



**EXPLORING CHILD PARTICIPATION IN PARENTAL DIVORCE MATTERS IN
AFRICAN INDEGENOUS COMMUNITIES OF KWAZULU-NATAL**

By

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DECLARATION

I, Nokukhanya Zondi declare that this dissertation:

1. Except where otherwise specified and is my original work.
2. Has not been submitted previously for any other degree or examination at any other university or college.
3. Does not contain other persons' figures, tables or other information, unless specifically acknowledged as being sourced from other persons.
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Nokukhanya Zondi

(213543939)

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Date

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DEDICATION

This research work is dedicated to the master of the universe, heaven and earth, the Almighty. It is also dedicated to the departed, the living, and future sons and daughters of Azania/ South Africa.

ACKNOWLEDGMENTS

This journey cannot be perceived as an individual excursion. This project is like a tree whose roots draws water from multiple sources. With gratitude and humility, I would like to call “*aah! Mvelinqangi Nkulunkulu wokhokho nokhokhobele nasosonke isizukulwane nezigodlo ebukhosini baseZulwini kanye nobukhosi basemhlabeni*”.

- On my knees, I would like to call *izigodlo ebukhosini bakwaZondi, Nondaba, Gagashe kanye nasekhaya komama ebukhosini bakwa Gwabuzela, Vovo, Mbethe. Izalukazi namakhehla angembhetha imiphumela iyabonakala*.
- I would like to extend special thanks to my parents Mrs G.B Zondi and Mr. Zondi. *Niyisibonelo esihle kithi sonke. Uthando kanye nezimfundiso zenu zingukuphila nokuphumelela kithi sonke bantwana benu*. (You are a good example for all of us. Your love and teachings are life and success for all of us as your children). Thank you for grounding us with ubuntu as our life philosophy.
- After high school when I had to leave home to the university, everybody at home was anxious about my new life outside home. My mother was the most worried. She used to sigh and say ‘*ooh mtanami uyakwamfazi ongemama*’ (*ooh my child, you are going to a non-nurturing place*). Then, I met Dr. Zibane kaNontanda, my lecturer from first year. My mother’s language has changed. When she speaks about her, she says ‘*mtanami wathola umfazi, umfazi loyo*’ (*my child, you have found a nurturing place*). Thank you Dr. KaNontanda for soothing my mother’s emotions. Thank you for awakening my inner self and for allowing and enabling the authentic sound of my voice.
- Special thanks also go to the *uMsinga, eMabomvini* community and participants, who took part into this study. Without you, this study would not have been a success.
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- Special thanks also go to *umafungwase wakwethu (firstborn)* Nokulunga Zondi and my siblings: Sandile Zondi, Mgqame Zondi, Mqemane Zondi, Zamide Zondi, Nonkululeko Zondi, my niece Khulasande Zondi and nephew Zekhethelo Zondi. All that I am and all that I have is because of who you are.
- Lastly, special thanks go to Mufasa Research Consultancy, indeed it takes a village to raise a child.

ABSTRACT

This descriptive, Afrocentric study was aimed at exploring child participation in parental divorce matters in indigenous African communities of KwaZulu-Natal. The research paradigm, methodology, principles, values, and processes underpinning this study were framed within the context of the Afrocentric philosophical and theoretical perspective. Since the study focused on African knowledge and value systems, it thus placed the African people, their culture, and experiences at the centre. The data were generated from the perspectives of indigenous Black African people.

This study adopted a qualitative research approach and utilised a descriptive Afrocentric research design. Semi-structured interviews were used as data collection tools. The participants were selected using the purposive and snowball sampling techniques. The total sample was fourteen, of whom nine were senior community members and five were indigenous leaders who have facilitated divorce mediation in indigenous African communities. The data collected were then analysed using thematic analysis.

The findings have revealed that mediation is an ancient practice and a system that has been addressing the needs of children in indigenous African communities. The indigenous African people cherish mediation not as a single incidence but as a way of life that is embedded in the indigenous African family systems. The study further revealed that in the indigenous setting child participation occurs in various forms both direct and indirect forms and occurs in different stages of a couple's marital life. In indigenous African communities, child participation begins from the period of pregnancy. Thus, the concept of child participation is better understood through an understanding of the role children play in indigenous African marriages and family system. The child's role in mediation is culturally defined and relates to their phase of development and the sequence of childbirth from the firstborn to the last-born child. In this study, mediation has therefore been discussed as an accessible, appropriate communication platform, a unit of psychosocial support, and a costless emotional support system embedded in African indigenous settings.

Key terms: indigenous African community, African culture, African indigenous knowledge, indigenous African marriages, African indigenous divorce, Mediation, Divorce Mediation, Child and Child participation.

GLOSSARY OF TERMS

The following concepts are defined in the context in which they were used in this study:

Terms	Meaning
Indigenous African community	The term refers to people of a specific African community, sharing generational knowledge and value systems long-accumulated from their ancestors (Ngugi, 1992).
African culture	The term refers “to a sum total of African philosophy, cosmology, behaviour, epistemology, ontology, axiology, religion, customs, habits, values and artefacts expressed and experienced by African community” (Thabede, 2005:33).
Indigenous African marriages	The term refers to a rite of passage of a man or woman and a union between two families (physical and ancestral family) in accordance with traditions, values and belief systems of the African indigenous community (Thabede, 2005).
Indigenous African divorce	The term refers to the separation of marriage in the African indigenous knowledge and value systems (Thabede, 2005). In this study the participants understood marriage separation as a practice encompassing <i>ukuxosha</i> and <i>ukwemuka</i>).
Mediation	The term refers to a form of communication, and intervention, whereby a custodian and senior family member or community member facilitate the variety of interpersonal discussion among the aggrieved members (Mkhize, 1997).
Divorce mediation	The term refers to form of communication or a mechanism to facilitates marital conflicts and related matters (Mkhize, 1997)

Child	The term refers to a person under the age of 18 years (Children’s Act No.38 of 2005). The participants in this study understood that in an African culture-centred family a person remains a child throughout her or his life. A child is understood as <i>umuntu</i> (a person), that grows with roles and responsibilities
Child participation	Child participation constitutes the opportunity to a child to express his or her opinions through direct physical appearance or indirectly through representative or appropriate body (Children’s Act.No.38).

LIST OF ACRONYMS

AIR:	African Indigenous Religion
AIE:	African indigenous Education
HSSREC:	Humanities and Social Sciences Research Ethics Committee
UNCRC:	United Nations Convention on the Rights of the Child

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CHAPTER ONE

INTRODUCTION AND BACKGROUND OF THE STUDY

1.1 Introduction

South Africa is known as a rainbow nation and the preamble of the Constitution of the Republic of South African (1996) establishes its standing as the supreme law of the land acknowledges and provides that “South Africa belongs to all who live in it, united in our diversity.” In this essence, South Africa embraces diverse cultures, people, languages, knowledge, and value systems. These differences shape the patterns of thinking and ultimately influence people's way of life. The current study aimed to explore child participation in parental divorce matters in indigenous African communities of KwaZulu-Natal. This chapter presented the introduction of the study, the background of the study, the rationale of the study, the statement of the problem, and the aim and objectives of the study. It also outlined the central questions of the study, an overview of the research methodologies, a brief discussion of the theoretical framework, the significance of the study, and the study limitations, as well as a summary of the structure for the study and, lastly, the chapter conclusion.

1.2 Background of the study

In African communities, marriage, pregnancy, and childbirth are very important events in a person's life. They mark an important phase of human development, which contributes to the continued existence of humankind (Mondlana, 2019). A marriage that is followed by the birth of a child is perceived as a sign of a marriage accepted and blessed by living and non-living beings. The marriage itself is perceived as solid and permanent, as in the Christian religion in which couples swear, “until death do us part”. As Mbiti (2002:133) observes, a child signifies the “beginning of a new generation, the husband and wife are reborn through their offspring, and the ancestors are reincarnated.” In other words, the philosophy of African being is perceived as circular flow and life is viewed as a rite of passage.

However, there is a difference between the beliefs about these events and the practical realities of such marriages in African communities. The Zulu-speaking communities have a proverb that says “*umendo kawuthunyelwa gundane*” which can be translated in English language as there is no way of sending a mouse to check the future of your marriage (Nxumalo & Nyembezi, 1996). This implicitly acknowledges that one cannot predict what would happen to

his/her marriage. Hence, there is no instructional manual for marriage. The marriage manual is enshrined in each couple's practical realities and experiences. Some marriage experiences can facilitate growth and others can facilitate decline. It was thus in the interest of the current study to explore the participation of children in parental divorce matters in indigenous African communities of KwaZulu-Natal.

Divorce is a detrimental experience in our societies that causes untold harm to innocent family members, including children (Ncube, Mulaudzi & Mudau, 2018). Divorce is generally regarded as a process that involves the aggrieved spouses only, but its impact can be experienced by all members of the two families. As Johnson and Wiechers (2003:177) observe, "divorce is one of the most stressful and complex mental health crises facing children today." Children have become the victims of divorce and subjects of custody battles in divorce proceedings (Umeobika, 2018).

Following this, the South African government enacted fundamental laws such as section 10 of the Children's Act, which guarantees every child the right to participate and be heard in all matters that affect them, and Section 9 of the Children's Act, which states that child's best interests are paramount in all matters affecting the child (the Children's Act, 2005). The aim is to provide a framework that addresses the needs of children, to protect or give children a voice, and to safeguard the interests of South African children in parental divorce proceedings. Furthermore, the South African constitutional law, section 28 has provided the provisions that safeguard the right of the child to participate in divorce proceedings (the Republic of South Africa Constitution, 1996). Such provisions include the assignment of a legal practitioner by the state at the estate expense. Moreover, according to Boezaart (2009), the supreme law extended the protection of this right in Section 31 of the Children's Act 38 of 2005, which focuses exclusively on the child's right to be heard within the family environment.

With the realisation of the gradual increase in divorce rates, the extensive processes of divorce proceedings, the adversarial system of divorce, and the harm that it causes on children, mediation was introduced as a form of dispute resolution (Matthias, 2014). The South African government has made divorce mediation services a platform to engage a child and address the needs of children. Divorce mediation services focus on creating a platform for child participation in divorce matters (Mahlobogwane, 2010). It is a source of a medium of communication and can be used as a tool to engage children on the subject of marriage separation of their parents. The Mediation in Certain Divorce Matters Act No. 24 of 1987 and

the Children's Act No. 38 of 2005 put an obligation on divorce disputants to undergo the mediation process as a first attempt to settle their divorce dispute (Schultz, 2011). The mediation services are accessible through the court system. These Acts mandate social workers and family advocates to facilitate the mediation process and have a duty to safeguard the welfare of the child and to assure that the child is represented or allowed to express his or her views at the time of divorce proceedings or thereafter (Sloth & Boezaart, 2017).

While we acknowledge all the strides in encouraging child participation in divorce matters, the concept of child participation is mostly defined and conceptualised in legal terms divorced from African ontologies. As Asante (2009) emphasises, Afrocentricity theory acknowledges that the judicial system of South Africa should embrace and relate to the diverse cultures of South Africa, 'the rainbow nation country'. It is the view of the researcher that every research project in South Africa should reflect or relate to the diverse cultures, knowledge, and value systems of South Africa. Both Common law and customary law should be the subject of their study.

The country South Africa acknowledges and celebrates the notion of 'rainbow nation'. The essence of diversity coexists in South Africa is not just in terms of race, but also in diverse cultures, languages, knowledge, belief, and value systems (Mondlana, 2019). The rainbow nation recognises the view that all knowledge is valid within its own cultural settings (Nabudere, 2011). Thus, understanding child participation in indigenous communities is complex, due to differing cultural beliefs about the family, child-rearing, and social development. Indigenous communities place much emphasis on family and communal connections beyond the nuclear family structure with not only the living but also the non-living relatives (Mkhize, 2004). Truth is viewed as contextual and diverse.

Therefore, the researcher recognised the African culture as a source of knowledge and a philosophy of life as lived by indigenous African communities. A variety of African indigenous knowledge is of great relevance and in use in various indigenous African communities. Indigenous knowledge has continued to be transmitted orally among indigenous African communities through rituals and ceremonies and has retained its hold on the life of the majority of contemporary Africans. This study, therefore, sought to explore the existence or non-existence of child participation platforms in divorce proceedings in African Indigenous communities. This descriptive, Afrocentric study focused on child participation in indigenous African communities, particularly in their parents' divorce issues.

The study is centred on African interests, knowledge systems, African experiences, and cultures. The study area is a rural community of Mabomvini in Msinga. The community is located within the uMzinyathi District in the province of KwaZulu-Natal. The area is largely occupied by the indigenous Zulu-speaking people and lives by the African culture, tradition, and belief systems. It is not only the ethnicity and culture of the Zulu community that this study is concerned with but also their way of life in the Zulu community that this study is concerned with. The study, therefore, explored the participation of children in parental divorce matters in indigenous African communities of KwaZulu-Natal with African lenses.

Related literature is awash with the subject of divorce, mediation in indigenous African communities, as well as Western-style mediation and African humanistic mediation in general (Nwoye, 2000; Mkhize, 1997; Ajayi & Buhari, 2014; Thabede 2005; Boniface, 2012). However, these studies do not cover the participation of children in parental divorce matters in indigenous African communities. Therefore, the current research intends to fill this gap. The research explores and describes the African indigenous knowledge and value systems models of child participation in parental divorce matters.

1.3 The rationale for the study

The concept of child participation in divorce mediation is mostly defined and conceptualised in legal terms, which are based on Western ideologies. There is a dire need for indigenous knowledge systems that can bridge the gap between the practical realities of indigenous African marriages and the legal perspective of child participation. Thus, mediation practice in South Africa can only be contextual and effective to the indigenous African population if it embraces an African worldview, which is informed by African culture, knowledge, and value systems (Nwoye, 2015; Thabede, 2008; Mkhize, 2004).

Furthermore, a lack of cultural competence in practice of mediation and child participation might lead to a situation whereby children and their families are given services that flagrantly contradicts their cultural norms and values. Thus, child participation in divorce mediation in South African Black communities is a critical need. It would contribute to the existing body of literature, knowledge and value systems, guidelines and law systems in the fields of childcare and protection including social work, mediation and related matters. The lived experiences of indigenous African people in uMsinga would therefore become a repository of indigenous African knowledge, beliefs and value systems, practices, and models that address child participation in divorce mediation.

1.4 Research problem statement

Despite the legal provisions of the Children's Act No. 38 of 2005, Divorce Act No. 70 of 1979, the Mediation in Certain Divorce Matters Act No. 24 of 1987, and the Republic of South Africa Constitution Act No.108 of 1996 “African indigenous societies still turn to traditional, informal dispute resolution procedures at a community level in the case of family breakdown or dispute in general, rather than relying on the formal family-law system” (De Jong, 2005:35). The family-law system in South Africa is embedded in western values and principles that have little relevance to the needs of indigenous African communities (Mkhize, 1997; De Jong, 2005). Quite often, psychosocial support systems in indigenous African communities, including social work and family advocate, frequently apply in vain the knowledge, processes, and approaches that are influenced by Eurocentric worldviews on child participation in divorce mediation (Thabede, 2008). The concept of child participation is mostly defined and conceptualised in legal terms that are based on Western ideologies. A universal model is therefore largely inapplicable to multi-cultural societies like South Africa. As Mkhize (2004) observes, indigenous communities place much emphasis on family and communal connections beyond the nuclear family structure, with not only the living but also the non-living relatives.

Thus, a systematic challenge facing South African writers is that their education system was influenced by western world views, and they write from western perspectives (Mkhize, 1997). The author emphasises that the South African researchers tend to focus solely on the merits and demerits of mediation as researched by non-African countries, with a brief if there is any critical review of whether the legislative process on mediation serves the needs of South African indigenous communities. The researcher is of the view that there is no universal worldview in a culturally diverse country like South Africa. There is a deep-seated need to tackle this issue as a complete perspective and a holistic system based on values and ways of living, reinforced through rituals, music, dance, storytelling, proverbs, metaphors, the promoting of family, rites of passage, naming ceremonies, childrearing, birth, death, elderhood, and of governance (Biko, 2007).

As Mamdani (1998) observes, “the idea that natives can only be informants, and not intellectuals, is part of an old imperial tradition.” It is part of the colonial mentality that natives cannot think for themselves, and they speak a foreign language to be heard (Ngugi,1992). Hence, “the reliance on Western knowledge about Africa is an old colonial and imperial notion” (Heleta, 2016:4).

Therefore, related literature is awash with the subject of divorce, mediation in indigenous African communities, as well as Western-style mediation and African humanistic mediation in general (Mkhize, 1997; Thabede, 2005; Boniface, 2012; Ajayi & Buhari, 2014; Nwoye, 2006). However, these studies do not treat the participation of children in parental divorce matters with African lenses. The current research thus intends to provide in-depth knowledge to fill that knowledge gap. Such knowledge and experiences are embedded in indigenous African people's lives. The Afrocentric approach seeks in every situation the appropriate centrality of the African person (Asante, 1987). In education, this means that the research community provides researchers the opportunity to study the world and its people, concepts, and history from an African worldview.

1.5 The focus of the study

1.5.1 Aim

This research aimed to explore the participation of children in parental divorce matters in indigenous African communities of KwaZulu-Natal.

1.5.2 Objectives

The following objectives were developed to achieve the aim of the study:

1. To describe the nature, composition, and structure of divorce mediation in indigenous African marriages.
2. To identify the practices and procedures that are currently in place in indigenous African society to promote children's participation upon their parents' divorce.
3. To explore factors that determine child participation in indigenous African divorce matters.
4. To explore the extent of the rights or volition of children who are not capable of expressing their views represented in indigenous African divorce mediation.

1.5.3 Research questions

1. What is the nature, composition, and structure of the indigenous divorce mediation in indigenous African marriages?
2. What practices and procedures are currently in place in indigenous African society to promote the participation of children in indigenous African divorce mediation?
3. What is the extent of child participation in indigenous African divorce matters?

4. To what extent are the rights or volition of children who are not capable of expressing their views represented in indigenous African divorce mediation?

1.5.4 Research assumptions

This research was premised on the assumption that there is no integration of indigenous African child participation knowledge, values and practice systems in legal practice of child participation proceedings.

1.6 Theoretical framework

This section presented a comprehensive discussion of the theoretical framework adopted in this study. The relationship between the aim of the study and the theoretical framework was also explored.

1.6.1 Afrocentricity theory

The theoretical framework of this study is Afrocentricity. For a very long time, the philosophy which underpins the knowledge base in Africa generally has been deeply influenced by non-African thoughts and experiences. According to Thabede (2005), African research has been carried out from a Western standpoint using Western methodologies, some of which do not recognise beliefs, values, traditions, morals, and taboos that are central in African life.

The term Afrocentricity was coined by “Molefe Asante in 1980, in his book titled *Afrocentricity: The Theory of Social Change*” (Thabede, 2008:233). Originally, Asante (1987:6) conceptualises Afrocentricity to “mean literally, placing African ideals at the centre of any analysis that involves African culture and behaviour.” Theoretically, it is the idea that African people must view themselves and must be viewed in a historical context, as a centre within the framework of their own realities and experiences (Graham, 2002). It simply affirms African people as the primary source of their own human experiences. Mabvurira and Makhubele (2018:14) posit that the Afrocentricity theory “focuses on African worldviews as opposed to other worldviews.” It is not against anybody but is a cultural ideology, worldview mostly limited to those who identify themselves as African.

The researcher observes in this study that understanding and embracing African indigenous models, approaches, and processes is imperative in order to be sensitive and responsive to the realities that face most South Africans (Thabede, 2005). This study was centred on African knowledge and value systems as it relates to African people on the continent of Africa in general, including South Africans. The study presented an Afrocentric perspective on child

participation in African indigenous marriages, with special reference to divorce mediation. Thus, in order to adequately understand the content and context of indigenous human reality and lived experiences of African indigenous people of the uMsinga indigenous community, the study employed Afrocentricity. As Makhanya (2020:17) observes that Afrocentricity is a “philosophical perspective associated with the discovery, location, and actualisation of African agency within the context of history and culture.”

Afrocentric education is important because it changes the narratives as researchers place the African person at the centre of his or her story. For instance, the researcher conducted interviews with indigenous leaders and senior community members who have facilitated traditional divorce matters by utilising indigenous knowledge systems. In this sense, the study sought to locate African knowledge-base and experiences within the context of African agency (Asante, 1987). Afrocentric does not pose ideas as if they are universal, but it simply says African people should be able to look at reality and the world through their own experiences.

Although the researcher was born and bred in the rural indigenous community, she was also exposed to the education system that is characterised by western epistemologies. Therefore, Afrocentric theory was used as a frame of reference and conceptual framework, which assisted in interpreting the findings and understanding African participants within their context. The researcher is of the view that to obtain the trustworthiness of the findings in any African phenomenon, researchers must realise the value of African indigenous knowledge and value systems in both theoretical content and practice (Thabede, 2008). This concurs with Swigonski’s (1996:4) view that “knowledge developed in this way enables the profession to work more profoundly for the empowerment of African clients.” As a result of Afrocentric theory, this research found that learning about African culture from the perspective of African indigenous people can improve any professional activity, including social work and family advocacy (Thabede, 2005).

1.7 Introducing research methodologies

This section presents a synopsis of the research methodology, a more extensive research methodology would be discussed in chapter three of this report. This descriptive, Afrocentric study was focused on child participation in parental divorce matters in indigenous African communities of KwaZulu-Natal. Two sampling strategies, purposive and snowball sampling, were used to select the participants who took part in this study. The study sample comprised a total of fourteen participants; nine senior community members and five indigenous leaders.

The senior community members and indigenous leaders from the uMsinga community were conversant with the phenomenon under research.

The research paradigm, methodology, principles, values, and processes underpinning this study were framed within the context of the Afrocentric philosophical and theoretical perspective. As the study focused on African knowledge, it thus placed the African people, their culture, and experiences at the center of the study. Thus, data were generated from the perspectives of the African people of African ancestry. Afrocentricity, as a philosophical and theoretical perspective, enabled the researcher to determine the cultural aspirations, understandings, practices, values, and belief systems of indigenous African people (Mkabela, 2005; Pellerin, 2012).

This study adopted a qualitative research approach in order to elicit data for this research. According to Mkabela (2005), the principles underlying the qualitative research approach are the most ideal for Afrocentric research. The qualitative approach was chosen due to its interactive nature and it allows for robust engagements between the researcher and the research participants. The descriptive Afrocentric research design facilitated the actual execution of the study, which sought to explore knowledge on African indigenous divorce matters. This research design enabled the research to unravel in-depth knowledge on the research topic, which fostered an understanding of African indigenous practices of child participation in their parents' divorce matters (Mabvurira & Makhubele, 2018).

The post-colonial indigenous research paradigm gave a sense of expression and a voice to the African indigenous knowledge, culture, and population (Chilisa, 2012). The study adopted this research paradigm because it resonates with the notion of Afrocentricity, and both provide a means of appreciating and revaluing African indigenous knowledge systems, language, and ways of knowing (Chilisa, 2012). In essence, the post-colonial indigenous research paradigm and Afrocentricity recognise, promote, protect, and advocate a multicultural approach, which is culturally appropriate to research.

Therefore, before data analysis began, the collected, audio-recorded data was subjected to the transcription process (Makofane & Shirindi, 2018). The researcher transcribed digitally recorded voices into amenable textual data to enhance the data analysis process. Therefore, the researcher used thematic content analysis to identify, organise, analyse, interpret, and report patterns within the textual data (Blanche, Blanche, Durrheim, & Painter, 2006).

1.8 The significance of the study

South Africa is a multicultural society where customary law and common law coexist (Boezaart, 2013). According to Asante (1991:172), “Multiculturalism in education is a non-hierarchical approach to education that respects and celebrates a multiplicity of cultural viewpoints on world occurrences.” In indigenous societies, customary law is the most significant law that mostly dominates in the areas of marriages and inheritance (Curran & Bonthuys, 2005). The culture of the majority, including the indigenous culture, has, over a long period, been disparaged and subjected to a minority Western culture, first under colonialism and subsequently under apartheid (Ajayi & Buhari, 2014). Such colonial and apartheid system has suppressed the African indigenous systems. The advent of the democratic dispensation has been a welcome legislative effort to remedy the systems of injustice in South Africa (Ntlama, 2012). For instance, the recognition of customary law and children's rights are some of the remedies of the systems of injustice in South Africa.

The Child participation right is one of the enacted fundamental rights which is central in every matter that affects the child (Children's Act 38 of 2005). Noteworthy, the child's right to participate in all matters affecting the child can be found in the various legislature including international laws; the United Nations Convention on the Rights of the Child as well as the African Charter on the Rights and welfare of the Child (Boezaart, 2009). Sloth-Nielsen (1995) pointed out that the country of South Africa ratified this United Nations Convention on 16 June 1995 and the African Charter on the Rights and Welfare of the Child on 07 January 2000. Therefore, this implies that all South African laws should be in line with these international laws. In this sense, according to Gose (2002), these international regulations obligate the South African government to oversee the execution of children's rights as outlined in these treaties and national policies, including the Children's Act 38 of 2005.

Customary law has been officially legalised by the Constitution of South Africa and children are now viewed as bearers of their own rights. The right to child participation is central to all matters that affect the child. The CRC recognised this right as one of the four fundamental rights, and therefore, it has to be considered in the implementation of all other children's rights. This has triggered many studies on child participation, with much attention given to the essence of this right. Related literature is awash with the importance of the implementation of this right. In light of this, it is necessary to carry out research on how this right is being protected in indigenous African societies of South Africa.

The Afrocentric approach seeks in every situation the appropriate centrality of the African person (Asante, 1987). This descriptive, Afrocentric study focused on child participation in parental divorce matters in indigenous African communities of KwaZulu-Natal. This study placed indigenous knowledge and value systems at the centre of indigenous African people's lived experiences, which contribute to the growing movement of decolonising education in South Africa. The results of this study clearly provided in-depth and diverse knowledge on the lived experiences of indigenous African people. This study demonstrated the African indigenous model of child participation in African indigenous divorce matters, which would contribute to the existing literature, knowledge and value systems, guidelines and law systems in the fields of child care and protection in a family environment and judicial system in South Africa.

The social workers and family advocates are mandated by law to facilitate divorce mediation. They would enjoy the opportunity to learn from the experiences, practices, and procedures of the indigenous African people. This can be a source of empowerment. Cultural awareness on the part of the mediation could result in harmony, balance, and competence between the judicial system and African culture. This would improve mediation services in the judicial system and practitioners. Lastly, through this research, the African indigenous knowledge would be researched, recognised, and embraced by those who identify themselves as Africans. Furthermore, any gaps in knowledge, value systems, practice, and provision of mediation services, as well as other requirements for children affected by divorce, would be addressed.

1.9 Limitations of the study

After completing the first two individualised interviews, the researcher observed that the participants faced challenges discussing the divorce issue as it is an uneasy topic that is neither celebrated nor talked about in indigenous communities. The researcher had to reframe the interview questions and change her approach by starting a conversation from the process of indigenous African marriage and ending up discussing divorce processes. The semi-structured interviews accorded the researcher a degree of flexibility to ensure optimal research.

The study did not solicit the views of the children through the topic suggested child participation. However, the researcher collected data from the traditional leaders and senior community members who had facilitated or been involved in African indigenous divorce matters. This combination of participants sought to provide in-depth and diverse knowledge on lived experiences sought by the study. Some IsiZulu words could not be properly interpreted

in English. Therefore, the research supervisor made suggestions and identified aspects that were incoherent and inconsistent with the context or meaning of indigenous knowledge. Suggestions were duly considered and the necessary corrections were made. The aim was to operate more deliberately in the entire research process to ensure the African people's cultural reality was not compromised or distorted (Pellerine, 2012).

1.10 Organisation of the thesis

This thesis is divided into five chapters, which are summarised as below:

Chapter 1 Introduction: This chapter presented an overview of the study, including introduction to the study, background and rationale, the main aim, and key concept definitions. It also includes a discussion of the theoretical framework and an overview of the methodology used to conduct the research, as well as its rationale.

Chapter 2 Literature Review: This chapter presented the ongoing discussions about the right to child participation in parental divorce matters. In addition, the gaps in the literature were explored and addressed in order to demonstrate the need for conducting the current study.

Chapter 3 Methodology: This chapter presented an in-depth discussion of the research approach, research paradigm, research design, sampling techniques, data collection procedure, method and tools, and data analysis procedure used in the study. Furthermore, the chapter discussed the trustworthiness of the research findings and outlined the ethical considerations the study adhered to.

Chapter 4 Data Analysis and Interpretation: Using verbatim quotations from the participants in this study, the collected data is presented, discussed, and interpreted in this chapter. The findings were also presented and discussed based on the identified themes.

Chapter 5 Recommendations and Conclusion: This chapter presented the summary and conclusion for the study, as well as recommendations for future research.

1.11 Conclusion

This chapter presented the introduction and background of this study, the rationale of the study, the problem statement, and the aim and objectives of this study. It also outlined the central questions of the study, an overview of the methodologies, and the theoretical framework, as well as the significance of the study. This chapter concluded by presenting a brief outline of the structure of this thesis.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

In recent years, the family law system in South Africa has experienced considerable changes, with a growing emphasis placed on mediation as an alternative dispute resolution for marriage and divorce matters (Schultz, 2011). This mediation has gained global interest and evoked the much-needed exploratory and descriptive studies in South Africa. South Africa embrace and celebrate diversity; however, the essence of diversity coexists in South Africa is not just in terms of race, but also in cultures, languages, knowledge and value systems. Thus, there is a great demand for exploratory and descriptive research that demonstrate this diversity and the depth of the knowledge, values and practice systems. This descriptive, Afrocentric study was aimed at exploring child participation in parental divorce matters in indigenous African communities. The research paradigm, methodology, principles, values, and processes underpinning the study were framed within the context of a philosophical and theoretical perspective called Afrocentricity.

This chapter presented a review of literature on the extent of divorce in contemporary South Africa and the provisions of mediation services as an alternative dispute resolution in the family law, particularly child participation in parental divorce matters. In South Africa, children's rights have been officially legalized, and the High Court has the upper hand in protecting the best interests of a child (Benkink, 2012). Therefore, the literature presented legislative frameworks and provisions that safeguard and protect the welfare of the child, when parents are divorcing. The discussion provides a critical review of the contextual background and developments of the right to child participation in divorce matters in South Africa. In addition, the existing gaps in legislative framework, opportunities, and successes would be addressed as well.

2.2 SECTION A: Divorce and its extent in South Africa

The Marriages and Divorces Statistics South Africa (2010, 2011, 2016) has demonstrated that the total number of divorce cases was fluctuating from 2003 to 2011, with the highest number (32 484 divorce cases) observed in 2005 and the lowest (20 980 divorce cases) in 2011. According to the Marriage and Divorce Statistics South Africa (2016:6), “the couples from the

white population group dominated the number of divorces from 2003 to 2007; thereafter, black African couples had the highest number of divorces up until 2016.” In 2017 about 25 326 divorce cases were recorded in South Africa. More recently, divorce statistics obtained from the Marriages and Divorces Statistics South Africa (2019), indicate that about 23 710 divorces were granted in South Africa. This indicates a decrease of 1 574 divorces cases (6.2 percent) from the 25 284 divorce cases recorded in 2018. According to the South African Marriages and Divorces Statistics (2019), the overall number of divorce cases decreased from 2010 to 2011, then increased steadily from 2012 to 2017, with a slight decrease of 0.4 percent between 2017 and 2018. In 2019, 174 divorces for same-sex couples were granted.

The divorce provincial distribution observes that the provinces with the most recorded divorce cases in 2019 were Gauteng (6 318), Western Cape (6 108), KwaZulu-Natal (4 033), and Eastern Cape (3 137) (South African Marriages and Divorces Statistics, 2019). According to the South African Marriages and Divorces Statistics (2019), there are 13 264 (55.9 percent) divorces of the 23 710 divorces involved children under the age of 18 years, whereas 10 446 (44.1 percent) divorces had no children. According to the divorce cases involving marriages with children indicated that more than half (55.9 percent) of the divorces granted were couples without children from the white population group (South African Marriages and Divorces Statistics, 2019). Whereas divorce cases involving marriages with children constituted approximately 60.9 percent and 63 percent of divorces in the Black African and Coloured population groups respectively (South African Marriage Marriages and Divorces Statistics, 2019).

According to the South African Marriages and Divorces Statistics (2019), about 49.6 percent of children affected by divorce were Black Africans; 21.8 percent were coloured; 17 percent were White, and 4.8 percent were Indian/Asian. Overall, the South African Marriages and Divorce Statistics indicates that the White population group dominated the number of divorces from 2003 to 2007 while Black African couples have the highest rate of divorce among all population groups, and this pattern has remained consistent throughout a period of ten years (2010-2019) (South African Marriages and Divorces Statistics, 2019). Furthermore, 17.4 percent of husbands and 24.3 percent of wives were not working when they divorced (South African Marriages and Divorces Statistics, 2019). This indicates that approximately 41.7 percent of divorced couples are facing financial difficulties and divorced women are mostly affected. The statistics displayed a significant increase in divorce rates in recent years, which

highlighted the need for more service interventions to help children cope effectively with parental divorce implications (Du Plooy & Van Rensburg, 2016).

Reviewed literature has indicated a gradual increase over the last decade in matrimonial matters related to violence, parental rights, and responsibilities, as well as divorce-related matters. Divorce rates have continued to increase in recent decades and more children are being affected. According to Johnson and Wiechers (2003, cited in Gibson, 1994), the stressful effects of divorce are so multifaceted and serious that children from divorced parents are regarded as a population at risk. As Cohen (2002:1019) argues, “globally, over one million children are living in separated or divorced families each year.” Further, as Du Plooy and Van Rensburg (2016) observe, recent trends display a global increase in divorce rates with significant implications for the families affected.

Divorce has become a detrimental experience in our societies, causing untold harm to innocent family members including children (Ncube et al., 2018). Divorce is generally regarded as a process that involves the disputants or the spouses only, but its impact can be experienced by any member of a divorcing family, as well as the community at large. When a parent's relationship breaks down, the welfare of children may be vulnerable (Marumoagae, 2012). As Johnson and Wiechers (2003:177) state, “divorce is one of the most stressful and complex mental health crises facing children today.” Children become the victims of divorce and subjects of custody battles in divorce proceedings (Umeobika, 2018). As a result of all these experiences (and the growth in divorce or marriage separation), the South African government has developed child law systems, structures, and fundamental laws, which aim to address the needs of children, to give children a voice, and to safeguard the welfare of the children of South Africa.

2.3 The provisions of South Africa’s legislative frameworks on child participation in parental divorce matters

Schultz (2011) observes that the South African legal system incorporated alternative conflict resolution in a wide variety of fields, predominantly in labour and family law. Counseling, conciliation, arbitration, and mediation are all examples of alternative dispute resolution in the South African legal system (Schultz, 2011; Mathias, 2014). In this context, the reviewed literature presented mediation as an alternative dispute resolution in family law, particularly in marriage and divorce matters involving children. The South African government has developed legislative frameworks that provides and safeguards the child’s welfare at the best interests of the child when parents are divorcing. The current study reviewed the provisions of the

following legislations; the Mediation in Certain Divorce Matters Act No. 24 of 1987, the Children's Act No. 38 of 2005, and the Constitution of the Republic of South Africa Act No.108 of 1996.

2.3.1 Mediation in Certain Divorce Matters Act Number 24 of 1987

The literature reviewed indicates that there is a gradual increase in divorce rates, the extensive process of divorce proceedings, the adversarial system in nature, and the harm it causes on the family and children's wellbeing (Mathias, 2014). There are various forms of alternative dispute resolution, for example, counseling, conciliation, arbitration, and mediation. The South African law prescribed mediation as the first alternative dispute resolution in divorce (Sloth & Boezaart, 2017). Divorce mediation services were developed to preserve the emotional being of the family and children. The Mediation in Certain Divorce Matters Act (1987) is a South African statute that deals with the protection of the interests of children in the event of divorce. According to the preamble of the Mediation in Certain Divorce Matters Act (1987) the Act aims to provide "mediation in certain divorce proceedings, and in certain applications arising from such proceedings, in which minors or dependent children of the marriage are involved, to safeguard the interests of such children." This Act makes it imperative for divorce disputants to undergo the mediation process, as a first attempt to settle their divorce dispute (Mathias, 2014). In the context of family law in South Africa, mediation is regarded to be a child-friendly and an alternative conflict resolution method to the formal litigation court process.

Briefly, in the context of the legal system, 'mediation' is a legal method in which disputing parties resolve their differences with the help of a third, neutral party (the mediator) in order to reach an agreement or settlement (Sloth & Boezaart, 2017). This implies that mediation may be assumed voluntarily or in response to a court order. As Carnelley (2010) emphasises, the responsibility of the mediator or third neutral party is to act as a facilitator between the disputing parties, not make any conclusive judgments on the matter regarding a settlement. As a result, it is the parties to the dispute, not the mediator, who have the power to reach an agreement on any given subject (Sinclair & Bonthuys, 2003). Carnelley (2010) emphasises the importance of mediators advising disputing parties to seek professional assistance, such as attorneys' social workers, or psychologists where this is necessary. In this context, as defined in "chapter 2 of the Rules Regulating the Conduct of Proceedings of the Magistrates' Courts of South Africa: mediation roles include facilitating discussions between the parties, assisting them in identifying issues, clarifying priorities, exploring areas of compromise, and generating

options in an attempt to resolve the conflicting demands”, as well as providing legal information to the disputing parties (South African Law Reform Commission, 2015:26).

The family advocate is a position constituted under the Mediation in Certain Divorce Matters Act No. 24 of 1987 to protect the interests of minors or children impacted by divorce (Marumoagae, 2012). Furthermore, this Act outlines that the family advocate must be assisted in the inquiring process by a qualified and experienced social worker. This collaboration enables the office of the family advocate to conduct a holistic assessment and provide a written report and recommendations to the Children's Court during the trial of such action or hearing of such application regarding the wellbeing of parents and children of the marriage concerned (Marumoagae, 2012).

Section 4 (1) of Mediation in Certain Divorce Matters Act (1987) contends that when conducting an inquiry, the family advocate conducts an interview assessment with the parents, as well as the child, considering the child's holistic development including age or displays sufficient maturity to express a view. In this context, the child assessment tool must consider the child development stage (Mlotshwa & Mthembu, 2021). According to De Jong (2010), social workers and psychologists are trained from the discipline of applied human sciences. Therefore, they have acquired skills, “techniques, and strategies to use in order to lessen conflict between parties and bridge communication gaps” (DeJong, 2010:519). As Schultz (2011) observes mediation helps to identify a support system and lessens the emotional impediments that come with divorce. Mediation is primarily a multidisciplinary procedure that De Jong (2010) characterizes as a collaborative work between the fields of human behavioral sciences and law. Hence, mediation is a clear attempt to integrate behavioral sciences and law in order to improve the psychological functioning of divorcing couples in ways that support their own and their children's interests (DeJong, 2010).

According to the Children's Act (2005), the children's court may refer any matter before to the family advocate or social worker either for an investigation or assessment in terms of Section 50 and report with recommendations in terms of Section 62 of the Act. The purpose of this report is to assist the court in making decisions that will protect the child's welfare and overall best interests (Marumoagae, 2012). This report, written by a family advocate, social worker, or psychologist, provides the court with a comprehensive understanding of the parties' circumstances (De Jong, 2021). This implies that the report provides a clear picture of which of the parties can provide the children with a stable home and environment that will enable the

children to grow and develop into their full potential and autonomous social being (Marumoagae, 2012). The report also advises the court on the process of “assigning parental rights and responsibilities for care and contact, as well as the arrangement of what the other parent can do on reasonable grounds” (Children’s Act 2005: Section 33).

The Mediation in Certain Divorce Matters Act (1987) does not only explicitly provide for mediation in the resolution of divorce disputes, but also stipulates that other legislations may be used to promote the use of court-based mediation in divorce disputes concerning minor children. The subsequent sub-section presented the provisions of the Children’s Act 38 of 2005.

2.3.2 Sections of the Children’s Act No. 38 of 2005 (which is relevant to child participation in parental divorce matters)

Section 6 of the Children’s Act (2005) mandates all processes, actions, and decisions involving a child or children shall be done in a child-friendly setting, with minima legal or administrative activity (Robinson, 2009). In this context, Robinson (2010; De Jong, 2021) observes that section 7 of the Children’s Act of 2005 contends that whenever there is a child involved in a marriage divorce, or separation, the principles of the Mediation in Certain Divorce Matters Act No.84 of 1987 and the Divorce Act No.70 of 1979 would be implemented in the best interests of the child standard set out in section. Section 28 (2) of the constitution of the Republic of South Africa (1996) provides that "a child's best interests are of paramount importance in every matter concerning the child". Thus, the Children's Act supplements the rights of the child which are stipulated in the constitution. The Children's Act provides child participation as one of the cornerstones, which serves the best interests of the child; it provides an opportunity for the voice of a child to be listened to and heard.

The right of child participation is one of the enacted fundamental rights, which is central in every matter that affects the child. It is noteworthy that the child's right to participate in all matters affecting the child can be found in the various legislature included in international law, for instance, the United Nations Convention on the Rights of the Child, as well as the African Charter on the Rights and Welfare of the Child (Mahlobongwane, 2010). As Sloth-Nielsen (1995) observes, South Africa ratified this United Nations Convention on 16 June 1995 and is a signatory to the African Charter on the Rights and Welfare of the Child. Furthermore, Article 4(2) of the African Charter on the Rights, and Welfare of the Child and Article 12 of the United Nations Convention on the Rights of the Child made provisions for the child’s right to participate in matters affecting his or her welfare (Gose, 2002). Therefore, this implies that all

South African laws should be in line with these international laws. The South African government is compelled to ensure and facilitate the implementation of the rights of children as outlined in these international conventions and the national policies, including the Children's Act 38 of 2005 (Gose, 2002; Mahlobogwane, 2010).

The Children's Act (2005: section 10) provides that "Every child that is of such an age [of] maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration." In other words, the views and wishes expressed by the child must be accorded a fair consideration, considering a child's holistic development (Children's Act, 2005). According to Parkinson and Cashmore (2008:19), "participation by the child may take different forms at diverse contexts, both inside and outside the court." Hence, participation may be about informing the child of what is happening rather than leaving matters to the imagination of the child.

Similarly, Section 6(5) of the Children's Act 2005 states that any matter involving a child should be communicated with the child, in a child-friendly manner. For example, the Children Act (2005: interpretation 2) states that a child should be informed of any decision about "care and contact, previously known as custody and access". In other words, listening and hearing the views of the child is another form of participation. In this context, mediation, as a source or medium of communication, can be used as a tool to engage children on the subject of their parents' marriage separation. Thus, as De Jong (2010) argues, mediation is an appropriate environment that can enable children to express their views. In other words, divorce mediation services focus on creating a platform for child participation in divorce matters. Children's views may be sought, or they may provide them spontaneously (Robinson, 2009). Where necessary, the parents must avail the child for interviews and observations with the advocate in every inquiry and mediation.

Similarly, Regulation 11(1) of the Children's Act (2005) states that a child must be consulted during the drafting of a parenting plan and given an opportunity to voice his or her preferences and opinions, and the child's holistic development including age, stage of development and maturity must be considered. When speaking with children, Mlotshwa and Mthembu (2021) underline the need of utilizing child-friendly methods that enables child views. Regulation 11(2) also states that once a parenting plan has been agreed upon, the child must be informed of the contents of the parenting plan by the Family Advocate, a social worker, social service

professional, psychologist, suitably qualified person, or the child's legal representative, considering the child's stage of development, age, and maturity. The family advocate often advises that the settlement agreements include a section stating who will inform the children about the content of the agreement, rather than the family advocate. This indicates that the legal system recognizes the importance of the family structure as an environment which enables the child or children's well-being and development. However, South African Law Reform Commission (2015:38) contends that "If the child does not agree with the contents, the matter must be referred for mediation." Section 14 of the Children's Act (2005) states that children may bring or may be assisted to bring a matter before a court resolution (South African Law Reform Commission, 2015). Furthermore, Regulation 8 (4) permits children to request mediation. As reflected in section 22(6) (a) of the Children's Act (2005), "under certain circumstances the child has a right to apply for an amendment or termination of parental responsibilities and rights agreement." This reflects the progressive development of South Africa's law system as well as the degree to which the South African government meets the needs of children.

Section 22 of the Children's Act (2005) states that the biological father the biological mother or any other person who has parental responsibilities and rights of a child may agree with any other person who has interests in the care, welfare, and development of the child. Furthermore, this clause emphasis that the agreement must be written in the prescribed format, registered with a family advocate or any other suitable court, and the content must be communicated to the child (the Children's Act, 2005). Furthermore, the Children's Act (2005) strengthens this right by enacting Section 31, which focuses on the child's right to be heard in the family setting. As section 33(2) read together with section 33(5) of the Children's Act outlines before seeking the intervention of a court, co-holders of parental responsibilities and rights in respect of a child who is experiencing challenges in exercising their responsibilities and rights must first seek mediation services and agree on a parenting plan. According to section 46(1) of the Children's Act (2005), the Children's Court may order a parent or caregiver of a child or the child to seek professional therapy, "participate in mediation, a family group conference, or any appropriate problem-solving forum." According to section 49(1) (a), the children's court further refers to a matter affecting children to mediation by a family advocate, social worker, social service professional, or any other suitable and qualified person (Children's Act, 2005). Mediation is therefore seen as a suitable option to mitigate disputes between parents and caregivers, which allows for the promotion of the best interests of the child.

2.3.4 The Constitution of the Republic of South Africa, 1996

Section 28(1) (h) of the South African Constitution (1996) provides that “Every child has the right to have a legal practitioner assigned to the child by the State and at State expense, in civil proceedings affecting the child, if substantial justice would otherwise result.” The Constitution assures legal representative payment to be made by the State, which shows that indeed the South African government is committed to protecting and promoting the implementation of the right of the child to participate. In other words, the child may participate in divorce proceedings either by being physically present or represented by a legal practitioner, such as a family advocate or a social worker (Boezaart, 2009). As stated in the preamble, the Constitution of the Republic of South Africa (1996) establishes its standing as the supreme law of the land and improves the protection of the child's right to participate by appointing curator's ad litem to help children involved in court matters (Boezaart, 2013).

2.4 The critiques of South African family law

Mediation is a method of resolving disputes in general, particularly marital disputes, that was and is still used by African indigenous tribes (Mkhize, 1997). Various indigenous cultural traditions such as communicating with ancestors and rituals, such as “*umemulo* (the coming of age ceremony for women) and *ukulobola* (bride price)” and marriage have strong elements of mediation (Haselau, 2015:31). However, the colonial and apartheid domination compelled indigenous forms of knowledge and value systems that had been recognised and held so dear by our ancestors (Mkhize, 1997). As a result, Mkhize (1997: ii) observes that in the contemporary world, “mediation in family and divorce matters is viewed either positively or negatively by most South African writers, mainly from a Western perspective.” The South African Law system is criticised as it is based on Western values and principles of the Roman-Dutch systems. The Customary Law Act in South Africa is the only officially recognised legal system applied to indigenous societies (Ntlama, 2012). Thus, as De Jong (2005) observes, the South African family law system is largely influenced by the Western law system.

Furthermore, as Thabede (2008) observes, the social work teaching and practice system is deeply influenced by Western theories. Hence, the knowledgebase of the helping professions who are mandated by law to facilitate the divorce mediation process is influenced by the South African colonial education system, which suppresses Afrocentric worldviews (Matthias, 2014; Thabede, 2005; Ndlovu-Gatsheni, 2018). Therefore, the researcher is of the view that the approach to family divorce mediation and child participation is guided by helping professionals

who subscribe to the Euro-centric education system and mandated by the family law system which is influenced by Western values. As a result, the mediation service does not serve the needs of all children of South Africa, particularly children from Afrocentric backgrounds (De Jong, 2010). In effect, a dominating conflict resolution system is being imposed as a replacement for an existing and long-established indigenous method of dispute resolution system (South African Law Reform Commission, 2015). Following this, Mazama (2001:388) concludes that “the challenge is to displace Western ways of thinking, being and feeling, and to replace them with ways that are germane to African cultural experiences.” The researcher observes that the practice of the helping professions in South Africa can be meaningful and contribute to the African community only if the practice models are sensitive to the African worldview and are informed by African cultural knowledge and value systems (Dastile, 2013).

Although the philosophy which underpins the knowledge base in the South African divorce mediation and child participation is Western and deeply influenced by European thought and experience for a very long time, the provisions of the South African criminal justice system recognise African values, such as the value of *Ubuntu* (Himonga, Taylor & Pope, 2013). Moreover, as Ajayi and Buhari (2014) argue, some rural or indigenous communities still adhere to customary ways of resolving conflicts. For example, the Msinga rural community uses their cultural ways of living, customs, norms, and values, and in the case of family breakdown, they follow informal dispute resolution procedures at the community level rather than relying on the formal family-law system (De Jong, 2005). In this context, the children are not represented by legal practitioners to safeguard the needs, the well-being of the child as well as the opportunity of the child to express their views on the decision affecting them, as guaranteed by various legal systems (Mahlobogwane, 2010). Thus, the question of who represents a child during the traditional divorce proceedings would be also addressed by the findings of this study.

Reviewed literature on mediation as an alternative dispute resolution practised at the office of the Family Advocate in South Africa has shown that it is not effectively applied to all South African diverse societies, particularly African indigenous communities (De Jong, 2010). As Thabede (2005:35) insists, “in a multicultural country like South Africa, there is need to be aware of cultural differences and the impact they may have on service delivery.” Alternatively, section 71 of the Children’s Act highlights “lay forums” as an indigenous method of alternative dispute resolution (Mathias, 2014). However, the section is too vague and does not provide the procedure that should be followed.

Nevertheless, there is a dearth of literature in contemporary society on the African indigenous methods of divorce mediation. Instead, there is a repetition of Western knowledge and value systems education (Asante, 1987). Hence, Afrocentric education is fundamental for Africans to have true multicultural education and to inform helping professions for the benefit of the African people. As Asante (1987) emphasizes if we do not have an Afrocentric education then what we do is a reputation of white education. However, it is noteworthy that the study does not impose the existing mediation method that aims to discover other ways of knowing, for instance, the African indigenous knowledge which can positively transform the mediation profession. The African indigenous knowledge is necessary to serve those who live according to the African indigenous systems. This is the thrust of the current study, which aimed to explore the knowledge, beliefs, and practices of the people of uMsinga regarding child participation in their parents' divorce matters. The focus of this research was to explore and describe the African indigenous knowledge and value systems models of child participation in parental divorce matters.

2.5 SECTION B: Mediation in indigenous African communities

The South African government has made divorce mediation services a platform to engage and address the needs of children. Divorce mediation services focus on creating a platform for child participation in divorce matters (Mahlobogwane, 2010). Faris (2011; Boniface, 2012) observes that mediation as an alternative conflict resolution has been established as a service profession and academic discipline in South Africa. The concept of child participation is mostly defined and conceptualised in legal terms divorced from African ontologies. However, Mkhize (1997; DeJong, 2010; Schultz, 2011) observes that due to cultural value systems, people of Afrocentric background prefer more indigenous ways of dispute resolution rather than the formal adversarial system of litigation. As Reyneke (2013) emphasises, the phrase "every child" does not apply to the only child from a particular society, but also the children from indigenous societies.

The country South Africa acknowledges and celebrates the notion of 'rainbow nation'. The essence of diversity coexists in South Africa is not just in terms of race, but also in diverse cultures, languages, knowledge, belief, and value systems (Mondlana, 2019). The nation of rainbow nation recognises the view that all knowledge is valid within its own cultural settings (Nabudere, 2011). Thus, understanding child participation in indigenous communities is complex, due to differing cultural beliefs about the family, child-rearing, and social

development. Indigenous communities place much emphasis on family and communal connections beyond the nuclear family structure with not only the living but also the non-living relatives (Mkhize, 2004). According to the preamble of the Republic of South Africa's Constitution (1996:1), it aims to "heal the divisions of the past and establish a society based on democratic values, social justice, and fundamental human rights." The Constitution of the Republic of South Africa (1996) Section 211(3), read in conjunction with sections 30, 31, and 39(2) of the Constitution. These clauses provide "the right to culture and recognizes indigenous African laws as a primary source of law in South Africa which holds an equal status with the common law." In other words, the court of law must apply indigenous African laws when engaging with indigenous African subjects, subject to the Constitutional laws and any legislation engaging exclusively with the African indigenous subject (Constitution of Republic of South Africa, 1996). According to Ntlama (2012), these provisions illustrate the Constitution's commitment to embracing and celebrating cultural diversity in South Africa. As the researcher concurs with Asante's (2009) view which emphasizes that the judicial system of South Africa should embrace and relate to the diverse cultures of South Africa. Furthermore, various studies observe that "People who grew up in an Afro-centric cultural environment form the majority of the South African population" (South African Law Reform Commission, 2015:326). The following subsection presented reviewed literature on African indigenous knowledge and value systems on mediation and divorce matters in indigenous African marriages.

2.5.1 Mediation in indigenous African marriages

According to the reviewed literature on indigenous African mediation, mediation is not new and has been practiced in African culture-centred communities in South Africa and the African continent for generations (Ajayi & Buhari, 2014). In indigenous African society, conflict may generally exist whenever or wherever incompatible events occur. Therefore, in African culture mediation is cherished, not as a single incidence or an alternative to dispute resolution, but as a way of life that is embedded in indigenous African family systems. Seeking assistance from a family, traditional leader, chief, neighbors, or elder in the community to mediate in private and public conflict is part of indigenous communities' cultural traditions. In this context, family divorce is essentially a private matter. Mediation is a form of communication mostly used by local communities as a mechanism for resolving a variety of interpersonal disputes, including marital conflicts (Ajayi & Buhari, 2014). Hence, mediation occurs in all spheres of African being; the living and the ancestors (Mkhize, 2016).

Mediation in indigenous African communities is “facilitated by elders and takes place in an attitude of togetherness and in the spirit of *Ubuntu*” (Ajayi & Buhari, 2014:13). It provides disputants, families, and extended family members, an opportunity to interact with the parties concerned, it promotes consensus-building, social bridge reconstructions, and enactment of order in the society, as well as therapeutic harmony. It offers great prospects for peaceful co-existence and harmonious relationships in post-conflict periods than the modern method of litigation settlements in law courts. As Zulu (1998:185) emphasises, “harmony is important, and rituals are performed to maintain it.” The primary objectives of African indigenous mediation are to develop a safe space for people to express themselves and seek psychosocial support as well as to restore peace and harmony among affected individuals and families (Boniface, 2012). Literacy is not just related to the written word among indigenous African societies, but also with verbal art, remembering, and expression within the local language, using a known standard of behavior, norms, and value systems (Ajayi & Buhari, 2014). As Nwoye (2006) argues, mediation in indigenous African societies provides an opportunity for the release of emotions and the venting of rage as well as being listened to and attended attentively. Thus, “emotional and spiritual spheres are integral to mediation and the parties must be seen as consisting of the body, mind, and the soul (spirit)” (Brigg 2003:302). The reviewed literature has revealed that various indigenous African cultural practices of marriage, childbirth, and childrearing have strong elements of mediation.

2.5.2 Marriage and children in indigenous African communities

Marriage in indigenous African communities

Marriage in African communities is perceived as a significant rite of passage and has a series of cultural traditions that are characterised by mediation processes (Thabede, 2005). Marriage in African culture is unique; it is not a contract between two individuals as in the Western culture. As Thabede (2008:72) puts it, “in African culture, one does not simply get married as an individual to another individual, but one marries into a family and even a clan.” Thus, in line with the indigenous African marriage union, when a woman is married, she is virtually married to the whole clan, including the physical family and the ancestral spirit (Zungu, 2016; Mkhize, 2017). Therefore, before marriage, many people have to be consulted, including ancestors.

According to Mkhize (1997:73), the family mediation starts “when introducing the son-in-law to the daughter-in-law's family and the protracted marriage negotiations which include *ukulobola* negotiations, *ukukhonga* (emissary) and the in-laws are all indicative of the entrenched or mandatory approach to family mediation.” However, in order to pay *ilobolo* (the practice of payment in cattle or cash to the bride’s family), the groom’s family required to seek and secure consent from the bride’s father household through the practice of *ukukhonga* (Nkosi, 2013). This tradition took place in a form of a family mediation which shows that the couples are not the only parties involved in the marriage. Hence marriage is perceived as union of family systems. The scope of mediation practice and procedures in indigenous African family system is not confined to resolving marital issues. As Mkhize (1997) pointed out, the role of the senior citizen and traditional or indigenous leaders from the indigenous African communities (the African libraries) is more critical in managing family systems such as generational wealth, knowledge and value system, parental responsibilities and rights, and oversee family dysfunction, which may lead to marriage break-down. Clearly, mediation is not understood as a resolution in the events of marriage separation, as required by the Mediation in Certain Divorce Act No. 24 of 1978, which obligates divorce disputants to first undergo through the mediation process as the first attempt at settling their divorce dispute (Mathias, 2017).

Marriage in the African context is a broad concept that encompasses both the physical and spiritual worlds (Mkhize, 2011). The families along with the ancestor’s involvement serves as a mechanism to prevent adversities or misfortunes that can disrupt family systems, if the spouses are conflicted or separated (Mkhize, 1997). A wife is introduced to the husband's family and the ancestors through *umsamo* (physical manifestation). The family structure is based on twin-lineal systems (the lineage both of the mother and the father), which systems also include members who are not biologically related and an extensive network of cousins. As Mabvurira and Makhubele (2018:12) corroborate, “African life is communal, hinged on the *ubuntu* philosophy as opposed to the individualistic nature of Western life.” For Mkhize (2011), a daughter-in-law (*umalokazane*) is a gift from the ancestors. He adds that the process of finding *umalokazane* is presided over by ancestors. Hence, the bride who marries an indigenous family is the ancestors’ choice.

The South Africa Marriage Act No. 25 of 1961 emphasised the importance of marriage registration in contemporary society. As Mkhize (2017) argues, the tradition of *ukubikwa*

(introducing the newly wedded wife to the husband's ancestors) is a significant aspect of an indigenous marriage setup. Ancestral connections are considered important in marriage because they foster family integration, maintain cultural practices, and form a child's identity. According to Zungu (2016), marriage is a focal point where the departed, the living, and future members of society meet. This is because the values of the indigenous African marriage are unlike those of the West, where a marriage contract is between two individuals and a wedding is a private and exclusive event, where only invited people can attend (Thabede, 2005). Thus, in Africa, weddings are attended by many people as possible. On the wedding day, everyone who wishes to attend, even if uninvited, is welcome (Mkhize, 2011; Nkosi, 2013).

Children in indigenous African communities

Marriage tells a story of continuity and change; a dance of movement and growth (Zibane, 2017). Thus, procreation is a new role for married persons (Thabede, 2005; Mondlana, 2019). The birth of a child is a precious moment not only for the spouses but also for the families as well as the community as a whole. Hence, it is childbirth that finally fulfills a marriage status (Thabede, 2008; Hlatshwayo, 2017). Similarly, Mkhize (2011) perceives a child as a seed and a blessing given to a married couple by the ancestors, and it is the bride's way of expressing her self-worth in the eyes of the family. Through childbirth, the spouses earn the greatest respect from the family and community (Hlatshwayo, 2017). This implies that children are important in African societies, as the famous African proverb says *ingane yami ingane yakho* which can be translated in English language “it takes a village to raise a child” (Nxumalo & Nyembezi, 1996). Hence, child-rearing becomes a responsibility for the entire community.

As Mbiti (1990: 130) observes, “in some societies, it is believed that the dead are reincarnated in part so that aspects of personality or physical characteristics are 'reborn' in their children. A person is seen as a whole encompassing the mind, body, and (soul) spirits”. One example is in the case of a couple that is failing to conceive children. According to Thabede (2005: 72), “African marriages do not normally survive if the couple does not procreate”. The common cause of separation is sterility and barrenness, as it is believed that the inability to procreate children blocks a family cycle of life (Thabede, 2005). The matter becomes the responsibility of the family or clan senior member or neighbour to intervene through mediation, as soon as they are consulted by the concerned family. According to Mbiti (1990: 141-142), “where the husband is infertile or sterile, it is commonly practised that his brother can perform the sexual duties and fertilise the wife for him and in this way save the marriage from breaking down. In

cases where the wife is infertile, the husband may take another wife and keep the barren one, which also saves the first marriage.” This cultural practice shows a sense of collective being and significance of children in indigenous African communities.

Studies such as that of Mokomane and RoCHAT (2011) have emphasised the notions of family formation, and cultural and ancestral belief systems, as important in understanding the significance of a child in indigenous African communities. In indigenous communities, children are believed to be born into a family that is inclusive of the extended family and the ancestors and community, where everyone assumes some parental responsibility towards a child. As Mkhize (2011) contends, a child's identity hails from maternal and paternal families. Child-rearing is a collective responsibility that includes both child representation and psychosocial support, thus ensuring the well-being of children (Mkhize, 2004). For example, your father's brother would be your father as well (*ubab'omncane or ubab'omkhulu*) and your mother's sister would be your mother as well (*umam'mncane or umam'mkhulu*) (Mondlana, 2019). In the case of the father's death, the brothers of the father assume responsibility for the child even without the practice of levirate (*ukungena*) (Zungu, 2016; Mondlana, 2019).

Other rites are performed throughout the phases of the child's life cycle, which also serves to prepare the welfare of the child in the family environment (Mondlana, 2019). As Thabede (2005) contends, the rite of passage practices and rituals play a critical role in shaping the child's well-being in indigenous families. Hence, Thabede (2005:55) observes that in the indigenous African community “physical birth is not enough; the child must go through the rites of passage so that it becomes fully integrated into the entire society.” The rites of passage continue throughout the person's physical existence, and this provides a blueprint for not only the rituals and practices that they need to follow but also their social development in life (Thabede, 2005; Mondlana, 2019). Furthermore, according to Nsamenang (2006), reincarnation as a rite of passage is the next phase of the life cycle following the death phase. As Mbiti (1990:106) observes "the final stage is reached when he/she dies and even then, he is ritually incorporated into the wider family of both the living and the dead".

According to Thabede (2005:66), during the process of initiation, “a person receives secret instructions on how to execute the responsibilities” of life in their coexistence. For example, in the African culture, the naming of a child has never been taken lightly, as it is through this process that the child is conferred with identity, and made to converse with the past, present, and future (Biko, 2007; Sifunda, 2019). It is against such an understanding and respect that a series of rites of passage provide developmental tasks and statuses that are constructed based

on indigenous practices, which include conferring the family name on a male child (Mondlana, 2019). Similarly, Zungu (2016) emphasised the view that every member has a role to play, which becomes their focus of existence. As Mondlana (2019) adds, girls are taught crucial cultural aspects by their mothers or older female relatives or community members. Boys are taught crucial cultural aspects by their fathers or older male relatives so that they can positively influence the prosperity of the clan in subsequent generations (Thabede, 2005).

Therefore, the ancestral component is an important part of family arrangements, given that ancestors are believed to provide guidance, protection, and harmony, just in the same way they can bring destruction if they are disrespected (Hlatshwayo, 2017). Blackie (2014) emphasises that in African indigenous communities, ancestors have power over the children and all the descendants in the family since they are consulted at every phase of human development marked by rituals and practices that are specific to the clan. In this context, indigenous communities play a vital role in supporting the continuous connectedness of the child to their land, community, and family as communities provide language and cultural identity for the entire family, including the extended family (Mondlana, 2019).

2.6 Divorce and separation in indigenous African communities

In African communities, the separation of wife and husband is more common than marriage divorce (Thabede, 2005). One of the reasons that divorce in indigenous societies is either completely unknown or very rare is the involvement of marriage rituals, which may also be applicable during the separation mediation proceedings (Chavunduka, 2001 cited in Mabvurira & Makhubele, 2018). African indigenous marriages separation is associated with two distinct practices; the practice of *ukwamuka* and *ukuxosha*. Thabede (2005) defines the practice of *ukwamuka* as a practice whereby the wife returns to her family household until there is reconciliation, or the cause of the separation has been remedied. The practice of *ukuxosha* relates to what Bekker (1976) refers to as a practice by which a man could drive away his wife for sufficient cause. These practices facilitate marriage mediation in indigenous African marriages.

The process of reconciliation or remediation is practiced in the form of mediation. It does not only involve a wife and a husband, and it is not chaired by a stranger in form of a helping professional, as mandated by the South African laws (Nwoye, 2006). Instead, all elements of the universe are involved, the spouses' families, animals, ancestors, and spiritual beings. This illustrates that the concept of family mediation is practiced within the realms of kinship rather

than nuclear family structures, as conceptualised within the Euro/Western society (Hlatshwayo, 2017). For example, family mediation in African societies is promoted through rituals, such as elders connecting with the ancestors' *ukuphahla* (ritual of communicating with ancestors) using *impepho* (Indigenous African incense) and slaughtering of a goat (Mkhize, 1997). As Mabvurira and Makhubele (2018) observe, ritual actions may relieve the problems and suffering of human life, by resolving social conflict, restoring peace and commitment, and promoting resilience and harmony.

In the Western culture, family formation and its physical setting are confined to the nuclear family (Mondlana, 2019). In this study, reviewed literature envisioned the concept of family beyond the nuclear family. Hence, the family does not only include close relatives of the spouses but also encompasses multigenerational family members and close community members (Mkhize, 2004; Mkhize, 2011). As Thabede (2005:71) puts it, in the African indigenous community, the main cultural marriage practice is virilocal, which indicates that “a woman can only join her husband after marriage, either at the husband's homestead or that of his father or brother.” Mkhize (1997: 75) adds that “divorce consequences do not only bring about the juridical event of the end of a marriage relationship but also affect many people: like spouses and the clan, in the case of traditional or customary union, the courts, the community, and the state.” This highlights the value of communal existence in indigenous African communities.

Thus, the children of the divorcing parents maybe not only separated from one of their parents, but also from their brothers and sisters and the entire family relationships that exist in the families (Thabede, 2005). As Mkhize (1997) emphasises that in indigenous African marriages, the couples are not the only individuals getting married; their respective families and communities are also participating in the union. Moreover, Mabvurira and Makhubele (2018:19) argue, “in a Western setting individual confidentiality matters a lot, but it is different in some African communities where confidentiality is shared among family members.” A person is inseparable from his or her family systems, therefore whatever affects a person, affects the whole family system (Zungu, 2016). Thus, the family structure is an emotional unit in African indigenous communities. Hence, it is not confined to nuclear and physical settings (Mondlana, 2019). As Thabede (2005) observes in the indigenous African community, a person or family is intimately involved in what affects any individual member of the community in general, family in particular.

2.7 Conclusion

This chapter presented a critical review of valued and fundamental arguments in the corpus of knowledge and value systems that addresses child participation in parental divorce matters. It became evident that the provisions of various legislations in divorce matters affecting the child play a profound role in the best interests of children. The South African government has made divorce mediation services a platform to engage and address the needs of children. Divorce mediation services focus on creating a platform for child participation in divorce matters. Despite the extensive work has been done on the right of children to participate in parental divorce matters, reviewed literature has shown that there is still a challenge in African indigenous knowledge and value systems.

As highlighted above, the country South Africa acknowledges and celebrates the notion of rainbow nation. The essence of diversity coexists in South Africa is not just in terms of race, but also in cultures, languages, knowledge, belief, and value systems. The concept of child participation is mostly defined and conceptualized in legal terms divorced from African ontologies. As observed the formal system seems to be foreign to the indigenous African people, who turn to use more indigenous methods of dispute resolution due to the cultural value systems. Indigenous knowledge has continued to be transmitted orally among indigenous African communities, through rituals and ceremonies, and has retained its hold on the life of the majority of contemporary Africans.

Reviewed literature has shown that a variety of African indigenous knowledge is of great relevance and in use in various indigenous African communities. However, these studies do not cover the participation of children in parental divorce matters in indigenous African communities. Understanding child participation in indigenous African communities is complex, due to differing cultural beliefs about the family, child-rearing, and social development. Therefore, the current research intends to fill this gap. The findings of this study describe the knowledge, beliefs, and practices of the people in the indigenous African community, regarding child participation in their parents' divorce matters. The findings of this study focus on demonstrating the diverse, valued and sacred from the African indigenous knowledge and value systems.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

The current study aimed at exploring the knowledge, beliefs, and practices of the people of eMabomvini regarding child participation in their parents' divorce matters. The focus of this research was to explore and describe the African indigenous knowledge and value systems models of child participation in parental divorce matters. Thus, this research focus required that the researcher and the researched indigenous African community practise collaborative responsibility. As the African indigenous people shared their sacred knowledge, it was the responsibility of the researcher to use appropriate approaches to data collection and be culturally sensitive to the community.

The research paradigm, methodology, principles, values, and processes underpinning this study were framed within the context of the Afrocentric philosophical and theoretical perspective. As the study focused on African knowledge, it thus placed the African people, their culture, and experiences at the centre of the study. Thus, data were generated from the perspectives of African people of African ancestry. Afrocentricity, as a philosophical and theoretical perspective, positioned the researcher to determine the cultural aspirations, understandings, practices, values, and belief systems of African indigenous people (Mkabela, 2005; Pellerin, 2012). This chapter presents an in-depth discussion of the research approach, research paradigm, research design, sampling techniques, data collection procedure, method, and tools, and data analysis procedures used in the study. Furthermore, the chapter discusses the trustworthiness of the research findings and outlines the ethical considerations the study adhered to.

3.2 Research paradigm

Every researcher subscribes to a particular perspective regarding truth and knowledge. It is the perspective that influences and shapes the researcher's thinking, beliefs, and assumptions about society and themselves; perspectives frame how researchers view the world around them. Therefore, research methodologies are generated for and applied to a particular research project following an interpretation of its research population. Consequentially, this study solicited data using the post-colonial indigenous research paradigm.

According to Chilisa (2012:96), “post-colonial indigenous methodologies driven research can enable reclamation of cultural or traditional heritage; decolonization of the captive and colonized mind and thought, protection against further colonization, exploitation, and appropriation of indigenous knowledge; and validation of indigenous practices and worldviews.”

The post-colonial indigenous research paradigm gives a voice to the sidelined or suppressed knowledge, culture, and population (Chilisa 2012). Furthermore, it is against the universalisation of knowledge and ways of knowing. This study adopted this research paradigm because it resonates with the notion of Afrocentricity, and both provide a means of appreciating and revaluing African indigenous knowledge systems, language, and ways of knowing (Chilisa, 2012). In essence, the post-colonial indigenous research paradigm and Afrocentricity recognise, promote, protect, and advocate a multicultural approach, which is culturally appropriate to research. These methods of acquiring knowledge create an academic circle based on African values, traditions, and understanding and provide guide researchers use to explore the experiences of people of African descent (Mabvira, 2016). In fact, the methods have enabled the researcher to consciously employ the most culturally appropriate research tools in her study of the Mabomvini indigenous community. Thus, new meanings emerged, which closed the gap the study intended to close.

The ontological stance maintained by the post-colonial indigenous research paradigm emphasises ownership of indigenous knowledge and respect for the marginalised population and their cultural aspirations, knowledge, methods, values, and belief systems (Chilisa, 2012; Graham, 2002; Mkabela, 2005). The researcher respected the cultural beliefs of the indigenous people of the Mabomvini community. For example, during data collection, the researcher dressed as per the community’s dress code and norm and avoided dressing in trousers, as the Mabomvini community views trousers as an inappropriate dress code for women. It is important to note that the knowledge and understandings gained from this study are not global, since they are from a specific context, time, and space.

3.3 Research approach

This study adopted a qualitative research approach to elicit data for this research. According to Mkabela (2005), the principles underlying the qualitative research approach are the most ideal for Afrocentric research. The qualitative approach was chosen due to its interactive nature and it allows for robust engagements between the researcher and the research participants.

Mathebane & Sekudu (2017:39) posits that “the interactive nature of qualitative research finds expression in its subjective nature”. Consequently, the participants' points of view constituted the core component of this study. The qualitative research approach enabled the research participants to describe their knowledge and lived experiences associated with child participation in parental divorce matters. The meanings and experiences shared by the participants of this study provided rich sources of primary data.

3.4 Research design

Reviewed literature attests to very little research undertaken on child participation in divorce matters from the perspective of the African indigenous community in South Africa. The literature illustrated that a significant amount of research conducted in African indigenous settings of South Africa is researched from a non-African worldview. The tools of research such as methodologies, theoretical and conceptual frames of work do not center the interests and values systems of the African indigenous community. Where there is little research on the phenomenon under research, a study of this nature is expected to provide in-depth knowledge to fill that knowledge gap. Such knowledge and experiences are embedded in African culture; thus, the world may only be known through tapping into those lived experiences of the people of Africa (Hlatshwayo, 2017). In this regard, the descriptive Afrocentric research design facilitated the actual execution of the study, which sought to explore knowledge on African indigenous divorce matters. This research design enabled the research to unravel in-depth knowledge on the research topic, which fostered an understanding of child participation from the African indigenous people's point of view (Mabvurira & Makhubele, 2018).

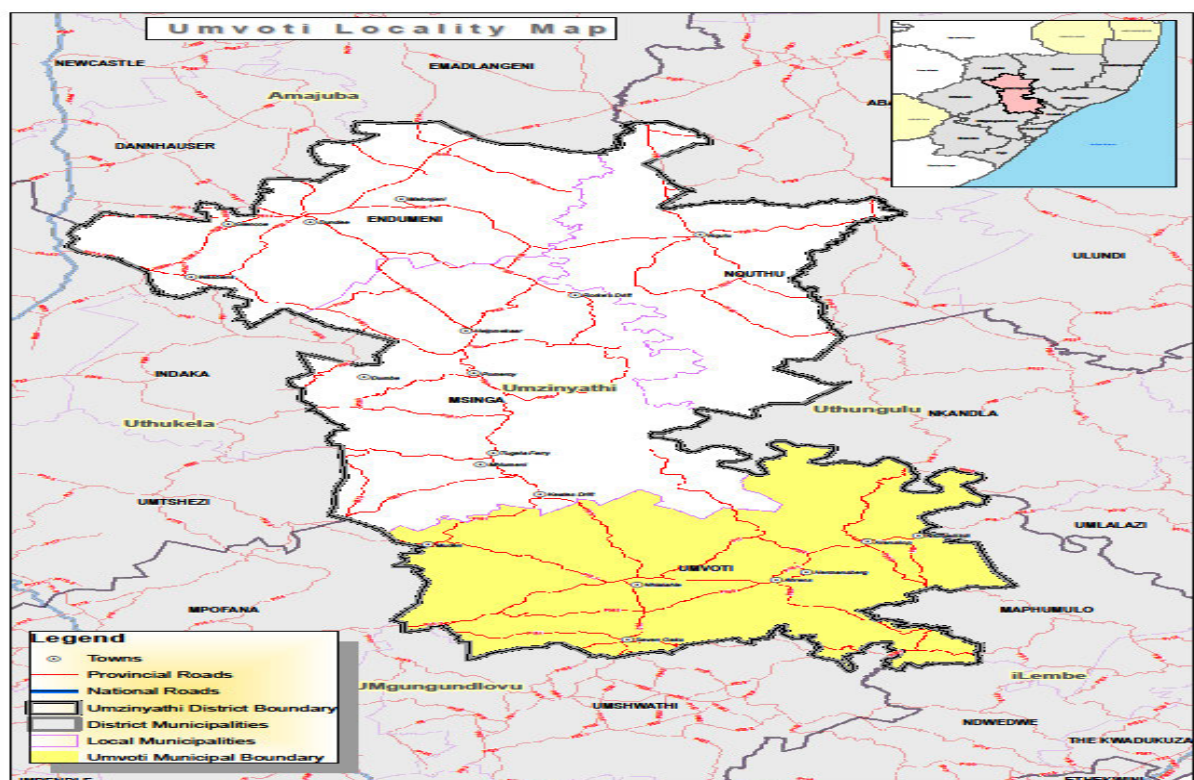
3.5 Location of the research context/population

The researcher conducted the study in the eMabomvini rural area, in uMsinga Ward 12, uMvoti Municipality in KwaZulu-Natal Province, South Africa. Most people residing in Mabomvini rural areas are indigenous African people whose lives are underpinned by the African indigenous cultural beliefs and value systems. They speak IsiZulu, one of the Nguni languages. The majority of the people in Mabomvini practise communal farming; they grow maize, beans, and pumpkin, which constitute their staple diet. To identify with the participants, the researcher helped her family till the land (*ukuhlakula*). This enhanced the researcher's visibility and recognisability in the Mabomvini community.

The Mabomvini rural community is under Inkosi PJ Ngubane Mbomvu. In indigenous communities, chiefs (*ubaba uNkosi*) are highly revered and generally regarded as sacred. Part

of the chief's mandate is to influence and command respect in indigenous African communities and to facilitate positive change in local communities. According to Hlatshwayo (2017), traditional chiefs are responsible for promoting and sustaining cultural values and preserving the family systems, promoting African indigenous family life, and exercising power over the allocation of land. They preside over customary law courts and exercise legislative power in their communities (Mabvurira, 2016).

Below is a map that depicts the location of the research population; the yellow, shaded space is the actual area where the research was conducted (Figure 3.1).



Source: Ward Delimitation Maps: Umvoti Municipality KZN245, 2016.

3.6 Sampling procedure of the study

Two sampling strategies, purposive and snowball sampling techniques were utilised to select the participants who took part in this study. According to Mabvurira (2016:151), "In purposive sampling method, attention is given to people who can provide the desired information." Therefore, purposive sampling method was suited for this study because the researcher wanted to include only knowledgeable members of a specific community. The researcher used specific sampling criteria to define specific attributes in participants; thus, only participants with

experience in African indigenous divorce matters were selected. The researcher used the following inclusion criteria to select the participants:

- The Mabomvini, eNzala traditional or indigenous leaders and senior community members who had facilitated or been involved in African indigenous divorce matters;
- The African indigenous people who subscribe to the African indigenous ways of life;
- Born and bred in Mabomvini and speaking one of the Nguni languages, specifically IsiZulu;
- Be resident in Mabomvini, eNzala Rural Area.

The research topic, aims, and objectives guided the researcher in the selection of the participants. The selected participants played an important role in indigenous communities. For instance, senior community members are regarded as African indigenous libraries and sources of knowledge; they value African culture and subscribe to African indigenous culture and belief systems; they are consulted and respected for their contribution to the community's social well-being and development. According to Mabvurira (2016), senior community members are the primary source of knowledge in case of a dispute arising at any level of community life. Traditional or indigenous leaders are members of a chief's council; hence, they preside over customary law courts and exercise legislative power in their indigenous African communities (SAFAIDS, 2011 in Mabvurira, 2016).

The snowball sampling technique was used to complement the purposive sampling method. The researcher had not predetermined the snowball sampling technique at the onset of the research, but the sampling technique was informed by the gradual accumulation of social networking with the purposively selected and conversant participants. For example, *u baba unduna* (an indigenous adviser) invited the researcher to a men's forum intending to introduce her and the purpose of the study. Thereafter, the participants' recruitment method was determined. The researcher recruited participants recommended by other participants during the data collection exercise. The recommended participants were largely identified as being custodians of and conversant with Mabomvini indigenous culture and indigenous divorce matters. These were elderly people who, owing to their age, were no longer attending such community gatherings as men's forums, and others were identified based on their perceived expertise on divorce matters.

3.7 The population sample

The study sample comprised a total of 14 participants; nine (n=9) senior community members and five (n=5) community leaders. These senior community members and traditional leaders from the eMabomvini community were conversant with the phenomenon under research. This combination of participants sought to provide in-depth and diverse knowledge and lived experiences sought by the study. Unlike in the European culture where the elderly is isolated in old-age homes, the elderly in African settings occupy the centre of family or community life. Moreover, they are the most valuable and treasured source of information and the foundation of African indigenous communities. The African idiomatic expression, *indlela ibuzwa kwabaphambili* (those who have experienced life before us are the ones who can show the path), attests to this reality. Mkabela (2005:186) proposed “the inclusion of elders and cultural committees” as they are central to African indigenous collective research ethics. Thabede (2005) posits that the elderly or senior community member is a valuable and respected asset in African indigenous society because of their experience and wisdom, whereas traditional or indigenous leader refers to a community member who occupies a position of authority under a indigenous legal system. Pellerin (2012) concluded that a suitable research population and sample should ensure the integrity of the research.

The study’s sample size was not determined at the onset of the study but depended on the qualitative research principle of saturation, which states that data collection should stop when the researcher realises that no new information is emerging from the participants (Makofane & Shirindi, 2018). The researcher scheduled a total of fifteen in-depth individual interview sessions. Hence, the data saturation was attained at a total of fourteen (14) in-depth individual interview sessions. The researcher conducted interviews in the Mabomvini area. The rivers and mountains geographically demarcated eMabomvini rural area into different valleys called *izigodi* in isiZulu), including eNzala Valley, which was demarcated into different sections that were named after mountains and rivers. Therefore, 14 interviews were conducted in Mabomvini rural area, in eNzala Valley under different sections as follows; three interviews in eMishane, five in eNgodi, four in Okhalweni, one in eKhohlwa, one in eMnyamathi.

3.8 Entering the research site

The process of data collection constitutes the core of qualitative research. It unravels participants’ natural lived experiences. However, the process can be an intimidating experience to the researcher, owing to differences such as age, gender, status, or any other position existing between the researcher and the participants. Consequently, the researcher had to dedicate

enough time to the preparation of fieldwork and to be conversant with the culture of the eMabomvini community. As such, as part of the preparation for fieldwork, the researcher asked her father to inform the ancestors about the research journey. Thus, reporting to the ancestors when a family member embarks on a new path, journey, or activity is one of the researcher's family traditions, which is performed by the researcher's father or her elder male sibling or mother in the father's absence. The ritual was performed by burning '*impepho*' (incense) and chanting and calling all the researcher's ancestors pleading with them to protect the researcher while on the research journey, meeting different people, and collecting data from them.

Even though the researcher was born and bred in the rural indigenous community, she was also exposed to the Western education system with its epistemologies. Therefore, the researcher needed to be reoriented to the community's culture, beliefs, and values. Before any contact was made with the potential research participants, the researcher resided in the community from December 2019 to January 2020. During these two months, the researcher was participating in family and community activities, helping her family on the communal farm. The researcher aimed to be visible in the community, shifting her mind from other contexts and cultures to the appropriate natural setting of the study population.

The researcher first sought written permission to conduct this research from the traditional leader and ward councillor. The researcher visited the traditional leader and the councillor at their homes. The visits were meant to negotiate the permission to conduct the study and partner with community members. As a young person, the researcher was accompanied by her mother to hand-deliver the letter requesting and negotiating permission to conduct the study. Having been accompanied by an adult, the researcher demonstrated that she had a traceable identity, could be trusted and understood, and respected the community leaders, senior members, and the indigenous knowledge systems. This resonates with the Afrocentric research ethics, which respect the indigenous community's cultural values, beliefs, and ethics during data collection taking place in their villages. The researcher verbally discussed with local authorities the nature of the study and the anticipated time the research would spend. The researcher requested the local authorities to be part of the study and written permission to visit several homes in the area to conduct in-depth personal interviews.

Once the permission was granted, the researcher-built rapport and personal connections with the community members by participating in community gatherings such as *umemulo* (a traditional Zulu ritual, the coming-of-age ceremony for women), *umsebenzi* (an ancestral

function), *umbondo* (gifting ceremony by the bride's family to the groom's family before the wedding), and men's forums. Attending these gatherings allowed the researcher to recruit the participants. Chilisa (2012) avers that showing an interest in community activities connects the researcher with the community through the sharing of values or practices. Spending time in the community was very significant to the research process, as it made the researcher well-versed with the indigenous culture of the people of Mabomvini. Indeed, the researcher and the research study were in harmony with the existence of African people rather than being threatening, intrusive, or disruptive to their agency (Pellerin, 2012).

The researcher respected the community's values, including being dressed appropriately, speaking the local indigenous language (IsiZulu), being accompanied by an adult, and avoiding "prolonged direct eye contact with the elderly, which is regarded as a sign of disrespect" in Zulu culture (Hlatshwayo, 2017:61). Moreover, it was important for the researcher to explain her family lineage, especially to the traditional leader, as he wanted to establish the researcher's identity before granting the researcher permission to conduct the research and committing himself to the interview. The traditional leader identified the researcher through the researcher's father. According to Mberengwa (2003:7), "respect is the basic virtue demonstrated towards persons of all ages, particularly the elderly people." For example, showing respect when communicating with African indigenous leaders and the elderly helps to establish a cordial relationship and trust, which is the essence of the data collection process. Afrocentricity, both as a theory and philosophical perspective, has offered the researcher a solid foundation for employing culturally appropriate methods, beliefs, principles, and frameworks essential for analysing the phenomenon being studied (Pellerin, 2012). The researcher had to walk for more than 20 kilometers for a single trip from home to the traditional leader's home. Due to the long distance, the traditional leader advised the researcher to conduct the first interview session on the initial contact. The researcher obtained the gatekeeper's permission letters from u baba uNduna H. D. Ngubane and Councillor M. D. Khanyile. The researcher started the purposive sampling process after completing all preliminary work with the uMsinga authorities and the University of KwaZulu-Natal.

3.9 Data collection procedure

The researcher used the interview method to collect descriptive data and to ensure interactive participation; thus, the researcher used interviewing skills to facilitate the interview process. The semi-structured interview schedule guided all research conversations between the researcher with research participants. The researcher prepared the necessary research

paraphernalia: interview schedule, audio recorder, a notebook, and a pen. The semi-structured interview allowed the researcher and the participants to seek clarification where necessary. The semi-structured interview schedule, which guided all conversations during the interviews, contained a list of predefined themes to be addressed during the face-to-face interviews.

After completing the first two individualised interviews, the researcher observed that the participants faced challenges discussing the divorce issue as it is an uneasy topic that is neither celebrated nor talked about in indigenous communities. The researcher had to reframe the interview questions and change her approach by starting a conversation from the process of African indigenous marriage and ending up discussing divorce processes. The semi-structured interviews accorded the researcher a degree of flexibility to ensure optimal research. In qualitative research, the participants' lived experiences are better understood by researchers who try to increase their awareness of and sensitivity to other cultures (Makofane & Shirindi, 2018).

The researcher conducted fourteen (14) individual face-to-face interview sessions spanning over two months, from 20 February 2020 to 18 March 2020. Most of the interviews with the participants lasted for about 45 to 60 minutes. The source of primary data and knowledge included traditional leaders and senior community members and the key data collection instrument was the researcher. With the participants' consent, all the interviews were digitally recorded and the notes from the interviews were written down. The research was in harmony with the African philosophy of Ubuntu, which implies the communality of African life (Mabvurira, 2016; Mabvurira & Makhubel, 2018). While the researcher avoided individualism or separating participants from their natural environment and family, she created a safe space by ensuring that the interview sessions were held in participants' homes.

Makofane and Shirindi (2018) argue that collecting data in one language and presenting the findings in another may present the researcher with challenges at the data analysis stage. However, in this research IsiZulu was a culturally appropriate indigenous language both to the participants and the entire research project. IsiZulu allowed the participants to describe their lived experiences in their idiomatic expressions. The researcher advanced the meanings by transcribing data tape-recorded in IsiZulu into the English language. The late former President Mandela once remarked, *“If you talk to a man in a language he understands, that goes to his head, and if you talk to him in his language that goes to his heart.”* In the same vein, both the

researcher and participants in this study reached their equals and better understood the meanings of their indigenous language. Indeed, IsiZulu fostered a meaningful understanding between the participants and the researcher. It has enabled the researcher and the participants to share ownership of the research thus reducing participants' initial fear. Noteworthy is the fact that during community gatherings and divorce matters, IsiZulu is the medium of communication.

On the first contact with a participant and before each interview session, the researcher gave an initial verbal introduction as the researcher, explained the role of the participant, and the importance of the project. The aim and objectives of this study were properly explained using the isiZulu language to ensure that potential participants were clear about what they would be committing themselves to and it allowed the recruited participants to make consented decisions regarding whether or not to participate in the study.

3.10 Data analysis procedure

Before data analysis can begin, the collected, audio-recorded data are subjected to the transcription process (Makofane & Shirindi, 2018). In this study, the researcher transcribed digitally recorded voices into amenable textual data to enhance the data analysis process. Data were transcribed verbatim for thirteen consecutive days, an interview format between the researcher and the participants. This assisted the researcher to reflect on, engaging with, and coding similar themes as they emerged during the transcription process. The transcribed data preserved the meaning embedded in the participants' points of view. Therefore, the researcher used "thematic content analysis to identify, organize, analyse, interpret, and report patterns within the textual data" (Blanche et al., 2006:33). The researcher followed five steps of the thematic data analysis, which are familiarisation and immersion, coding, generation of themes, elaboration, interpreting, and checking.

3.10.1 Familiarisation and immersion of research data

Data collected from the research interviews were in the form of audio-recorded voices and field notes (Thabede, 2005). The researcher engaged in in-depth transcription of collected data into both English and IsiZulu versions. Therefore, the researcher engaged with the details of the interview verbatim and thus got a full understanding of the African indigenous people, particularly the Zulu, who were being researched. Reading the transcripts repeatedly made it possible for the researcher to be intimately familiar with the meanings. Afterward, the researcher generated the initial codes.

3.10.2 Coding themes

The researcher used different ink colours to mark sections, paragraphs, sentences, and words or phrases on the hard copy of the transcribed data. The researcher then alternated between different colours of pens to emphasize sections of comparable words and related or similar phrases. Through coding method, the researcher was able to collate large volumes of raw data into related and relevant themes (Mathebane, 2017). Later in the third step, the coded data was used to generate themes.

3.10.3 Generating themes

The participants in this study shared their experiences, then the researcher collated codes of shared experiences into possible themes, grouped all the relevant data under each particular theme that had emerged. This stage ended by naming themes in relation to the aim and objectives of the study, relating them to the participants' meanings and experiences. The researcher used the participants' language to label emerging themes in relation to the aims of the study (Pellerin, 2012). For example, all the identified explicit and implicit meanings attributable to the African indigenous practices involved in divorce matters were labelled as African indigenous divorce rituals.

3.10.4 Elaboration of themes

The fourth step was elaboration, which means organising information into a linear sequence (Mathebane, 2017). The researcher went through all the generated themes and sub-themes, the texts that appeared to belong together were added into the main themes. In line with the African philosophy of collectivism, the researcher submitted Chapter 4 of the research to the research supervisor Dr. S. Zibane herein referred to as MaZibane and she made suggestions and identified aspects that were incoherent and inconsistent with the identified themes and findings. Suggestions were duly considered, and the necessary corrections were made. The aim was to operate more deliberately in the entire research process to ensure the African people's cultural reality was not compromised or distorted (Pellerin, 2012).

3.10.5 Interpreting and checking themes

Interpreting and checking constituted the last step in the data analysis process. The researcher interpreted the data collected from the senior community members and traditional leaders of Mabomvini. In line with the conceptual framing of the study, the researcher used Afrocentricity as a guide to analyze and interpret the participant's experiences. The researcher advanced the

centrality of the agency of African people by positioning the research participants; Mabomvini senior members, and traditional leaders as the primary source of knowledge, the center of the entire research including in the process of data analysis as well as data interpretation process. Consequently, the participants were perceived as a respectable agency of their knowledge and subjects rather than research objects. After data were analyzed and interpreted, *imbizo* (a celebration gathering) was arranged with the research participants. *Imbizo* provided the research participants with an opportunity to authenticate whether the established knowledge was representative of their contributions. The participants' understanding of the collected data informed the final writing of the thesis. The thematically analyzed data were presented as tables, charts, themes, and sub-themes.

3.11 Trustworthiness of the study

A criterion for judging the quality of a study is an important methodological component for the research participants, readers, researchers, and future researchers. Noteworthy is the fact that the trustworthiness of a research study is informed by the entire research process. The choice of the research topic, research methodology, context of the location, theoretical framework, literature review, data collection and data analysis methods, interpretation, and reporting of the findings all enhance the trustworthiness of the study. However, As Mathebane & Sekudu (2017:53) observes that “when dealing with African phenomena, it is important to establish the level of confidence in knowledge systems and the extent to which it is a representative of Africa as a center for African experiences.” The researcher used Afrocentricity as a philosophical and theoretical perspective and Afrocentric methods as a culturally appropriate and responsive research methodology to foster an understanding of the people of African descent. As a part of the University assessment for the originality of research projects, each chapter of this research was processed electronically through the University's turn-it-in database, which generated a similarity report, indicating matches between phrases from this study and those already existing in the database. This research had a low similarity index; hence, it was accepted for submission. Lastly, the researcher adopted trustworthiness as a method of establishing the quality standard of the research project as suggested by Babbie and Mouton (2001); Van der Riet and Durrheim (2006) credibility, transferability, dependability, and confirmability.

(i) Credibility

The credibility of Afrocentric research is embedded in the true value of the research findings that are representative of participants' lived experiences. Mabvirira (2016) argues that credibility is ensured when the researcher familiarises with the culture of the participating community. In this study, the researcher started engaging with the African philosophies and theoretical frameworks such as Afrocentricity and African scholars; hence, the researcher used research methodologies that were appropriate and sensitive to the African cultural aspirations. The prolonged time the researcher spent in the community and her substantial engagement with potential participants enabled her to build rapport with the research community and participants.

Voluntary participation also contributed to the credibility of research findings. For instance, the participants signed a consent form, which stipulated that participation was entirely at the discretion of the participants and that the participants were free to drop out of the study at any stage. The majority of the participants did not attend the institutional education system; therefore, they could not sign the consent form with their autography. Alternatively, 'X' was appended next to the signature space. As a way of ensuring the credibility of the study, the researcher explained the aims, objectives, and the significance of the study to local political authority, Councillor M.D Khanyile, and the traditional leader u baba uNduna H.D Ngubane. Then, the councillor and traditional leader granted permission letters. The researcher kept the supervisor well-informed about all her activities throughout the research process. Mabvurira and Makhubele (2018:17) argue that in "Afrocentric research the researcher and the participants have an interactive role in the production of theoretical and applied knowledge." This implies that the researcher is not superior to the participants. The study used member checking, which is arguably the most important criterion in establishing credibility (Chilisa, 2012). The researcher completed transcribing data and translated the data transcripts from IsiZulu to English. Therefore, member checking enabled the researcher to consult, corroborate, and re-validate data to ascertain if the responses elicited from participants conformed to what the transcripts contained while peer examination was used to examine the accuracy of the content and context of the study.

(ii) Transferability

Transferability refers to the applicability of qualitative research to other Afrocentric contexts and periods. Kumar (2014) argues that establishing transferability is a daunting task primarily due to the qualitative approach the researcher would have adopted. Mabvurira and Makhubele (2018) point out that one of the principles of Afrocentric methodology that is pertinent to researchers undertaking studies on African ingenious knowledge is that not everything that matters is measurable. For example, “African spiritual being i.e. ancestral worshipping are very critical in everyday lives, but may not be quantified in Western science” (Mabvurira & Makhubele, 2018:17). However, in this study, transferability was enhanced through sampling and thick description of the research participants, research context, theoretical framework, and setting so that the participants, readers, and other future Afrocentric researchers can determine if there are similar settings to which the study findings may be applicable following a similar research process. The researcher clearly admits that the findings may not be transferable to a non-African indigenous population. Afrocentricity, both as a philosophical and conceptual framework, is not universal as it specifically centres on African people's culture. The researcher purposively selected nine participants who were knowledgeable about and experienced on the topic under study; hence, the researcher built a sample that was specifically responsive to the research topic, aim, and objectives of the study. This study leans on culturally responsive methodologies that acknowledge the local histories, traditions, and indigenous knowledge systems that inform them (Chilisa, 2012).

(iii) Dependability

According to Chilisa (2012), qualitative research seeks to establish the uniqueness of human behaviour rather than consistency. Thus, if the study is repeated in a similar context using the same methods and with the same participants, the findings would be consistent. Again, dependability can be achieved by keeping a clear and detailed record of the study process for future researchers to ascertain the level of dependability. Chilisa (2012) concludes by emphasising the point that the most important question in establishing dependability revolves around whether or not the results are consistent with the collected data. The researcher used a code-recode procedure of data during the data analysis process. After coding a segment of the data, the researcher would wait for about two weeks before re-coding the same data and comparing the results to ascertain consistency.

(iv) Confirmability

Lastly, confirmability, as expressed in the sense of African value system reflected in the IsiZulu adage “*umuntu ngumuntu ngabantu*”, as part of the 2019 Afrocentric peer cohort researchers, the researcher worked collaboratively with Dr. Zibane, *umama wethu* (our supervisor), making judgments based on every step made as the research study progressed. Where incoherence was identified and suggestions made, the researcher duly considered them and made the necessary correction. According to Chilisa (2012), the triangulation of data sources and multiple methods enhances confirmability. The researcher selected two varying groups of participants, that is, experienced, knowledgeable traditional leaders, and senior community members. The research participants constituted females and males from different backgrounds as depicted above (see Chapter 4 Table 4.2.1).

3.12 Ethical consideration of the study

Ethical considerations constitute an important aspect of a research study. This research aspect encapsulates the philosophy of Ubuntu, which obligates individuals and systems to respond respectfully and humanely to people of all cultures, languages, classes, races, ethnic backgrounds, religions, and other diverse factors in a manner that recognises protect, and preserves the dignity of individuals, families, and communities (Garran & Rozas, 2013). While the researcher adhered to the internationally accepted ethical standards; informed consent, confidentiality, do no harm and rightness, and voluntary participation. The researcher also showed respect for the indigenous knowledge and value systems. The researcher adhered to the appropriate Afrocentric cultural ethical standards that protect, preserve, recognise, affirm and value the worth of African indigenous participants, families, communities, and the environment. These African canons are; *ubuntu*, *ukweli* (truth), *uhaki* (harmony) *utulivu* (justice), and *ujamaa* (community), these standards are derived from the Swahili language.

(i) Informed consent

The researcher diligently adhered to the key ethical principles such as informed consent. The researcher verbally introduced herself and the research to the participants and gave them a letter of informed consent written in both English and IsiZulu. The researcher fully identified herself with the study participants whom she briefed on the nature and purpose of the study, their role, and the importance of the project was to them. The researcher requested the participants to sign the consent forms and explained that participation was strictly voluntary; hence, the researcher informed participants that they were allowed to withdraw from participating in the research at

any stage of the research. The researcher sought written informed consent and permission to audio-record primary data before participants took part in the study. Two participants signed the informed consent letters with their autographs, while 11 participants used an X to sign the informed consent. The participants who could not sign put the X.

(ii) Confidentiality

International research ethical standards include confidentiality, which implies that information shared during interaction is not shared and can only be shared when a participant has endorsed a written consent (Kumar, 2018). Hence, Mabvurira and Makhubele (2018:19) argue that “in a Western setting individual confidentiality matters a lot, but it is different in some African communities where confidentiality is shared by the whole family.” In line with this principle, the researcher strictly protected the identifying particulars and confidentiality of the participants. The researcher used pseudonyms provided by the participants during one-on-one interview sessions. Therefore, the researcher ensured that all data were stored in a safe and lockable cabinet. No other persons other than the researcher and the supervisor (uMaZibane) had to access to the hard copies of written materials and audio-recorded data obtained in this study.

(iii) Do no harm and rightness

Before the researcher entered into the participants’ world, the UKZN Humanities and Social Sciences Research Ethics Committee reviewed the research proposal and the protocol, with reference number HSSREC/00000581/2019, granted full ethical approval. This process was essential as it prevented harm and safeguarded the well-being and integrity of the research participants.

The University of KwaZulu-Natal Humanities and Social Sciences Research Ethics Committee granted the researcher the ethical clearance to conduct the study. Through this process, the researcher was able to refine and reduce the intrusive interview questions. The permission to collect data was obtained from uMvoti Municipality Ward 12 Councillor, Mr. M.D Khanyile, and uNduna yaseNzala Mr. H.D Ngubane. The researcher acted appropriately and responsibly, and in a way that prevented the research process from endangering the participants, their communities, and the environment. Wassenaar (2006:67) notes that the researcher should ensure that “no harm befalls participants as a result of the research and that no wrong befalls research participants as a result of the research.” The researcher was cognisant of the potential

psychosocial harm associated with divorce matters. As a social worker by profession, the researcher was, therefore, prepared to provide ongoing psychosocial support where necessary. Fortunately, the researcher did not envisage any psychological and/or physical harm befalling the participants of this study. Since the participants were sages of the community, all the research interview sessions were conducted at their homes. Also, the susceptible populations such as persons living with mental or physical disabilities and children under the age of 18 years old were not included in the study.

(iv) Voluntary participation and harmony (*uhaki*)

The researcher worked in harmony (*uhaki*) with the participants and explained to them that participation was voluntary and that they were free to withdraw from the study at any stage of the research. The researcher obtained permission to audio-record data from the participants and asked them to sign written informed consent before participating in the study. However, no selected participant opted to withdraw from the study. The researcher ensured that the research study was not threatening, intrusive, or disruptive to the agency of African people (Pellerin, 2012). This research was conducted in pursuit of truth, openness, and justice for indigenous people's lived experiences. To explore and understand African indigenous knowledge and value systems from the eMabomvini community, the researcher used Afrocentric methodology. The researcher respected research participants as experts in their experiences and the cultural aspirations, values, and beliefs of the Mabomvini community. The researcher conducted all the interviews with the participants in the local indigenous language, IsiZulu. The research procedure was fair to all the participants (Reviere, 2001). The researcher was accompanied by her mother and was dressed in a simple dress.

(v) Truth (*Ukweli*)

According to Reviere (2001:713), '*ukweli*' (truth) is the first Afrocentric research canons, which maintains that "the experiences of the researched community are the ultimate authority in determining what is true and, therefore, are the final arbiter of the validity of research that centers on their lives". The participants were actively involved throughout the research process. This study perceived participants as a valuable source of information based on their roles, experience, and wisdom. The researcher identified her family clan, the presence of her mother, the collective paradigm such as the use of the pronoun "we" instead of "you" or "I". For example, during the interview session, the researcher would say "this is our research project which intends to describe our ways of doing things as African indigenous people". This

collective paradigm promoted feelings of ownership, conformity, and openness, thus motivating the participants and the community members to invest time and energy in influencing the quality of the research as opposed to being merely involved in the research (Mkabela, 2005).

In addition, the researcher adopted the Afrocentricity Theory as a culturally appropriate method to relocate the African person as the subject and primary source of data. The researcher's use of the post-colonial indigenous research paradigms and the Afrocentricity theoretical framework simply reduced the imposition of her interests on the study at the expense of the concerns and interests of the research participants. The research findings represent the *ukweli* of the participants' lived experiences. The researcher interpreted, analysed, and represented the meanings and lived experiences of the research participants as truthfully as they were described.

(vi) Justice ('*Utulivu*') and community ('*Ujamma*')

The research procedure was fair to the community and all the participants. The researcher avoided causing divisions within the community; thus, she sought the permission letter to conduct the study from Councillor Khanyile and Induna Ngubane. This served to maintain order, respect, and acknowledgment of the Mabomvini authorities. The conversations with all the research participants were guided by the same interview schedule. The researcher selected the research participants according to their experience in African indigenous divorce matters in compliance with the selection criteria stipulated in Chapter 1. This research project places African people at the center of African indigenous knowledge and value systems, which serves to ensure justice. In this study, Afrocentricity emerged as the methodology that embrace and affirms African cultural experiences, methods, concepts, and ideas derived from African knowledge and value systems (Mazama, 2001). According to Reviere (2001), this research is a creation of knowledge and value systems as a vehicle for the improvement of research on African people, and it is essential for providing appropriate and more holistic knowledge of the presence of helping practitioners such as (social workers and family advocates) practicing in the African indigenous society, specifically for children living in indigenous society.

(vii)Ubuntu

According to Mabvurira (2016), the canon of Ubuntu in Afrocentric research advocates mutuality between participants and the researcher. The researcher acquires a sense of propriety when meeting with the study participants. The researcher ought to conform to socially acceptable conduct or speech in Mabomvini rural area (Chilisa, 2012). The researcher dressed appropriately when meeting with traditional leaders and senior community members. The researcher identified with the people of the Mabomvini community throughout the research process. For example, she communicated in IsiZulu during the interview sessions. The researcher respected and embraced the African indigenous people's vantage point of view. The researcher maintained a sense of “tolerance, hospitality, and respect for others and their language, opinions, and conversational styles” Mkabela (2005:186). The Mabomvini traditional leader invited the researcher to attend a men's community meeting and indeed, the researcher showed up on time.

(viii) Reciprocity

Reciprocity is a virtue in Afrocentric research, and it is defined by Maiter, Simich, Jacobson, and Wise (2008) and Mulemi (2011 in Mabvurira & Makhubele, 2018) as an ongoing knowledge exchange process that establishes and maintains equality between parties. The researcher used IsiZulu to establish and maintain equality and the quality of knowledge. Chilisa (2012) asserts that in Afrocentric research, the researcher and study participants should communicate as equals. Thus, the study employed the member-checking technique to ascertain if the responses the participants proffered during data collection were indeed contained on the transcripts, and at the final stage, the study participants reviewed the data they contributed against the final results of the inquiry. The participants evaluated the draft of the study, checking it for originality, integrity and accuracy, relevance, credibility, and hermeneutics.

CHAPTER FOUR

PRESENTATION OF FINDINGS AND DISCUSSION

4.1 Introduction

This descriptive, Afrocentric study focused on child participation in African indigenous communities, particularly in their parents' divorce issues. This chapter comprises four sections. Section A presents and discusses the profiles of the research participants. Section B discusses the nature and process of mediation in the African indigenous marriage institution. Section C discusses mediation in divorce matters. Finally, Section D discusses child participation in the African indigenous marriage system and child participation in their parent's divorce matters.

The decision to include Sections B and C in the study was made during data collection as it had emerged that in African communities, one cannot discuss divorce or child participation in divorce matters without a clear understanding of the structure of the African marriage system in general. Further, an understanding of who is involved, and how mediation takes place in the African marriage setup was important. In the same vein, divorce cannot be understood without an understanding of traditional African marriages. The concept of child participation is better understood through an understanding of the role children play in traditional African marriages.

This chapter presents participants' narratives depicting their lived experiences, knowledge, and wisdom as they were shared during the data collection phase. The participants were African indigenous people who had become essential archives and libraries of the lived experiences, knowledge, and wisdom this study sought to establish. This research was rooted in an African epistemology, which recognises the view that all knowledge is valid within its own cultural settings (Nabudere, 2011). Truth is viewed as contextual and diverse; thus, the researcher recognised the African traditional culture as a source of knowledge and a philosophy of life.

4.2 Section A: Profiles of the research participants

Table 4.1: The demographic characteristics of participants

Pseudonym	Age (Years)	Marital status	Religious affiliation	Educational background	Role in the community	Living arrangements
Gogo'Ngihluphile	78	Separated	Christianity and African Indigenous Religion (AIR)	African Indigenous Education	Senior community member	Stays with family
Gogo'MaGadi	+/-70	Widow	AIR	African Indigenous Education	Women's community leader	Stays with family
Mam'Mkhize	68	Separated	AIR	African Indigenous Education	Senior community member	Stays with family
Gogo'Masipeke	+/-67	Not married	AIR	African Indigenous Education	Senior community member	Stays with family
Gogo'Gumbeshane	78	widow	Christianity and AIR	Primary	Senior community member	Stays with family

Gogo'Magencane	+/-58	Uganile (indigenous union)	AIR	African Indigenous Education	Senior community member	Stays with family
Gogo'Zondeleni	+/- 74	Not Married	AIR	African Indigenous Education	Senior community member	Stays with family
Gogo'Khumalo	+/-76	Uganile (indigenous union)	Christianity and AIR	African Indigenous Education	Senior community member	Stays with family
Mkhulu'Ngubane	+/-70	Uganiwe (indigenous union)	AIR	African Indigenous Education	Former Headman	Stays with family
Mkhulu'Njoloba	83	Ushadile (Married)	AIR	Tertiary	Senior community member	Stays with family
Baba'Nduna	+/-50	Uganiwe (indigenous union)	AIR	Primary	Headman	Stays with family
Baba'Phoyisa	+/-68	Uganiwe	AIR	African Indigenous Education	Indigenous cultural activities facilitator	Stays with family

		(Indigenous union)				
Mama'Zondi	62	Ushadile (Married)	Christianity and AIR	Grade 7	Senior community member	Stays with family
Mama'Mhlokozi	45	Uganile	AIR	African Indigenous Education	Former usher for girls who have culturally proposed love (Iqhikiza lezintombi)	Stays with family

Source: (Researcher; Hlatshwayo, 2017)

Table 4.1 above displays participants' demographic data. As a part of the recovery and reclaiming of the African marginalised knowledge, all the aspects relating to the content and context of the study participants are important. As the findings of the research concurs with Hlatshwayo (2017:81) confirmed that the participants' profile "information does not merely provide information about the study participants, but it also endeavors to uncover the indigenous cultural meanings associated with these characteristics."

4.2.1 Participants' names

Table 4.1 identifies the participants using pseudonyms associated with their life phases, such as *gogo* (grandmother), *mkhulu* (grandfather), *mama* (mother), and *baba* (father). For instance, one of the research participants is referred to as Gogo'Ngihluphile, which means 'Grandmother Ngihluphile'. The cultural values practised in the Mabomvini community stipulate that an adult or authority figure should not be called by their first name; rather, their phase of life is followed by their clan name as indicated in Table 4.2.1 above. In this report, these identities are an expression of respect for the values of the local community while maintaining confidentiality and anonymity, which are part of the ethical principles underpinning social research. Moreover, the identities used in this study symbolise the generation of the population in question. Asante (2007) identified five basic characteristics of an Afrocentric project, one of which is the commitment to lexical refinement, which means that the terms and definitions used to define African people are derived from African socio-historical experiences and languages.

4.2.2 Participants' educational background

Table 4.1 indicates that most participants have African Indigenous Education (AIE). These participants are regarded as 'sacred' in the production of knowledge this study seeks to unravel. They are a valuable source of information based on their roles, experience, and wisdom. Of the 14 participants who participated in this study, four (n=4) attained literacy or formal education while ten (n=10) attained AIE. In African indigenous communities, education is incomplete without the incorporation of African indigenous knowledge systems (AIKS) in which education is mainly learned and transferred through music, play, dance, folk songs, and proverbs (Zondi, 2012; Hlatshwayo, 2017). Moreover, AIE recognises the family and community as larger classrooms where life experiences, such as *ubuntu* and cultural heritage, are transferred from one generation to another (Hlatshwayo, 2017).

4.2.3 Participants' living arrangements

Table 4.1 above demonstrates that all the 14 participants were living with their family members. Most participants were over 60 years of age. In the African culture, the elderly are not kept in nursing homes; instead, they stay at home imparting in their grandchildren desirable traits that are

essential for life. Chang'ach (2013:859) observes that "literacy and formal schooling are not the only constituents of education; thus, education should be viewed holistically and should be defined as a preparation for living in the society into which one is born." Hence, AIE is a philosophy of life that cuts across human development stages such as pregnancy, childbirth, being a family and community member, death, and the transition to the spiritual realm, which entails living spirits known as ancestors.

The study illustrates that most participants subscribed to African indigenous belief systems while others subscribed to African indigenous belief systems and Christianity, concurrently. Of the 14 participants who partook in this study, 10 (n=10) indicated their affiliation to the African indigenous belief systems while 4 (n=4) indicated that they embraced African indigenous systems and also attended church sessions. As Thabede (2005) observes the extent to which African people have embraced the non-African ways of life varies; however, it is rare for an African to embark on a complete departure from African cultural practices. The author (2005:202) emphasises the notion that "cultural beliefs underpinning the African worldview exist side by side with the belief in God, who is known by different indigenous names in different African cultural groups." The Zulu nation refers to God as Nkulunkulu or Mvelinqangi (the first to emerge).

4.2.4 Participants' age

Out of the 14 participants that participated in this study, only six (n=6) were able to numerically describe their age. Eight participants described their ages in terms of life periods, the non-normative events that occurred during the time of their birth, or by identifying their cohort. When asked about their ages, some of the participants responded as follows:

"I'm of the same age as your late uncle (pointing at the researcher)" (Baba'Phoyisa).

"I don't know my age; my children know it" (Gogo'Magadi).

"I don't know my age. In our days the Home Affairs decreased our ages. Consequently, my pension grant was delayed. I'm now receiving a pension grant. Mmmm... this is my year as a pension grant recipient (she was trying to remember the number of years she had been receiving the pension grant)" (Gogo'Maspeke).

In African settings, age is not important; instead, the various phases and events of human development matter the most (Nsamenang, 2006; Mondlana 2019). This demonstrates the coexistence of the African being and the value of collective identity. In African indigenous communities, collective identity is central in dialogue and activities. Human relations play a significant role in shaping the phases of human development (Nsamenang, 2006). During the human developmental phases, the African culture allows children to perform certain tasks as they grow older. For instance, when Gogo'MaGadi was asked about her age, she confidently indicated that her children knew her age. This highlights the significant role a child plays in a harmonious family relationship within an African indigenous family setup. More importantly, this role becomes more significant in the child's involvement in family life.

4.3 Section B: Marriage and mediation in indigenous African culture

Culturally, marriage is a rite of passage that symbolises a significant transition into adult life. At every transitional stage, there are many layers of messages, tangible and intangible heritage values, and belief systems that are central to African culture. A discussion centred on marriage is important as it encapsulates the notion of children's participation in divorce matters in indigenous communities. This section discusses the significance of the marriage union in indigenous communities. It also focuses on the nature of mediation in African culture.

4.3.1 Ukugcagca (marriage) as a rite of passage

The participants who partook in this study conceived marriage as follows:

“Ukugcagca (marriage) is a significant rite of passage not only for the spouse but also for the entire family or clan, including ancestors and the community; it is an extension of the stream of life” (Gogo'Ngihluphile).

“The woman becomes a daughter (umalokazana) to her husband's family while the man becomes a son (umkhwenyana) to his spouse's family. Thus, marriage constitutes a significant life phase in a person's existence; it signals a significant milestone” (Gogo'Magencane)

“You see, Magqumbu's child (addressing the researcher by her father's name), people who fail to secure a marriage partner are nicknamed impohlo (old unmarried man) and umjendevu (an old unmarried woman)” (Baba'Phoyisa).

“Marriage is a beautiful rite of passage in which community members participate. Our culture sanctions that when a person is not married along indigenous lines, remains a boy or girl even if you are staying with your partner. For a man, marriage plays a significant role in family rituals such as umsamo (a sacred place in the hut where ancestral spirits are consulted). It is considered inappropriate when an unmarried man performs certain rituals at umsamo” (Baba’Nduna).

“Marriage symbolises the resurrection of the clan in which a woman is married; the establishment of new relations and the payment of lobola clearly show that a man has respected and honoured the house of his wife's father” (Gogo’Khumalo).

The participants viewed *ukugcagca* as a series of cultural practices that are embedded in a communal being whereby the roles and responsibilities of *ukugcagca* extend beyond the nuclear family and blood relations. *Ukugcagca* or *ukugcagcelwa* (indigenous terms referring to marriage) is an important socio-cultural rite of passage in African indigenous communities. In this study, the participants contended that *ukugcagca* signifies the family's growth and hope. The participants also stated that marriage confers spouses with a degree of status and respectability in the family and the entire community. The married woman becomes *umalokazana* while a married man becomes *umkhwenyana* (Mama’Mhlokozi). In line with the African indigenous marriage union, participants in this study intimated that when a woman is married, she is virtually married to the whole clan, including the physical family and the ancestral spirit (Zungu, 2016; Mkhize, 2017). In this study, the participants pointed to an interesting transition; a married man becomes a son to his wife’s family and the woman becomes a daughter to her husband’s family. This creates a cohesive family and a friendly marriage environment. The cultural traditions observed in marriage are instrumental in ushering both the bride and the bridegroom into a new family and marriage environment. Culturally, this is a mediation process facilitated by family elders.

4.3.2 Marriage and mediation process in African families

During a discussion on who initiates divorce in indigenous communities, the participants were adamant, insisting that the researcher should first understand the mediation processes that happen during the courtship processes that lead to *ukugcagca* before talking about mediation in divorce matters. The participants cited *ukushela* (proposing love), *ukulobola* (paying off the bride's price), and *umsamo* (an indigenous alter, a platform for the communication taking place between the

living and the spiritual world) as being significant in depicting the mediation occurring in African families.

4.3.3 Ukushela/Ukushelwa (proposing love)

Some of the participants were fascinated as they described their experiences of *ukushelwa*. They said the following:

“The first day he saw me was when he was walking alone. The next day he was accompanied by other young men to seduce me. Once his sisters became aware that he was courting me, they would come to continue negotiating on his behalf because he was working in the cities. A woman gives ucu (beadwork) to a man as acceptance of love (ukuqoma). Usually, the man is accompanied by his cohort, comprising females and males. My daughter, this symbolises accepting love. So, the man’s family would kikiza (ululate), singing indigenous songs and performing indigenous dance moves all the way until they arrive at the man’s family homestead. The man would put iduku (love cloth) in his family homestead to inform the community that a woman has accepted his love (useqonyiwe). The woman would have iqhikiza (usher, an older girl who would guide her on cultural values and beliefs). Iqhikiza assumes a mediumship role between the two families. Normally the families communicate through iqhikiza until the relationship materialises” (Mama’Mhlokozi).

“When a man is proposing love to a woman, he commonly says ‘gege la gegentabazonkeziyangigegela’ (I have absolute support, even the environment is giving me a nod to pursue a relationship with you). I need someone who will rebuild my father’s house, someone who will cook for my mother” (Gogo’Magencane).

The excerpts cited above suggest that mediation is a daily humanistic approach to human relations in African indigenous communities. Regarding indigenous marriage, the process of mediation is characterised by a series of cultural rituals observed to ensure that the marriage succeeds. Clearly, mediation is not understood as a resolution in events related to marriage separation as per the provisions of the Mediation in Certain Divorce Act No. 24 of 1978, which obligates divorce disputants to first undergo the mediation process as the first attempt at settling their divorce dispute (Mathias, 2017). Communal mediation begins during the initial phase of love negotiations

(*ukushela*). The participants in this study indicated that mediation is embedded in the IsiZulu language and that the approach is used during the process of love negotiation. In the excerpt cited above, Gogo'Magencane shows how human beings and non-living things play a mediation role during love negotiation. She spoke about the use of the phrase "*gege la gege ntaba zonke ziyangi gegela*", (I have absolute support, and even the environment is giving me a nod ... to pursue a relationship with you) (Nyembezi & Nxumalo, 1966). In this regard, men use nature 'mountain' as an agency within the negotiation. This clearly shows that the ideology of African well-being is deeply embedded in all things. Mediation is a way of life and a form of communication that transcends physical human interactions as it includes the natural environment.

4.3.4 Ukulobola

The participants described *ukulobola* as a marriage rite of passage that is facilitated by elders in a family. The participants described *ukulobola* (dowry) as a site for mediation, with some of them describing it in the following manner:

"The man sends his male family members and community elders to negotiate amalobolo with the woman's elderly family members (ukukhonga). The negotiation takes place in the family homestead of the wife-to-be" (Mama'Mhlokozi).

"(Ukucela ubuhlobo obuhle); You see my child, from the moment the uncles from the potential husband's family stand by the gate, chanting the woman family's clan (ukukhonga); the girl earns respect in the eyes of all, and it further demonstrates that the spouse respects the girl's family clan" (Gogo Khumalo).

The participants identified the mediation practices that occur during the process of *ukulobola*. The culture bars the groom from approaching the family of his future bride on his own, thus making mediation a compulsory element of negotiations underpinning the African indigenous marriage institution. This also demonstrates the communal nature of African marriages.

Participants also indicated that even if the wedding ceremony has not yet taken place, the practice of *ukulobola* offers a married woman all of the respect and rights that she has entitled from the community in general and particularly from her husband's family (Thabede, 2005). The participants stressed that what matters the most is that mediators who serve as witnesses be present during the marriage negotiations.

4.3.5 The indigenous alter (Umsamo)

Marriage in the African context is a broad concept that encompasses both the physical and spiritual worlds (Mkhize, 2011). The participants constantly identified *ukubikwa* (introducing the newly wedded wife to the husband's ancestors) as a significant cultural practice observed in indigenous marriage occurring in many African ingenious families. They said:

“The newly wedded wife is introduced to emsamo of her spouse's family through the ritual called inyongo yembuzi (bile of a goat). The marriage without ukuthelwa ngenyongo (pouring bile on...) is incomplete” (Mkhulu’Njoloba).

Culturally, a married woman does not just change the surname but also acquires a sense of belonging to her husband's family. This transition is called ukubikwa emsamo through the ritual of pouring a goat's bile on the body (feet and hands). She marries into a clan including the physical and spiritual worlds (amadlozi)” (Baba’Nduna).

“Ukuthelwa ngenyongo (pouring bile on...) is important in that it embodies different meanings, including introducing the wife to the husband's family. A day before the wedding day, the bride is accompanied by elders and her cohort group. Before sunset, she must leave her father's home to his husband's family homestead. Culturally, the ancestors of her family and that of her husband must be informed of the marriage. Without the ritual of ukubikwa, the woman is an incomplete wife and cannot assume certain other family responsibilities. This ritual also gives her the right to enter sacred family spaces such as a kraal” (Mama’Zondi).

“Our cultural tradition perceives the marriage certificate just as a legal paper that does not give you a right to participate in certain cultural activities performed by a married woman. Without the ritual of pouring bile, the marriage will remain cohabitation. You can become a complete wife after you have undergone this cultural ritual. However, the contemporary society demands that one acquires a marriage certificate” (MaMkhize).

South Africa's Marriage Act No. 25 of 1961 emphasises the importance of marriage registration. Although the participants highlighted the importance of marriage registration in contemporary society, they argued that the tradition of *ukubikwa* (introducing the newly wedded wife to the husband's ancestors) is a significant aspect of an indigenous marriage setup. The participants

reported that a marriage without the ritual of *ukubikwa* is not recognised in African indigenous communities because marriage and family development are viewed as the responsibility of both living beings and ancestors. Divorce is viewed as resulting from disharmony between the living and the ancestors. The participants reiterated that the ritual of *ukubikwa* carries several cultural privileges that are otherwise unobtainable outside the practice.

The participants highlighted that among other things, the ritual of *ukubikwa* mediates between the living and those in the spiritual world. *Ukubikwa* ensures recognition of the marriage by the ancestors. It also defines the roles and limits of a wife within her family-in-law. The success of *ukubikwa* enhances humanity, which manifests through peace and harmony among the living and non-living things.

For Mkhize (2011), a daughter-in-law (*umalokazane*) is a gift from the ancestors. He adds that the process of finding *umalokazane* is presided over by ancestors; hence, the bride who marries in an indigenous family is the ancestors' choice. Ancestral connections are considered important in marriage because they foster family integration, maintain cultural practices, and form a child's identity. Zungu (2016) described marriage as a focal point where the departed, the living, and future members of society meet. In essence, marriage is a heritage site and a valuable archive of indigenous knowledge systems.

4.4 Section C: Divorce and mediation in African indigenous families

The IsiZulu proverb '*umendo kawuthunyelwa gundane*' contends that when one gets married, things may sometimes change for the worst because they cannot determine the state of the marriage (Nyembezi & Nxumalo, 1966; Zungu, 2016). As Zibane (2017:58) observes that indigenous support systems may include "resources that facilitate growth or promote obstacles to development." This section discusses divorce or separation in marriage. It depicts the social structures and practices existing within indigenous marriage systems.

4.4.1 Uamezala (mother-in-law) and ubabezala (father-in-law) as mediators in African marriages

Participants started by defining the concepts *uamezala* and *ubabezala*.

"Uamezala is a husband's mother whereas babezala is a husband's father. Uamezala and ubabezala assume parental responsibility for the newly married couple. In their

absence, due to such eventualities as death, other family members ought to assume such parental responsibilities” (Gogo’Maspeka).

“Mntanami, the husband or wife may be experiencing unpleasant behaviour, which may be hindering their well-being and the state of the marriage. Culturally, the first person to report to should be umamezala (husband’s mother), who will mediate the couple’s matrimonial matter. Any agreement reached during the mediation is binding to the couple. If the matter continues, umamezala reports it to her husband and ubabezala to the wife” (Mama’Mhlokozi).

“Firstly, the parents of the groom, particularly the mother, are informed but if the groom does not have parents, there will always be a next of kin in the family to whom the matter is reported. Our culture has social structures and orders. So, in the absence of parents, other family members assume parental duties to the newly wedded couple. Such members may include the husband’s uncles (father’s brothers) and grandparents” (Mkhulu’Ngubane).

“The mediation process involves the husband as well as umamezala. Mediation occurs in a spousal-friendly environment, specifically in the family’s physical environment. Normally, it is umamezala who determines the venue of the conversation. Sometimes she addresses the disputants individually without involving the other spouse. Children are not involved in this spousal mediation. If the conflict has not been resolved, umamezala ropes in ubabezala. Then the spouses, umamezala, and babezala hold a spousal meeting where they discuss behaviour that instigates conflict, and they are all allowed to speak. Although this nature of spousal mediation does not include children, the grandparent has to communicate the matter with children, if there is a need. When the conflict escalates, a spouse must report the matter to umamezala and ubabezala, as they are the most immediate people who have the responsibility to communicate with umndeni (family)” (Gogo’Ngihluphile).

Indigenous IsiZulu words such as *umamezala* and *ubabezala* consciously embody parental roles while creating a friendly and welcoming family environment that is characterised by rapport and inclusion. All the participants conversantly identified *umamezala* as the primary person who mediates in an African indigenous marriage. The participants demonstrated that the basic cultural

marriage practice in African indigenous communities is virilocal, which contends that a woman can only join her husband after marriage, either at the husband's homestead or that of his father or brother (Thabede, 2005). Amongst other things, the husband's family and ancestors become the primary sources of the psychosocial support system. All the participants in this study constantly emphasised that any event that hinders the growth and development of the marriage should be communicated with *umamezala* and *ubabezala*. Thus, *umamezala* and *ubabezala* assume mediumship in the indigenous marriage system.

In some cultures, such as western culture helping practitioners have replaced family members as primary providers of psychosocial support. In this study, the family emerged as the major psychosocial support unit. The important role being played by women (*umamezala*) in the mediation process is worth noting, particularly against the backdrop of dominant discourse centering on the developmental role, responsibility, and status of women in African indigenous communities (Chilisa, 2012; Hlatshwayo, 2017).

The extracts cited above also highlight the various levels of communication manifesting during mediation. For instance, the matter is first reported to *umamezala*, who only reports to *ubabezala* if the problem persists. The various levels demonstrate a level of confidentiality characterising African indigenous communities. However, this type of confidentiality differs from Eurocentric confidentiality, which is individualistic and not shared within the family. Mabvurira and Makhubele (2018:19) argue that “in a Western setting individual confidentiality matters a lot, but it is different in some African communities where confidentiality is shared among family members.”

All the participants in this study stated that if the spousal conflict went beyond *umamezala*'s capacity, she would report the matter to her husband who is the father-in-law to *umalokazana*. It is important to note that as much as the participants spoke about reporting to *umamezala* than to *ubabezala*, the sequence of communication is not always linear, as it is informed by the nature or extent of the hindrance to the marriage.

4.4.2 The role of family (*umndeni*) in marriage mediation

Umndeni is an IsiZulu word referring to a family. An IsiZulu proverb says: ‘*Injobo enhle ithungelwa ebandla*’ (people perform better in whatever they are doing by seeking knowledge and

guidance from the more experienced and skilled individuals) (Nyembezi & Nxumalo, 1966; Zungu, 2016). The participants confirmed that *umndeni* play a significant role in marriage mediation.

- **The practice of ukuxosha (being sent back home) or ukwemuka (wife returning home)**

The participants referred to practices such as *ukuxosha* (being sent back home) or *ukwemuka* (wife returning home) as indicators of the centrality of family mediation in the African indigenous marriage system. The participants described *ukuxoshwa emzini* as follows:

“Ukuxosha occurs when a husband asks his wife to return to her parents’ home due to her unruly behaviour that has affected her husband’s family or his psychosocial well-being. The wife is often sent back to allow her to be counselled by her family of origin. On the other hand, ukwemuka is a situation when the wife decides to voluntarily return to her home because of irreconcilable marital differences” (Baba’Nduna).

“My child, the history of African indigenous societies does not favour the concepts of divorce and child participation in it. Divorce does not have space in our culture and tradition. The concept was introduced by white weddings, and it is largely practised by those who are married in a white wedding. Our culture embodies ukuxosha or ukumuka. The man practises ukuxosha while the woman practises ukumuka. If there are children involved in these events, they remain under the supervision of their paternal grandmother. When a spouse has wrongfully treated a family member or has exhibited unpleasant behaviour towards the family, she or he is compelled to pay inhlawulo (an offering) in the form of a goat or cow, depending on the gravity of the matter in question” (Mkhulu’Njoloba).

Studies as well as the Mediation Act (Act No. 24 of 1987) depict mediation as a platform for divorce and child participation in the event. In this study, the participants spoke about how the concepts of divorce and child participation in the practice are disfavoured by the community of Mabomvini.

The participants further stated that:

“If the matter is beyond the couple's emotional state, the husband may resort to ukuxosha. The husband asks the wife to return to her parents’ home until reconciliation or separation

has been finalised. Alternatively, a wife may practise ukwemuka, whereby she voluntarily returns to her parent's home. However, this cultural practice is normally practised as a last resort, depending on the extent or gravity of the matter. So, if my daughter has returned, I will ask umamezala what the cause of the matter is and umamezala asks her son. At this point, the matter will now involve both families and elders. We will have to set a date with umamezala for a family mediation where members from both families, including the wife and the husband, participate. I will have to go with my daughter to the company of elderly family members or neighbours. If my daughter returned with abezukulu (my grandchildren), we will have to leave them behind because they do not form part of this family mediation. However, they may be addressed by a person who has an existing relationship with them, depending on their phase of development. The individual addresses the children in an appropriate language that does not alienate parents from each other. Usually, it is their grandparents, either parental or maternal, who address the children” (Gogo’Magadi).

“My daughter, if the husband is the cause of the breakdown of the marriage and the wife has already reported the matter to umamezala but it continues, the wife has a right to report the matter to her family of origin. The wife uzokwemuka (the wife's voluntary return to her parent's home) until reconciliation or the cause of the separation has been remedied. The separation may be prolonged. This time it is the responsibility of the husband's family (abasemzini) to establish communication with the wife's family. Umamezala, ubabezala, and umkhwenyana, accompanied by their family elders and senior neighbours come here. The married couple is afforded an opportunity to express their concerns, feelings, and thoughts; in fact, everyone who is a part of the family mediation is allowed to express their opinions. The facilitator in the family mediation process is known to both families and is normally a senior family member or neighbour” (Gogo’Magencane).

“Families are different; some can manage the situation in a very respectful manner as their members may be aggressive in their mediation approach. However, the interest of the couples is a determining factor. If the couple wishes to reconcile, their families provide psycho-social support and guidance. The cause of the challenges is addressed and psychosocial support is provided. Both the husband and the wife are given an opportunity

to express their views. In some instances, a spouse is made to pay an offering (cow or goat) depending on the cause and damage they would have caused” (Gogo’Maspeke).

If the matter continues to escalate, the bride must report the matter to her family of origin. She normally reports to her biological mother who then communicates the matter with her father. The bride’s biological mother then calls elders from the in-laws (particularly umamezala) to establish the cause of the problem. In some families, the bride returns to her husband's family accompanied by her family elders. The mediation takes place in the husband's family homestead. Sometimes the bride does not return until the completion of the mediation process. The husband, his family elders, his brothers, and community elders, must go to the wife's family for the mediation process. However, the mediation process is not always smooth as opinions may vary, leading to a lot of emotions. Parents hardly allow their children to endure an unhealthy marriage. The facilitator to the mediation ensures that the entire process runs peacefully and that the couple's views are respected. The mediation is facilitated by an elder known by both families. Within the family structures, some people naturally assume such a responsibility. Normally, a spouse may be required to pay an offering (can be referred to as a fine) in the form of a cow or goat, depending on the gravity of the damages the matter has caused” (Baba’Nduna).

"Whether the matter concerns the husband or the wife, the mediation begins at home with the mother and father, or any other person identified from a family structure to assume parental roles to the spouses. When the matter continues to escalate, the parents may seek help from other family members including elders, uncles, and aunts. If the matter is big, and the husband is the complainant, the alternative is for the husband to request the wife to return to her family of origin (ukuxosha). Different reasons instigate ukuxosha. It is a way of informing the wife's family about her behaviour. Further, the husband will be appealing to the in-laws for them to re-teach their daughter. The husband will be expressing his feelings. The same reasons may also be the cause for the wife to practise ukwamuka. After the wife has returned to her parents’ home, efforts will be made to reach out to the husband's family. Some families return with the wife to her husband's family on the same day. Other elders communicate through phone calls to arrange the mediation process. The elders communicate with their elderly counterparts from the husband's family.

So, both families, including parents, elders, neighbours, uncles, brothers, and sisters meet with the husband's family together with the husband and his wife” (Mama’Mhlokozi).

In the Western culture, family formation and its physical setting are confined to the nuclear family (Mondlana, 2019). In this study, the participants envisioned the concept of family beyond the nuclear family; the family does not only include close relatives of the spouses but also encompasses multigenerational family members and close community members (Mkhize, 2004; Mkhize, 2011). The participants in this study demonstrated that in Mabomvini indigenous community, the concept of family mediation is practised within the realms of kinship rather than nuclear family structures as it is conceptualised within the Euro-Western society (Hlatshwayo, 2017). The basic nature of *umndeni* in indigenous communities replicates a communistic psychosocial support unit. Based on this sense of communal being, the participants revealed that senior community members or neighbours may form part of the family mediation following an invitation by family members, particularly *umamezala* and *ubabezala*. They cited *umndeni* as an important psychosocial support unit for indigenous marriages. The participants identified *umndeni* as transcending the family bloodline. *Umndeni* is identified as encompassing members of the extended family, neighbours, and those who have contributed to the family’s well-being. Thus, the family structure is an emotional unit in African indigenous communities; hence, it is not confined to nuclear and physical settings (Mondlana, 2019).

The participants revealed that the African family structure is embedded in multiple dimensions and is described by the product of the dynamic interaction between individuals and families as they evolve. The African indigenous family formation and the social support structure address the needs of a person who coexists with others in an ecological community. The support is not limited to the family in the physical setting as it also applies to the spiritual realm. All the elements of the universe or ecological community are involved; the spouses’ families, ancestors, spiritual beings, and animals.

Unlike in the European culture where the elderly are isolated in old-age homes, in African cultural settings, elderly people occupy the center of a family or community (Hlatshwayo, 2017). In this study, the participants demonstrated that senior community members were instrumental in the mediation process. This is consistent with Hlatshwayo’s (2017) argument that in the African

culture, elders and senior community members are key role players in conveying oral literature relating to the formation of family structures and social orders to the next generation.

4.4.3 Headman (KwaNduna) as a mediator in African marriages

An African indigenous IsiZulu proverb says, ‘*okwehlula amadoda kuyabikwa*’ (what is a challenge to the individual is best declared to the community) (Zungu, 2016). The proverb simply commands or instructs individuals to reach out to others for help. KwaNduna was cited by all the participants as another level of mediation in cultural marriage following *umndeni* mediation. The participants said:

“My child, in the event of separation in indigenous marriage settings, the marriage officiator (uBaba'Phoyisa) and the headman (uBaba'Nduna) with his committee are new additions to the umndeni mediation group, which includes elders from the families of the husband and the wife and neighbours or senior community members. We all sit down on an indigenous mat (ucansini) in a circular formation (indilinga) facing each other. All the males sit on the right-hand side and all the females sit on the left-hand side, regardless of which family individuals represent” (Gogo'Khumalo).

“If the matter continues to escalate even after the family mediation, it is referred to KwaNduna” (Gogo'Gumbeshane).

“The KwaNduna mediation includes the involved family members, close neighbours, and the couple. These mediation sessions take place in a house or under a tree. We sit in a circular formation (indilinga). Baba'Nduna (headman) facilitates the mediation. Under normal circumstances, the families that have been united through marriage highly respect one another. The discussion mainly focuses on the factors that contributed to the breakdown of the marriage. All the parties have an equal chance to express their opinions. If children are involved, grandparents, aunts, wife's sisters or any other family members address the matters that concern the children. In some instances, children are asked to sit outside and are only consulted on the information that specifically affects them. In the case of ukuxosha, children must be appropriately informed of their development. However, there are instances where children fully participate in the mediation session, particularly

if a child is old enough or is a firstborn child. When a decision is made, all the parties are considered; hence, the decision should be mutual" (Baba'Phoyisa).

"Every person who is part of the mediation delegation is allowed to express his or her opinions" (Gogo'Zondeleni).

"Mmmm my child, I must point out clearly that the purpose of approaching KwaNduna is not to end the marriage, though the spouse's actions may cause marriage breakdown. Separation in marriage is the last resort. The parties may agree to end the marriage, but it is very important to ensure that the marriage ends peacefully among the families. Yes, separation leaves a void among families and children. Thus, it must not engender a negative spirit to the well-being and welfare of children. Beyond marriage separation, the family still needs to address the needs of children. So, the main reason for holding prolonged mediation is to enhance peace. All the involved members seek to mutually support the marriage by expressing their opinions. The decision made by spouses is highly regarded. After the reconciliation, umamazala normally observes the couple's behaviours" (Gogo'Khumalo).

The extracts cited above illustrate that intervention begins within the family; it is initiated by *umamezala* goes through *umndeni*, and ultimately involves KwaNduna. KwaNduna educates the spouses imparts knowledge and provides them with psychosocial needs. KwaNduna provides a space for the spouses to revisit their experiences and thus make an informed decision.

The participants indicated that everyone who forms part of the mediation delegation is allowed to express their views regarding the matter in question. This suggests that marriage mediation is open and transparent, as confidentiality is observed by the mediation team. In the same vein, Mabvurira and Makhubele (2018:19) argue that "in a Western setting individual confidentiality matters a lot, but it is different in some African communities where confidentiality is shared by the whole family." This statement encapsulates the essence of collective responsibility, which participants implicitly believe that communal being is a daily pattern of communication underpinning indigenous families. In other words, a person belongs to a family, therefore a person suffers or rejoices with his or her family or a group.

4.4.4 Chief (KwaNkosi) as a mediator in African indigenous marriages

KwaNkosi is the chief's homestead or village. In African indigenous communities, chiefs (izinkosi) are generally regarded as sacred and are highly revered. Part of the chief's mandate is to influence and command respect as well as facilitate positive change in indigenous African communities. Any community matter that goes beyond uBaba'Nduna's scope of practice is referred to KwaNkosi. With regards to marriage matters, all levels of mediation have certain common features, though each level is somewhat unique. The participants stated the distinctive elements constituting the mediation sessions conducted at KwaNkosi. They said:

"The facilitator in the mediation process is the chief who works with his committee" (Mkhulu'Ngubane).

"Important aspects of mediation discussed at KwaNkosi are related to land ownership, assets, livestock, and children's affairs. If there is a marriage certificate, the case is handled by the magistrate's court" (MaMkhize).

"KwaNkosi is where the final decisions are made. However, in case of a marriage separation, the matter is referred to court (Laughing out loud). I also separated from the father of my children. What was the procedure? (She asks herself, trying to remember the process). The marriage certificate is torn in court. The families and spouses are reminded of cultural tradition, particularly in the event of marriage separation. The separation process is clearly explained, together with issues regarding family responsibilities, children, livestock, and land. If the spouses decide to reconcile, they are allowed to do so. If they separate, the chief refers the matter to court, and the date and time are scheduled for court processes which include the signing of the marriage separation (ukudabula incwadi, in IsiZulu, or tearing of marriage certificate in English)" (Gogo'Ngihluphile).

"If the final separation agreement is sealed on the same day, the elders, Baba'Nduna and SAPS accompany the wife with her family to collect her belongings" (Gogo'Zondeleni).

"After KwaNkosi's marriage mediation session, a marriage may be dissolved in two distinct ways. First, the families may mutually agree on the date when they will meet in court for the signing of a marriage separation certificate. Second, the couples may decide to conclude marriage separation without going to court. This is what we did; we simply

went our separate ways without going to court. The chief instructed Baba'Nduna and other family elders to accompany me to my husband's family homestead to collect all my belongings, which included impahla yokwaba (furniture that was brought by the bride-to-be during the wedding day). Livestock, such as goats and cattle, were transported after the family meeting. All the children were returned to my home, but when they were old enough, they all voluntarily returned to their father's family homestead. However, my oldest son stays with me. He often visits his father's family homestead" (Ma'MKhize).

"My daughter, if the matter continues, it is referred to KwaNkosi (chief's homestead) and the decision is marriage separation. The chief refers the matter to the magistrate's court where the marriage certificate is torn. The chief of any other person assigned by the chief to facilitate the mediation takes charge of this mediation. The mediation consists of me, my committee, the involved families, and the married couple. Couples are afforded an opportunity to express their opinions regarding the matter. Family members support spouses, and they are also allowed to add where couples could not express. The aim is to provide an in-depth understanding of the matter to the chief's committee and the chief. I must also give an in-depth description of what happened and the decision we took when the matter was referred to me. Efforts to save the marriage are also discussed. Even though KwaNkosi is the last mediation level, couples are given an opportunity to state their wishes regarding their marriage. If they are not decisive, they are given another opportunity to think about the matter. They are even allowed to amend. The chief's committee provides them with marriage-related education and psychosocial support. The adverse consequences of separation are discussed as part of the mediation process. Regardless of their decision, their behaviour, feelings, thoughts, and the state of marriage is addressed" (Baba'Nduna).

Marriage separation has a significant psychosocial impact. The indigenous setting uses a combination of individual resources; the family, community, and cultural resources. These are designed to ease the impact of the event itself. The above extract indicates that KwaNkosi is the final place for the mediation of marriage separation, as the couples are helped to reach a mutual agreement regarding marriage separation, livestock, land, properties, and the well-being of children. Interestingly, all the agreements are not written down but the family and community

elders bear witness to the agreement. The participants further alluded to the point that the conclusions relating to marriage separation are not made during these series of mediation, but are made at the magistrate's court.

4.4.5 Spiritual being as part of the mediation

- **Ancestors/inhlawulo/ukushweleza**

Indigenous African people are strongly influenced by their belief systems. Beliefs in their ancestors play an integral part in determining the African indigenous environment, the Africans' pattern of thinking, and how they approach and interpret the world around them. A ritual called *ukushweleza* (apologising) is an important aspect of marriage mediation. All the participants described *inhlawulo* (the offering) as an important ritual in reconciling and re-building a family.

"When I experienced problems in my marriage, my friend advised me to burn impepho (incense) and communicate with the ancestors, asking for their assistance in the return of my husband. After a week or so, he eventually returned home. So, I love to listen to the Ukhozi FM radio station where I heard my husband's voice passing greetings to me and my daughter. I was so shocked because I didn't expect it. A week or so later he returned home. My child, I respect Zondi's ancestors because anything that belongs to Zondi is protected. Umamezala feared losing me; she became emotionally ill. Umamezala and my husband's brothers intervened on many occasions using different approaches but without success. However, once I burnt impepho, my husband returned home. All his brothers converged for an urgent meeting with him" (Mama'Zondi).

"If the family mediation requires reconciliatory remedies, the rituals of reconciliation must be practised. Normally, a family who wronged a spouse or who is the cause of the marriage separation must pay the offering (inhlawulo) in the form of a goat or cow, depending on the families' agreement and the gravity of the matter and its impact. The practice signifies reconciliation (ukuhlambuluka). If the agreement is reconciliatory, the rituals for reconciliation are also discussed, depending on the cause of separation and the ritual practice may include a goat or cow and the spiritual being (ancestors). Sometimes, the families may consult with a traditional healer before practising the ritual of reconciliation" (Mkhulu'Njoloba).

“As an expression of apology, the person who is guilty of causing the matter is compelled to offer a cow or goat to acknowledge wrong-doing, and to apologise, and cleanse the physical and ancestral family” (Baba’Phoyisa).

“A spouse who is the cause of the breakdown of the marriage may be compelled to pay the offering. Then, the inhlawulo is used during the ukushweleza ritual, where a cow or goat, particularly a white goat is used; however, inhlawulo is a practice that depends on the nature of the cause of the separation and the agreement between the families” (MaMkhize).

The practice of *inhlawulo* is central to the reconciliation of the African indigenous family. The practice of *inhlawulo* is prevalent in all mediation systems. The participants described *the practice* as a significant component of mediation. In the collective mood of the oneness of mind, body, and spirit, *inhlawulo* is part of *ukushweleza*, which is the extension of an apology to the ancestors. The participants stressed that if a person does not have some spiritual anchor, he or she may be literally blown away.

Most participants described the ritual of goat slaughtering as an important symbol of reconciliation not only between the living beings but also between the living and their ancestors. This process includes the slaughtering of a goat, particularly a white one, burning of *impepho* to communicate with the ancestors asking for guidance and clarity, which is commonly known as *ukushweleza*.

The African culture and tradition are holistic (Mkhize, 2016). Insights from UMama’Zondi’s marriage experience, demonstrate the importance of the ritual of introducing the wife to the husband’s ancestors using the bile of a goat. Admittedly, the ancestors are a fundamental source of knowledge, psychosocial support, help, and guidance.

4.5 Section D: Children’s participation in African indigenous marriages and divorce matters

4.5.1 The role and significance of having a child in an African indigenous marriage

Marriage tells a story of continuity and change; a dance of movement and growth (Zibane, 2017). Rites of passage in the indigenous African community are part of human development and they continue throughout the physical life of a person (Thabede, 2005). Thus, procreation is a new role

for married persons (Thabede, 2005; Mondlana, 2019). The participants highlighted the role and significance of having a child in an indigenous marriage. They said:

“Childbirth is an ancestral blessing for marriage. A couple enters into marriage in order to grow their family amongst other things. Therefore, procreation is a highly anticipated phase, which is exciting and celebrated. It is a blessing that everyone anticipates after marriage” (Gogo’Magencane).

“I’m now addressed as unina ka Nokulunga, umakoti ka Zondi, which means Nokulunga's mother, not as Zondi’s bride” (Mama’Zondi).

"Truly, a home is a home because of children and without them, the surname and the clan lineage may disappear to such an extent that the husband experiences the pressure to marry another wife" (Gogo’Maspeke).

“Culturally, getting married means finding a partner with whom to collectively build a home; thus, having children is very important because it signifies the growth of the family and nation. People who cannot procreate or bear children are called names such as inyumba (woman who cannot conceive a child). My daughter, this is not a pleasant name. In case of failure of procreation, isithembu (polygamous marriage) is practised, a cultural alternative intervention meant to save a marriage in indigenous societies” (Baba’Nduna).

"In cases where the husband is infertile or sterile, his brother can perform the sexual duties and fertilises the wife on his behalf, and in this way, the marriage is saved from breaking down. In cases where the wife cannot conceive, the husband may marry another wife but may keep the first wife" (Baba’Phoyisa).

The participants indicated that the most anticipated phase following marriage in the African indigenous context is conception and childbirth, which Thabede (2005:72) perceived as a “religious obligation in which a human being provides the seeds of life”. In this context, childbirth can be understood as a marriage rite of passage. Thabede (2008) and Hlatshwayo (2017) concur with the perceptions of the participants when they argue that it is childbirth that finally fulfils a marriage status. Similarly, Mkhize (2011) perceives a child as a seed and a blessing given to a married couple by the ancestors, and it is the bride's way of expressing her self-worth in the eyes

of the family. Through childbirth, the spouses earn the greatest respect from the family and community. The birth of a child signifies the growth of a marriage.

Every phase of life is significant. The participants highlighted that childbirth is a symbol of a marriage in its transitional phase from *umalokazane* to *umama* and from *umkhwenyana* to *ubaba*. One participant provided a practical example of how childbirth changed her marriage status:

“I’m now being addressed as unina ka Nokulunga (Nokulunga’s mother), and not as umakoti ka Zondi (Zondi’s wife)” (Mama’Zondi).

In this context, Nokulunga represents her mother and father; thus, the child is involved in family life at a very early phase of human development. This demonstrates the element of child participation in the indigenous marriage setting. This further demonstrates that every person in an African indigenous family has a developmental task at every phase of human life and development. Similarly, Zungu (2016) argues that every member’s role becomes their focus of existence.

4.5.2 Child participation in African indigenous marriage and family rituals

Child participation occurs in different family settings in the African culture. It builds the family’s foundation and promotes its growth. During a discussion on child participation in the indigenous marriage divorce processes, the participants insisted that the researcher should first understand child participation in the family environment and the kind of child participation that happens during the period of *ukugcagca* before delving into child participation in divorce matters. The participants perceived child participation as follows:

“In our culture and tradition, a child is acknowledged and recognised as umuntu while motherhood is recognised in a wife’s conception and early pregnancy” (Mkhulu’Ngubane).

“You see, Magqumbu’s child, even if the baby is miscarried, a traditional ceremony should be done for the child” (Gogo’Ngihluphile).

“During my pregnancy, umamezala (my mother-in-law) informed the ancestors about my pregnancy. My biological family also informed the Gwabuzela ancestors about my pregnancy, asking them for protection” (Mam’Zondi).

"When umakoti is pregnant, it is significant that she informs her husband and his parents so that cultural rituals are performed at a family level. The family also reports the pregnancy to the ancestors as a way of acknowledging the blessing and asking for protection" (Gogo'MaGadi).

"My daughter, when you announce the earliest period of pregnancy, the groom becomes indescribably happy and instantly reports the issue to his mother who also reports to his father for him to perform cultural practices and ask ancestors to protect the unborn baby and the mother" (Gogo'Magencane).

The extracts above recognise a child as a person (*umuntu*) as early as the conception or gestation phase. This is confirmed by a series of cultural rituals. The extracts cited above contend that cultural rituals facilitate a child's autonomous being and participation in the family environment. A child is considered an autonomous being through ritual practice and a rite of passage. The child is introduced into the family system from the period of conception. Other rites are performed throughout the phases of the child's life cycle, which also serves to prepare the welfare of the child in the family environment (Mondlana, 2019). The period stretching from pregnancy to childbirth is regarded as the responsibility of the whole family, the physical family, and the spiritual or ancestral component. As alluded to by participants, in the IsiZulu language, miscarriage is referred to as *ukuphuphuma*, and the indigenous traditions and cultural practices promote the participation of a child including that lost during the early stages of pregnancy. A child forms an integral part of a family; hence, ritual activities are performed to integrate the child's spiritual being into family life. Arguably, these are forms of child participation in the context of African indigenous communities. Notably, the rituals are not discontinued at conception and childbirth as they are performed throughout the significant phases of a person's life.

4.5.3 The ritual of imbeleko (introducing the child) and umamulo

The African culture creates various opportunities for child participation in the family environment. The participants described the practice of *imbeleko* and *umemulo* as essential practices that promote child participation. They said:

"Imbeleko is an important rite of passage that serves to name and introduce the child to the physical family life and the ancestors" (Mkhulu'Njoloba).

“When a girl-child has reached a certain development phase, umhlonyana is another rite of passage that is mostly performed for her. During such activities a goat is slaughtered, impepho is burnt, and indigenous songs are sung. During umhlonyana, the girl is accompanied by her girl cohort” (Gogo’MaGadi).

The participants described the rituals of *imbeleko* and *umemulo* as demonstrative of child participation in African indigenous communities. These indigenous practices and rituals play a critical role in shaping the child’s well-being in indigenous families. African indigenous cultural practices acknowledge and create the child’s welfare within the family and community. In the African culture, the naming of a child has never been taken lightly, as it is through this process that the child is conferred with identity, and made to converse with the past, present, and future (Biko, 2007; Sifunda, 2019). These cultural rituals engender the child's identity, roles, and responsibilities within the family and the community at large. Apparently, the African culture encourages child participation at every phase of human development. For example, the late Black consciousness activist Bantu Biko was named ‘Bantu’ by his parents, a name that translates to “he who loves people”, and true to his name, he fought for humanity (Biko, 2007).

4.5.4 Indirect child participation in divorce matters in the African indigenous family system

The essence of the communal being is encapsulated in the statement: “when he suffers, he does not suffer alone but with the group, when he rejoices, rejoices with his kinsmen, his neighbours and his relatives whether dead or living” (Mbiti, 1990:106). This implies that a child is inseparable from his or her family system. Therefore, whatever affects family life, affects the whole family system.

“Children are so sensitive that they can easily attract negative spirits. They can sense every phase of family development. They can also sense the atmosphere of their parents and can enquire into the whereabouts of their mother if the marriage separation has occurred through ukuxoshwa or ukumuka. Children must be addressed in due course. It is common knowledge and practice that grandparents communicate with their grandchildren. In the absence of grandparents, the husband’s sister or another person who is facilitating the mediation process, such as Baba’Nduna, also assumes the responsibility of addressing children’s needs” (Gogo’Magencane).

“Regardless of the kind of conflict prevailing at home, grandparents or aunts are mostly responsible for communicating with the child. Due to their experience, grandparents understand the child’s verbal and non-verbal language. Despite his or her age, a child has his or her way of responding to or sensing a family atmosphere” (Gogo’Khumalo).

“Marriage that involves children is very sensitive. However, our cultural traditions are transparent. A child belongs to the paternal family if the lobola and other cultural rituals are maintained. So, it depends on a child's phase of human development; nonetheless, our culture sanctions that breastfeeding children stay with their mothers. Those children who can communicate their opinions may choose to stay with their mother or decide otherwise. However, it is preferable that they remain with the paternal family. Since their surname belongs to the father's family, their movement must be communicated to their ancestors, though it is always best to allow them to choose where they want to stay. Naturally, they will always come back if they want to stay with their mother. Whether the children stay with their mother or father, parental roles and responsibilities remain the same. Even if the children stay with their maternal family, their needs must be communicated to both parents. The dynamics of interaction are discussed during the mediation with the person who will stay with the children” (Baba’Nduna).

"Children often face challenges emanating from their parents' marriage separation. Since the transition is different, it affects the whole family, including breastfeeding children and ancestors. Grandparents, aunts, wife's sisters, and the husband's sisters communicate with the children most of the time, depending on the social order. They communicate with children at an individual level depending on their development phase. The children may seek information in different spaces. Where the parents' psycho-social state is affected, parents should minimise communication with children. Children are not denied the chance to attend the mediation session but it is not advisable because mediation is not a child-friendly environment; however, it, depends on their phase of development. Therefore, it is safe to exclude children” (Mama’Mhlokozi).

In an African indigenous setting, it is believed that human beings are spiritual beings that are connected to their *umsamo* and parents (Mkhize, 2011). In indigenous communities, children are therefore believed to be born into a family that is inclusive of the extended family and the

ancestors. Child-rearing is a collective responsibility that includes both child representation and psychosocial support, thus ensuring the well-being of children (Mkhize, 2004). Furthermore, the communal nature of demonstrating an important source of psychosocial support available to both the divorcing parents and their children throughout the divorce process. In the event of divorce, parents may not be available to provide emotional support to the children. Therefore, the extended family provides an optimum framework for children's well-being.

Most participants indicated that the extended family plays a significant role, with grandparents providing the primary support structure. They know issues affecting children when their parents are separating; therefore, the emphasis is not much on representation, as such matters are collectively addressed. Rather, the emphasis is on the dynamics of communication when addressing the child's needs. These issues are also collectively discussed during the mediation process; the person who facilitates the mediation of any other person involved in that capacity can probe into what happens to children when their parents are separating. The matter can be discussed collectively. Though the children may decide for themselves, their decisions are often fluid, and they may reverse them as they grow. Culturally, the child's identity relates to both paternal and maternal families, depending on the cultural traditions and rituals the child may use his or her father's or mother's surname. Thus, in this context where parents are married, a child is accorded his or her father's surname.

4.5.5 Direct child participation in divorce matters in the African indigenous family system

African indigenous families believe that a child is a blessing from the family's ancestors. The child's role is culturally defined and relates to their phase of development and the sequence of childbirth from the firstborn to the last-born child. With regards to family life, the participants identified the distinctive roles played by firstborn children in their parents' divorce matters. These children are known as *umafungwase/inkosazana* (a girl-child) and *indlalifa/inkosana* (a boy-child). The participants expressed the following sentiments:

“In our culture, we have our dynamics or patterns of communication, which facilitate the transmission of messages from one person to another or from one generation to the next within the family. Our tradition also engenders ways of involving a child in family issues. Actually, we have family structures and organisations that maintain balance and order

within the family. Our family system is perhaps the most organised one. Every family member has a significant role to play in the well-being of a family, depending on the birth sequence, development phase, and family systems. The birth sequence influences a child's family task. That is why certain names signify children's birth sequence, such as umafungwase (the firstborn girl-child) indalifa (firstborn boy-child), and uthumbu (last-born child). All these names embody certain roles and responsibilities in the African indigenous family system. For every family development, umafungwase and inkosana must be involved; of course, we must be mindful of their phase of development. In most cases, they are either physically involved, or the matter is communicated to them, or they are allowed to express their opinions" (Mkhulu'Njoloba).

"Umafungwase and inkosana are often involved in family discussions, depending on the nature and intensity of the matters being discussed. They are informed about any changes taking place in the family, including significant family decisions. Thus, it is not advisable to involve children in a conflictual environment to avoid causing psycho-social harm and negatively affecting the child-parent relationship. In my case, your brother (referring to her firstborn son) was physically present; however, the elders always addressed him and other siblings" (Ma'Mkhize).

"You know, Magqumbu's child, the traditional culture stipulates that the oldest child is the one who represents all the other children in many instances" (Gogo'Maspeke).

The participants explained that African indigenous family systems include social organisations and orders suited to address their needs. Thus, every person has a certain role within the family, depending on their phase of development and position in the birth sequence. Their roles are culturally defined; for instance, the participants in this study illustrated that one of the roles of the firstborn child is to represent their siblings in family matters. This role is not limited to parental matters, as it is a daily pattern of communication underpinning indigenous families. Further, the role of the firstborn child is not limited to monogamous marriages; rather, it also manifests in *isithembu* (polygamous marriages). Similarly, Zungu (2016) emphasised the view that every member has a role to play, which becomes their focus of existence. The phase of life and the environment influence certain roles at different levels of the family environment. For example, the participants indicated that at a certain phase of life the girls are exposed to important cultural

aspects by *iqhikiza* (mature lady). Moreover, in the early phases of preparation for the wedding, couples are taught crucial aspects of indigenous marriage by community elders. Similarly, Mondlana (2019) adds that girls are taught crucial cultural aspects by their mothers or older female relatives or community members. Boys are taught crucial cultural aspects by their fathers or older male relatives so that they can positively influence the prosperity of the clan in subsequent generations. In the case of the father's death, the brothers of the father assume responsibility for the child even without the practice of levirate (*ukungena*) (Zungu, 2016; Mondlana, 2019).

The participants maintained that the family structure, system, and organisation determine roles that are in harmony with the well-being of the family. It is against such an understanding and respect that a series of rites of passage provide developmental tasks and statuses that are constructed based on indigenous practices, which include conferring the family name on a male child (Mondlana, 2017). Children are afforded certain developmental tasks to accomplish depending on their phase of human development.

The African indigenous knowledge system is the basis of knowledge that its meaning can only be printed by African indigenous people. In the case of family disruption, the clan's social organisation assumes paramountcy in the indigenous community, and the extended family provides an optimum framework for the well-being of the child. The collective mood of communal being is central to psychosocial support. For example, an extended family is a support unit that comprises grandparents, uncles, aunts, the broader community, and such administrative figures as uBaba’Nduna. All these facets play a vital role in raising children, which is inclusive of representation, psychosocial support, and ensuring the well-being of the child. Mediation is an ancient practice and a system that has been addressing the needs of the child in the context of indigenous people.

The participants identified two ways in which children participate in family life. Most participants stated that depending on the family social structure, balance, and orders, child-rearing is a collective responsibility. Grandparents, with their life experience, often have a friendly way of communicating with children. In the absence of grandparents, due to several reasons such as death, the responsibility is assumed by uncles and the husband’s sisters or wife’s sisters. This demonstrates that the community, family formation, and social structures in indigenous

communities are not mere cultural traditions as they also address children's needs. Indeed, as the notion of the African famous proverb highlighted above “it takes a village to raise a child”, this sense of communal being embedded in the indigenous family system goes beyond just being an indigenous way of life, but a practical system of parenting that addresses the needs of the child in the context of African indigenous people.

4.5.6 The children, planning, and arrangements after divorce mediation in African culture

In the African culture, the child's sense of identity is influenced by both the maternal and parental family sides. The participants described this sense of belonging as follows:

“Our cultural tradition sanctions that the identity of children belongs to both the paternal and maternal families. Therefore, in the event of a separation, the tradition remains the same; however, children are allowed to voice what they want. They may choose to return with their mother or remain with their father. However, for children who cannot communicate their needs, our living tradition directs that they go with their mother. They usually return to their father's family as time goes on. In our case, we have six children, and out of that number, two remained with their father while four stayed with me. They are free to visit their father if they want to. My firstborn son was the first to know about the news of our separation, as he was part of certain mediation sessions. When the children were not physically present, the elders communicated with them depending on their developmental phases. The children choose to communicate with the person whom they want, and normally it is their grandparents, the former husband's sisters, or wife's sisters. Their paternal grandparents play a huge role in providing psychosocial support, ensuring that the needs of the children are addressed, simultaneously maintaining the relationship between the two families” (Mam'Mkhize).

“Our culture allows the child to visit their paternal family, even staying with them for a certain period. Thus, the child can permanently stay with their paternal family if it has maintained appropriate cultural practices, including the payment of damages. These are commonly practised cultural laws; so, in the event of a marriage separation, arrangements that involve children are central to the mediation initiative and our cultural tradition is clear on that aspect. Breastfeeding children normally go with their mother and those that

have grown into young adults decide for themselves. The ancestors must be informed that the children are going with their mother. When the children are grown up, they are allotted pieces of land by their paternal family, and they get a share of livestock. The home bears their father's surname” (Baba’Nduna).

“The separation in a marriage should not affect the well-being and welfare of the child” (MaMkhize).

"Once the father has performed the necessary cultural traditions such as payment of damages (inhlawulo) or lobola, the child belongs to his clan and ancestors. However, if the wife returned to her parent's home with children, it must be a mutual agreement that must be reported to the ancestors. The children are allowed to visit their parents. When the children have attained adulthood and financial stability, it is by a cultural tradition that they should re-build their father's household, till the land, and obtain livestock that is distributed by their paternal grandparents" (Gogo’Maspeke).

“Upon request, children are allowed to visit the parent or parents they do not stay with. The request must be communicated to the children’s grandparents or their father’s sisters if they stay with their paternal family. All these changes must be communicated to ancestors for the protection of the children” (Gogo’Magadi).

"You see my child, even if the children go with me, our tradition sanctions that if their father wants to see them, he will let me know or inform their grandmother. The agreement is made on any form of communication. Our arguments should not be detrimental to the well-being of the child. Our culture emphasises that a child should have a strong relationship with his family. The child must be at his or her home during family cultural rituals. In that context, child-rearing is a collective responsibility. Children's needs are collectively addressed by the family, which includes ubabomncane, ubabomkhulu, umamncane, and umamkhulu and grandparents play an important role in meeting the child's psychosocial needs" (Mama’Mhlokozi).

"Whether the children have to go with their mother or it is only the mother who will be going after separation, the process is also reported to ancestors. Equally, children are allowed to visit their non-resident parents. Similarly, the parent is also allowed to see the

children. The woman who got married to the father of these children is customarily obligated to adopt them as her own” (Mkhulu’Ngubane).

Marriage separation assumes different epistemologies in different cultures. The participants indicated that when the marriage ends, the African indigenous culture demands that children will not only have to leave behind one of the parents but both the physical and the ancestors' family as well (Thabede, 2005). The children may be separated from grandparents, father's brother (*ubabo'mncane* or *ubabo'mkhulu*), and mother's sister (*umama'mncane* or *umama'mkhulu*). The ancestral component is an important part of family arrangements, given that ancestors are believed to provide guidance, protection, and harmony, just in the same way they can bring destruction if they are disrespected (Hlathwayo, 2017). The above extract captures GogoMaspeke as contending that “*when the wife returns with children, it must be reported to the ancestors*”. Blackie (2014) emphasises that in African indigenous communities, ancestors have power over the children and all the descendants in the family since they are consulted at every phase of human development marked by rituals and practices that are specific to the clan.

An IsiZulu proverb says: “*intandane enhle nguma kothwa ngunina*”, which can be translated in English language as children left with their mothers are better off (Nyembezi & Nxumalo, 1966; Zungu, 2016). The proverb in question embraces the capabilities of a woman while advocating the woman's right to reside with the children. The participants stated that a breastfeeding child goes with their mother, and visitation arrangements are emphasised as they form an important part of the child's development as it connects the child with the family, land, clan roots, and ancestors. The child's identity is rooted in both parents' families and ancestors; so, it is very important that the child visits their paternal or maternal family homestead (Mkhize, 2011). If a child is staying with their mother, it is emphasised that the child's surname should not be changed, as changing it is believed to provoke ancestral anger. It may have a negative impact on a child's well-being, sense of belonging, and identity (Gerrand & Nathane-Taulela, 2013). In this context, indigenous communities play a vital role in supporting the continuous connectedness of the child to their land, community, and family as communities provide language and cultural identity for the entire family, including the extended family (Mondlana, 2019). The participants argued that marriage separation should not be strenuous on the parent-child relationship.

The participants highlighted the centrality of visitations, whether a child has returned with their mother to the maternal family or has remained in the paternal family. Mkhize (2011) contends that a child's identity hails from maternal and paternal families. This promotes a harmonious relationship between the child and two families. Even if spouses have separated, the families continue to respect each family's integrity, communicating to address the needs of children using different approaches appropriate to the families and the children. The participants emphasised that children are allowed to visit both parents, but this must be communicated appropriately through grandparents, the wife's sisters, and the husband's sisters. The collective mood characterising indigenous families addresses children's needs.

4.6 Conclusion

The findings of the study depict insightful information regarding how children, directly and indirectly, participate in mediation of divorce matters. The participation of children was revealed in the perceptions shared by the research participants on the structure, nature, composition of African indigenous marriage formation and separation, and the processes, and rituals underpinning the cultural institutions. This chapter discussed mediation not as an incidence but as a way of life that is embedded in the African indigenous marriage and family systems. The chapter demonstrated that in indigenous African communities, family mediation is not initiated as a response to a marriage dispute but begins during the initial phase of love negotiations (*ukushela*). Therefore, mediation has been discussed as an accessible, appropriate communication platform, a unit of psychosocial support, and a costless emotional support system embedded in African indigenous settings. Indigenous mediation is a fundamental mechanism that serves as a therapeutic mediation as opposed to writing, which enhances a peaceful community unit. In this case, family transformation involves the language of peace and collaboratively builds a reconciled family. Mediation provides opportunities for addressing issues endangering relationships, improving communication, establishing ground rules or boundaries, or developing the structure for future relationships.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

The previous chapter presented findings of the study, which emanated from the thick and rich discussions on how children from the indigenous community of Mabomvini in uMsinga participate and mediate during the legal and non-legal divorce proceedings. The first section of this chapter presents the key findings of the study, which are informed by the research questions. Therefore, this section presents key findings that addressed the aim and objectives of the study. The second section presents the recommendations and the conclusions that emerged from the findings of this study.

The key objectives that the study addressed were:

1. To describe the nature, composition, and structure of divorce mediation in indigenous African marriages.
2. To identify the practices and procedures that are currently in place in indigenous African society to promote children's participation in their parents' divorce.
3. To understand factors that determine child participation in indigenous African divorce matters.
4. To understand who represents and takes a decision on behalf of children who are not capable of expressing their views.

5.2 Major conclusions that are aligned with the objectives of the study

5.2.1 Objective 1: To describe the nature, composition, and structure of divorce mediation in indigenous African marriages

Sections 21 and 33 of the South African Children's Act (2005) provide the mandatory referral of child-centered disputes to mediation. The act further obligates divorce disputants to undergo the mediation process as a first attempt to settle their divorce dispute. The current study revealed that, in the Mabomvini community, mediation is understood as a process and a way of life rather than

a resolution in divorce matters. The scope of mediation practice and procedures in indigenous African family system is not confined to resolving marital issues. In this community, mediation is deeply embedded in the rituals and traditions associated with family life, particularly the processes and the structure of African marriages.

In the context of marriage, the findings illustrated that mediation begins in the initial phases of marriage, namely *ukushela*, *ukuqoma*, *ukubonda*, *ukulobola*, *ukubika*, and *ukugcagca*. These words are the cornerstone of an African marriage. They present many opportunities for mediation by children and/ or by adult members of the community who represent the children who are not yet born, those who are already born, and those who have departed. The understanding gained in this study revealed that African couples are part of a more extensive and complex family structure that recognises people who are alive, those who have departed, and those yet to be born. Details on how mediation happened during the marriage phases were presented in the previous chapter.

The findings illustrated that mediation in divorce matters constitutes five types of mediators. These are mediation by *umamezala/ubabezala* (the parents' in-law), *umndeni* (the family), *KwaNduna* (the headman), and *KwaNkosi* (the chief). The intervention of these mediators takes place as a process and it occurs in different phases. For example, the mediation process cannot begin with *KwaNkosi* before the parents-in-law have intervened. However, this does not mean that the case cannot be sent to *KwaNkosi* first if one of the couples is not happy or trusts the mediators at the other levels. The correct order is that mediation intervention begins within the family, from *umamezala* through *umndeni* to *KwaNduna*, and *KwaNkosi* is a final phase of marriage mediation. The consensus is that the nature and process of mediation do not provide a neat conclusion. Everyone who forms part of mediation is allowed to express their opinions. The process of mediation in African marriage suggests that all members who form part of mediation are known to the family and community. The process is open, transparent, and confidentiality is shared among the members of the mediation. On the contrary, mediation in the legal fraternity primarily involves disputants, and the mediator may be a social worker or family advocate (Boniface, 2012). Depending on the nature of the matter, findings indicated that the mediation process may take place at the husband's family homestead or wife's family homestead or under a tree.

The findings also highlighted that mediation in indigenous settings constitutes a combination of individual resources, family, community, and cultural resources. The process of mediation in indigenous African marriages suggests that the family structures were primary sources of psychosocial support in marriage mediation; not only in the event of marriage separation but from the initial phase of marriage. The family and community elders play a significant role in mediation in African marriages. Further, findings suggest that in African marriages, resources are not limited to physical beings and materialistic resources, thus all elements of cosmic orders are involved. The study revealed that all levels of mediation processes constitute the elements of the spiritual world; the ancestors. The community of Mabomvini understood ancestors as resourceful beings in the ecological community of African culture. For example, the study highlighted *ukushweleza* rituals as part and parcel of African indigenous marriage mediation. The ritual includes offerings associated with the extent of the matter and family life.

5.2.2 Objective 2: To identify the practices and procedures that are currently in place in indigenous African society to promote children's participation upon their parent's divorce

The findings demonstrated that in African indigenous families and marriages, there are many layers of messages, tangible and intangible heritage values, and belief systems that are central to child participation. The participants in this study understood cultural rituals including *imbeleko*, *isiphandla*, and *umemulo* as part of child participation in an African culture-centred family. The nature and process of these cultural rituals facilitate the child's autonomous being and participation.

The findings indicated that the African indigenous tradition and culture extend child participation beyond the South African law of persons, which does not confer any right to an unborn child unless the *nasciturus rule is applied* (born alive rule) (Pillay, 2010). This rule suggests that the constitution does not recognise and render personhood for children who departed during pregnancy. Having a legal personality begins at birth, and not at conception. However, the findings indicated that child participation in the Mabomvini community extends beyond the limitation presented by the South African legal framework, which considers child participation only if the child was born alive. The African cultural tradition presents an opportunity for participation and recognition for a person as early as during the period of conception or gestation. This tradition

suggests that even if the mother had a miscarriage, the family presents an opportunity and recognises people who are alive, those who are departed, and those still to be born. The tradition suggests that child participation is more than the physical or a child's voice in divorce matters. Still, child participation is also embedded in a child's nature of being and cultural identity.

The importance of having a child in African-centred families and marriages is also a significant part of the findings of this study. The study highlighted that childbirth is a symbol of a transitional marriage phase from *umalokazane* (daughter in law), *umama* (mother), and *umkhwenyana* (son in law) to *ubaba* (father). A child gives the parents new identities and positive standing in the family and community at large. For instance, by being referred to as '*Nokulunga's mother*', one achieves the following: graduating as a wife, which is a transition from being just a partner to her husband; being a bearer of life, which results in the expansion of a family- and ensuring that the family name lives; it solidifies the relationship between the wife's and husband's families because the child is a result of a twin-lineal system and the family, and the marriage is recognised in the family and the community – the mother is linked to the family and the community forever.

The findings of this study illustrated that during divorce or marriage separation, the firstborn child of a consenting age represents all other siblings during the family and community mediation sessions. This does not mean that young children are not represented during mediation. The children may communicate their choices with their next of kin either verbally or non-verbally outside mediation. Individuals that are considered as the children's next of kin could be their grandparents, mother's sisters or brothers, and father's brothers or sisters. This suggests that it is not always necessary for the child to be physically present during marriage mediation. The mutual agreement is not based on the written document. Thus, the agreement is based on the interest of a child; a child may change her mind as she experiences life. Culturally, it is believed that the best interest is to remain or to stay with the paternal family. However, if a child stays with his/her maternal family, it is a cultural tradition that the child must use her father's surname.

In Chapter 4 of this study, ancestors were presented as an integral part of marriages, divorce matters, and the birth of a child. The understanding gained in this study highlighted that the Mabomvini community believed that any unresolved family matters may anger the ancestors, which may culminate in different forms of misfortunes for the family and children (Blackie, 2014). This belief system suggests that child participation in African culture-centered families is not always direct and involves physical family members and ancestors too. Divorce matters are emotive and may trigger emotions among family members, something that may have implications for decisions that affect the child. Thus, the findings of this study concurs with Mondlana's (2019:21) view that "ancestors are an integral part of the African culture-centered family systems." Moreover, in this study, the participants believes that the ancestors better understand the spoken and unspoken family needs. Therefore, if the decision is not best suited for a child, the ancestors may force the families to reach a mutual agreement or change the decision. The findings suggest that in African culture, the individual is in daily contact with his/her ancestors. Further, the findings indicate that in the Mabomvini community, ancestors play critical roles that include promoting harmony, balance, order, and justice in family life and African marriages. In this regard, the belief systems in African-centred culture require that the needs of children are addressed precisely to avoid misfortune that emanates from the ancestors' displeasure.

5.2.3. Objective 3: To explore factors that determine child participation in indigenous African divorce matters

The findings in this study demonstrated that there are many African cultural traditions, values, and belief systems that provide an opportunity for child participation in marriage mediation. The findings demonstrated that the communal being is central in the dialogue and activities of the ecological community in Mabomvini. With such an understanding and respect, a child's identity belongs to both the maternal and paternal family. However, the child should be identified by the father's surname even if the parents separated. Hence, it becomes the shared responsibility of families to facilitate collaborative psychosocial support that addresses the needs of their children. It is a cultural tradition that the child visits a family whose parent is a non-resident, mainly if there are cultural family rituals. Further, indigenous ways of divorce mediation are child-centered. Hence, those indigenous ways do not alienate the child from their biological parents and families. Instead, they create a space and arrangement where the child participates in both families. These

mediations provide psycho-educational support to families with a clear procedure and cultural traditions, knowledge, and belief systems.

The African culture-centered family is sensitive in handling matters that relate to marriage, children, and their well-being. Marriage mediation may present factors that may be detrimental to the well-being and dynamics of the family and children. Therefore, the nature of marriage mediation, the cause, the relationship between the couple, and the relationship among maternal and paternal families also determine the nature of child participation. The child's phase of development is also considered to determine the nature of child participation in an African marriage mediation.

The findings indicated that depending on circumstances, there is no need for children to attend the marriage mediation because marriage matters are child-centered in the African culture. It is not healthy for any child to witness their parents in an unstable emotional state. A child may participate outside the marriage mediation in a child-friendly and language-appropriate environment. For instance, a child may have a conversation with their next of kin, such as grandparents or other extended family members. The next of kin may also observe the child's nonverbal cues, particularly in determining whether the child wishes to stay with the maternal and paternal family. According to the findings, some decisions are influenced by the ancestors.

The findings indicated that family formation and structures also facilitate a generational role of family members in family life. For instance, the findings highlighted the sequence of birth of siblings. The findings revealed that in an African culture-centered family, the sequence of birth facilitates a role and responsibility of every child in family life. For instance, the findings alluded that, if necessary, a firstborn child (*inkosana* and *umafungwase*) can represent his or her siblings in family activities including divorce matters. The concept of child participation is understood in the context of their role in indigenous African marriages. Furthermore, the participants in this study understood that in an African culture-centered family a person remains a child throughout her or his life. This suggests that a child is understood as *umuntu* (a person), that grows with roles and responsibilities.

5.2.4. Objective 4: To explore the extent of the rights or volition of children who are not capable of expressing their views represented in indigenous African divorce mediation

The findings presented many opportunities for mediation by children or by the adult members of the community who represent the children who are not yet born and those who are already born and those who have departed. The findings significantly demonstrated a great value on marriage and procreation in the African culture-centered family. Therefore, the process of marriage mediation in African culture is child-centered. As a result, in most cases, a child doesn't need to attend a marriage mediation. Much emphasis is not given to child representation because there is no battle, matters are collectively addressed and child-rearing is a collective responsibility. Traditional leadership, such as the headman and chief, as well as senior community members, facilitate the mediation process therefore it is their responsibility to ensure that the needs of the children are given due consideration.

The African proverb *ingane yami ingane yakho* “it takes a village to raise a child” came alive in this study. The findings in this study illustrated that in the event of marriage mediation, parents may not be emotionally available for the children. Therefore, the extended family provides an optimum framework for a child’s well-being. For example, grandparents are also identified as the primary support structure to children and separating parents. Suppose grandparents cannot take over the children for whatever reason (or have died), the responsibility of looking after the children is left to the next generation, depending on family formation and structures. In this case, the findings highlighted that the next generation might be the child’s father, brothers, and sisters, and the child's mother, sisters, and brothers.

In light of the above, Mondlana (2019) argues that in African culture, cantered family, your father’s brother is your father as well (*ubab’omncane* or *ubab’omkhulu*) and your mother’s sister is your mother as well (*umam’mncane* or *umam’mkhulu*). This generation has equal status within the family and equal responsibility as the child's biological parents. Thus, indigenous methods are not limited to child representation but also include psychosocial support to ensure the optimum well-being of a child (Mkhize, 2004). The extended family is a source of support to both the divorcing parents and their children throughout the divorce process.

This study demonstrates that African indigenous family systems have social organisations and orders to address their needs. The findings in this study illustrated that some of the roles of the firstborn of consenting age are to represent their siblings in the family life. Further, the study revealed that the female firstborn is referred to as *umafungwase* and the male firstborn is referred to as *inkosana*. Their roles are not limited to parental matters but constitute a daily pattern of communication in indigenous families.

The findings also highlighted that it is a common tradition that children who cannot communicate their wishes, such as those who are breastfeeding, remain with their mothers if a marriage crumble. This implies that it is commonly known in terms of what happens to children when their parents are separating. The tradition, values, and belief systems are shared within the community; after that are the living community traditions, values, and belief systems. The indigenous laws are based on the child's individual needs.

5.3 Recommendations for future research

This research aimed to explore the participation of children in parental divorce matters in indigenous African communities of KwaZulu-Natal. The primary objective of this research was to contribute to the growing body of knowledge and literature on developing, managing, and protecting indigenous knowledge and value systems related to child participation in parental divorce matters.

5.3.1 Call for intensive research

Both scholarly literature and the law in South Africa, including the Children's Act and Bill of Rights illustrated significant aspects of the child's right to participation. From a legal perspective, they recommended various forms of child participation. Again, this study presented many African cultural traditions, values, and belief systems that provide an opportunity for child participation in marriages and family life. However, the study recognises that little if there is any study explored child participation as understood and practiced by African indigenous communities, which are often resource-constrained. The study recommends intensive research on child participation from the lens of African indigenous knowledge systems.

5.3.2 Culturally competent tools of research

The study acknowledges that we coexist in a world of diverse knowledge and value systems (Chilisa, 2012). The academic community has generated a pool of knowledge and literature about African culture. Hlatshwayo (2017:6) observes that in the contemporary academic community, “very often African researchers contend with Western conceptual frameworks when studying African-centred subjects.” Many exploratory studies have generated knowledge and orientated data about the African phenomenon using non-African ideologies. This has perpetuated violence against African indigenous knowledge systems. The study recognises that knowledge and value systems are context-based and culturally specific. It is based on this consideration that this study uses an Afrocentric theoretical to generate and position the Indigenous knowledge systems. The study posits that if the academic community wants to play a more significant role in knowledge generation responsive to human needs, lived experiences, and existential developments and challenges, researchers should consciously understand the African culture as the ecological community where all aspects of the ecological community are essential to arrive at an appropriate conclusion. The ecological community includes people, language, values and belief systems, living and non-living, and the universe. African scholars can therefore use conceptual frames that are rooted in the consciousness of African existence, which results in an understanding of the social and historical reality of African people. The study recommends the following paradigms as research tools to understand the African worldview and conduct research from the perspective of the African people: Molefe Kete Asante’s *Afrocentrism*, Archie Mafeje’s *Africanity and Combative Ontology*, Dani Wadada Nabudere’s *Afrikology, Interdisciplinarity, and a Restorative Epistemology*, and Keto Tshehloane’s *African-centred Paradigm*. Hence, this study adopted the Afrocentric theoretical paradigm as the main framework for the study.

5.3.3 Research training programmes

Lack of cultural competence in academia may lead to a situation where people are assisted in a way that is contrary to their culture. In addition to what is offered in existing research institutions, this study recommends that training institutions could contribute by developing a research space and providing research tools that will promote cultural competence among researchers. With appropriate theoretical knowledge, skills, and attitudes, the institutions will produce a body of

culturally competent literature. The study recommends that research training should create space and provide tools for all knowledge, particularly for previously marginalised worldviews and their epistemologies.

Cultural awareness and sensitivity are possible when one understands and has obtained knowledge (Pellerin, 2012). The re-orientation of researchers who have an interest in cultural phenomena is essential. While establishing a responsible and effective scholarship, will enable clear articulation of indigenous knowledge systems which are embodied in cultural experiences, language, stories, and indigenous people's ways of life. Institutions of higher learning should collaborate with cultural structures to develop and implement culturally competent research courses. The collaboration will enhance human resources, allowing researchers to recognise the value of cultural competence and produce cultural competency-based literature. As Hlatshwayo (2017:246) observes that “cultural competency can be achieved through cultural awareness” and cultural awareness can be achieved through knowledge sharing, resulting in cultural sensitivity.

5.3.4 Recommendations for mediation practice

Extant literature and findings from the current study confirmed that marriage separation is one of the various unfavorable family developments that require holistic psychosocial support; psychological, emotional, and social. In indigenous settings, the findings demonstrated that marriage separation does not only affect parents thus the whole family and the child's sense of belonging. African marriages mediation is a holistic approach that involves all cosmological elements of the African sense including physical and spiritual dimensions. I argue that legal divorce mediation proceedings can learn from an African indigenous setting. The current study has revealed that in the Mabomvini community, mediation is understood as a process and a way of life rather than a resolution in divorce matters. The study recommends that during mediation practice, social workers and family advocates should respect the client's culture, values, and belief systems, which in turn produces African behaviours. The study recommends that mediation practice should consciously use interventions that respect and embrace the values heritage and knowledge systems of the specific context.

Further, extant literature argues that African culture does not consider the right to child participation. However, the findings of this study illustrated various opportunities for child

participation. Culturally, it is a tradition that a child participates in family life regardless of divorce or separation mediation. The findings present many opportunities for mediation by children and/or by the adult members of the community who represent the children who are not yet born, those who are already born, and those who are departed. The mediators are senior community members who are custodians of the culture associated with the family and couples. Meaning, a person who mediates in African marriages understands the African indigenous knowledge, beliefs, and value systems.

The study acknowledged that “indigenous knowledge is place-based and culturally specific” Hlatshwayo (2017:242). Hence, mediation proceedings should be place-based and culturally specific. The assigned practitioners should be conversant with the culture of their clients. In an African setting, the mediation field, which includes social work and family advocating, may need to reconsider its perspective of family, marriage, and divorce. Divorce mediation and legal proceedings should work in harmony instead of removing the clients from their culture. Family is an important institution that should be understood in the context of the relevant population. The education and professions/mediation practice should be informed by the culture of the society in question. Both legal and African indigenous divorce mediation processes are significant and should guide mediation policy and interventions. This emanates from the realization that the circumstances and experiences of marriages, families, and children cannot be universalised as a result of the diversity that exists in South Africa. Culturally sensitive services can be more meaningful to many people of South Africa. Lastly, the researcher also recommends the indispensable necessity for family law systems to recognise and embrace local community knowledge, value systems and realities associated with child participation and marriage mediation in South Africa in general, and particularly African indigenous communities.

5.4 Conclusion

The mediation is deeply embedded in the rituals and traditions associated with family life, particularly the processes and structure of African marriages. African marriages mediation is an ongoing psychosocial and educational support. Family is regarded as the primary support structure in African marriages and child-rearing. Both legal and African indigenous divorce mediation is significant and should guide mediation policy and interventions. However, each of these interventions is applied in specific social contexts. Cultural diversities do not only shape our

perception of conflicts but also determine techniques to be employed in handling them. Due to a lack of cultural competence during mediation processes, a person may receive the assistance that is inappropriate for their needs and culture, resulting in an identity crisis.

The findings demonstrated that “we are living in a poly-epistemic world” (Chilisa, 2012;121). In most African indigenous communities, African marriages mediation may still be effective but needs to be acknowledged and supported with capacity building. African indigenous marriage mediation is less expensive and more effective in indigenous African communities. Learning from what local communities already know creates an understanding of local conditions and provides an important context for activities designed to help local people. The findings concur with Thabede’s (2005) view that African culture shapes an African's cognitive perspective and how he or she interacts with the rest of the world. The study recommends that interventions that focus on mediation proceedings in the legal system be place-based and culturally specific. The study recommends the mediation process to use context-centered intervention instead of a universal approach. The bottom-up approach, whereby the context and conditions inform the law and policies of the specific society.

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APPENDICES

APPENDIX 1a: THE INFORMATION SHEET AND CONSENT TO PARTICIPATE IN RESEARCH (*English version*)



To whom it may concern

My name is Miss Nokukhanya Zondi, student number: 213543939. I am the Master's student in Child Care and Protection enrolled at the University of KwaZulu-Natal in the School of Law and Social Work. As a part of the course requirement, I am conducting a research study titled: **“Exploring child participation in parental divorce matters in African indigenous communities of KwaZulu-Natal.”** This research aims to explore and describe the knowledge and value systems and models of child participation in the African indigenous communities, when parents are divorcing.

You are being invited to consider participating in this study. The study is expected to enroll 15 participants in total, traditional leaders and senior community members, from Msinga Municipality, ward 12, Mabomvini rural area. The duration of your participation if you choose to enroll and remain in the study is expected to be 45 minutes to 60 minutes.

Please note that:

- All the information that you may share during the interview will be kept confidential by my research supervisor and myself as the researcher and will not be divulged to anyone else.
- Your names and identity will remain confidential, as pseudonyms will be used in the research report.
- The interview may last for about 45 minutes

- Any information given by you cannot be used against you, and the collected data will be used for purposes of this research only.
- Data will be stored in a secure lockable cabinet and destroyed after 5 years.
- Your participation in this research is voluntary, you have a choice to participate, not participate or stop participating in the research at any time. In the event of refusal/withdrawal of participation you will not incur penalty for taking such an action.
- Your involvement is purely for academic purposes only, and there are no financial benefits involved.
- With your informed permission, the interview will only be audio recorded using a tape recorder only.

In the event of any concerns/questions you may contact the researcher at:

My contact details:

Cell: 0797206716,

Email address: 213543939@stu.ukzn.ac.za or italyzondi@gmail.com

Or

My supervisor contact details:

Dr S.Z Zibane

Tel: 031 260 1216

Email address: ZibaneS@ukzn.ac.za

Or

The UKZN Humanities & Social Sciences Research Ethics Committee, contact details as follows:

HUMANITIES & SOCIAL SCIENCES RESEARCH ETHICS ADMINISTRATION

Research Office, Westville Campus

Govan Mbeki Building

Private Bag X54001

Durban

4000

KwaZulu-Natal, SOUTH AFRICA

Tel: 27 31 2604557- Fax: 27 31 2604609

Email: HSSREC@ukzn.ac.za

Yours sincerely,

Miss Nokukhanya Zondi

DECLARATION FORM

I,..... have been informed about the study entitled **“Exploring child participation in parental divorce matters in African indigenous communities of KwaZulu-Natal,”** by (Nokukhanya Zondi).

- I understand the purpose and procedure of the study and have been given an opportunity to ask questions about the study and have had answers to my satisfaction.
- I understand that I will be required to participate in the interview session of about 45 minutes to 60 minutes.
- I understand the nature of the interview and I am aware that the session will be audiotaped.
- I declare that my participation in this study is voluntary and that I may withdraw at any time without affecting any treatment or care that I would usually be entitled to.
- I understand that all the information that I may share during the interview will be kept confidential and will not be divulged to anyone else.
- I understand that the interview transcripts will be stored in a lockable cabinet and destroyed after five years.
- If I have any further questions/concerns or queries related to the study I understand that I may contact the researcher or her supervisor. I have been provided with their telephone numbers

PARTICIPATION AGREEMENT FOR USE OF AUDIO RECORDING

I hereby provide consent to: (X)

	YES	NO
Audio-record my interview		

Signature of Participant

Date

Signature of Researcher

Date

Thank you for your contribution to this research.

**APPENDIX 1b: ULWAZI KANYE NOKUCELA IMVUME YOKUBAMBA IQHAZA
OCWANINGWENI (*IsiZulu version*)**



School of Law and Social Work,
University of KwaZulu-Natal,
Howard College Campus,

Nginyabingelela

Igama lami ngingu- Nokukhanya wakwaZondi. Ngingu mfundi wase Nyuvesi yaKwaZulu-Natali, ngenza iziqu zeMasitazi, ngaphansi komaluleki uDkt.S. Zibane.

Ngenza ucwaningo olunzulu oluhlose ukuqonda usikompilo noma izinhlelo ezilawula ukwenda kumbe ukwendelwa, izimo zosehlukaniso kubantu abagcagcile ngokosikompilo lwakwaNtu, kanye nezinhlelo ezibhekele ukukhuliswa nenhlaloni yabantwan uma abazali sebethathe isinqumo sokuhlukanisa. Lokhu kuqonda ngizokuthola ngokucwaninga ngiphinde ngixoxisane nabantu abadabuka kwisifundazwe iKwaZulu-Natali abaphila ngaphansi kosikompilo lakwaNtu endaweni yaseMsinga, eMabomvini. Lesi isiqephu sokucela imvume kubantu abawunsinsi wokuzimilela kulendawo yaseMabomvini, amalunga ophakathi asemukantsha ubomvu ezindabeni ezithinta isihloko kanye nalabo abangabaholi bomdabu.

Ukubamba iqhaza kuzohlukanisa lokhu:

Ngicela imvumo yakho ukuthi ube ingxenye yalolucwaningo. Uma uvuma, ngithembisa lokhu okulandelayo

- Ukuxoxisana okufishane nomuntu ngamunye okuzohlenganisa nemibuzo engahleliwe, okungathatha cishe imizuzu engama-45-60.
- Sizocela ukuqopha izingxoxo ngenhloso yokuzibhala phansi kanye nokuzihlaziya.
- Silangazelele ukuzwa imibono yakho, khumbula azikho izimpendulo ezilungile noma ezingalungile kodwa nje imicabango kanye nokuqonda kwakho mayelana

Njengomcwaningi ngizoqikelela lokhu okulandelayo:

Labo abazinikele ekubambeni iqhaza kunezinyathelo ezizolandelwa ukuze kuvikeleke imininingwane.

- Unemvume yokukhetha ukubamba iqhaza kulolu cwaningo. Lokho kusho ukuthi ukhululekile ukukhetha ukuthi uyalibamba iqhaza noma cha. Ngaphezu kwalokhu, uvumelekile ukuhoxa noma yinini; ngeke uhlawuliswe ngalokho, nganoma iyiphi indlela. Ngamanye amazwi, ukuhoxa ngeke kube nomphumela omubi kuwe.
- Uma ubamba iqhaza kulolu cwaningo, igama lakho lizovikeleka. Ukuqinisekisa lokhu, igama lakho langempela ngeke lisetshenziswe; uyonikezwa igama locwaningo (pseudonyms). Izingxoxo eziqoshiwe ngiyozigcina endaweni ephephile iminyaka emihlanu ngaphambi kokuba zishatshalaliswe futhi akekho umuntu oyovunyelwa ukuba azisebenzise ngaphandle kwemvume yakho. Lonke ulwazi ngawe oluyoqhamuka ngesikhathi socwaningo luyofihlwa noma laziwe njengolomuntu ongaziwa ngumcwaningi embikweni wakhe ukuze avikele imininingwane yakho
- Imibuzo ezobuzwa ayidingi ukuba unikezele ngemininingwano yesenzeko ngaphandle uma wena uzithandela ungakwenza lokho, mhlawumbe ngosuke wakubona ngaphambilini, kukuwe ukuthi uzizwa ukhululekile ngokunikezela ngolwazi olungakanani. Ulwazi lwakho luyosetshenziswa njengocwaningo lwami olufushane lweziqu zeMastazi. imiphumela yocwaningo kungenzeka ishicilelwe kumaJenali ezemfundo, izincwadi, noma yikuphi lapho kutholakala khona isikhala. Kukho konke lokhu, imininingwane ephathelene nawe siqu sakho, iyohlala iyimfihlo.

Ngingakuthokozela ukuthi uvume ukuthi ube ingxenye yalolucwaningo. Ngiyathembisa ukuthi lonke ucwaningo ngizolwenza ngenhlonipho futhi abukho ubungozi abangazithola bekukho ngenxa yokuba ingxenye yalolucwaningo

Ngiyojabula uma isicelo sami siphumelele.

Yimina ozithobayo,

uNokukhanya wakwaZondi

Inambolo yocingo: [REDACTED]

I-imeyili: 213543939@stu.ukzn.ac.za or italyzondi@gmail.com

Noma

Ungaxhumana nomqondisi ka mngcwaningi,

u- Dkt Zibane, Inombolo yocingo: 031 260 1216,

I-imeyili: ZibaneS@ukzn.ac.za

Noma

UKZN Humanities & Social Sciences Research Ethics Committee,

EZOKUPHATHWA KWEZENQUBONHLE KWEZOCWANINGO EKOLISHI

LEZESINTU ESIKOLENI SEZIFUNDO NGENHLALO YOMPHAKATHI

Ihhovisi LezoCwaningo, iKhempasi i-Westville

Govan Mbeki Building

Private Bag X 54001

Durban

4000

KwaZulu-Natal, SOUTH AFRICA

Ucingo: 27 31 2604557- Fax: 27 31 2604609

I-imeyili: HSSREC@ukzn.ac.za

UKUVUMA UKUBAMBA IQHAZA

Mina.....ngazisiwe kabanzi ngocwaningo, Ngiyakuqonda inhloso kanye nemigomo elawula ucwaningo . Ngilifundile futhi ngaliqonda ulwazi olubhaliwe. Nginikeziwe ithuba lokubuza imibuzo ukuze ngicaciseleke ngocwaningo futhi ngithole izimpendulo ezingigculisayo, futhi ngavuma ukuba yingxenye yalomklamo wocwaningo.

Ngiyazi ukuthi ukubamba kwami iqhaza kuwukuzinikela futhi ngivumelike ukuyeka noma nini, ngisho ucwaningo seluqalile. Ngiyakuqonda ukuthi izingxoxo zizoqoshwa uma umcwaningi ngimunikezile igunya lokuqopha.

ISIGENESHA YOMBAMBIQHAZA

ISIGENESHA YOMCWANINGI

.....

.....

USUKU

USUKU.....

UKUVUMA UKUBAMBA IQHAZA KUSETSHENZISWA ISIQOPHAMAZWI (RECORDER)

Ngiyavuma ukuba izingxoxo zami ziqoshwe, ngokuqonda ukuthi imininingwane yami iyohlezi iyimfihlo.

Ngiyavuma ukuthi kwenziwe lokhu:

	YEBO	CHA
Kuqoshwe ingxoxo yami		

Ukusayina kobambe iqhaza

Usuku

Ukusayina Komcwaningi

Usuku

Ngingakuthokozela ukuthi uvume ukuthi ube ingxenye yalolucwaningo. Ngiyathembisa ukuthi lonke ucwaningo ngizolwenza ngenhlonipho futhi abukho ubungozi abangazithola bekukho ngenxa yokuba ingxenye yalolucwaningo

Ngiyojabula uma isicelo sami siphumelele.

Yimina ozithobayo,
uNokukhanya wakwaZondi

APPENDIX 2a: SEMI-STRUCTURED INTERVIEW SCHEDULE (*English version*)



Thank you very much for your participation in this research. I will be asking you open-ended questions about African indigenous knowledge, and value systems in indigenous marriage, marriage separation and models of child participation in parental divorce matters. Please note that there are no right or wrong answers. Do elaborate on each question, with the use of examples. If you are not sure about the question, please let me know, and I will explain.

Title: Exploring child participation in parental divorce matters in African indigenous communities of KwaZulu-Natal.

Interview date:

Section A: Interviewee biographical information

- Name:
- Recommended pseudo name
- Age
- Gender
- Marital status
- Cultural background
- Role in divorce mediation

Section B:

- Cultural definition of a child
- The significance of marriage and children significance in indigenous African culture
- Extent of divorce in the community

1. What is the nature, composition, and structure of the indigenous divorce mediation in indigenous African marriages?

- The nature - What are the grounds of divorce?

Where does the divorce mediation takes place?

- The composition and structure - Who form part of the mediations?

What are their roles?

Which gender is more likely to attend African indigenous divorce mediations?

- Methods - How do you ensured the views and wishes of a child are heard

What is the purpose of indigenous divorce mediation?

Who is allowed to communicate his or her views?

2. What practices and procedures are currently in place in indigenous African society to promote the participation of children in indigenous African divorce mediation?

- When the child's views and wishes are considered?

3. What is the extent of child participation in indigenous African divorce matters?

- Any Age or gender specification?
- What are the forms of child participation?"
- In what way a child communicates his or her views or wishes?

4. To what extent are the rights or volition of children who are not capable of expressing their views represented in indigenous African divorce mediation?

5. Besides divorce proceeding, what other mediation you have been involved

- **Is there anything you would like to say or add?**
- **Thank you very much for your participation**

APPENDIX 2b: UHLU LWEMIBUZO ENGAHLELIWE OLUBHALWE (*IsiZulu version*)



Isingeniso

Ngiyabonga kakhulu ukubamba iqhaza kwakho kulolu cwaningo. Ngizokubuza imibuzo evulekile ngenqubo nosikompilo noma nezinhlelo ezilawula ukwenda kumbe ukwendelwa, izimo nezinhlelo zesehlukaniso kubantu abagcagcile ngokosikompilo lwakwaNtu kanye nezinhlelo ezibhekele ukukhuliswa nenhlalonnhle yabantwan uma abazali sebethathe isinqumo sokuhlukanisa. Ngicela wazi ukuthi ayikho impendulo eyiqiniso noma eyiphutha. Phendula umbuzo ngamunye kabanzi, unikeze izibonelo eziphelele. Uma ungawuqondi kahle umbuzo, ngicela ungazise ukuze ngikuchazele.

- Igama oziqamba lona
- Iminyaka
- Isimo sakho somshado
- Imvelaphi yakho
- iqhaza oke walibamba kuzingxoxo zesehlukaniso

Ukubaluleka kokugcagca noma ukugcagcelwa kanye nabazukulu

- Ngokosiko lakwaNtu ingane umuntu onjani
- Kusho ukuthini ukugcagca noma ukugcagcelwa
- Chaza izigaba eziqondwa umphaka njengosikompilo lakwaNtu ngaphambi kokugcagca
- Ngokosiko lakwaNtu chaza ukubaluleka kokugcagca kumbe ukugcagcelwa kanye nokubaluleka kwezingane/abazukulu
- Chaza izinhlelo ezisetshenziswayo ekubhekeleni inhla lonje kanye nekhaya elifudumele kumalokazana kanye nomukwenyana

Ukwehluka kwemibono kwaba gcagcile

- Chaza ngokwezinqubo zosikompilo nenza njani uma kunokwehluka kwemibono phakathi kwabagcagcene

- Imigudu elandelwayo ekulungiseni isimo nokubuyisa uzinzo
- Imigudu elanyelwa umalokazana noma umkhwenyana
- Uma abagcagcile beqoma ukuhlukanisa kwenze kani

Abantwana

- Uma abagcagcile benabantwana kwenzekani
- abantwana bafinyelela kanjani ekwazini kanye nokuzwakalisa izifiso zabo
- Chaza kabanzi ngokwemigomo yesintu, kuyenzeka abantwana babe zingxenyekwizingxoxo
- Ngokolwazi chaza izindlela nezimo ezibandakanya abantwana
- Iziphi izindlela zesintu ezinikeza abantwana ithuba ukuthi bazwakalise izifiso zabo
- Kulaba abasancela noma abasabeletha kuyaye kwenziwe njani

Ngabe kusakhona osafisa ukugqamisa maqondana nesesikuxoxile?

Syabonga kakhulu ngolwazi lwakho

APPENDIX 3a: THE LETTER TO THE COMMUNITY LEADER (*English version*)



School of Law and Social Work,
University of KwaZulu-Natal,
Howard College Campus,

The Councillor
P17 Nadi Road
Mabomvini, kwaPhakwe area
Greytown
3250
30 July 2019

Dear Sir /Madam

REQUESTING PERMISSION TO CONDUCT RESEARCH

My name is Miss Nokukhanya Zondi, student number: 213543939. Presently, I am registered for master's degree in Child Care and Protection at the University of KwaZulu-Natal, School of Law and Social Work, Howard Campus. I am writing to request permission to undertake research and ask to recruit potential participants for the research in UMsinga, eMabomvini, ward 12.

As a part of the course requirement, I am conducting a research study titled: **“Exploring child participation in parental divorce matters in African indigenous communities of KwaZulu-Natal.”** The aim of the proposed study is to explore and describe the knowledge and value systems and models of child participation in the African indigenous communities, when parents are divorcing. The rationale for this study is motivated by the gap in the contemporary literature addressing child participation in African indigenous divorce mediation in South Africa.

Additionally, the study seeks to inform knowledge, value systems and the practice interventions of child care and protection including social work, family advocate and other professions.

I hope to conduct the research over a period of two months by means of in-depth, face to face, semi structured individual interviews. Participant interviews with indigenous leaders and senior community members from uMsinga, eMabomvini rural community, will be the main research instruments. Participation to the study will be voluntary and non-threatening. There is no possibility of discomfort or danger that I think would be involved in my research. Should any of the participants experience any discomfort, crisis social work intervention will be rendered.

Throughout the research process, I will take written field notes, and when necessary or appropriate an audio recording will be made. These will not jeopardize privacy of the community and research participants. I will ensure confidentiality and anonymity of the participants by using coded and pseudo-names in the report. The informed consent from the potential participants will be sought before participation. All participants will be briefed as to the exact nature and purpose of the study. In addition, the potential participants will be informed that their participation is voluntary and that they have the right to withdraw or discontinue participation at any time. The potential participants also will have the right to refuse to answer certain questions if they choose to.

It will be greatly appreciated if permission to conduct this study would be granted.

Thank You.

Yours faithfully,

Miss Nokukhanya Zondi

In the event of any concerns/questions you may contact the researcher at:

My contact details:

Cell: [REDACTED]

Email address: 213543939@stu.ukzn.ac.za or italyzondi@gmail.com

Or

My supervisor contact details:

Dr S.Z Zibane

Tel: 031 260 1216

Email address: ZibaneS@ukzn.ac.za

APPENDIX 3b: THE LETTER TO THE COMMUNITY LEADER



School of Law and Social Work,
University of KwaZulu-Natal,
Howard College Campus,

Kwababa uNduna
P17 Nadi Road
Mabomvini, eNzala area
Greytown
3250
30 kuNtulizazi kunyaka wezi 2019

Ngiyabingelela kubaba uNduna

INCWADI YOKUCELA IMVUME YOKWENZA UCWANGINGO

Igama lami ngingu- Nokukhanya wakwaZondi. Ngingu mfundi wase Nyuvesi yaKwaZulu-Natali, ngenza iziqu zeMasitazi, ngaphansi komaluleki uDkt.S. Zibane.

Ngenza ucwaningo olunzulu oluhlose ukuqonda usikompilo noma izinhlelo ezilawula ukwenda kumbe ukwendelwa, izimo zosehluhaniso kubantu abagcagcile ngokosikompilo lwakwaNtu, kanye nezinhlelo ezibhekele ukukhuliswa nenhlaloni yabantwan uma abazali sebethathe isinqumo sokuhlukanisa. Lokhu kuqonda ngizokuthola ngokucwaninga ngiphinde ngixoxisane nabantu abadabuka kwisifundazwe iKwaZulu-Natali abaphila ngaphansi kosikompilo lakwaNtu endaweni yaseMsinga, eMabomvini. Lesi isiqephu sokucela imvume kubantu abawunsinsi

wokuzimilela kulendawo yaseMabomvini, amalunga ophakathi asemukantsha ubomvu ezindabeni ezithinta isihloko kanye nalabo abangabaholi bomdabu.

Ngokuthobeka ngicela invume ukuba nezingxoxo ezimfushane kubantu abangamalunga omphakathi. Ngicela amalunga omphakathi anguwunsinsi wokuzimilela kulendawo yaseMabomvini, amalunga asemukantsha ubomvu ezindabeni ezithinta isihloko kanye nalabo abangabaholi bomdabu, kanye nobaba uNduna.

Ngingakuthokozela uma uvuma ukuthi isigodi iNzalabantu ube ingenye yalolucwaningo. Ngiyathembisa ukuthi lonke ucwaningo ngizolwenza ngenhlonipho futhi abukho ubungozi abangazithola bekukho ngenxa yokuba ingxenye yalolucwaningo

Ngijojabula uma isicelo sami siphumelele.

Yimina ozithobayo,
uNokukhanya wakwaZondi

Inombolo yocingo: [REDACTED]

I-imeyili: 213543939@stu.ukzn.ac.za or italyzondi@gmail.com

Noma

Ungaxhumana nomeluleki ka mngcwanningi,
u- Dkt Zibane, Inombolo yocingo: 031 260 1216,

I-imeyili: ZibaneS@ukzn.ac.za

Ngingakuthokozela ukuthi uvume ukuthi ube ingxenye yalolucwaningo. Ngiyathembisa ukuthi lonke ucwaningo ngizolwenza ngenhlonipho futhi abukho ubungozi abangazithola bekukho ngenxa yokuba ingxenye yalolucwaningo

Ngijojabula uma isicelo sami siphumelele.

Yimina ozithobayo,
uNokukhanya wakwaZondi

APPENDIX 4a: GATE KEEPER APPROVAL FROM MUNICIPAL COUNSELLOR



Umvoti Municipality

To whom it may concern

Date: 17 December 2019

Dear Sir/Madam

This serves to confirm that Zondi Nokukhanya Identity number 9308140779081 is granted a permission to conduct a study as she requested at MaBomvini iNzala community ward 12 Umvoti municipality under Inkosi PJ Ngubane Mbomvu traditional council on the research topic "Exploring child participation in parental divorce proceedings in African indigenous community of KwaZulu-Natal".

Your co-operation on this will be highly appreciated.

Kind Regards



CLlr MD Khanyile
Ward 12 - Councillor
P. O Box 2825
Greytown, 3250,
Mobile: 08264683



18-12-2019

APPENDIX 4b: GATE KEEPER APPROVAL FROM UBABA NDUNA YESIGODI

P. O. Box 198
Greytown
3250

Lesi isiqinisekiso sokuthi siyawina u
Nokuthanga Zondi aqhube ucwaniyo lwakhe
mayelana neZondeni neZingane Kanye
neSehukaniyo

OZitwobayo
Nduna Hlulakwakhe Desmond Ntubane

KWAMANDLAKAZI
ISIGODI SASENZALA
P17 INADI ROAD, WARD 12
MABOMVINI, GREYTOWN, 3250
INDUNA [REDACTED]

APPENDIX 5a: HSSREC ETHICAL CLEARANCE LETTER



10 February 2021

Miss Nokukhanya Zondi (213543939)
School Of Law
Howard College

Dear Miss Zondi,

Protocol reference number: HSSREC/00000581/2019

Project title: Exploring child participation in parental divorce matters in African indigenous communities of KwaZulu-Natal.

Degree: Masters

Approval Notification – Recertification Application

Your request for Recertification dated 26 January 2021 was received.

This letter confirms that you have been granted Recertification Approval for a period of one year from the date of this letter. This approval is based strictly on the research protocol submitted and approved in 2019.

Any alterations to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study must be reviewed and approved through the amendment/modification prior to its implementation. Please quote the above reference number for all queries relating to this study.

PLEASE NOTE: Research data should be securely stored in the school/department for a period of 5 years

All research conducted during the COVID-19 period must adhere to the national and UKZN guidelines.

HSSREC is registered with the South African National Research Ethics Council (REC-040414-040).

Yours sincerely,



Professor Dipane Hlelele (Chair)

/dd

Humanities & Social Sciences Research Ethics Committee
UKZN Research Ethics Office Westville Campus, Govan Mbeki Building
Postal Address: Private Bag X54001, Durban 4000
Tel: +27 31 260 8300 / 4557 / 3557

Website: <http://research.ukzn.ac.za/research-ethics/>

Founding Campuses:  Edgewood  Howard College  Medical School  Pietermaritzburg  Westville

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