IMPLEMENTATION EVALUATION OF THE 'TOWARDS *ZERO* DEATHS: INITIATION SCHOOLS PUBLIC SAFETY AWARENESS PROGRAMME'

O.R Tambo District Municipality, Eastern Cape South Africa

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1. INTRODUCTION

'Towards Zero Deaths Public Safety Awareness Campaign' – themed "*Mabaye bephila, babuye bephelele"* – was established in 2013 as intervention programme that sought to assist rural and semi-urban communities in the Eastern Cape to decrease the high number of deaths [1] among young initiates that undergo initiation schools in the Eastern Cape. Despite the dignified cultural significance and value of initiation process, the practice has been associated with botched operations, which, in some instances, have left many initiates infected with HIV, some experience amputation and deformities of their genital organs, others dying from dehydration and medical complications at the initiation schools (see Malisha 2008: 585). Others have had to receive medical treatment for respiratory infections, starvation, and wounds received from abuse related to the initiation process (see Bogopa, 2007; Vincent 2008).

Using Rijken's (2018) longitudinal statistical analysis on the number of deaths recorded in the Eastern Cape for the past 21 years, the year 1996 was the year which recorded lowest number of deaths below 20. The highest number of deaths (approximately 90) was recorded in 2009, and a sharp decline was seen during the period of 2015 to 2017, leaving it at an average of 30 deaths during the summer initiation schools.[2] This reduction of deaths is owed to the introduction of the Customary Initiation Bill of 2007 which provides a regulatory framework for the practice of customary initiation.

Despite the reduction of number deaths over the years, nevertheless after every initiation season there seems to be casualties and deaths. Hence the introduction of further intervention programmes such as the 'Towards Zero Deaths Public Safety Awareness Campaign' and continuous monitoring of the implementation of the Bill, of which Vusizwe Foundation is a partner custodian. Questions of adherence to the current legislative framework in protecting the rights of initiates; parental responsibilities, guardians and care-givers and customary initiation surgeon towards the children who undergo initiation process still arise. Premised on the figures from the provincial Department of Health, the most problematic areas lay within the Chris Hani and O.R Tambo districts in the Eastern Cape. However, due to internal coordination challenges at Chris Hani District Initiation Forum, the programme evaluation was limited to OR Tambo District.

Moving from this premise, Vusizwe Foundation with its partners and

stakeholders developed an intervention programme that would ultimately be as a

[1]Xolani Koyana, Eyewitness News, '40 Initiates Killed So Far in the Eastern Cape' https://ewn.co.za/2015/12/25/40-initiates-killed-in-the-Eastern-Cape-so-far-this-season (Accessed 22 November 2018)

[2] However, it is important to note the Rijkin's statistical numbers may be inconclusive due to the fragmented way in which statistics are publically made available by the Eastern Cape Provincial Department of Health. Similarly, on the part of the general public there tends to be an over-reliance on media reports for statistics which inherently problematizes the validation and reliability of such information, as well as whatever solutions the people may propose at various community meetings and consultations (like those undertaken by Vusizwe Foundation in 2018).

baseline research to draw attention to the underlying contributing factors that are mostly overlooked in attempting to reduce the number of deaths recorded in various district municipalities during the initiation schools. The programme is supported by the Vusizwe Foundation, the Department of Arts of Culture, the Department of Cooperative Governance and Traditional Affairs, the Eastern Cape House of Traditional Leaders, and the National Lotteries Commission. There are various partners who are either advocates or beneficiaries of the programme that play a role in the programme such as AmaQD, Traditional Leaders, Provincial Department of Health, Provincial Department of Cooperative Governance and Traditional Affairs, District and Local Municipalities, Traditional Surgeons and Nurses, South African Police Services, District and Local Initiation Schools Working Committees.

The programme implemented by Vusizwe Foundation and its partners is governed by the Eastern Cape Customary Male Initiation Practice Act 2016 (Act no 5 of 2016), which seeks:

- To regulate practice of customary male initiation in the Province,
- To provide for coordinating structures of customary male initiation,
- To provide for key role players in the customary male initiation,
- To provide for the issuing of permission to perform circumcision and to conduct male initiation schools,
- To repeal the Eastern Cape Application of Health Standards in Traditional Circumcision Act 2001 (Act No 6 of 2001)

Eastern Cape District Municipalities Map https://www.google.co.za/search?q=eastern+cape+district+municipalities+map&rlz=1C1LOQA_enZA663ZA676&tbm=isch&source=iu&ictx=1&fir=nQIsLlNivQJeTM%253A%252C5

2. FORMATIVE EVALUATION METHODOLOGY

The critical challenge that Vusizwe Foundation identified in its programme logical framework at the planning and implementation stages of the supporting programme with seeks to strengthen the implementation of the Act was the absence of an evaluation assessment. Therefore, it was suggested that in order to understand the process in relation to the effectiveness of the implementation of the programme, a *formative evaluation* must be conducted. The findings generated from this evaluation will assist Vusizwe Foundation and provincial/local government stakeholders as the lead programme initiator with continuous programmatic improvement. Most non-profit organisations for social agency and government tend to develop implement programmes without an evaluation plan that can assist in

understanding how the programme is performing. The assumption often made is that, 'I know we are doing well because we are implementing our activities' or 'funders wouldn't have funded us if are not doing well'. At times, government and non-profit organisations increase the programme implementation activities without assessing the effectiveness of the programme's outputs and outcomes. The expansion of activities is based on assumptions, without the backing of empirical evidence to inform what needs to be done to strengthen the programme intervention before embarking on further activities and securing funding for further roll-out.

The successful implementation of a programme can be determined effectively through a *formative programme evaluation* which becomes a useful tool for stakeholders who want to ensure that the implementation of their programme is being carried out as intended. It also assists stakeholders to obtain more information about the effectiveness of their interventions by examining the changes or continuities in the practices that the intervention aims to address. Since the 'Towards Zero Deaths Campaign' is at its initial stages of implementation, a *formative evaluation* was identified as the most appropriate evaluation method to use instead of a *summative evaluation*. The latter is mainly implemented at end of programme for assessing the impact the programme has made in changing the practices, behaviours and attitudes of those involved in the programme within the overall objective of decreasing the number of deaths among young initiates. The formative evaluation applied by the Vusizwe Foundation will assist in giving the stakeholders a quick feedback for developing their programme trouble shooting strategy to circumvent emerging problems in the upcoming 2019/20 initiation schools' campaign. It will also improve the practices of accountability which are essential for accounting for resources provided by funders.

Dr Thina Nzo, a researcher from Wits University, who has an academic and professional training background on policy evaluation research, was approached by Vusizwe Foundation to assist in conducting the evaluation. Drawing from external research and evaluation professional skills was viewed as an appropriate approach of ensuring impartiality and objectivity for the purposed of the research. Dr Nzo also ensured that the evaluation was done in an inclusive participatory manner, in collaboration with Vusizwe Foundation employees. The involvement of Vusizwe Foundation employees was to ensure that research and evaluation skills were imparted to the personnel in order to build internal organisational capacity for Vusizwe Foundation as a growing non-profit organisation to conduct its own internal evaluation in the future.

2.1 Steps in Applying Formative Evaluation

The formative evaluation consisted of the following areas of assessment:

- Informal interview with the lead programme director at Vusizwe Foundation to obtain more background information about the project
- Reviewing of programme documentation, reports, minutes of meetings, decisions taken and underlying assumptions

- Identifying the programme elements that were crucial to obtain a successful implementation of the intervention programme
- Selected the appropriate qualitative research design, methods and data collection methods
- Conducting the actual formative evaluation using qualitative research methods such as in-depth one-on-one interviews with key stakeholder informants, focus group discussions with beneficiaries of the programme
- Identifying successes and problems of the intervention programme
- Probing for sources of problems to assist stakeholders to explore further remedial action and interventions
- Submission of findings to Vusizwe Foundation and stakeholders

2.2 FIELD WORK

Vusizwe Foundation agreed with Dr Nzo to embark on field work as a way of gathering qualitative and in-depth empirical data from key participants and stakeholders involved in the customary male initiation implementation processes. This data constituted the formative evaluation information needed to understand the implementation of the newly introduced interventions. The field work was done over over a two weeks' period, from 19 January - 1 February 2019.

Vusizwe Foundation provided all the logistics support for the field work research. The timing was essential because it was less than a month after the summer customary initiation schools had been concluded. Vusizwe Foundation drew up a terms of reference / MoU for the evaluation project that was signed by both parties before embarking on the evaluation, in order to highlight the research deliverables and ensure quality assurance.

2.3 QUALITATIVE DATE COLLECTION METHODS

Vusizwe Foundation, opted to use *purposive sampling* in selecting the existing geographical demarcation of the district municipality area and identified the problematic rural areas from the local municipalities which in-depth information would be extrapolated about the current practices observed and experienced by participants and stakeholders since the adoption and implementation of the Customary Male Initiation Practices Act (2016). To be more specific, out of the 7 district municipalities in the Eastern Cape, O.R Tambo District Municipality was the sample base of the evaluation site location for data collection.

Specific rural areas in Nquza Local Municipality and King Sabatha Dalindyebo Local Municipality at O.R Tambo District Municipality were selected as a sites of enquiry due to the fact that these local municipalities in the district municipality remained as key sites with high numbers of fatalities initiates and prevalence of unregistered (known as illegal) initiation schools. Access to the participants and interviews was facilitated by the Vusizwe Foundation, including arranging appointments for the interviews.

2.3.1 INTERVIEWS

One on one interviews were conducted with key informants from the O.R Tambo District Municipality such as a local journalist who mainly covers initiation schools news during the customary male initiation season; the

senior Police Warrant Officer who has dealt with cases emanating from customary male initiation schools over the years; the Head of Communications from the Provincial Department of Cooperative Governance and Traditional Affairs; a senior official from the Provincial Department of Health; and the Chief of Staff at the Provincial House of Traditional Leaders.

2.3.2 Focus Groups and Community Meetings

Focus group discussions were conducted with the *a)* District Initiation Forum consisting of traditional leaders from the various communities of O.R Tambo District, *ingcibi* (traditional surgeon) *b)* Ngquza Local Initiation Forum (Lusikisiki and Mbizana) that comprised of parents, former male initiates, traditional nurses (*amakhankata*) and local chiefs *d)* two Community Initiation Forums from eMbolombo and eQokolweni rural community in King Sabata Dalindyebo Local Municipality.

At eMbolombo, we had a community meeting which consisted of a larger number of community members such as parents (men and women), councillors, traditional nurses (*amakhankatha*) and traditional surgeons *(iingcibi*). At the eQokolweni Community Initiation Forum, we had representative from the local royal house, parents (men and women), traditional nurses (*amakhankatha*) and traditional surgeons (*iingcibi*).

2.3.3 Logical Framework

A Logical framework was developed in order to trace the initial objectives of the interventions that sought to spear head with the implementation of the provincial legislative regulations introduced in 2016. The logical framework provided the intervention programme process plan that was initially designed at the planning stages of the programme. This helped the evaluator identify and measure the *actual* outputs and outcomes against the *intended* outputs and outcomes for Vusizwe Foundation.

2.3.4 Limitations of the Evaluation

Vusizwe Foundation and Dr Nzo had initially agreed to conduct the evaluation in two district municipalities, namely O.R Tambo and Chris Hani District Municipalities. However, due to internal complications and challenges in the coordination and functionality experienced by the Chris Hani District Initiation Forum as the entry point to the local communities, the evaluation team had to forfeit Chris Hani District Municipality and adopt an embedded case method approach for O.R Tambo District Municipality. Some of these coordination problems are known to the Provincial Initiation Forum, which Vusizwe Foundation would deliberate further with the provincial government.

3. Relevance of Customary Initiation Practices: Brief Historical Debates

The practice of customary male initiation (*isiko lolwaluko)* has been practiced in Southern Africa and in South Africa for many centuries. From the Xhosa cultural ethnic group in South Africa, boys who have not gone through customary make initiation process in isiXhosa are called boy/s (*inkwenkwe or amakwenkwe)*. This often came with a masculine stigma of a boy that has not transcended into manhood, which

compelled young boys to go for customary male initiation schools in order to earn the status of a 'man' in his family and society. Customary male initiation among the Xhosa speaking people is a prominent cultural practice that has sustained its cultural significance as a symbol of African indigenous identity from the pre-colonial era, while withstanding through cultural resistance against the colonial period of de-culturalisation. Although there are various sub-ethnic groups or 'tribes' with different cultural practices and dialects among the Xhosa people group such as *amaMampondo, amaMpondomise, abaThembu, amaHlubi, amaBaca.* As Ntombana (2011: 633-634) argues, 'the common practice of a particular cultural group in a given community known as *isithethe* in the Xhosa language is not only what brings the Xhosa people together but also a practice that is accepted in a given social context.'

However, from the general practice of customary male initiation among the collective group the Xhosa speaking people in the Eastern Cape, customary male initiation process for young boys has been generally known as 'going to the mountain' (see Gwata, 2009:5). This phrase derives from the traditional practice of secluded location of initiation schools away from the the community in the mountains, or on a hillside (ibid). It has been noted that customary male initiation processes in the Xhosa tradition has four distinct phases: a) separation, b) cultural transition from boys to manhood c) circumcision d) seclusion and e) re-integration into the community as men, which integrates both spiritual rituals and customary cultural practices which form part of the a cultural and gendered identity. Yet, contemporary scholars who have written about customary male such as Laidler (1922), Peltzer et al. (2010) and Mhlahlo (2009), Kanta (2004) tend to reduce the customary male initiation to circumcision - the mere cutting of the foreskin - of which the latter is only part of the ritual process to the former. Due to the laden social and cultural practices embodiment of customary male initiation practices, in this evaluation we carefully refrain from defining customary male initiation as 'traditional male circumcision'. In most instances scholars tend to define 'customary male initiation' as 'traditional male circumcision' by locating it within the health sciences discourse that discursively assesses its prevention effectiveness in reducing HIV/AIDS (Meinjies, 1998; Vincent, 2008; Stinson, 2007; Peltzer et al, 2010), while others critique both customary and traditional male circumcision as an obsolete practice that contributes to the eminent deaths of young initiates (Mcotheli, 2006; Myemana, 2004). Other researchers have used the study of customary male initiation to demonstrate the cultural re-enforcement of patriarchal and masculinise of men using feminist frameworks of analysis.

Moreover, while the majority of recent publications investigating the role of initiation in reducing the spread of HIV and AIDS and the degeneration of cultural moral codes and the actual cause of deaths of young initiates - they have not been able to provide us with deeper insight into the complex cultural practices that have been complicated by socio-economic factors that are shaped by shifting urbanisation values and the introduction of bureaucratic legal-

rational tools of regulation by the modern state, which attempt to regulate cultural practices such customary male initiation practices from predatory practices. Indeed, in recent years', customary male initiation practice has been characterized by predatory practices that have led to an undisputed high numbers number of fatalities among young initiates, mutilations and botched circumcisions, psychological trauma, physical abuse of initiates, drug abuse and inhuman behaviour involving the newly initiated young men as a result of malpractices often done by negligent traditional nurses (*amakhankatha)* and traditional surgeons (*incgibi)* which was rare in the pre post-apartheid.

The news which brought significant attention of the media and the public was related to an incident in Lusikisiki at O.R Tambo District Municipality in 1999, where a number of initiates had died inside the hut (e*bomeni)* which caught fire. This led to a wide spread of debates about the relevance of the practice and possibilities of introducing state regulations as a form of state control relating to customary male initiation practices. Another reason is that communities have raised problematic behaviour of the initiated young men post the initiation. Some have argued that initiation schools have become a place where criminal activities are committed and the practice of customary male initiation no longer contributes to the building of social morals and gendered characters of young men, but instead contributes to the moral decline of the communities concerned. Motivated by the general degeneration in the context of initiation practices, some politicians (see The Herald, 10 November 2009), parents and church leaders called for the discontinuation of the practice of initiation, while traditional authorities were against state interference and absolute abolishment. Traditional authorities were mostly concerned about the preservation and protection of their cultural practices enshrined by chapter 3 of the Constitution which spells out the protection of cultural rights of South African citizens.

Instead of taking the route of abolishment, as a response to the public outcry and rising number of deaths recorded from customary initiation schools, what seemed to be the first Traditional Circumcision Task Team was set up in 1999 to propose for a draft bill for the provincial legislature. In 2004, government, in partnership with the house of traditional leaders, intervened and took relevant steps to address the problems associated with the initiation practice by passing the Traditional Health and Practitioners Act of 2004, which gives directions and regulations for customary initiation. In particular, the role of the traditional surgeon is highlighted and regulated through the Act. As a result of the Act and other interventions, some of the earlier problems related to deaths of initiates seemed to de-escalate. However, there still have been reports of deaths, criminal activities and casualties during customary initiation season. And therefore our evaluation locates itself with the public policy making field of enquiry in order to formatively examine and explore the contributing factors of the continuous deaths young initiates and malpractices observed in some parts of the Eastern Cape, particularly O.R Tambo District Municipality.

Others may ask the question why not abolish customary male initiation and introduce medical male circumcision? This question is not new question. Although within the post-apartheid period, the practice of customary male initiation has been denounced leading to the call for discontinuation and replacing customary male initiation with medical male circumcision by parents' church leaders like Mcotheli (2006) and Myemana (2004: 12) in order to prevent malpractices and deaths of initiates. Nevertheless, the call for abolishment of customary male initiation and replacing it with medical male circumcision is not a new debate.

Historically, the debate around the abolishment of customary male initiation practices can be traced back to the colonial period of 19th to the 20th century of early Christian missionaries and converted natives. For most of the 19th century, western colonial missionaries were opposed to customary male initiation and circumcision (see Mills, 1995 and Erlank, 2017). Their disquiet, discussed more fully elsewhere, rested largely on a view that customary male initiation was sexually immoral. This distinguished missionaries, themselves representative of a colonising impulse, from other colonial forces, including colonial officials, who were equally convinced that circumcision ceremonies were an exercise in anti-colonial politics for youths of a particular age. Although the missionaries' deeply felt beliefs drew on the conviction that monogamy was foundational to proper family life, and that any context for the exercise of sexuality represented deviation from true Christianity in trying to persuade their African converts to abandon initiation (ibid). From the perspective of colonialization, it can also be argued this was done by the colonial officials and missionaries as a way of colonial de-culturalisation and by imposition of colonial 'Christian values' among the native communities (see Magubane, 1979).

Among the first-generation of African converts, and from roughly the middle of the 19th century, the missionary's view on initiation gained traction. African converts of the later 19th century shared the mission-influenced view that circumcision ran counter to mission-sanctioned morality. African converts made their opposition known, both in deed, as in the case of Tiyo Soga, who refused circumcision, and in writing, in the fledgling black press from the 1870s. In 1873, three letters in *Isigidimi Sama Xhosa* by 'native authors' and in Xhosa decried the practice. Klaas Goyana wanted notices of the Anti-Circumcision League to appear in the newspaper, while Solomon James of Grahamstown listed circumcision as a 'curse among the natives'. Until the 1920s, initiation mostly remained the subject of debate in regional and mission oriented newspapers.

In the 1920s, across South Africa, the African clergy with support from liberal westerners within the mainstream churches, advised against prohibiting African boys from attending initiation schools (see Delius and Glaser, 2002). Within this inter-racial space, recommendations either suggested 'Christianising initiation' (Pauw, 1975; Stoner-Eby, 2008 and Erlank, 2017) or pretending that it did not exist. Many of the churches investigated and recommended imprinting the practice with Christian

authority (Erlank, 2017). Traditional leaders on the other hand resisted against the Christian imposition to alter customary male practices as it threatened the cultural identity of African natives. Through the preservation of customary male initiation practices, traditional leaders found a way of reasserting their traditional authority and legitimacy through the resistance against complete permeation of the colonial state into cultural identity of Africans.

However, with the discovery of mineral resources in the 1940s, which led to urban migration into the mining towns such as Johannesburg further contributed to the rise of the urban life and migration of Xhosa men into the cities. With rapid urbanisation, this contributed to the complicated evolution of cultural practices and communal structures in charge of customary initiation processes such as *amabunga*. Most men in their formative adult life would have to return back to rural homelands to participate in customary male initiation schools. Within the context of urban migration of rural African communities into the urban communities, this contributes to the present problematique of cultural codes, multiple interpretations, and incoherent heterogeneous practices and values attached to customary male initiation, which have been mostly complicated by the shift in socio-economic and cultural values associated with the modern state in its quest of modernisation, whilst retaining the significant value of the customary male initiation practices.

Hence we continue to find that there has been a sharp growth number of deaths among initiates during the post-apartheid period, which has led to the re-introduction of the debate of abolishing or introducing state-led regulations and interventions into customary male initiation practices. The debate centred around the abolishment of customary male initiation found prominence in on the agenda of policy making once more post 1994. The difference with the post-apartheid discourse was burrowed by the fact that South Africa was now governed by a more democratic and inclusive constitution that had to ensure the protection of cultural rights of ethnic, religious minority and majority groups such as black Africans (Chapter 3 of the South African Constitution, 1996). Therefore, public participation and placing the voices of rural communities, traditional leaders and parents found a voice in a debate which would have been advanced by a few educated African or white elite Christian minority pre-1994.

Although the process of regulating customary male initiation was received with much hostility among custodians of cultural practices (including traditional leaders) - ostensibly viewed as interference of the state into the cultural rites of passage and cultural rights and the autonomy of traditional authorities and their traditional communities - however, the constitutional protection of citizens and children in a constitutional democracy over-rides cultural malpractices masked in cultural rights which seem to subvert civic citizens' rights. [3] The

[3] See the South African Constitution, 1996 (b) Section 28 (1)(d) of the Constitution determines that every child has the right to be protected from maltreatment, neglect, abuse or degradation and Section 31(1)(a) of the Constitution determines that persons belonging to a cultural, religious or linguistic community may not be denied the right, with other

passiveness of government could no longer be ignored with the proliferation of 'illegitimate' customary initiation schools that resulted in the deaths of young boys. From this historical perspective, this evaluation will contribute into the process of generating knowledge required for the understanding the practices of customary initiation under the legislative regulations and how communities respond to the modern state's attempts to regulate cultural practices by examining the (dis)continuities of customary male initiation malpractices. This formative evaluation does not seek to dictate what the government should do, but instead, it provides a needed insight into the complexity around the binary opposite of preservation of cultural practice through informal practices of actors that that are contradictory to what the legislation seeks to achieve. With the recommendations provided for improved outcomes, the exclusion of traditional medical council bodies at the centre of policy making also adds to the challenges of legitimising regulatory measures into traditional and cultural practices. The co-existent of informal practices under legislatively controlled practices re-shape the implementation of policy and give new meaning to the practice of customary male initiation within the broader discourse of resistance against de-culturalisation of the modern post-apartheid state. Thus the evaluation provides a much needed nuanced insight into the negation of state 'legality' and cultural 'legitimacy' expressed through continued subversion of the law in the cultural life of rural communities

4. EVALUATION FINDINGS

4.1 MEDICAL PRE-SCREENING PROCESS

4.1.1 THE ROLE OF THE FAMILY

The recent introduction of the Customary Male Initiation Act (2016) brought in a regulatory framework to the practices of the customary initiation practices with regards to the role, functions and responsibilities of role players in this customary initiation processes. This act prominently outlines the regulations such as the legal of 18 years as the statutory age which boys can participate in the initiation schools; adherence of medical processes such as medical pre-screening of initiates before enrolling to for initiations schools; the role and responsibilities of the of the various stakeholders such traditional leaders, parents and legal guardians, traditional surgeons and principals (care givers), government (department of Health, Education, Social Development and South African Police Service) and medical practitioners. Section 7.5 (a) of the policy framework developed by the Department of Traditional Affairs states that the family of an initiate has to ensure that the child is psychologically and physically fit to undergo initiation.

Traditionally, the initiation process should begin with the initiate's parents. The boy's father and his senior male relatives decide when the boy ready for initiation – at the age

members of that community to enjoy their culture, practice their religion and use their language.

of 18 years old – often waiting so that a group of boys (*amakhwenkwe*) from the same village could be initiated together. Hence the role of the family in the regulatory framework, becomes central in the beginning stages of preparations for enrolling into customary initiation schools. According to the bill, the parents or guardians must ensure that the boys are taken to a qualified medical practitioner for a medical examination and pre-screening in order to determine the medical fitness and detection of medical chronic illnesses that will need medical attention before the boys can enroll for the initiation school.

The department of health only issues medical certificates to boys whose medical examination exclude any medical condition the boy might have in preparation for enrolling for the initiation school. If a boy has chronic condition, then boy must be counselled and treated before going for initiation. These result from the pre-screening must be submitted to the local chief or tribal council for assessment in order approve their legibility to enrolment for the initiation school. Once approval have been granted, the medical report must also be submitted to the principal of the customary initiation school. The family and the boy have an obligation of disclosing the any medical condition and taking of medical treatment before enrolling for the initiation school. This will allow for provision of medical treatment by the care-giver (*ikhankatha*) during the initiation school period.

Although from the legislative perspective places an emphasis on the medical pre-screening as the first and crucial step of the customary initiation process, however from a cultural and customary perspective this process begins with the family and the community authority structures which provide oversight of customary male initiation processes. In the findings we deliberately begin with discussing the role of the family because from the traditional practices of preparing for the initiation school, the family is epicenter of initiating and bringing forth the recommendation of enrolling the boy into an initiation school. Moreover, the family has a seamless role to play at the beginning stages and ending stages of the process of ensuring that the boys go through the rights of passage. Here, we also find that the role of the parents also has an adverse contribution to the poor adherence of the newly introduced legislative regulations.

4.1.2 Traditional and Legislative Processes of Customary Initiation Schools: The Community Initiation Forum/Committee and Ibunga

For summer (December) initiation schools, the preparation process begins well in time during the beginning of spring (September) by calling *ibunga*. *Ibunga* is a meeting of senior village men, the chief, fathers and uncles of the prospective initiates from the village that come together to deliberate and consent for the proposed names of boys who are recommended for initiation school. This meeting also begins to deliberate on the preparations for the initiation school. In other words, *ibunga* is a collective decision-making body in the village that has the authority to take decisions regarding giving permission for the young prospective initiates to undergo the customary initiation

school in summer. As cited by Mavundla et al, 2009: 399) a meeting is held by the committee to get:

> 'formal approval, which is granted to the adolescent's father after some considerations. The committee reviews and checks that the boy's pre-circumcision cultural rituals were performed, such as the sacrificial slaughtering of a goat. The adolescent's health is carefully assessed according to traditional knowledge to ensure his readiness to meet the challenges of circumcision. If there are any problems regarding his health, suggestions are made for corrections and treatment. The age of the adolescent is also confirmed to make sure that he is mature enough to withstand the psychological demands of the ritual. Finally, financial issues are discussed, as the process is a costly endeavour that involves buying necessary items for the ritual, purchasing specific foods for the initiate, and paying for the traditional surgeon and nurse.

The assembly of *ibunga* represents decision-making structures within the preparatory processes of customary initiation. From a traditional perspective, indigenous methods of performing medical fitness for the boys by male family members were being practices even before the western medical system of examination was introduced. However, the responsibilities and functioning of *ibunga* as a traditional structure of central authority have changed over time with the evolution of rural communities, which has been complicated by migration in between urban areas and adaptation to modernisation. With most parents who are migrant workers in the cities and some children residing in urban cities with their parents, the participation of parents in *ibunga* who wish to return their boys back to the villages for customary initiation has diminished.

At times, it is left to the relatives residing in the rural villages to apply their sense of authority and discretion in following the processes of reparations for the boys who will be returning to the village for enrolling for customary initiation. Nevertheless, the connections between the rural and urban continue to exist through family relations with rural family members as custodians of cultural intermediaries. Irrespective of migration, urban families still have strong family ties and identity with rural homes rely heavily on rural family members to represent their interests is such structures. These rural family ties continue to lodge Xhosa speaking migrants in urban areas within cultural practices such as customary initiation process by preferring to return their boys back to the Eastern Cape villages in order to go through customary initiation schools rather than using medical procedures.

Although there have been attempts to ideally distil and fix traditional customary practices such customary male initiation within African practices by making claims of their purity from colonial and western practices. However, culture is not static; it is dynamics and is often influenced and penetrated by evolving social values, norms and systems of modern governance. For example, medical examinations are no longer left to the discretion of members of *ibunga*, but clinics and medical doctors have been given state authority to conduct medical examinations of prospective initiates according to the new customary regulations. Within the process of assembling *ibunga,* it now has the responsibility of ensuring

parents and prospective initiates (both from rural and urban areas) comply with clinical medical examinations by the parents and prospective initiates before obtaining an endorsement to attend the initiation school. This includes monitoring the application of health standards and the recent customary male initiation bill (2016) regulations during the initiation season.

During the meeting of *ibunga,* there are certain questions and issues which need to be addressed that are outlined in the customary initiation bill (2016). These include ensuring that issues such as ensuring that parents take boys for medical examination, which will be reported in the second meeting of *ibunga* in October/November. Certain decisions such as selecting traditional surgeons (*iingcibi)* and traditional nurses (*amakhankatha)* will be taken during the second meeting of *ibunga* where the parents can select from the known traditional surgeons and nurses who will be executing their duties and proving care for the initiates *(abakwetha*) during the initiation schools. *Ibunga* has now been replaced or supplemented by formal structures such as the establishment of customary initiation working committee/forum in the village or ward and individuals who will serve in that committee are identified from the community, including the secretary and chairperson of the committee. The customary initiation working committee provides parents with information concerning the processes that should be followed in preparation for the initiation school.

It also provides oversight and support during implementation stages of the initiation schools. The task of the community/village initiation working committee is to also establish a working relationship with the community clinic which will be used by the prospective initiates and to have their medical examination done; outline the general rules of *ibhoma*, including outlining the roles and responsibilities of parents and other stakeholders under the legislative regulations in relation to the procedures that ought to be followed. It is also stressed that prospective initiates must obtain a written and signed consent letter from the parents that give them the permission to participate in the initiation school.

The consent letter must be accompanied by both the parents and boy's Identity documents that must be submitted to the local chief who gives the go-ahead for the medical examination at the local clinic. The Identity document serves as a way of verifying the boy's legal age as the customary male initiation regulation stipulates that boy's from the age 16 are allowed to participate in initiation schools. The local clinic will carry the medical examination using the consent documents from the parents and the local chief. Once the boy passes the medical examination, the boy must take the medical examination results to the local chief and parents in order to submit to the initiation working committee.

During the preparation for the initiation season, there are certain rituals that must be observed for the initiates, leading to attending the initiation schools 'in the mountain' apart from their families in huts *(ibhoma)* subject to food and language restrictions while waiting for their wounds to heal, amongst other things. In seclusion

initiates are attended by traditional nurse/guardian, who makes sure that initiates are receiving proper medical care for their wounds, ensure they observed proper customs and learn the knowledge and behaviour expected of them as men. Once the initiates have gone through the rites of passage, they come back as men (*amakrwala)* and celebration.

4.1.3 The Department of Health and Medical Interventions

The department of health's role in the recent customary male initiation act (2016) is preceded by the National Health Act, 2003 (Act No. 61 of 2003), the Application of Health Standards in Traditional Circumcision Act, 2001 (Act 6 of 2001) and the Children's Act, 2003 (Act 38 of 2005 in order to ensure that the application of health standards is applied, which also includes the promotion of health education before the commencement of the initiation season, implementing the process of medical pre-screening of the boys, and the establishment of a monitoring team during the initiation season (see National Health Act, 2003 (Act No. 61 of 2003).[4] The Health Professions Council of South Africa (HPCSA) issued guidelines in 2007, which focus only on consent in general and not on circumcision specifically. It is indicated that in cases where a child is of insufficient maturity or unable to understand the implications of a decision, or if the treatment is urgent or life-threatening, other people may make a decision on behalf of the child. This seems to include circumcision for medical reasons. The National Health Act and the HPCSA guidelines therefore focus on specific health aspects relevant to initiation (in particular, male circumcision) and do not deal with any other aspects of the practice. In terms of the latter, the department has a set criteria and listed medical conditions which health practitioners have to examine during the pre-screening. These include the medical examination of communicable diseases (Tuberculosis, HIV and other Sexually Transmitted Diseases) and non-communicable diseases (high blood pressure and diabetes). The examination of these medical condition is important because the boys will be exposed to harsh conditions and therefore the provision of medical treatment and prevention of spread of disease is a priority for the department of health. However, the medical conditions enlisted by the department of health are no communicated to the communities and therefore communities rely on assumptions and sometimes absent knowledge of what constitutes medical pre-screening.

In terms of medical screening of sexually transmitted diseases, it has been noted by the department of health that there is common belief and a growing wide practice among young boys that before departing from boyhood, the boys would have to have a sexual encounter with a female without using protection before enrolling for initiation in order return as a 'man'. This practice often puts young boys at risk of getting sexually transmitted diseases because they often do not use protection.

[4] Section 43(3)(a) of the Act specifies that "the Minister may, in the interests of the health and wellbeing of persons attending an initiation school and subject to the provisions of many other law, prescribe conditions under which the circumcision of a person as part of an initiation ceremony may be carried out." Such conditions may however not be in conflict with section 12(8) of the Children's Act.

Hence thorough medical examinations are exceptionally critically important in the preparation stages within the new regulations. Here it is emphasised by the health officials that health practitioners in clinics are only allowed to conduct the medical pre-screening on boys who have been given approval by the chief and parents in a form of a consent letter signed by both the parents and the local chief.

Although it has been stipulated that boys should use local clinics for conducting medical examinations during the pre-screening process in order ensure that that proper statics have been recorded for boys going for initiation, however it is noted that the department has very little control over ensuring that parents use local clinics for medical examinations. Some parents choose to use private medical doctors, which leaves the department of health with very little powers to implement oversight measures in ensuring that medical practitioners adhere to the medical examination processes.

State intervention through the department of health along with the medical teams and practitioners varies from village to village. Although state intervention was widely met with apprehension by traditional surgeons and traditional nurses because it was viewed as interference by the latter, however, the department of health has observed that the negative attitude against the department of health medical officers by traditional surgeons and traditional nurses is beginning to shift as they come to the realisation that medical monitoring and intervention during a state of emergency is necessary. During the initiation season, the department of health ensures that male nurses conduct random monitoring during the initiation process, carrying their medical tools of operation in order to check the health status of the initiates during the initiation seasons.

It has been noted that most deaths occur in the winter season, in illegal initiation schools, this is due to fact that there is no proper application of health standards by unregistered traditional surgeons and traditional nurses. Although much emphasis on the occurrences of deaths has been placed to the operation of illegal initiation schools, however there are deaths which have been recorded from legally registered initiation schools even though more attention has been given to deaths reoccurring in illegal initiations schools. This then challenges the way in which certain criterion has been used to determine what constitutes the legal registration of initiation schools, traditional surgeons and nurses which will be discussed later.

According to the department of health, illegal initiation schools that have been recorded to have higher numbers of deaths and medical malpractices do not a) cooperate with the application of health standards, b) do not provide the boys with sufficient water, c) they do not provide their medical treatment for their diagnosed medical conditions, d) they do not provide them with proper medical care post the circumcision and e) mistreat the initiates during the initiation school. Statistically, it has been noted by the department of health that dehydration and septicaemia is the main cause of death found among initiates. Dehydration in particular, has been caused by boys who refuse to drink water during the initiation period because they believe that

not taking water demonstrate masculinity and resilience and therefore drinking water would be sign of 'weakness' or 'cowardice'.

Those who have not been given proper health care post the circumcision, tend to develop septicaemia and as a result of septicaemia. Septicaemia experience by the initiates tend to cause them to hallucinate. Instead of calling health professionals to provide emergency medical intervention, the traditional surgeons and nurses would dismiss the hallucination as 'witchcraft' or 'ancestral divinity', leading to the death of boys. It has also been noted by the department of health that some of the initiates who enrol in illegal initiation schools and do not declare their medical conditions, they are usually hospitalised for illnesses such as asthma, heart problems, high-blood pressure, diabetes that usually crop up during their stay at the initiative schools.

Moreover, when initiates have developed medical problems at the initiation schools, these initiates equally refuse - along with the traditional surgeons and traditional nurses - to get medical attention from the medical nurses nor do they want to be hospitalised because of fear of being stigmatised as 'weak' or 'hospital initiates' (men who have completed their initiation in the hospital rather than the mountains). The intervention of medical officers is viewed by the initiates, the traditional surgeons and traditional nurses as interference into the customary practices and cultural rites of passage into manhood.

When death occurs, traditional surgeons and traditional nurses do not report the death of an initiate immediately to the family till evening because they do not want to alert the community of an emergency, which can direct the police to the illegal initiation school. This corroborates with the issue of concealing the illegal initiation schools along with protecting the identity of unregistered traditional surgeons, which makes it difficult curb the medical malpractices associated with illegal initiation schools. In relation to the above, the department of health official made this interesting observation:

> *"The way in which initiates, parents and traditional surgeons hide these medical malpractices and unnecessary deaths taking place in illegal initiation schools is very disturbing. For example, we once had a case where a boy died ebhomeni at 12 mid-day, the illegal surgeons would keep the dead body ebhomeni with the other boys the whole until evening. They would then load the body onto a wheel barrow at night and take it back to the family because they don't want to be seen by the community during the day while escorting a dead body from an illegal initiation school. Imagine the trauma experienced by young initiates of having to stay with a dead body of another initiate for hours ebhomeni" (Interview, Department of Health, January 2019).*

He further went on to say that:

> *"And when the dead boys have been reported the following morning, the other boys from the initiation school would have been hidden from the police before the department of health medical officials and local chief arrive ebhomeni. The initiates would be quickly sent home at night and some parents who would chose to send the initiates to the hospital to get medical care post the circumcision would not want identify the traditional surgeon. The parents would wash them and dress them up*

as though they are sent to hospital for an illness not associated with initiation. Only them would the nurse establish the real reason why the boy's parents insist on hospitalisation. The initiates would claim that a man who was wearing a balaclava performed the circumcision when health officials need to get more details about what happened. How do you go to someone you don't know to perform a sensitive thing such as circumcision on you? Information is hidden by these parents and the initiates. Instead you find parents praising and giving reference to unregistered traditional surgeons who might not experience deaths during the illegal initiation process" (Interview, Department of Health Official, January 2019).

The above observation provides a poignant yet insightful complication to what really happens in illegal initiation schools. It is insightful because it is shared by an official from the department of health who deals with medical cases reported during and after the initiation season. This is revealing of the way in which social practices and attitudes and medical factors manifest and contributed immensely to the continuity of health complications and deaths recorded by the department of health, which counteract the implementation of the application of health standards within the customary initiation regulations.

4.1.4 Private Doctors, Medical Pre-screening Negligence and Non-Disclosure of Medical Conditions

According to the department of health, medical examinations should be conducted by primary health care workers such a nurses, which do require medical doctors. Nurses are competent in doing so because it is part of their primary training of which the main things that nurses ought to examine are the following:

"What the medical practitioner, the nurse in this instance, has to do is to conduct a routine clinical medical assessment. Checking your diabetes, hypertension, TB, HIV, Sexually Transmitted Diseases, bleeding on the genitals and the general physical condition of the boy. There are specific guidelines that we use in order to exclude any of these medical conditions to determine their medical fitness. And the department of health cannot issue a medical certificate to underage boys. They must provide an Identity document to verify the age unless the boy would have tuned 18 years by the date in which they are enrolling for initiation school. However, it has come to our attention that private GPs tend to issue medical certificates to boys without verifying their age. This has brought a lot of problems as the department o health in terms of ensuring that stick to the customary initiation law" (Interview with the Provincial Department of Health Official, East London, January 2019)

In our findings, it has been discovered that firstly, some parents choose to send their boys to private doctors for the medical examination. For those parents and boys who reside in the urban towns, these boys come back to the village for initiation with medical examination results that have been conducted in those towns/cities, which leaves very little room for the department of health (clinics), the local chief and relatives in the villages to verify if whether proper medical examination had been followed parents. Secondly, parents who send their boys for medical examination to private doctors in nearby towns such as eMthatha, mostly have complained that send their boys

without adequate knowledge of what is that medical officer ought to examine in relation to the boys' health. Some had complained that the private doctors whom they had sent their boys do not conduct a thorough examination nor do they inform the parents of what will be examined. When we asked the parents at the Community of eMbolombo (Imbizo, January 2019) during a focus group what constitutes a medical examination which determines the medical fitness of the boys which grants them the permission to enrol in the initiation school, the parents had no clue.

Those parents from other communities such eQokolweni (Community Initiation Forum, January 2019) who had an vague idea of what a routine check-up should entail, the parents alluded that during the medical examination conducted by private doctors, some parents indicated that they had expectations that doctor would use the stroboscope to check the lungs, take urine tests for sexually transmitted diseases, blood tests for HIV test, diabetes and high blood pressure readings, the eyes, ears, temperature, including a physical examination genitals. Yet, these parents strongly claim that the aforementioned examinations were not being conducted by the medical practitioners.

The medical pre-screening was considered an integral preliminary process that boys had to undergo, particularly due to the sexual conduct associated the expression masculinity among uninitiated boys. According to the Department of Health official, it was common to find that uninitiated boys believed that having unprotected sex with their girlfriends before enrolling for customary male initiation school symbolised the last sexual act of transitioning from boyhood to manhood, of which when they return, they understood to have come back as a different man and would want to express their transition into manhood through sexuality by engaging repeatedly engaging in unprotected sexual intercourse once they return as 'new men'. Therefore, most sexually transmitted diseases are contracted during that period before enrolling for initiation school that is further propelled by the non-compliance of health standards by traditional surgeons which also spreads sexually transmitted diseases among boys. Hence it has been emphasised that medical pre-screening must be undertaken by boys who wish to enrol for customary initiation, in order to eliminate health related risks for the initiates and allow adequate time (3 months) for treatment and counselling before enrolment.

For parents, the private doctors who offer medical examinations during the preparation of the initiation season tend to accept high number of boys demonstrated in the long queues which have been observed during the preparation period. As result, parents say that private doctors who offer such services of conducting medical examinations of prospective initiates tend to want to use this as a profit making activity, to the extent that private doctors take short-cuts in conducting these medical examinations in order to get as many boys examined. These assertions were corroborated by the provincial department of health officials, who shared a recent experience they had encountered with unethical practices of private medical doctors who conduct medical pre-screening examinations:

"Recently, we had a case eMdantsane, where a GP issued a medical certificate for a 16-year-old boy. The boy died and he was one of the underage 23 boys which died in the recent December initiation season. Yet, it was found that the boy had chronic illness which was not indicated in his medical report. This boy was turned away at the clinic because he was underage. But we were told that the traditional surgeon referred the family to a private doctor who is known to issue medical certificates without following proper protocol. Some of the doctors have access to the department forms, some do not even have the right to use them because they are not commissioned by us. Even the medical certificates are not official because they do not have a serial number that is linked to the department act. Unfortunately, as the department of health we cannot hold private GPs accountable because they are not commissioned by our department in this process. It makes difficult ensure compliance in the private sector". (Interview with the Provincial Department of Health Official, East London, January 2019)

There have been cases where deaths and medical complication that have been recorded unrelated to dehydration or medical malpractice made by the traditional surgeon or nurse. These deaths and medical complications are mainly associated pre-existing medical conditions of the initiates which were supposed to be disclosed by the parents and the boys, or picked up by the doctor who has conducted the medical examination. Some misdiagnosed illness may erupt during the time when are at the initiation yet they have been confirmed that they medically fit. Other medical conditions can be induced as a result of dehydration. The non-disclosure of medical conditions such as asthma attacks, heart failures, high blood pressure, diabetes, Tuberculosis, HIV, STDs and other diseases.

The argument posed by parents and local chiefs is that private doctors who perform medical examinations and issue medical fitness reports which allows the boys to enrol for the initiation school ought to diagnose boys with these medical conditions even if the boys and parents did not disclose the medical condition of the boys. In most cases, as mentioned by the department of health official, some of the boys who reside as far as Cape Town and Johannesburg may only arrive in the rural village to conduct a medical examination with local private doctors only one day before enrolling for the initiation schools. This tends to complicate the implementation of the initiation bill which stipulates that medical pre-screening examinations should be at least 1 - 3 months ahead before the boys can enrol for the initiation schools. Some parents go as far as accusing medical doctors for selling medical certificates without even conducting any medical examinations on the boys, which has an implication on the legal and legitimate operation of medical doctors as providers of medical pre-screening services for parents.

When private medical doctors fail to thoroughly perform the medical examination and awarded with medical certificates which allows to enrol for initiation school, the boys tend to enrol without taking medical treatment prior and during the initiation school. Such medical endorsements given by medical doctors is overlooked during the process of investigation of cause of death and medical complication. This leaves most private medical doctors with the licence to

operate with impunity when it comes to lack of diagnosis of pre-existence of medical condition, issuing medical certificates to underage boys and not adhering to the prescribed period of conducting medical pre-screening examinations. Hence the department of health officials and parents have brought to our attention their dissatisfaction with the ethical and professional conduct of private medical doctors who proved private medical examinations for pre-screening based on profit making resulting in subversion of the law.

4.1.5 Parental Consent, Under-age Boys and Eloping

Before any prospective initiate may attend an initiation school, a prospective initiate, the parents or customary or legal guardian and the traditional leader of the area where initiation is to be conducted must give written consent for the person to undergo initiation. All written consents must be handed to the principal of the initiation school and he or she must submit it to the Provincial Initiation Coordinating Committee (PICC). Written consents must at least indicate the identity number, full names and gender of the initiate. It has been found that in the eNquza Municipality local area, there is a high number of practices that contravene the age legislative requirements for boys to adhere to before enrolling for initiation schools. Those who insist on enrolling for initiation schools at an illegal age of 14-16 years, they do not go for medical examinations and pre-screening three months ahead because they know that the medical practitioners would automatically disqualify them based on their under-age. Some of the boys fraudulently use their elder brother's identity document to go for medical pre-screening, or alternatively send their elder brothers to under-go medical examination and pre-screening on their behalf and use the medical report of their bothers and identity documents to enrol for the initiation schools. As a result, the under-aged boys would experience medical problems which do not correlate with the medical report outcome submitted to the principal and traditional surgeons. Some of these boys would elope with or without the consent of the parents and local chief and without any medical examinations and pre-screening in order to enrol into 'fly-by night' initiation school under an unregistered traditional surgeon.

Some of the medical conditions erupt during the time when the boys are at the initiation school and there would be no provision of the medical treatment because 1) the boy has not disclosed his medical condition, 2) the boy does not have a medical report and 3), the boy's medical report does not correlate with the medical condition 4) and it discovered that an under-age boy had fraudulently submitted a false identity document. Participants brought to our attention that during a random inspection done by the local initiation forum in the various initiation schools, it would be found that some of the initiates are under-age and were not registered in the *bhoma,* meaning they were illegally smuggled into the *bhoma* by the principal. This is mainly caused by the deliberate action of by-passing the regulations due to peer pressure among the young boys and in most cases, parents are not well informed about the regulatory processes because the bill has been recently introduced in 2016 and parents do not have

access to the legislation. Another concern raised by parents which contributes to the pressure for boys to elope and enrol in unregistered initiation schools is the bullying exerted by older who have been already circumcised.

At times, legal traditional surgeons find themselves in a dilemma of being manipulated by young boys who have submitted fraudulent Identity documentation, which at times complicates the issue initiation under-age boys without the knowledge of the legal traditional surgeons. One of the local chiefs explained this dilemma with the legal restriction of age 18:

> *"We once had to deal with the dilemma of having to arrest a 70-year-old legal traditional surgeon who was a victim of circumcising an under-age boy because the boy and his parents supplied him with a fraudulent Identity document. The different in this case was that we were not arresting a legal or illegal traditional surgeon for medical malpractices. There were no medical malpractices at all. The problem was that circumcisions was done to the under-age boy was carried out well and he adhered to the required health standards. But we discovered that he was under-age even though the documentation was there as proof that they were submitted by the initiate. Now we were faced with quagmire of having to arrest a legal surgeon who has never committed an offence of medical malpractice, yet according to the law, he had broken the by enrolling an under-age boy into the initiation due to document fraud committed by the boy. Then who do we arrest? The boy or the traditional surgeon? Of course the law say arrest the traditional surgeon because the issue was around the under-age. Sadly, we didn't win and ended up arresting the traditional surgeon even when everyone in principle, including some politicians had agreed that there was no malpractice. It was a difficult because we are not arresting the real culprits which are the illegal traditional surgeons who are in cahoots with the parents and the young boys" (Interview with the Local Chief, OR Tambo District Initiation Forum, January 2019).*

With respect to the issue of the age of 18 years as the legal for age undergoing initiation, there remains a huge debate which becomes contradictory as we have seen with the case provided by the local chief at OR Tambo District Municipality area, it has been found that in the Eastern Cape in particular, most boys within the Alfred Nzo District Municipality area who practice customary initiation under the amaHlubi people, tend to take their boys at younger age of 14 - 16 years. This region has been known to boast with few numbers of medical malpractices and deaths of young initiates compared to the other regions. This does suggest that have been no deaths recorded at all in the Alfred Nzo District Municipality area. However, their practices tend to differ from other Xhosa customary initiation practices found at OR Tambo among abaThembu or amaMpondo. For the purpose of this research, our concern is to understand the significance of the age restriction rather than to go into detail into actual practices of initiation schools. When looking at cultural codes of customary male initiation practices, there is no singular or homogeneous cultural practice even within the OR Tambo District. Other local chiefs were of the view that symbolic age linked to the latent cultural code, particularly in the precolonial era was to ensure the right of passage from boyhood

to manhood. As one local chief explained from his cultural point of views:

> *"If we have to take it take to the colonial era and the expansion of industrialization and urban migration to Johannesburg, our forefathers would only go to the initiation around the ages of 22 - 24 years because to them, being a man was not about circumcision. Customarily speaking, there is no man who is young child of 16 years. In the African way of doing things, there's no man who will be asking for underwear from his mother or asking his parents to pay lobola for him. Even during precolonial era, men were men based on being providers of their families and tealing of the land. During colonial and apartheid times, young men would have to go and find work in the mines in order to demonstrate a sense of financial responsibility and building his own family. Ubudoda buyakhulelwa and buyasentyenzelwa (manhood is a sign of financial responsibility and wisdom). Hence even with the Hlubi culture, the age around customary initiation remains a contested because of such arguments. Hence you find that these young men of today who are initiated at a young age of 14 - 16 years do not carry any sense of responsibility after initiation because they have not socially and economically demonstrated what it means to be a man" (Interview with Local Chief, OR Tambo District Initiation Forum, January 2019).*

4.1.6 The Role of Women in Customary Initiation Processes

While it may be argued that women are culturally excluded from participating in customary initiation process, however, the Department of Traditional Affairs policy on the Customary Practice of Initiation (Section 7.6, 2015) acknowledges that the role and rights of women in relation to the initiation practices of traditional communities have for a long time been a debated and sensitive subject. Ignoring the rights of women to have a say in the welfare on their children and cultural practice would constitute an infringement to the Bill of Right as South Africa is governed by a constitutional democracy (ibid, 2015:15). From a gender and cultural perspective, it can be argued that within the gendered division of labour in preparation of initiation schools, the role of women is not a new phenomenon exclusively introduced through by the modern state and its legal framework. Women historically and contemporary have had significant role to play in this process, even though they do not directly participate in the actual activities of initiates in the huts *(ebhomeni)*.

The role played by women begins three months earlier before the initiation schools, where from the village are given the responsibility prepare germinated corn (*inkoduso*) for making traditional beer (*umqombothi*). They gather firewood, grass to make traditional grass mats and prepare the aesthetics of the household. They ensure that all necessary traditional household tools such as pots, calabashes, weaving of grass mates, trays and baskets. It is the elderly women who monitor the selection of proper traditional nurses and surgeons with the assumption that women ought to be objective and impartial while men are usually conflicted with the selection process. Importantly, it is the women to gather the grass used to weave the thatch of the hut *(ibhoma)* and it is the same women who go and actually do the thatching and being the last to leave in the newly-built initiation hut before the men come with the boys the

following day for circumcision. Moreover, the food prepared for the initiation is done by women. They prepare meals three times a day and deliver the food to the initiation school throughout the initiation period.

Specifically, women who are mothers of initiates (*amazibanzana*) have a ritual to perform on the day on which the boys go into the initiation school. They must follow the crowd of men taking boys to the initiation school and observe a signal from the men once the boys have been circumcised. Once the women get the signal, they must urinate on an anthill and smear some mud on their faces. They are not allowed to bath until the 8th day after the circumcision of which the village elders will go to the initiation school to lift some of the bans to be observed on the first 8 days. This includes prohibition of certain dietary food intake order to allow proper healing process from the circumcision. This is symbolic to a period of mourning of the mothers.

When the initiates come out of the initiation school, the women are the first to get an opportunity to interact with the new men (*amakrwala*) from initiation school, exclusively away from men, in order to give parental advice (*ukuyala)*, to provide guidance on adulthood, not just on manhood. This session is most critical because women are reputed for being outspoken and direct with the truth and circumstances in order to give the young men food for thought for the rest of their lives. This debunks the narrative of women having no role play in the customary initiation processes. Hence during the research, we did not exclude women from participating in the focus group discussion as participants and as parents.

4.1.7 Female Headed Households

While the contribution made by women in the process of customary male initiation is well understood within the gendered division of labour, however it has been brought to our attention that female headed households have also had an adverse effect in the absence of male figures as custodians of this practice. The problematic role that parents play, in particular single mother headed households has been note by local chiefs and senior members of the community of Lusikisiki. Most men at O.R Tambo are still of the view that women should have a minimal role to play in the process of initiation schools, they have come to observe that women contribute to the problem contravening the legal requirements of enrolling their young boys into initiation schools. Most households are looked after by single mothers due to the fact that most fathers are migrant workers. The mothers are the ones who have to bring up the children and deal with social problems that young boys experience from school and their community circle of friends. The peer pressure of boys mocking each other and stigmatization from other boys who have gone through the process of initiation is felt by mothers who the first point of call as parents in the household.

As one local chief had stated in the focus group, mothers tend to let their maternal instincts interfere with their judgement and instilling discipline in the absence of the father authority. Here, they emphasize that mothers are easily manipulated by their boy children and they give in easily to their manipulation of children who succumb to

peer pressure of undergoing initiation at an early age. This parental pressure from the mothers is then passed onto the chief, by pleading and begging the local chiefs to approve their under-age boys to enroll for initiation schools thus transgressingng the legal prescripts of the legal age for boys to enroll for initiation schools. As one chief indicated:

> *"I had a case where one woman came to me crying, beginning me approve a 15-year-old to attend the initiation school. She said to me that the boy was threatening to hang himself because he was being bullied by his peers at school who had already been to an initiation school. There is no father figure in this household who can assert his authority. I totally refused to break the law and told the mother to bring and child and a rope so he can hang himself here at the home of the traditional leader in front of everyone. Some parents are easily manipulated by the children and chiefs feel pity for the parents and allow the boys to proceed for a medical check-up even though the boys are under-age. Then can hand over an under-age boy to a reputable registered traditional surgeon, without the traditional surgeon knowing that he is under-age and obviously, the traditional surgeon will do a good job and the case of initiating under-age boys will not be legally persued. The risk of this is that if the traditional surgeon is found to have initiated an under-age boy, he may face legal sanctions for something he was not aware of and parents and chiefs who are responsible for concealing the boy's age walk away scot-free." (Local Chief, Nqguza Local Initiation Forum, January 2019*)

The problems identified as contributing actions made by parents which results into the subversion of the regulations, where legal sanctions are solely placed on the traditional surgeons and nurses, when parents and local chiefs also contribute to breaking the law when it comes to enrolling under-age boys' customary initiation schools. Another aspect that complicates the social pressure of sending under-age boys to initiation schools and floating all legal and health prescripts brought up by the community the latent social interactions and social status generated through such cultural processes. Some parents also insist on enrolling their boys and taking them out of the initiation without even receiving proper care healing after the actual process of circumcision is brought about the fact parents have already made preparations and set the date of the family celebration (*umgidi)*.

This is one problem cited by the local chiefs, who have to deal with social competition amongst parents who compete with each other on throwing lavish celebrations and festivities for their boys who have gone through rite of passage. Teachers have complained about lack of post-initiation care. As one parent explained, the competition for the family celebration (*imigidi)* amongst parents also contributes to the lack of proper health care and healing time post the initiation school due the parents rushing the principal of the initiation school to release the initiates in time for the celebrations (*umgidi)*, which interferes with the healing process of the wounds and causing severe infections post the circumcision.

4.1.8 Diminishing Disciplinary Authority of Parents

Through the mobility of rural and urban dweller, there is constant interaction of urban and rural life, to the extent where rural communities are no locked or fixed into the primordial era cultural conservative. The lack of exposure to media and online connectivity to the global world in rural communities is a thing of the past. This urban and rural interaction has an implication on the customary and cultural communal way of life, which has contributed to the evolution rural community values and norms as they are becoming more exposed to modernity that also comes with the acceptance of modern and liberal values and norms. This has contributed tremendously to the complex inter-generational and social interactions between rural and urban boys as peers and parents. This particularly speaks to the democratic social values espoused by the youth, who have become more expressive and self-determinant, which may negatively affect the reduction of disciplinary responsibility and authority of parents towards their young boys.

During our focus group discussion, parents identified the diminishing parental authority over children which is embedded in Xhosa cultural values that parents draw from in terms of instilling discipline over their children, as something that is consistently being challenged in an era of liberal values in both rural and urban settings. This is particularly talks to the concerns raised by parents during the local initiation forum focus group which primarily began with the exploration of this relationship.

Local chiefs and parents have raised the concern that young boys often face peer pressure from their age mates who would tend to bully and tease young boys who have not gone for initiation and circumcision, stigmatising them as boys. As a result, boys from as young as age 14 would place enormous pressure on parents to take them through the initiation school process irrespective of them being under the legal age of 16 years. Some of the boys would go to the extent of eloping to initiation schools without the knowledge of the parents and consent of the parents and local chief. There is a sense of haplessness felt by parents and disdain felt by traditional authorities towards parents who no longer hold authority and control over their children with regards to setting the rules of enrolling for initiation schools in the household.

4.2 'Illegal' traditional Surgeons and Nurses: Twilight Surgeons and Cultural Practices

The customary male initiation act provides the department of health with the responsibility of training all traditional surgeons and nurses. The act also gives the MEC powers to approve traditional surgeon to provide customary male initiation services to their communities. The training provided by the department to traditional surgeons and nurses is limited to the application of health standards, which is done over a two-day period before the initiation season. The complication lies in the 'customary circumcision' as part of the initiation process which becomes a cause for

concern. Traditional surgeon derives knowledge of performing traditional surgical circumcision from cultural indigenous knowledge passed from one generation to another. They do not go through the formal system of medical education. This makes it difficult for the department of health assess the competency and capability of the traditional surgeon in executing his surgical skills within the application of health standards training. Hence in most cases, you find that local chiefs and communities who have had previous experience and knowledge of the skills of traditional surgeon are the ones who recommend to other community members and families the traditional surgeon which they can use for their boys' initiation.

Here, the department of health alluded to the fact that they are left with a dilemma of having to issue a certificate of legitimacy and competency in order to legalize the traditional surgeons practice of initiation, without evaluating his traditional surgical skills and competencies. Assessing skills and competency is subject to actual observation of traditional surgical practice, of the department of health has no traditional authority to do so. According to general practices relating to customary initiation role players such as traditional surgeons and nurses, who are central in carrying out circumcision and provision of care, they ought to be known by the senior men of the community and the local chief as the traditional leader of any rural community. When a traditional surgeon seeks to come into a community to provide customary circumcision services, the traditional surgeon should first obtain authority from the local chief to perform his services during the initiation school season. The local chief would then inform the parents of the boys who will enrol in the initiation school of the traditional surgeon and nurses who will be given the responsibility of carrying out traditional circumcision and providing care for the initiates during the initiation school period. In that way, parents are supposed to know both the traditional surgeon and traditional nurse in order to know whom they would hold accountable for the boys during the initiation school.

4.2.1 Ambiguity of Legal and Illegal Traditional Surgeons

An initiation school must be registered in accordance with the provisions of this policy. In instances where non-registered initiation schools are found to be conducting initiation practices, the children attending such school must be regarded as abducted and relevant legislation must be enforced accordingly. In order to better understand the dynamics involved in the proliferation of traditional surgeons and initiations operating illegality, is to explore what constitutes legality from the perspective of the department of health? Under section 20 a) to h) of the customary male initiation bill, it stated that a traditional surgeon needs to provide a track record in performing circumcision - of which this must include 5 years of traceable experience in performing traditional circumcision and a written recommendation from a qualified traditional surgeon, traditional leadership or initiation working committee; and should be registered with a relevant traditional leadership or initiation working committee. In an attempt of ensuring that traditional circumcision adheres to standard medical

practices in performing traditional circumcisions, it was suggested by the department of health that the department should train traditional surgeons on the application of health standards in performing circumcisions. However, this training does not adequately address the issue of what constitutes legitimacy and legalising traditional surgeons in terms of ensuring that traditional surgeons are medically competent to perform traditional circumcisions as ascribed in terms demonstrating his experience.

As mentioned by the official from the provincial department of health in an interview, if medical processes had to be applied in order to address the question providing sufficient evidence of experience in to legalise traditional surgeons, the department would have to begin by providing training on performing surgical circumcision, they must be mentored, they must develop a portfolio of evidence through medical practical's and only then they can be declared competent and issued with certificate that legitimises his legal practice as a traditional surgeons (Interview with the Provincial Department of Health Official, January 2019). This latter process remains as major challenge when it come to the process of legalising traditional surgeons through the demonstration of experience by the state, because it opens up an unintended consequence for the department of health having to deal with litigation should deaths or medical malpractices occur under traditional surgeons certified by the department of health.

Hence the issue of legality and illegality remains ambiguous and left to the discretion of traditional leaders and initiation working committees in affirming their legality and legitimacy - of which these initiation working committees grapple with finding ways of assessing the competency of traditional surgeons which would determine the former status of legitimacy. The only way that department of health can provide traditional surgeons with legitimacy is ensuring that they register on a database of traditional surgeons with initiation working committee who have received training of application of health standards and not necessarily traditional surgical training.

According to the perspective of the state, illegal traditional surgeons are those operating without having received training on the application of health standards; and those who are not registered with the department of health, tribal council or initiation working committee. This part of the customary male initiation bill does not adequately address the issue of verifying competency of traditional surgeons in order to ensure legitimacy and legality. Hence we find that traditional surgeons operating illegally are mostly supported by community members who by-pass the process of obtaining authority from the local chief because parents and families still use their sense of discretion to choose their traditional surgeons based on subjective references from other community members - allowing for the continuity appointing incompetent and unregistered traditional surgeons.

Due to the economic opportunities offered by the practice of customary initiation schools, many of illegal initiation schools have opened in areas of high unemployment,

speculating on fees and exploiting young boys seeking to undergo the initiation process (Vincent, 2008: 30). A large majority of initiation schools are operating primarily for profit (Bogopa, 2007; Vincent, 2008). Abiding unemployment and lack of access to economic opportunities in a province such as Eastern Cape is a significant ccontributing factor for an increase in the number of illegal initiation schools operating for profit (Gopane & Ralarala, 2010; Peacock, 2013). As we have found in the research, there is a lot of speculation and bidding of services of circumcision procedures among traditional surgeons.

Thus parents fall into the trap of opting for tradition surgeons who offer lower service charges for circumcision, of which in most cases, they are operating illegally in a community. These illegal initiation schools operate without regard to the original intentions of customary traditions and convictions, and without the approval of the community or local chief in their area (SAHRC, 2006; Vincent, 2008). Despite the issue of economic profiteering and absence of traditional authority sanction, these initiation schools are in high demand. It is estimated, that approximately 20,000 young Xhosa males undergo this initiation process each year (Fihlani, 2012). Running these schools for economic gain has led to a neglect of the safety and the general well-being of the boys because they do not have to comply with health standards. This development means that an increased number of Xhosa boys are at risk of malpractice and abuse.

While Chadley (2013:108) notes that the lack of reporting by a large number of victims is ascribed to the stigma attached to western intervention into this traditional practice, in this research we find that lack of reporting is compounded by legal contraventions within a complex web of social relations between parents, traditional surgeons, traditional authorities and law enforcement police. Firstly, it was noted in the focus group that due to the aforementioned pressure of wanting to go for initiation exerted by the boys to the parents, some parents (especially the mothers) collude with unregistered traditional surgeons to enroll under-age boys into their illegal initiation schools. As a result, when the young initiates experience abuse, health related problems, botched circumcision or deaths, these parents do not want to report these incidences to the local law enforcement authorities because they are aware that they have contravened the law in twofold - firstly by taking their under-age boys to initiation schools and secondly, by giving permission to traditional surgeons who are not registered in the database of the department of health, to perform traditional circumcision on their boys.

Although parents deny ever meeting with the traditional surgeons based on their argument that the identification and appointment of a traditional surgeon is facilitated by elder men from the community, however participants acknowledged that some parents and mothers do meet covertly with unregistered traditional surgeons and even pay them directly for their service. Another revelation made parents is that other parents will attempt to circumvent the age restriction by registering the underage prospective initiate with an Identity document of their

elder son in order to obtain approval from the traditional authority. As a result, when a death of an underage boy occurs, it is discovered that the actual Identity documentation submitted does match deceased boy, which places a predicament of declaring the elder brother deceased in the autopsy information of the deceased. As a result of these collusion, unregistered surgeons may threaten the parents with should they report unregistered traditional surgeon.

4.2.2 Alcohol and Drug Abuse in Legal and Illegal Customary Initiation Schools

Another factor which was raised by the elders and parents at eQokolweni was anti-social behaviour of both the initiates, traditional nurses and surgeon which was hidden by the community. eQokolweni is notorious for the increasing cases of gangsterism, drug and alcohol abuse among young boys and men in the village as a result of high unemployment. However, community members from eQokolweni attempt to conceal such behaviour from outsiders, who are not community members of the village. As the research team, we warned about finding difficulty to get the community members to talk honestly and openly about the increasing social problems that have had an impact on the practices of customary male initiation. This reluctance was demonstrated by the parents and traditional nurses who were participated in the focus group held at eQolokweni, when they first denied the existence of any social problems associated with the practice of customary male initiation in their communities. They used the absence of death occurrence that have not been recorded in their village to hide these social problems. However, one community members broke the silence by telling a story using a riddle, which he wanted us to use our sense of discretion untangle the problematic anti-social behavioural practices that do exist in the village which are associated malpractices of customary male initiation irrespective of the absence of deaths recorded in their village,

> *"We do not have deaths in our village. Everything is all well and good…because we have boys who undergo initiation under the influence of alcohol, at the same time we have traditional surgeons who perform initiation drunk, and traditional nurses who take care of the boys drunk as hell…so do see any problems? There are boys who come back from initiation with a new behaviour of alcohol and drug abuse, meanwhile when parents send them to initiation, they did not abuse alcohol and drugs. You tell me if there is a problem?" (Parent, Qokolweni Focus Group, 26 January 2019*

4.3 Legal Sanctions and Prosecutions of Illegal Traditional Surgeons

4.3.1 Social Relations, Protection of Illegal Traditional Surgeons and Impunity

It has been noted that parents are significantly involved in sustaining the existence of illegal traditional surgeons by sending their children to illegal initiation schools and in return protecting the illegal surgeons from getting arrested and prosecuted by law enforcement officials. This is tied to the observed lack of reporting of cases of malpractices, botched circumcisions, where parents either refuse to

open cases against the illegal traditional surgeon or withdraws the case in situation where a case had already been opened by the parents. The reasons highlighted by local chiefs are quite complex and multi-layered as this involves acts violent threats by surgeons and their allies; parents also being threatened by their children who eloped and went to illegal initiation schools without the consent of the parents; and more often parents who do send their children to illegal initiation schools feel compelled to protect the illegal traditional surgeon because parents do want to be entangled in perpetuating the transgression of the regulations. The following example shared by one of the local chiefs from Nquza Municipality area sheds light into the complex relationship between parents and illegal traditional surgeons:

> *"The problem also begins at school. Last year in June, there was a case that was opened by one of the parents against an illegal traditional surgeon who circumcised under-age boys. The illegal traditional surgeon was arrested. Parents who had sent their children to the illegal initiation school were collected by village men on the day when the illegal traditional surgeon had to appear in court for a bail hearing, the parents gathered in front of the court, picketing and demanding for the release of their traditional surgeon. The illegal traditional surgeon was released on bail and the case was withdrawn because the parent did not receive support from other parents, instead, they were defending the traditional surgeon and made threats against the plaintiff" (Local chief, Focus Group, 26 January 2019).*

The entanglement of parents in perpetuating the proliferation of illegal traditional surgeons adds to another complicated factor lies in the binary opposite between 'legality' and 'illegality' of traditional surgeons, which constitutes the determination of legitimacy and illegitimacy of traditional surgeons within the rural community and parents in the village. It is clear that parents are aware that sending their boys to unregistered traditional surgeons is considered illegal under the customary male initiation bill. However, some parents disregard and by-pass the recent legal regulations and their own discretion of determining the legitimacy of traditional surgeons.

For parents, if a traditional surgeon can perform the circumcision to satisfactory levels without any complications, then the unregistered traditional surgeon retains his status within the community of being a skilful, competent and legitimate traditional surgeon that parents prefer to use irrespective of his illegal status. To them, the traditional surgeon's ability to perform his work without legal registration papers, warrants the support and legitimacy enjoyed by unregistered traditional surgeon resulting in impunity from state legal sanctions. This particularly shows the underlying tensions between the modern state and rural African societies. Here, the state is represented through the development of policies such as the customary male initiation bill introduced in 2016 used to regulate the malpractices of customary practices of rural communities and the undergoing training on the application of health standards required by the state.

The legitimization of unregistered traditional surgeons outside he ambit of the law by parents and some local chiefs demonstrates another form of resistance of rural societies against using state policy to

mediate everyday customary cultural practices. This provides us with compelling evidence to support to suggest the relative impotency of the state in directly regulating socio-cultural practices in the rural margins of the state. This challenges the binary idea of 'legality' and 'illegality' defined by the legislation in relation to the indigenous cultural knowledge and practices of customary initiation which limits the authority of the state over such practices. This therefore produces a different meaning of social and cultural legitimacy by the community, which is contradictory to the states definition legitimacy and legality derived from purely on medical processes. In other words, what may be viewed as an illegal practice within the ambit of the modern state law, which is closely associated with the application of medical processes of certification, in practice this law may be reshaped into practices accepted by segments of rural society that permeates social-cultural legality or legitimacy within the cultural codes of rural communities. This demonstrates the contradictions which emerge with the application of modern state laws to legitimise and regulate cultural practices.

Indeed, while the above demonstrates a rejection or resistance of state regulations represented in the form of obtaining legal papers to operate as a legal traditional surgeon, on the contrary, the opposite can also be argued in the case provided earlier in the report of parents and boys using the state Identity documents of their elder brothers to circumvent the policy regulations of age restrictions. This assertion is made based on the understanding that an Identity document is a state tool that gives legality and legitimacy of 'stateness' for citizens in both rural and urban communities. This means that rural communities are able to use state legal tools such as an Identity document, to bend the law to attain legitimacy for their cultural rites of passage regulated by the state. This challenges the idea of an exclusive 'bifurcated' rural African society and modern forms of state governance as suggested by one of the well renounced scholars of Chieftaincy in Africa states, Mahood Mamdani in his seminal work of 'Citizen and Subject' (1997) who sees these institutions as operating exclusively from each other and at odds with each other.

This research makes a contribution to the debate about the 'bifurcated' state by showing that the modern state and traditional forms of governance do coexist through forms of collaboration and resistance, selectively drawing from various practices that facilitate cultural rights enshrined the constitution. More importantly also shows how rural communities governed by traditional authorities are able to use state tools to claim their cultural rights in a manner that shows how both worlds operate in co-existence with each other in a contradictory manner. State legal documents as tools can be used by rural citizens to legitimize and delegitimize the presence of the modern state authority in customary cultural practices

4.3.2 Law Enforcement and Prosecution

The South African Police Service (SAPS) has an important role to play in ensuring that there is adherence to the law and those who

subvert the law are arrest and prosecuted.[5] With the alarming statistic of medical malpractices and deaths, there has very little arrests and prosecutions of unregistered and illegal traditional surgeons and nurses who have been given the responsibility of ensuring the safety and health care of initiates. Secondly, section 26 (11) provides authority for conviction of 6 months' imprisonment and R10 000 fine of the traditional surgeons and nurses who have been found guilty of an offence. The lack of law enforcement on perpetrators does not bring about confidence in the justice system in terms of getting justice on behalf the boys who lost their lives and discouraging the subversion of the law.

During the interview with the warrant officer at OR Tambo District who has been working cases related to initiation malpractices and deaths of initiates shared some very insightful practices that lead to the subversion of the law and proliferation of initiation underage boys and lack of prosecution of illegal traditional surgeons. The process is problematised by the issue of obtaining affidavits by parents from the police and traditional leaders for the confirmation of age of the boys, of which the police are not allowed to issue affidavits for the verification of age because they are not provided for the customary male initiation bill. Only Identity documents can be used as evidence to verify the age of the boys.

> *I once encountered a case at the police station in the recent initiation season of December where a boy came with his parents to write an affidavit for the age of the boy who did not have an Identity document in order to go the initiation school. I could see that the boy definitely not 18 years and totally refused and explained to them how the new legislation works. You know that people always have ways of by-passing the law. When we conducted our monitoring in the different initiation schools, I found the same underage boy who came to the police station for an affidavit. We inspected him and found that there was no issue with his initiation. When I checked what documentation he had supplied, I found an affidavit verifying his age signed and stamped with a stamp from eNgqeleni Police Station, my police station. This was signed by a junior police officer who works in the archives under my police station. When I questioned the police officer, he had no idea that he was not supposed to sign the affidavit. I had to give a clear instruction to all police officers never issue affidavits for identity verification of boys enrolling for initiation schools (Interview with Warrant Officer, OR Tambo District, January 2019).*

This indicates that police officers are not fully informed and aware about the legal prescripts of new legislation. Training for police officers is still needed for the various police stations on the legal prescripts of the customary male initiation bill. Moreover, as previously mentioned, there are cases where registered traditional surgeons are able to perform customary initiation on underage boys without the full disclosure of the actual age of the boy due fraudulent Identity documents and affidavits. When these traditional surgeons get arrested for initiating underage boys based on fraudulent identity documents, the police officers who

[5] See The Criminal Procedure Act, 1977 (Act No. 51 of 1977).

have to conduct an investigation starting from the doctors who issued the medical certificates based on the unverified fraudulent identities. Traditional surgeons who initiate underage boys get away from law enforcement and prosecutions because there are many actors involved such as parents who have given consent for enrolling in an initiation schools. The law compels the police law enforcement officers to investigate the parents and the traditional leader who gave authority to go ahead with enrolling for initiation underage to prove beyond reasonable doubt that the traditional surgeon had the knowledge of the age of the boy. In most cases, it is also found that in some areas, some traditional surgeons were victims of a fraudulent activity between parents, the boys and the doctors.

In cases where the police are called into an emergency situation where an illegal initiation school has been reported, the police would encounter a situation where the initiates are not in the right state of mind to provide a statement to the police. The police would have to rely on the boys and the parents to come to the police station to open a case against the unregistered traditional surgeon. At times, the police would also have to shift the police from working in areas which they are too familiar with the community members and traditional surgeons in order to avoid biasness and personal relations. Because there are elements of social relations between the police and community members, which contributes to withdrawal of cases and refusal of opening cases against illegal traditional surgeons. The prosecution of these cases also depends on the investigations carried out by the investigating officers, who use their detective skills to conduct an investigation which will determine the merits of pursuing the prosecution. Hence there are very low conviction rates of illegal traditional surgeons in the various communities.

4.4 Policy Coordination in Implementing the Customary Male Initiation Practices Bill

4.4.1 Top Down vs Bottom up Approach

Although the findings seem to suggest a continuity of non-compliance and subversion of the laws and regulations in the practice of customary initiation processes primarily by actors such as traditional surgeons and nurses, private doctors, parents, local chiefs and the boys. However, it is also critical to evaluate the extent to which structures and stakeholders outlined by the bill are able to execute their functions, roles and responsibly in ensuring that protocols and processes are adhered by stakeholders in involved in the preparation and implementation of customary initiation. This issue specifically talks to issues of understanding and interpreting the law according to the various stages of the initiation process in the different spheres of Government. This brings us to exploring the way in which the implementation has been decentralised from the provincial to the local level.

At provincial level, there is a Provincial Initiation Coordinating Committee (PICC), chaired by the Chairperson of House of Traditional Leaders, the MEC for Health, MEC for Arts and Culture, MEC for Safety

and Security, MEC for Education, MEC for Social Development to oversee the coordination of the implementation of the bill. This structure at provincial levels in functional but still faced with implementation teething problems due to the lack pf participation of other departments such as education which has a role rolling out campaigns in schools to create awareness about the legislation and processes to follow in preparation for the initiation schools. This includes South African Police Services (SAPS), who are not fully participating and executing their mandate in terms of making arrests when deaths have occurred under the illegal initiation schools. The only structure which seems to be actively functioning and pulling together with other role players is the Provincial Initiation Technical Team (PITT), which is constituted by bureaucratic administrative heads of department as decision-makers. It is through the PITT that the PICC was able to establish functional district initiation coordination committees, except for Sarah Baartman District Municipality.

However, there is a tendency of delegating the participation of senior heads of departments in the PITT to junior officials observed by the House of Traditional Leaders. These junior officials do not have decision-making powers and authorities. This impedes on the immediate action which needs to be taken address persistence problems of compliance with the new legislation. According to the observations made by the House of Traditional leaders, the main problems lies in the centralized functioning at provincial and district level. The establishment and functionality of these oversight structures ought to be decentralised from provincial to district, local and community level. However, decentralisation has been effective and as a result, some local municipalities and local communities have not yet established these initiation committees. Hence it has been found that most deaths are still prevalent in the OR Tambo District during the winter season and Chris Hani district during the summer season. This means that both these district are not yet on board in terms of fully executing their oversight role legislative role at local and community level.

The chairpersons and secretaries of the Local Initiation Forum ought to participate in the District Initiation Committee, which would give the PICC a full synopsis on the functioning of the various local and community initiation committee from the chairpersons and secretaries of the various district - in relation to the state of readiness and the capacity to execute of the roles and responsibility. There is also an expectation by the PITT that the establishment of the PICC and PITT structures would be replicated from below, where municipal managers would participate in the District Initiation Technical Teams with intention of ensuring that as accounting officers, they are able to exercise their administrative powers in allocation resources through the Integrated Development Plans (IDP) for the preparation of the initiation season. This does not happen throughout the province. Hence district municipalities are always reactive and do not have adequate resources in providing intervention when deaths occur during the initiation season. Lack of

participation of senior traditional leaders in the District Initiation Forums.

The establishment Initiation Working Committees at local level, with the participation of ward committees in places where there are no local chiefs have been established to circumvent the top-down way of operation from the provincial level. The Initiation Working Committee has the responsibility of identifying the areas in which initiation school can operate under strict oversight. This includes the selection and approval of legitimate traditional surgeons who ought to be known by the parents and the communities. This Initiation Working Committee can ensure proper processes such as medical pre-screening followed according to the legislation and medical certificates are obtained done at a local clinic by the parents and the boys, the statistics of prospective initiates are within the legal age of 18 years and above, the establishment of *amabhoma* are within accessible areas for those who are given the traditional and state authority to conduct monitoring.

They way in which these structures operate will inform the decisions that should be taken by the top district and provincial structures to support the execution of initiation working committees to ensure medical malpractice and deaths are avoided. A bottom-up approach in terms of giving capacity to local initiation working committees can help to enhance direct oversight and ownership of the process at a local level instead of relying on an already overstretched capacity of the district initiation forums and provincial initiation coordinating committees and their technical teams. Therefore, initiation working committees need to be fully capacitated to ensure their functionality in providing oversight.

5. CONCLUSION

This formative evaluation attempted to provide a nuanced yet insightful account into the complex practices of customary initiation in the Eastern Cape. These complexities are located within the context of applying the newly established Customary Male Initiation Practice (2016) legislative regulation that seek to address the malpractices that have manifested around this cultural practice. The unique contribution made by this evaluation is that it looks at customary male initiation within its socio-cultural and policy praxis of governing cultural rights, particularly the *rites-of-passag*e. It has shifted from the predominant research that solely dissects this subject from a purely a gendered, sexuality and medical intervention analysis. The first question that usually comes to mind when introducing this subject is, why cling onto a practice that proves to outdated?

Without allowing ourselves to be drowned into this debate, we firstly provided synopsis into the debate that questions the relevance of customary initiation from a historical lens. The evaluation demonstrated that the debate around the relevance and preservation of customary male initiation is not new. Historically, it can be traced through the colonial project of Christian missionary conversion of native Africans and their resistance of colonial de-culturalisation leading to the neo-colonial

project that we see in contemporary post-apartheid history where medical male circumcision once against receives the attention of the post-apartheid state that is in conflict with cultural preservationism espoused by both the Constitution of South Africa and rural communities/traditional authorities in the Eastern Cape.

The question of cultural and masculine gendered identity is unambiguous in the retention of customary male initiation. However, the evolution of the cultural custodianship of this practice among those who have been entrusted to carry out this rite-of-passage for initiates continues to be questioned in light of the observed persistence of malpractices associated customary male initiation. This evaluation highlights the nuances that are entangled with underlying socio-economic problems of commercialisation of customary male circumcision and high unemployment that has effected rural communities, particularly men and young boys. Not to mention the social peer pressure an stigmatisation experienced by uninitiated boys and those who have undergone medical circumcision.

While the introduction of customary male initiation practices act (2016) has introduced regulatory measures of demanding the medical pre-screening and age limitation, the former process has been found lacking in terms of providing parents with explicit processes and basic-medical pre-screening knowledge for parents who are responsible for ensuring that such processes are done thoroughly. The concealing of medical problems by the initiates and parents, including the negligence of doctors and commercial benefits derived by doctors in floating medical pre-screenings. This is a matter that has been overlooked by the regulation when it comes demanding accountability from all players' involvement for floating compliance to the initial stages required for the enrolment of boys in initiation schools.

While the main of this legislative regulation is to ensure the protection of young boys from exploitation and abuse of under-age boys by placing emphasis on traditional surgeons and nurses, on the other hand practices outlined in this research demonstrate loopholes when it comes to the question of determining legality and legitimacy of customary initiation practices of the latter key role players. With the Department of Health admitting to the fact they do not have the medical jurisdiction of legally certifying the actual skills traditional nurses and surgeons - this would by the responsibility of medical regulatory bodies such as the Health Professions Council of South Africa (HPCSA) within the health fraternity. This further complicates the validity of legal sanctions behind the illegal status of traditional surgeons since traditional surgeons would be required to go through the medical certification of medical body.

Moreover, the legitimacy and protection given to unsanctioned traditional surgeons by communities based on their community knowledge and testimonials given by parents on the capability of traditional surgeons to execute their work, of which on the other hand also includes contentiously giving legitimacy and protection of traditional surgeons who have committed malpractices and violated former initiates,

shows how the implementation of laws can be circumvented by the very same communities that the law seeks to protect. Labelling initiation schools and traditional surgeons 'legal' or 'illegal' does not resolve the question of what constitutes *legitimacy* of traditional surgeons. This demonstrates the importance of understanding the binary opposite of preservation of cultural practice through informal practices, attitudes and behaviour of actors that are contradictory to what the legislation seeks to achieve. The absence and exclusion of traditional council bodies entrusted with indigenous knowledge of practices such as customary male initiation at the centre of policy making also adds to the challenges of regulating and attempting to legalise cultural practices. The co-existent of formal and informal practices re-shapes the implementation of policy and give new meaning to the practice of customary male initiation within the broader discourse of resistance against de-culturalisation of the modern post-apartheid state.

If the state seeks to derive more value in addressing these loopholes and informal practices, it needs to obtain more inclusive cooperation that is driven from the bottom-up at village local level through the commitment and involvement of rural communities and traditional bodies that still enjoy legitimacy from their rural communities. Thus the evaluation does not only provide a qualitative dramatized insight into the unseen happenings of customary male initiation in the Eastern Cape at OR Tambo Distract but it critically examines role of the state in governing cultural practices and the negation of state 'legality' and cultural 'legitimacy' expressed through continued subversion of the law in the cultural life of rural communities.

6. RECOMMENDATIONS

6.1 The department of health should provide a detailed list of medical conditions which must be screened by the medical practitioners.

6.2 Set up functional Initiation Working Committees in every traditional authority and ward. Names of individuals serving in the Initiation Working Committee must be submitted to the local house of traditional leaders and the municipality with a signed attendance registers.

6.3 The department of health should provide a standardized pre-screening process for both the public and private health care facilities which conduct medical pre-screening for initiates

6.4 The process of conducted medical pre-screening must also include nurses as health care practitioners

6.5 Inquest of investigation for the death of initiates must include all those who are involved in the process of customary male initiation preparations process, which includes parents, the Initiation Working Committee, doctors and nurses who also conduct pre-screening in order to curb the occurrence of negligence and non-disclosure of initiates pre-existing medical conditions and concealing the real age of initiates.

6.5 The cause of death must be linked to the postmortem in order to determine the actual cause of death and contributing factors

which will enable to identify the person responsible.

6.6 Strengthen strict enforcement of the law where a case must be followed up with prosecution.

6.7 Protocol of identifying traditional surgeons and traditional nurses must be established by the community and the Initiation Working Committee in reinforce their legitimacy through community ratification and ownership resolutions submitted to the local and district house of traditional leaders and the district director of the department of health.

6.8 The local and district house of traditional leaders with the department of health must jointly establish a code of conduct for traditional surgeons and nurses.

6.9 Traditional surgeons and nurses must sign and take oath of office in order to commit them into abiding to the code of conduct, which will assist to reinforce legal sanctions and prosecutions off traditional male initiation malpractices.

6.10 The list of ratified names of traditional surgeons and nurses, with their signed agreement into oath of office will be submitted to the provincial house of traditional leaders

6.11 The term 'training' of traditional surgeons and burses must be changed to 'workshopping' traditional surgeons and nurses on the application of minimum health standards in order to avoid the misconception that the department of health is responsible for medical training and certification of traditional surgeons and nurses.

Bibliography

Delius, P. and Glaser, C. (2002), 'Sexual socialisation in South Africa: a historical perspective, *African Studies,* Vol. 61(1), p27-54.

Imvo Zabantsundu, (1890), King William's Town (hereafter *Imvo*), 7 October 1890, p. 3.

Erlank, N. (2017), 'Brought into manhood':Christianity and male initiation in South Africa in the early 20th century', *Journal of Southern African Studies*, Vol. 43, No. 2, 251–265, http://dx.doi.org/10.1080/03057070.2017.1295644

Jewkes, R., K. Dunkle, M. Nduna, J. Levin, N. Jama, N. Khuzwayo, M. Koss, A. Puren, and N. Duvvury. (2006), 'Factors associated with HIV sero-positivity in young, rural South African men', *International Journal Epidemiology*, Vol. 35: p1433-60

Kanta, X.G.M. (2004). *Traditional male circumcision and initiation into manhood: Legal, health and environmental perspectives.* Gonubie, Eastern Cape: Impilo ya Bantu Health and Development Projects.

Mavundla, T, Netswera, F and Toth, F. (2009), 'Rationalization of indigenous male circumcision as a sacred religious custom: health beliefs of Xhosa men in South Africa', *Journal of Transcultural Nursing,* Vol 20 (4): p395 - 404, .https://www.researchgate.net/publication/26656437

Magubane, B. (1979), *The Political Economy of Race and Class*.

Meintjies G (1998) *Manhood at a Price: Socio-medical Perspectives on Xhosa Traditional Circumcision*. Institute of Social and Economic Research. Grahamstown: Rhodes University.

Mills, A,G. (1995), 'Missionaries, Xhosa Clergy and the Suppression of Traditional Customs', in H. Bredenkamp and R. Ross (eds), *Missions and Christianity in South African History* (Johannesburg, Wits University Press, 1995)

Morei, M. (2017), 'Cultural Practices and Children's Rights:
The Case of Male Initiation in South Africa', *Africology: The Journal of Pan African Studies*, Vol.10 (2)

Myemana A (2004) *Should Christians undergo the Circumcision Rite?* East London: 3 Eden Ministries.

Ntombana. L. (2009), 'Xhosa male initiation and teaching of moral values: an exploration of the role of traditional guardians in teaching the initiates', *Indilinga African Journal of Indigenous Knowledge Systems,* Vol 8(1): 73–84.

Ntombana, L. (2011), 'Should Xhosa male initiation be abolished?', *International Journal of Cultural Studies,* Vol 14(6) 8(1): 73–84.

Pauw, B.A. (1975) *Christianity and Xhosa Traditions: Belief and Ritual among Xhosa Speaking Christians*. Cape Town: Oxford University Press.

Peltzer K, Banyini M, Simbayi L and Kalichman S. (2010), Attitudes and beliefs about male circumcision and HIV by traditional and medical providers of male circumcision and traditional and medical

Peltzer, K and Kanta, X. (2009), Medical circumcision and manhood initiation rituals in the Eastern Cape, South Africa: A post intervention evaluation, *Culture, Health and Sexuality,* Vol. 11 (1): p83-97

Stinson, K. (2007), Male circumcision in South Africa: how does it relate to public health? Available at: http://www.africanvoices.co.za/culture/circumcision.htm

Stoner-Eby, A.M (2008), 'African Clergy, Bishop Lucas and the Christianizing of Local Initiation Rites: Revisiting 'The Masasi Case', *Journal of Religion in Africa*, 38, 2 (2008), pp. 171–208

The *Application of Health Standards in Traditional Circumcision Act.* (2001), Act No. 6 of 2001.

The *Children's Act.* (2005), Act No. 38 of 2005.

The *Constitution of the Republic of South Africa Act*. (1996), Act No. 108 of 1996.

The *Criminal Procedure Act*. (1977), Act No. 51 of 1977.

The *Eastern Cape Customary Male Initiation Practices* Act. (2016), Act No. 6 of 2016

The *National Health Act.* (2003), Act No. 61 of 2003

Vincent, L. (2008), Boys will be boys: traditional Xhosa male circumcision, HIV and sexual socialisation in contemporary South Africa. *Culture, Heath and Sexuality,* Vol 10 (5): 431–446.