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Commission for Gender Equality
A society free from gender oppression and inequality



Widowhood & Vulnerability

The Right to Gender Equality for Widows in South Africa

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INTRODUCTION

Widows or women who lose their spouses, husbands or partners through death, are some of the most vulnerable and disadvantaged groups, not only in Africa but also in other societies around the world. Studies around the world have shown that widows are extremely vulnerable to socio-economic, religious, cultural, sexual, physical and emotional abuse, not only within their families but also in their communities and societies at large.¹ South Africa is not an exception to the widespread mistreatment of widows, as will be explained in this Policy Brief. Widowhood is a social status associated with a set of prescribed institutionalised cultural taboos, social practices, norms and beliefs about women who have lost their spouses, husbands or partners.

The Commission for Gender Equality (CGE) has a constitutional mandate to promote respect for, as well as protect, develop and attain gender equality through research and public education programmes. Through its power to monitor, investigate, lobby and advice, the CGE advances the rights of women and men to gender equality by ensuring that organs of state, private sector entities and civil society organisations observe and implement relevant legislative and policy frameworks to promote gender equality. In line with this constitutional mandate, the CGE conducted a study on widowhood and gender equality in South Africa in 2006/07.² The study sought to

investigate the effects of widowhood on women in communities around South Africa and ways of combating these effects. The study involved both widows and widowers drawn from Black, Coloured and Indian communities from all nine provinces in South Africa. The participants were drawn from all



socio-economic backgrounds. Data collection was triangulated through the use of in-depth individual interviews, focus group discussions with the participants and the review of literature. Additional

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¹ See United Nations (2001), 'Widowhood: Invisible Women, Secluded or Excluded', *WOMEN 2000*, (UN Division for the Advancement of Women, Department of Economic & Social Affairs).

² Commission for Gender Equality (2007), *Widowhood Rites and Rights*, (CGE, Johannesburg)

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informants were also identified through details provided by relevant government departments and traditional leadership structures in the different provinces.

The purpose of this Policy Brief is to highlight the negative experiences and impacts of widowhood on women whose human and gender rights are routinely violated by those close to them and, in some cases, by the judicial and law enforcement systems meant to serve and protect them. The aim is also to emphasise the fact that these violations of the rights of widows are systemic and structural, perpetuated at a social, cultural and in some cases religious level and within the families and communities where the victims live.

The objective is to conscientise policy-makers and other relevant stakeholders by drawing their attention to the plight of widows in South Africa and to propose effective intervention measures to address the scourge of women abuse during the widowhood stage of their lives.

BRIEF BACKGROUND

It is common for women to live longer than men due to a number of factors such as age difference, not only in South Africa but globally. As a result of this, they are more likely to spend considerable portions of their lives as widows since most of them never remarry.³ There are various causes to this.⁴ Currently there are no reliable statistics documenting the experiences of widows and the problems associated with widowhood in South Africa. Nonetheless it is generally understood that widowhood is one of the most neglected areas of research in South Africa and is also never mentioned in research projects that are conducted on women's poverty, development, health or human rights published in the last twenty-five years⁵. Women comprise more than 50% of the South African population and a large proportion of them live in impoverished communities across the country. One of the contributing factors to the vulnerability of women is widowhood. Women in this socio/cultural category become extremely vulnerable to socio-economic and cultural marginalisation, discrimination and often are excommunicated from their communities and sometimes even their families.

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³ UNDP (2005), Taking Action: Achieving Gender Equality and Empowering Women, (UN Millennium Project Task Force on Education and Gender Equality), p. 13.

⁴ See the United Nations (2001), Op. cit.

⁵ ibid

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In South Africa, widows are not a homogeneous community. This is attested to by Mamphela Ramphele in her research, where she identifies conventional widows who have lost their spouses/partners due to a number of factors. She identifies political widowhood which she defines as “the appropriation of certain women’s bodies as part of symbolic armour mobilised by political movements in the contest for moral space following the fall of heroes in the struggle for power”.⁶

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these different constituencies of widowhood are vulnerable and Ramphele reflects on those women’s past experiences as having shaped their live situations to date.

After the advent of a democratic government in 1994, initiatives were made to create harmony and correct the harm done to victims in South Africa, such as the introduction of the Truth and Reconciliation Commission. However these efforts overlooked the fact that there were political widows who lost their breadwinners during the liberation struggle. To date there are still inadequate interventions that are directed towards addressing the needs of political widows in South Africa. Also, there are no visible and well funded organisations catering for the needs of the widows, nor are there clear financial support grants geared towards relieving the plights of widows in South Africa. So it appears that windows in general, and political widows in particular, have been and continue to be neglected by policy makers in South Africa.

There are strong social rites, practices and taboos associated with widowhood in many social and cultural groups in South Africa which are influenced and shaped by strong patriarchal systems and religious beliefs in society. These practices usually impose severe restrictions on the private lives of women during the period of mourning the deaths of their spouses, husbands or partners. Their individual suffering is made a social and public loss. Contravention of such social, cultural and in some cases religious rules often brings severe economic, social, cultural and often emotional and psychological penalties. Such penalties are almost

⁶ Ramphele, M. 1996. Political Widowhood in South Africa: The Embodiment of Ambiguity. *American Academy of Arts & Science*. Vol. 125(1):99-117



invariably not experienced to the same level of severity by all women, depending on their race, age and social class status. Also the men or widowers mourning the loss of their wives, spouses or partners usually do not face similar restrictions.

Such unequal treatment of women and men therefore, without doubt, constitutes a contravention of South Africa's Constitutional provisions that prohibit all forms of discrimination against anyone on the basis of gender. In addition, these violations contravene a range of national, regional and global legislative and policy frameworks such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and The Convention on the Rights of the Child (CRC). The provisions of these instruments are aimed at protecting women in general, including widows, and their children from all forms of abuse. These instruments are intended to promote the rights of women to attain gender equality. The fact that these violations still occur in South Africa is evidence not necessarily of a lack of political will and appropriate legislative and policy frameworks, but lack of effective and efficient implementation

and enforcement of existing legislative provisions. It could also be attributed to lack of knowledge among ordinary citizens of developments in law to protect the rights of women.

FINDINGS OF THE STUDY

The findings of the study revealed a number of serious issues that may require policy and legislative intervention by government to address the desperate plight of widows in South Africa. It would appear that the negative experiences of widows are not confined to their immediate families, but also to their relations with their communities and state institutions, including state officials and private sector institutions that have to provide services to them.

In terms of experiences within their families and communities, the study found a number of harmful social and cultural practices, taboos and rules associated with widowhood in various cultural communities in South Africa. Invariably these practices apply unequally to women and men,

usually imposing severe restrictions and punitive sanctions on those that do not comply, and women are usually affected more severely than men during the period of mourning. The study found that in many communities widows are often suspected or openly accused by the deceased spouse's relatives and their communities of being witches who killed their husbands for material possessions. This usually leads to widows being abused, mistreated and isolated or even chased out of their homes immediately after the spouse's funeral.



In many cultural communities widows are obliged to adhere to rituals that accompany the mourning period, whether or not they subscribe to them. For instance in KwaZulu-Natal (KZN), one lady reported that she was forced by her in-laws to spend the night with the corpse of her deceased spouse in a separate room, all by herself, which caused her to seek trauma counselling.⁷ There are numerous other harmful practices that are routinely perpetrated against grieving widows upon the deaths of their spouses in South Africa. One of these practices is when a widow is forced into a conjugal relationship with a brother or male relative of the deceased spouse in a practice within

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the Zulu culture called *ukungenwa*.⁸ There are other life-threatening traditional practices especially where the deceased died from communicable disease, where widows are forced to drink the water that washed the deceased husband's corpse.⁹ Widowers are also likely to be obliged to remarry soon after the death of a spouse, regardless of their readiness. However, while widows might be forced into conjugal relations with a male relative of the deceased husband, widowers are rarely, if ever, forced into such relations. This clearly points to unequal treatment of widows and widowers in many cultures in South Africa. Refusal by women to engage in practices such as *ukungenwa* would often lead to severe sanctions which may entail being chased out of matrimonial home. The practice is common in many rural communities across parts of South Africa, but particularly in those areas under the authority of traditional leaders.

Widows in many communities across South Africa also face the threat of, or even acts of 'property grabbing' whereby the in-laws or relatives of the deceased spouse would confiscate jointly owned marital assets, including the house and other possessions upon the death of a spouse, often

⁸ A Zulu word denoting a cultural practice of a widow being taken as a wife by a brother of the deceased husband

⁹ United Nations (2001)

⁷ Participant's inputs during a workshop in KZN (February 2008)



leaving the widow homeless and impoverished. In some cases, this depends on the nature of the relationship that the widow had with the in-laws prior to the death of her spouse. In some cases, especially where the deceased had a mistress, the in-laws would club together with the deceased's mistress to get access to the assets. This usually happens in the case of unregistered customary law marriages. In such cases, the family would deny knowledge of the widow as the lawful beneficiary and would write letters testifying to the authenticity of the claims of the mistress as the real wife of the deceased.

In situations of widowhood where children are involved, the children are invariably exposed to the negative experiences of the mother, often being kept out of schools. However the situation of widows without children is not any better. They usually face social exclusion, isolation, stigmatisation, physical and emotional harassment including sexual abuse. This often takes place not only within the family environment, but also at community level. In the home environment widows are often forced to use different utensils from everyone else. For instance, they are usually forced to use separate spoons, plates and cups because of strong cultural

associations of widowhood with bad luck. An incident that illustrates this point was related by a participant at the International Widowhood Day event in Bloemfontein in June. She visited a friend and was forced to sit on a chair outside the house, close to the gate for fear of bringing bad luck.¹⁰

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Many widows also felt strongly that the waiting period for the liquidation of the deceased estate was unduly long, often lasting up to two years if not more. This is even worse where there are children born out of wedlock because the widows are usually expected to find and identify all the children before the estate can be distributed amongst the beneficiaries. This usually leads to a range of severe problems such as financial difficulties, including financial dependence on unsympathetic relatives of the deceased spouse. In some cases, the widows are unable to access and/or afford to pay for basic services such as water, electricity or even school fees for the children. This is compounded by the fact that there is a lack of clear information about financial support programmes from government to assist widows and their dependants, especially those who were unemployed and relied wholly on the financial support and income of their deceased spouses.

¹⁰ Participant's testimony during International Widowhood Day celebration at Bloemfontein (22nd June 2012)

Besides the mistreatment of widows within the immediate family environment, widows are also routinely subjected to mistreatment, abuse and isolation at community level. For instance, given that the widows are easily identifiable, they tend to be susceptible to abuse, including acts of rape and robbery. This is because they are easy to identify through the black robes or dress code usually worn during the period of mourning. They are often victims of petty jealousy and animosity because of common perceptions within many communities that widows usually receive large sums of money as death benefit payments, including substantial life insurance payments, upon the death of their spouses.

The findings of the study clearly show that the rights of the widows are not properly protected and enforced not only in the family environment, but also within the broader society and a number of factors combine to compound their situation. These include, the fact that many widows tend to be uneducated, lack access to the right sources of information and legal advice, and have no official support programmes and structures to deal with their plight. As a result they are likely to have their human rights violated even by those in positions of authority. For instance, this study found that in areas under the authority of traditional leaders, widows are not allowed to participate in governance processes. They are prevented from enjoying the protection of traditional leadership/authority structures when they are dispossessed of their belongings upon the death of their spouses. For instance in many rural areas across the country, during the mourning period, widows are not allowed to report violations of their rights

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or represent themselves directly to their tribal authority structures. They can only be represented by an adult male relative. In the absence of a male relative they would not be allowed to appear before tribal councils or traditional courts until they are ritually cleansed or the mourning period has come to an end.

In some cultural communities in South Africa widows are not allowed outdoors alone for lengthy periods of time; they are not allowed to walk by themselves in the crop plantation fields or areas of livestock grazing as there are strong superstitious beliefs that this would lead to the devastation of crops and livestock.¹¹ During periods of mourning, widows are obliged to be accompanied by a child or an adult everywhere they need to go and are not allowed to attend and/or participate in community events or meetings. The fact that they are not supposed to talk at public events or community meetings is a violation of their democratic freedom to participate in the governance of their

¹¹ Magudu B (2004), 'Women's experiences and perceptions of ukuzila', *AGENDA*, 18, issue 61 (January) pp. 140-148.

communities or engage in economic activity to provide for their children.

It was also revealed by some of the widows interviewed for this study that some of them could not receive assistance from state officials who often required bribes, whilst other officials were reluctant or fearful of serving widows in their traditional black robes during the mourning period. Clearly, one of the undesirable consequences of widowhood is inability to access government services, including vital information to enforce and safeguard their rights. Similarly, some of the widows revealed negative experiences and poor treatment at the hands of employers and insurance companies when attempting to submit claims for death benefits and life insurance payments upon the death of their spouses. This is particularly experienced by illiterate and uneducated widows. Their illiteracy tends to serve as an obstacle preventing them from acquiring adequate information including legal assistance to enjoy their rights and freedom.

POLICY IMPLICATIONS

The findings of the study point to a number of important policy implications relating to the problems and experiences of widowhood in communities across South Africa and the need for urgent policy and legislative intervention.

- Firstly, there is a broader societal lack of knowledge and understanding of the rights of women in general and widows in

particular. The widespread discrimination, mistreatment and abuse of widows in many communities across the country is an indication of the need for policy-makers to place more emphasis not only on human rights and the rights of women to privacy and protection, but also on the rights of women to gender equality within their particular cultural contexts. The findings of this study illustrate clearly that there is a severe lack of understanding and failure to enforce relevant gender equality policies and legislation in the various social, cultural and religious contexts.

- While the constitution guarantees and protects the rights of all social groups to practise their cultural beliefs, the study reveals the need for policy intervention to safeguard the rights of individuals, especially in situations where social group interests are prioritised to the detriment of the rights of individuals. The study clearly reveals a deep lack of knowledge of basic human rights, such as the right to property, equality, safety, privacy and access to information. The widespread practice of property grabbing by relatives and family members upon the death of a spouse is indicative of this lack of knowledge of basic rights.
- While many social and cultural groupings in South Africa have their own distinct social and cultural beliefs, rituals and practices relating to widowhood and the period of mourning, the duration of the mourning period and the accompanying strong punitive orientation of these practices,

tend to create an environment where the violation of the rights of widows to privacy, security and protection within becomes prevalent. In addition, this study reveals that the socio-economic status and livelihood prospects of widows in general tend to deteriorate considerably immediately after the death of their spouses and during the period of mourning. In many instances the socio-economic and livelihoods prospects of the widows are destroyed permanently due to the mistreatment, discrimination and abuse perpetrated by close family members, members of the community and in some cases state officials who refuse to render assistance and services to widows during the mourning process. This points to lack of relevant knowledge on the rights of women, and also poor enforcement of existing policies and legislations on the rights of women in general and widows in particular.

- There is also lack of information on community and government support systems and structures for widows to enhance their coping skills in relation to the trauma and grief that comes with the loss of a spouse, husband or partner. The resulting socio-economic and financial consequences of the loss of a spouse have become an extremely private and personal experience for many women in the absence of both formal and informal support mechanisms. It is clear that there is a need for effective financial, emotional, legal

and psychiatric support systems, as well as access to relevant information to empower widows in order to protect their interests upon the death of their spouses.

- It is also clear that policy interventions are necessary to deal with the plight of political widowhood as a legacy of the struggle for political freedom in South Africa.
- Continuous monitoring and evaluation of government's compliance to international and regional treaties is essential to create an environment within which the rights of women in general and widows in particular could be protected at all times. This also requires that results of monitoring should be widely popularised.

POLICY RECOMMENDATIONS

- The national government, through the Department of Women, Children and People with Disabilities, should urgently set up a task team to review current policies and legislations to enable widows to access various support services, including financial support, immediately after the death of their spouses and during the mourning process. If necessary, the task team should develop national policy guidelines in conjunction with other institutions and ministries such as the National Prosecution Authority (NPA), Department of Justice, Social

Development and Health, to ensure that a range of vital support services are provided and made easily accessible to widows as and when needed.

- The Department of Social Development should introduce a time-limited and means-tested special income support grant for widows and widowers to augment their livelihoods sustainability during the mourning period.
- Urgent action is needed from the Department of Women, Children and People with Disabilities in conjunction with the Departments of Justice, Social Development, Health and the NPA to set up Support and Advice Desks and design rapid response systems to assist and advise women in urgent and desperate situations, particularly those widows who are dispossessed and chased out of their homes by family members after the death of their spouses.
- The Department of Women, Children and People with Disabilities, in conjunction with the Commission for Gender Equality, the South African Human Rights Commission, Department of Justice/ the NPA and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Minorities (CRL) should collaborate urgently to convene

public education campaigns across the country, especially in the rural areas, to address the issue of harmful cultural practices and the vulnerability of women in general and widows in particular. Therefore public education programmes in these communities should aim to popularise relevant legislations and policies on human rights and gender equality issues, and in particular the rights of women to personal safety and protection from harmful cultural practices. Traditional leadership structures across all provinces should play an active role in these public education campaigns.

- It is important that a national Widowhood Support Structure is created, with the involvement of relevant government departments, to serve as a platform for widows to share knowledge and information about their experiences and ways of protecting and enforcing their right to equality. Such a structure should play the role of coordinating support from government and any other institution in the form of legal, financial and counselling support for victims of harmful widowhood practices. The Commission for the Promotion and Protection of the Cultural, Religious and Linguistic Minorities should play an active role in this structure.

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