

**COMPARISON BETWEEN THE OLD TESTAMENT, LEMBA AND
PEDI TRADITIONS WITH SPECIFIC REFERENCE TO
MARRIAGE CUSTOMS.**

BY

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Chapter 1

Introduction

1.1 Background

My first hand experience of the vibrant Pedi culture and lifestyle during many years of my missionary activities since 1985 in Ga-Nkwana, Ga-Mashegoana, Apel, Ga-Nchabeleng-Sekhukhuneland, has initiated this study. The Pedi are hospitable and have the tradition of “adopting” non-Pedis, especially missionaries into their families and “baptizing” them into their own praise names. So, I was “adopted” by the Mabula family of the Mapodikraal (*Kgoro ya Mapodi*). My new “parents”, *Phaka* and *Mosebjadi* named me after their late son, *Thabana-e-Tshwana*. I also inherited his praise name, *Moraswi-a-Phaka* (Moraswi, son of Phaka)¹. By so doing, they raised or kept alive their late son’s name through me. My eldest *Kgoro* brother married two women. At the wedding of Phaka’s youngest son, Ngoato-a-Phaka in Ga-Nchabeleng, (he married Mahlako-a-Nape), I was assigned by the groom’s family to welcome *Sego-Sa-Meetse* (A gourd of water meaning the bride) into Mabula’s family. Thus I also represented the whole *Kgoro*.

Immediately after my “adoption” another Phaka’s son, Ngwaseladi-a-Phaka, and his wife Pheladi-a-Nape, built a room for me in their house. The two Phaka’s sons Ngwaseladi and Ngoato, married biological sisters, Pheladi and Mahlako-a-Nape

Phaka’s late son’s widow automatically became my “wife”. She refers to me as *Mokgalabje-wa-ka* “my husband”- but we do not cohabit because I defer to the biblical principle of monogamy-even though I am entitled to do so in terms of the Pedi culture because her husband has been “raised to life” through me, and she also refers to my wife as *Mogaditšong* (co-wife). It was after observing marriage customs practiced by the Pedi and the Lemba that I became aware of the parallels between biblical and African cultures in terms of their respective marriage customs.

1. Although born in a Tswana society, the author traces his ancestry from the *Bakoni-Ba-Matlala-A-Thaba* near Mokopane in Limpopo. His forefathers had migrated to settle near Pretoria in the 19th century A.D looking for greener pastures. The author is the product of a polygamous marriage custom. His grandfather had married two women and his father belonged to the junior household.

1.2 Relevance and actuality

The relevance of this study has its origin in the fact that marriage is a universal and an important alliance or bond which occurs among all nations in one or other form (Dorey 2003:1; Coertze 1977:153). This universal institution occurs even among the smallest nations of the world and is protected by religious and state laws, institutions and customs which are developed and observed by a specific community or communities (Dorey 2003:1; Coertze 1977:153).

Marriage is a socially and legally sanctioned union or bond between a man and a woman. It gives status to the progeny or lineage and is determined by various laws, rules, traditions, beliefs and conducts which determine the rights, duties and responsibilities of different parties (De Waal 1992:1; Sono 1994:1). This alliance has exerted a great influence in the communities and lives of individuals and it evokes a divergence of opinions and misfortune at all times.

The observance of marriage customs in the Old Testament, Pedi and Lemba cultures is also regulated by laws, rules, principles, beliefs and conducts which also determine the rights, duties and responsibilities of various parties (Gen 38:14; Deut 25:5; Kupa 1981:30; cf Le Roux 2003:88-92; Mathivha 1992:51; Schapera 1946:203; see Wessmann 1908:132). In all these cultures a younger brother had a right and responsibility to fulfill leviratical duties to his deceased brother's widow. In every culture sexuality and marriage relationships are governed by diverse rules and laws to avoid elements of ignominy that could bring disgrace in marriage. These laws and regulations differ in terms of the ethnicity of these particular societies.

1.2.1 Importance of marriage

The importance of the marriage custom is clearly illustrated and confirmed by literature, laws and a long history in its practice (Calitz 1991:13; Barkowski 2001:3-4). Marriage is an old age institution. The legislation of the heterogeneous marriage which regulates this union between a man and a woman by contract can be traced with certainty from as far back as 2112-2095BC. The laws of Ur-Nammu in the Ancient Near East had already exercised control over marriage relations by then (Harper 1904:21; Pritchard 1975:31). In 1800 BC Hammurabi, king of Babylon, decreed the legislation of union between a man and a woman (Harper 1904:21). It is

thus obvious to note that marriage has been regarded as an important institution from ancient times. This view was shared by Eloff (1973:153) that “all anthropological data” indicate that, from earliest times, man has always recognized a marriage bond of one kind or another.

1.2.1.1 Social importance

In all the communities of the world we find a man and a woman co-habiting in one way or another form of alliance (Coertze 1977:153). The history of marriage shows that this institution is of utmost importance in Europe, United States of America, Asia, Africa and the Far East (Benton 1970:926). Thiel (1970:13) maintains: “even relatively non-authoritarian groups and those with diffuse social structure, such as nomadic tribes do not trust the maintenance of their ethnic group to impulse and chance. There is not and there certainly never has been a thing as institutionalized promiscuity.” The fact that even minor tribes in Africa also have norms and values as a measuring rod and that maintains good order in sexuality and marriage relationships globally. Sexual relationships of indiscriminate composition or kind were strictly combated among these tribes.

The actuality and importance of marriage is confirmed by the attention it receives from the international congress on marriage relations (Songca 1997:31, Guerra 2002:81-103; Browning 2003:2). In 1930 Paul Popenoe founded the American Institute of Family Relations in Los Angeles, while Emily Mudd established the Marriage Council of Philadelphia in 1932. In 1942 the American Association of Marriage Counselors was established to standardize the growing profession of Marriage Counselors. The high divorce rate after the World War II necessitated the development of various courses on marriage relations to be taught at Universities and Colleges. Marriage and family life was for many years the greatest field of study among the students of the United States (Benton 1970:930). The International Union for Family Organizations was founded in Paris in 1948 to address the concern for the high divorce rate that prevailed, amongst others, in England, Wales, France, Sweden and Switzerland. The aim of this union was to draw attention to the marriage and family life through intensive study (Benton 1970:929).

In Africa marriage and childbirth play a pivotal role. The family is the most significant feature of the African society (Phillips 1953:ix). Marriage forms the focus of existence, the point where all members of the community meet, the departed the living and those yet to be born (Mbiti 1969:133). All dimensions of time meet in marriage and the whole drama of history is repeated, renewed and revitalized in this custom. Marriage is a drama in which every community member becomes an actor or actress and not just a spectator. Therefore, marriage is a duty, a requirement from corporate society and a rhythm of life in which everyone must participate (Mbiti 1969:133). Otherwise, he or she who does not participate in it is a curse to the community; they are rebels and law breakers. They are not only abnormal but “under human” (Gehman 1989:53). Failure to get married under normal circumstances means that the person concerned has rejected society and society has rejected him or her in return (Mahlangu 2001:99).

1.2.1.2 Religious importance

Both Judaism and Christianity view marriage as an equally important alliance. Matthews 19:6 states that marriage should not be dissolved. In Malachi (2:16), it is written that God hates divorce. In both the Old and New Testament the marriage custom is esteemed as a metaphor for God’s relationship with His nation (Hos 1-3; Ezek 16:23), or Christ’s relationship with the Church (Eph 5:25).

From biblical texts marriage is considered a basic social institution established by God at the time of creation. The purpose of marriage was companionship and procreation. To marry was viewed as a divine commandment because the commandment given at creation to be fruitful and multiply and subdue the earth (Gen 1:28), was understood as the divine establishment of marriage (Roth 1966-67:102; Lohse 1974:148f).

Celibacy was never considered a virtue in Jewish thought. This means the commandment to be fruitful and multiply (Gen 1:28), probably excluded the possibility of celibacy. However, even among the Jewish communities who focused mainly on procreation, there emerged ascetic movements like the *Essenes* (Hays 1997:114) which esteemed celibacy highly to be the method that keeps one ceremonially pure, whole and religiously strong.

In 1 Corinthians (7:7) Paul delights in his celibate state and wishes others to be like him, while he also exhorts them to marry rather than to “burn with desire”. In verses 7, 8, 26 and 27 Paul places emphasis on the importance of celibacy. Marriage and raising of a family were regarded as duties to be fulfilled by all adults. In the rabbinical literature (Yeb 626) a man who was of age and had desired to marry, was seen as living without joy, blessing or anything good. So important was the duty to getting married to be “fruitful and multiply” that the rabbis declared:- “He who does not engage in the propagation of the human race is as though he sheds blood...as though he has diminished the image”. Such a man would have to account for his actions in the world to come (Yeb 626; Sabbath 31a; Archer 1990:123). According to the Jewish understanding of the Scriptures there was not such a word as “bachelor”. The bond between a man and a woman in marriage was so highly rated that the New Testament uses it to illustrate the tie between Christ and His Church. Marriage and the family were the normal pattern of life (Du Plessis 1998:308).

Many Christians use the Bible in many communities to promote and establish a monogamous marriage relation as the only legal and religious-ethical marriage relation. They cite the following texts to substantiate their ground: Gen 2:24; Lev 18:10; Deut 17:17; Prov 12:4; 18:22; Hos 1:2; Isa 54:6; Mat 19:4-6; 1 Cor 7:2; 1 Tim 1:6; Eph 5:31. However, the Old Testament tradition has traces of monogamy (Gen 2:24) and polygamy (1 Kgs 11:3); levirate (Lev 25:25) and marriage of master to bondmaid (Gen 16:2; 30:4, 9).

In the **Ancient Near East** marriage was regarded with the degree of seriousness and it occupied a central position in the lives and thoughts of all people, the Jews included (Archer 1990:123). The following quotations indicate that to the Jewish communities marriage was regarded as a norm of life. “Since the beginning of the time a man and a woman find each other in marriage. It is the union which permits them to do their expected share for the future of the people. Judaism could be unthinkable without this bond. The ceremony is called Kiddushin ‘the holiing, a sacred relationship’” (Kalir 1980:53) Marriage is for the Jewish nation, the cornerstone of their culture and it is viewed as a sacred relationship that is closely linked with Judaism. Marriage enjoys much preference or priority above any other human relation. Marriage took the central stage from almost the origin of the Jewish nation. A child is being prepared for marriage from birth. Greenberg (1985:3) cites

this expression of blessing on the boy's eighth day of life: "as this child has entered into covenant, so may he be entered into life of Torah study, the wedding canopy and deeds". For the baby girl he cites: "may she be groomed for marriage and good works" the citation or recitation of these expressions of blessing seem to be a special ceremony or infant initiation that precedes the ²*barmitsva* period in the life of a Jewish child. In fact, this expression of blessing is a rite of passage to *barmitsva*.

The Midrash summarizes the importance of marriages as follows: "He who does not have a wife, lives without help, without happiness, without forgiveness and without life itself. He is not a whole person; he obfuscates the image of God in the world" (Greenberg 1985:7). A quotation from a collection of unpublished Geniza fragments reads: "there are twelve good measures in the world, and any man who does not have a wife in his house who is good in her deeds is prevented from enjoying all of them" (Shelton 1988:3). A woman is a source of happiness and an indispensable life companion for a man.

The **Roman society** also regarded marriage as a very important institution: "Soos in die meeste gemeenskappe het in Rome, die huwelik ook uiters 'n belangrike rol gespeel. Dit was 'n eintlike kern van die familia...Die Romeinse huwelik word gedefinieer as 'n vereniging van man en vrou wat bestaan uit hul onafskeidelike samelewing" (Van Warmelo 171:67 ff). (Like in many communities), marriage played a pivotal role in Rome. Marriage built the real essence of a family. The Roman marriage is defined as a union between a man and a woman consisting of their indissoluble society). This sentiment is also expressed by Spiller (1986:60).

Gnostics and Marsionites rejected marriage in the middle of the second century. This lured reaction from other Christians. Iraneus (190 BC) and Tertullian cited particularly the command of multiplication in Genesis and defended the good nature of the custom (Dorey 2003:5). Clemens of Alexandria has in his "Instructor" and "Miscellanies" contributed to the opposition of Marsionitic movement by advocating in favour of marriage. On the importance of marriage Augustine declares: "The first natural union of human society is the husband and wife" (Hunter 1992:11).

2. A time to attend the Torah lessons at the age of thirteen in the life of a Jewish boy.

This indicates that marriage enjoys universal advocacy. Between 100-700 AD both the Church Fathers and Reformers observed marriage as a divine institution (Hunter1992:29).

Clemence 1 (96 AD) and the epistles of Ignatius, Bishop of Antioch (110 AD) made a concise reference to marriage. Both rejected the arrogance of individuals who practice celibacy and confirm that marriage is good. The first interviewed discussions on marriage in the second century paid much attention to divorce and re-marriage. Tertullian made mention of marriage and re-marriage with a non-Christian in 197-220 AD (Thompson 1994:3). In the second century AD the Apologetes held up morality of the Christian marriage regularly as a shining example to the Roman authorities. Aristides and Justin (155 AD) had shown thereupon that prostitution and divorce are quite contrary to Christian principles. Justin and Anthenagoras argued that Christians marry with the purpose for procreation or propagation of lineage and rejected re-marriage and divorce (Dorey 2003:4).

Marriage is also an important institution to **Islamic religion** which attracts African masses. The Koran reports on marriage in *Sura* 2,4,33 and 65. From these *suras* it is evident that Islam is entitled to observe polygamy. This religion surely promotes polygamy among African adherents.

1.2.1.3 Legislation

The universal interest in the actuality of marriage is being confirmed by worldwide marriage legislation. The definitions of marriage in different cultures generally refer to a union which is regulated and protected by the laws. The majority of countries require marriage to be registered in accordance with marriage-laws prescribed by a specific country (Dorey 2003:6). This sentiment is shared by Thiel (1970:13): “as far as known all peoples applied quite definite norms to marriage and propagation, and according to the preservation and increase of human society.” This legislation by different cultures is vital for the preservation and transmission of the specific tradition.

In certain countries the influence of the Christian view on monogamy is clear in the legislation on marriage. Most Christians view marriage as a lifelong union between one man and one woman to the exclusion of all others, such as being preceded by

some form of ceremonial bond or other kind of marriage custom recognized by the law of the particular country in which it occurs (Benton 1970:931).

According to the South African law marriage was previously (before 1998) defined as a bond between one man and one woman with the exclusion of others (Palser 1998:85). Only the monogamous marriage was recognized until 1998 by the South African Law. This situation was upheld within the African context where polygamy is a form of marriage that commands reputation and honour (Dorey 2003:12). Polygamy is one important feature that distinguishes African Traditional marriages from European marriage customs. Having more than one wife in some African contexts is an indication of importance, success and the elevation of social status (Phillips 1953: xiii).

The South African law which has for so many years supported the Christian concept of monogamy, was questioned, queried and tested in the light of the law on freedom of religion, conscience, creed and culture (Dorey 2003:12). Palser (1998:95) pleads for the legalization of polygamy on the basis that Islam, Hindu and other African nations endorse it. He further argues that this would have malign consequences for women and posterity if polygamy remained illegalized. Thus the law on freedom of religion, conscience, creed and culture paved the way for the legalization of polygamy (Palser 1998:95). The purpose of marriage in most African traditions is procreation and polygamy and is thus the popular form of marriage custom that ensures the flow in the perpetuation of a lineage. Polygamy was always a minority form of marriage until 1998, but it had the greatest prestige and honour in Africa. Nowadays only the minority observes this marriage custom for economic and health reasons. The HIV/AIDS pandemic poses a great threat to this marriage custom.

Many supporters of African marriage traditions such as polygamy, sororate and levirate view these marriages as symbolic. These forms of marriage are highly valued and honoured in the African tradition (Dorey 2003:12). The rejection of these forms of marriage by legislation serves no purpose other than to maintain that European culture supersedes African culture (Songca 1997:23-24). The South African constitution must therefore bridge the conflict between the freedom of religion and human rights. A legal topic to have polygamy recognized was approved in 1998 by the Recognition of Customary Marriage Act, Act No.120 of 1998. This Act came

into effect on 15 November 2000. The Act makes provision for customary marriages including polygamy. But non-registration of such marriages does not affect their validity in a court of law. If a husband needs to take another wife, the law allows him to do so, but he needs the principal wife's permission. In the article published in the *Sowetan* 8 August 2005, Eric Mathabathe of the South African Law Commission reports that this law was passed because women's rights were violated in the past. Recently the same Act was amended to accommodate same-sex-unions or marriages and thus turning this honorable institution also into a bond between a woman and a woman and a bond or union between a man and a man. This view is not addressed by both the Old Testament and New Testament concepts of marriage.

Opponents of polygamy, however, question the reconcilability of the present South African Constitution (which endorses equal rights for men and women) with polygamy (Songca 1997:3). They harbour the opinion that traditional marriages perpetuate inequality between a man and a woman. Various international conventions prohibit polygamy as it is viewed to be inherently discriminatory in nature. Songca (1997:31) is convinced that it will be difficult to prove that polygamy is a cause of discrimination against women. Advocates of polygamy point out that discrimination occurs also in Western monogamous marriages.

1.3 Problem statement

Le Roux (2003:7) argues that there are numerous points of contingency between African cultural customs which are also reflected in the Old Testament. Many authors have observed their similarities, yet not many have investigated the extent to which the Semitic culture was transmitted into African marriage customs as there are evident similarities between the Old Testament and African marriage customs, *inter alia*, the Pedi marriage customs which reflect that a Semitic cultural influence has been exerted on African marriage customs.

The Lemba tribe, who co-exists with the Pedi in Sekhukhuneland, is a specific African group with claims about Judaistic or Israelite origins. Their departures from ancient Israel (according to some ca 586 BCE) imply that their religion could contain remnants of a very ancient type of religion which they possibly transmit to other cultures through their *proselytization* [my italics] program (Le Roux 2003:8).

Le Roux (2003:25) asserts that the Lemba do not only co-exist with other tribes, but they also speak the language of the groups surrounding them, go to local schools and hold positions in the community. Their uniqueness, however lies in the fact that they keep themselves as an offshoot of the Yeminite Jews, have a religion which stems from Abraham and claim to have originated from a city called Sena (Neh 7:88:16:31).

Wessmann (1908:129-132) observed that “one cannot avoid the often striking similarities between the African and the Jewish types. Again and again there are laws and customs amongst the African which force the impression that there has been at some former time some kind of connection between the African and the ancient Hebrews...” This study therefore, seeks to investigate the extent to which a Semitic culture-the Old Testament marriage tradition, has been transmitted into the Pedi marriage customs through the influence of the Lemba.

1.4 Aims and objectives

The aim of this study is thus to compare and contrast the Old Testament with Pedi and Lemba marriage customs in order to enable the reader to gain valuable percipiency into how biblical texts are interpreted and analyzed in a specific African context.

The following are the objectives of this study, namely

- to identify and describe biblical, extra-biblical and African concepts of marriage;
- to investigate if Pedi marriage customs have originated from, or are linked with a Semitic influenced culture, like the Lemba culture;
- to compare Pedi and Lemba traditions and customs with regard to marriage customs;
- to compare the Pedi and Old Testament marriage customs;
- to identify and assess interrelations between the Old Testament, Lemba and Pedi marriage customs.

1.5 Methodology

This is primarily a literature study and follows a qualitative approach. All sources available to the author- books, articles, theses, magazines, etc. will be collected, studied and evaluated. Although the focus will mainly be on the Old Testament, Pedi and Lemba marriage customs, the researcher has deemed it fit and necessary to gather resources reflecting information on similar marriage practices among other African and extra-biblical communities.

1.6 Hypothesis

The hypothesis of this study holds that:

There is a close relationship between the Old Testament, Lemba and Pedi marriage customs. Pedi marriage customs most probably originated from a Semitic culture-the Lemba culture. Nonetheless, there are also differences in these cultures with regard to marriage customs despite similarities

The Pedi, like other tribes in Africa, practice marriage customs which resemble a Semitic culture. These tribes co-exist with the Lemba who inter-married with them and proselytized them to adopt their (Lemba) own marriage customs.

1.7 Chapter division

Chapter 1 forms the introduction of this study and the author's personal experience with various forms of marriage customs observed among the Lemba and Pedi in Sekhukhuneland. Communities of diverse ethnicity have their own laws, rules, principles and beliefs that control marriage relations and sexuality. Marriage is an old age institution that has been observed and regulated by different societies from as far back as 22nd century BCE.

Social and religious importance of this institution embraces a broader analysis of the regulation of marriage relationship and sexuality by the following communities: Ancient Near East, Judaism, Christians Roman society, Gnostics and Marsionites, and Islam.

The legislation of marriage in South Africa saw the legalization of other forms of marriage customs that were not recognized before 1998, such as customary marriages, polygamy and same-sex union.

Chapter 2 discusses both the biblical and extra-biblical perspective on marriage. It deals also with the struggle for survival and power in both the Old Testament and extra-biblical traditions. Diverse factors played an important role in Israel's struggle for survival, namely, conflicts with other tribes and nations, land disputes, droughts and national catastrophes. These factors will be discussed in the later chapters.

A general survey will be conducted on the content of books like Ben Sira and Tobit which place emphasis on the value of a woman and her subordination to man; laws of Ur-Nammu, ancient Assyrian Contract, the Code of Hammurabi, and from Nuzi and Ugarit. These laws and rules will provide a clear picture on the regulation of sexuality and marriage relationship during several periods in the history of Ancient Near East.

In chapter 3 African perspectives on marriage in general and various aspects of marriage in the Pedi tradition and other African tribes such as Venda, Tsonga etc. are elaborated upon, this includes aspects such as virginity test, initiation, polygamy and monogamy, levirate marriage, sororate marriage etc, serve a specific purpose and are controlled by religion (e.g. involvement of ancestor worship) and a set of rules and principles. This chapter incorporates the comparison between Pedi and Old Testament marriage customs.

Chapter 4 reflects the investigation of various aspects of marriage in the Lemba tradition such as initiation, virginity test, polygamy and monogamy, inchoate, marriage, marriage of a woman to another woman, ghost marriage, endogamy and exogamy, choosing the bride, betrothal customs, economic aspects of marriage payments, marriage ceremonies, kinship system and avoidances, inheritance, divorce and repudiation.

Chapter 5 is a synthesis that reflects the research results of this study. The purpose of this evaluative summary is to trace a common Semitic element in the marriage customs of these different cultures, Old Testament, Lemba and Pedi.

1.8 Terminology and orthography

The following terms and definitions have been used in this study.

Culture: Culture is defined as the totality of learned, socially transmitted behavior which includes ideas, values and customs (Schaefer & Lamm 1989:63).

Customary marriage: One of the marriage customs in South Africa legislated by the Recognition of Customary Marriage Act, Act No. 120 of 1998. This Act also makes provision for polygamy.

Diffusion: Refers to the process by which a cultural item is spread from group to group or from society to society (Schaefer & Lamm 1989:66).

Inchoate marriage: A form of betrothal mostly practiced by the Jews and African communities which reckons a prospective bride as fully married for the purpose of defining an adulterous relationship, and requires divorce or death to terminate (Satlow 2001:72-73).

Kgoro: A social group consisting of a core of agnatically related men together with their wives and children (Moila 1987:90).

Levirate: A custom which makes a man obliged to enter into his late brother's widow should he die without a son to raise a seed for his deceased brother.

Lobola: The property in cash or in kind, whether as *Lobola*, *Magadi*, *Xuma*, *Thaka*, *Emabheka*, or by any other name, which the prospective husband or head of his family undertakes to give the head of the prospective wife's family in consideration of a customary marriage.

Monogamy: The marriage relationship of a man to one woman.

Polygamy: The marriage relationship of a man to more than one woman.

Sororate: A marriage custom which obliges a younger sister to be married to her barren or deceased sister's husband to bear kids for her.

The New International Version (NIV) Bible translation has been used for biblical references in this study. Foreign words will be expressed in italics.

Chapter 2

Biblical and extra-biblical perspectives

2.1 Perspectives on 'marriage' in South Africa

In South Africa with its different ethnic groups and cultures, there are many different views on marriage. Some believe that marriage must be monogamous. This means that marriage must be between one woman and one man. There are also those who believe in polygamy. Polygamy allows a man to have more than one wife. Religious groups believe that marriage must be in accordance with the (teachings) doctrines of their particular religion. Advocates of same sex-union believe that this marriage custom is the best form of marriage and it has since been recognized in South Africa (ILW 102-5p.67: Department of Jurisprudence).

Since the year 2000 customary marriages are legally recognized in South Africa. Same-sex union is also recognized. Before this, the only form of marriage that was legally recognized in South Africa was the monogamous marriage. Marriages in accordance with the Jewish faith³ are not recognized in law as valid as marriages. However, they may be registered as valid marriages and, provided the formalities of marriage Act 25 of 1961 they comply with, are given the same legal status as the civil or Christian marriage (ILW 102-5p.67: Department of Jurisprudence). Similarly, a Hindu marriage may also be registered as a valid marriage, provided the formalities of the marriage Act they comply with, are given the same legal position (status) as the civil or Christian marriage. The Marriage Act provides for the appointment of the priests with authority to solemnize marriages (that is, to perform the marriage ceremony)⁴.

If a marriage is solemnized by a priest (of any Indian religion), who has been appointed as a marriage officer, it is regarded as a legal monogamous marriage.

3. Marriage conducted by a Jewish Rabbi and which the formalities required by the Jewish faith are observed.

4. The author is an appointed marriage officer in terms of section 29 of Marriage Act No 25 of 1961.

The marriage is then registered as a civil marriage (ILW 102-5, p.67, Department of Jurisprudence).

Marriages that have been concluded in accordance with Muslim religious law only, and that have not complied with the requirements of the marriage Act, are not legally recognized in South Africa. The main reason for this is that the union is potentially polygamous. In other words, even though there is only one man and one woman involved in the marriage, the union has the potential to become polygamous because the husband may marry another woman even if he does not in fact do so.

Muslim men are entitled to take up to four wives in accordance with the Qur'an. Therefore, there is always the possibility that the union will become polygamous. The fact that Muslim marriages are not legally recognized has been criticized by writers and the courts (ILW 102-5, p.68, Department of Jurisprudence).

2.2 Old Testament perspectives

Nowhere in the Old Testament, the Ugaritic, Babylonian or Ancient Near East do we find a noun for marriage. There are no traces for terms such as polygamy, polygyny, endogamy and exogamy in these sources. There are also no definitions for such terms. Concrete cases where a man and a woman are in an intimate relationship are merely mentioned in the literature (Van Selms 1954:13).

Nations of the Ancient Near East have described marriage by means of verbs such as a relationship which is affected by specific laws. They did not have only one concept of marriage. Social and economic conditions and demands necessitated various forms and customs of marriage, like polygamy, monogamy, endogamy and exogamy.

Marriage was for the greater part of human history not a religious affair, but an agreement between two families. One of the main purposes of marriage in biblical times was procreation, as well as for economic and political gains (Pilch 1991:54). The structure of the marriage brought two family-groups together who are also willing to share goods as well as mediation for a substantial period (Matthews & Benjamin 1993:13). Marriage was a purely economic affair where the couple had a rare

opportunity to choose a marriage partner. In most cases it was the fathers who made decisions on the choice of marriage partners. The principal aim was to procreate the progeny.

The conclusion of marriage was not a sole event, but consisted of an outstretched process of negotiations. The view that sex automatically means the consummation of marriage does not receive staunch support.

The ratification of marriage normally occurred when woman entered the home of her husband or when he spread his cloak on her and gives her a title 'wife' (Matthews & Benjamin 1993:14). Although sexual intercourse was regarded as an important event which serves as final ratification for the conclusion of marriage, it could not be easily equated with the confirmation of marriage. The conclusion of marriage must be distinguished from pairing that only eventuates from sexual consideration. Cohabitation does not conclude marriage. From such laws like Deuteronomy (22:28) it appears to be possible to have sexual intercourse with an unbetrothed woman and marry her later. Deuteronomy (22:23-25) further asserts that a betrothed woman already satisfies the important requirement of being married, so that sexual intercourse with her by a man other than the prospective husband will result in the death sentence. The social recognition by the family and the community was important to sanction the marriage.

Ancient Israel did not leave a "marriage manual" for heritage behind. During ancient times there was not a single concept for the Jewish marriage (Satlow 2001: XV).

However, different forms of marriage and customs did occur. The Israelites had a similar concept of marriage relationship and coupling which they practiced like their non-Israelitic neighbours. Laws defining marriage in a codex form are very scarce in the Old Testament. These laws pay specific attention to cases such as virginity (Deut 22:13-22), adultery (Exod 20:14), relationships (Exod 20:17b; Lev 18:6-18) and divorce (Deut 24:1) etc.

The economic, ideological, religious and social questions should be read and understood against the historical background of such laws. Laws cannot just be interpreted on intrinsic value (Carmichael 1992:1-2).

There are no pre-rabbinic Jewish documents that contain legal definitions for marriage. Even couples could be declared married without marriage documents. The majority of the people seemed to be satisfied that the accurately formulated legal definitions of marriage are irrelevant (Satlow 2001:73). People found it difficult to define their marital status in Israel. Even in communities where legal definitions played an important role, questions and problems were earlier solved by intuition and social criteria and not by legal concepts and objective legal definitions. Generally, the objective criteria to determine the status of marriage is vital to a measure where the authorities need to regulate the marriage in ancient Israel (Patterson 2001:74). Objective definitions cannot be traced because marriage in the Old Testament was a family affair. The publicity of marriage was important because the family's integrity was at stake. The publicity of marriage made it possible for people to identify the family to which a woman belongs. It was thus imperative for people's marriage to be recognized by the families and communities.

The Old Testament contains a considerable number of narratives on marriage (Hos 1:1-2-3; Jdg 16:1; Gen 2:24). An attempt to construct the concept of marriage in Israel from these different narratives proves to be toilsome and could even be deceptive. The difference between prescription and practice is often conspicuous and it always remains difficult to distinguish between the divine will and certain practices that occurred. The husband and wife relationship known as 'marriage' took another shape in ancient times and has preponderantly served another purpose in the Old Testament than in the modern world.

2.3 Struggle for survival and power

The cultural-historical background of Israel cannot be separated from the struggle for survival and power that prevailed (Weber 1989:ix; Boshoff et al 2000). Riley (2000:135) asserts: "of the uniqueness of Israel there can be little doubt. Secular history sees it in the nation's survival, a phenomenon paralleled perhaps but never equaled either in duration or obstacles overcome. Millennia of dispersal and before those centuries of schisms, exile and political subjugation have shown themselves powerless to dissolve Israel. She has survived repeated persecution, subtle or brutal, and even a titanic effort of extirpation by totalitarian state". Various factors played an important role in the history of Israel's struggle for survival. This nation spent seventy

years in exile in Babylon (Jer 25:11; 39); they survived famines (Gen 12:10; 41:27, 56; 2 Sam 21:1; 1 Kgs 18:2; 24:13 and 2 Kgs 6:25) and calamities. The fiery serpents killed about 23000 Israelites who rebelled against God; they survived a natural disaster (2 Sam 24:15). God protected them against the diseases during their forty years stay in the desert (Exod 15:26; they survived imminent extinction at the hands of Haman (Est 3). Exodus (1:15-18) bears a record of a divine intervention that prevented Israel from a conspiracy by the Egyptian king to annihilate them.

The struggle for survival and power has exerted influence on the forms of marriage. The origin of Israel stems from the period ± 1300-1250 BCE of the struggle for survival when the Eastern Mediterranean population was greatly decreased by diseases, hunger and wars. Excavations and paleo-pathological analysis indicated that a lower prospect of life was in the order of the day in Israel during this period (Meyers 1987:265). The expectation of life for women was ten years less than that of men. The decrease in population and the increase in labour economy had serious implications for marriage. Reproduction was for survival (Van Zyl 1998:190). Polygamy provided a major contribution to combat the struggle for survival in the Eastern Mediterranean in 14th century BCE. Marriage and sexual relations played a significant role in the crisis for survival and Israel's continued existence (Meyers 2000:199). For Israel to satisfy the urgency for survival and self-assertion, posterity was indispensable (Van Zyl 1998:189). Posterity or procreation was the only way to replenish and multiply the family. The growth has magnified the labour force and military power (Matthews 1993:40). The ability to survive in a hostile environment required numerical growth and strength. Therefore a key element for survival was reproduction and self-defence (Gottwald 1987:75). ...“and the people multiplied and became numerous” (Exod 1:20). The progeny, especially the male children gave assurance for the survival of the family.

King & Stager (2001:55) maintain that in a particular society with many gaps and dire need for multiplication (to extend and maintain the military power and labour force), polygamy became prominent in Israel. Procreation in ancient Israel was not the matter of minor importance, but a principal issue. The obsession and craving for propagation is clearly illustrated by the story of Lot's daughters who slept with their father in order to have children (Gen 19:20; 38). Marriage customs like polygamy, levirate and sororate union focused on propagation (for the sake of survival and

continued existence). Other marriage customs like endogamy were practiced time and again within the specific cultural-historical conditions to ensure survival. Solid survival of a nation depends largely on marriage and family life, even though the minority nomadic groups do not consider the survival of their ethnic group to be impulsive and coincidental (Thiel 1970:13).

2.4 Extra-biblical perspectives

2.4.1 Introduction

Since this study also reflects a literature review on marriage perspectives, it is imperative to conduct a synopsis through quotation or extracts from extra-biblical sources from Ur, Assyria, Babylon, Nuzi and Ugarit. These quotations will shed light on the regulation of sexuality and marriage relationships by different laws during the period 2112-132 BCE in the Ancient Near East.

2.4.2 Laws of Ur-Nammu (2112-2095 BCE)

Ur-Nammu was the founder and administrator of the third dynasty of Ur in Mesopotamia. He built the massive Ziggurate (pyramids built with terraces) in Ur. Excavations by Woolley in 1923 produced many bricks with the seal and name of Ur-Nammu (Harrison 1975:54). Lime stone steel (1.6m broad and 33m high) which was found in the ruins of Ur commemorated the achievements of Ur-Nammu. Although fragments remained, it is apparent that progress was made in agriculture and irrigation. The king was portrayed as a hardworking labourer busy at work with compasses, trowels and picks.

On the marriage the law of Ur-Nammu, Pritchard (1975:31) states:

Rule 222-231: A woman who entices another man to have sexual relations with her, shall be punished by death, while the man will be set free (Pritchard 1975:31).

Rule 232-239: If a man rapes a virgin slave of another man, he must pay five shekels (Pritchard 1975:31).

Rule 240-244: A man divorces his principal wife must pay her one mina of silver (Pritchard 1975:31).

Rule 281-290: If a man falsely accuses a married woman of adultery, and the water test in the river proved her innocent, the man who had accused her must pay one third of a mina of silver (Pritchard 1975:31).

Rule 291-301: A prospective father-in-law, who gave his betrothed daughter to another man, must pay his prospective son-in-law twofold the amount of bridal presents he had given his father-in-law (Pritchard 1975:31).

From the laws of Ur-Nammu on the sexual and marriage relationships in the third millennium BCE it is clear that the relationship between a man and a woman has been regulated by laws from the onset. Marriage contracts could be concluded orally or in a written form. A woman enjoyed less rights than a man. Adultery by a woman was punishable by death, while the rape of a vestal slave (another man's property) received only a fine. Divorce was permitted. Although a man was compelled to compensate a woman when he divorces her, it remained clear from the available laws that only a man had the right to file a divorce. The daughter fell under guardianship of her father who had the power to give her to any man for marriage. This law indicates the patriarchal system where the unmarried daughter remained under the father's guardianship and later transferred to another man's guardianship when she gets married. A dowry was paid to the bride. Though not saliently placed, rules 240-244 imply with reference to a primary wife that polygamy was practiced. (Pritchard 1975:31, and rules 222-244; 281-301).

2.4.3 Eshnunna (± 2000 BCE)

Ancient Akkadian laws were discovered in 1947 at Tell Harmal, a suburb of Bagdad (Saggs 1962:203). These laws were written on two clay tablets. Tell Harmal represents the ancient city of Shaddupun which existed in the kingdom with Eshnunna as the capital city. Hence they are known as appellation Laws of Eshnunna. The laws date from the period before Hammurabi (Saggs 1962:203). Only the relevant laws on sexuality and marriage relationships will be quoted:

Act No 27: If a man has persuaded a girl to elope with him, their union was not recognized and the girl could not get the status "wife" even if they have co-habited for a full year in his house (Saggs 1962:203).

Act No 59: A man who takes a second woman as wife without the prior consent of his primary wife who is also the mother of his children, shall forfeit the divorce settlement and she shall be free to get another marriage partner (Saggs 1962:203).

Divorce was observed in the third millennium BCE in the Ancient Near East. The emphasis on the importance and values of children, especially boys stems from the Act. A woman who gave birth to boys commanded great prestige because by so doing she has brought honour to the family. She has reached the climax of the purpose of marriage. Parting with her in exchange for another woman was a great offence that carried a penalty.

2.4.4 Ancient Assyrian marriage contract (1900 BCE)

Laqipum has entered into a marriage contract with Hatala, daughter of Enishru. Although Laqipum was not allowed to marry another woman in the country, i.e. Central Anatolia, he could marry a slave woman in Ashur. If after two years Hatala had not borne children for him, she herself will purchase a slave woman to bear children for Laqipum. The slave woman could be sold after bearing children. Either spouse, Laqipum or Hatala should pay him/her five minas of silver should he/she wish to divorce him/her (see my rephrase) (Pritchard 1975:73).

Polygamy was practiced in terms of this contract in Assyria the middle of second millennium BCE. The importance of posterity stems from the practice that Laqipum's wife, Hatala should give him a slave in case she is barren. The same practice occurred between Abraham and Sarah (Gen 16). The importance of the posterity is shown by the fact that a slave could be sold after serving her primary purpose, namely to reproduce children. Either of the parties in the marriage was allowed to divorce provided he/she compensates the other party, There are also witnesses to sign the contract.

2.4.5 Assyrian laws (1450-1250 BCE)

Paragraph 27: Aman may regularly visit his wife who lives in her father's house, but he is not entitled to anything that belongs to her father's house, except anything he has brought to her father's house (Saggs 1965:151).

This law probably refers to a type of marriage where a woman stayed at her father's house and her father visited her nocturnally or from time to time. Similarly this

custom was observed by Samson who married a Philistine woman (Jdg 14). From the available sources it appears that this type of marriage did not generally occur among the Israelites, but confirms that the Israelites adopted some of the cultural customs of other nations (as was the case with Samson).

Paragraph 234: A widow who co-habits with a man in his house for two years deserves the status “wife” despite the fact that she has not entered into a marriage contract with him (Pritchard 1975:73).

This law apparently includes a custom that makes provision for the maintenance of the widows and to protect them against abuse. The law occurs with the custom that a contract determines the legitimacy of marriage (Code of Hammurabi xxi, 35-41).

2.4.6 Babylonian marriage contract (Old Babylonian Period 1900 BCE)

When Sabitum daughter of Ibbatum entered into a marriage contract with Waradkubi, her father transferred from the father her guardianship to Ishu-ibni, her father-in-law. Sabitum was also given the dowry of ten shekels of silver by her father and the following bridal presents: 2 beds, 2 chairs, 1 table, 2 baskets, 1 millstone, 1 mortar, 1 sutu-measure, and 1 grinding bowl. Sabitum was to be bound and cast into the water if she divorces Waradkubi, while Waradkubi could pay only one-third of mina of silver for divorcing Sabitum (Pritchard 1975:75).

The patriarchal system was applied in this Babylonian case. The guardianship of the daughter was transferred to her in-laws. The dowry was given to the bride and was received by the groom. The subordination and inferiority of a woman became clear at the regulation of divorce. A woman had no right to divorce her husband. It was an offence that carried a death sentence. However, a man could divorce his wife and escape with a light fine (one-third of silver mina). From this law a conclusion could be drawn that a woman belonged to a man, while a man did not belong to a woman.

2.4.7 Code of Hammurabi (1800 BCE)

XXI, 35-41: The woman who cohabits with a man who did not enter into marriage contract with her is not a legal wife (Saggs 1965:140). Among the Tsonga of Gazankulu in South Africa a union between a man and a woman cannot be

recognized as a marriage legitimizing the birth of their children unless the specific procedure, which has been accepted by the community, has been followed. The most generally accepted ways of contracting a marriage compromised two aspects, namely, the contractual aspect, and the ceremonial aspects (Eloff 1973:158).

It is obvious from this law that the status 'wife' depended entirely on the contract to be concluded. The contract needed not be intricate and comprehensive. Saggs (1965:140) quotes the following example of a marriage contract: "PuzurKhaya took Urbatus as wife. The oath was taken by the king in the presence of witnesses. The year in which Enamgalanna was inaugurated as En-priest of Innana". The institution of marriage was so highly esteemed that its officiating warranted the witness of a royal house or people of a noble rank.

XXI, 42-53: If a married woman is found committing adultery with another man, they will be bound and thrown into the water. The woman's husband may save her if he wishes, or the king would save his male servant if he deems it necessary to do so (Saggs 1965:140).

Adultery carried a death sentence. A woman who committed adultery, was left at the mercy of her husband. Apparently the husband had the same authority as the king had over his servant

XXI, 77: A married woman who is suspected of committing adultery with another man had to undergo a 'water test' to allay her husband's fear and suspicion of unfaithfulness (Saggs 1965:140).

This law does not refer to a compelled suicide, but to a test of innocence. Should a woman come alive out of the river she was declared innocent. The suspected woman had to go through the test even though there was no substantive evidence available. The husband's integrity had to be protected. The Old Testament tradition has a similar law stipulating that the jealousy ritual should be performed by the unfaithful woman who has to undergo a 'water test' (Num 5:16-22).

XXI, 141: A woman who intends to quit her husband's house and attempts to acquire another house through his credit balance and who is found guilty, her husband may divorce her without any divorce money given to her. Her husband may marry another

woman, while her former woman also lives in the house like a bondmaid (Saggs 1965:140).

From this law we learn that in a case of a woman who refuses to live in her husband's house, and makes an attempt to obtain another house through his credit balances, her husband could divorce her if she is found guilty without paying her divorce-money. If her husband chooses not to divorce her, he could marry another woman while he keeps his first wife as a slave. This example indicates that a woman had no right to divorce. It could incur huge costs for her if she attempted to divorce. The fact that her husband could marry another wife and keep her as a slave proves that polygamy was acceptable and legal.

XXI, 142: If a woman denies her husband conjugal rights on reasonable grounds and she appears before the city council, and she is not found guilty, she may take her dowry and return to her father's house (Saggs 1965:140).

XXI, 143: If she denies her husband conjugal rights without any reason and it is found that she has neglected him and humiliated her husband, they shall throw her into water (Saggs 1965:140).

The legislation of marriage according to laws XXI, 142-143 guaranteed a dignified treatment for a faithful woman. Abusive treatment such as humiliation by the husband gave a woman the right to separate from him. Unfaithfulness, e.g. irresponsibility and idleness on her part could lead to a death sentence. In this case it is evident that a woman enjoyed less rights and privileges than a man in the Mesopotamian society. A serious offence committed by a man could only result in divorce, while a woman faced the danger of being sentenced to death.

XXI, 170: When a husband's first wife bore him children and his bondmaid also bore him children whom he recognized as his, in the event of his death both the children of his primary wife and bondwoman shall share equally in the goods of the paternal estate with the first-born son of the first wife, receiving a preferential share (Saggs 1965:140).

The above legislation made provision for polygamy to become an accepted marriage custom regulated by this legislation. It espoused the interests of the posterity.

2.4.7 Nuzi (1500 BCE)

The discovery of Nuzi of North Iraq has contributed to the understanding of marriage in the Mesopotamia in the middle of the 2nd millennium BCE (Freedman 1992:561). Personal matters like marriage are promptly mentioned since most of the texts are private documents. Great emphasis is placed on the fertility of a woman. One marriage document reads (Grosz 1981:166): “Shuriha-ilu has adopted Shennima, son of Zike. Shenimma inherited all Shuriha-ilu’s fields with some strings attached: Should Sheriha-ilu have a son, he will be the chief heir and Shennima will be the secondary heir”.

Shuriha-ilu gave Kelim-ninu as wife to Shennima. If their marriage produces children, Shennima will not be involved with another wife, but if Kelim-ninu is barren, she will purchase a slave girl from the land of Nullu as a subsidiary wife for Shennima and the child born to the bondmaid shall belong to Kelim-ninu (Grosz 1981:166).

The text indicates parallels with the Sarah-Hagar (Gen 16:17) and Rachel-Bilhah (Gen 30:3) narratives, as well as with laws of the Code of Hammurabi (Nos 144, 146 and 147) which relate on the barrenness of a woman. The text also emphasizes the importance of posterity and custom of polygamy.

2.4.8 Ugarit (1400 BCE)

Ugaritic literature does not have a record of “marriage” as an institution. Marriage as an institution, where a man takes a woman is merely mentioned in this literature. Van Selms (1954:13) points to the actual purpose of the Ugaritic marriage as the “procreation of legal sons”.

When Krt lost his wife he was so grieved and he mourned until Il comforted him and gave him paternal advice to acquire another woman for marriage. During the marriage ceremony special blessings were showered on the bridegroom, Krt, to have a son who will perpetuate his lineage (Van Selms 1954:13).

The blessings which are expressed on the bridegroom during the marriage ceremony focus especially on posterity. The father played a pivotal role in the choice and negotiation for a marriage partner. The father chose a marriage for his son while his son was confined under the *patria protestas* (paternal authority). As soon as the

father has made his choice, his son could proceed with preparations for marriage under certain circumstances. The bridegroom could not talk directly with his prospective father-in-law, but through the mediator. A compensation gift in the form of gemstones, gold or labour was paid to the bride's father (Freedman 1992:560). It appears that the bride's brother also had a part in his sister's marriage. Such was the case in the Ancient Near East that the brother had to carry the whole responsibility for his sister's marriage in the absence of his deceased father (Dorey 2003:50).

The man was not compelled to choose the bride from his own clan. Endogamy, exogamy and polygamy were observed in the Ancient Near East. Although polygamy had earlier occurred among the wealthy for economic reasons, it is obvious from the Ugaritic literature that this custom was also practiced by the middle-class. The household statistics which were preserved in 119 tablets indicates that polygamy was observed in every five out of twenty houses (Van Selms 1954:20).

The marriage was solemnized once the bride had entered her husband's or father in law's house. The entry into the husband's or father-in-law's house was the principal act in the conclusion of marriage (Gen 24:67). The in-laws followed the bride once she has entered the house. The father-in-law then expressed blessings which were primarily aimed at the fertility of the bride for his son. The family followed the father in the expression of his blessings on his son. The final ceremony followed immediately after the departure of the guests. This ceremony has hinted on the sexual intercourse (Freedman 1992: 560; Van Selms 1954:38). The woman became the daughter-in-law the moment she entered the house. The father-in-law-daughter-in-law relationship was very important. The daughter-in-law went to live at her father-in-law's house when her husband died. After the conclusion of the marriage the daughter-in-law became the household property of her in-laws. In case of the death of her husband the father will keep her to enter into levirate marriage with the younger brother of the deceased (cf Gen 38:11).

In the Ugaritic culture a woman is totally cut off from her family. In the absence of her husband a woman is entrusted to the "foreigner". A derivation can therefore be made that, when a man entrusts his wife to the care of his father, such an action could be interpreted as divorce. However there is no written proof of divorces which took place in Ugarit. The payment of dowry indicates that divorce could take place (Dorey

2003:51). Although the general form of marriage was one of the couple that lived together in the husband's or husband's father's house, the mythological poets point to another form of marriage. In the case of the *beena* marriage the bridegroom went to live in the bride's house while in the *erebu* marriage the bridegroom would visit his wife from time to time at her father's house (Gen 30: 25-27; Jdg 16).

Paralleled narratives regarding Hagar, Bilhah and Zilpah (Gen 16:30) are found in Ugaritic literature. When the wife was barren, she could give one of her slaves to her husband to bear children for her. This implied that a slave's owner had full control over her body. A married or unmarried owner could have sexual intercourse with his slave woman (Van Selms 1954:74).

2.4.9 Aramean marriage contract of ex-bondmaid (420 BCE)

An Aramean marriage contract which was found in Elephantine records a union between Ananiah and Yehoyishma, Zakkur's sister.

Zakkur gave his sister Yehoyishma to Ananiah as his wife and a dowry in the form of twokarsh, two shekels, 5 hallows of silver, 5 kallurs of silver, clothing worth seven karshand eight shekels. Ananiah has paid only 1 karsh as the bride price to Zakkur. There are some strict conditions attached to this marriage contract (Pritchard 1975:84):

- (1) Should Ananiah at one stage decide to divorce Yehoyishma before the assembly, he shall pay divorce money and forfeit the brideprice (Pritchard 1975:84-85).
- (2) He must give back to her everything he owns including the dowry (Pritchard 1975:84-85).
- (3) Should Yehoyishma decide to divorce Ananiah before the assembly, she is liable for divorce money (Pritchard 1975:84-85).
- (4) Should Ananiah die, having no male or female child from this marriage with Yehoyishma, Yehoyishma shall inherit from him everything that he owns: goods, house and his possessions (Pritchard 1975:84-85).
- (5) Yehoyishma is not permitted to acquire a husband other than Ananiah. Should she do so, that shall constitute a divorce and the provision of divorcement shall be applied to her (Pritchard 1975:84-85).

- (6) If Yehoyishma should die, having no male or female child by her husband Ananiah, Ananiah shall inherit from her (cash), goods, possessions and all that she owns, and Ananiah likewise was not permitted to take any woman other than Yehoyishma in marriage. Should he do so, that shall constitute a divorce, and the provisions of divorcement shall be applied to him (Pritchard 1975:86).
- (7) Ananiah may not omit to accord his wife Yehoyishma the right any of the wives of his fellows. Should he fail to do so, that shall constitute a divorce, and he shall implement for her the provisions for divorcement (Pritchard 1975:86).
- (8) Yehoyishma may not fail to accord her husband Ananiah the right of any husband. Failure to do this shall constitute a divorce (Pritchard 1975:86).

From the Aramean marriage contracts which dates from 420 BCE and which was undersigned in fort Elephantine, a Jewish colony in Egypt, it emerges those marriage negotiations and agreements were concluded with the bride's brother. Probably, Yehoyishma's father was dead by that time. The brideswealth was paid to Yehoyishma's bother. She has bought the brideswealth into her household. Both the groom and bride could separate from his or her spouse. In both cases the party that has initiated separation or divorce forfeits the brideswealth. This marriage contract has stipulated a monogamous union. None of these two parties was allowed to contract marriage with anybody else even after death of his or her spouse. In the event of divorce the party that initiated it should pay divorce money. The surviving spouse inherits everything in the event of the death of a marriage partner. Both the groom and the bride were indebted to each other and had to give to each other the right of any husband or any wife. The abandonment of marriage rights has justified divorcement. The contract was signed by witnesses.

2.4.10 Wisdom of Ben Sira (200-175 BCE)

The Wisdom of Ben Sira is a collection of moral doctrines that encourages readers to live wisely in 200-175 BCE (Dorey 2003:53). There is no mention of polygamy in this collection. This creates the impression that monogamy was the only marriage custom observed. Sira (25:8) reads: "a man fortunate to have an understanding wife, a married couple who are well matched" points to a monogamous relationship. The

book reports mostly on relationships with woman and emphasizes the importance and the indispensability of a woman (Sir 36:25). She is the origin of that condemns all the people to death (Sir 25:14) and her subordination to a man (Sir 25:13-26). The subordination of a woman to a man is clearly shown from the texts which regard a woman as the origin of sin (Sir 25:24). Divorce could easily take place (Sir 25:26). A woman who failed to comply with her husband's instructions could be easily dumped by him.

Ben Sira, like Solomon in the book of Proverbs reports mostly on the relationships with women and he depicts prudent and submissive women in chapters 14 and 18.

2.4.11 The Book Tobit (167-135 BCE)

The book Tobit dating more or less from 167-135 BC, is a narrative showing the help of God for trustworthy people (Tobit and Tobias). It puts forward the value of piety and morality and gives insight into the Jewish religion and culture prior to the New Testament period. It attempts to convince readers not to adhere to Hellenistic culture and it encourages them to follow the instructions of the Torah.

Polygamy is highly esteemed in the book Tobit. Tobit (4:12) states: "Above all marry a woman of our tribe. Do not marry anyone who is not related to us." The marriage between Tobias and Sarah is described(6:17) as the will of God from before the creation. The posterity was important for survival (6:13). The marriage contract was placed on script (7:14). No major marriage ceremony was conducted. Raguel (Sarah's father) simply called her, took her by the hand and gave her Tobias with the following expression of blessing: "take her as your wife according to the law of Moses. May the Lord of heaven give a prosperous life" (7:13).

Then he placed the contract in script (7:14). The drawing of a contract was followed by a meal and thereafter the couple entered the marriage chamber. This was followed by the marriage celebration. It is clear from the book that Tobit and Annah and son Tobias and Sarah had practiced monogamy. Endogamy, especially marriage between cross-cousins was the most preferred form of marriage custom during the period 167-135 BCE in ancient Israel. The Old Testament tradition bears record of such marriage customs: Abraham and Sarah (Gen 12), Isaac and Rebecca (Gen 24) etc.

2.4.13 Old Testament marriage customs

Old Testament marriage customs concurs with marriage traditions of the nations of the Ancient Near East (De Vaux 1978:24). In these cultures marriage is not primarily a religious affair (Weiss 1994; Schutte 1997:1123).

2.4.13.1 Polygamy and monogamy

Monogamy is the union between only one man and one woman to the exclusion of others. This was the general form of marriage among the nations of the Ancient Near East (Patai 1959:40; De Vaux 1978:24). The Old Testament confirms that polygamy was similar among other nations of the Ancient Near East (Ur Nammu; Code of Hammurabi etc), observed from the earliest times until the late post-exilic period in Israel (De Vaux 1978:25). There are traces of this form of marriage in the Old Testament: Abraham (Gen 25:16), Jacob (Gen 29, 30), David (2 Sam 12:8), and Solomon (1 Kgs 11:1-3). This custom was observed by the wealthy leaders who could maintain it (Patai 1959:40).

2.4.13.2 Erebu

In the *erebu* (visiting man) marriage a woman had full control of her own house where she was visited by her husband only. Her husband did not reside in her house. This marriage custom was rare in Israel, but Samson had observed it. His Philistine wife had stayed with her parents where Samson visited her (Jdg 14:8; 15:1-2). The *erebu* custom concurs with Palestine-Arabian custom where a woman controls her own house and she is visited by her husband (De Vaux 1978:29).

2.4.13.3 Marriage between master and a bondwoman

In ancient Israel a bondwoman could become her master's wife concurrently. It is also undisputable that a bondwoman could not be married to a slave only, but also to a free man (Kessler 2002:501-512). The Old Testament tradition bears record of marriages between Jacob and Zilpa and Bilha, Leah and Rachel's bondwomen (Gen 30; 4, 9). To have somebody as a subsidiary wife (Zilpa and Bilha) indicates that marriage was concluded. A similar custom was observed by Sarah who gave her bondmaid, Hagar to Abraham to bear a son for Sarah (Gen 16:2).

2.4.13.4 Patriarchal system

The patriarchal system dominated marriage customs in Israel. Unmarried woman remained under her father's authority while a married woman was fully controlled by her husband (King & Stager 2001:50). The Decalogue (Exod 20:17) lists a woman as part of a man's possessions. The wife addressed her husband as a "baal" or "master" (Exod 21; 3, 22; 2 Sam 11:26). The husband wielded such an authority over female members of his household that he could even sell his daughter (Exod 21:7-11). Under the patriarchal system, a wife became her husband's estate (Weiss 1994:17). Marriages were arranged by the parents, especially the fathers (King 2001:55; Mars 2003:72).

When the marriage was concluded the bride left her family to join her husband's household. Her children belonged to her husband's household. There were exceptions to this rule in unison with other nations. Gideon had a concubine who lived with her family at Shechem. Her son was united to her household (Jdg 8:31). This marriage custom harmonizes with an ancient Arabian custom (De Vaux 1978:28). Samson's Philistine wife also lived with her parents where Samson visited her (Jdg 14:8; 15:1-2).

2.4.14 Greeks and Romans

2.4.14.1 Introduction

The Greeks and the Romans were almost the only important nations of the ancient time which did not observe polygamy. Marriage was primarily monogamous under the Romans (Herlihy 1985:7). However, divorce, re-marriage and keeping of substitute wives were recognized marriage customs despite this fact. Demosthenes defines applicable female roles as follows: "mistresses we keep for the sake of pleasure, concubines for the daily care of our persons, but wives bear us legitimate children and to be faithful guardians of our household" (Cervantes 1966:993; Brayford 1999:165). This creates the impression that monogamy among the Greeks and Romans opened a platform for a measure of profligacy. Ahmadu (1992:43) interprets this quotation as an affirmation that monogamy in these countries was an introductory factor to prostitution. Divorce and remarriage were also observed

(Oslik and Balch 1997:62). Bradley (1991:129, 161) makes mention of adequate evidence that series of divorces and remarriages were gradually practiced.

The Greeks and the Romans have influenced and formed the view of the early Church and Christians on sexuality, marriage relations and procreation.

2.4.14.2 Greeks

Monogamy was the only recognized form of marriage custom among the Greeks, except from 413-403 BC when men were encouraged to take more than one wife (Weiss 1994:78; Noy 2000:4). Men were allowed to keep concubines, although only the legal wife had to bear children (Brayford 1999:175). Marriages were usually arranged by male parents (fathers) and it was always essential that marriage was a public event to be witnessed by the people (Noy 2000:5). Patterson (2001:108-109) highlights that the Athenes had no definition for marriage. Neither was the marriage registered nor certified. In his opinion marriage should in the first place be understood as a social process and a juridical occasion.

The Greeks had earlier put their trust constantly on the social criteria as legal definitions for marriage during the Hellenistic period. Couples were married through a series of social rules which were not necessarily written down in legal documents (Satlow 2001:74).

The Spartans had a shining example of the cultural historical influence on the marriage custom in the 7th century BC. They adhered to the principle of “wife sharing” and “selective breeding” in order to raise a strong army (Power 2000:3). The need for and essentiality of a strong army served as criteria to justify the principle of wife sharing. The aftermath of the Messenian revolt in 640 BC has changed Sparta into a military state (Hooker 1996:2-3). Boys were conscribed into a military and athletic school at the age of seven. They were integrated into the military force at the age of twenty and lodged at the barracks with their comrades-in-arms until they reach the age of thirty. Men were allowed to marry but they could only stay with their wives from the age of thirty (Morrow 1960:53).

2.4.15 The Romans

In the Roman Empire, marriage was more of a family affair which was entrusted to the adjudication of the households and their male heads. The primary purpose of marriage within the Roman communities was to meet the needs of the households (Botha & Van Rensburg 2002:58).

2.4.15.1 Patriarchal system

The Roman Empire was characterized by a patriarchal system. In the ancient Roman Empire most marriage customs were associated with the transfer of *manus* (under the hand of) of the bride from her father to her husband (Herlihy 1985:8). In the Roman Empire fathers exercised *patria potestas* (paternal authority) over their children, e.g. in Rome a father could send her children away, sell and even kill them without being questioned (Shelton 1988:18; Patrick 2000:166; Joubert 2002:683). Marriage, which was concluded in the presence of witnesses, subjected a woman and her property under the dominion of her husband. All women were placed under guardianship of a male member of the household (Osiek and Balch 1997:56-57). A man was at liberty to punish his wife with death if her family concurred with him (Shelton 1988:47). Excessive alcohol intake, for instance, was punishable by death. Woman abuse was not an offence. Nevertheless, a woman occupied a central position in the household. She participated in deliberations of family matters and she welcomed visitors (Shelton 1988:48).

2.4.15.2 Marriage and posterity

In Rome marriage was concluded for practical and not for romantic reasons. For the Roman society, the important function of marriage was the procreation of children for posterity and the creation of a stable society (Shelton 1988:44). Marriage was arranged by households without giving their children freedom of choice for spouses and the expression of love between a man and a woman. For this reason married men in Rome were allowed to co-habit with women of inferior class, for example with slaves.

2.4.16 Synthesis

The patriarchal system is a dominant feature of both biblical and extra-biblical marriage customs. In both traditions, fathers exercised *patria potestas* (paternal authority) over their children whom they could send away, sell or even kill without being questioned. Wives were their husband's property estates. All women were placed under the guardianship of a male member in the household.

The Old Testament tradition observed polygamy, *erebu* marriage, and marriage with a bondmaid while the extra-biblical tradition practiced monogamy and wife sharing, a practice that was detestable in Israel. In Rome and Greece men could have only one legal wife and many concubines. In extra-biblical traditions, there was a military conscription for boys at the age of 7 years. The purpose of marriage is procreation in these cultures.

Chapter 3

African perspectives on marriage

3.1 Introduction

Some aspects of marriage in Venda, Zulu, Tsonga and Lobedu traditions will be shortly discussed with the main focus on Pedi perspectives on marriage. A concise reference will also be made to Swazi and Ndebele marriage customs.

Hoernlé (1985:117) argues that marriage among the Africans is “a gradual process by means of which three series of changes are accomplished. First, he mentions that the man and the woman are “transferred from the group of the unmarried to the group” of the married, the whole transfer involving an “important change in their status in the society”. Secondly, that the woman is “loosened” from her own group and “incorporated” in the group of her husband. And thirdly, that “actions and reactions” take place between the two families (of the woman and of the man) in order to build a relationship of friendship and stability between them, it being understood that in these transactions the ancestors are as much concerned as the living members.”

From this above assertion it emerges that marriage is a unifying factor in African traditions: the two family groups are brought together and the transfer of guardianship occurs. The bridegroom acquires the status “husband” while the bride attains the status “wife”. Marriage is a sacred institution where the ancestral spirit of both groups is intimately bound up with the choosing and welcoming of the bride. These ancestral spirits are “asked to accept and protect her and to see in her the mother of future descendants” (Myburgh 1944:83). Adamson-Hoebel (1966:332) concurs that marriage among the Africans, is “the complex of social norms that define and control the relations of connubial pair to each other, their kinsmen, their offspring, and society of large.” Every African tribe has its rules, laws, norms and values which are a moral compass for the regulation of sexuality and marriage relationships in that specific ethnic domain.

Lobola or bride wealth in Africa provides a guarantee that the woman (bride) will be well treated by her husband and her relatives-in-law. The provision of lobola, or marriage goods cannot be viewed as a sales transaction. It serves as a form of compensation for the parents of the bride (Hartman 1991:35-36; Rascher 1985:137). Bruwer (1965:75) observes that the most important function of the marriage goods is the assurance that the man will have progeny and that his lineage group will be enriched by the addition of children. Lobola thus, determines the paternity of children. This view is shared by Olivier (1969:100) when he states that one of the primary functions of lobola is that of transferring the reproductive capacity, the fruitfulness of the woman to her husband's family. The bride is expected to be productive and not barren as her infertility will bring shame to her family in-law despite the fact that there will always be provision for a substitute in the event of childlessness.

Among the Pedi lobola or marriage goods gives the husband the rights of parenthood or fatherhood over the members of his household. It enforces respect on the part of the husbands for their wives and responsibility for both wives and children. The payment of lobola to the relatives of the bride establishes a life long relationship between two family groups and it is therefore a binding factor for a man and a woman in marriage (Mönnig 1967:194, 206; Kupa 1981:57).

There are always ceremonies that follow the payment of lobola, e.g. the welcoming- and the permanency of the bride's new home among some African tribes. In the Zulu tradition, a number of *oninabesoka* (bridegroom's classificatory mothers, usually his aunts) grip the bride by the arm in a symbolic gesture of acceptance. This brings the bride under *isithunzi* (influence) of the family ancestors (Myburgh 1944:75-76). A combined thanksgiving ceremony of both family groups is performed at the end of the celebrations of the day, in which each party thanks the other for its share in the proceedings, and brings together the ancestral spirits of both groups to seal the bond which will result in the progeny derived from lineages (Myburgh 1944:80-81).

The next ceremony symbolizes the permanency of the bride's new home. The *oninabesoka* smear the bride's shoulders with thick fat and request her to brush her shoulders against the gate-post of the cattle-kraal. The fat on her shoulders absorbs

some of her personality with it onto the gate-post, converting her into a permanent resident.

3.2 Patriarchal system

Among the South-eastern African tribes, the marriage agreement is not regarded as a contract entered into by the husband and the wife, but as a special form of agreement entered into by the respective fathers, to allow their children to marry (Hartman 1991:4). De Clercq (1975:169) describes marriage as a “contract sui generis” (between two fathers) or between a man and his father-in-law.

The marital infidelity on the part of the husband is not regarded as an adulterous act, and therefore it does not provide his wife with grounds for divorce, while a woman who cheats her husband by committing adultery with other men must be divorced (cf Boonzaaier 1985:309). Again the husband may divorce his wife if she practices sorcery for malign purpose, while similar activities on the part of the husband do not constitute grounds for divorce (cf Boonzaaier 1985:311).

In Tsonga tradition, a suspicious husband may ask a friend to keep an eye on his wife’s movements (cf Junod 1927 1:196). The testimony of this friend must be supported either by other eye-witnesses, or by an article of clothing taken from the adulterer at the time of the offence (Hartman 1991:75).

Among the Zulu in the past, a woman was restricted to a subservient position and she could not express herself even on the choice of her marriage. She was her husband’s property (Robertson 1966:167-168; Shooter 1857:83).

A similar practice was observed in ancient Israel (Exod 20:17) where a woman is listed with her husband’s possessions. The wife addressed her husband as “baal” or “master” (Exod 21:3, 22; 2Sam 11:26). The husband wielded such an authority over female members of his household that he could even sell his daughters (Exod 21:7-11). Under the patriarchal system, a wife became her husband’s estate (Weiss 1994:17). In South Africa the affirmative action programme was launched to address the gender inequality problem which discriminated against women. Through this programme the status of women has been elevated and today they occupy executive positions in the state and private sectors.

A Pedi father or guardian has complete authority over all members of his household, including his wife or wives and all unmarried children or foster children. He also controls the wages earned by grown-up sons. Dependents are allowed to take legal action in the official courts only when they are represented or assisted by their father or guardian. Women, who are raped, assaulted or whose characters have been impaired must be helped by their husbands to sue the offenders. Any compensation awarded by the courts in this respect falls in the hands of the husband (Mönnig 1967:320).

3.3 Death

Africans believe that death brings a critical change of life for both the deceased and the surviving members of the household. The death of the family head in particular, dislocates the household relationship. The deceased is anticipated to make a safe transaction to a new existence, and the mutual relationship between surviving members of the deceased's household must be adjusted. For this purpose, a precise ritual must be performed (Mönnig 1967:138).

In the Tsonga tradition, when a man is about to die, his relatives carry him to the house of his principal wife where all his wives look after him. After his death, there are two interments (burials). The first ceremony is the actual burial of the earthly remains, followed by a simulat burial. In this second ceremony some of the deceased's personal possessions, and one article of clothing belonging to each of his wives, are also buried (Hartman 1991:131). The real burial occurs as soon as possible after the man's death, usually at a place which must be appointed by his lineage successor in the cattle-kraal. An ox is slaughtered during this ceremony. This ox is known as *homu ya nko'si*, i.e. the animal which conveys the soul to the realm of the ancestor spirits, or *homu ya ku lahla* i.e the animal for the dead (Hartman 1991:131). The ceremony is attended by all the man's wives, together with his patrilineal relatives. The in-laws are not present. The corpse is enveloped in the hide of the slaughtered animal, and then buried. The simulat interment takes place on the following day. The whole family and all the deceased man's friends are invited (Hartman 1991:131).

After the burial the widows begin their period of mourning with the period of complete isolation which lasts for about a week. The widows abstain from drinking water during this time. When the period of segregation is over, the widows put on black dresses, and participate in a ceremony known as *byala bya mavoko* (beer from the hands). Their hands are washed in beer. When three months have passed, the ⁵*ku hluvula milala* ceremony is performed. This terminates the children's mourning period and cleanses the whole kraal (Hartman 1991:131).

The widows' mourning period ends after a year and it is consummated with the ceremony known as *ku pumba ndzilo*-"to discard mourning"- is performed. Some tribes refer to this ceremony as *ku basisa ndzhaka*. The widows are ritually purified and supplied with new clothes during this ceremony (Hartman 1991:131).

For Pedi death brings ritual impurity. They place a protective stick (*lepheko*) at the entrance of the hut where the corpse is lying to warn visitors against entering the hut (Mönnig 1967:139). Among the *Lobedu*, members of the household are treated immediately after death to prevent the outbreak of *makgome* (languishing sickness) (Krige & Krige 1947:219).

The next-of-kin are in the conditions of darkness (*sefifi*) and a period of sexual abstinence starts in for them. A widow nearby is still ritually impure (*ditshila*) and can infect others with *makgome* (languishing sickness). Great emphasis is placed on the abstinence period of a widow who is still to produce a successor for the deceased (Mönnig 1967:141). At the beginning of the abstinence period every member of the household drinks cleansing medicine.

Widows are also offered protective medicine contained in small sacks to carry around their necks. A young widow must ensure that her visitor takes protective medicine before she can communicate sexually with him. At the end of the period of mourning a cleansing feast takes place (Mönnig 1967:141). Since all the household property or possessions were in the condition of *sefifi* (gloom), the males bring their sharpened spears and the women their hoeing picks to be ritually cleansed

5. The ceremony that terminates the children's mourning period in the Tsonga tradition.

The household equilibrium is thus restored in this manner (Mönnig 1967:141-142).

The Lobedu consummates the mourning period with *Khitshila*- a cleansing ceremony. The hair of the relatives are cut with medicine and buried in a wet place.

This removes impurity (*Khitshila*) and “cools” the people (Krige & Krige 1947:218,220; 1954:69).The Phalaborwa place personal possessions of the deceased on the grave as identification and a means of reconciliation with ancestral spirits (Du Toit 1968:119). All African tribes observe a period of abstention for the widow or widower after the death of one of the spouses and it is consummated with cleansing ceremonies.

The period of abstention for the widow or widower was not observed in the Lemba tradition except that the next of kin of the deceased used to shave their heads and mourn for seven days. On the last day a feast was held at which an ox, a sheep, or a spotless goat was sacrificed (Le Roux 2001:96). According to Jacques (1931:249), the blood of the animal was either sprinkled over the men who have gathered or the blood was drunk. Le Roux (2001:96) explains that the seventh day was the day on which it was believed a man’s soul returned to his body. The priest prayed to the ancestors, calling on them by their names.

The Old Testament tradition condemned the Canaanite custom of shaving one’s hair or beard in order to injure oneself during the mourning period (Lev 19:27; Deut 14:1).

3.4 Struggle for survival and power

In the past, the normal pattern for the Pedi was to marry four or more women because there were wars in which young men were killed. The result was that there were sufficient women for men to marry (Mönnig 1967:211). The obligation to get married is the only means of human survival as far as the views of African peoples are concerned. For that reason marriage is a religious obligation. Marriage is as old as humankind. Through marriage and childbearing human life is preserved, propagated and perpetuated. Through them life is also deepened vertically and spread out horizontally. Therefore marriage and childbearing are the focus of life. They are at the center of human existence, just as the man is at the centre of the universe (Mbiti 175:100).

3.5 Initiation: a gateway to marriage

All stages of initiation rites through which a girl or a boy has passed prepare them for matters of sex, marriage, childbearing and family responsibilities. On completion of the initiation ceremony, a boy or a girl is then “religiously and socially born into full manhood or womanhood with all its secrets, responsibilities, privileges and expectations” (Mbiti 1969:135).

Venda boys and girls are brought together during the *domba* initiation ceremony, and by means of symbols and metaphors, they are together taught to understand the true significance of marriage and child-birth. By the same means they “are warned of the pitfalls and dangers that they are unlikely to encounter during the course of their lives” (Stayt 1968:112, 124).

In Pedi tradition, when boys have passed through all important stages of initiation, they meet requirements for adulthood. They are then ripe to enter into marriage because they have been taught to take care of their wives. Girls are also instructed in sexual matters and in a code of conduct towards men in preparation for marriage and motherhood by their instructors and other elderly women (De Beer 1979:119,121).

3.6 Virginity test

One of the chief elements of African religiosity is the virginity test where the bride is examined by the older women to see if she has been deflowered. She is then presented to the bridegroom. The groom takes her to his father’s home, accompanied by three or four sisters or friends. One of the escorting parties is given a basket to take the groom’s parents. If the girl is intact the basket contains an unopened calabash and a white bracelet, but if she has been deflowered, it contains an open calabash with a black bracelet (Stayt 1968:147). In some African communities, if the girl, after having been tested is found to be a virgin, the aunt is given a cow. Another cow is sent to her mother together with the sheets containing stains of the blood of virginity. The stains of virginity are the greatest credit to the mother and family of the bride (Mbiti 1975:140; Schapera 1962:109).

Among the Tsonga in the past, girls were periodically examined by older women (usually the *hahani*-father's sister) to determine whether or not they were still virgins. Such examinations were usually carried out every two months (Hartman 1991:6).

In the Venda tradition girls are examined by the *nyamatei* to see whether they have lost their virginity. Any girl who is found guilty of polluting her virginity is ill-treated by the *midabe* (instructors). They whip her with the *tshipata*(sticks), while the whole congregation of women abuses her (Stayt 1968:113-114).

This custom was also prevalent among the ancient Pedi because in the words of Harries (1929:63) "the VhaVenda... always get in touch with Maruteng (the head quarters of the paramount Bapedi chiefs) before establishing a lodge and if possible obtain the services of a Mopedi (chief) to do the operation". Sekwati, the senior son of Thulare (paramount Pedi chief) fled the wrath of Mzilikazi's warriors to the north with his people and sought refuge with Ramabulana (the Venda paramount chief), with whom the Pedi were related through Thobebe, the brother of Thobejane (Mönnig 1967; 19, 23). This inter-cultural relationship suggests the Venda influence on both the *bjale* and *bogoera* sessions. Virginity test and initiation thus seem to be inseparable.

3.7 Polygamy and monogamy

The polygamous system of marriage is widely observed among African tribes. Africans possess as many wives as their means allow. The chief often has many wives, while the poorer members of a tribe are obliged to be content with one wife. Only few of ordinary people afford to marry more than two or three women. The first married woman is always the principal wife (*inkosikazi*), except in the case of a chief, whose principal wife is often chosen by the tribe after he is well-established in the chieftainship, and whose *khazi* (*lobola*) cattle are collected from principal households of the tribe (Hoënlé 1985:97; Van Warmelo 1931:11).

In the past Venda men were not obliged to marry more than one wife (Ndou 2000:174). According to the Venda culture, polygamy was encouraged by the family marital procedures. If a man married a woman of his own choice, who had no family connection with either of his parents, the mother could encourage her son to marry the daughter of her brother, who is a cousin (Ndou 2000:174).

The ordinary Pedi man may marry two or more wives. The polygamous union establishes a compound, or complex family, in which “each wife from a primary marriage has her own homestead” (Mönnig 1967:211-212; Harries 1929:2). The majority of modern Pedi are monogamous due to the Christian influence which has taken place.

3.8 Levirate marriage

Magesa (1997:140) points out that levirate union is not a proper “marriage” in the African point of view. Instead, it is “a temporary adjustment in a continuing marriage in which a brother-in-law substitutes for the deceased legal husband,” to fulfill an obligation to a deceased brother. The Zulu call this union *ukungena* – (to enter) and the Basotho refer to it as *ho kenela* or *kenelo*. In some tribes such as the Venda, Sotho, and Tsonga, the eldest son can inherit his father’s youngest widow to perpetuate his father’s lineage (Bradley 1970:89-92).

Similarly the Tsonga practice this custom, *ku hlanganisa*. When the mourning period is over and widows have been cleansed from the pollution caused by the death of the husband, another ceremony is performed. Its purposes are:

- to appoint a substitute to take over the deceased’s supportive and generative duties, and
- to divide the property in the joint estate (Hartman 1991:132).

Death does not dissolve marriage in the Pedi tradition. After the death of a husband measures are taken to look after the widow and to ensure she bears more children for the husband. Children born from this levirate bond- *go tsenela* custom- derive their status from the deceased man even if he is not their biological father. The *levir* is usually the younger brother or half-brother of the deceased or next of kin. Provision is also made to filial levirate. The man may “inherit” the younger widows of his father and so “raise his own younger brothers”. Obviously this is possible only when a man marries wives so late in life that his elder sons are more fitting partners (Harries 1929:50; Mönnig 1967:20 see Kupa 1981:30). The Old Testament tradition forbids a man to have sexual intercourse with his father’s wife (Lev 18:9).

3.9 Inchoate marriage

The form of inchoate marriage is observed in an African marriage tradition where most girls are betrothed when they are quite small, so that, if a girl is seduced by a man other than her betrothed the seducer is answerable to her prospective husband, and if she becomes pregnant, the person must pay him the compensation of two head of cattle (Stayt 1968:152). This implies that the betrothed girl automatically becomes a man's "wife" or "possession" even before the consummation of the marriage.

According to the Hebrew Bible, betrothal had legal consequences. From the time when the betrothal was formally concluded, probably with the payment of a *mohar*, the betrothed woman was considered, in some respects, to be married (Satlow 2001:69).

For the Pedi, the formal conclusion of *go beeletša* or *go thiba sefero* (betrothal) with the payment of *magadi* (*lobola*) qualifies the betrothed girl to be considered married. She may co-habit with the man who betrothed her or his kinsman. This is evident in the case where a marriage has been arranged for infants, where it sometimes happens that a girl is ready or reaches a marriageable age to be accepted for marriage, before the boy is capable, age wise of accepting her (Kupa 1981:17; Harries 1929:9-10).

3.10 Sororate marriage

Should the wife be barren or die childless, a sister or the younger relative would have to substitute her. Any children born from this union will be considered children of the barren or deceased sister, and the seed raiser has no hut or status of her own. No *lobola* is due for her, though a gift of one to three heads of cattle is usually given to thank the parents. Among some tribes, e.g. Tsonga, Ndebele and Swazi, marriage with the wife's sister is at all times, not on death or sterility of first wife, considered very appropriate, and it is usual for a Swazi man when visiting his wife's people to "engage" one of her sisters to spend the night with him. If a child is born he would either give *lobola* for the girl or he might be allowed to give a beast and take the child, leaving the girl to be married to someone else. Among the Venda and the Swazi a man is entitled to his wife's brother's daughter, while the Tsonga and

Lobedu consider this kind of marriage appropriate at any time (Bruwer 1963:73). The custom of marrying two sisters is observed in the case of Jacob when he married Leah and Rachel (Gen 29, 30).

Sororate marriage is also observed among the Pedi when a married woman is barren or dies without having children. Usually she will voluntarily approach her parents to seek her younger sister's help. If her younger sister is unmarried or unbetrothed her request will be favourably considered with the *magadi* they have already received for her senior sister, under the obligation to the son-in-law. The maternal uncle's daughter of the barren woman may also be a good substitute. A sister or other close relative who is available will be married as subsidiary wife. Such subsidiary wife is called *mohlatswa-diropo* (cleanser of thighs) or *mohlatswa-dinoka* (cleanser of hips). She comes to "cleansing thighs or hips of her sister, to bear children for her (Kupa 1981:31; Mönnig 1967:203-204; Harries 1929:13-14).

3.11 Marriage of a woman to another woman

The practice of obtaining wives by the *lobola* system is not confined to men in an African Religion. Wealthy men are privileged to observe this union between two women. Among the Venda, a woman may pay *lobola* for another woman even if she is spouse or a mother. This 'wife' lives in her house and she makes arrangements for the reproduction of children. She is the 'husband' of her 'wife'. This custom is also practiced among certain African tribes e.g. Lobedu, Phalaborwa and Basotho. Among the Phalaborwa and Basotho only widows are privileged to practice this union (Bruwer 1963:74). This is not a lesbian or same sex union because the woman, who has paid *lobola*, does not co-habit with the 'bride'.

A Pedi woman who realizes after some years that she will not have male children and does not have a younger sister or other next-of-kin to marry as a substitute, may pay *lobola* for the girl of the next younger generation. The woman's male relative will co-habit with this "bride" to bear children for the woman who has paid *lobola* (De Beer 1979:21). Some sources confuse this type of marriage custom with the ghost marriage.

3.12 Endogamy and exogamy

In some parts of Africa parents choose marriage partners for their children even before they are born. This is to make sure that they get married. In other societies parents and relatives make choice for the young people. The practice of choosing the bride for one's son is prevalent among the Tswana and Kgatla peoples in Southern parts of Africa (Magesa 1997:11).

The Tsonga practice the system of clan exogamy prohibiting marriages between persons who bear the same clan name. For instance, a man may not marry the daughter of his father's brother or the daughter of any male patrilineal relative of his father. In this tradition a man may also not marry anyone belonging to the clan from which his mother has descended. He may not marry the daughter of his mother's brother (Hartman 1991:22). Among the Gazankulu tribes, a man should prefer to marry the daughter of his own wife's brother (Hartman 1991:22). The Tsonga marriage is strictly exogamous.

All Sotho tribes, including the Pedi, show a strong preference for a man's marriage with the mother's brother's daughter, though they also encourage marriage between the children of two brothers and allow marriage with the father's sister's daughter and with mother's sister's daughter. The latter type of marriage "is, however, distinctly less frequent than other types and in certain tribes forbidden" (Eiselen 1928:81). The Venda too, practice cross-cousin marriage and the father's sister is a person of dominant importance in the lives of her nephews and nieces (Lestrade 1930:360-322).

In some parts of Sudan, young people make their own choice to marry someone from anywhere and then inform their parents about it afterwards. The same custom is also practiced among the Udhuk and the Wolof (Mbiti 1969:136).

3.13 Betrothal customs

In certain parts of Africa the parents of the husband approach relatives of the girl, and establish an engagement relationship. All over Africa, this custom is observed with exchanging visits and gifts among the members of the two families and their relatives. In the case of the Venda a man sometimes will give his daughter to a friend

on the promise that the *lobola* will be paid at a future date. Sometimes a man betroths a child, or even an unborn baby, to a man from whom he borrowed cattle (Mbiti 1975:101; Stayt 1968:144). The Tswana tribes e.g. Kgatla and Kwena do not practice this custom.

The ancient Pedi observed infant betrothal. The parents gave consent for the marriage of their daughters who were still infants or even before their birth. The two brothers would arrange for the inter-marriage of their respective children. This is observed as a means of “perpetuating the stock or clan without contamination through the introduction of alien blood” (Mönnig 1967:130). The arrangement of this union is concluded with the payment of *lenyalo* cattle (*magadi*) to the girl’s father (Harries 1929:6-7; Mönnig 1967:130).

3.14 Economic aspects- marriage payment

The forms of marriage in the African Religion(s) are situated “within certain social-economic contexts- that is, social prestige or the assurance of hands to work the fields” (Magesa 1997:136). For instance, every Venda man aspires to possess as many wives as possible because through their labour the husband reaps enough harvest, e.g. surplus grain, with which to brew beer to celebrate with his neighbours. By so doing he elevates his social position and prestige. The payment of *lobola* consists of either cattle or money (Stayt 1968:142). Marriage with many wives will ensure birth of many girls who will bring brideswealth into the family.

Magadi (bride price or marriage payment) consists of cattle, or the equivalent of cattle. Formerly in the recorded past, the Pedi apparently used hoes as marriage goods, either alone or accompanied by cattle, but for very many generations now, cattle have been considered to be the only proper marriage goods. Although other stock, or money, may be substituted for the cattle all discussions make mention only of cattle. Earlier in the Pedi tradition ten goats, five sheep or a certain amount of money were usually taken for the equivalent of one ox. In Sekhukhuneland, it is also expected that *magadi* should not consist only of money, but that it should include some livestock, preferably a few cattle (Mönnig 1967:132-133). The following undisputable social benefits (economic functions) of this custom of African marriage are best described in the words of Kupa (1981:57):

- (i) It gives the husband the rights of parent-hood or fatherhood over the members of his household.
- (ii) It establishes a relationship between two family-groups and is therefore a binding factor for a man and a woman in marriage.
- (iii) It gives stability and a pattern, both greatly needed, in the emotional insecurity of modern marriages.
- (iv) It enforces respect on the part of the husbands for their wives and responsibility for both wives and children.
- (v) It represents for the girl's parents a much needed source of old age insurance against insecurity old age.

3.15 Marriage ceremonies

Marriage ceremonies vary from people to people. In some parts of Africa it is the custom for the groom to go with his friends and stage a mock attack on the people of the bride, so that they capture her and take her away to become his wife. In other places, when the date for the wedding is arranged the groom's people go to those of the bride and receive her ceremoniously or even without any formal ceremony (Magesa 1997:126). In some parts it is an unaccepted form of wedding for the man to run away with the engaged girl, as if they were eloping. When this happens, the parents of the groom wake up one morning to find their daughter-in-law already there in the house. They formalize the marriage in whatever way custom demands. The way of welcoming the bride also varies from place to place. It is normally marked with the slaughtering of a goat or cow (Magesa 1997:126). Generally, all African marriages are followed by feasting, celebrations and rituals. The services of mediators or messengers and the involvement of uncles are indispensable.

In the Pedi culture several stages precede the transfer of the *magadi*. As soon as the *magadi* is collected, the *motseta* (messenger) will go to inform the bride's group that his group is ready. The latter will then start to prepare beer for the feast. On an appointed day the groom's relatives send three or four young unmarried men to the bride's place to arrange the festivities. These young men, called *bakgonyana*, play an important role in the marriage as their group's official representatives and witnesses of the transaction. They are always called upon as the main witnesses in court in the event of any litigation. They spend the night at the bride's place where

they are completely ignored by the relatives of the bride, and particularly by the women, as a sign that the group has no standing amongst them. It is said that *ba phura lebota* (they chew wall) as they are given no food or drink during their brief stay (Mönnig 1967:134; Harries 1929:8). The formal transfer of *magadi* followed the next day by the formal transfer of the bride. This may be considered as the formal act of marriage. The whole proceeding however, complete only after two more stages, *go lata* and *go beka*.

Go lata (to fetch) is the period during which the groom is formally permitted to relate with the bride while she is still living at her place. This period begins after the conclusion of the marriage, and lasts until the birth of the first child.

Go beka (to take the bride home) concerns the final transfer of the bride to the *bogadi* (place of lobola). For this final transfer a special ox, *kgomo ya beka*, must be given by the father of the groom.

The final transfer of the bride, *go goroša ngwetši* (the home coming of the bride) takes place when the whole transaction is included. The bride, accompanied by a few women, friends from her group and usually also her mother, will proceed very slowly to the *bogadi*- the groom's place where the bride will present her mother-in-law with a piece of meat (*mohlobola-o-mogolo-loin*) from the animal slaughtered for the wedding feast, which she has brought with her. When this is accepted, she uncovers her head. Other ceremonies will follow (Mönnig 1967:134, 136; Harries 1929:8-9).

3.16 Kinship system and avoidance

Kinship is very important in all aspects of African life. The concept of the family covers a wide range of members, including children, parents, grandparents, uncles, aunts, various relatives on both the father's and mother's side, and also the departed (Mbiti 1975:176). In the family individuals are closely bound to each other, both because of blood or marriage and because of living together. The moral order within the family must therefore be complete in order to regulate and maintain its welfare. In all African families, there is a hierarchy based on age and degree of kinship. The oldest members "have a higher status than the youngest" (Mbiti 1975:176; Magesa 1997:115).

Again among adherents of African Religion(s) there are some individuals to be avoided such as, in the Venda tradition, where a man must avoid his mother-in-law during all the marriage proceedings. By far the most important person to be avoided is the wife's brother's wife because she commands the same respect as that of mother-in-law. This person is strictly tabu, and if by chance a man finds himself in such a position that he must speak to her, it is always done through a third person, usually a child. His father-in-law is treated respectfully. Only a minimum of communication takes place between the two. These avoidances apply not only to the man in question, but also to all whom he calls brother. This means that, when a man anticipates marriage, a large number of his male relatives must share in these avoidances (Stayt 1968:151). A married woman remains subordinate to members of her husband's household.

The adult Pedi person groups his closer relatives into three categories, namely *bešo* or *bana bešo* (agnatic relatives); *ba ga malome* (maternal relative); *ba bogwe bjaka* (a man's affinal relatives).

Bešo or *bana bešo* (agnatic relatives) is a group to which a person belongs socially, among whom a person grows up. In this group a person's relationship is determined lineally through his father, and a closer unity is conceived to exist between those descended from one mother. The children of one mother, full brothers and sisters are grouped together as *bana-ba-letswele* (children of one breast). An older brother is superior. The relationships within this group are frequently formal (Mönnig 1967:237-238).

Ba ga malome or maternal relatives are those of the mother's brother and is a group from which a person can expect to receive affection and gifts. Within this group a close relationship is conceived to exist between all those persons directly descended from the maternal grandmother. They are called *bampa*, or more fully *bana-bampa-e-tee* the children of one womb. This group includes the children of co-wives who are sisters (Mönnig 1967:239).

Affinal relationships for both men (*ba bogwe bjaka*-those of the place where I married) and women (*ba bogadi bjaka*-those of the place where marriage goods come from) are one of mutual respect and friendliness (Mönnig 1967:239).

In the Pedi culture a man is prohibited from having intercourse with his mother, sister or daughter. Such relations are considered incestuous. A man must not marry the divorced wife of his brother or father. Intimate relations between a man and his mother's sister's daughter are strictly prohibited, as well as with the mother-in-law and his daughter-in law (Mönnig 1967:239).

3.17 Inheritance

In parts of Africa the heir inherits the cattle and all the personal property of the deceased. The heir becomes responsible for all his predecessor's inabilities as well as his asserts, and must endeavor in the course of time to fulfill all his obligations. This heir in the direct line, as well as inheriting the personal possessions and cattle, is the recognized head of the family. This person also inherits all the family sacred objects. Normally the heir is the eldest son of his father's great wives (Stayt 1968:167).

The wives of a deceased man are inherited laterally by his surviving brothers subject to certain conditions. Among the Venda it is the eldest sister who has the right of allocating the wives, usually acting on the advice of her eldest surviving brother. If the father is alive, or any of his sisters or brothers, they in that order, have the prior right in the distribution. The eldest uterine brother of the deceased man is given precedence in the inheritance of the widows. In some traditions, the eldest son of the deceased man may inherit his father's young widows (Bradley 1970:89-92; Stayt 1968:167). The Old Testament forbids a man to inherit or have sexual intercourse with his father's wife because by so doing he will be defiling his father's bed (Deut 22:30).

In the Pedi culture the eldest son of the principal wife succeeds to the status of the father. He also succeeds to the general property of the family. The property in each individual household is transferred to the son who succeeds to the father in household, namely, the eldest son of each household. The division of property is, therefore not equal, as the eldest sons inherit all the property. But with regard to the actual homesteads the Pedi "practice the system of "ultimogeniture" (Mönnig 1967:336). The youngest son of each household inherits the homestead and all purely domestic articles, such as pots and implements. The inheritance of

successors to households concerns mostly the control over livestock assigned to the household. The eldest son of the principal household obtains additional control over the livestock which was not assigned to any particular household, as well as over general possessions, such as ploughs, and the personal property of the father, such as weapons (Mönnig 1967; 336-337).

3.18 Divorce and repudiation

Divorce is unusual among African tribes because marriage is a matter of groups and not only the two parties to the marriage. A man cannot return his wife to her parents and receive compensation unless she “had several abortions, committed incest, become a habitual adulteress or thief, or has been designated a witch” (Stayt 1968:152).

The Tsonga view a divorce, *ku dlaya vukati* as entirely a matter of agreement among interested parties. A marriage can be dissolved when this agreement is revoked by the parties to the marriage- the father or guardian of the bride, and the father or the guardian of the bridegroom (Hartman 1991:114).

If a Pedi woman, who has been betrothed during infancy or even later, refuses to marry and co-habit with the man to whom she belongs, all the cattle paid for her i.e. the identical cattle, *matiaka-thoka*, with increase are recoverable. Even when they have been sold, they are taken away from the purchaser under what is called the *mamale* custom. This includes even all such gifts that the girl’s parents have already received (Harries 1929:17; Mönnig 1967:333).

Pedi law recognizes the possibility of suing for divorce (*go hlala*), but it is not looked upon with favour. The Pedi consider witchcraft on the part of either party to be suitable grounds for divorce or, if a wife has two consecutive children by another man who will brand her as a woman of loose morals, her husband may sue her for divorce. Also, if a man repeatedly and despite warnings punishes his wife excessively she may sue him for divorce. These few instances are considered as honourable grounds for divorce. The applicant will be awarded the children, marriage goods and possession (Mönnig 1967:334-336; Harries 1929:17-18).

3.19 Old Testament and Pedi marriage custom - a comparison

3.19.1 Initiation: a gateway to marriage

Among the Pedi, when boys have passed through all important phases of initiation, they meet the requirements for adulthood and they are ripe to enter into marriage because they have been taught to take care of their wives.

Girls are also instructed in sexual matters and a code of conduct towards men in preparation for marriage and motherhood by their instructors and by other elderly women (De Beer 1979:119, 121).

De Vaux (1973:47, 48) is of the opinion that initiation was probably originally an “initiation-rite before marriage” in ancient Israel.

Zipporah highlighted the significance of circumcision on marriage when she took a flint, cut off her son’s fore-skin, threw it at Moses’ feet and said “you are a bride groom of blood to me” (Exod 4:25).

Initiation is a cultural institution where boys and girls are trained in sexuality and marriage relations. This custom teaches boys to be good stewards of their households.

Both Old Testament and Pedi traditions view circumcision as a *rite de passage* to marriage.

3.19.2 Virginitiy test

The custom of a virginitiy test was prevalent in the ancient Pedi tradition because in the words of Harries (1929:63) “the BaVenda... always get into touch with *Maruteng* (the headquarters of the paramount *Bapedi* chiefs) before establishing a lodge, and if possible, obtain the services of a *Mopedi* (Chief) to do the operation”. This inter-cultural relationship suggests the Venda influence on the *bjale* session. The virginitiy test and initiation seem to be inseparable.

Another feature of the patriarchal system in Israel is the emphasis on a woman’s virginitiy. In ancient Israel, a bloodstained cloth or chemise was exhibited after the wedding night, as proof of the bride’s virginitiy (Deut 22:13-21). Adulterous women

and girls who were found not to be virgins at the time of their marriage, were to be stoned (Deut 22:21, 22). Qumran documents even contain provisions for physically examining of a woman to confirm her virginity (Satlow 2001:118).

Virginity test gauges the moral fibre of the initiated girl. The purpose of this custom is to ensure that initiated girls keep their virginity pure until they get married.

The virginity of a woman is a required quality in the Old Testament tradition. The Pedi culture does not put emphasis on woman's virginity.

3.19.3 Polygamy and monogamy

Pedi people are predominantly polygamous. There is no limitation placed on the number of women a man may marry-whether he be a chief, headman or commoner. The modern Pedi are mostly monogamous because of Christian influence on their tradition (Moila 1987:98).

Marriages from the posterity of Seth (e.g. Noah, Gen 7:7) are portrayed as having been monogamous, but Lamech, from the line of Cain, set a precedence for polygamy, by having two wives (Gen 4:19). The tradition holds that Abraham, Jacob and Esau each had at least two wives or concubines. However, Gideon must have had many wives in order for "the seventy sons to have been issued from his loins" (Jdg 8:30-31). Other polygamists include David and Solomon who had 700 wives and 300 concubines (1 Kgs 11:3). On the contrary the New Testament tradition supports monogamy (Math 19:5).

A polygamous marriage ensures the numerical strength of the husband's posterity and elevates his status in the community.

The Old Testament and Pedi traditions prefer monogamous marriage to polygamy. Polygamy was practiced by the wealthy in these cultures.

3.19.4 Levirate marriage

In Pedi tradition, after the death of a husband measures are taken to look after the widow and to ensure she bears more children for the husband. Children born from the Levirate bond - *go tsenela* custom - derive their status from the deceased man even though he is not their biological father. The *levir* is usually the younger brother

or half-brother of the deceased or next of kin. Provision is also made to filial levirate where the man may “inherit” the younger wives of his father and so “raise his own brothers” (Kupa 1981:30).

There are no traces of filial levirate in the Old Testament tradition as it prohibits a man “not marry his father’s wife and not violate his father’s marriage bed” (Deut 22:30). Absalom’s co-habitation with his father’s concubines (2 Sam 16:22) was a rebellious act. The purpose of levirate was probably to hold together family ties, to ensure a male heir and to ensure that a property did not fall into the hands of strangers (De Vaux 1978:38; cf Lev 25:25; Rt 4:1-6 see Deut 25:5-10). The custom was that, if a man died without having had children, then his eldest brother (redeemer) would have to marry the widow and then the children from that marriage would be reckoned as those of the deceased.

However, unlike in the Pedi tradition, the tannatic law limits the need for a levirate marriage to the case where (1) the deceased man left no descendants at all; (2) he has brothers living at the time of his death, (3) none of his ex-wives fall into a number of other relationships to each other and the levir; and (4) the widowed wife is fertile or at least not manifestly infertile and not pregnant (Satlow 2001:187).

Levirate marriage ensures that the marriage continues even after the death of the husband and that his bloodline is perpetuated.

Old Testament and Pedi traditions observe levirate alliance to raise a name for the deceased.

3.19.5 Inchoate marriage

For the Pedi, the formal conclusion of *go thiba sefero*, (betrothal) with the payment of *magadi* qualifies the betrothed girl to be considered married. She may co-habit with the man who betrothed her and bear children for him (Kupa 1981:17; Harries 1929:9-10). Inchoate marriage is dissolved by divorce only.

In the Old Testament tradition, betrothal had legal consequences. From the time when which the betrothal was formally concluded (probably with the payment of a *mohar*, or bride-price), the betrothed woman was considered, to be married (Satlow 2001:69). The New Testament tradition has a record of this constitutive form of

betrothal among the Jews according to Matthew (1:18-19). Mary is described as “betrothed” to Joseph but they had not yet “come together”. Joseph is termed “her husband”; and he desired to “divorce her”. The betrothal of Joseph and Mary was a form of inchoate marriage that (1) reckoned Mary as fully married for the purpose of defining an adulterous relationship, and (2) required divorce or death to terminate (Satlow 2001:72).

This custom also brings two family groups together and its dissolution will also need the attention of these groups.

The betrothal of a woman in the Old Testament and Pedi traditions is legally binding and can be terminated by divorce only.

3.19.6 Sororate marriage

This custom is observed in the Pedi tradition when a married woman is barren. She will, of her own volition, approach her parents and ask them to give her a sister to help her to bear children. If a younger sister is available they will comply with her request, as they are through the *magadi* they received, under the obligation to the son-in-law. If they have no other daughter available they will approach their relatives, particularly the mother’s brother of the barren woman. If a sister or other close relative is available she will be married as ancillary wife. Such an ancillary or subsidiary wife is called *mohlatswa dirope* (cleanser of thighs) or *mohlatswa-dinoka* (cleanser of hips). She comes to clean thighs or hips of her sister, and to bear children for her (Moila 1987:100; Harries 1929:13-14).

In the Old Testament we are introduced to a different form of sororate marriage where the substitute woman is not the principal wife’s younger sister or close relative, but her bondmaid. E.g. Abraham’s wife Sarai gave Hagar, her Egyptian slave to her husband as a wife whereafter she bore him a son (Gen 16:15); Rachel gave her slave Bilhah to Jacob as a wife and she bore him two sons (Gen 30:14, 7) and Leah gave her slave Zilpah to Jacob as a wife and she also bore him two sons (Gen 30:9, 12).

The purpose of sororate marriage in the Old Testament and Pedi traditions is the continuation of a lineage for the deceased or barren wife.

3.19.7 Marriage of a woman to another woman

In the Pedi tradition a married woman who realizes after some years that she will not have male children and does not have a younger sister or other next of kin to marry as a substitute, may pay *lobola* for the girl of the next younger generation. The young woman's male relative will co-habit with this "bride" to bear children for the woman who has paid *lobola* (De Beer 1979:21).

The Old Testament tradition does not bear record of marriage of woman to another woman.

The main focus of this alliance is on the birth of male descendants for the woman who has paid *lobola* to inherit her property.

3.19.8 Ghost marriage

This kind of bond is contracted by the relatives of a man who died without having children. It is called *go tsoša leina lamohu*- to raise the name of the deceased. Such a marriage is contracted only for men who died after having been initiated, in other words for those who have been recognized as men. Ghost unions are also contracted for men of high rank, and particularly for the Chiefs, where succession is important, who died without marrying their principal wives. The tribe chooses a girl who is the daughter of the deceased chief's maternal uncle and pays *lobola* for her. A senior member of the royal household will then be appointed to co-habit with her. A male child born from this union belongs to the deceased chief and he is entitled to succeed the deceased chief (De Beer 1979:21).

There is no trace of such marriage in the Old Testament tradition.

Like the levirate and the sororate union, the ghost marriage focuses on procreation and the preservation of a family line.

3.19.9 Endogamy and exogamy

Endogamy - In the Pedi culture families and the society prefer arranged marriages for their children. There is usually no room for the children to express their disapproval of such an arrangement. The preferred marriages are between a young

man and his mother's brother's daughter or his father's sister's daughter (De Beer 1979:21).

Exogamy - Apart from the restrictions placed on marriage with certain relatives, the Pedi man is free to marry any other relative, or for that matter any woman in, or even outside the tribe (Kupa 1981:27).

Endogamy - Examples of marriages within the kinship or social groups of the Old Testament tradition are found mainly among the narratives concerning the Patriarchs, such as in the case of Isaac (Gen 24:34-50) and Jacob (Gen 29:23, 28). Such marriages between cousins (Gen 25:20; 29:9-30), but also to strangers (Jdg 1-4), as well as for political reasons, could take place. Parents played the most important role in the choice of a life companion for their children, as for example in the case of Caleb (Jos 15:16) who chose a life partner on behalf of his daughter. Marriages between first cousins are common among the Arabs of Palestine, where a young man "has a strict right to the hand of his cousin" (De Vaux 1978:31).

Exogamy - Marriage did occur, however, between persons of different families, and even with foreign women. Esau married two Hittite women (Gen 26:34), Joseph an Egyptian (Gen 41:45) and Moses a Midianite (Exod 2:21). David had an Aram(a)ean among his wives (2Sam 3:13). Samson married the Philistine woman (Jdg 14) and Solomon's harem included Moabites, Ammonites, Edomites, Sidonians and Hittites (1 Kgs 11:1 cf 14:21). Achab married Jezabel, a Sidonian (1 Kgs 16:31). Israelite women were married to foreigners, Bathsheba to a Hittite (2 Sam 11:3), and the mother of Hiram the bronze-worker to a Tyrian (1 Kgs 7:13-14).

Both the Pedi and Old Testament cultures prefer the marriage between first cross-cousins although there are also traces of marriages between persons of different families in these traditions.

Both the Old Testament and Pedi reflect practices of endogamy and exogamy.

3.19.10 Betrothal custom

The most common form of a betrothal custom practiced by the Pedi is the betrothal of infants. Parents give their daughters in marriage while the latter are still infants. It

frequently happens that two brothers will arrange for the intermarriage of their respective children, present or even prospective (Harries 1929:6-7).

A betrothal custom existed in Israel, and the Hebrew bible has a special word for it, namely “aras” which “occurs eleven times in the Bible” (De Vaux 1978:32). This custom existed in Mesopotamia also. An engagement or betrothal was concluded by the payment of the *tirhatu*, the equivalent of the *mohar*, and it entailed “juridical consequences” (De Vaux 78:33; Satlow 2001:69-86).

In the Old Testament and Pedi cultures, betrothal unites two family groups of a prospective son-in-law and prospective daughter-in-law. Betrothal is concluded with the payment of *magadi* to make it more binding.

3.19.11 Economic aspects - marriage payment

Magadi (bride price or marriage payment) consist of cattle, or the equivalent of cattle (money). In Pedi tradition cattle have been considered to be the only proper marriage goods. Although other stock, or money, may serve as substitute for cattle, all discussions make mention only of cattle. In the past five pounds, ten goats or five sheep were usually taken as the equivalent for one ox. In Sekhukhune land, it is also expected that *magadi* should not consist only of money, but that it should include some livestock, preferably a few cattle (De Beer 1979:153).

The Hebrew Bible describes “a single primary marriage payment”, the *mohar*. This is the sum of money to be paid by the groom to the father of the family of his prospective wife. The word occurs three times (Gen 34:12; Exod 22:16; 1 Sam 18:23). The amount could vary depending on the girl’s father (Gen 34:12), and on the social standing of the family (1 Sam 18:23). For a compulsory marriage after a virgin had been raped, the law prescribed the payment of fifty shekels of silver (Exod 22:16; Deut 22:29). A fiancé could also obtain a wife through labour as Jacob did for both his marriages (Gen 29:15-30) or by fulfilling a heavy task given to him, as David did for Michal (1 Sam 18:25-27) and Othniel for Caleb’s daughter (Josh 15:16-Jdgs 1:12).

The provision of *magadi-lobola*, *mohar* or *tirhatu* is not a means to purchase a woman but a token of gratitude by the groom to his in-laws for raising a wife for him.

In the Old Testament and Pedi cultures, the groom pays either the sum of money, or shekels, *mohar*, *tirhatu*, or *magadi* cattle to the father of his prospective wife.

3.19.12 Marriage ceremonies

The marriage ceremonies among the Pedi occurred in several stages: the *bakgonyana*, the groom's group's official representatives have to go to the bride's place to arrange the festivities after the payment of *magadi* (*lobola* cattle). They are the witnesses of the whole transaction. The formal transfer of the bride may be considered as the formal act of marriage. Other stages include the *go lata* and the *go beka*. This is followed by *go goroša ngwetši* (the home-coming of the bride), which is the final transfer of the bride to her *bogadi* (in-laws). This takes place when the whole transaction is concluded. The bride, accompanied by a few women friends from her group and usually also her mother, proceed very slowly to the *bogadi*-groom's place where the bride will present her mother-in-law with a slaughtered piece of meat (*mohlobola-mogolo*) (loin). This comes from the animal slaughtered for the wedding feast, which she has brought with her. When this is accepted, she uncovers her head (Moila 1987:100).

De Vaux (1978), Satlow (2001) and King & Stager (2001) hold a similar view on this aspects of marriage that in antiquity, a wedding was a public event. In Greece, Rome and Jerusalem, a wedding normally began with procession of the bride from her father's house to her future husband's residence, with the groom wearing a diadem (Cnt 3:11; Isa 61:10). He was accompanied by his friends with tambourines and a band. Generally, a wedding procession in antiquity had "three distinct functions" (Satlow 2001:170). It is an enactment of the separation of a bride from her family; it provides public 'proof' that a legitimate marriage occurred; and through its public celebration it reinforces the societal value placed on marriage: Israelite wedding processions appeared to have served all three roles (Satlow 2001:170; De Vaux 1978:33; King & Stager 2001:55).

A wedding is regarded as a public event in both the Pedi and Old Testament traditions. This custom normally begins with the procession of the bride from her father's house to her future husband's residence. The ceremony involves the transfer of the bride to her in-laws.

3.19.13 Kinship system and avoidances

The adult Pedi person groups his/her closer relatives into three categories, namely *bešo* or *bana bešo* (agnatic relatives); *ba ga malome* (maternal relative); *ba bogwe bjaka* (a man's affinal relatives).

Bešo or *bana bešo* (agnatic relatives) is a group to whom a person belongs socially, among whom a person grows up. In this group a person's relationship is determined lineally through his father, and a closer unity is conceived to exist between those descended from one mother. The children of one mother, full brothers and sisters are grouped together as *bana-ba-letswele* (children of one breast). An older brother is superior. The relationships within this group are frequently formal (Mönnig 1967:237-238).

Baga malome or maternal relatives are those of my mother's brother and are a group from whom a person can expect to receive affection and gifts. Within this group a close relationship is conceived to exist between all those persons directly descended from the maternal grandmother. They are called *bampa*, or morefully *bana-bampa-e-tee*- the children of one womb. This group includes the children of co-wives who are sisters (Mönnig 1967:239).

Affinal relationships for both men (*ba bogwe*) and women (*ba bogadi bjaka*-those of the place where marriage goods come from) are one of mutual respect and friendship (Mönnig 1967:239).

In the Pedi culture a man is prohibited from having intercourse with his mother, sister or daughter. Such relations are considered incestuous. A man must not marry the divorced wife of his brother or father. Intimate relations between a man and his mother's sister's daughter are strictly prohibited, as well as with the mother-in-law and his daughter-in law (De Beer 1979:154).

The Israelite family was in essence patriarchal. The genealogies are always given in the father's line, and women are rarely mentioned; the nearest relation in the collateral line is the paternal uncle (cf Lev 25:49). There is also mention of maternal uncle (Gen 29:13-14). The father had absolute authority over his children even over his married sons if they lived with him and over their wives (De Vaux 1978:20).

The family in Old Testament times consists of those who are united by common blood and common dwelling place. According to Old Testament texts Noah's family includes his wife, his sons and their wives (Gen 7:1, 7). His genealogy from Shem to Abram (Abraham) (Gen 11:10-32) includes fathers, grandfathers, mothers, grandmothers; a grand children, uncles, aunts, brothers, sisters, nephews and nieces. The family of Jacob, from whose loins the twelve tribes of Israel emerge, comprises of three generations (Gen 46:8, 26).

The Old Testament prohibits sexual intercourse with a relative: mother, mother's sister, father's sister, father's wife, father's daughter, mother's daughter, son's daughter, daughter's daughter, father's wife's daughter, father's brother's wife, daughter –in-law, brother's wife and a woman and her daughter (Lev 18:6-7).

These cultures group their closer relatives into agnatic relatives, maternal relatives and affinal relatives. Families of both Pedi and Old Testament traditions are patrilineal, patriarchal and maternal.

3.19.14 Inheritance

In Pedi culture the eldest son of the principal wife succeeds to the status of the father. He also succeeds to the general property of the family. In polygamous households, the property in each individual household is transferred to the son who succeeds the father in household. Thus the eldest son of each household inherits the whole inheritance: the whole property, control of the livestock as well as general possessions like ploughs, and personal property of the father, such as weapons (Harries 1929:27).

In ancient Israel, if a man died without having children, the property passed to his male kinsmen on his father's side, in the following order: his brothers, his father's brothers, his nearest relatives in the clan (Num 27:9-11). His widow did not have a share in the inheritance while the Babylonian law and the usage stipulated that "a widow must have a share in the inheritance, or at least that she was to keep what she had contributed to marriage and the gifts she had received from her husband" (De Vaux 1978:54). The contracts of Elephantine "allows a childless widow to inherit from her husband" (De Vaux 1978:54).

Daughters did not inherit, except when there were no male heirs. Daughters of Selophehad inherited their father's property (Num 27:1-8) on condition that they were to find husbands from a clan of their father's tribe, and so prevent the family property from passing to another tribe (Num 36:1-9). The unique exception is that of Job's three daughters who received a share of their inheritance along with their seven brothers (Job 42:13-15). The Deutoronomist stipulates that in the event of a bigamist's death, the eldest should receive an inheritance even if his mother was "unloved" (Deut 21:15-17).

In the Old Testament and Pedi cultures inheritance was passed to the eldest son. There are few exceptions in the Old Testament where daughters inherited their father's property. The legal system in South Africa affords a widow the right to have a share in the inheritance.

3.19.15 Divorce and repudiation

Pedi law recognizes the possibility of suing for divorce (*go hlala*), but it is looked upon with disfavor. The Pedi consider witchcraft on the part of either party to be suitable grounds for divorce. Also, if a man repeatedly and despite warnings punishes his wife excessively she may sue the husband for her divorce. These few instances are considered as honourable grounds for divorce, and the applicant will be awarded the children, marriage goods and possessions (Moila 1987:100).

Deuteronomy (24:1) permits a man to write his wife a divorce certificate if "she becomes displeasing to him because he finds something improper about her" while Sira (25:26) urged the husband: "if thy wife does not obey thee at a signal and a glance, separate from her". The form of divorce was simple: the husband made out declaration contradicting that which had sealed the marriage contract: "she is no longer my wife and I'm no longer her husband" (Sira 25:26). In the Jewish colony at Elephantine the husband pronounced in front of the witnesses the words: "I divorce my wife (literally: I hate my wife). In Assyria he said: "I repudiate her "or "You are no more my wife". In Israel, Mesopotamia and Elephantine, the husband had to "draw up a writ of divorce" (Deut 24:1, 3; Isa 50:1, Jer 3:8) which allowed the woman to re-marry. The New Testament allows divorce only for sexual immorality (Math 19:1-10; Mk 10:2-12).

The Old Testament provided the husband with grounds for divorce and he could terminate his marriage at will. The Pedi tradition shows reluctance to divorce.

3.20 Synthesis

All African tribes view marriage as an institution that brings the two family groups together. Marriage is a sacred institution where the ancestral spirit of both groups is intimately bound up with the choosing and welcoming of the bride. The actual marriage is preceded by the payment of lobola which provides a guarantee that the woman will be treated well by her husband. Lobola gives the husband the rights of parenthood or fatherhood over the members of his household. The African father or guardian has complete authority over all members of his family.

Africans believe that the death of a spouse brings a condition of darkness, *sefifi* to the surviving members of the deceased's household. In the Tsonga tradition two interments (burials) take place after the death of the husband. The first is the actual burial of the earthly remains, followed by a stimulant burial. In the second ceremony, some of the deceased's personal possessions and one article of clothing belonging to each one of his wives are buried together with him.

The Pedi place a protective stick, *lephoko*, at the entrance of the hut where the corpse is lying to warn visitors against entry into the hut. Among the Lobedu, members of the household are treated immediately after death to prevent the outbreak of *makgome* (languishing sickness). The Phalaborwa place the deceased's personal possessions on the grave to reconcile him with ancestral spirits.

In the Tsonga tradition a widow is completely isolated for about a week. Widows abstain from drinking water during this period. At the end of the period of segregation widows put on black dresses and participate in the ceremony called *byala bya mavoko* (beer from the hands). Their hands are washed in beer. After three months the *ku hluvula milala* ceremony is performed. This ceremony terminates the children's mourning period and cleanses the whole kraal. The widow's mourning period ends after a year and it is consummated with the ceremony known as *ku pumba ndzilo/ku basisa ndzaka*- to discard mourning.

Among the Pedi and the Lobedu a period of mourning and abstention from sexual activities for the widow commences immediately after the death of a spouse. The Lobedu completed this period with *khitshila*-cleansing ceremony. The Pedi also purified their widow at the end of the mourning period.

The period of abstention for the widow or widower was not observed in the Lemba tradition. Relatives of the deceased used to shave their heads and mourn for seven days. The ceremony ended with a feast.

African boys and girls undergo circumcision to prepare them for marriage. A virginity test is observed where the bride is examined by the older women to see if she has deflowered. She is then presented to the groom. All aspects of marriage customs such as polygamy, monogamy, levirate, sororate, inchoate, etc. are observed in the African traditions. Marriage with cross-cousins is a preferred custom in African culture.

Chapter 4

Interrelations between the Old Testament, the Lemba and Pedi marriage customs

4.1 Introduction

The Lemba, the so-called 'chosen people' and 'children of Abraham' are also known as Varembe (people who refuse), Basena (people coming from Sena), Basoni (a greeting used by the Lemba women), Vamwenye (foreigners, or guests, or people of the light), Balepa or Mushavi (traders). This is a tribe that claims to have originated from Israel and they use different terms to describe themselves, such as 'Israelites', 'Jews' or 'Blacks', or the 'Good men'. They refer to their sacred mountain in the Mberengwa district in Zimbabwe as the 'mountain of Good Men' (Le Roux 2003:153).

Writing in 1894, the German missionary, the Reverend Schlömann, who studied the *Malepa* (Lemba) of Northern Transvaal (Limpopo), maintained that the Lemba had lived in the area between the Zambezi and the Limpopo rivers during the eighteenth century and that those in the Transvaal had previously migrated from the region in Zimbabwe (Le Roux 2003:48-49). Schlömann was probably one of the first missionaries who had the opportunity to "live among the Lemba and had a chance to observe and record their special customs" (Schlömann 1894:56). Furthermore he highlights the fact that they held prayer meetings more frequently than other tribes; they use special language of which they do not know the meaning themselves and that they conclude their prayers, addressed to the ancestors, by the Hebrew word '*amina*'. It is also reported that they "were accepted by some authorities in the Transvaal as Jewish" (Le Roux 2003: 49, 66). There are approximately 10 000-20 000 members of the Lemba tribe in the vicinity of Sekhukhuneland (Schapera [1937:65] 1946: 65).

The Lemba co-exists with other peoples in Southern Africa, mainly in Sekhukhuneland, Venda and in the southern parts of Zimbabwe. They speak the language of the groups surrounding them, and go to local schools and hold positions in the community. However, they keep themselves separate from other tribes, regard

themselves as the branch of Yemenite Jews, and have a religion which stems from Abraham and came from a city called Sena (cf Neh 7:38; 16:31).

4.2 Initiation-a gateway to marriage

In the Old Testament the circumcision of males was a sign of incorporation into the covenant with God (Gen 17:7-11). It was originally an 'initiation-rite before marriage' (De Vaux 1973:47, 48), and also incorporation into a respective clan (cf the story of the Shechemites (Gen 34). Circumcision took place on the eighth day. The covenant and circumcision made them special and unique from the heathen around them. Initiates received new names after circumcision. The Israelites linked circumcision to the *Pesah* ceremony. Similarly, the Lemba observed circumcision as a sign of incorporation into the covenant with God/Mwari (Mathivha 1992:48). The circumcision makes the Lemba special and peculiar from the heathen around them (Le Roux 2003:188). The initiates receive new names after circumcision (Le Roux 2003:192). The Lemba combine the circumcision with the *Pesah* ceremony (Mathivha 1992:51).

In the Lemba tradition, girls attend an initiation ceremony called *Vhusha* or *Vhukomba*. During this week girls are taught about womanhood and the way in which they could entertain their husbands. They are taught that uncircumcised men are weak and that they should not get married to such individuals (Le Roux 2003:188). Furthermore, they are taught to respect the elders and to observe good order in the family. The principles of cleanliness in their sexual lives are emphasized very strongly. The Lemba girl is also taught how to plan her family by spacing her children (Mathivha 1992:48). In the Pedi tradition this custom also existed where boys and girls are instructed on sexual matters and marriage relationships. The initiates are also incorporated into a tribal community (Kupa 1981:26) and they also receive new names, e.g. I received a new name, Moraswi, after being incorporated into Pedi tribe. This implied that I was also circumcised. The Old Testament tradition does not practice female circumcision.

4.3 Virginty test

In ancient Israel virginty was regarded as an important characteristic quality which a girl should value. A clean cloth was used to examine the girl's virginty on the night of

the wedding (Deut 22:13-21). If she has lost her virginity she was sent back to her parents and her husband was compensated. Lemba girls are inspected by old women before marriage to prove their virginity. If she had lost her virginity she was sent back to her parents and the lobola had to be paid back (Le Roux 2003:91).

In the Lemba traditional families a small ceremony usually takes place before the wedding. The bride's family brings a basket with a *kalabash* to the family of the groom. When the *kalabash* is still whole, it symbolizes the virginity of the future bride (Le Roux 2003:91). If the *kalabash* has a hole in it, it means the opposite, namely that the virginity has been lost. The Lemba take marriage seriously. Therefore girls are subjected to inspection by older women to prove their virginity. If a Lemba girl had lost her virginity she was sent back to her parents and the *lobola* had to be paid back (Mathivha 1992:51).

In the Pedi tradition, virginal purity is a necessity but not an absolute pre-condition to enter into a marriage contract. There is no claim of compensation by the man who discovered that his wife is not a virgin.

The Old Testament and Lemba traditions place a high value on the girl's virginity.

4.4 Polygamy and monogamy

The Israelites practiced polygamy to "satisfy the urgency for survival and self-assertion" (Van Zyl 1998:189) and for political gain (De Vaux 1978:38). Monogamy was also observed in Israel. Among the Lemba, the purpose of polygamy is also to ensure descendants. They also observe monogamy. A Lemba man may marry more than one wife. The ranking of the wives determines the succession of the children. The succession follows the father's line. The first wife a man marries, is usually the most important wife; the other wives rank as minors in order of marriage. The first wife is therefore always consulted by her husband about important issues in the household (Mathivha 1992:51).

The purpose of polygamy is to ensure descendants, but a man is not allowed to marry more than one wife if he cannot look after them properly. According to Mathivha (1992:51) such a family "always eats together and learns to share everything (even the husband)". In this way, a spirit of charity to one another is

created. It is only when a husband shows favouritism towards a specific wife that rivalry among the wives occur.

Schapera ([1937] 1946:203) concurs that: “Polygamy is practiced, but, except in the case of chiefs and other prominent wealthy men, not to any marked extent.” He infers that polygamy is practiced by most African tribes, but not every man has many wives. His contemporary, Junod (1908:150) found that many men are monogamists, not by choice, but because of circumstances (e.g. economic factors). He surmises that monogamy existed first and that polygamy emerged only later as a result of the following reasons: first, because wars diminished the number of men and secondly, because of the law of succession (e.g. levirate) a younger brother inherits the widow of his elder brother, whether he is married or not. Most of the Lemba, however, feel strongly in favour of monogamous marriage: this is probably due to economic reasons and because of the Christian influence (Junod 1908:150).

For the Pedi, the purpose of polygamy is also to ensure posterity (Moila 1987:98).

These cultures observe polygamy to ensure having many descendants.

4.5 Levirate marriage

The Israelites practiced the levirate custom to protect family ties, family property and to secure the family name. The younger brother slept with his deceased brother’s widow to produce offspring for him if he died without having children (Deut 24).

Wessmann (1908:132) has observed the practice of levirate marriage among the Lemba, and describes it as follows: “(T) here still exists among them, as well as among the Bavenda (Bavhenda), that ancient Israelite law, the levirate marriage”. Similarly “when, a brother takes two wives, the wives of his deceased elder brother, and raising the offspring, they rank in office as if they were the children of the deceased” (Hall 1905:101). The purpose of these marriages is mainly to protect the family. The brother or closest family member, who marries the widow, has to look after her and her children as his own. The children from the levirate marriage are considered as the children of the deceased and also inherit from the deceased.

In the Pedi tradition, the younger brother has an obligation to enter the hut of his deceased elder brother to raise children for him (Kupa 1981:30).

The Old Testament, Lemba and Pedi traditions practice levirate bond to raise a seed or a name for the deceased-an heir who will inherit family property.

4.6 Inchoate marriage

Inchoate marriage is a form of alliance which considers the betrothed girl to be married from the time at which betrothal was formally concluded (probably with the payment of cattle or money) (Satlow 2001:69). In Israel tradition the betrothed girl is considered to be married. Inchoate marriage is prevalent among the Lemba because they are closely related with the Venda and the Israelites who practice it (Stayt 1968:152). The Lemba had intermarried with the Venda “because of the acculturation” (Le Roux 2003:89).

For the Pedi, the formal conclusion of *go thiba sefero* with the payment of *magadi* made the betrothed woman to be regarded as married (Kupa 1981:17).

The betrothal or engagement of a woman in the Old Testament, Lemba and Pedi traditions elevates her social status to “wife”.

4.7 Sororate marriage

Sororate union is a marriage custom which obliges a younger sister to be married to her barren or deceased sister’s husband and to bear kids for her. In ancient Israel the sororate marriage was a union between the master and a bondswoman (Gen 16:15; 30:14) to maintain the existing marriage.

The existence of such a custom in the Lemba tradition could be authenticated by the prevalence of such a practice among the Venda- the first South African tribe to co-exist with the Lemba (Stayt 1968:152). The Lemba are strictly endogamous and the purpose of their marriage is twofold, namely, to procreate and to protect their bloodline from contamination by alien blood (Le Roux 2003:88). Thus the Lemba practice sororate marriage. The Lemba, by virtue of their endogamy and close association with the Venda, could also practice sororate to preserve their family bloodline (Mathivha 1992:51).

In the Pedi culture, the younger sister enters the hut of her barren or deceased sister to “perpetuate the marriage for which it was built” (Moila 1987:100).

4.8 Marriage of a woman to another woman

The Old Testament tradition does not observe the custom where a woman who has no male-heir in particular, marries another woman and organize a male relative to co-habit with her for the purpose of obtaining children.

Mathivha (1992:51) refers to the phenomena of Lemba women in Venda marrying other women: “The married woman is subjected to the authority of a woman who has paid *lobola*. She is the “father” to the children of the woman she has married. All *lobola* property goes to her. The children of the woman married by her inherit her property, while her children inherit from their father”.

Le Roux (2003:92) reports that although the meaning of a woman-to-woman relationship is not explained, it has been reported to her that the single woman who decides to marry another woman with her children (perhaps from different men) is “usually someone who is handicapped in one way or another and wants the support of people (a woman and children)”. Usually men are not interested in marrying a handicapped (often sterile) woman and therefore, the only way out is to “marry another woman who also needs the support system”. The woman who has paid *lobola* is a “husband” of her ‘wife’. The “husband” will therefore appoint a lover or a suitor to co-habit with her ‘wife’ to bear children for her (Preston-Whyte [1937] 1974:177-210).

The purpose of woman-to-woman marriages is to ensure the perpetuation of a household lineage “in the absence of sons, through raising an heir to inherit a property or position” (Preston-Whyte [1937] 1974:177-210).

Both the Lemba and the Pedi observe this bond and regard it as a means of ensuring “continuity of family in the absence of sons, through raising an heir to inherit a property or position” (Le Roux 2003:92; De Beer 1979:21).

The purpose of both sororate union and marriage of a woman to another woman is procreation.

4.9 Ghost marriage

The Israelites and the Lemba do not practice ghost marriages where parents contract marriage on behalf of their circumcised son who died before marriage to “raise a name” for him. The Pedi practice ghost marriage, *go tsoša leina la mohu-* to raise a name of the deceased (De Beer 1979:21).

4.10 Endogamy and exogamy

For both the Israelites and the Lemba marriage was based on purity (Exod 12:48-49; cf Num 9:14; Mathivha 1992:51). Strict endogamy was their secret of survival as a distinct people (Gottwald 1980:285-287; Le Roux 2003:88). Daughters could only marry their own people and only circumcised (‘clean’) men (Gen 26:34-35; 29:9-30; Le Roux 2003). Men were strictly prohibited against marrying gentiles/heathen (Deut 7:3; Mathivha 1992:51). Both cultures were convinced that the heathen spouses will lead them astray to worship foreign gods or to eat *Nyamafu* (pork, dead animals, etc) (Le Roux 2003:89; Lev 11:4-7). They were forbidden to marry their own brothers and sisters (Lev 18:6-18). But, there were also cases of exogamy in these cultures (Jdg 14:2-3, 1 Kgs 11:1; Mathivha 1992:51). The Pedi preferred marriages between cross-cousins (Kupa 1981:56) although exogamy is practiced. Marriages between sisters and brothers are also forbidden in this culture (Kupa 1981:27).

Strict endogamy is a dominant feature in these cultures.

4.11 Betrothal customs

This custom was concluded with the payment of shekels in the Old Testament tradition (Deut 22:28-29; Exod 22:16). The Lemba observe betrothal custom. Among the Lemba, the preferred betrothal is between a man and the daughter of his maternal uncle. The Lemba and the Pedi concluded this custom with the payment of cattle (one ox) (Stayt 1968:144; Harries 1929:6-7). Betrothal precedes the actual marriage in these cultures and it is a matter between two families.

Betrothal custom unites the family groups of both the prospective groom and the bride.

4.12 Economic aspects: marriage payment

In the Old Testament the *mohar* was the sum of money to be paid by the groom to the father or family of his prospective wife. This payment could be in the form of objects of silver and gold or precious gifts (Gen 24:53) and shekels (Deut 22:28-29; Exod 22:16) or through labour (Gen 29:15-30).

Lobola is the price for the bride, negotiated between two groups of people involved. Paternity is determined by the *lobola* cattle which are given by the groom's father to the father of the bride. This custom is still in force among the Lemba even today. The price for the bride can either be cattle or a sum of money, or both. *Lobola* (bride price or marriage payment) consists of cattle, or, the equivalent of cattle money. Usually it is through the payment of *lobola* that a man obtains "a right to the children he begets by a woman, or to any other children she may bear during the existence of the marriage" (Schoffeleers 1966:22). All unmarried girls are the father's property and he receives all *lobola* cattle, since he is the father of the family. Daughters are therefore valuable items of exchange to the father (Mathivha 1992:51).

In both the Lemba and Pedi tradition *lobola-magadi* is paid in cattle, money or both (Le Roux 2003:91; Mathivha 1992:51; De Beer 1979:153).

4.13 Marriage ceremonies

Marriage was a public event in the Old Testament tradition where the host (bride's father or the groom) invited all the men of the place to a wedding feast to witness the event (Gen 29:22; Jdg 14:10). Wedding celebrations took the whole week (Gen 29:28). The bride would normally cover herself with a veil before she meets the groom (Gen 24:65). In this ceremony, the guardianship of the bride was transferred to her husband or in-laws (Gen 29:23, 28). The wedding always commences with a procession of the bride from her father's house to her future husband's residence.

The Lemba, like any other African society, observe marriage as institution that involves two family groups. The conclusion of this custom is always accompanied by ceremonies such as feasting, the transfer of bride's guardianship to her in-laws and the procession of the bride from her father's house to the groom's residence (Harries 1929:9).

In the Pedi culture, marriage also remains the public event which involves two family groups. Ceremonies such as (fetching the bride) *go lata*, *go goroša ngwetši* (the home coming of the bride), *go beka* (the final transfer of the bride) to the *bogadi* (place of lobola) are marked with celebrations (Moila 1987:100).

Marriage was a public event in these cultures so that the transfer of the bride's guardianship to her in-laws by her father must have witnesses.

4.14 Kinship system and avoidance

The patriarchal system was a principal feature in ancient Israel. The emphasis was placed on the genealogies of the father's line. The only reference of a genealogy from the mother's line is "Bethuel son of Milcah" (Gen 24:15). The following relationships are traced in the Old Testament: father's line (paternal relatives) and mother's line (maternal relatives) (Lev 18:12-13); man's affinal relatives (Exod 2:16-22) and woman's affinal relatives (Ruth).

The Lemba are communally organized into clans or lineages. Each lineage is headed by its own chief (called *ishe* in the past) (Le Roux 2003:196). They are a patriarchal community with their social organization based on the extended family, which is the focus of life. This social organization might differ from clan to clan and from family to family (Mathivha 1992:48).

Women and daughters are subjected to the authority of their husbands or fathers. This means that the father makes final decisions in the extended family, but the wife also has an important role to play in the household. In the family individuals are closely bound to each other, both because of blood or of marriage because they are living together. The concept of the family involves a wide range of members including children, parents, grandparents, uncles, aunts, various relatives on both the father's and mother's side (Stayt 1968:172-181, see Magesa 1997:115). Based on the 'purity' of their religion, the Lemba are opposed to morally reprehensible practices such as incest, marriage to a mother's sister, a father's sister, a father's wife, a father's brother's wife, etc (Mathivha 1992:48).

Similar genealogies are followed in the Pedi tradition where they include agnatic relatives. The marriage customs of the Old Testament, Lemba and Pedi traditions are

dominated by a patriarchal system. These cultures prohibit sexual intercourse with agnatic relatives.

4.15 Inheritance

In Israel the father informed his family verbally of the division of his possessions (2 Sam 17:23; 2 Kgs 20:1). Only sons could inherit. The eldest son usually received a double portion of the inheritance. Widows could not inherit, except when there were no children. Sons and female slaves could also not inherit except when they were legally adopted. Daughters could also inherit if there were no sons (cf Num 27).

In the Lemba tradition both sons and daughters inherit from their fathers. The position of the heir is determined by the lobola cattle which were given by the man's father. Women are ranked according to the preferential marriage already given. The children of cousins are the rightful successors to the estate. The heir does not inherit property only, but also all the liabilities of the father (Mathivha 1992:51). In the Pedi culture the apparent heir is the son of the principal wife who succeeds to the general property of the family. The eldest son controls the livestock. Widows do not share in this inheritance (Harries 1929:27).

The Old Testament, Lemba, and Pedi traditions forbid widows to have a share in the inheritance. Sons are preferred heirs to their deceased father's property despite few exceptions where daughters are eligible to inherit property.

4.16 Divorce and repudiation

The Old Testament tradition permits a man to write his wife a divorce certificate if she "becomes displeasing to him because he finds something improper about her" (Deut 24:1). He must serve her with the letter of divorce and send her away (Deut 24:1). In the Lemba culture the only justifiable ground for a man to divorce his wife is when he discovered, on the wedding night that she is not a virgin. Lobola has to be returned to the groom (Theal [1898-1903] 1964e:202-203). Adultery is not considered a ground for divorce (Le Roux 2003:194). The Pedi man or woman may sue for divorce only if his/her spouse practices witchcraft. A woman may sue her husband for divorce if her husband repeatedly and despite warnings punishes her excessively (Moila 1987:100).

4.17 Synthesis

There are striking similarities between the Old Testament, Lemba and Pedi traditions with regard to marriage customs, despite few differences. Both Lemba and Pedi traditions observe marriage of a woman to another woman while ghost marriage is observed by the Pedi only. These three cultures are endogamous although exogamy is practiced to a lesser extent. The Old Testament and the Lemba traditions avoid marriage with foreign women for fear of being led astray to worship foreign gods or to eat *Nyamafu* (pork, dead animals, etc). The Old Testament tradition does not practice female circumcision. Both the Lemba and the Pedi practice circumcision for boys and girls.

Chapter 5

Final synthesis

5.1 Actuality

Marriage is a universal institution which occurs among the communities of diverse ethnicity and culture. The norms and values of a specific society play a significant role in the regulation of sexuality and marriage relationships. This bond occurs even among the minority groups of the world and is regulated by religion, state laws, institutions and customs which are developed and observed by a specific community or communities (Coertze 1977:153).

The concept of monogamy has been staunchly supported by diverse societies from as early as 2112-2095 BC. The laws of Ur-Nammu in the Ancient Near East recognized monogamy. Most Christians view marriage as a union between one man and one woman. In South Africa, only monogamous marriage was recognized until the year 1998 by the law.

The Gnostic and Marsionitic communities were opposed to marriage in the middle of the second century BC. This has provoked reaction from other Christians such as Tertullian, Irenaeus and Clemens who came out strongly in favour of marriage. Several institutions were established, namely, the American Institute of Family Relations in Los Angeles in 1930, the Marriage Council of Philadelphia in 1932 and the American Association of Marriage Counselors in 1942. The purpose of these institutions was to regulate marriage relations and sexuality and also to standardize the growing profession of marriage counselors. The International Union for Family Organizations was founded in Paris in 1948, to address the concern for high divorce rate that prevailed. The attention that marriage receives from the international congress on marriage relations confirms its actuality and importance.

Advocates of polygamy view marriage as a union between one man and more than one woman. This type of marriage occurs even among people of different religions such as the Muslims, whose male members are entitled to marry up to four women.

In Islam, it is believed that marriage must be regulated by the doctrines or teachings of their religion, namely the Qur'an.

For the supporters of same-sex union such as gays and lesbians, their partnership is a bond between a man and a man or an alliance between a woman and a woman.

Some religious groups in South Africa like the Hindu, Jews, etc. are convinced that marriage must be regulated in accordance with the teachings of their particular religion. Such marriages are currently not recognized in the South African law as valid marriages. But they may be registered as valid marriages provided the formalities of valid Marriage Act 25 of 1961 are complied with.

5.2 Problem statement

Does the Lemba culture mediate between the Old Testament and Pedi marriage customs? In chapters three and four we find striking concurrences between the marriage customs of the Old Testament, Lemba and Pedi traditions, despite few differences. The similar purpose is reflected by these cultures when observing endogamy, levirate and sororate union. Again, there are more similarities than differences concerning the payment of the dowry. Exogamy is also prevalent among these groups.

5.3 Aims and objectives

The following aims and objectives were researched:-

- Biblical, extra-biblical and African perspectives on marriage were identified and assessed;
- The investigation intended to enquire whether the Pedi marriage customs originated from a Semitic influenced culture, namely, the Lemba culture or not;
- Pedi and Lemba traditions were compared with regard to marriage customs;
- African traditions were identified and assessed with regard to marriage customs;
- Pedi and Old Testament traditions were compared with special reference to marriage customs;

- A synthesis has been made of the different aspects of marriage customs in the Old Testament, Lemba and Pedi traditions.

5.4 Methodology

This study has followed a qualitative approach. It is a literature study. The author gathered all available resources-books, articles, theses and magazines- studied and evaluated them. Although the focus was mainly on the Old Testament, Pedi and Lemba marriage customs, the researcher has also assessed resources reflecting information on similar practices among other African and extra-biblical communities, e.g. Tsonga, Venda, Zulu, Romans, Greek, Ugaritic communities, Babylonians, Akkadians, Ur and Nuzi to make necessary comparisons.

5.5 Research findings

5.5.1 Biblical and extra-biblical perspectives

The Israelites had similar perspectives on marriage relations and coupling which they practiced like their non-Israelitic neighbours. Both the Israelite groups in antiquity and the extra-biblical traditions understood the purpose and function of marriage as the creation of a home (an *oikos*) through which (1) its members gained identity; (2) a man achieved respectability and manhood; and (3) new members of the state and household were produced and raised. The home (*oikos*) was thus seen as the basic institution for reproduction, production and consumption (Satlow 2001:12).

Marriage was the agreement between two family groups. Fathers made decisions on the choices of marriage partners for their sons and daughters. Marriage negotiations were concluded in the presence of witnesses in both the biblical and extra-biblical traditions. Such marriage negotiations were also concluded in the presence of the bride's brother on behalf of his deceased father.

After the conclusion of marriage the daughter-in-law became the household property of her in-laws. The father-in-law daughter-in-law relationship played an important role. The daughter-in-law went to live at her father-in-law's house when her husband died.

In the Old Testament tradition marriage customs like polygamy, levirate and sororate union focused on the propagation of a lineage. Although the Greeks and the Romans were monogamous, they also practiced concubinage and wife-sharing. Subordination and inferiority of a woman became clear at the regulation of divorce.

5.5.2 African perspectives

The patriarchal system has dominated the marriage customs in the African and Old Testament traditions. A father had complete authority over female members of his household and he could make decisions on the choice of their marriage partners. Marriage is an event that brings two family groups together and where the transfer of guardianship occurs.

In different African and Pedi cultures girls are inspected by old women to prove their virginity. In Israel proof of the bride's virginity was also needed (Deut 22:13-21). These cultures observe monogamy, polygamy, levirate, sororate and exogamy even though exogamy is also practiced to a little extent.

The Pedi and other African tribes (Venda, Tsonga, Zulu, etc) believe that the death of the father brings a condition of gloom in the household and a period of abstention for the widow is observed.

The practice of a woman marrying another woman is not known in Israel. Only some African tribes and the Pedi practice it. The African tribes and the Pedi practice the ghost marriage custom which is foreign in Israel. Succession follows the father's line in these cultures. The eldest son inherits his deceased father's property.

5.5.3 Old Testament, Lemba and Pedi marriage customs

In both the Old Testament and Lemba traditions circumcision was a sign of incorporation into the covenant with God/Mwari. Circumcision was also linked to *Pesah* ceremony. In the Pedi culture initiates are incorporated into a tribal community.

The Old Testament and Lemba traditions observed a virginity test. If a girl has lost her virginity, she was sent back to her parents and her husband was compensated with shekels, silver or cattle.

The Old Testament, Lemba and Pedi traditions recognized inchoate marriage where the formal conclusion of betrothal with the payment of a *mohar*, *shekels*, *magadi* cattle earned the betrothed woman the status of 'wife'.

The patriarchal system is prevalent among the Old Testament, Lemba and Pedi traditions. Fathers made decisions on the choice of marriage partners for their children. Both cultures are endogamous. Daughters could only marry their own people-cross cousins. Men were also not supposed to marry from outside. However, there are evidences of intermarriage with other tribes in these cultures.

Men may marry more than one wife, but most men are monogamists forced by circumstances. Only the wealthy have many wives. The succession of the children is determined by rankings. The succession follows the father's line and first wife is usually the most important wife.

The Old Testament, Lemba and Pedi traditions observe levirate union. The brother takes the widow of his deceased elder brother. The offspring are raised and rank in office as if they were the children of the deceased. The purpose of this union was to preserve family bloodline, in order to have the security of a husband and father, to ensure a male heir and that property would not fall into alien hands. The Old Testament tradition does not practice marriage of a woman to another woman which observed by the Lemba and Pedi. Children born of this union belong to the woman who has paid *lobola*. Ghost union is observed by Pedi only.

The sororate marriage occurred between the master and bondwoman in the Old Testament tradition. This marriage custom was also observed by the Lemba and Pedi traditions where a younger sister was obliged to substitute her deceased or barren elder sister to bear kids for her.

The marriage of a woman to another woman occurred among the Lemba and the Pedi only. Such a custom was foreign in Israel.

The Old Testament, Lemba and Pedi have observed betrothal custom. The preferred betrothal was between cross-cousins in these cultures. Betrothal was concluded with the payment of *sekels*, *mohar*, cattles or money.

In the Old Testament the groom paid *shekels* or *mohar* to the father or family of his prospective wife. The groom could also give objects of silver and gold or precious gifts to his in-laws. In both the Lemba and Pedi traditions the bride-wealth is paid in cattle, money, or both.

Marriage was a public event in the Old Testament, Lemba and Pedi cultures which also involved two family groups. In the Pedi tradition, the consummation of marriage took place in several stages. Marriage was concluded with feasts in these cultures. The transfer of guardianship of the bride by her father to her in-laws was also a public event.

The Old Testament and Lemba traditions permitted their sons and daughters to inherit from their fathers. In the Pedi tradition only the eldest son of the principal wife inherits his late father's property. These cultures forbade widows to have a share in the inheritance of her late husband.

The custom of divorce occurred among the Israelites, the Lemba and the Pedi. Adultery was not a justifiable ground for divorce in the Lemba and Pedi traditions.

5.5.4 Hypothesis

The hypothesis of this study thus holds that:

There is a close relationship between the Old Testament, Lemba and Pedi marriage customs and that Pedi marriage customs originate from a Semitic culture-the Lemba culture. Nonetheless, there are also differences in these cultures with regard to marriage customs despite similarities.

The Pedi, like other tribes in Africa, practice marriage customs which resemble a Semitic culture. These tribes co-exist with the Lemba who inter-married with them and proselytized them to adopt their (Lemba) own marriage customs.

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