

# Provincial Report

Mpumalanga



**COMMISSION ON GENDER EQUALITY**

Gender Equality Ensures a Better Life for All

## PREFACE

The CGE's widowhood survey was a nationwide survey of public- and private-sector responses to the plight of widows in the different provinces of South Africa. In order to understand the experiences of widows and widowers, the key issue is to understand the concept of widowhood, as this is influenced by different cultures in different geographical areas and language groups. The study also examined the concepts of human rights in the cultural and religious mourning practices and how these practices impact on both men and women. It is also important to note how participants think they can be helped in trying to address the challenges facing widowhood in the respective provinces.

The research in Mpumalanga was conducted by *Sibongile Mhlongo* and the report finalised by *Ntuthuko Manzini*.

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## MPUMALANGA

### Background of the province

Out of a total population of just over 3 million, there was a total of 103 628 widows/widowers in Mpumalanga in 2004. The highest mortality was recorded in the age group 15 – 64 years. Deaths were the result of tuberculosis<sup>1</sup>(11,2%) and influenza and pneumonia (8%). In addition, the province was reported to have the second highest number of malaria cases in 2003, and rated third for HIV infection at 28,6% of the total population<sup>2</sup>. Unemployment was the highest among women. According to the 2004 Labour Force Survey, black African women constituted only 37,9% of the employed people in the province. The largest employer in the province is the retail and trade sector, followed by agriculture, according to Statistics South Africa's Mpumalanga profile for 2004.

## Research methodology

Interviews were conducted with a sample of key role-players in Mpumalanga to explore public-sector, private-sector and community responses to widowhood. The findings of the study indicate that while widows and widowers are generally regarded by officials as vulnerable people, there is no formal recognition of this as a category of vulnerability in the policy and legislative framework that directs service delivery to groups of vulnerable people.

In government services, widows and widowers do not receive any special treatment or benefits other than that for which they are eligible as elderly, unemployed, chronically ill and disabled people. This creates challenging conditions for non-governmental organisations who are confronted with the consequences of the vulnerability of widows and widowers.

Compounding on this, cultural norms and practices have reportedly become an additional burden to widows, who now experience exploitation and abuse based on gender, as well as widowhood. Stakeholders are of the opinion that special attire for widows has indeed become a measure of control over widows to ensure their compliance with cultural practices that benefit those in positions of power over widows.

Violence against widows, together with harassment and hate speech, constitute serious violations of widows' constitutional rights. Measures need to be taken to bring offenders to book and to create an enabling environment for widows to overcome the loss of a loved one and to continue leading fulfilling and productive lives, as envisioned by the Constitution of South Africa.

## Sampling

The sampling for this study purposefully focused on key role-players in the delivery of services beneficial to widows in the province. For this purpose, the sample included private-sector organisations that are regarded as the biggest employers in the province, civil-society organisations (specifically women's formations) and churches (including the mainline<sup>3</sup>, independent or charismatic<sup>4</sup> and Zionist<sup>5</sup> churches). The public-sector organisations comprised five provincial government departments: the Department of Health and Social Services, the Department of Home Affairs, the Department of Local Government and Housing and the Department of Justice and Constitutional Development, represented by the Magistrates' Court. Data was collected through in-depth interviews and focus group discussions.

<sup>1</sup>Source – Statistics South Africa – Provincial Profile, 2004

<sup>2</sup>Source – HSRC – 2002 ( Mpumalanga Profile, 2004)

<sup>3</sup>Mainline – Missionary churches following prescribed church rules

<sup>4</sup>Independent / Charismatic – independent of the missionaries and operate freely from any missionary laws

<sup>5</sup>Zionist – Traditional African churches



**Table 1: Focus group interviews**

| <b>Sector</b>               | <b>Organisations/departments interviewed</b>  |
|-----------------------------|---|
| Public sector               | Department of Health and Social Services,   |
| Private sector              | Department of Home Affairs, Magistrates' Court,   |
| Civil-society organisations | Department of Local Government and Housing  |
| Faith/church organisations  | Buscor, Eskom, Sappi, and Transnet <ul style="list-style-type: none"> <li>• One non-governmental organisation</li> <li>• Two home-based care organisations</li> <li>• One women's group</li> <li>• One mainline church</li> <li>• Two independent churches</li> <li>• Two Zionist churches</li> </ul> |

## Findings

### Public sector

#### *Department of Health and Social Services*

The department regards widows and widowers as 'vulnerable' in as far as this coincides with other categories of vulnerability as gazetted. Widowhood status in itself does not make a person eligible for special services. Notably, if a widow or widower is employed, he/she is not perceived as being a vulnerable person. Similarly, children of widows and widowers do not receive special treatment or financial assistance, unless they qualify for a Child Support Grant through the means test to assess eligibility (based on the Social Assistance Act). Support and services to widows and widowers happen by default and comprise the usual services available to 'vulnerable groups', such as services provided by social workers (counselling and advice, the provision of food parcels and free health care as stipulated in the social development policy or in the provincial gazette). The department has established fast queues for the disabled, elderly and for chronically ill patients in all primary health care facilities. No special arrangements are made for widows and widowers, unless they are also disabled, elderly or chronically ill.

#### *Department of Home Affairs*

The department releases a death certificate immediately after death, upon receipt of the required documents from the doctor or the undertaker. According to officials, widows are easily identified by the way they dress. For example, widows cover themselves with blankets before the funeral and sit apart from other people in waiting rooms. Widows/widowers do not receive any preferential treatment, other than being provided with routine services.

#### *Department of Local Government and Housing*

The department builds houses for poor people. It has no special programme designed for widows or widowers. If a widow or a widower qualifies or meets the criteria for getting assistance, as prescribed in its housing policy, that



person will receive assistance in terms of the relevant policy and not necessarily because she/he is widowed. Information on services rendered by the department is readily available at all municipalities. No special programmes exist for vulnerable groups in the communities. However, the department gives special priority to people with disabilities, children in need of care (orphans) and the elderly in need of housing. The department identifies vulnerable groups through referrals from relevant institutions and organisations. They will only receive assistance if they are at a pensionable age (where they would be assisted to apply for an Old Age Pension) or if they are disabled (where they would be assisted to apply for a Disability Grant). All cases of vulnerable people that are referred to the department are usually prioritised. A working relationship has also been established with the Department of Health and Social Services to obtain updated information on orphans in need of care for the purpose of future budgeting.

### *The Magistrates' Court*

The Magistrates' Court does not deal directly with the matters of estates and, in most instances, widowers are referred to the Master of the High Court. The Magistrate makes sure that widows/widowers are not adversely affected when the estate is executed, because the spouse is given first priority, followed by the dependants. If there is no spouse or dependants, the parents are appointed as the executor of the estate, and if there are no parents, one of the brothers or sisters of the deceased is appointed. The Magistrate resolves the matters of cultural, traditional and religious components by applying the law and the provisions of the constitution. Customary and cultural practices are measured against the constitution. In cases where a widow/widower is threatened by relatives, the widow/widower is advised to report the case to the Domestic Violence Court at the Magistrates' Office. In instances where property has been taken from widows/widowers unlawfully, the widow/widower is referred to the Justice Centre for legal aid. The matter of children is referred to the Master of the High Court.

### **Private sector**

All companies included in the study offer funeral benefits that are usually paid out within 48 hours after submission of the required documentation. Pension or provident benefits are paid to the nominated beneficiaries within a three-month waiting period if not contested. The contesting of claims is a common problem among the interviewed companies. This results from unregistered marriages, separations, children born out of wedlock, beneficiary forms that have not been updated, family members not being aware of who the registered beneficiary is, polygamy (civil and customary marriages), the registration of a brother instead of the children on a beneficiary form, undisclosed pregnancy at the time of processing the benefits, unsettled divorce cases, other family disputes, the involvement of lawyers who claim exorbitant legal fees for the service, unregistered partnerships and unethical practises by insurance companies that claim the widow's benefits.





Good practises that can be followed to avoid delays in the payment of benefits and to prevent the exploitation of widows include giving power to trustees to assist widows (where trustees include people with professional skills), involving a shop steward in solving contested claims, assisting the widow with funeral arrangements, retaining children's benefits until they reach the age of 21 years and retaining the widow/widower on the funeral scheme.

### **Civil society stakeholders**

The programmes and services of civil society organisations to widows and widowers include bereavement counselling, food provision until the payment of benefits, educating widows/widowers on their rights (notably inheritance rights and how to deal with their estates, as well as the implication of remarriage). Civil society organisations regularly deal with a range of issues relating to widowhood.

#### *Disputes over the estate of the late spouse*

In many cases, the in-laws want their children's inheritance, especially if no children were borne from the marriage. In the absence of children borne from the marriage, in-laws often call the widow names such as Inyumba<sup>6</sup> and claim the estate as belonging to the family of origin.

#### *Consequences of customary marriage, labour migration and unregistered partnerships*

In rural areas, husbands pay lobola and leave their wives to go and work and stay in big cities like Johannesburg. These husbands then find city women and marry them in a civil marriage. If death strikes, the rural women become more vulnerable because the estate of the late husband gets inherited by the wife of the civil marriage. This is due to the fact that, in a customary marriage, the marriage is not registered with the Department of Home Affairs, whereas the civil marriage is registered. Obviously the one who is married in a civil marriage easily accesses all the benefits.

#### *Marriage separations*

In some cases, the couple separates, but the man does not divorce his wife. He pays lobola and stays with another woman. The other woman is not aware that the man was previously married. When the husband dies, everything gets inherited by the wife in the civil marriage.

#### *Violation of widows' rights*

It has been reported that some of the traditional leaders interfere with widows' rights. They force widows to wear mourning clothes so that they are

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<sup>6</sup>Inyumba – a woman who is unable to bear children

easily noticed and watch that they follow the mourning rules prescribed by that particular authority. If a widow fails to follow the rules, she will have to pay penalties like money or a cow.

*Magistrate courts require widows to bring in-laws and a member of her family*

In the case of disputes, this practice of bringing together the two families and declining to process the estate in the absence of the in-laws further aggravates delays in the processing of estates. This lapse of time increases the vulnerability of widows to abuse.

*Orphaned children bear the brunt*

Whether the death of the parent is maternal or paternal, the vulnerability of children increases as control over children is assumed by aunts and in-laws.

*Employers withhold payment of death benefits*

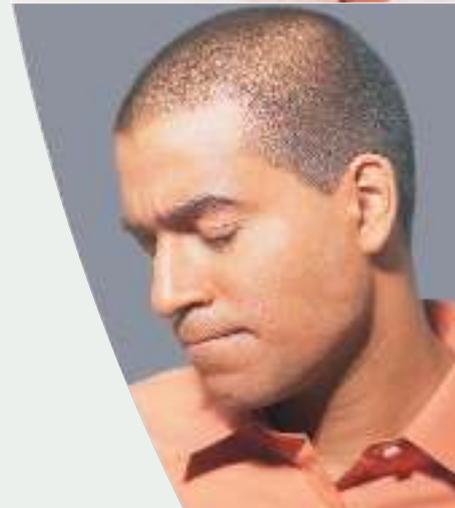
This seriously contributes to the vulnerability of widows and their children. Some of the reports reflect that employers could take well up to two years to pay death benefits, while others do not pay death benefits at all until lawyers become involved.

### **Church/fait-based organisations**

Churches could play a meaningful role during the widowhood period and processes, both financially and spiritually. The churches collect money and say prayers, and the Minister visits the family of the bereaved. The churches also assist in drawing up a programme for the funeral and other church members participate in the funeral arrangements. It was established that the churches do not get involved in matters of inheritance, as these are taken to be family issues, although they do help the widow by referring her to the relevant departments for assistance so that she does not lose her inheritance.

Common problems brought before the churches about widowhood include the following:

- Upon the death of the father, the family takes advantage of the widow and her rights become violated. The churches refer the widows to chiefs for help.
- If the mother dies, the situation becomes worse for the children. They become more vulnerable and neglected when family fights for money and inheritance occurs.
- Widows carry a stigma and are excluded from some community duties.
- If the widow is accused of killing her husband, the churches respond by calling the parties involved. They provide spiritual counselling, provide advice in an attempt to resolve the conflict or refer the widow for legal assistance. They also solicit the assistance of social workers to deal with the





psychological aspects of widowhood. In this regard, the churches work closely with government departments, especially the Department of Health and Social Services for counselling and the Department of Social Development for financial assistance.

The Zionist churches work closely with the local chiefs in their response to the challenges of widowhood. In practice, widows are excluded from taking part in church activities until such time as the mourning process and the cleansing ceremony are over. Other denominations like the mainline and independent churches are in a transformation process, whereby they are doing away with traditional church rules that discriminate against widows. They are now allowing widows to be involved in some church activities during the mourning period.

### **Conclusions**

The study revealed a range of violations of widows' human rights in terms of the South African Constitution and the Promotion of Equality and Prevention of Unfair Discrimination Act. In general, information collected in the study indicates infringements on the rights of widows as protected in the Bill of Rights of the South African Constitution, notably the right to freedom of movement and residence (s21), the right to an environment that is not harmful to one's health and well-being (s24), the right to property (s25), and the right to health care, food, water and social security (s27).

Instances of discrimination against widows came to the fore in the study. These included the imposition of burdens on widows, obligations or disadvantages, withholding benefits, opportunities or advantages, the harassment of widows in the form of unwanted conduct that is persistent or serious, that demeans and humiliates, and that is calculated to induce submission by actual or threatened adverse consequences.

### **Recommendations**

The following recommendations emanated from the study and should be further deliberated by stakeholders in the province:

- Specific laws should be promulgated to protect widows from customs that discriminate and violate women's rights and the participation of widows and widowers in the development of these rights.
- Grants should be instituted for needy widows.
- Civil society organisations should provide funding to assist vulnerable widows through, for instance, bereavement counselling, the provision of business development skills and the institution of income-generating programmes.
- The impact of programmes targeting widows should be assessed.
- Companies and employers should be regulated in respect of the payment of death benefits.
- Public education and information should be provided on the consequences of registered and non-registered marriage and partnerships, and the role of a will in a deceased estate.