (1)(e), (1)(f), (2) and (3) as they are more applicable to sexual dalliance than the others.

³¹Section 2 of the Constitution.

³²Masunungure, V., & Shumba, J.M. (2014). Zimbabwe: Mired in Transition. Harare: Weaver Press, p. 63.

³³Mudzuru and another v Minister of Justice, Legal and Parliamentary Affairs (CCZ 12/15) p 48.

³⁴These also include the Convention on the Elimination of all Forms of Discrimination Against Women, the African Charter and the African Youth Charter.

3.1.1 Sexual dalliance vis a vis section 81(1)(a) of the Constitution

Section 81(1)(a) explicitly states that children, regardless of sex, must be treated equally. This position entrenches the principle of non-discrimination contained in articles 2 and 3 of the Convention on the Rights of the Child and African Charter on the Rights and Welfare of the Child.³⁵ Just like these provisions, section 81(1)(a) prohibits any preferential treatment between boys and girls on the basis of sex, gender or birth. Given this view, it is evident that the Constitution as well as international human rights instruments outlaw discriminatory practices. Earlier on, the paper showed that sexual dalliance targets girls more than boys or even other older women. It is then clear that the non-discrimination principle exposes sexual dalliance as a discriminatory practice that disproportionately affects girl children.³⁶ Thus, sexual dalliance is incompatible with section 81(1)(a) of the Constitution since the practice perpetuates patriarchal gender prejudices against girls.

3.1.2 Sexual dalliance vis a vis section 81(1)(d) of the Constitution

In addition to the guarantees of equality and non-discrimination, section 81(1)(d) of the Constitution guarantees children the right to family and parental care. Here, the Constitution places the duty on parents and guardians to provide proper care for the child or children.³⁷ Friedman et al observed that the duty to parental care affirms the importance of a healthy parent-child relationship in a family environment.³⁸ This discourages the separation of children from their parents or their care unless it is in the best interests of the child to do so.³⁹ In the context of sexual dalliance, however, the practice encourages child abuse when it allows elder brothers in law to have sex with girls without their consent. The negative consequences of sexual dalliance, such as, child marriage force girls to separate from their parents. Instead of building a healthy parent-child relationship in a family environment, sexual dalliance because of sexual abuse can separate girls from their parents and guardians. The practice does not conform to the constitutional guarantees of the girl's right to family and parental care.

3.1.3 Sexual dalliance vis a vis section 81(1)(e) of the Constitution

Section 81(1)(e) contains the overarching right of every child to be "protected from economic and sexual exploitation, from child labour, and from maltreatment, neglect or any form of abuse".⁴⁰ Simm defines sexual exploitation as "any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the exploitation of another".⁴¹ Neudorfer further defines sexual abuse as "the actual or threatened physical intrusion of a sexual nature, whether by force, or under unequal or coercive conditions".⁴² The common feature of these two definitions is the existence of real or imminent abuse that has the effect of threatening, invading and degrading the bodily integrity of girls. In this context, it is true that sexual dalliance is a smokescreen by men to sexually exploit and abuse young girls (emphasis added). Hence, sexual dalliance is detrimental to the well-being of girls and thus inconsistent with section 81(1)(e) of the Constitution.

3.1.4 Sexual dalliance vis a vis section 81(1)(f) of the Constitution

Section 81(1)(f) enforces the child rights to education and health care services.⁴³ This provision firstly guarantees both boys and girls the right to acquire education, an interpretation that resonates with the principle of non-discrimination.

³⁵The principle of non-discrimination is recognised in Articles 2 and 3 of the United Nation Convention on the Rights of the Child (1989) and African Charter on the Rights and Welfare of the Child (1990) to which Zimbabwe is state party.

³⁶Earlier on, the paper has shown that the custom forces girls to have sexual intercourse despite their immaturity, incapacity to negotiate sex and inability to deny sexual advances from their brothers in law.

³⁷Skelton, A. (2013). Children. In I. Currie, &J, De Waal (Eds.), The bill of rights handbook (pp. 598-623). Cape Town:Juta and Company Ltd.

³⁸Friedman, A.,Pantazis, A., & Skelton, A. (2013). Children's rights. In S. Woolman, M., Bishop, &J, Brickhill(Eds.), Constitutional Law of South Africa (Chapter 47).Cape Town: Juta and Company Ltd.

³⁹Patel v Minister of Home Affairs 2000 (2) SA 343 (D).

⁴⁰Section 81(1)(e) of Constitution.

⁴¹Simm, G. (2013). Sex in Peace Operations. New York: Cambridge University Press, p. 11.

⁴²Neudorfer, K. (2015). Sexual Exploitation and Abuse in UN Peacekeeping: An Analysis of Risk and Prevention Factors. Maryland: Lexington Books, p. 18.

⁴³Section 81(1)(f) of the Constitution.

Without discrimination, all children regardless of sex have equal opportunities to exercise and enjoy the right to education. *In re The School Education Bill of 1995 (Gauteng)*⁴⁴ the South African Constitutional Court held that educational rights impose positive obligations on the State as far as the provision of education is concerned. In *Brown v Board of Education*, the Court ruled that the right to education is, “the very foundation of good citizenship and it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education”.⁴⁵

In support of these valuable judgements, the Committee on Economic, Social and Cultural Rights emphasizes that education is a vital right that plays “a vital role in the promotion of human rights” as well as catalyst “by which economically and socially marginalised children can lift themselves out of poverty”.⁴⁶ What is worrying in Zimbabwe is that evenschool-going girls who fall pregnant are also stigmatised by the peers and teachers.⁴⁷ An estimated number of 3000 girls leave school every year due to pregnancy.⁴⁸ Since sexual dalliance is associated with either pregnancy or marriage, it also destroys the future dreams of its victims who fall short of education, which is the driving force behind women’s emancipation.⁴⁹ For this reason, it becomes essential to protect girls against discriminatory practices, such as sexual dalliance that can undermine the educational right of girl children. Secondly, section 81(1)(f) also provides for the children’s right to health care services. Daniels defines health care as including “not only certain personal medical services but also a broad range of health related services, including certain public health and preventive measures”.⁵⁰ Daniels’ definition is applicable to victims of sexual dalliance who would have fallen pregnant and need to access medical services, such as abortion. Abortion effectively minimises the chances of impregnated girls, as a result of sexual dalliance, become teen mothers or end up in child marriages. Abortion can also alleviate girls the burden of childbearing and instead focus on acquiring an education necessary for survival and development. Thus, the right to health is important in safeguarding the survival of the victims of sexual dalliance so that they can enjoy other rights such as education, dignity, survival and development.⁵¹ Overall, the practice is inconsistent with the Constitution.

3.1.5 Sexual dalliance vis a vis section 81(2) of the Constitution

Section 81(2) of the Constitution provides for the best interest of the child principle, which emanates from article 4 of the African Charter on the Rights and Welfare of the Child.⁵² The principle states that the child's best interests are of primary consideration in matters that affect them. According to Alston, “what need to be taken into account when dealing with matters concerning children are not just the child’s overall interests, but the child’s best interests”.⁵³ This means that the personal circumstances of the child, her historical background, present and future needs are of utmost consideration when interpreting what the best interests of the child are. In other words, any interpretation related to this principle must maximise the children’s enjoyment of their rights and interests.⁵⁴ It is noteworthy that the best interests of the child under customary law are negligible because children must be subordinate to their elders.⁵⁵ Customarily, the interests of parents and guardians prevail over those of children and the same applies with sexual dalliance.

⁴⁴Gauteng Provincial Legislature *In re: Gauteng School Education Bill 1996* (4) BCLR 537 (CC), para 9.

⁴⁵*Brown v Board of Education* (1954) 347 U.S. 483, 493.

⁴⁶United Nations Committee on the Economic, Social and Cultural Rights, (1999). General Comment 13, para 1.

⁴⁷Chigona, A., &Chetty, R. (2008). Teen mothers and schooling: lacunae and challenges. *South African Journal of Education*, 28, 261–281.

⁴⁸The Zimbabwean (2015), Teenage mothers denied education. [Online]. Available:

<http://www.thezimbabwean.co/2015/09/teenage-mothers-denied-education/> (02 July 2017).

⁴⁹Guvenen, F., &Rendall, M. (2015). Women's emancipation through education: A macroeconomic analysis. *Review of Economic Dynamics*, 18, 931-956.

⁵⁰Daniels, N. (1979). Rights to Health Care and Distributive Justice: Programmatic Worries. *The Journal of Medicine and Philosophy*, 4, 174-191.

⁵¹International Convention on Economic, Social and Cultural Rights (1966), article 12.

⁵²The provision requires the opinions of children to be heard when discussing matters that affect them.

⁵³Alston, P. (1994). The best interests principle: Towards a reconciliation of culture and human rights. *International Journal of Law and the Family*, 8, 1-25.

⁵⁴Mezmur, B.D.(2008). The African Children’s Charter versus the UN Convention on the Rights of the Child: A zero-sum game? (2008) SA Publiekreg / Public Law, 23, p. 1-28.

⁵⁵Mawodza, O. (2015). An assessment of the legal framework on the protection of girls from child marriages in Malawi (Unpublished LLM thesis) p, 15.

However, section 81(2) is vital in the enjoyment of the rights of girls because it expressly gives priority to the interests of girls at the expense of the interests of their parents and guardians. In this way, The Constitution gives girls the voice to fight discriminatory and abusive cultural practices, such as sexual dalliance, head on. Once again, the practice fail to pass the constitutional muster set in section 81(2).

3.1.6 Sexual dalliance vis a vis section 81(3) of the Constitution

As an independent and impartial arm of government, section 81(3) entitles children to “adequate protection by the courts, in particular by the High Court as their upper guardian”. Courts have a constitutional duty to act as the upper guardian of children in upholding their best interests. In this regard, section 81(3) must be read together with section 44 of the Constitution, which requires “the State and every person, including juristic persons, and every institution and agency of the government at every level to respect, protect, promote and fulfil the rights and freedoms” set out in the Bill of Rights.⁵⁶

Indeed, the case of *S v Banda* and *S v Chakamoga*⁵⁷ reiterates in the authority of courts as the legal gatekeepers and custodians of child protection. In this case, the court held that, “judicial officers must ensure paramount of children’s interests in all proceedings before them, including handing down appropriate sentences that deter those preying on children to refrain from doing so in order to give the maximum protection accorded to children by law”.⁵⁸ In addition, courts should apply the law in a manner that effectively protect children from predatory older persons and ensure the eradication of discriminatory practices in society.⁵⁹ There is no doubt that sexual dalliance is a predatory practice that targets young and vulnerable girls. As such, courts should declare cultural practices, such as sexual dalliance, that are inconsistent with the Constitution invalid.

4. Conclusion and Recommendations

The first part of this paper gave a brief overview of the cultural practice of sexual dalliance in Zimbabwe. It also acknowledged that, just like in any other society, cultural practices and norms form the basis gives an identity as well as a meaning to co-existence for the Zimbabwean people.⁶⁰ The second part of the paper argued that despite the cultural justifications of sexual dalliance, the practice has negative effects that affect girls. These include but not limited to unwanted pregnancies, birth complications, child marriage, social stigma, and contracting diseases such as HIV/AIDS. The third part analysed sexual dalliance against the constitutional safeguards of children set in section 81. The section also showed that sexual dalliance does not pass the constitutional muster as it infringes on the rights of girls, such as the right to education, privacy, dignity and health.⁶¹

Based on the above discussion on the nature and context of sexual dalliance, its negative effects on girls as well as its incompatibility with the Constitution, the study recommends the following:

- Adopting and implementing a specialised public programme that raises the level of knowledge and awareness of the Constitution. The programme should primarily focus on educating the Zimbabwean population on the rights granted by the supreme law to children, particularly girls. Civic education should also target men to raise their knowledge on children's rights since their role in society is a key obstacle for girls to exercise and enjoy their rights.
- Enacting legislation that outlaws discriminatory cultural practices, such as sexual dalliance. The paper proposes that Zimbabwe enacts the *Prohibition of Harmful Cultural Practices Act* that targets all gender stereotypes with the view of promoting the spirit, purport and object of the Constitution including the respect for the values and principles of gender equality. The Act must also criminalise offenders of discriminatory cultural practices as punitive and protective measures against sexual dalliance.
- Courts, as guardians of children, must also declare practices, such as sexual dalliance as constitutionally invalid. By doing so, courts will be using the Constitution as the bridge from patriarchal and discriminatory norms to an open and democratic society based on human dignity, equality and freedom for all, including girl children.

⁵⁶Section 44 of the Constitution.

⁵⁷*S v Banda & S v Chakamoga* (2016) ZWHHC 47.

⁵⁸*Ibid*, p. 3.

⁵⁹*Ibid*, p. 3.

⁶⁰Almqvist, J. (2005). *Human Rights, Culture, and the Rule of Law*. Oregon: Hart Publishing, p. 12.

⁶¹The exercise of cultural rights must now pass the constitutional muster and meet the aspirations of human dignity and equality for all. See, section 63 of the Constitution.

- The Gender Commission should also carry out nationwide investigations with the view of engaging particularly rural communities that still practice sexual dalliance to build quality frameworks that contribute to raising awareness that protect girls therein. The Gender Commission must also promote the legal knowledge among women and girls in rural communities. The Gender Commission should implement supporting initiatives and voluntary activities that advocate changing attitudes towards children's rights and the roles of girls in society. This way, the law and society will complement each other in safeguarding the rights and welfare of girl children.
- The importance of the participation of the various media platforms in denouncing discriminatory practices, such as sexual dalliance. The police force should also work hand in glove with these media platforms so that they can immediately investigate cases of sexual dalliance offenders. Having toll free lines to report such cases will also enable easy communication and efficient policing against sexual dalliance.

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