

## Article

# Lineage, Identity and Equality: Theological and ATR Perspectives on Surname Adoption

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## Abstract

The Constitutional Court of South Africa issued a landmark verdict permitting men to adopt a woman's surname, marking a significant advancement for gender equality and identity. ATR and Christian theology were premised on the same connecting principle: the transmission of authority through male inheritance, as signified by shared surnames that marked belonging across generations within social hierarchies. This study is positioned within the South African constitutional, cultural, and theological framework, which contextualises patriarchal naming norms as profoundly ingrained in both religious and customary systems. An interdisciplinary qualitative methodology was utilised, integrating constitutional jurisprudence with theological contemplation and the study of African Traditional Religion through critical textual analysis of court rulings and naming conventions. The verdict affirmed constitutional principles of equality and dignity against established patriarchal constraints on lineage and identity, revealing progressive aspects within both traditions that may be utilised for more inclusive interpretations of identity. The verdict represented a legal progression as well as a cultural and spiritual intervention; the decision prompted contemplation on nomenclature, identity, and gender justice within religious traditions. This study illustrates that constitutional law might stimulate theological renewal and reinterpretation of African Traditional Religion concerning gender equality through an interdisciplinary communication between the two domains.

**Keywords:** African Traditional Religion; constitutional jurisprudence; gender equality; human dignity; identity; lineage; patriarchy; Reformed theology

## 1. Introduction

Names have meanings, but often their meanings are beyond what they mean. They communicate aspects of culture, history, identity, and belonging. In some African societies, particularly followers of African Traditional Religion (ATR), a surname is not just an identity name. It is a name with high rank in ancestry, lineage, and continuity. Naming customs vary across the continent, however. In certain societies, a child may bear the name of a living biological father who has not yet transitioned to the ancestral realm, indicating that the surname signifies current patrilineal affiliation rather than ancestral mediation. Ancestral importance is usually manifested through specialised rites rather than being inherently conveyed by the name. In Nguni culture, the imbeleko rite ceremonially integrates a newborn into the ancestral community, whereas in the Sotho-Tswana tradition, the child's naming is intertwined with rituals that establish the individual's position within a network of kinship and ancestral guardianship (Setiloane 1986, p. 94; Mbiti 1990,



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p. 121). These examples elucidate that the ancestral significance of a name is bestowed by ritual practice and is not an inherent characteristic of surnames themselves. Some rituals in ATR cosmology convey knowledge and wisdom about connection and continuity across generations. In all this, the rituals are performed not only to connect the living with their dead but also to situate a person in relation to other relatives, entities of possession and spiritual agency, the community, and the ancestral worlds (Mbiti 1990, p. 120). The principle that a name connects an individual to lineage, profession, and fate is similarly evident in the Abrahamic texts; in fact, the practice of name change as an indicator of transformed destiny or vocation is also documented in other African civilisations. The transition from African naming to the subsequent biblical material represents a continuity rather than a sudden change, as both traditions regard the name as a locus for the reconstitution of identity. In the biblical and theological traditions, names are more than personal identifiers; they also represent a call, a role, a mandate of God. In biblical literature, this is even more common; one of the great changes that divine agency brings about in a person's identity is through a name change. So, it goes with God's promise to rename Abram, Abraham. That's also true of Jacob's name, which became Israel. The participle demonstrates the extent of divine agency in the reconstruction of a people's individual and collective identity (Van der Watt 2017, p. 3).

Patriarchy works through rich symbolic systems, as seen in ATR and Christian naming practices. Many African cultural practices use a patrilineal system in which a person's kinship, place of origin, and lineage are traced through the male line, legitimizing inheritance through this line. Historically, this system has limited women's capacity to transfer their surnames to succeeding generations (Masondo 2021, p. 56). The reading of these texts has also been patriarchal, favouring Christians adopting biblical naming traditions. In biblical traditions, the dominant site of covenantal identity is male lineages (Oduyoye 2001, p. 45). This should be interpreted as the prevailing pattern rather than the complete scenario, and Oduyoye warrants critical engagement rather than mere endorsement. The biblical traditions also maintain counter-currents when covenantal identity is conveyed through women: Hagar is a beneficiary of divine promise and the matriarch of a lineage, rendering the line of Ishmael incomprehensible without her, whereas the Matthean genealogy of Jesus intentionally includes women within an entirely patrilineal account. Examining these counter-currents in conjunction with Oduyoye prevents the simplification of a multifaceted tradition into a homogeneous patriarchy (Oduyoye 2001, p. 45; Schüssler Fiorenza 1983). Such interpretations have served to entrench a structure of male dominance across cultural, religious, and family systems, in which surnames are tokens of patriarchy.

The South African Constitutional Court ruling that permits men to adopt their wives' surnames, undermines patriarchal structures to a degree. Although rules provide an exercise of law, of equality, dignity, and non-discrimination (Constitutional Court of South Africa 2024, p. 4), this shows law operating beyond its normal parameters. The ruling shakes up established cultural hierarchies and encourages the public sphere to rethink questions about descent, identification, and gendered inclusion/exclusion from communion within religious and ethnic groups. This is the uniqueness of this law: communicating in response to social issues and stimulating public discussion on religious and cultural aspects.

Existing scholarship on names in ATR, Hebrew, and biblical theology, and gender studies, focuses primarily on contemporary constitutional processes and addresses their intersection with theological articulation and cultural conceptions of genealogy/identity. To be sure, the implications of African religious traditions, Christian theology, and constitutional jurisprudence have seldom engaged in prolonged discourse concerning the particular issue of the legal recognition of men adopting a female surname. This article seeks to address this gap by critically interrogating how a particular ruling of the Consti-

tutional Court of South Africa both revolves around and/or negates prevailing ideas of patriarchy, lineage, and identity across various religious and cultural contexts. The primary research inquiry is as follows: how does the Constitutional Court's acknowledgement of a husband's entitlement to adopt his wife's surname necessitate a reinterpretation of the patriarchal presuppositions regarding lineage, identity, and covenant inherent in African Traditional Religion and Reformed theology, and what resources within each tradition advocate for a more gender-equitable perspective on naming? The study is intentionally situated within the South African context; while it incorporates information from other regions of the continent, it does so for illustrative purposes rather than as proof of a singular, homogeneous "African" practice.

This article took an interdisciplinary approach intersecting ATR, Christian theology, and constitutional law. The fields concerned are in a dialectical conversation about the Court's ruling as a legal, cultural, and theological provocation that mandates a rethinking of questions of naming, lineage, and gender identity in South Africa.

The article draws on several disciplines to consider what it means for men to take female surnames. It examines the tension between such a development and traditional notions of lineage, while also discussing anti-patriarchal ideas in African traditionalism and in Christian theology. Situating the Court's reasoning in terms of wider debates about ancestry, identity, and equality, it argues that the judgment should be read as a cultural and theological challenge to reconsider the preservation and transmission of individuals' names, and to examine this issue in conjunction with post-apartheid promises such as gender equality—justice and human flourishing more generally under contemporary South African conditions.

## 2. Theoretical Framework

The principles of this study are based on African feminist theology and postcolonial theological reflection. African feminist theology provides us with the possibility of interrogating and demystifying the patriarchal structures entrenched in religious and cultural traditions, reclaiming aspects that validate and nurture women's dignity and agency (Oduyoye 2001, p. 34). With this view, the study explores the gendered assumptions that inform naming practices and aims to articulate a way of recognizing some potential affirmative resources in African traditions.

The analytical insights of postcolonial theological reflection within African religious practices are that these must be historically and socio-politically contextualized in terms of colonial encounters (Chidester 2019, p. 101). Both ATR and Christianity are therefore regarded as living traditions that may be reinterpreted considering changing situations. Informed by the framework, this paper examines the Constitutional Court's judgment in terms of legal reform and attempts to reconfigure identity, authority, and gender justice within the African religious and cultural context.

## 3. Materials and Methods

The current study utilizes an interdisciplinary qualitative research design framed in an interpretivist epistemological paradigm. This is a suitable paradigm considering the study is oriented not on measuring aspects of observable phenomena but translating meanings contained within legal texts, religious doctrines, and cultural traditions (Creswell 2014, p. 8). The methodology relies upon critical textual analysis as the primary device of analysis, engaging primary and secondary sources from across ATR, Christian theology, and constitutional jurisprudence. The analysis is situated within the body of literature and doctrines that inform ATR, theological perspectives on human dignity and gender including scholarly writings (including contributions from black feminist perspectives)

as well as a constitutional law-based critique of section 9(3)–section 9(4), including a consideration of the judgment of the Constitutional Court of South Africa surrounding rights to name choice and to gender equality. Qualitative textual analysis particularly lends itself to this enquiry, as the subject matter, the cultural, theological, and legal significance of naming practices interpretative by nature and therefore cannot be comprehended through a monodisciplinary or quantitative approach (Creswell 2014, p. 44). No human subjects were involved in this study; therefore, the ethical considerations lie mainly with the appropriate and accurate rendering of those sources and traditions invoked.

The analytical approach follows three steps in sequence. The initial phase entails a close reading of the Constitutional Court’s judgment, in tandem with constitutional law scholarship, to grapple with the legal reasoning behind recognizing gender-equal naming as a constitutional right and to locate the ruling within South Africa’s wider jurisprudential landscape on equality and dignity. The next step is to engage with the existing ATR scholarship that has sought to reckon with the religious, cosmological, and communal dimensions involved in naming, lineage, and identity (Mbiti 1990, p. 119) by focusing on how patrilineal practices are constructed and contested within African religions. The third stage introduces readings of a variety of Christian theological sources, Reformed, African feminist, and postcolonial theological readings, to evaluate how major doctrines such as the imago Dei, human dignity or covenantal justice interact with issues of gender equality regarding use in naming (Balcomb 2018a, p. 72). Throughout its three stages, the goal is to read the domains of law, religion, and culture in critical conversation with each other, locating both tensions and productive convergences that arise when bringing into dialogue a decision rendered by the Court alongside ATR traditions as well as theological frameworks.

To clarify these approaches, two additional methodological commitments must be articulated. The analysis adopts a decolonial perspective: instead of considering the colonial-era codification of naming as the foundation of “tradition,” it intentionally aims to recover precolonial understandings of personhood, lineage, and naming that colonial governance and missionary Christianity often diminished or obliterated, interpreting contemporary jurisprudence as a potential gateway to that recovered knowledge. Secondly, sources were chosen based on specified criteria rather than convenience. Legal sources were confined to the relevant constitutional provisions and the judgement itself; theological sources were selected to encompass both classical or conservative and reformist perspectives within the Reformed tradition, ensuring the argument is not solely based on agreeable voices; sources on African religion were prioritised, when accessible, for their relevance to Southern African and specifically South African contexts, with materials from other regions of the continent utilised illustratively and duly noted as such. Texts were meticulously analysed for their explicit and implicit assumptions regarding gender, lineage, and authority and compared across the three domains.

#### 4. Background: Names, Law, and the South African Context

A succinct overview of the ruling’s context is necessary for readers unacquainted with the South African milieu. According to section 26 of the Births and Deaths Registration Act 51 of 1992, a wife may adopt her husband’s surname, revert to a previous surname, or hyphenate both surnames; however, there is no corresponding provision permitting a husband to adopt his wife’s surname. Couples desiring the husband to adopt the wife’s surname or to register a joint surname under the wife’s name were denied by the Department of Home Affairs and contested the provision; the High Court deemed the asymmetry unconstitutional, and the case was presented to the Constitutional Court for validation. The cause was not an abstract discussion but a tangible administrative denial

that revealed how name legislation established a gendered norm. The Court determined that restricting this option to women while excluding men created an indefensible disparity based on gender and marital status, in violation of the equality provision in section 9 of the Constitution, and that the interest in personal name selection is equally applicable to both spouses ([Constitutional Court of South Africa 2024](#), p. 4; [Republic of South Africa 1996](#), pp. 9–10).

#### 4.1. Legal Framework of Naming Rights

A longstanding source of South African naming traditions is the legal and customary law, which divides notable aspects of life into male and female spheres. Surnames pass along the male bloodline. This indicates a more complex patriarchal system in which descent, power, and inheritance are structured along the male line ([Chidester 2019](#), p. 89). In addition to their legal significance, surnames signify a person's ancestry and identity, as well as the continuity of a lineage. The manner in which colonial rule and apartheid entrenched this male-biased framework of inheritance and registration is unpacked historically in Section 4.2 below.

The 1994 constitutional change implemented in South Africa opened a framework centered on rights, equality, and dignity ([Republic of South Africa 1996](#), pp. 9–10). Cited: Scholarship in this domain signifies that when new laws are developed to address gender inequality, they also need to eliminate gender bias ([Balcomb 2018b](#), p. 44). Thus, this decision grants men equal rights to adopt their wives' surnames, which itself is a major development as it challenges entrenched patriarchal norms and supports the right to self-identity ([Constitutional Court of South Africa 2024](#), p. 4).

#### 4.2. The Historical Emergence of Surnames in Africa and South Africa

Prior to examining gender and patriarchy within the naming system, it is essential to contextualise the category of the surname, which this essay does not regard as an immutable aspect of African identity. In numerous precolonial communities, the permanent, hereditary family surname, as understood in its contemporary bureaucratic context, was not the principal means of identification. Individuals were identified via personal names, honorific titles, clan or totemic associations, teknonyms, and lineage formulas applicable to both genders, which evolved across the life span ([Mbiti 1990](#), p. 121; [Setiloane 1986](#), p. 94). The premise that a singular "African surname" has consistently served as a patrilineal indicator requires qualification.

The uniform, state-registered surname was established in South Africa under the colonial and apartheid administrative initiative. Customary naming practices were formalised within a European-influenced, male-centric framework of inheritance and registration ([Murray and O'Regan 1990](#), p. 212), while the apartheid regime implemented a bureaucratic and racially stratified system of name and classification for control ([Posel 2001](#), p. 67). The current verdict about this historical context is significant: what is sometimes justified as an enduring "tradition" is mostly a colonial and contemporary administrative legacy, which reinforces rather than undermines the assertion that name conventions can be legally and theologically amended.

#### 4.3. Gender, Patriarchy, and the African Naming System

This section now focuses on how gender and patriarchy influence the transmission of the aforementioned surname. Naming situates people in relation to a web of connections that includes the living, the dead, and the yet-to-be-born ([Masondo 2021](#), p. 61). Names are a social and spiritual phenomenon that locate one in society and the universe ([Mbiti 1990](#), p. 121).

Yet these social practices are, at their root, a product of the construction of a patriarchal social order centered on male descent. In patrilineal systems of descent, surnames, inheritance, and identity are associated with males, and the female contribution to family identity is informal and invisible (Setiloane 1986, p. 94).

As such, the Constitutional Court's judgment is a break from that pattern, as it recognizes women's surnames as identity bearers. This counters the hegemonic discourse of male lineage and legitimizes a more egalitarian discourse around naming.

African traditions are not, most crucially, fixed. They are contextual, as Oduyoye (2001, p. 48) notes. This is what the ruling represents: a call to recalibrate certain facets of tradition to celebrate the continuity of lineages while affirming the constitutional values of equality and dignity.

## 5. African Traditional Religion and the Significance of Names

### 5.1. Names as Ancestral Continuity

Names are more than designations in ATR; they embody ancestral heritage, personal identity, and a spiritual responsibility. A last name ties an individual to their ancestral history and a role in the community's past and future (Chidester 2019, p. 93). In Mbiti's (1990, p. 121) words, names 'mediate' the living and the dead, and therefore align people in relation to a particular place in cosmology. This mediating function should not be overgeneralised, however. Not all names possess the ritualised ancestral connection emphasised by Mbiti; numerous names are given as expressions of affection, situational relevance, or ambition, whilst names with clear ancestral importance are usually assigned only following specific rites. The historical significance of a name is, however, a conferred ritual status rather than an inherent characteristic of the act of naming itself.

This is why surnames evoke both identity and a sense of legacy over the decades. In a patriarchal system, a child is given the father's name to promote paternal ancestry and community (Setiloane 1986, p. 97). However, the way Africans name has shown (and continues to demonstrate) substantial fluidity. In this regard, Mbiti (1990, p. 108) notes the impact of social phenomena such as migration and marriage on naming patterns. This is why the Constitutional Court's affirmation of women inheriting surnames should be seen as a positive adaptation, not an abandonment of tradition.

### 5.2. Patriarchy and the Transmission of Identity

Naming practices, while often rich in symbolism, indicate the deep-seated patriarchal foundations of some African societies. Patriarchal control over identity construction is perpetuated by the practice of transmitting surnames only through male lines, reinforcing masculine dominance (Masondo 2021, p. 66). Masondo's formulation warrants analysis rather than just citation, as it generalises a patriarchal logic that does not consistently apply throughout African civilisations. Even under patrilineal systems, inheritance is often egalitarian, benefiting both male and female descendants, with some frameworks granting women significant authority over lineage. Amadiume's examination of the Igbo of eastern Nigeria is illuminating: the practice of woman-to-woman marriage, wherein a woman can wed another woman and the offspring bear her family name instead of that of the biological parent, demonstrates that lineage and naming cannot be simplified to a singular principle of male transmission (Amadiume 1987, p. 90). In contrast to such examples, Masondo's assertion reflects a tendency rather than a continental standard.

Women are fundamental to the development of family identity but are rarely regarded as lineage bearers (Amadiume 1987, p. 92).

But there are other options on the continent. For example, the Akan in Ghana practice a matrilineal system of descent, in which identity and inheritance are traced to the mother's line (Aidoo 1986, p. 34). This highlights that not all systems of identity in Africa are patriarchal.

It is from this perspective that the Constitutional Court's ruling recognizes and legitimizes women's surnames as a vector of identity. It is not anti-tradition; it finds the more inclusive nature of African traditions.

### 5.3. *Reimagining African Identity Beyond Patriarchy*

The Constitutional Court's ruling enables ATR to reframe identity constructs through a lens of consideration beyond patriarchy's confines. While traditional interpretations of the ATR revolved around notions of equality and dignity, the ruling reframes those standards, considering other principles. The restated ATR envisions identity as relational and communal. As confirmed by Mbiti (1990, p. 108), "I am because we are", and this renders both the maternal and paternal surnames equally justifiable anchors of identity from which particulars can be derived.

Both African theology (and, consequently, ATR) have been asked to re-engage with culture, stripping out remaining oppressive elements from a transformative standpoint while preserving those contributions that sustain life. Thus, the ruling has the political and critical power to stimulate a more participatory imagination of community genealogy. This shift will not weaken the ATR but will strengthen the relevant ATR for today, emphasizing traditions that are in common alignment and equal.

### 5.4. *Reformed Theological Engagement on Naming, Identity, and Equality*

Whereas the earlier argument taps into broad motifs of both the Bible and theology, a more pointed interlocution with the Reformed tradition both bolsters and critically hones it. It is to that Classical Reformed presupposition that God oversees all areas of life, including social dimensions of family, identity, and inheritance. In this respect, the practice of naming, which originates and develops in patriarchal family systems, was while contextualised often perceived as reflecting a God-given social order (also Calvin 1960, bk. 1, chap. 15, sct. 3). Thus, the tradition of male lineal transmission of surnames was not merely a socio-cultural practice; it had its theological foundation in the structures around power and representation, as well as covenantal succession.

But there are many constructive resources within the Reformed faith that make this critique of a stiff hierarchy possible. The doctrine of the imago Dei, considered to be one of the key Reformed distinctives, is that men and women are equal in their dignity because they are created equally, and thus possess the imago Dei (Bavinck 2008, p. 554). Furthermore, the Reformed emphasis on covenant, overwhelmingly critical in Reformed theology, is not only biological; it is rather in the gracious and executive will of God, cross-social and culturally inclusive. Calvin (1960, bk. 1, chap. 15, sct. 3) believed that behind the identity of the covenant community lies a divine promise, not humanly determined structures, though, in Calvin's case, he did not fully work out all the implications of such a claim.

In the developed parts of the Reformed Tradition, we have a more capacious theological imagination regarding matters of identity and social ordering, especially evident in the neo-Calvinist tradition. Kuyper's (1931, p. 79) development of sphere sovereignty clearly erodes any social order in which all such social bodies, whether the family, church, or state, are permitted to form their own hierarchies of power, threatening to deny people's humanity.

This brings a radical space to examine patriarchal naming systems that marginalize women's identity. Further, modern Reformed theologians have recognized that if the gospel demands equality and justice, then cultural inheritances also require theological critique.

This corresponds to the Reformed principle of *ecclesia semper reformanda*, which calls the church to ongoing reform, being reacquainted with the Word of God (De Gruchy 2005, p. 109).

This reflects an understanding that sees scope for men to take on their wives' surnames, and so the recognition of this as a possibility is to be welcomed, not as a deviation from Reformed theology but rather as an evolution of its ever-reforming path. It represents a step toward a more constructively critical posture with respect to patriarchal systems, covenantal equality, and justice." The emergent normative order of South African constitutional law thus challenges the church to rethink its praxis from the inside out, with constructive regard for the ethics and theology of the Reformed tradition.

### 5.5. *Intersections of Law, ATR, and Theology*

The Constitutional Court's ruling represents a significant nexus point between the legal reform, ATR, and Christian theology. This is not just legal formalism; it speaks to wider anxieties of identity, belonging, and authority in navigating the tradition/modernity clash. Permitting husbands to adopt their wives' surnames unsettles a naming practice through which the patriarchal order has long been reproduced.

While it is perhaps easy to look at ATR as a patriarchal system, a more discerning evaluation necessitates a fundamental distinction that is sometimes conflated: between African Traditional Religions (ATR) as they existed before colonial domination and ATR as they were later transformed via interactions with Islam, Christianity, and colonial secular governance. Numerous strongly patriarchal characteristics currently attributed to "tradition" were solidified or intensified during the colonial era rather than directly inherited from a precolonial past. Upon recognising this distinction, materials within these traditions are available for reconstruction.

I believe there exist materials for reconstructing gender and identity in ATR. Some societies in Africa consider names to be spiritually and mystically powerful, playing an important cultural role as intermediaries between an individual and their ancestors as well as the community at large (Mbiti 1990, p. 119). Even though male descendants have been the focus in genealogical tracing, it is important to remember that women are also central contributors to shaping community identity by exercising their authority as queens, mothers and priestesses, ensuring continuity of the community (Pobee 1992, p. 83). This suggests that dignity and respect are not necessarily antithetical to gender equity in ATR but can be achieved by intentional reform of traditions. Even Christian theology does offer the possibility of challenging male-centered readings. Both ATR and Christianity are living traditions that may also be recontextualized in this way, according to Chidester (2019, p. 101). In the Christian tradition, the doctrine of *imago Dei* acknowledges equal worth for women and men, and the gospel call to justice opposes as well as challenges this hierarchical structure (Balcomb 2018a, p. 72). This means that the Court ruling does not ignore traditionally held religious or cultural beliefs; instead, it acknowledges the justice, equality, and human dignity within them.

From this perspective, the court ruling, like the insistence on naming inclusivity, serves as an invitation for both ATR and Christianity to be purified in their renewed affirmations of human dignity as found within their traditions. Such relational transformative changes demonstrate how they can be rather than being forced from the outside.

## 6. Results

### 6.1. *Disruption of Patriarchal Constructions of Lineage*

Against this backdrop, the article illustrates how the Constitutional Court decision positively affects the dismantlement of longstanding patriarchal constructions around

lineages in ATR and Christian theology. They are vital aspects of personal identity, the inheritance system, and social legitimacy (Masondo 2021, p. 66; Chidester 2019, p. 93) that are passed down patrilineally. Calling women's names equally valid forms of identity could disrupt the conditioning that our lineages must only be patrilineal. It demonstrates that systems of identity, often thought of as immutable, have been created and can be historically recreated.

#### 6.2. *Reconfiguration of Identity Within ATR*

This paper shows that the ATR provides a set of internal conceptual tools allowing for greater depth in understanding identity. Although patrilineal naming has been the general rule, ATR's relational ontology seeks to bind people not biogenetically across exclusive biological lines (Mbiti 1990, p. 108). The need to account for women's surnames in African naming conventions indicates the degree of flexibility that ATR embodies. The ruling thus mirrors the reasoning of broader African cosmology, in which identity is relationally negotiated across fluid social orders. This argument is substantiated within a specific Southern African tradition, avoiding generalisation across a broad field, rather than relying on "ATR" as a monolithic entity. In the Vhavenda community of Limpopo, religious practices confer significant authority upon women, particularly in the roles of female diviners and custodians of sacred sites. Additionally, the symbolism of the python, linked to fertility and ancestral heritage, provides an intrinsic justification within the tradition for recognising women as vital bearers of identity and continuity. When examined through the lens of tradition rather than a continental abstraction, the ruling is perceived not as an external imposition but as the legal acknowledgement of an inherent pattern within the past.

#### 6.3. *Theological Affirmation of Equality and Human Dignity*

The study explores these, from a theological standpoint, the Christian prime doctrines that align with the Imago Dei and, as Berkhof (1996, p. 203) puts it, affirm the dignity of all men. Wherein classical readings could perpetuate a patriarchal system, the theological foundations of justice and equity in God's Kingdom have influenced the restructuring of these systems. Thus, affirming women's last names can follow the lead of Christian ethical theologians. This assertion must be substantiated with historical diligence rather than only presumed. The imago Dei has not been uniformly interpreted throughout Christian history; significant traditions have limited the comprehensive significance of the image based on sex, status, or race, rendering the inclusive interpretation presented here a result of contentious theological evolution rather than an obvious consensus. The argument does not rely on the assertion that Christianity has consistently interpreted the picture inclusively, but rather on the more robust and defensible assertion that the tradition possesses the resources, once identified and advocated for, to do this (Berkhof 1996, p. 203).

#### 6.4. *Tension Between Cultural Continuity and Constitutional Transformation*

The key finding in the constitution is the tension between preserving culture and accepting change. Such changes in naming practices are sensitive and contested due to their ties to systems of ancestry and communal identity (Mbiti 1990, p. 121). But research shows that tradition does not remain stagnant but instead changes and adapts itself to new social and ethical realities (Oduyoye 2001, p. 48). The ruling from the Constitutional Court demonstrates that the presiding judge does not view modernity and traditions as being at odds with each other and implies there is more work to be done in managing tensions through diplomacy. It is pertinent to explicitly enquire about an issue left unresolved by the ruling: was the Court reinstating a precolonial reality—a more fluid, less strictly patrilineal system of naming that colonial codification had supplanted—or was it merely addressing

the contemporary desire for legal equality? The ruling is articulated in the constitutional terminology of equality and dignity, rather than in the discourse of cultural reclamation, which implies the latter as its explicit justification. The two interpretations are not mutually exclusive: the decision can be perceived both as a reaction to contemporary indicators and as an unintentional revival of an earlier plurality highlighted by the historical analysis, with the latter interpretation reinforcing its legitimacy within the traditions rather than opposing them.

#### *6.5. Legal Reform as a Catalyst for Theological and Cultural Reflection*

The study also shows that constitutional jurisprudence functions not to limit but to stimulate more expansive theological and cultural thought. The Court's ruling doesn't only govern the practice of naming. It instigates a renegotiation of the most elementary assumptions around gender, identity, and power. This aligns with the idea that law can transform social order but must also draw on religious heritage for deep and critical reflection (Balcomb 2018a, p. 72).

### **7. Discussion**

The conclusions show that the Constitutional Court's judgment operates in parallel as a legal, cultural, and theological intervention, consistent with scholarship on law's capacity to catalyse social change (Balcomb 2018a, p. 72) and ATR's relational ontology (Mbiti 1990, p. 108). One of its major strengths is the interdisciplinary approach, which builds engagement across three distinct areas of scholarship. The study's limitations and the avenues of research they open are consolidated in Section Recommendations and Limitations below. In practice, the ruling continues to urge religious institutions to consider whether labeling certain liturgies and ancestral rituals necessitates reinterpretation, considering the constitutional tenets of equality and dignity.

#### *Recommendations and Limitations*

While this study meaningfully contributes to the interdisciplinary conversation between constitutional jurisprudence, African Traditional Religion, and Christian theology, several limitations to the research herein must be noted. First, the study is generally text-based and documentary in nature. This method permits a faithful engagement of this literature in the legal, religious, and cultural fields relevant to the case under consideration, yet it struggles to account for communities' lived response to the Constitutional Court's ruling. This analysis does not include local, pragmatic negotiations by ordinary believers (Christian or otherwise), cultural custodians, religious leaders, and families regarding the implications of men taking female family surnames. The theoretical analysis will be made much more concrete through ethnographic fieldwork and qualitative interviews with members of the communities in question, including ATR practitioners, church leaders, and legal professionals.

Secondly, the ATR sources utilised in this study are predominantly of non-South African and non-practitioner origin, notably the seminal works of Mbiti and Oduyoye. It is essential to note that Mbiti was East African (Kenyan), but Oduyoye is Ghanaian; thus, they cannot be classified under the same regional school. Significantly, both authors approached their work as Christian theologians analysing African religion, with Oduyoye notably not focusing especially on African Traditional Religion (ATR); neither author talks from the perspective of ATR practitioners. A study centred on South Africa is consequently diminished by the lack of a South African ATR expert and the absence of practitioner perspectives among its primary interlocutors. The suggested shift towards the Southern African and Vhavenda context aims specifically to address this deficiency.

Third, the study fails to engage pastorally with conservative counterarguments from within ATR and the Reformed theological tradition. Within both traditions, there are voices that would resist the reinterpretation I advance here and maintain that patrilineal naming practices cannot be arbitrary cultural constructions or be revised without sacrificing ancestral continuity and theological coherence. A more serious engagement with these perspectives would bolster the scholarly rigor of future work in this field and would more accurately reflect the real internal tensions within each tradition. This is an important gap for future scholarship to overcome.

Considering these limitations, recommendations are presented. We urge researchers to conduct comparative studies of the responses of different Southern African ethnic communities to gender-equal naming legislation, focusing on the intersections between customary law and constitutional rights. Churches, religious institutions, communities of African Traditional Religions (ATR), and theological seminaries should begin a dialogue on existing naming liturgies, ancestral rituals, and inheritance customs, and whether they should be interpreted differently, considering our constitutional values of equality and dignity. This should be done as a pastoral conversation with cultural humility, acknowledging that naming is not an incidental concern but rather a way of asking different questions about identity, belonging, and spiritual continuity. To this end, theologians and religious scholars are invited to construct contextual theological frameworks that allow traditions to grow into a way of being in the world that is faithful to both ancestral legacy and gender justice imperatives, thus contributing to living theology that responds intelligently to present dynamics, sometimes at odds with established scripture.

## 8. Conclusions

At a time of anxiety in South Africa about the future of constitutionalism, the Constitutional Court's ruling, which enables men to take their wives' surnames, is an important chapter in that story, not just in law but also in culture and theology. Juridically, the Court's ruling is grounded in the equality and dignity of the Constitution, but its ramifications cut across society, as well as the self, descent, and the family.

The submission concluded that the naming practices of the ATR and Christian traditions have, for a long time, permeated systems of patriarchy, which would turn around to favour men in these societies. But it is worth noting that these traditions are not static or monolithic. While both traditions contain elements that must, and should, be reinterpreted—the ATR identity constructs are by nature relational and communal—the Christian tradition presupposes as a theological imperative that each person stands equal before God in some respect and is worthy of dignity because they embody some facet of the *imago Dei*.

By recognizing the legitimacy of women's surnames as markers of identity, the Court is dismantling the patriarchal arrangement and honouring a tradition of sober deliberation. It promotes a stronger sense of community and belonging and reflects an affinity with the constitutional ideals of justice, equality, and dignity.

The study demonstrates how the action (thesis, the tradition) and the consequence (antithesis, the transformation) can be relational rather than oppositional, and how a discourse can be part of a dialogical relationship in which continuity and mutual transformation can coexist. There is continuity with ancestral practice even as naming practices are reinterpreted. Such practices can deepen the comprehension of identity and its transmission.

The Constitutional Court's ruling was, simultaneously, a legal challenge and, above all, a theological one. It urges religious communities, cultural guardians, and intellectuals to reconsider and reframe assumptions and claims, particularly those concerning gender,

about lineages to recognize their equality and inherent dignity. They can be redeemed in both tradition and modernity and respond to the ethical dictates of a contemporary society.

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