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Introduction

South Africa is a very diverse country culturally, linguistically and ethnically speaking. It is also a highly politicized space in all spheres of life – whether private or public. Two of the main contributing factors that led to this politicization of national space are, firstly, our history of segregation and discrimination under Apartheid rule; and, secondly, our history of rigid (and culturally institutionalized) patriarchal rule in various communities. 1994 ushered in the end of Apartheid and paved the way for the drafting of a new progressive and liberal constitution approved in 1996. This Constitution hinges on the premises of universal human rights and, although it attempts to provide an equal footing for all cultural and ethnic categories of people, it focuses primarily on the rights of the individual. Special effort was put into legislation regarding the rights of women, children and other vulnerable individuals and people categories whose human rights were not as thoroughly defined and protected by the pre-1996 Constitution. Though the new Constitution protects the official status of customary law, certain cultural practices were abolished under it because they were perceived to discriminate against those vulnerable individuals the new Constitution specifically set out to protect.

However, contrary to their unconstitutional, illegal or merely litigious nature, certain cultural practices, like arranged marriages, male circumcision, polygamy and virginity testing, are still a common occurrence in South Africa. In general this controversy entails the complicated and often conflicting relationship between the right to practice cultural traditions and individual human rights. The illegal *ukuthwala* marriage practice is a case in point. "Ukuthwala" is a form of ‘traditional’ bride mobility that entails the (sometimes arranged) abduction of an

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1 Customary law refers to the indigenous laws by which ethnic groups in South Africa governed themselves prior to contact with colonial forces. ‘Indigenous’ legal systems and cultural practices are thus legal in South Africa if they do not transgress the statutes of the Constitution.

2 ‘Ukuthwala’ literally means ‘to carry off’, and is the noun used for this custom. However, I will also use the verb form, ‘thwala’, and its Anglicised derivative, ‘thwala’ed’, coined by the news media of South Africa.
underage girl and having sexual intercourse with her as a precursor to marriage. Even though constitutionally outlawed, reported cases of *ukuthwala* escalated in the early months of 2009. Consequently, this controversial practice was, for the first time in the history of the South African media, splashed over the cover pages of national newspapers and made news headlines on bulletins of the South African Broadcasting Corporation (27 Jun, 21 Aug, 3 and 15 Sept 2009). The reason for the media outrage was, however, not the ‘abnormality’ or ‘irregularity’ of the practice itself, but rather concern about the forms of fierce violence – which almost without exception involved rape, severe beatings and the verbal abuse of under-aged girls (Wood 2005, 308-310) – and, moreover, the social condonation that accompanied it. Superintendent Susan Pienaar, head of the Crime Prevention Unit of the SAPS (South African Police Service), agreed with media reports, saying that “the practice of *ukuthwala* had resulted in 353 cases in 2006, and 338 in 2007”, and, almost without exception involved force, violence and/or rape, and no consent on the part of the girl (minutes of Parliamentary Monitoring Group [PMG], 2009, 11). Captain Adonis of the SAPS (Oliver Thambo Municipal District) called the intensity of this violence a “new phenomenon” (PMG minutes, 2009, 11), while Professor of African Studies and isiXhosa Literature, Peter Mtuze, lamented the “unorthodox revival of *ukuthwala*” (dawn.com, 11 Dec 2009) when the news media interviewed him about this matter. Professor Lucy Jamison of the Children’s Institute at the University of Cape Town expressed her concern about this ‘revival’. She mentions that “[w]e

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3 It is important to clarify that when the term ‘tradition’ or ‘traditional’ is used in this study, it is in the sense that Charles Piot (1999) would use it. These terms do therefore not denote a static historical state and character, but rather a dynamic and ongoing interaction between modernity and traditionalism, and the local with the global.

4 Though the neutral term ‘sexual intercourse’ is used here, it is precisely the contentious nature of what sexual intercourse implies that lead to this study. As I will illustrate, ‘sexual intercourse’ is a matter of perspective and varied definition for all the individuals involved in this controversy. A few of these perspectives include ‘statutory rape’, ‘sexual intercourse with parental consent’ or ‘consensual sex’, to mention a few. A main focus of this study is to uncover the various meanings that *ukuthwala* and sexual intercourse holds for various people on the local level.

5 Note that the cultural practice of *ukuthwala* in its entirety was abolished in 1996. Prior to this abolition *ukuthwala* cases was sometimes tried in a traditional or civil court of law, but then only as unlawful abduction.
know it happens, but we don't know on what scale or how frequently. No academic research has been done on forced marriages” in the South African context (*Mail and Guardian*, 3 Jan 2008).

What is therefore of specific interest is that this marriage custom fell into disuse and seemed to have ceased completely, and then re-emerged in the last decade in a transformed way. This new and more violent turn it seems to have taken, does not only put individuals at odds with the law, but also illustrate how customs in South Africa are (in general, I believe) ‘adapting’ to a post-1996, Afromodern setting. The focus of this study – the violent re-emergence and transformation of *ukuthwala* – thus plays out against the backdrop of constitutional reforms and the flow of Afromodernity in post-1996 South Africa.

Understanding the re-emergence of *ukuthwala* on grassroots level is of scientific relevance as it plays out at the central juncture of key jurisprudent debates and socio-cultural inquiries that constitute and mirror a broader national controversy. The jurisprudent debate revolves around a complex interplay and conflict between the semi-autonomous fields of universal human rights (protected by the Constitution) and cultural plurality (in the sanctioning of customary law). It seems as if the same constitution that protects the autonomy of ethnic and cultural categories, simultaneously illegalize certain cultural practices that are seen as harmful to any individuals, inhibiting the said granted autonomy. This means that while Pondo culture and customary law is protected by the Constitution, *ukuthwala* is illegalized by the same Constitution, as it is perceived to be harmful by the legislat ing authorities. This dualism, as will be shown, has far reaching effects on the attitudes of people on the local level.

I will draw on the existing body of literature that deals specifically with legal complexities in post-1996 South Africa. A lot has been published on the conflict between gender equality on the one hand, and the right to cultural identity

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6 This term is used by the Comaroffs (manuscript of *Theory From the South*, currently in print), and refers to both modernization as a process, and modernism as a way of seeing the world. Though they apply the term to Africa in general, they focus on South Africa.

7 ‘Pondo’ is the proper noun for the Pondo people. Other derivatives used is ‘amaMpondo’ which means ‘Pondo people’, and ‘Pondoland’ which is the mountainous area in the Eastern Cape province of South Africa where the amaPondo live.
that endorses both gender and sexual discrimination, on the other. Yet, the custom of *ukuthwala* has up till now not entered this debate. Related to this debate is a whole body of literature that focus on the escalating occurrence of rape and sexual violence in recent years. Even so, how people on the local level perceive *ukuthwala* as a possible form of (statutory) rape, is still unknown. This study will contribute to these fields by shedding new light on the conflict between law and culture and the varying perspectives on what ‘sexual violence’ and ‘culture’ are, and how these are perceived on the local level.

A secondary national process relevant to this study that has far reaching consequences for people on the local level is the ways in which Afromodernity shapes the indigenous culture in South Africa in general. Afromodernity presents new social demands, new economic challenges, new legal perspectives and changing cultural identities. Afromodernity thus is, and implies, not only cultural change, but also facilitates and necessitates these changes. It is both the term that denotes these changes and the agent that causes it. Through the workings of Afromodernity, the custom of *ukuthwala* is forced to change due to the general change in cultural landscape. Understanding the transformation of *ukuthwala* therefore enlightens our understanding of certain aspects of the lifeworld of the amaMpondo in general. The central question this study therefore seeks to answer is: how are we to understand *ukuthwala*’s violent re-emergence and transformation on the grassroots level in the post-1996 South Africa?

Literature published on cultural identity and change is readily available. However, how cultural practices like *ukuthwala* change and adapt to new demands, is relatively unknown. Virginity testing, another illegal practice that has recently ‘revived’, could provide some insight as to why *ukuthwala* is changing in the way it does. Published literature on virginity testing will thus serve as a mirror against which to compare the re-emergence and transformation of *ukuthwala* and comment on its cultural value.

Yet this study is also of social relevance. Sluka and Robben (2007) write of the ‘compassionate turn’ in the mid 1990s, which saw anthropological attention turn to the study of real human suffering in conflict situations like war, genocide,
famine and domestic violence. They mention that “[c]ompassionate empathy
makes the fieldworker and the research participant share a subjective space,
implicating them in each other’s lives and in the production of ethnographic
knowledge. This approach carries a political responsibility” (24). Though the
compassionate turn had its genesis in the ‘90s, it is still a fertile academic field
for further study. As recent as 2007 Robben draws attention to the difficulty of
“establishing research relationships with people you do not like and whom you
may even consider to be morally reprehensible” (Sluka and Robben, 2007, 124).
As a supporter of the compassionate turn, I too feel that my research carries a
“political responsibility”. I therefore hope this study will reveal some of the
reasons for the escalation of sexual violence so that involved individuals may
better know how to act on it. I will also attempt to reveal some of the difficulties I
faced when dealing with morally complex issues and how I handled the situations
they gave rise to. I hope such disclosures will help other anthropologists
struggling with similar sensitive research topics.

This study accordingly contributes to the political and social responsibility
propagated by the compassionate turn in anthropology. As a result of this ‘turn’ in
anthropology, the last decade has seen the rise of numerous NGOs, and, more
specifically, social aid organizations that focus on disadvantaged and developing
communities. This study will provide important information on the lifeworlds and
lived experience of people living in these areas in great poverty. Relatively
recently, human trafficking became the focus of urgent inquiry in many countries
and a top priority for international bodies like the European Union, United Nations
and Human Rights Watch. As the ukuthwala custom is indeed labeled a form of
human trafficking by law in South Africa, this study becomes of even greater
social relevance as it will point to some of the factors that lead to and cause the
thwala (or trafficking) of (under-aged) girls.

This study is finally of personal importance to me as the author and
researcher. I am primarily passionate about this polemic because I am a South
African myself, and I ardently seek to contribute to the righteous building of our
young democracy. I furthermore believe that all science and academic practice
can and should have the betterment of universal human life as aim, irrespective of the form this ‘betterment’ takes. I believe that anthropology has the unique ability to accomplish this aim simply because our subject matter is human life. Let us not extract our science out of the lived experience from whence it comes, to practice it in an academic vacuum. I would like to reach this aim by giving a personal voice to the people I came into contact with. My hope is that my informants will stand central to this study, and that my theories and analysis will only flow from the evidence they have provided. In order to reach this aim, I have already contacted a number of NGOs and organs of state that gladly accepted my offer of providing them with a copy of this text.\(^8\)

By means of investigating the re-emergence and adaptation of *ukuthwala*, I undertook a three months field trip to a *thwala* hotspot, the town of Lusikisiki in the Eastern Cape province of South Africa. Lusikisiki is also situated in the amaMpondon heartland, and the closest town to the amaMpondon royal court.\(^9\) During these three months, multi-cited ethnographic research was conducted and included methods of participant observation, formal interviews, focus group discussions and informal conversations that were sometimes recorded. In preparation of fieldwork, I also collected secondary data that include archival research as well as academic and media publications (which include newspapers, the Internet and television).

In attempting to answers why *ukuthwala* has re-emerged and why it is adapting, this thesis will be set out in several stages. Firstly, the theoretical and analytical framework will be presented in Chapter One. This chapter will situate the current study in the broader contemporary debate in legal anthropology, which is concerned with the conflict between legal systems and culture. Theories of Afromodernity will then be presented as a structural frame that guides the analyses of ethnographic findings. The central research questions will also be

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8 I informed all my informants and respondents about this arrangement prior to interviews and conversations to ensure that I do not place them in a compromised position. I used pseudo names for those individuals who wanted to remain anonymous.

9 Thought integrated into the Republic of South Africa, Pondoland (the geographical area where the amaMpondo now generally live) is still a recognized Kingdom with a royal family. However, with the passing of the current monarch, the Pondo Kingdom and official royal titles will be dissolved by law.
discussed as they arise from the legal-cultural conflict, and are influenced by notions of cultural identity and processes of cultural change.

Chapter two will elaborate on the research setting and methodology used. The settings will be introduced with specific reference to how they provide a context within which *ukuthwala* is practiced. How the setting relates or functions as a microcosm of the broader conflict, will also be alluded to. The chapter will then continue with descriptions of the ethnographic methods used in the course of the investigation. My key informants will then be introduced, and I will provide short accounts of my relationship with them and the important part they played during the process of investigation.

Chapters Three to Five will present the ethnographic data collected as well as the analysis thereof. The analyses in these chapters will be guided by the theoretical scaffolding presented in Chapter One. Each of these chapters will focus on a few sub-questions that are of key importance to understanding the transformation and the return of *ukuthwala*. The themes of the sub-questions will be discussed systematically at the hand of case studies and ethnographic evidence. I will then analyze the case studies and ethnographic evidence with the necessary theory at hand.

- Chapter Three will focus on the conflict between human rights with indigenous legal systems presented by the Constitution. This chapter will firstly investigate why *ukuthwala* re-emerges even though it is illegal, and secondly, why it is transforming into such a violent practice.

- Chapter Four will investigate *ukuthwala* as a marriage custom practiced in an area rife with poverty. Specific attention will be given to the way in which *ukuthwala* is adapting to circumvent or exploit social convention with regards to marriage.

- Chapter Five reveals the link *ukuthwala* has with other cultural practices and beliefs. This chapter will illustrate how *ukuthwala* is re-emerging and adapting to cope with rising concerns of health and the myths surrounding issue of health.
The last chapter, the conclusion, will present a summary of the overarching findings and interesting discoveries made. This concluding chapter will also point to further research that is indeed necessary, I believe.
Chapter One:
Lived Experiences and National Legislation

Theoretical and socio-cultural knowledge of *ukuthwala* barely exists. After researching this topic in the existing literature, only three publications within the field of the social sciences relating to this issue were found, respectively published by Kropf (1892); Britten (1930) and De Jager (1971). These, however, only mention *ukuthwala* in passing as a marital custom, devoid of further inquiry. A number of legal publications were found which, as is to be expected, only pertain to the legal aspects of *ukuthwala*, not the socio-cultural. The most prominent of these are Bekker (1994), Bekker and Koyana (2007) and Maundeni (2010). Whereas the first two articles only investigate the legal aspects of *ukuthwala*, Maundeni pays specific attention to friction between *ukuthwala* as a cultural practice (practiced under the banner of customary law) and the liberal Constitution of South Africa.

Research done by the news media is very propagandistic and sensationalist in nature and therefore fails to research the custom empirically. News bulletins of the South African Broadcasting Corporation (27 Jun, 21 Aug, 3 and 15 Sept 2009) and international news networks (notably CNN, 21 October 2009), reported that *ukuthwala* is a traditional engagement practice that is becoming increasingly violent, and often implies the rape of under aged girls. It was furthermore stated that it happens in poverty stricken areas as part of a traditional marriage process, and finally that it holds serious health risks for the victims. More interesting, however, is the work done by investigative journalists for TV programs. *Third Degree* (10 Nov 2010) and *Special Assignment* (21 Feb 2011) both aired broadcasts concerning *ukuthwala*. While these documentaries have a humanitarian bend, they do provide a more holistic and in-depth account of the controversy, its history, the parties involved and the interventions to curb this practice.

The focus of the media nowadays is on the sensational novelty of the element of violence, while the more academic publications seem to make use of
‘traditional’ and older codified definitions of what *ukuthwala* is supposed to be. I believe it is possible to answer my research question, to some extent, by combining these perspectives. When more traditional definitions (like that of Britten) are compared with those provided by the media (especially investigative journalism), the changes that took place might become more visible. Doing this already reveals how the practice is changing through an escalation of violence, for example.

Though such comparisons may reveal the ‘new face’ *ukuthwala* is acquiring, it reveals nothing about *why* *ukuthwala* is re-emerging, *why* it is becoming more violent, and *how* it is adapting. To determine this, I have to look at other avenues of published academic research related to the *ukuthwala* controversy in some way. Some of these related avenues include publications on virginity testing, traditional marriage negotiations, rape and gender discrimination. The theories utilized in these comparative debates and fields of study can be harnessed to provide a satisfactory, yet pliable, theoretical foundation on which this study will build its own theoretical frame. The sub-questions I will present flow from the literature overview of these comparative studies. In order to show the link *ukuthwala* holds with these comparative fields of study, I will firstly provide a clearer definition of what *ukuthwala* actually entails, and why it is illegal.

**Defining Ukuthwala**

From consulting the published sources available, I came to understand that the *ukuthwala* practice infrequently forms part of the betrothal proceedings of some Xhosa-speaking people in South Africa – specifically those of Pondoland.\(^{10}\) In short, according to this custom, a girl is ‘abducted’ and placed in the care of womenfolk at the *lali* \(^{11}\) of the possible groom. Her parents are informed that she

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\(^{10}\) IsiXhosa is the lingua franca of both the amaMpond o and Xhosa people. Though the amaMpondo also speak the Xhosa language, they are ethnically and culturally different from the Xhosa people to some extent. They furthermore also speak a Xhosa dialect distinct from their Xhosa counterparts.

\(^{11}\) The homestead of the family: usually a cluster of brick and/or mud houses or huts with a small vegetable garden and cattle enclosure.
is safe, and the marriage negotiations commence. If a man did not arrange the
girl’s abduction with her parents and did not receive their consent, the parents
may ask that she be returned. If this is the case, she is supposed to be returned
immediately and unharmed.

It is important to note that ukuthwala can take various forms. Britten
(1930) mentions that the “methods of compulsion exercised vary considerably in
individual cases” (269). Britten (269-270) furthermore states that a girl sometimes
orchestrates her own abduction if her lover is not her parent’s choice for a
husband. If a father is too poor to host a wedding feast, he might connive an
abduction in order to bypass social conventions. Ntlokwana (n.d., 4), mentions
that it may be performed to hasten the marriage proceedings before an unwanted
pregnancy, that it shows the seriousness of the young man’s intentions, or that a
girl is thwala’ed in avoidance of the lobola fee.\footnote{Lobola (also spelt 'lobolo') could be translated as ‘bride price’. It is a sum of money the groom needs to pay to the family of his intended bride.} Finally, poor parents, especially
single mothers, may be forced or manipulated by relatives to ‘sell off’ their
daughters through a thwala, should there be a dire need for immediate capital.
These examples illustrate the different strategic uses of ukuthwala for the various
people involved. It should finally be clarified that ukuthwala is not exclusive to the
Pondo people. This practice invariably forms part of the broader Nguni cultures
and thus also occur among certain amaXhosa groups and Zulu-speaking people
in South Africa, as well as in other Southern African countries like Zimbabwe,
Zambia and Tanzania. That ukuthwala is multifaceted and practiced in various
ways, becomes clear. A necessary question to ask is thus:

- What are the different strategic uses of ukuthwala for people on the
  local level?

As there is evidently more than one strategic use of ukuthwala, this sub-question
will be addressed in each of the three ethnographic chapters. However, each
chapter will focus on a different strategic use of ukuthwala. I will now turn to why
this practice is illegal.
Legal-Cultural Entanglements

Even though *ukuthwala* was legal under customary law prior to 1996, it was never a common occurrence. This situation changed when it was abolished under the new Constitution. Understanding the Constitution’s perspective on customary law might reveal why *ukuthwala* in itself is an illegal practice, while customary law in general, is not.

Doing pioneering work in legal anthropology in the South African context, the American scholars, John and Jean Comaroff (2003; 2009; 2011 [currently in print]), came to believe that the conflict between the Constitution and Customary Law is in essence a “confrontation [...] between Euromodernist universalism and cultural relativism” (2003, 189). They argue that South Africa is struggling to reconcile its Euromodernist legal system with Afromodernist claims to cultural relativism. A Euromodernist legal system promotes universal human rights, while Afromodernism is a social process that claims the right to cultural autonomy. As part of its efforts to protect universal human rights, the Constitution also protects cultural relativism by recognizing the official status of customary law. The conflict arises when a person claims the protection of customary law when performing a cultural practice that violates the universal human rights of another person.

Essentially, though somewhat simplified, an arranged customary Pondo marriage is legal (a cultural relativist provision allowed by the Constitution), only insofar as it does not in any possible way infringe on the individual human rights of the intended groom and bride. *Ukuthwala* (as one form of traditional Pondo marriage) is thus illegal as it entails the abduction of a girl. This form of abduction is viewed as gender discrimination according to the Constitution since the individual human rights of the girl are violated.

Though not directly involved in this polemic in South Africa, there are a number of other relevant studies on the relationship between laws and policies and the various groups of people they are concerned with. One text of note by Shore and Wright (1997), argue for the necessity of including the study of policy in anthropological academia – a similar stance to that of the Comaroffs (2004). What is valuable for my study, is the way in which Shore and Wright mention how
policy could be approached from an anthropological vantage point – policy as a language, policy as a cultural agent and policy as a political technology. Shore and Wright aptly state that:

policies can be studied as ‘total social phenomena’ as they [...] create whole new sets of relationships between individuals, groups and objects. Policies may also be analysed as [...] analytical keys to understanding an entire cultural system and its underlying elements. (7-8)

Though I do not fully agree with this totalizing view of Shore and Wright, I do agree that policies “have important economic, legal, cultural and moral implications” that influence the relationship within groups of people and between groups of people and polities of state. This stance may prove helpful when I investigate how the Constitution’s policies on ukuthwala affect people and their cultural practices on a local level.

A second important text concerning the study of policy is that done by Kugelberg (2011). Kugelberg explains how policies are often put in place as a means to support minorities. Yet, the financial support provided is done so with an instrumental attitude which leads to attempts of regulating these minorities. What is true about money can be true for ‘cultural agency’ as well, I believe. I therefore put forward the thesis that agency (not money) may seemingly be passed onto cultural groups (by legalizing customary law for example), only as a new form of governmental control well masked. If the cultural agency that customary law provides become limited or inhibited because it is subjected to the Constitution, it may have far reaching influence on the cultural agency of people governed by customary law. This point of view may illuminate some of the attitudes individuals on the local level have with regards to customary law and their right to cultural expression.

Però (2011) provides what I interpret to be an example of policy as cultural agent. He asserts that the hardships endured by migrants cause them to unite themselves not only in ethnic groups, but also in unions or other associations. In
in order to be successful at influencing the policies affecting their lives, migrants have to transcend the dominant multicultural paradigm that persistently constructs them in terms of ethno-cultural otherness. This is done through open defiance. Though this article is concerned with migrant minorities, I believe that this might be true for any cultural group that experience negative pressure from governments. Feeling threatened by laws, individuals might band together against the authorities who pass and enforce these laws. Similarly to Kugelberg’s notions on cultural agency, Però’s beliefs may help me to understand certain responses of individuals who may feel threatened by the limitations embedded in the Constitution when practicing their traditional customs.

There is thus an important question to be asked with regard to laws and the cultural practices they affect:

- How do people feel about and react to the fact that ukuthwala was illegalized?

This sub-question will be addressed in Chapter Three, since the focus of this chapter is the relationship between ukuthwala and issues of human rights.

**Gender Discrimination and Equality**

Theories with regard to the legal context in which cultural practices play out are thus important to take into account when ukuthwala is investigated. This becomes even more important in the light of the government’s priority to establish equal gender rights in all levels of life in South Africa. However, views of what gender and sexual equality is may vary greatly on the local level where ukuthwala is practiced. Theories and studies of gender equality and discrimination are therefore also essential for this study.

Erika George (2008), a medical anthropologist working in South Africa, holds similar beliefs as the Comaroffs (2003) in her assessment of the conflict between universal human rights and customary law. However, she takes the argument further when she relates this conflict to issues of prevailing gender inequality in her investigation of virginity testing in the province of KwaZulu-
Natal.\textsuperscript{13} She observes that “while laws governing the public sphere have often been altered through colonial contact and reformed by post-independence constitutionalism, the norms and practices regulating the private sphere may serve to sustain gender inequality” (1467). Therefore, even though laws that combat gender inequality may exist, they are rendered ineffective in the private sphere where traditional patriarchal norms and values are still upheld in more traditional communities.

Nyamu (2000) also addresses this issue by critically reflecting how governments use human rights to eradicate gender inequality through the implementation of new laws. She argues that such steps should always take into account the relationship between culturally legitimized gender discrimination and cultural identity. From a legal perspective, \textit{ukuthwala} is a form of gender discrimination, but since both men and women might experience it as a form of cultural identity, their interpretation of gender discrimination could be different from that of the government. To complicate this matter further, the interpretation of cultural identity by men may differ from that of women, and the concept of cultural identity may also have different meanings for a younger and older generation respectively.

Sen (2001) is helpful in this regard as she investigates the issue of gender inequality by critically reflecting on disparate forms gender discrimination. She cautions that there is no singular form of gender discrimination, but rather different forms thereof, experienced differently by different women. Romany (2005) has a similar approach. She seeks to find a new feminist methodology that takes these different experiences into account. She argues that this is specifically necessary since women in South Africa live in such diverse situations that lead to such diverse experiences of discrimination and inequality.

I agree with George that national laws and views of human rights do not always penetrate into the private sphere of the home. Behind closed doors women may still be subject to culturally sanctioned gender discrimination.

\textsuperscript{13} During the cultural practice of virginity testing, young girls are routinely checked by female elders of the community to make sure they are still virgins.
However, as Nyamu points out, what the authorities may view as gender discrimination, may in fact be a source of cultural identity for both the ‘perpetrators’ and ‘victims’ thereof. Some women might not experience certain cultural practices as discriminatory since it provides a form of identity or useful strategy of some sorts. Yet, other women may very well find it discriminatory and unequal. I will accordingly attempt to provide a wide as possible view on how different women experience *ukuthwala* on the local level.

- How do the interpretation and experience of *ukuthwala* as a (so-called) form of gender discrimination vary amongst women?

Since lived experiences are so varied, this sub-question will be investigated at the hand of various case studies and interview material presented, and I will thus make reference to these diverse experiences throughout the body of this study. Chapter Five, however, will specifically focus on this question.

**Rape**

Closely linked to the question of what gender discrimination and equality is, is the question of rape. According to the government and media reports, *ukuthwala* is a form of violent rape. However, Britton (1930) reports that a girl is not supposed to be harmed, but rather be kept safe during the *ukuthwala* procedure. He also reports that girls sometimes strategically orchestrate their own *thwala* as a means to marry the man they want. These clear discrepancies that become visible need to be accounted for, specifically since rape is such a current and hotly debated topic within South African academia.

The Medical Research Council of South Africa (2009) reported that they conducted a study which indicated that one out of every four South African men admitted to raping a woman or girl. Although 65 000 rapes were reported that year, police suspects that the number is 25% higher, which indicates that around 1 400 000 women are raped in South Africa annually.

These statistics are shocking and reason for great concern. The reasons for rape are as varied as the victims. Larsen (1998), Bowely (2002), Jewkes (2002; 2002), Meier (2002) and Posel (2005) focus specifically on the prevalence
of the rape of babies and children in South Africa. These authors contribute this kind of rape to extreme forms of family dysfunctions, poverty and gender inequality. They also point out that illiteracy and ignorance play an important role when children are raped because of misplaced beliefs in witchcraft, myths and traditional beliefs. One specific myth that is a major contributing factor, is that of the ‘virgin cure myth’, as described by Lobaido (2001), Earl-Taylor (2002) and Jewkes (2002; 2002). These authors focus on how the belief that raping a virgin may cure one of HIV started a flood of rapes involving children and babies in South Africa.

Jewkes (2002; 2005), Wood (2005) and Moffett (2006) discuss how respect, authority and gender hierarchy is often a reason for rape. These authors argue that men rape women as a form of punishment for being disobedient to them or for tempting them sexually. They also pay attention to the ways in which men and women agree that rape is a just form of punishment and patriarchal control. Dunkle (2004) contributes to this discussion on rape by citing that the inability to handle conflict is often the cause for rape. Men who do not have the ability to resolve conflict peacefully through compromise use rape as a strategy to get their own way and gain control over their partner.

Finally, Groce (2004) explains how individuals with mental disabilities are specifically vulnerable to rape because of the traditional belief that these individuals have cleansing power for someone suffering from sexually transmitted diseases.

As disturbing as these findings may be, discrepancies once again come to the fore. We find that women sometimes agree with men that rape is a just punishment for women who do not disrespect men. Both men and women also share traditional belief in the non-human nature of individuals with mental disabilities. In such a case women might not object if a girl with a mental disability is raped.

I would like to contribute to this debate by discovering how different people on the local level perceive ukuthwala. This is not only important because of the discrepancies in the reviewed literature, but also because the outsider’s etic
perspective would probably constitute *ukuthwala* as rape. I admit that this was also my initial preconceived perspective. However, from an emic point of view interpretations of gender discrimination and rape, with regard to *ukuthwala*, may differ greatly.

- **If sexual intercourse occurs during a *thwala*, how do men and women perceive and define it respectively?**

Chapter Four will address this sub-question in particular by focusing on various definitions of sexual intercourse in different *thwala* contexts. This sub-question will also be investigated in Chapter Five. Here I will focus on how the concept of rape is acquiring new definitions as *ukuthwala* adapts and changes.

**Cultural Identity and Change**

If I accept Nyamu’s (2000) assertion that some forms of gender discrimination (like *ukuthwala*) may be a marker of cultural identity for some people, I have to understand what cultural identity is. And if *ukuthwala* is adapting as a cultural practice, I assume that some of the reasons for its adaptation must be culturally based.

Two primary theories will guide my study in this regard. The first is the ‘clash’ between Afromodernity with more rigid notions of tradition, while the second, which seems to be a result of the first, is the rise of policulturalism in South Africa. According to the Comaroffs (*Theory From the South*, manuscript in print), Afromodernity is an informative “ideology of improvement” shaping the “*Weltanschauung*” (or worldview, 15) of individuals, communities and groups of people. As a “discursive construct” (20) it is furthermore constantly being shaped by various political, economical, cultural and social forces. As an “ideology of improvement” Afromodernity may lead to progressive and modernized worldviews that possibly exclude more ‘traditional’ notions and expressions of culture. Cultural change is brought about in this way as cultural identity changes in a modernizing process.
The second social process that influences cultural identity and change is that of policulturalism. In their forthcoming text, *Theory From the South*, the Comaroffs define policulturalism as:

> the politicization of diversity embodied in demands not merely for recognition, but for sovereignty of one kind or another: sovereignty, most immediately, against the state and against the idea of the universal citizen, now less a citizen of the polity than a citizen *in it* [...] (42, emphasis in the original)

Some of the most notable features of policulturalism are “an escalating assertiveness, [...] of communities of faith and culture” (43), as well as “the fracture and parsing of its sovereignty through a series of displacements of its authority” (43).

Policulturalism, which the Comaroffs pose as one result of the discursive workings of Afromodernity, may help us to understand why certain individuals find identity in discriminatory cultural practices, and possibly also why there is such an escalation of violence in the execution of *ukuthwala* in the last decade. If policultural changes take place within a culture, people become more politicized in their cultural identity. This cultural politicization claims cultural sovereignty set specifically against the state, courts and Constitution to which it is subjected. Not being granted this desired cultural sovereignty may then lead to “an escalating assertiveness” in the practice of cultural customs. While some people accordingly gravitate away from traditional cultural practices, others may in turn find a form of identity in these practices. It is thus important not to approach this study with any assumptions as to how people feel about *ukuthwala* as a cultural practice.

Along similar lines, Alberto Milucci (1997) comments on possible reactions to changes in cultural identity. He states that:

> [c]hange is a goal that we find desirable and towards which our search for the new and the different is directed. But change also threatens our
security, and our established and habitual rules. Thus, when we are facing change, we are always torn between desire and fear, between anticipation and uncertainty. (63)

Rapidly changing cultural and societal conditions facilitate (and arguably necessitate) ‘new’ or changing cultural identities. However, these identities are not received equally well by different strata of the population. Individuals experience that cultural change “threatens [their] security and [their] established and habitual rules”, especially those in historically authoritative positions. Leclerc-Madlala (2003) agrees when he writes that “[w]hen facing the unknown, people often look to the past for guidelines to give direction for managing the uncertainties and insecurities that come with change. Change threatens the status quo, and this includes the existing power structures within society” (16).

Cultural changes are thus desirable for some, but threatening to others. Although policulturalism may explain why certain people find identity in more traditional cultural practices, others might simply fall back on traditional cultural practices in the face of uncertainty brought on by cultural change in general. Two questions arise here:

- Do people think that *ukuthwala* should continue in the changing cultural landscape of South Africa?
- And, if so, is the re-emerging of *ukuthwala* an attempt to assert local cultural identity?

These sub-questions will be tackled in Chapter Three.

**Comparative Studies**

Understanding the context in which *ukuthwala* plays out better through the reviewed theories, we can now review studies on similar practices. These ethnographic studies can be compared with *ukuthwala*, illuminating our understanding thereof. They may also serve as examples of how the reviewed theory is given more concrete expression in ethnographic studies.
The first helpful ethnographic study is that done by Jessaca Leinaweaver (2007). She investigates how rural-to-urban migrants move children between houses as a survival strategy in the context of social and economic inequality. Though in a different context, this investigation clearly illustrates how the human rights lobby (with similar statutes as the South African Constitution), is quick to criminalize parents. According to the UN Convention on the Rights of the Child (and codified into international law), children need both the support of close kin and a decent standard of living. However, officials view the very local practices specifically employed by poor Peruvians to provide their children with these requirements as abandonment. Leinaweaver writes that “Peru’s globalized adoption system implicitly denaturalizes the parenting of poor, indigenous Peruvians” (163). When the government or courts thus construe a possible survival strategy as a criminal act, it could easily lead to very antagonistic attitudes towards the government.

The way in which this Peruvian survival strategy is denaturalized by human rights lobbyists and policies can be compared to the way in which a form of gender agency is denaturalized in the ukuthwala controversy. Girls sometimes orchestrate their own thwala, thereby marrying the man of their own choosing. In such a case ukuthwala could very well be a form of gender agency. Yet, ukuthwala is criminalized by the mono-focal perspective of the Constitution as nothing other than a form of gender inequality. This could lead to negative attitudes among men who are made to be, by default, the perpetrators of gender inequality. It may also lead to negative attitudes among women who may now become the victims of arranged marriages in the absence of the possible agency they could have gained through organizing their own thwala. It is therefore of utmost importance, when analyzing ukuthwala, to remember that it was, and maybe still is, a cultural marker held dear by many individuals and should be hence be understood holistically and not mono-focally.

A good example of policultural claims to sovereignty and cultural assertiveness, is observable in the related debate on virginity testing among certain Zulu peoples who, contrary to the banning of virginity testing, continue to
execute this practice. Louise Vincent (2006) is concerned with issues of gender inequality, yet provides an apt example of this social process when she writes the following:

King Goodwill Zwelithini told the assembled crowd [at the annual Umhlanga – the reed dance ceremony – in 2005] that the practice of virginity testing is ‘at the core of our pride’. He criticized the government for having failed to consult him, as the head of the Zulu nation, on the new law and called on ‘them [the government] to leave me alone with my culture. (18)

A policultural sensibility becomes clear – by protecting and encouraging an illegal cultural practice, King Zwelinthini is asserting a distinct cultural identity to be proud of. He claims an ethnic identity marked by autonomy and agency, and finally, he distances himself (and by implication ‘his people’) from polities and laws of the state, thereby critiquing the state’s resistance to the displacement of its authority to traditional authorities.14

In the absence of academic publications on ukuthwala, it may furthermore be helpful to use literature on virginity testing (Scorgie, 2002; Law, 2005; Le Roux, 2006; George, 2007; 2008) as a mirror with which to compare ukuthwala. This is possible, I believe, because of the number of parallels that can be drawn between these two practices: both are practiced among the Pondo people, both are illegal; both became rather extinct and then revived again, and both are concerned with young girls and issues of gender and sexuality.

14 Again issues of gender inequality is brought to the fore. Although the potential ‘harm’ of virginity testing was used as a means to outlaw this practice, no cases in which a girl was actually ‘harmed’ as a direct result of virginity testing, have ever been documented. Yet, there are numerous documented cases of annual neophyte deaths because of the legalized practice of male circumcision in South Africa. See George (2008).
Conclusion
The marriage practice of *ukuthwala* has, as of yet, never been investigated from a socio-cultural academic perspective, making this study rather difficult from an anthropological point of view. Most research has been done by the news media, academics in the legal profession and human rights lobbyists. In general this results in *ukuthwala* being defined from an etic perspective, and accordingly condemned.

This lack of socio-cultural investigation makes this study more relevant. Anthropology focuses on the emic perspective of the lived experiences of people, and the diversity of interpretation within cultures. With this unique focus, anthropology makes it possible for me to investigate *ukuthwala* from within the culture of the people who practice *ukuthwala*. This inside perspective is necessary if the re-emergence and adaptation of *ukuthwala* is to be understood better.

This investigation is made possible by using the little that has already been published as a starting point for my research. The published material provides the key points in the *ukuthwala* debate that merit further investigation. Published theory on contemporary jurisprudent debates in South Africa helps to contextualize *ukuthwala* in the broader national context, but also point to the local issues at stake – gender discrimination, rape and conflicting notions of cultural identity and cultural change. Literature that explains current social processes of cultural change aids me to understand the various factors influencing and changing the local cultures in which *ukuthwala* occurs – conversely also changing how *ukuthwala* is practiced. Finally, various ethnographic studies can be compared to *ukuthwala*, broadening my understanding of the latter and making the study of *ukuthwala* more feasible.
Chapter Two:
Afromodern Landscapes

The local level is the site where the conflict I am engaging with finds concrete expression, and the focus of this chapter. A description of the local level is thus necessary, as well as how I set about researching the concrete expression of ukuthwala.

By means of investigating and explicating the research setting and methodologies used as a means of answering the reasons for the re-emergence and adaptation of ukuthwala, the following will be done: first the actual research settings will be described, as well as its social, cultural and economic contexts. The methodologies used as a means of obtaining data will then be introduced, as well as the reasons why these methods were chosen. I will next present some of the research problems I encountered, and how these problems were met. The key informants will subsequently be introduced, as well as an assessment of my relationship with them as researcher. In conclusion I will provide the reasons for the way the data of this study are presented.

Research Setting
Multi-sited research was done in the vicinity of three locations, namely Lusikisiki, Bambisana and Mugwambu. Most of the research was conducted in the villages around the town of Lusikisiki where I resided for about two months. I undertook two short visits to Bambisana and its surrounding villages, which amounted to almost two weeks. The last week of my fieldwork period was spent at the roadside village of Mugwambu. My research was therefore never confined to the geographical borders of these three urbanized settlements, but rather spread through and between these areas. The areas between these three locations are also interspersed with smaller villages and family compounds, blurring any clear division one could draw between urban and rural.

Lusikisiki is situated on the escarpment between the Transkei highlands and the eastern coast of South Africa. Colonial traces are still visible in the town,
specifically in the colonial architecture and colonial garden layout with flame and jacaranda trees. The town has one asphalt main street and all other roads are gravel – dusty when it’s dry, and turning to mire when it rains. Though the town is build around the gravel streets that branch out diagonally from the main road, there is one new and continually expanding suburb called New Town. Taxis, informal vendors and small entrepreneurial businesses that congest the sidewalks and car parking areas provide an industrial buzz, stimulating day-long traffic jams with no recognizable peak hour.

Most of the big stores and warehouses are owned by immigrants, mainly from China, India, and Pakistan. Though black, white and Indian South Africans also own some of the stores, not many of them live in Lusikisiki on a permanent basis. It seems as if the economic and commercial activities still reflect the colonial and apartheid past to some extent, albeit along new demographic curves.

Lusikisiki is classified as a town (as opposed to a village), together with Bisho, Flagstaff and Port Saint Johns (also situated in Pondoland), which imply that magisterial courts and Home Affairs offices are based in it. There are a number of private medical practices in the town as well as a big hospital with a daily mobile clinic that move around from village to village. Medical care is however still insufficient as patients sometimes sit in queues for days before seeing any medical practitioner. The town furthermore sports an array of professional businesses, two private schools and a government school. The Lusikisiki population of a few thousand people makes sustaining these businesses and schools possible. I furthermore met a number of college and university graduates and, on average (as far as I could tell), people had a good comprehension of English.

During my stay in Lusikisiki I resided in the vacant parish house of a local church. I specifically chose Lusikisiki as a type of ‘home base’ since all the media reports mentioned the Lusikisiki area as a place where *ukuthwala* was practiced. It is also relatively easy to reach rural villages from here, which was a further reason for my decision to base myself in Lusikisiki.
Bambisana is situated in the mountains 42km south east of Lusikisiki and may be considered much more rural. This village started out as a mission station with its main purpose being a mission hospital. In the course of time the hospital was taken over by the government, who also built a primary and secondary school close to it. Other than the hospital and school, there are no formal industries or commerce, and Chinese people own the only grocery store. Bambisana seems to be a collection of mud huts and small brick houses loosely clustered around the schools and hospital. With only a few hundred people living in Bambisana, the population density is rather low. When doing research here, I again lived in the old mission parish. Yet here I shared accommodation with three young missionaries.

Mugwambu is a small rural village about 20km north of Lusikisiki with a population of a few hundred. Here I stayed with a family I met during the first half of my research period. I lived in a ‘traditional’ thatched hut with the cattle enclosure close by and chickens walking in to peck crumbs. However, the traces of Afromodernity were visible in the television set, the gas stove and electricity. The purpose of staying here for a short time was to experience daily local life in a more rural setting. During preliminary archival research, I found that references were frequently made about the link that ukuthwala has with poverty, indigenous beliefs, ‘traditional’ forms of patriarchy and low levels of education. Living in a rural village for some time would bring me closer to these conditions, and I would be able to observe them personally. This may provide some additional insight I assumed. Living here also presented me with numerous opportunities to ask questions. Every day I followed various family members on their daily rounds. I witnessed a festival for a widow who came out of mourning; another of a widow who went into mourning. I helped to build a traditional cattle enclosure (the boma or kraal, 15) and learned much about cultural respect – who sits where in the hut, who is served or greeted first, and who may speak when and where. The villages where I did research around Lusikisiki closely resemble that of Mugwambu.

15 A traditional cattle enclosure constructed with vertical logs and horizontal beams weaved between these logs. Open gaps are then stuffed closed with vegetation.
The Local Context

The re-emergence of *ukuthwala*, as well as the ways in which it is adapting, is closely related to the local social, legal and medical context of these three areas as well. Increasing levels of poverty, unemployment, a dramatic rise of violent culture, an acute legal/political awareness and, finally, massive social shifts brought on by HIV/AIDS, also play an important role.

Over the last few years, South Africa has struggled with unemployment, a situation that is still escalating with the government desperately trying to cope with it (Kingdon and Knight, 2003). I met numerous individuals seeking employment, some with tertiary education qualifications. The concern about unemployment was also a regular topic brought up in the focus groups I conducted. According to many of the people I spoke to, unemployment leads to poverty, and poverty in turn exacerbates alcohol and substance abuse. Substance abuse then often results in violence in general, as well as domestic and gendered violence. A number of police officers I spoke to agreed that substance abuse and gendered violence were increasing.

The research setting can secondly be contextualized by a general legal and political awareness. With the struggle against Apartheid and the advent of democracy still fresh in the minds of people, politics is a regular topic of conversation and debate. Democracy, brought by the new political dispensation, seems to be equated with human rights as I soon found out when conducting interviews. With the exception of four respondents, all other respondents were strongly opposed to human rights. The reasons given for this aversion was almost always the same. People felt that human rights were “bad” since it legalized abortion and homosexual marriages and abolished corporal punishment. Abortion and homosexual marriage are seen as sacrilege, while corporal punishment was a primary way of teaching a child discipline in the local culture of the amaMpondo.

The third and final important contextual frame is that of the HIV/AIDS pandemic. Irrespective of the efforts done by numerous government agencies and NGOs like TAC (Treatment Action Campaign), HIV/AIDS is still a taboo topic
and referred to as “the sickness”. This disease drastically alters family structures and contributes to poverty and the ‘unemployability’ of individuals. To understand the reasons for changing marriage practices, this ‘medical’ context will come under closer inspection in Chapter Five.

**Methodology and Research Design**

Having some insight of the local setting and its immediate context, I will now account for the research design and methodologies chosen that make this study possible in the given setting and context. Since ethnographic research is able to provide in-depth descriptions and insight into the lifeworlds, emotions and motivations that stimulate the adaptation and re-emergence of *ukuthwala*, it was chosen as the best research design for this study. Ethnographic research also enables the researcher to account for a wide range of units of analysis that produces a similarly wide range of data types. This makes ethnography a versatile research design well suited when human life is under investigation. I will thus provide a short account of how ethnographic methods aided me in data collection; the questions generally asked during interviews and informal conversation will be provided, and finally the limitations of this research design, as well as some difficulties I faced during the course of data collection, will be discussed.

According to Babbie and Mouton (2010), units of analysis can be divided into two categories – the first category entails “conceptual or non-empirical […] theories and models, analyzing concepts, or reviewing the body of knowledge” (84). The non-empirical category of this study is composed of the scientific and academic research that has been published with regard to the jurisprudent debates, socio-cultural conflicts and social processes. I spent a number of months doing archival and document research in the library of Radboud University. During these months I sought for academic publications on *ukuthwala* and theories that may help to build a theoretical framework for this study. I also did a lot of Internet research that was specifically focused on finding reports on *ukuthwala* by the news media. As non-empirical data have already been
analyzed in Chapter One, I will here focus on the empirical units of analysis, Babbie and Mouton’s second category.

Babbie and Mouton (2010) define “empirical [units of analysis as] human behaviour, historical events, or social programs” (84). The empirical units of analysis in this study will consist of those individuals interviewed as well as the historical events that reshape *ukuthwala*. The data is thus human action and communication. The methods used to gain this empirical data were that of participant observation, semi-structured and in depth interviewing, informal conversations, focus group discussions, life histories, and finally making field and head notes. It should be noted that these methods were not used as separate rigid models, rather the given situation determined the method(s) used. It often happened that a more formal interview became an informal conversation as ‘formal’ circumstances became more relaxed. Other times informal conversation took the form of an insightful focus group discussion as more bystanders joined in the discussions. I thus found that being able to change my methodological approach quickly during a given situation (like from an interview to a focus group discussion) often proved rewarding. This sometimes happened suddenly and yielded more data than I would have obtained if I applied a specific research method rigidly.

Except for numerous informal conversations with my key informants, I conducted sixteen interviews all together – five with men and eleven with women. Three of the women I interviewed where *thwala’ed*, and one escaped during the *thwala* process. From two of these women I obtained life histories. I conducted five focus groups discussions of which one was with women only, and four with both men and women. The smallest focus group was that with the women and numbered only five individuals. The mixed focus groups ranged from about ten individuals to more than forty.

The first priority was to establish relationships with my five key informants, who also acted as interpreters. Once I established these new relationships through many informal conversations, I progressed to semi-structured and in-depth interviews that sometimes flowed from a ‘normal’ conversation. These
communicative situations were mostly recorded digitally or by hand. The informal conversations often revolved around my research and what I wanted to know exactly. This gave me the opportunity to explain what I was researching, which greatly helped the translation process. Most informants, for example, are not acquainted with the term ‘customary law’, which is historically a western term. Understanding the subject matter of my research questions, the interpreters thus used the expression ‘the cultural way (of our ancestors)’, an expression everyone understood clearly. With the exception of a few interviews, my informants organized all the meetings where I could conduct interviews or have conversations with people. These meetings usually took place at peoples’ homes where I was always warmly received.

The following ethnographic methods aided me in these conversations and interviews: I made extensive use of a dictaphone that enabled me to transcribe most of these communicative encounters carefully (whether formal interviews or informal conversations). This enables me to ‘revisit’ thoughts, attitudes and factual information I came across – even if only audibly. Transcribing interviews and carefully analyzing them aided me to lay bare the way of reasoning and language construction of the subject matter by the people. This is important as the way in which language is used reveals much about the inner reasoning of individuals as inner reasoning reflects the attitude and belief of a person in the constructed vocalization of language.

Making field notes was another ethnographic method I used. Primarily these notes were taken down as a supplement to recorded interviews and conversations, a way of contextualizing these interviews. These notes encompassed non-verbal information or communication like a frown, who spoke when and how much, or someone’s tone of voice. These notes say much about the attitudes of people and their social position. Notes on the physical surroundings, like the number of buildings in a compound, the building material used, the presence or absence of a kraal and its distance from Lusikisiki, for instance, may reveal something of the financial situation and even level of
education of the informants – information that I found to be very informative in researching *ukuthwala*.

The method of participant observation enabled me to gain a necessary insider’s perspective on the amaMpondo and local forms of culture. Though I do not imply that I became an insider, I did gain valuable insight through living with both Xhosa and Pondo people, going with them to local restaurants that sell their traditional dishes, joining local festivals (the ending of a mourning period for example) and aiding them in their daily chores (like carrying water from a small river to the huts). Participant observation was chiefly a method when living in Mugwambu with a Pondo family, but was also used as a method when I informally socialized with informants and respondents.

The aforementioned archival and media research served as methods to acquaint me with the field and subject matter. It also serve as a method to identify the important issues at stake in this controversy. These identified issues stood central to my interview questions and conversations. The question I asked was originally rather set, but written in everyday language as I am aware that levels of literacy is rather low in the area where I conducted my research.

There are two main concerns with an ethnographic research design – the biases of the researcher, as well as the difficulty to generalize from the limited information gained from a small number of respondents. There are ways of minimizing these risks to some extent. Scientific research protocol serves as a good method to counter my biases of thinking that everyone involved in a *thwala* are criminals, and that *ukuthwala* was simply statutory rape. I therefore only argue evidence found through the collection of data in the field. If I cannot back a personal viewpoint or opinion by field evidence and data, I consider it scientifically unsound and such an opinion will not be presented. Generalizations are difficult for the limited amount of data collected. Still, I believe that already published theories, case studies of similar practices and those presented by the media do make generalizations possible if the findings of these published material show multiple similarities to the data I collected. Finally, though generalization is necessary to some extent, the main aim of anthropological
research is to gain in-depth insight of cultural aspects – a ‘deep’ understanding is sought as opposed to a broad understanding. Such a deep understanding also reveals diversity within more effectively, as this study is primarily concerned with internal diversity of opinions, perspectives and ways of executing *ukuthwala*.

The main problem with collecting data was of a linguistic and gender nature. Firstly, my understanding of isiXhosa is still rudimentary and I thus needed to work with interpreters. Secondly, in certain Pondo communities the expression of different gender roles and hierarchies are still very strong, with taboos on what may be discussed by whom and when. *Ukuthwala* is obviously a very sensitive issue, and as such, I believe that the two sexes felt more comfortable when conversing in their own language with someone of the same sex. I thus worked with both male and female interpreters, but did not always manage to have a female interpreter present when interviewing women and vice versa. Yet this did not seem to affect the results of this study in any noticeable way.

**Hurdles in the Ethnographic Path**

The main problem I faced while doing fieldwork was the ethical implication of my research problem. The ideal target group of this research would be the men who actually *thwala*’ed girls, and the girls themselves. Democracy brought a new Constitution that is premised on universal human rights, which in turn lead to the formation of policies of state that ensure the maintenance of these rights. As I did not have any official and registered ethics committee to approve my research, actual research was made very difficult. No one in any official position connected with the general welfare of society would talk to me. These included the police, social workers, the caretakers, managers and directors of the safe houses meant specifically for *thwala*’ed girls. I sent requests to interview some of these individuals even to provincial level, but to no avail. Without ethical clearance from a recognized body, I was officially barred from talking to certain individuals.

Finding men who abducted girls proved to be just as difficult. This is simply because the practice is illegal and should their personal details come to
the knowledge of any form of law enforcement, they would be tried for statutory rape and sexual assault. I also found evidence that some communities do not report these cases, even if they do not agree with such conduct. Community secrecy and silence accordingly also made finding these men and girls difficult. In an attempt to solve this problem, I interviewed elderly ladies who were thwala’ed before it became illegal. Though I managed to find such ladies, I did not manage to speak with any man who thwala’ed a girl. I did, however, interview a number of men about the practice of ukuthwala, three of whom are the offspring of a thwala marriage.

Key Informants, Ethnography as ‘Human Document’
I worked mainly with five key informants: two elderly Pondo ladies and three young Xhosa men. These informants were invaluable to this study and I owe them a depth of gratitude. McMichael (2002) wrote that she “did not use an interpreter, but worked with an interpreter, [and] key informant […]. This approach enhanced the interview process, as [she and her interpreter] were able to work together and bring different skills and perspectives to the research project” (176, emphasis in the original). My key informants did not only act as primary informants, but also as interpreters, guides, ‘research partners’ and inducted me to the Pondo lifeworlds and culture. They were able to navigate the sensitive subject matter of my research well within the codes of respect, hierarchy and propriety of the Pondo culture.

In Lusikisiki I rented a room in the empty parish house of a local church, and they asked one of their church elders, who also live on the premises of the parish, to help me with the interviews. This elder became my closest companion and key informant during my fieldwork period. Her name is Jikileza Nomthandazo Gongxeka, 61 years old, unmarried, and the spiritual worker of her church (the equivalent of a missionary and Christian counselor). She organized all the focus group discussions I conducted, as well as a number of interviews. She also introduced me to the village chief who, in turn, introduced me at the royal court of Quakeni (the highest and royal traditional court of the amaMpondo) where I
obtained official approval to conduct my research. We spent many hours together, and had numerous and insightful conversations about every aspect of my research. Her age counted in my favor, as age is a much-revered attribute in the communities I researched. That she works for a local church also added to my credit as religious observance still play a seminal role in the daily lives of most of my informants and respondents.

My three key informants and interpreters in Bambisana were all young men. Mnoza is 25 years old, Moses 27 and Bongani 28 years of age. They are ethnically Xhosa and working in partnership with an American based Christian NGO called Oceans of Mercy that works with Aids orphans. All three did a seminary course through Joint Aid Ministries in Cape Town and have been friends since secondary school. I stayed with them in their house at Bambisana, and had numerous insightful conversations with them. I gained valuable information about marriage and lobola\textsuperscript{16} as Bongani was in the process of raising funds to pay lobola to the parents of his fiancé. I do not think their Xhosa ethnicity made any difference to my research as lobola and marriage customs are very similar between the amaMpondo and the amaXhosa, with only slight variation in ceremonies. Ukuthwala is furthermore historically also a Xhosa practice. They did not arrange any of my interviews. Rather, I went with them to some remote villages in the mountains around Bambisana where we simply introduced ourselves and asked for permission for interviews. It was on these trips that I found and interviewed the four ladies who were thwala’ed.

My last key informant, Nothembile Nohe, is also 61 years old, married and retired. I stayed with her family at Mugwambu, 20km north of Lusikisiki. She supervises one of the orphan day care centers sponsored by Oceans of Mercy, and takes care of many AIDS orphans in a personal capacity. Though I had many conversations with her about Pondo culture, I did not conduct any formal interviews or recorded conversations with anybody else at Mugwambu. My purpose at Mugwambu was, as mentioned earlier, to gain experience and knowledge of daily village life – valuable experience when one investigates a

\textsuperscript{16} Bride price payable to the family of the bride.
local cultural practice that is influenced by the local political, economical and cultural climate.

**My Position as Researcher**
What struck me the very first day I arrived in Lusikisiki was that it seemed to resemble Lilongwe, Malawi’s capital city, closely as far as physical surroundings are concerned. As I grew up in Malawi, I know Lilongwe very well and accordingly immediately felt ‘at home’. I thought that I would feel out of place in Lusikisiki, not only because I was the only white person living in the town, but also because I was supposed to formally investigate people. Out of inexperience I thought that this ‘formal’ capacity would lead to formal relationships. I realized that feeling ‘at home’ immediately broke down any feeling of being ‘other’ to the research setting and the people living there.

Shared belief and religious practices further broke down boundaries between informants, my respondents and myself. As a professing Christian, the son of missionary parents, and very involved in church activities myself, I immediately shared important common ground with my key informants. Partaking in their religious activities created a bond of friendship and trust that was very important since the research done by an anthropologist always depends on the co-operation of his/her key informants to some extent. I should also mention that I never requested interviews or meetings with people I met at these activities simply because I did not want to give the impression that I only saw these activities and my informants as a means to my academic ends, spoiling the good relationships I had with them.

What I did struggle with was to stay cognizant of my capacity as researcher. It often happened that I would have insightful conversations with my key informants, but because I felt so comfortable being there and talking openly, I would forget to take notes (written or mental) all together.
The Representation of Data

Anthropology is at heart an investigation of the cultural lifeworlds of individuals and communities. Thus, the research conducted was scientific by nature and method, but the subject matter intimately human and real, touching many lives in different ways. To find the data we need as anthropologists, we ask questions. The questions I asked frequently brought to light the intimate stories of my informants. These stories often revealed surprising facts or thoughts that steered me into new directions. I soon found myself digressing from the course I planned before reaching the field. I realized that I was no longer following my theoretical beliefs about *ukuthwala*, but was rather being lead by the one revelation after the next. The logical progression of constructing a theory soon faded to make place for diverse events and actions that suddenly needed to be accounted for since they were actually linked! In the course of this study I will endeavor to point out the moments that set off a new course of action or path to pursue.
Lusikisiki's main street

The highlands of the Pondo kingdom
Misses Nothembi Nohe (above right) with some of her grandchildren. The hut I stayed in at Mugwambu is behind them.

Misses Nomthandazo who acted as my interpreter at Lusikisiki, but also turned out to be a helpful companion during my fieldwork period.
Chapter Three:
Violent Rights or Violating Rights?

The girl has the right to say no, but then the man thinks that he has the right to just take her! Human rights are a big problem […]. The government is forcing us to change our culture and it is not good.

These are the words of elderly mister Sandile whom I met on my first day in the field. I did not expect such a forthright statement when I told him rather offhand that I was interested in how people felt about human rights and ukuthwala. Being completely baffled by what he said, I did not pursue the topic any further. I was upset with this initial 'stage fright' on my part as a novice anthropologist, but quickly discovered that there was ample other opportunities to pursue this topic. This general dislike of human rights soon stood central to my research.

I expected human rights and democracy to be lauded in an area so adversely affected by Apartheid. This was evidently not the case. Why would people dislike the very political ideal that brought them freedom? What do people think the government did 'wrong' to inspire such negative attitudes? Morrell (2001) asserts that the “state is the most important single agent of change. It is both the result of the political transition and the catalyst and motor of transition” (20). Taking a closer look at how the state operates as “agent of change” and “motor of transition” may provide some answers specifically because the transition to democracy brought about rather drastic cultural changes.

Ukuthwala is intricately linked with these cultural changes as it was illegalized soon after democracy. Cultural changes seem to be a direct result of the way the “government is forcing” people to change or stop certain cultural practices as it violates the rights of the individual in some or other way. Some cultural practices are not only cultural and identity markers, but woven into the lifeworlds of individuals and communities. It is therefore not so surprising that people would experience these forced changes as “not good”.
The re-emergence and adaptation that *ukuthwala* has been undergoing in the last decade is thus at heart a legal-cultural issue, and the focus of this chapter. Firstly, all but two of my respondents feel that South African lawmakers did not take their opinions into account when they legislated against *ukuthwala* and many other cultural practices, like virginity testing and traditional animal sacrificing. This group of respondents was all middle aged or older, and consisted of both men and women. I argue that these actions on the part of the government aggravate individuals and communities on the local level which as a result then hide this practice from broader public view. I will then show why I disagree with other authors like Britten (1930), and Bekker and Koyana (2007) who claim that *ukuthwala* was never a sexually violent practice. Evidence found suggests that sex without consent was often a part of this practice, and the main reason for its illegalization. Understanding *ukuthwala* as a fluid rather than a set and constant structure may be the key to understanding its resilience and ability to adapt even though it is illegal. I will then point out why the *ukuthwala* practice may become even more violent as the result of Pondo culture becoming more violent in general. Finally I will argue that *ukuthwala* may be a cultural survival strategy to safeguard more ‘traditional’ forms of Pondo cultural identity amid all the legal and cultural changes taking place.

**At Odds With the Law**

Misses Tshicila presides as chief of Canaan, a hilltop village just outside of Lusikisiki. She will steward this position until her young son is old enough to take over the responsibility. Yet, as she and the other elders at one of the focus group discussions said, this responsibility is made increasingly difficult with the greater interference from the government. They are very upset that whole regions were left out during a referendum in 1996 to determine whether people still prefer to be governed by traditional authorities and customary law. They fear that the young chief will have no authority when he grows up.

Many people feel as if the advent of democracy and its implied statutes of human rights discredit local legal and cultural systems and practices, thereby
forcing cultural change. Almost all my respondents in all the different locations where I conducted interviews complained that the government was forcing them to change ‘our ways’, as they put it. They would especially bring up corporal punishment of children, physically disciplining one’s wife, virginity testing, and certain forms of cattle slaughter for rites and rituals. What was ‘normal’ to them, suddenly became demonized and prohibited in a very short period of time.

Explaining the changing formation of masculine identity in South Africa, Robert Morrell (2001) keenly observed that “[v]iolence in the liberation struggle was noble and necessary. In the new South Africa, it is criminal and destructive” (21). There are some parallels to be drawn here with ukuthwala and its illegalization. An elderly man observed:

[L]ong ago it was happening, it was right that time, nothing was bad previously. […] Yes, we were born in that thing of thwala but these days if we thwala we are called rapists, even if we agree with each other this government is saying it is rape.

I am not saying that ukuthwala was “noble and necessary” before 1996, rather, the communities in which it was practiced did not think of it as “criminal and destructive”. In more rural areas I was often told that it was rather a way of ‘making families’. However, in 1996 it acquired the legal labels of ‘statutory rape’ and ‘sexual assault’ and the people practicing it came to be called “rapists”.

Such legal changes had and have very serious implications for individuals: men and women who have been married through ukuthwala prior and after 1996 were now respectively called ‘rapist’ and ‘rape victim’, even if they may share a successful and happy married life. One male respondent complained about this predicament during one rather heated focus group discussion. He informed me that his father thwala’ed his mother, but that they were still happily married and both of them agree that ukuthwala is a constructive way of ‘making families’. It therefore becomes clear that what is labeled rape from outsiders’ etic perspective, is not always defined as such from the insiders’ emic perspective.
Apart from the individuals adversely affected by *ukuthwala*, all except four of my respondents felt as if the government was disinterested in them as individuals and an ethnic group. A village elder said during a focus group discussion, for instance, that there were “things that disturbs us, because those people of human rights did not come to us with the referendum so that we could explain to them where our culture is coming from and where it is going”. He then went on to explain that “[w]hen the rights came to our country it disturbs us, because you are just coming to us to say ‘the rights say’, without consulting us”. These individuals are upset because, according to them, human rights made *ukuthwala* and other practices illegal without the necessary consultation on ground level. These actions on the part of the government violate more traditional modes of decision-making processes on important matters. Not being consulted, even if through means of a referendum, is viewed as blatant disregard and disrespect for the community and ethnic group as a whole.

The first factor that forced *ukuthwala* to change was thus its illegalization. In response to these acts by the government, it seems as if *ukuthwala* simply became a covert practice. One elderly lady very subtly agreed that *ukuthwala* still occurs, albeit in ‘underground form’. She then unwittingly illustrated this adaptation and her approval thereof in the language she used. She said that:

> The reason for making *thwala* bad is the rights, it’s because of the law […] you can be caught now, so that’s why it’s so bad. But in previous times it was not bad; no one would caught you for *thwala* […] because it was like our culture to *thwala*.

Note that she says that it is human rights and the law that make *ukuthwala* “bad”, not the possibility of rape. She then implies that being apprehended by the law is “bad”, not the practice of *ukuthwala*. Consequently, I want to argue that *ukuthwala* did not only become a covert practice, but that even the language used to talk about it hides how people really feel about it and the reasons for its adaptation.
Contesting Perspectives on Violence

Misses Mangxamile sits in her hut surrounded by her great and great-great grandchildren. These little ones, whom she loves dearly, are the fruit of her *thwala*-marriage more than 50 years ago. She told me that she had a very good relationship with her deceased husband. However, he was not the first suitor. Before him three other men attempted to *thwala* her, but luckily she escaped every time just as the men attempted to have sex with her. She used the term ‘sex’, not rape, and when I asked her what she meant by ‘sex’, she revealed more of her story. She said that the man’s family members held her down while he forced her to drink a ‘love potion’ (*muti* in the vernacular) that was supposed to make her fall in love with him. After this, she was locked up in the man’s hut, and he forcefully attempted to have sexual intercourse with her. She told me that she was very lucky to escape, because if she was caught trying, the man would have beaten her severely. This ordeal repeated itself three times, and every time it was because her parents wanted the high *lobola* she was worth. Misses Mangxamile said that she still believes *ukuthwala* is good, irrespective of the trauma and anguish it caused her.\(^{17}\) To her what the government calls ‘rape’, is simply sexual intercourse as part of a normal cultural practice.

Misses Mangxamile’s account of her four *ukuthwala* experiences stand in stark contrast to authors who believe that sexual violence is not part of this custom. Comaroff and Comaroff (2004) write that “Seth Nthai, a former provincial Minister in charge of Police, once put it [thus], ‘Belief is not a problem of law and order. Violence is a problem of law and order’” (193). The question arises, what if belief in the right to certain cultural practices is given violent expression? This is a most pressing conundrum in the debate on *ukuthwala*. Britten (1930), Bekker (1994), Bekker and Koyana (2007), and Ntlokwana (n.d.) all sketch marriage by abduction in rather benign terms. De Jager however writes that *ukuthwala* “is forced and brutal according to Xhosa values” (1971, 160), but refrains from any reference to sexual violence. Discrepancies in published literature become clear

\(^{17}\) This elderly lady is such an ardent supporter of *ukuthwala* that she even told me that she will see it as an honour if a man would *thwala* one of her grandchildren. I found this particularly puzzling as she also said that she experienced her own *thwala*s as very violent and traumatizing.
if De Jager’s opinion is then viewed against that of Bekker and Koyana who go so far as to say that *thwala* “is not *ipso facto* an offence. [...] for an open-minded observer *thwala* is indeed a charming, romantic practice” (143)\(^{18}\)

When reading about *ukuthwala* cases in the news media, I was struck by the severe violence that so often accompanied abductions. As the literature reviewed reveals, sexual violence seems to be the defining characteristic of the ‘new’ form *ukuthwala* is taking. However, what exactly constitutes ‘violence’ seemed to be a matter of perspective.

During our first discussion my key informant at Lusikisiki, Nomthandazo, was quick to point out to me that *ukuthwala* is not seen as a custom if it involves rape. She explained that “you call it a custom when grownups are involved. The rape is a new”. Most of my respondents agreed with this view, one respondent mentioned that:

> [i]t was totally unacceptable to touch the girl sexually [...] people long ago respected the girl a lot, they didn’t even touch her without the *lobola* negotiations. Nowadays, what’s happening is, that even though the man has not control [traditional patriarchal rule], even if he is not given consent, what he does is, he just takes control of the girl and rapes her.

A young male teacher said that “[l]ong ago it was *thwala*, but now it is rape. It is new, we were very surprised when we heard of it”, and a village elder agreed when he disclosed that the current form of *ukuthwala* “is rape because there is no agreement of the adults”. It was at this point that my research took a new turn as I observed that this elder alluded to the consent needed by the girl’s parents, not the girl.

After closer investigation, it became apparent that the acclaimed presence

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\(^{18}\) I should qualify that Bekker and Koyana, both professors of customary law in South Africa, based their article on four case studies where both the parents and the abducted girls were complicit in arranging the abductions. Though I agree that there was no harm done in these four cases, I do object to their one-sided representation of this practice. They make no mention of any of the other cases in which girls were brutally raped, thereby providing a very one-dimensional view on this much more complex tradition. See EGC minutes (2009), PMG minutes (2009) and TAC report (2009).
of violence and rape was a matter of perspective. I found that there exists a lot of internal criticism of this practice as well. This criticism, however, was more focused on how *ukuthwala* was practiced, not whether or not it should be practiced at all. According to some informants, sex without the consent of the parents is considered rape. If parents agree to abduction and the man has sexual intercourse with the girl, it is not considered rape, even if it is against the express wishes of the girl. A village elder explained to me that the difference between rape and sex during a *thwala* was a matter of parental agreement: “If the girl doesn't agree, but the parents have agreement, she can go there”, implying the homestead of the man where she will be made his wife. This was confirmed when a village chief told me that “[p]reviously it was pure because the parents talk […] now it’s not pure because they just go and steal a child […] but that thing they are calling rape”. I then began to understand that rape and *ukuthwala* are not even comparable to many of my respondents because sex with parental consent is not considered a crime but an agreement.19

On the extreme end of the spectrum *ukuthwala* seems to be nothing but violent rape. One middle-aged man told me that:

>>>Long time ago […] you simply see the girl, and yet you have no affair with that lady [implying that no negotiations take place with her parents], you simply tell her 'Hey, I want you to be my wife', […] the lady says 'No, I don't want'. Then you take her, you force her – take her straight to your house. Even there in the house, we force her to sleep with her; you force her, you keep her in the house for a week.

I thus discovered that among the local people there are numerous differences in their perspectives on rape, but also in their perspectives on *ukuthwala*. To some *ukuthwala* is a friendly arrangement that acknowledge the girl, and does not imply any bodily harm. Yet, it may also be a parental agreement that sanctions

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19 The perspective of the girl on violence, rape and *ukuthwala* will come into a more focussed view in the following two chapters.
sexual intercourse with their daughter, but is not considered rape. If a girl is raped for the purpose of marriage, she and her family may interpret it as a sexual crime if they were not consulted on the matter beforehand. Still, even if this is the case, the perpetrator may see it as ‘normal’ *ukuthwala* as his interpretation of such actions are culturally justified.

*Ukuthwala* is accordingly a fluid practice that may be executed in various ways, not a set structure. I believe that it is specifically this fluidity that allows it to adapt and function as a survival strategy. *Ukuthwala* was illegalized on the basis of extreme cases where rape or sexual abuse was involved. However, for many individuals these terms do not apply if parental agreement sanctions a *thwala*, or if they interpret forcible sex during *thwala* as accepted cultural practice. This difference of perspective makes *ukuthwala* a very versatile practice, and enables it to continue in a variety of forms.

**Changing Culture Violently**

I reached Mtinde village after driving up far into the mountains north of Lusikisiki. There I met with chief Dumezweni and the village elders under a tree, as custom requires. Chief Dumezweni is very old and senile but still acting as chief. I found this strange, as I know that in such a case his eldest son should take over the reins. It was only after I left that Nomthandazo told me that he had three sons and all were brutally murdered. The elders told her the brutality and untimely nature of their deaths lead to the chief’s current state.

The brutal murders of these young men made me think about the general escalation of violent crime in South Africa, and whether the rise of sexual violence in *ukuthwala* cases were linked to it. How should I to account for cases where parents and/or girls did not give their consent and were consequently forced to have sexual intercourse as part of *thwala* proceedings?

Almost all my respondents were very concerned about the escalation of violence and sexual abuse in both rural communities and towns. I believe this general rise of violence increases the frequency of rape in *thwala* cases, thereby changing the practice itself, i.e. *ukuthwala* adapts to a violent culture by
becoming more violent itself. *Ukuthwala* is seen from the outside as a violent crime, but sadly this point of view seems to become truer as it is growing into a violent practice from the inside as well apparently.

There is a historical and contemporary dimension to this escalation of violence. According to McAllister and Deliwe (1996) and Mager (1998), the violent gang culture of big cities replaced traditional men’s and youth societies in rural areas between the 1920s and 1980s. McAllister and Deliwe states that:

> Whereas it was generally accepted that boys in the *umtshotsho* [traditional boy’s societies] might occasionally behave in an undisciplined way […] in the *intlombe* [traditional young men’s societies] great emphasis was placed on restraint and on the rule of law. (6)

As boys also began to migrate to the cities they became involved in urban gang culture. The norms and values of the gang world systematically took over values of traditional societies in rural areas:

> Sexuality in the *ibhavu* [the ‘new’ gang-styled *intlombe*] was secretive and not controlled, and the loss of group chaperonage led to a rise in premarital pregnancies. Drunkenness and fighting were common, and the elders tried to discourage its meetings […] *ibhavu* was not linked to the community structures and not respectful of community norms.” (McAllister and Deliwe, 9)

This gang culture present in urban and rural areas, which is already violent, became even more violent as drug and substance abuse increased. Mager agrees when she writes that “*[a]lternative forms of rural boys’ organization with greater affinity to urban gangs structured themselves along militia lines*” (659). She then mentions documented cases where a policeman was required to “thrash girls should they fail to satisfy the boys” (659) at the *intlombe* meetings. Rural village life was adversely affected by these changes. With the men working
in the cities, maintaining discipline at home became increasingly difficult. Managing conflict through conversation and restraint was replaced with settling disputes with violence. Oratory skills was practiced at the *intlombe*, and seen as a sign of manhood. However, fighting skills and having a violent character soon became the sign for manhood in the *ibhavu* meetings. The absence of fathers and older men also left their daughters and wives more vulnerable to the whims of young men seeking to assert their masculine identity through the subjection of vulnerable individuals like these women and children.

The results of these historic events are now exacerbated by unemployment, substance and alcohol abuse and a lack of discipline. Interestingly, when I asked respondents where they thought the rise in violence with regard to *ukuthwala* comes from, all but three individuals blamed this on the government as well. One respondent said that the “violence, I think, is caused by drugs. Our guys are using drugs and alcohol to rape”. Another believes that “[p]reviously there was discipline at schools, but the [human] rights are building for us the criminals” because children may not be physically punished any more. Parents have all the less control over their children as traditional authority structures and systems of discipline are fading away. One village elder summed the situation up rather eloquently when he linked all these factors with the occurrence of *ukuthwala*:

> Children do not want to listen to us [...] and they have no jobs, because they have no jobs there is more violence. It is the government which is also causing that that children have no jobs. Now because they have no jobs they are starting this thing of *thwala* and rape children because they have nothing to do.

Taking McAllister and Deliwe (1996) and Mager’s (1998) opinions into account, combined with respondent’s views of the causes for the rise of sexual violence with regards to *ukuthwala*, I believe it is possible to argue that the amaMpondo culture took on a new violent identity in some rural communities over the last few
decades that adversely affects cultural practices in general. This violent element in local culture is typified by substance and alcohol abuse that leads to sexual violence in many cases. *Ukuthwala* is apparently adapting to the general change in culture by becoming more violent and practiced with a disregard for traditional norms and values. I furthermore argue that *ukuthwala*’s inherent proneness to sexual violence leaves it vulnerable to the general escalation of (sexual) violence.

At this junction in my ethnographic path I actually started to question the relationship between *ukuthwala* and violent sexual crime. Although I do believe that violence is becoming a characteristic of local cultural practices, thus affecting the way in which *ukuthwala* is performed, it seems as if *ukuthwala*’s identity as a marriage practice specifically, is fading. Though sexual intercourse without the consent of the girl may have been part of *ukuthwala* proceedings in the past, it was mostly done as part of marriage negotiations. The more ‘contemporary’ identity *ukuthwala* is acquiring seems to focus more on violent sexual abuse than marriage negotiations. Contemplating the nature of this contemporary and violent identity, I found that there was a parallel to be drawn between violently claiming a girl, and violently re-claiming a historical identity.

**Reclaiming the Past**

I met Nomangezi Matshawe in the sitting room of her small brick house in a village a few kilometers north of Lusikisiki. I immediately noticed the *kieries* (walking sticks), beaded clay pots and numerous ceremonial dressing ornaments in bright colors – green, blue, red, orange, white and black. She works for a NGO that buys traditional artifacts from local craftsmen, and then endeavors to sell it on tourist markets. Selling these products does not only provide her with an income. She hopes to impart an appreciation of traditional cultural identity to the youth who she fears shuns it for cell phones and tabloid fashion. She also

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20 It was only when I stumbled on unexpected evidence later during my fieldwork period that this ‘contemporary’ identity became clearer. This new violent identity will be discussed more fully in Chapter Five.
teaches traditional dances to young girls – she is the only one left in her village who still knows them.

When doing preliminary archival research on ukuthwala in the university’s library, I came to believe that its re-emergence was specifically a ‘rebellious’ act set on defying the government that outlawed it. Once in the field I noted that the case was far subtler than I thought it to be. My respondents did not agree with me that ukuthwala was practiced as an act of defiance. Yet, it became evident that its re-emergence shows some links with reclaiming a cultural identity that is declining because of national legislation. It is specifically for these reasons that Nomangezi Matshawe attempts to reclaim the past by teaching it to the youth.

Comaroff and Comaroff (2004) believe that:

> [a]lthough most human beings continue to live as citizens in nation-states, they tend only to be conditionally citizens of nation-states. Their composite personae may include elements that disregard political borders, mandate claims against the commonweal within them, or both. (191)

This is what I found to be the case. Certain individuals “mandate claims against the commonweal” of the government not necessarily as an act of defiance, but rather to protect what is precious to them. As one elder succinctly put it:

> People are just stopping their custom, they are coming to the things of the west. Now they are thinking we must go back to our old things, customs […]. It was the government first to take us out of our custom, now we are taking back, that is why you will see that thing at Flagstaff [a neighboring town where many girls are thwala'ed] and Palmerton [a safe house for thwala'ed girls]. It is going to be a new thing, but it is an old thing, it was gone, now it is coming back again.

People are searching for an identity that was lost to them, and some individuals believe the government is to blame. I do believe that although the practice itself
is not “new”, as this respondent rightly points out, the form it is taking now is different if one considers the accompanying level of violence. Another respondent agreed and stated that the “reason why they are bringing back the ukuthwala thing is because now […] other customs are coming back, like here in the Eastern Cape they brought back the virginity testing”. In the same way that virginity testing is being revived as a way to ensure the sustainability of Zulu cultural identity, I believe some individuals may actually practice ukuthwala.

The older people I interview were specifically concerned about the loss of cultural identity. When and why ukuthwala ‘disappeared’ is uncertain, and although only two of my respondents could provide me with a rough guess (around 30 years ago), no one knew when or why it ‘disappeared’. However, its re-emergence as a Pondo practice may, like virginity testing, lead some individuals to support and protect it irrespective of its illegality. This I believe is because it is linked with cultural identity that some individuals may be very proud of, and fear that this identity may be dwindling in the changing cultural landscape. Girls are accordingly being thwala’ed in an attempt to ‘revive’ extinct cultural practices, thereby re-establishing a particular Pondo identity.

Conclusion

This chapter firstly sought to reveal how people feel about, and react to the illegalization of ukuthwala, revealing much about its re-emergence and adaptation. Ukuthwala became illegal without the necessary consultation with local communities, as it was perceived to be a form of gender discrimination. This put many individuals at odds with the law, and as a result aggravated communities kept on practicing ukuthwala covertly. People, in general, harbor negative attitudes against the government not so much because ukuthwala was abolished per se, but because they were not consulted before such decisions were made. This is significant if one takes Nyamu’s warning seriously about the balance between laws to eradicate gender discrimination and cultural identity that sanctions it. Specifically because cultural identity is so important, laws prohibiting
certain forms of cultural expression may not be received well, thereby exacerbating forms of gender discrimination they set out to eliminate.

A spin-off result of this question was the revelation of diverse male and female emic perspectives on sexual intercourse as part of *ukuthwala*, contributing to the debate on perspectives of rape and sexual crime in South Africa. These numerous perspectives of sexual intercourse as part of a *thwala* makes it very adaptable, and is one of the reason why *ukuthwala* continues. Different people define sex during *ukuthwala* differently, revealing that whether it could be judged as rape (according to the government), is in fact a matter of emic perspective within the local community. Internal perspectives, however, are also in conflict making any one definition of sexual intercourse during *ukuthwala* impossible. Of particular interest was that women sometimes support this practice, even if it involves sexual intercourse without the girl’s consent. Still, other women condemn this practice as rape and gender discrimination.

I also found that this fluid and adaptable nature of *ukuthwala* left it vulnerable to other cultural changes and resulted in intensified levels of sexual violence in the practice thereof. Again the debate on rape comes to the fore. This study illustrates how *ukuthwala*, if it includes forced sexual intercourse, become susceptible to new levels of violence perceived in local culture in general, as the literature suggests.

Another question dealt with was whether people think that *ukuthwala* should continue in contemporary South Africa, and whether the re-emerging of *ukuthwala* is an attempt to assert local cultural identity. There is no clear answer to these questions. Some individuals are in favor of *ukuthwala* irrespective of the possibility of sexual abuse, while others favor it only if it does not include gender and sexual discrimination. The acceptability of this custom is thus again a matter of perspective. Still, some individuals do support this practice through finding and asserting a specific kind of cultural identity in *ukuthwala*. Though such cases seem to be in the minority, they do illustrate how *ukuthwala* is strategically employed to assert cultural identity.
Meeting the elders and some of the villagers at Mti nde village.

Misses Matshawe (center) with some of her beadwork around her neck. Nomthandazo, my key informant at Lusikisiki, is on her right.
Chapter Four:
Surviving Marriage and Poverty through *Ukuthwala*

In isiXhosa we have a saying, “A girl is the flower of the house”. She is the beauty of the house, and a man would want her for the son she can give him.

The chief of Gunyeni village, a few kilometers from Lusikisiki, invited me to come and talk to members of his village and a few other chiefs. One elderly man in attendance was bent on defending the *thwala* practice. His defense of *ukuthwala* started with an explanation of the above Xhosa idiom: girls are a symbol of family pride, and the desire of men. He went on to say that girls must be married so they can provide male progeny for their husbands.

When I visited misses Nothembile, a middle-aged lady who lives quite a distance from Lusikisiki towards the coast, I was again confronted with the importance of marriage for the amaMpondlo. She told me:

> When you give birth to a girl, and she is *thwala*’ed, you know that you will get cows with *lobola*. They use to praise the family for giving birth to a girl because they knew they would have more wealth, more cows. Because back then a family depended on the stock they had.

Though my conversation with misses Nothembile was not the first that concerned marriage, she was the first to point out the link between the importance of marriage, *ukuthwala* and the possibility of wealth. Susan Cohen (2004) writes that “(m)ost societies and cultures view marriage as a normal and expected rite of passage – an inherent good associated with safety for all involved” (1). It seemed as if marriage was very important for most of my respondents, and indeed something expected of both women and men. Sadly, *ukuthwala* refutes any notion of “safety” for girls who are married without their consent, especially if they become the victims of sexual abuse during the *thwala* proceedings.
I found the link between *ukuthwala* and the *lobola* bride price interesting specifically because *ukuthwala* is re-emerging in an area that is very impoverished. Could it be that *ukuthwala* was adapting to the difficult economic climate of Pondoland? This proved to be a fertile path to pursue and is the focus of this chapter. I will firstly discuss marriage and its significance for the Pondo people of the Lusikisiki region. This discussion will bring *lobola* into view, its variations and the promises it holds for both the men *thwala*’ing girls, and the families of girls being *thwala*’ed. Poverty and its influence on the marriage economy will then be discussed, which will lead to the analysis of how *ukuthwala* is adapting under such circumstances. Though this chapter is subdivided into sections, it is only to aid the reader, and not done according to importance of topic or any logical pattern of events. As will soon become clear, poverty, *ukuthwala*, *lobola* and marriage in general is a complicated network of relationships, motivations, agendas, actions and circumstances that all conflate in an inter-active reality.

I found analyzing the re-emergence and adaptations of *ukuthwala* rather difficult in this chapter. As the custom of arranged marriages in South Africa has never been investigated by any academic discipline, published theory is scarce. A number of texts that deal with poverty in South Africa have been published, but not with reference to marriage as such. There is, however, a body of literature that pertains to the practice of *lobola* notably by Walker (1992), Huffman (1998) and Ansell (2001). I will thus rely, for the most part, on information gathered in the field, my own wit, and published work on *lobola*, in navigating this chapter and its findings. This chapter will finally focus on the strategically uses of *ukuthwala* for people on the local level.

**Ukuthwala and the Importance of Marriage**

Miss Kuthala Sikunyana lives in Jambeni village, half way between Lusikisiki and Bambisana. I spent a few hours with her on a rainy day. She was a valuable source of information as she was the only young person I spoke to who was actually *thwala*’ed. She feels lucky that she managed to escape. Because she is
26 years old and still not married, her bothers and other male relatives shun her. She therefore lives with a maternal aunt whose husband passed away.

Kuthala’s parents passed away when she was still very young. Her maternal aunt had to take care of her, and as she was without a husband to support her, she could not carry any further financial load. In 1998, when Kuthala was 14 years old, a boy of 18 whom she knew, attempted to thwala her as they were walking home from church on a Sunday morning. She knew their intensions when his friends joined him and they drew a circle around her. She made as if she dropped a book, and when they made some space for her to pick it up, she ran away and locked herself in her aunt’s house. She cried terribly when asking her aunt why she gave the boy’s parents permission to thwala her. She knew her aunt gave them permission since she saw his family conversing with her aunt the previous week. Her aunt replied that Kuthala’s maternal uncles urged her to allow the thwala since the boy’s parents were rich and had many cattle. After the incident her uncles came to force her to leave the house and go to the compound of the boy’s parents to marry him. They could not convince her, as she was very stubborn. Her brothers wanted to evict her as well, since they also wanted some of the cattle that her marriage would have brought. But as it was her aunt’s house, they did not have the authority to do it. Kuthala finally sighed and said that she was very relieved that she managed to escape because usually lobola is only paid after there was sexual intercourse that ‘seals the deal’. If she did not manage to escape, there is a good chance that the boy would have raped her, especially since her family agreed to the marriage.\(^{21}\)

Kuthala told me that a Pondo girl must be married otherwise she brings shame to the family. She used two idioms known to both Xhosa and Pondo people, to explain the importance of getting married: “A girl must build her own

\(^{21}\) Again conflicting perspectives come into play, laying bare the diversity within the local community. Kuthala used the English word ‘rape’, revealing her aversion to both this practice and the people who arranged it. On the other hand, her aunt agreed to the thwala as she probably does not interpret it as rape, but rather as an agreement. Except that two conflicting female perspectives become clear, I also believe that the aunt’s opinion of ukuthwala may be influenced by her age. Being of an older generation who still grew up in a time when this practice was ‘normal’ and legal, she might not harbour the same views as Kuthala on gender and sexual discrimination as far as it concerns ukuthwala.
“House” (which can also be translated ‘household’), and “the house of a girl is in marriage”. Mnoza and Moses (two of my key informants at Bambisana) laughed when she mentioned these familiar idioms and agreed that marriage was a cultural ‘obligation’. It seems to be a girl’s duty to her family and community to “build her own household” through marriage. And in Kuthala’s case, her uncles and brothers wanted to provide her with a ‘house in marriage’ by organizing her *thwala*.

Most of my respondents thought marriage and childbearing to be a cultural given not to be questioned. Not complying with these beliefs can hold dire consequences for some young women, as Kuthala’s experience evidences. From a number of conversations I came to realize that a girl should be married, in general, to bring her parents honour, to provide her husband with children, and also to fetch a good *lobola* for her family. At this point my focus shifted to the intricate and multi-faceted practice of *lobola*.

**Lobola, a Precursor to Marriage**

“You never stop paying *lobola*”, Bongani said rather solemnly and downcast. As a mission worker at Bimbisana he has no set income and must live on donations. He is therefore struggling to raise enough money to pay the parents of his fiancée for their marriage. These words are not his own, but a well known South African saying that means that although there is a price settled upon, this ‘final’ price regularly takes the form of ongoing (sometimes lifelong) negotiations and periodic down payments. The payment of bride price is not unique to the Pondo people as many other ethnic groups in South Africa also pay *lobola* (noticeably the Zulus and Xhosas). *Lobola* is very fluid and varies according to family, community, clan and region. I questioned all my key informants on the workings of *lobola*, as well as all the people I interviewed individually. The following short analytical memo from my field diary is the result of many conversations, but specifically with Bongani and Moses, two of my key informants who are currently raising money to pay *lobola* for their respective fiancées.
Lobola is a very intricate and varying form of bride price negotiations that take place before and after marriage. Although the lobola currency is South African Rand, it is still negotiated in terms of cattle. The family of the proposed bride determines the worth of one metaphorical ‘head of cattle’, which varies between €200 and €600 (in very rural areas actual cattle is sometimes still used). The final price settled upon might vary considerably depending on a number of factors: whether the bride is a virgin or not, the bride’s level of education; her social and economical status; the wealth of the proposed groom’s family; level of friendship or social connections between the two families, and whether the bride’s family likes or dislikes the groom and his family, to mention but a few. All these factors considered, the final price settled upon, might be any amount between €1500 and €6000. The family of the wife is, in turn, expected to provide all household goods – furniture, linen, kitchenware, electronic appliances and, if possible, even a house. Usually, a certain amount must be paid prior to the marriage, and the remainder of the amount will be paid in the form of installments at the request of the bride’s family. The lobola for virgin girls is higher and must be paid in full before the wedding ceremony (there is, however, no guarantee that the family will not ask for more lobola later on). Recently virgins became even more ‘expensive’ with the advent of HIV/Aids. In the case of a rape or ukuthwala, a bopa (damage fee) must be paid in addition to lobola as such actions take away a girl’s virginity, and subsequently diminishes the higher lobola fee that could have been asked. This fee must be paid immediately, irrespective of whether the thwala was agreed upon or not, and is usually one head of cattle.

In all my discussions with regard to marriage, only Nomthandazo, my key informant at Lusikisiki, is opposed to lobola as a custom. Everyone else was either positive or neutral to it – their objection would be to the exploitation and manipulation that it might entail, not the custom itself. Both Walker (1992) and
Huffman (1998) found the same to be true, finding that both women and men support lobola as institution, but critique the extortion that it sometimes involves. Ansell (2001) comes to the same conclusion, but then takes it one step further by mentioning that the possible exploitation lobola holds is a question of definition (715). If lobola is seen as a family building strategy, the focus of the proceedings will be that of forging strong familial ties. If lobola is defined as a strategy for economic gain, on the other side of the spectrum, the focus will be on exploitation and not relationship.\footnote{It is interesting to note the parallel that exists between ukuthwala and lobola in this regard. In both cases people do not necessarily take issue with the practice itself, but rather with the way it may be executed in a discriminatory way. Then, both practices are defined differently by different people, showing internal variation of interpretation and definition.}

With national unemployment at 25\% (Statistics South Africa press release 1 November 2011), and 50\% of the population surviving on just more than €2 daily (Woolard, 2002), it is hard to imagine how men scrape together the money they need to pay lobola. Conversely, poverty also highlights the need some families have for the lobola money a daughter can provide. As misses Nothembile and Kuthala say, lobola seems to be an enticing reason for families to allow their daughters to be thwala’ed as lobola is guaranteed. The payment of lobola is governed by customary law, and accordingly sanctioned by the Constitution. Should a man therefore not pay lobola, he could be taken to a traditional court. If he continues to refuse such payments, he could even be tried in a civil court if the family of the girl files a complaint with the magistrate.

Until now I found that ukuthwala re-emerged in a new violent form, and has adapted to become a cultural survival strategy. Now I came to believe that ukuthwala was adapting to new economic circumstances, and re-emerged as an economic survival strategy as well, via the practice of lobola. To test this theory, I shifted my focus to the relationship between poverty and the practice of lobola.

**Poverty Changing Lobola**

Misses Fikile Gxagxiso is a middle-aged wife, a mother, and runs a successful stationary business in the main street of Lusikisiki. She believes that the sudden
rise in *ukuthwala* cases is the result of poor parents who want a form of income. When I asked her where this ‘new’ form of *ukuthwala* came from, she said that it was

because sometimes the parents are poor so [they] agree just because they are going to get something. […]. Sometimes it is because of the poverty. Even if the chief's daughter was *thwala*’ed, he would agree because of the cows.

Another of my respondents plainly answered that poor parents’ “aim is for cattle, seeing that that home has a lot of cattle. They don’t mind about the desire of the girl, if she likes it or not”. Misses Nothembile agreed and said that “they would allow you to be *thwala*’ed because they are poor and then they would want *ilobola*”. Cohen (2004) concurs when she writes that in “countries ranging from Ethiopia to India to Malaysia, for example, parents view daughters as an economic burden that can be eased by marrying them off. Dowries create additional incentives for parents to arrange for early marriages for their daughters” (2).

It is at this junction that a difficult situation arises. Poor parents would agree to a *thwala*, or accept it if they were not asked permission, because they would be paid an immediate *bopa* fee and then *lobola* as well. Yet, how are the men who *thwala* girls going to pay the *lobola* if they are also extremely poor? Paying *lobola* is complicated by poverty in a number of ways. Again I quote an analytical memo from my fieldwork diary:

It seems that paying *lobola* is becoming more difficult. According to my informants the actual *lobola* price is not becoming more expensive *per se*, but the circumstances of people have changed. Decades ago people still had cattle as a currency, but the keeping of cattle is declining quite rapidly. There are a number of reasons for this: children are obliged by law to go to school and can no longer watch over the cattle, and people do not have
the money to pay cattle herders to watch over their cattle. Multitudes of people are migrating to the cities in search of work and salaries as opposed to farming and cattle herding on traditional lands. The biggest factor seems to be crime and a shortage of jobs. Cattle theft, the result of poverty, is rampant in the Transkei area and lead to many people simply abandoning the tradition of cattle keeping. The shortage of jobs and the income it brings is nevertheless a top priority for the government and a very real problem in local communities. Although real cattle will be accepted as lobola, both the absence of cattle and jobs make it difficult to pay lobola.

I believe that parents of a prospect girl are indeed agreeing or accepting ukuthwala as an economic survival strategy, but how am I to account for the men who thwala girls? How does ukuthwala function as a strategy for them? Even though many respondents claimed that the lobola price is not rising, Shope (2006) found that the “amount of lobola paid had increased tremendously over time” (86), and attributes this to the capitalization of the rural economy. These questions become specifically urgent when taking the unemployment rates into account and the switch in lobola currency from cows to money.

Surviving Marriage Economically
I met an elderly man one afternoon as I walked up the dusty road to my house in Lusikisiki. He simply greeted me and asked me what I was doing there. As I explained the nature of my visit he smiled and asked me whether I am an anthropologist. I was both delighted and surprised to find out that he also studied anthropology at university level, but sad that he did not want to grant me any further meetings without providing any reason for such a decision. He was one of the few individuals to point out a positive aspect of ukuthwala. He said that sometimes a girl would organize her own thwala, and that
[i]t is good in that way - they do not have to worry about paying a lot of cattle, and then a marriage is possible if the parents do not like the family of the boy because they are poor. The girl and boy could negotiate the marriage themselves then.

In such a case the “boy” would not ask permission from her parents, and the *thwala* will actually take on the form of consentual sex. Having ‘lost’ her virginity, her *lobola* will be lower even if the *bopa* fee is included. Because she is no longer a virgin, the whole *lobola* does not have to be paid in full before the wedding any more, removing a lot of the economic strain it may put on the family of the boy.

Though this is a good example of how *ukuthwala* can be an economic survival strategy on the part of the man, and therefore important to notice, such cases are rare if I take previously presented evidence into account. Girls are often violently abducted and forced into having sexual intercourse with men they do not know, mostly without the knowledge of their parents. It is necessary to account for these differences.

The main difference between traditional custom and the current version, appears to be parental knowledge of the relationship but lack of mutual agreement. In the above example, the *thwala* will take place if the girl’s family (or the boy’s, for that matter) does not agree to the match because of poverty. Whatever the case may be, the families are aware of the relationship but do not give consent. In most contemporary cases, on the other hand, men who are unknown to the families of the girls perpetrate *ukuthwala*. I believe this is because of the nature of the *lobola* negotiations. If families are familiar with each other and there is a link between them – like a relationship between young people – *lobola* is often expensive and the negotiations might take very long. Friendships between families also make it easier for the family of the bride to keep on asking for more *lobola* after the ‘final’ amount was paid. If a man thus *thwala* a girl from a family he does not know, he circumvents these issues, and obtains a ‘cheaper’ bride in the process. I believe *ukuthwala* is strategically used in such a way specifically because so many young men are without employment.
and thus do not have the necessary capital (or cattle) to pay for a bride. Finally, since both *lobola* and marriage seems to be accepted as a cultural imperative and not a debatable option, *ukuthwala* may present the only alternative for very poor men who want to get married, and poor families of girls who want to see their daughters getting married.

**Conclusion**

I have argued that *ukuthwala* is re-emerging for strategic economic reasons. It is adapting by changing into an economic survival strategy for both poor families of *thwala*’ed girls and poor men. The *lobola* practice might play an important role in *ukuthwala* for both the family of a girl as well as for the man who wants to *thwala* her. *Lobola* may entice a family to accept a *thwala* because of the possible income. It is an important factor for the man to consider since he may not be able to pay the full amount; in such a case a *thwala* would be more affordable.

There are a number of ways in which *ukuthwala* is practiced as an economic strategy for men specifically: firstly, rape ‘devalues’ girls, making *lobola* less expensive. Secondly they may target vulnerable girls, like Kuthala, who do not have parents to protect her, and whose families are so poor that they will settle for a lower bride price – *bopa* included. Thirdly, by abducting girls they do not have any connection with circumvents ‘traditional’ *lobola* negotiations, lowering the bride price and speeding up the marriage process. Finally, young girls are more likely virgins – a status symbol – but the *lobola* is reduced because they are not virgins any more if they are *thwala*’ed.

This chapter contribute to available literature on the reason why certain cultural practices change. I illustrated how *ukuthwala* is adapting to new economic challenges, but also how the practice of *lobola* deals with this challenge. Revealing how these two practices deal with economic challenges conversely also illustrated the link between them unknown till now. Finally, although literature on the practice of *lobola* exists, nothing has been published on how *lobola* negotiations work in the case of *ukuthwala*.
Kuthala did not want to be photographed, but she allowed me to take a photo of her aunt’s yellow painted house where she now lives.

From left to right: Mnoza, one of my key informants at Bambisana, me and then misses Mangxamile with some of her great-great grandchildren.

The three ladies sitting in the center at the back have been thwala’ed. I met them in a village high up in the mountains north of Bambisana.
Chapter Five:  
_Ukuthwala – a Solution for HIV/AIDS?_ 

It is surprising us this thing that is happening now, because it was done with the bigger girls, 20 years, 21 years, but this thing that is happening now they are taking young girls not in a time to marry [...] . Another thing is that they have this wrong mind; if someone is positive [with HIV] he thinks that if he met [have sex with] a virgin that thing [HIV] is taken away.

Misses Matshawe is not only concerned about cultural practices vanishing in a modernizing world (as mentioned in Chapter Two): she also gives clear evidence in the above quotation that men are not only thwala’ing “girls not in a time to marry”, but that they also “have a wrong mind”, believing that sex with a virgin will cure them of HIV/AIDS.

I was once again faced with the opportunity to take a different research path when this new evidence surfaced. I was aware of the ‘virgin cure myth’ (as it is frequently termed in South African news media), but I was not initially aware of its connectedness with _ukuthwala_. I decided to walk down the path this new evidence pointed to. This soon proved to be a rewarding decision when yet a new twist was added to the virgin cure myth. I met misses Nothembile in her three-room mud hut close to the coast. I asked her if she thought there was any relationship between the virgin cure myth and _ukuthwala_, and she admitted that there was. She then added that the “reason why they are bringing back the _ukuthwala_ thing is because now [...] other customs are coming back, like here in the Eastern Cape they brought back the virginity testing, so now they want wives who are virgins”. I became rather excited when she told me this and a number of connections and theories raced through my mind. I realized that _ukuthwala_ was indeed not a custom practiced in isolation, and that the once ‘gone’ practice is now becoming part of a cultural world intricately linked and layered with other traditions, customs and beliefs. It seemed plausible in theory, but what about reality and lived experience? Further investigation was necessary.
This chapter is the result of these bits of evidence I found rather late in my fieldwork term, but yet revealed much about the re-emergence and adaptation of the *ukuthwala* practice. I will here investigate the connections and relationships between *ukuthwala*, the virgin cure myth and another cultural practice making a re-appearance – virginity testing. This chapter will also pay attention to the ways in which men strategically use *ukuthwala*, as a result of their interpretation thereof. In order to have a working definition of what virginity testing actually is, I will firstly provide a succinct description of this practice. This will lead to a discussion of the virgin cure myth and its consequent demand for virgin brides. After this I will illustrate how, I believe, virginity testing could place virgin girls in vulnerable positions with regard to *ukuthwala* and rape.

I am aware that what I present and argue in this chapter may be very controversial. I also know there are still a lot of questions unanswered especially where it concerns the virgin cure myth. The link between *ukuthwala* and the virgin cure myth came as a complete surprise to me, and as I found out once I had access to academic resources again, completely unknown to the academic community as far as I can tell. I thus want to stress that I am only investigating virginity testing and the virgin cure myth as far as they concern *ukuthwala* – it is not the focus of this study *per se*. Finally I want to emphasize again that the reality of what I present here is far more complex and ‘messy’ than it may appear in this study. The topics discussed here are neatly packaged into subsections only in an attempt to keep a focused view of the subject matter, not according to importance or the actual progression of events in reality – “sign posts” for the reader as it were.

**Virginity Testing**

Law (2005) provides a good description of what virginity testing is, and will consequently also serve as my working definition for this study. I will supplement and flesh out this description with additional information I gathered in the field, thereby giving Law’s generic description a more local character.
Virginity testing is a practice that typically involves a gynecological examination to establish whether or not the hymen in girls and unmarried young women is intact. Girl children and young women are eligible for testing when they are anywhere between the ages of seven and twenty-six. This examination is usually public. Virginity testing has re-emerged as a traditional cultural practice in the last two decades, although its roots go back far longer than that. Historically, such testing was used to determine a women’s suitability for marriage, but it also reflected societal stress on abstinence from sexual activity on the part of girls and young women. (1)

Giving account to its revival, George (2008) argues that virginity testing is re-emerging as a local strategy to combat HIV. Her research among the Zulu people reveals that large groups of Zulus believe the government fails to combat HIV successfully. They accordingly started practicing virginity testing again as they believe abstinence is the best course of action to combat this disease.

I discussed virginity testing with Thandekile Hintsa, misses Nothemile’s daughter. She works as the accountant for a small business in Lusikisiki, where I interviewed her in her office. She is twenty-three years old, unmarried, and holds a bachelor degree in business management from the University of Bloemfontein in South Africa. She lives with her mother. Before she left Lusikisiki for her tertiary education, she was a lively supporter of virginity testing. She told me how she, her friends and other girls would get dressed up in traditional clothing, brightly beaded. They would paint their faces with the traditional mixture of clay and plant extracts, and then rounded off the beautifying process with ‘real’ make-up bought in stores – eye shadow works better on your lids than clay! Villagers would gather round as they danced along the paths of the village where they lived (often bare-breasted) to the public site where the testing would be done. Chosen female elders of the community did the testing, and every girl who passed the test was rewarded with a certificate as ‘proof’ of her virginity. The celebrations could go on for days and provided spectators with entertainment in the form of traditional dancing, singing and meals. She enjoyed it thoroughly and
was very proud of her status as virgin. Thandelike told me that she and all her friends who went through it together still supports the practice and hope that it will continue irrespective of its illegality.

There are a few aspects of virginity testing that I would like to highlight before I continue. The first is that girls can be as young as seven years old when they are eligible for testing. Secondly, this event is usually public, and thirdly, this practice also seems to have died off, but is now re-emerging. Scorgie (2002) confirms this when she writes that the “practice has drawn sharp criticism from observers almost from the beginning of its ‘revival’ in parts of South Africa during the early 1990s” (55). In order to understand the connection between *ukuthwala* and virginity testing, I will now turn to a short discussion of the virgin cure myth. After a number of inquiries I realized that this myth seems to be the reason for the relationship between virginity testing and *ukuthwala*.

**Raping for Healing**

“Sometimes people who are HIV positive believe in a myth that if you have sexual intercourse with a virgin you will no longer have HIV, that is why they take advantage of young girls”. This was the rather shocking answer I got when I asked four female chiefs at the royal court of Qaukeni why they thought *ukuthwala* was becoming so violent. These ladies also expressed their concern about the safety of very young girls in a time that is marked by such a sharp increase of sexual violence and HIV. As was often the case in my research, these older ladies also lamented a more ‘traditional past’ fading fast in these changing times.

My key informant at Lusikisiki, Nomthandazo, concurred with this notion when I asked her about this myth after I met with the four chiefs, where she acted as interpreter. She told me that many people, including women, sadly still believe that having sex with a virgin will cure men of HIV/Aids. She went on to say that

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23 I termed this belief in the healing powers of a virgin the ‘virgin cure myth’, as that is the term initially used in the news media, and then picked up by the academic community. That it is a myth is my etic perspective. As evidenced by the literature, a lot of men have an emic perspective thereon – a perspective which construes this myth as hard fact not to be questioned, and sadly their actions prove this.
we (‘westernized’ people), do not understand the extent to which some people still cling to ‘traditional ways’, like the firm belief in the authority of traditional healers.

Earl-Taylor (2002) writes that it is still unsure exactly where the virginity myth originated in (South) Africa, but what is generally agreed upon in news media, is that traditional healers (sangomas or ‘witch-doctors’) in Zimbabwe apparently gave the advice that a man can be cured from HIV/AIDS if he has sex with a virgin girl. This myth then made its way to South Africa where it spread rapidly. Professor Lobaido (wnd.com) reports that the “trend is worsening. Babies as young as only a few months old are being raped almost daily. Many black South African men infected with AIDS erroneously believe that by having sex with a virgin — even a baby — they will be cured of AIDS or their HIV infection”. Giving more concrete statistics, a South African Internet and social networks activist group, Truth Or Fiction (2002), reported that the “Johannesburg city council conducted a three-year study of about 28,000 men. They found that 1 in 5 believed in the virgin-AIDS cure” (truthorfiction.com). I knew quite a number of people believed in the virgin cure myth, but I was not prepared for these numbers. These numbers, however, convinced me that I was indeed on some trail worth following.

Leclerc-Madlala (2001; 2003), similarly to misses Nothembile, connects this myth with virginity testing when she writes that “virginity testing and growing public interest in virginity needs to be weighed against the belief that virgins have special healing powers and that sex with a virgin can cure a man of HIV/AIDS” (2003, 22). She argues later on that public interest is growing with regards to virginity testing, specifically because virginity testing is often a public event, revealing who the virgins are. This has dire consequences for girls who sometimes become the vulnerable rape victims of older men who are trying to cure themselves of HIV/AIDS. This brings me back to the question I had after I spoke to the four chiefs and misses Nothembile: what is the link between virginity testing, the virgin cure myth and the re-emergence and adaptation of ukuthwala?
**Ukuthwala in the era of HIV/Aids**

It was a dusty and humid afternoon when I met mister Hlope at one of the two filling stations in Lusikisiki. He arrived after he finished his work as a primary school teacher, and I interviewed him over a can of Coca-Cola. I asked mister Hlope whether he agreed with misses Nothembile that being a virgin increases your chances of being thwala’ed because of the virgin cure myth. He answered: “Even some of us we can see that even the lady who is going there, she is still a virgin […]. If you are sure that that lady will not accept you, then you just rape her”. Even though he believes that *ukuthwala* is not supposed to include rape, he does agree that being a virgin increases a girl’s chances of being raped because of the cure myth.

Raping a virgin girl to cure oneself of HIV/Aids seemed brutal, radical and ignorant to me. Though I admit that these sentiments are still present, I came to a rudimentary grasp of the desperation that drives men to such extremes only after I realized the extent of the HIV/Aids pandemic in the Eastern Cape. Allow me a short digression from the path currently followed to explain this briefly.

In 2010 the South African Department of Health ([www.avert.com](http://www.avert.com)) undertook a massive survey that revealed that 29.9% of women who attended antenatal clinics in the Eastern Cape in that year, was infected with HIV/AIDS. The Department also reported that 9% of people tested for HIV had a positive result in the Eastern Cape in 2008. The sharp increase of HIV positive pregnant women suggests that the percentage of infected people, in general, is also on the rise. The pandemic is very severe, and if we take into account that almost 30% of pregnant women are HIV positive, it becomes understandable that men are frightened of thwala’ing older girls who may not be virgins any more – the younger a girl is the better the chances that she is still a virgin. A female chief at Mervan village, which geographically speaking seems to be part of Lusikisiki, remarked on the very young age of the girls. She said that *ukuthwala* “was good previously. These days it is not good because a man of 40 years can take a girl of 12 years without caring about his [HIV] status”. (I am not in any way diminishing or negating the very real fears that women may have, but only trying
to account for men’s actions with regard to *ukuthwala* and HIV.)

I want to argue that there are thus three main reasons why men would rape very young girls, according to the evidence I uncovered. Firstly men fear that older women who are not virgins may already be infected with HIV, so they would rather have sex with younger girls. Secondly, the virgin cure myth necessitates that HIV positive men have sex with a virgin if they want to be cured. And thirdly, younger girls are simply more vulnerable because of their age. As Cohen writes (2003), “[y]oung brides with older husbands are highly vulnerable to sexual violence and coercion – and to contracting HIV or other STIs – because they lack individual autonomy and power, as well as information, education and access to services (3)”. The “lack [of] individual autonomy and power” makes them specifically ‘soft targets’ for men who are bent on raping them.

The first reason may account for the decrease of the age at which girls are raped, but the second and third reasons, I believe, links *ukuthwala* with virginity testing through the virgin cure myth. I would thus now want to return to the re-emergence and adaptation of *ukuthwala*, by focusing on the three elements peculiar of virginity testing: the re-emergence, the public nature of this practice and the young age of girls tested.

**Virginity Testing and *Ukuthwala* – Cause and Effect?**

Canaan was the first village where I conducted interviews. It is a short distance from Lusikisiki, and I arrived there with Nomthandazo early in the morning. We met the chief and village elders under large trees, enshrouded with thick mist and light rain. The elders were very helpful, but they were not as knowledgeable about *ukuthwala* as I hoped they would be. One gentleman commented on the young age of the girls, as well as *ukuthwala*’s ‘disappearance’:

> They were not taken still as young girls, they were the bigger girls [who were taken]. Even at home they notice that this girl is right to get married. We are so surprised now when we are hearing that it is happening again, because it is not the agreement and we also forgot about it.
**Ukuthwala** was ‘forgotten’, but re-emerges in a new form – girls are being taken younger than before. This disclosure meant very little to me at the beginning of my fieldwork period. However, when I started writing up and comparing interviews, I came to realize that the age of girls and the re-emergence of **ukuthwala** are indeed linked with the re-appearance of virginity testing.

As shown, virginity testing started to re-appear during the 90’s, and was a local attempt to curb the spread of HIV. Just as the case is with **ukuthwala**, it is unsure why it ‘disappeared’ in the first place. It was not for legal reasons as both **ukuthwala** and virginity testing only became illegal in 1996. I think it is important to note that it was a few years after the re-appearance of virginity testing, that **ukuthwala** re-emerged. The first account of **ukuthwala** I found was a very short report in a feminist publication, *Agenda*, published in 2000. The next was a newspaper article in the *Natal Witness*, published in 2002. Three years later the newspaper, *Daily Dispatch*, published an article in 2005. Then a flood of news media reports as well as NGO and government responses followed from 2009 onwards.

So why did the re-emergence of **ukuthwala** follow on that of virginity testing? I believe two factors are at stake. As argued in the previous chapter, virgins are valued more highly, but they are also more expensive. **Ukuthwala** is an effective strategy to obtain a virgin bride in a cheap way. I believe that when virginity testing re-emerged and young girls were publicly celebrated for being virgins, onlooking men could clearly see which girls where still virgins, which increased their chances of being **thwala’ed**. I am not arguing that virginity testing lead to the re-emergence of **ukuthwala**, but that it did play a role in facilitating both its re-emergence, as well as its adaptation to become a practice that targets virgin girls for marriage.

Secondly, virginity testing presented HIV infected men with additional possibilities should they manage to marry a virgin girl. Virginity testing revived as a local strategy to combat the HIV pandemic, as argued by Leclerc-Madlala (2003) and George (2008). This pandemic also lead to the virgin cure myth, ironically also a local solution to the pandemic as Earl-Taylor (2002) argues.
Whether out of choice or force, (very young) virgins were publicly paraded and celebrated when they passed the virginity test practice. Men infected with HIV/AIDS may have formed part of the crowd watching these proceedings. Seeing that one out of every five men believe the virgin cure myth, I assume some of these spectating men may very well be looking for a virgin to have intercourse with to cure themselves of HIV/AIDS. I believe this is plausible in the light of Chapter Two where I illustrated how cultural changes all the more include sexual violence as a norm in cultural practices in general. As seen, men are increasingly seeking young wives, as the chance of a young wife not having HIV is better. If a man infected with HIV/AIDS marries a virgin girl, he not only finds a wife in a cheap way, but he simultaneously finds a ‘cure’ for his illness. Quite a number of respondents support this theory, as they themselves believe that *ukuthwala* is on the rise specifically because of the virgin cure myth. 

“It is going to be a new thing…”

These are the words of a village elder, as quoted in Chapter Three. These are also the words that made me think about the contemporary form *ukuthwala* is acquiring. It was, however, only at this late point of my fieldwork period that this “new thing” found clearer definition.

Reviewing the findings of chapters Three and Four, and this chapter specifically, a number of aspects of a possibly new *ukuthwala* come to the fore: 1) levels of sexual violence and abuse are increasing drastically. 2) Discussions and agreements between parents are completely lacking, not even mentioning consent on the part of the girl. 3) The girls are considerably younger if one compares the earlier ages of 19 years and older, with the current ages of girls as

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24 I believe a word of caution is necessary here. Although I do believe that there is evidence enough to support the link I draw between *ukuthwala*, virginity testing and the virgin cure myth, I do not propagate this as a common occurrence or hard fact. Though the evidence suggests that these practices do influence one another, it should be remembered that all three these practices are very controversial and debated on both the national and local level. A myriad of perspectives and attitudes exist, and I do not want to flatten out this diversity for the sake of my point of view. I thus hope that what I presented here will be seen as a possible explanation for the part played by some individuals in the re-emergence and adaptation of *ukuthwala* with regard to other cultural practices and beliefs.
young as 12 years old. 4) Finally the focus seems to have shifted from marriage for the sake of building a household to a marriage for economical and health benefits altogether.

It seems that in *ukuthwala*’s re-emergence and adaptation to a changing environment and culture, it loses some of its earlier priority on marriage in some cases. Though I believe it is too early to postulate what this new form of *ukuthwala* implies, or whether it should be termed ‘*ukuthwala*’ at all, a preliminary inference can be made: just as is the case with sexual intercourse during a *thwala*, there is no set definition or interpretation of *ukuthwala* within the local community. This becomes even clearer here where we see forms of *ukuthwala* branching off into different directions, fueled by diverse goals and motivations into a future yet to be seen. It may therefore serve us well to be cautious when we define and analyze *ukuthwala* from our etic academic perspective – as I have come to acknowledge. Culture is more organic and dynamic than I expected it to be.

**Conclusion**

Though of a provisional nature, this chapter makes important contributions to the debate on virginity testing, rape in general, and the virgin cure myth through its exploration of *ukuthwala*. This is specifically significant because the links between *ukuthwala* and other cultural practices had not yet entered academic discourse.

As seen from the literature presented, virginity testing made a comeback since the ‘90s as a local strategy to combat the HIV/Aids pandemic. As part of this practice, girls are publicly celebrated if they are found to be virgins. However, the belief in the virgin cure myth makes girls vulnerable to become rape victims of men who believe that sex with a virgin will cure them of HIV/Aids.

I believe virginity testing functions as a catalyst in *ukuthwala*’s re-emergence and adaptation because of its public nature. As some of my respondents believe, men who seek to cure themselves of HIV attend the public virginity testing practice to see which girls are still virgins. It seems as if men then
sometimes have sexual intercourse with girls forcefully, calling it *ukuthwala*. This indicates another strategic use of *ukuthwala*, in which men not only believe they are cured of HIV, but also gain a (cheap) bride in the process, because the girl has lost her virginity through sexual intercourse. In such a case *ukuthwala* functions both as an economic and health strategy.

I finally found no evidence to suggest that *ukuthwala*, in these cases, ever involve any discussions between families, or *lobola* negotiations. These developments firstly indicate the way in which *ukuthwala* is currently adapting to new circumstances. Secondly, I suggested these drastic changes denote a move away from *ukuthwala*’s focus on marriage, to one on economy and health. Such significant shifts in focus and character may lead us to the question of what we define as *ukuthwala*, and even whether this ‘new’ form of *ukuthwala* is not rather something completely different altogether.
Chapter Six:
Culture, Survival and Rape – Conflicting Perspectives

I embarked on my first field research trip a novice full of enthusiasm, eager to test and impose all my preconceived ideas and theories thought up in a university library. Looking back I find it ironic that this was the approach I initially followed – an approach I was specifically warned about by my supervisor and fellow students. The path I took turned out to be a complicated crisscross of trails in a cultural forest, not a highway of anthropological facts to be gathered up systematically along the way. More or less in the middle of my research period I realized that I had to adapt my approach, change my research questions, shift my focus, and go where evidence took me, not where my theories directed. In short, a new perspective was necessary because unexpected data surfaced.

Pondering these rather drastic changes I had to ‘survive’ as a neophyte researcher, I came to see a parallel that existed between my research crisis and the *ukuthwala* practice. I am not comparing myself with individuals personally involved with *ukuthwala* – that would be very presumptuous. Rather, I feel this was a rare moment in which a personal matter alluded to and revealed at least some part of another’s lifeworld and reality. I realized that the current *ukuthwala* controversy, like my research crisis, was a question of perspective. My etic perspective and deductive approach had to become an exploration of emic perspectives and inductive science. In a way the reverse happened in 1996 when an etic universal human rights perspective on *ukuthwala* became law, silencing the myriad of emic perspective on this practice (Comaroff and Comaroff, 2004). Consequently *ukuthwala* had to adapt to this new legal perspective, as well as other circumstances, leading to all kinds of conflicts.

By means of concluding this study, I would therefore like to discuss the common threads that weave the preceding chapters together – different perspectives of culture, survival and rape. These conflicting perspectives, I believe, reveal much about the reasons why *ukuthwala* is re-emerging and adapting.
A top priority for the government in the young democracy of South Africa is to establish unity and equality among all peoples. As part of these efforts a new constitution was approved in 1996. However, the well-intended and necessary changes brought on by its acceptance had unintended and adverse consequences.

Prior to the new Constitution’s approval, Customary Law (or what my respondents called ‘the way of our ancestors’) governed people living in more traditional and rural communities. These laws were not codified, but negotiated and ruled upon by traditional leaders and structures of authority – the ‘white’ government rarely interfered. This way of life changed dramatically when legislators codified ‘traditional ways’ into Customary Law, subjected to the Constitution. Many cultural practices (like virginity testing and *ukuthwala*) were found to be discriminatory if measured against the statutes of the Constitution, which are premised on universal human rights. What was previously accepted became criminal, and no room was left for the negotiation of individual cases (Morrell, 2001).

Accordingly to the Constitution’s etic perspective, *ukuthwala* is illegal as it is a form of gender, sexual and age discrimination – i.e. the rape of under aged girls (Bekker and Koyana, 2007). Though the Constitution allows cultural pluralism, it seems to be blind to cultural differences and practices that imply any form of discrimination, as defined by its statutes of universal human rights. As seen in Chapter Three, many people on the local level experience this enforcement of national laws as discriminatory because it forces unwanted change through interference from the outside. This feeling of being discriminated against by outsiders leads to a policultural sentiment which, in turn, may lead people to practice *ukuthwala* covertly in an attempt to safeguard their cultural identity against the loss of certain cultural elements.

*Ukuthwala* is thus re-emerging as a cultural survival strategy, but needs to be practiced in secret because of the Constitution’s perspectives on it as a form of inequality and discrimination. Contrary to what I expected, a number of older women (and men) supports *ukuthwala* as a marker of cultural identity. However,
the younger female and male generations shun *ukuthwala* as a cultural practice, terming it gender discrimination, inequality and rape. To account for this discrepancy closer inspection was necessary, and I found emic perspectives on discrimination and equality to be complicated and varying with each community.

Historically, Pondo culture was (and is) rather patriarchal and hierarchical, with men holding more authority than women, and parents holding more authority than their children (McAllister and Deliwe, 1996). Equality and rights with regard to gender and age were (and are) thus defined differently in local communities than on a Constitutional level. As observed, when parents (specifically men like Kuthala’s uncles) agree to a *thwala*, it is not seen as age, gender or sexual discrimination against their daughter, even if she does not agree to it. There are two main reasons for this. 1) Her parents' higher position of authority allows them to make decisions for her. 2) On account of her female gender, the girl is required to obey her parents, and be submissive to her new ‘husband’. If a girl is thus *thwala*’ed under these circumstances, her parents may see forced sexual intercourse as a form of arranged marriage based on their agreement with the man’s family. The girl, who was not consulted in this matter, may interpret this same act as rape. Though the Constitution is clear in its verdict that *ukuthwala* is a form of gender discrimination and inequality, there are numerous internal perspectives on the practice and no clearly definable segment of the local population holding any specific view. *Ukuthwala* is invariably called rape, sex, forced sex, agreement and marriage.

This study contributes to the existing literature by illustrating how the Comaroffs’ theoretical propositions with regard to policulturalism find physical expression in *ukuthwala* which is sometimes practiced to assert a cultural identity set against the unifying national identity propagated by the state. This study also connects to the academic debate on rape in South Africa through illustrating how ‘rape’ according to law is not always such a clear cut concept in local communities where it is rather a question of perspective and belief, as the Comaroffs’ find (2004).
Seeking to assert a cultural identity is one reason why *ukuthwala* is re-emerging, but it is also a response to new economic challenges. As illustrated in Chapter Four, South Africa is struggling with increasing levels of poverty and unemployment. It is amid these impoverished circumstances that young men and their families have to pay steep *lobola* for prospective wives. Conversely, very poor families are sometimes in need of the financial support *lobola* could offer. I found that *ukuthwala* presents a strategic opportunity to survive economically for both poor families with a son who wants to get married, and poor families with a daughter who could fetch a bride price. Young men *thwala* girls and have sexual intercourse with them, thereby lowering *lobola* prices, and poor families allow or agree to a *thwala*, without the consent of their daughter, as it will bring them an income.

Finding that *ukuthwala* is adapting to become an economic survival strategy contributes to the literature on *lobola*. The link between these two practices are made clear through illustrating how *lobola* negotiations are firstly bypassed through *ukuthwala*, but secondly also how the ‘loop-hole’ in *lobola* negotiations (paying less for a non-virgin) is exploited through the use of *ukuthwala*. Illustrating how girls sometimes negotiate their own *thwala* links to the literature on rape, revealing again that what is perceived as rape, legally speaking, is actually agreed consentual sex in certain cases.

I do not claim the right to judge the survival strategies of individuals in a less privileged situation economically speaking. However, I believe it is necessary to consider the price some girls have to pay for the survival of their families. I do not believe *thwala*ed girls always share the same perspective of survival as the people who arrange or agree to their *thwala*’s. What might bring (temporary) economic survival to a certain family, could bring sexual abuse and trauma to a daughter who never agreed to a *thwala*. One only needs to think of the familial abuse Kuthala suffered, and misses Mangxamile’s story of narrowly escaping from forced sexual intercourse to understand how some women experience *ukuthwala*. 
This already difficult situation becomes even more pressing when one considers that *ukuthwala* is, in some cases, really a matter of life and death. Chapter Five illustrated how the virgin myth cure, in conjunction with virginity testing practices, acted as catalysts for the increased frequency of *ukuthwala* executions. The HIV/Aids pandemic in South Africa is severe and lead to the revival of virginity testing as a local strategy of combating this disease. Another local solution for HIV/Aids is the virgin cure myth (Earl-Taylor, 2002). According to this myth, a man can be cured from HIV/Aids if he has sexual intercourse with a virgin girl. As I argued, *ukuthwala* seems to present a strategic solution to some men. Older men infected with HIV/Aids now use the *ukuthwala* practice not only to obtain a cheap bride, but also to obtain a cheap bride that can cure them of HIV/Aids. *Ukuthwala* accordingly seems to have adapted, through the spread of the virgin cure myth, and became a ‘medical’ survival strategy for some.

Interestingly, this final discussed reason for the re-emergence and adaptation of *ukuthwala* reveals contesting perspectives on survival within local communities, as opposed to those between the government and local communities. From the perspective of some men, sexual intercourse with a virgin — through *ukuthwala* — may save their lives from HIV/Aids. Yet, such a *thwala* case would almost certainly be a death sentence to the *thwala*’ed girl. These two different ‘medical survival strategies’ therefore point to clashing perspectives on survival and sexual intercourse within local culture. I assume supporters of virginity testing are not in favor of forced sex as a cure for HIV/Aids, simply because virginity testing specifically supports abstinence as the best medical survival strategy. Yet, even though they may condemn the alternative practiced by already infected men, the public nature of virginity testing do place young girls in a vulnerable position.

The recent debate on virginity testing takes issue with how this practice leads to possible gender discrimination by placing girls in a vulnerable position of possible rape by men who believe the virgin cure myth. This study links up with the debate by showing how the revival of *ukuthwala* also increases the possible rape of these girls by men who seek both a virgin bride and a HIV cure. This
study furthermore contributes to literature concerned with (sexual) violence in South Africa through demonstrating how ukuthwala is increasingly characterized by escalating levels of violence and sexual abuse as it loses its historical focus on marriage.

I have therefore found that ukuthwala is re-emerging, to some extent, as a survival strategy, continuously adapting to changing circumstances. Other than simply being a more traditional way of obtaining a wife, it is a cultural survival strategy, asserting Pondo identity against the national identity promoted by the government; it sometimes functions as an economic survival strategy both for poor men who want to get married and poor families with marriageable daughters; it is also adapting to the HIV pandemic, being executed as a medical survival strategy for some men infected with HIV/AIDS.

The re-emergence and various situations ukuthwala adapts to, leads to serious conflicts between the government and local communities, and between members within the same local communities. Other than the illegal nature of ukuthwala, the main reason for these conflicts seem to be the various perspectives people hold with regard to sexual intercourse as part of ukuthwala. Some segments of the community see sexual intercourse as sanctioned by the agreement between the parents (and families) of the respective groom and bride. However, other individuals interpret sexual intercourse as gender inequality and even rape since the girl is not always consulted when her ukuthwala marriage is planned. These are only two of the numerous interpretations of sexual intercourse during ukuthwala, showing the necessity of taking internal variation into account when local practices are investigated.

Other than discovering that sexual intercourse is a matter of perspective, I also found that media and government reports on the increasing level of violence during thwala executions was true, even if one-sided. A general rise in violence as a cultural element also found expression in ukuthwala, sadly making it a practice often typified by sexual violence. Then, it seems as if the prominence of marriage is fading under the increase of violence, drastically altering the purpose of ukuthwala.
The aim of this study was to determine why ukuthwala is re-emerging, and how is it adapting. Though I believe I managed to uncover some of these reasons, it was only a brush at the surface. I strongly feel that further research is necessary, not only with regard to ukuthwala’s relationship to cultural identity, lobola, and virginity testing, but specifically the new identity it seems to be acquiring. A fuller understanding of how this practice is changing may reveal much about the current cultural changes and social processes at work in local communities. Such an understanding may also help the government, NGOs and those involved with social work to better address issues of gender inequality and discrimination. The scope of this study is sadly too small to make recommendations and suggestion on how to solve this very contentious, controversial and complicated conflict. My aim was rather to introduce this matter to the academic world by starting an academic discourse on ukuthwala. It is my hope that whoever engages in this discourse will remember that we are dealing with very real issues with very real consequences. We are dealing with people in extreme situations, whether it is severe poverty, rape, or the fear of dying of Aids. When seeking to address this controversy, we need the rigorous, empirical and calculated approach science has to offer, softened and nuanced by an unprejudiced and companionate heart for the suffering of others, and a respect for their personhood and way of life.
Bibliography


news.bbc.co.uk/2/hi/africa/8303212.stm.

http://works.bepress.com/erika_george/1/.

http://heinonlinebackup.com/hol-cgi
bin/get_pdf.cgi?handle=hein.journals/calr96&amp;section=45.


http://jae.oxfordjournals.org/content/16/5/813.short.

http://repository.up.ac.za/dspace/handle/2263/5564.


http://jrs.oxfordjournals.org/content/15/2/171.short.


doi:10.1080/13691050412331293467.


www.sabcnews.com/portal/site/SABCNews/menuitem.

doi:10.1080/0002018022014007.


http://www.mediaupdate.co.za/?IDStory=34385.


