



**Submission by People Opposing Women Abuse (POWA) to the CEDAW Commission on
Virginity Testing as a Harmful Traditional Practice**

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Harmful traditional Practices – Virginity Testing in the KwaZulu Natal province

Organisational Background

People Opposing Women Abuse (POWA) is a women's rights organisation established in 1979 as a response to the high levels of violence against women experienced in the community. POWA's core mandate is to provide legal and psychosocial services to women survivors of violence. These services include counseling, legal advice, court support and preparation and the provision of shelter for abused women and their children. In addition to service provision, the organisation engages in research, training, lobbying and advocacy at both national and regional levels to ensure state accountability for violations of women's human rights. POWA was the first organisation in Gauteng to establish a shelter for abused women in 1984 and currently operates two shelters situated in the Gauteng area. While we acknowledge that abuse of women happens across all sectors of society, POWA's work is primarily aimed at women who come from communities with limited or no resources at all. POWA operates primarily in the townships, with branch offices in Tembisa, Soweto, Katlehong, Berea and Vosloorus. Besides providing legal and psychosocial services to abused women in these areas, POWA has a contingent of volunteers stationed at various family courts around Johannesburg.

POWA hereby makes a submission regarding virginity testing in South Africa based on input gathered through our work with Abahlali Basemjondolo, a network of radical poor people's movement located in the Kwa-Zulu Natal province in South Africa. Abahlali Basemjondoli has women's wing aimed at making the women's voice heard and ensuring that full gender equality remains a priority for social movements and demanding deep change and transformation¹. This movement is located where the practice of virginity testing is practiced.

Introduction

South Africa is a signatory to various human rights conventions including the Convention on the Rights of the Child (CRC); the African Charter on the Rights of the Child and the Convention on the

¹ Please see www.abahlali.org

Elimination of all forms of Discrimination Against Women (CEDAW) which seek to provide for the elimination of all forms of discriminatory practices and the promotion of the rights of children and women. The Constitution of South Africa (hereafter “the constitution”) further provides for the protection of various human rights including that of dignity, equality, freedom from violence and provision of security².

The practice of virginity testing in South Africa is prevalent in provinces such as the Kwa-Zulu Natal and Eastern Cape. The justification for virginity testing includes encouraging girls to remain virgins which it is believed will minimize HIV/AIDS infection and teenage pregnancy. Girl children ranging from the ages of 10 to 18 years are exposed to this practice particularly those living in rural areas and townships where the practice is very much revered. This submission, as much as it incorporates the views of women from the socialist movement, seeks to present the potential risks and harm posed for girl children. These views are of importance because they give a first hand account of women whose girl children have been exposed to this practice or those who are well knowledgeable of it bearing in mind that some views were not against or for the practice. They further give insight on the thinking behind the continuous practice of virginity testing. Recommendations will include calling for the banning of the practice as it weighs against the articles provided in the CRC, CEDAW and the constitution of South Africa.

How Data was collected

We conducted focus group discussion with groups of women of Abahlali -basemjondoli. At the initial stage of the discussions the views were varied with some women strongly advocating for the practice whilst others against it, what became apparent was that as discussions continued one could see a shift in thinking with regards to the views they held of virginity test. Further through their analysis women were beginning to see the practice as discriminatory and serving the interests of men.

Is virginity testing a fair practice? Views from the group

² See section,11,9 and 12of the Constitution of South Africa no. 108 of 1996

The women who had to argue for virginity testing being a fair practice gave the following views (as summarized):

- a) It assists in preventing sexually transmitted diseases such as HIV/AIDS as it constantly keeps girls on check to make sure they remain virgins. Girls will feel pressured to remain virgins as if tested and confirmed as such their parents will be informed and will remain proud of their child, thus is a rewarded behavior
- b) Children will learn to fear and respect themselves as when they get to be twenty(21) they can get a perfect suitor to marry knowing the girl child is a virgin
- c) It avoids promiscuity and allows for monitoring of children's activities

The women who argued against virginity testing gave the following views (as summarised):

- a) "Women can care for themselves without having to be tested" thus it should not be forced on them as it is similar to a person being forced to sleep with someone for work"
- b) In the case of a child who has been abused, virginity testing is likely to tarnish the reputation of the child and family creating the impression that the child has been promiscuous whereas has been subjected to abuse
- c) Given that it is a rewarded behaviour children get humiliated if found not to be virgins and children are forced by strict parenting and regardless of the virginity testing they still go astray or promiscuous
- d) It perpetuates discrimination as the one who hasn't tested is looked down upon thus the cultural practice
- e) The practice must end as some children join churches that pride in this culture whereas later in life you find them married to old men or the King himself. It encourages girls to marry older men because it grooms girls for the pleasure of men and some for the King of Zulus whereas this practice does not apply to boys. It further places sexual responsibility on the girl child to the exclusion of boys.

- f) It encourages children to practice anal sex as opposed to vaginal sex in fear of breaking their virginity as they are likely to be humiliated ;as a result they are exposed to vulnerability to HIV given the nature of having anal sex without protection

In terms of experiences some women stated that:

- a) She had a daughter who had gone for virginity testing prior to the annual Zulu reed dance; her daughter failed the virginity test and was told that she was pregnant whereas the daughter was a “virgin”³. Messengers from the tribe were sent to inform the parents in which she, as the parent, was told would have to pay a fine. The participant then sought a medical practitioner who informed her that the daughter was still a virgin and was neither pregnant. The daughter was humiliated in the community given that messengers were sent to her parent’s house to inform them of their daughters failed test.
- b) This practice fails because the persons allocated the task of testing these girls have difficulty in telling whether the girl children are still virgins; a certain girl child fell pregnant and was taken for testing in which she was told that she is still a virgin meaning the practice itself is flawed thus defeating the purpose.

The participants further indicated that to counter the effects of virginity testing, particularly for those who fail the test, the South African government has provided counseling facilities in the testing areas.

Our Argument

In analysing the various views given by women what becomes clear is that the practice as much as it is still revered as defining and maintaining Zulu culture on the other hand it violates the various rights protected in the South African constitution and various International Conventions. With particular reference to the provisions of the South Africa constitution, it violates the following rights which are further provided in the CRC:

³ The people who conduct the virginity tests are not qualified medical practitioners as a result it not clear what it is they are looking for in the “virginity testing process”

- a) The right to bodily integrity⁴ – The views from the women indicate that some children are given a choice in the matter rather it is due to strict parenting that they are forced to undertake this test
- b) The right to Human Dignity⁵ – as indicated that passing the virginity test is rewarded; those having failed are exposed to shame in the community and from their parents as they are subjected to punishment in the form of a fine. Further the inspection of the child’s genitals is often done by someone unknown to the child, having to expose one genitals without consenting can be humiliating .This further goes against **Article 6 of the CRC** which provides for the right to respect the views of the child whereas this in practice is less regarded
- c) The right to equality⁶ - The practices places sexual responsibility on girl children as opposed to boys as this kind of testing applies only to girls. This further goes against **Article (2) and (3) of CRC** based on the principle of non discrimination and the latter the best interests of the child as placing such an obligation at an early age grooms children to believe that they are purposed to serve male sexual pleasures. Further, it discriminates against the girl child as the same practice does not apply to boy children

Given the above, this practice is prejudicial to the health of the girl child, despite the provision of counseling facilities on site the realities in terms the various human rights violations indicated above outweigh the “positive” aspects of the practice of maintaining culture and minimizing sexually transmitted infections. South Africa is a signatory to the CRC which provides in Article 21 for State Parties to take appropriate measures to eliminate harmful social and cultural practices affecting the dignity, welfare, normal development and growth of a child.

Conclusion and Recommendations

We therefore recommend that the Committee further initiates an investigation into this cultural practice in South Africa looking into the effects of the practice against the CRC. This submission provides a snapshot of the experiences of women in the Kwa-Zulu Natal province with regards to their girl children being tested or who know someone who has been tested. It is not enough that

⁴ Section 12(2) of the constitution

⁵⁵ See section 11 of the constitution

⁶ See section 9 of the constitution

South Africa has put measures in place to deal with the effects of the practice rather banning the practice would better serve the interests of the child as explained above.