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DECLARATION

I, Zola Baleka, do hereby declare that the research submitted by myself to the Sociology Department of the University of Fort Hare, is my own independent work and that ideas borrowed from others have been correctly and completely acknowledged in line with the University of Fort Hare Plagiarism Policy.

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SUPERVISOR'S STATEMENT

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DEDICATION

To my late wife, Sikelwa Lithalethu Baleka, I am continually aware of the good intentions you had in seeing me achieve my goals and as this expedition is finally completed you deserve my appreciation. Rest in perfect peace!

ACKNOWLEDGEMENTS

I give special thanks to God for giving me the strength and wisdom to complete this project as well as my Master's programme, despite a number of challenges I experienced during the entire course.

Special recognition goes to my supervisor, Professor Wilson Akpan, who did not tire in providing valuable advice and guidance during the entire research process. I would like to express further gratitude to Miranda Mange, the Departmental Administrator for all of her valued time, when planning and organising meetings for me with my supervisor.

I also want to thank the King of Amakhosa, his predecessor chiefs and headmen, the community of Nqadu and the Department of Rural Development and Agrarian Reform. Without their co-operation, this study would have experienced some challenges.

Lastly, I would like to express gratitude to my academic colleague, Malixole Solani, for his motivation towards our work, and special thanks to my little girl, Aluya Baleka, who always appreciated the little time I spent with her.

ABSTRACT

This study highlights the cultural underpinnings of specific indulgences pertaining to land ownership with reference to widowhood in the rural Eastern Cape. The study does this by examining the narratives of widows about their experiences of land dispossession in Nqadu Administrative Area. Nqadu Administrative Area is a rural community in Mbhashe Local Municipality in the Eastern Cape Province of South Africa. The study focuses on widows' experiences relating to the cultural practices of the community regarding land ownership.

A qualitative, case study design was adopted. To uncover the widows' narratives, the study utilised in-depth interviews and focus group discussions, with a sample of 50 widows. Further empirical data were obtained from four members of the municipal Land Committees, two Ward Councillors, four Traditional Leaders and two officials from the Eastern Cape Department of Rural Development and Agrarian Reform, using in-depth and key informant interviews.

The study found that widows were vulnerable to land ownership violations and dispossessions, and that these violations were perpetrated by community members, particularly relatives of deceased husbands. Low levels of education and fear of antagonising clan relatives played a vital role in preventing widows from fighting for their legal rights. The failure of widows to fight for their rights increased their chances of being heavily exposed to dispossession of their land rights. Cultural practices within the communities catalysed abusive practices against widows, particularly against those whose marriage was not 'recognised' due to various stated reasons. The study also revealed that widows who had married as second wives and those who did not bear children experienced egregious abuses. Another finding was that men from Nqadu Administrative Area were given priority during the allocation of land, based on cultural and traditional practices, and were given land of their own choice depending on availability. The study thus highlights the impact of cultural practices and the ways in which these became instruments of gender abuse, despite the existence of laws designed to prevent specific social cruelties.

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LIST OF ACRONYMS

A/A	Administrative Area
ACHPR	The African Charter on Human and Peoples Rights
ADM	Amathole District Municipality
ANC	African National Congress
BDPA	Beijing Declaration and its Platform for Action
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CHR	Commission on Human Rights
CRC	Convention on the Rights of the Child
DEVAW	The Declaration on the Elimination of Violence against Women
FAO	Food and Agriculture Organization
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome
IDP	Integrated Development Plan
IDRC	International Development Research Centre
MDGs	Millennium Development Goals
MLM	Mbhashe Local Municipality
OAU	Organisation of African Unity
PTO	Permit to Occupy
RDP	Reconstruction and Development Programme
RSA	Republic of South Africa
SADC	Southern Africa Development Community
SANCO	South African National Civic Organisation
Stats SA	Statistics South Africa
UN	United Nations
UNC	United Nations Charter
UNCEDAW	United Nation Convention on the Elimination of All Forms of Discrimination against Women
UNHCR	United Nations Higher Commission on Human Rights
WIR	Widows' International Rights

CHAPTER 1

OVERVIEW OF THE STUDY

1.1 Introduction

The importance of land ownership by widows cannot be underestimated. Owning land contributes greatly to household welfare and consumption, especially in rural areas, like the Nqadu administrative area, where people depend on subsistence agriculture. According to Deininger (2004) cited in Nkonya (2014:1), “Land forms a large proportion of poor people’s asset portfolios, it is a primary source of wealth and serves as the basis for shelter, food and economic activities.” This study examines the narratives of widows pertaining to their experiences regarding land dispossession in Nqadu, administrative area (Nqadu A/A) in Mbhashe Municipality, in the Eastern Cape Province.

The study also examines the experiences relating to cultural practices of the community regarding the family system and land ownership. For widows, in particular, owning land can greatly improve their livelihoods and social status. Those who own land can increase their opportunities to access credit, can improve their security of tenure and thus make a greater investment on their agricultural plots and can provide for future generations (Deininger, 2003; Pateman, 2011; Agarwal, 1994) cited in Nkonya (2014:1). Despite the positive effects of women owning land across the country, widows continue to be greatly disadvantaged concerning access and ownership of land.

According to Sibanda (2001: 8), “access to land in South Africa is protected by the Constitution of the Republic of South African, 108 of 1996”. This regulation can be found in chapter 2 of the Constitution of the Republic of South Africa, under the Bill of Rights section 25(5) which provides that the “state should make measures to ensure that all citizens have equal access to land” as cited by Moyo (2013:12). The researcher would like to examine the extent to which widows benefit from this section of the Constitution in terms of land accessibility and ownership.

‘Widow’ refers to women whose husbands have died. In the South African context, some women become widows due to a variety of causes. Kessy (2008:17) argue that “amongst the prevalent causes, HIV/AIDS related disease, non-communicable diseases which lead to death, as well as a few accident cases especially to middle-aged men who went to cities with the aim of seeking jobs” are the primary causes of widowhood.

The Eastern Cape is one of South Africa’s nine provinces and is poorest. It is situated in the South Eastern part of the country. It shares borders with Kwazulu-Natal, Free State, Northern Cape and Western Cape. The Eastern Cape Province is divided, for local government purposes, into two metropolitan municipalities and six district municipalities. The district municipalities in turn are divided into 37 local municipalities. Amathole District Municipality (ADM) has within its jurisdiction seven local municipalities, among which is Mbhashe Local Municipality (MLM).

Mbhashe local municipality is the second largest municipality in terms of population (265 000) 16.1% and follows behind Mquma local municipality (Stats SA, 2011). Of the 265 000 inhabitants, 55% are males and 45% are females (Mbhashe IDP, 2007). “Mbhashe earns the name from the beautiful river called Mbhashe which flows from the banks of Ngcobo through Dutywa, Willowvale and Elliotdale” (Mbhashe IDP, 2012-2017).

Mbhashe is composed of three small towns, named Dutywa, Willowvale and Elliotdale. This municipality forms the part of the area of the Amaxhosa kingdom called Nqadu, the particular administrative area where this study was conducted. Nqadu A/A is situated on a flat plain with abundant freshwater rivers that have a few streams, with fertile and arable land which constitutes the main interest of community members around the area: farming (Tasie, 2013:156). Farming in both livestock and subsistence agriculture is practiced in this area, and the women of the community play a major role in food production in order to provide for their families as well as to make a living.

1.2 Research problem

Despite the political changes that have taken place in the Republic of South Africa (RSA) in the past twenty years of democracy and scholarly voices regarding land accessibility in rural areas, women, and specifically rural widows, tend to be discriminated against in terms land access, use and ownership. Land plays a vital role in the livelihood of women at large and can constitute their access to facilitate economic empowerment that represents a key factor in the struggle for equity and equality (Arisunta, 2010:2). According to Ohale (2012:1), “culture tends to play an influential role in the maltreatment of widows by exclusion and restriction to family affairs and property”. Yet they seem to be bearing the burden of educating norms and values to their own children and preparing them for their formal education, particularly young widows. Apart from a few social grants and remuneration to those whose husbands are working in urban areas, and farming, there is no other sustainable source of income for the families to survive on.

Women 2000 report (2001: 2) showed that “in developed countries, widowhood has been experienced primarily by elderly women, while in developing countries it also affects younger women, many of whom are still rearing children”. Willowvale is an area of the Eastern Cape, in the Republic of South Africa, which is considered to be a developing country, and therefore a place where younger women are experiencing the challenges of widowhood. Widowhood in Nqadu administrative area is experienced by younger to adult women. According to the Women 2000 report (2001:2), “social rules differ greatly; all cultures have rules which govern women’s lives”. Widows are subject to patriarchal customary and religious laws as a result of which they confront discrimination in inheritance rights.

Women, through patriarchal customary laws, have their decisions and rights oppressed by both natal and marriage families. Women have a definite role of being submissive to their husbands, and must never have any authority over a man and therefore they should keep silent. Widows therefore, are regarded as marginalised for being both women and widows. The impact of such marginalization can increase poverty, especially when women are not working. The situation is getting worse when the in-laws grabbing the property left by the deceased husbands and leaving widows without support. In this study the researcher

enquired about the experiences of widows on land dispossession through their narratives, particularly in Nqadu A/A.

1.3 Research questions

This study is guided by the following research questions:

1. What are the narratives of widows in the study community regarding their experiences of land dispossession?
2. To what extent do those experiences relate to the cultural practices of the community with regard to the family system and land ownership?

1.4 Research aims and objectives

The central aim of this study was to highlight the cultural underpinnings of specific abuses and indulgences pertaining to land ownership with reference to widowhood in a rural Eastern Cape context. The specific objectives of the study were as follows:

1. To examine the narratives of widows in the study community regarding their experiences of land dispossession.
2. To examine the experiences relating to cultural practices of the community regarding the family system and land ownership.

1.5 Research setting

Nqadu A/A is located in the small town of Willowvale which falls under the Mbhashe local municipality, located in the Eastern Cape Province of South Africa. The inhabitants' main source of sustenance in this area is agriculture. The main crops grown in this area are maize, beans and pumpkins. Rainfall in this province is seasonal, predominantly falling in summer. The area has arable lands, is warm in summer and has a colder climate, in winter, which is ideal for agricultural production both for summer and winter crops. Nqadu A/A is one of the

villages that is affected by high levels of unemployment in the municipality. Different development programmes have been introduced but with the lack of proper monitoring by government officials they have collapsed, as expressed by previous researchers around the area (Mdolo, 2009).

This research project was carried out in six sub-areas of Nqadu A/A, namely Kulozulu, Nozizwe, Kumaya, Holela, Weza and Matolweni. The sample size was comprised of fifty widows who had lost their husbands due to different causes. Amongst these causes is HIV/AIDS, which has an enormous impact on the participants (this is not a key focus of this research project though). Excluding government officials and traditional leaders, fifteen respondents from Nozizwe and Kulozulu were interviewed, that is (30%) of the total sample. Ten respondents, (20%) of the total sample size were interviewed in Holela. In Kumaya and Lower Matolweni, fifteen respondents (30%) were interviewed. In Weza, ten respondents, (20%) were interviewed. The researcher first sought permission from The King in the Royal House of Amakhosa, who resides in Nqadu A/A. The researcher received a warm welcome from the king who expressed his approval for conducting such projects in his areas. The king entrusted one of his subordinates to avail the community hall on the dates allocated for interviews. The king also furnished the researcher with the names and numbers of the traditional leaders of the identified areas. The interviews were conducted from 16 December to 30 December 2015 using the local language preferred by participants, namely isiXhosa.

1.6 Limitations of the study

Customary laws that bind widows, particularly new widows, continue to present special difficulties for research as respondents are reluctant to discuss family matters especially when it involves recently deceased husbands. The researcher had to be attentive and sensitive to the respondents' grief. Respondents' grief may have had an impact on the information that interviewees furnished. Beside the venue selected for participants close to Great Place, namely Kulozulu, other venues allocated by sub-chiefs were not convenient as some of the respondents struggled to reach them because of their age and health conditions. The study sample of widows to be interviewed was arrived at through purposive sampling, meaning that the sample may not have been representative of the community of Mbhashe local municipality.

1.7 Significance of the study

Cultural practices have a profound influence in rural South Africa. Some of the cultural practices are increasing the vulnerability of the most vulnerable and increasing gender inequality in the access and ownership of land and other productive resources. Women's equal access to and ownership of land are constrained by their social position in society. Demographic information in the Republic of South Africa reveals that the population stands at about 54 million; with the black population estimated to constitute about 43.33 million, which is more than 80% of the total South African population (Statistics South Africa, 2014). Stats SA (2014) also confirmed that over 50% of the population is female. Women's equal access to and ownership of land in the area under study will have positive outcomes on rural development. This study contributes to the literature by highlighting the importance of cultural underpinnings of specific abuses and indulgences pertaining to land ownership with reference to widowhood in the rural Eastern Cape context. Musuhara and Huggins (2005:34) argue that "research carried out on land reform policy implementation reveals that the current land administration system has not challenged pre-existing gender biases in actual implementation".

Scholarly research conveys clear insights into gender experiential challenges and the significance of addressing such challenges in rural land power systems to control land dispossession of women in relation to traditional authority or beliefs and laws that govern the control of land. This will assist traditional leaders, land governors when formulating policies to consider and put emphasis on widows' land dispossession, and introduce clear protective statutes that would eliminate land dispossession and give rural widows an opportunity to prove their role in rural socio-economic development. This study thus serves as commencement for further research performed in the area of land dispossession of widows, due to the influence of rights.

1.8 Outline of the study

Chapter 1: Introduction

This chapter introduces the study, the purpose, objectives, and rationale for conducting the research.

Chapter 2: Literature review

The chapter gives an overview of the issues that design the way for a vivid understanding of the research problem and identifies gaps this study seeks to fill. The chapter also discusses the theoretical framework, using patriarchal theory to address the impact of land dispossession on widows. The study further pays attention to gender challenges over land allocation in rural South Africa. This discussion serves to place land and widows in a South African context, a move that assists the researcher to locate the study research questions in the academic discourse on widows land dispossession and the impact of cultural practices.

Chapter 3: Research methodology and methods

This chapter describes and justifies the utilization of a qualitative research methodology and provides answers to the research questions. The chapter highlights the importance of selecting qualitative research methods in data collection from respondents and employing purposive sampling in terms of selecting interviewees. The issue of access and entry to the research site, Nqadu A/A, is discussed in chapter three, and the chapter concludes by describing data analysis procedures employed in the study.

Chapter 4: Data presentation and findings

This chapter highlight the findings regarding widows' land dispossession presented during data collection and draws conclusions from the information recorded in the literature review.

Chapter 5: Discussion of findings, conclusion and recommendations

This chapter discusses the main findings of the study, makes some recommendations to address issues raised, and raises questions for further research.

CHAPTER 2

WOMEN'S RIGHTS, WIDOWHOOD AND PATRIARCHY: A THEORETICAL AND EMPIRICAL REVIEW

2.1 Introduction

According to the International Land Coalition report (2013:4) “across the developing world, rural women are amongst the disadvantaged people as they are discriminated by various laws, customs and practices which cause severe inequalities in their ability to access and control land.” South Africa is categorised as a developing country that consists of urban and rural areas (where the majority of women reside). In South Africa, urban women have the opportunity to work in industries, wholesalers, different government departments, own their own enterprises, etc. while the same system allows only a few educated women in rural areas to participate in such practices. Rural women, apart from their social grants, and child care grants, as well as pensions, depend on profits they make from land through cultivation of crops on land owned by their husbands and supplement their income from the remuneration sent by their husbands who work in cities in order to provide for their families. Historically, “women were not allowed to seek jobs in the cities, particularly if they were married, as their primary responsibility was to take care of the household and perform domestic duties in the homestead” (Allanana, 2013:116).

The circumstances of widows globally is getting increasingly worse due to the experiences they encounter after the demise of their husbands. According to Durojaye (2013:3) “despite the experience of losing a loved one, widows often find themselves facing other challenges such as deprivation, helplessness, and hopelessness brought about by harmful cultural practices.” These experiences emanate from the culture employed by the members of the community, including family members, especially those closely related to their husbands. This study aimed to highlight the cultural underpinnings of specific abuses and indulgences pertaining to property dispossession such as land regarding widowhood in a rural Eastern Cape context.

Land is a fundamental resource to rural women in South Africa and is essential for allowing them to lift themselves out of the shades of poverty (Arends, 2009:14). According to Moyo

(1996: 15) “land can therefore, be viewed as an intermediary in social relations, medium of production, economic activity and a political issue”. The question of land is currently one of the problems that the South African government considers a huge challenge faced by rural people. However, “access to land and ownership are governed by a tenure system, roles of traditional authorities in land management and cultural norms” (Jacobs, 2011:3). According to Grigsby (2004:208), “tenure is referred to as a bundle of rights and in this context to land ownership and resources it can produce”. This definition of land tenure lends well to this study as it recognises land tenure as not only comprising a system of ownership, but also highlights the issue of governance of access and control, which plays an important role in determining land rights of women, especially in the rural areas of South Africa.

Land rights are the integral means via which rural women access, use and own land. Ownership, control of land and related resources are often associated with influence in decision-making and the power to affect the outcomes. “Control over property through marriage and kinship patterns was essential to the reproduction of patriarchy in this class-based society, although of their exact relationship little is understood” (Crosswhite, 2002: 1119). Crosswhite (2002) further argued that studying the ability of women to own property, particularly land, reveals how patriarchal legal and social institutions operate to control and constrain widows through economic means. The most important are the ways the system and its role players make land ownership and control a reality for women, especially widows.

Issues of access to land and dispossession disadvantage groups extensively studied and documented by several authors. This study builds on the existing framework of knowledge of these previously documented works and, in order not to stray from the primary objectives, the review of literature related to the issues researched upon is imperative. The review in this study focuses on the following issues: widows’ land rights and South Africa’s international obligation; the legal framework affecting widows’ land rights in South Africa; the gender challenge; women and land; what widowhood is; land policies and reforms; what constitute land dispossession; and causes of land dispossession and the effects of such.

2.2 Patriarchy: A theoretical framework

The concept of patriarchy is central to this study. It is a concept that evolved from the struggle of women globally and encompasses the totality of structures of domination and exploitation that affect women's position in society (Walby, 1990; Smith 1997; Larsson and Schlytor, 1995). Sultana (2010:1) argues that "theoretical discourses on patriarchy address the prime obstacle to women's advancement and development". Patriarchy creates obstacles for women to progress in their communities. Patriarchy refers to a system of social structures and practices, in which men dominate, oppress and exploit women (Walby, 1990: 20). A number of social theorists view and define patriarchy in different ways. In this dissertation Walby's definition will fit and explain challenges faced by widows in their communities as concepts of culture and land appear to often intersect within a matrix of social exploitation.

Scholars asserted that the existence and origin of patriarchy, as traditionalists believe, is that men are born to dominate and women to be subordinate. As Sultana (2010:3) expresses "traditionalists believe that this hierarchy has always existed and will continue, and like other rules of nature this one too cannot be changed". Women are born having their mind to think and ability to play a role in leadership; therefore, subordination was created by the existence of a man. According to Patema (1988) the concept of patriarchy has been used within the women's movement to analyze the principles underlying the women's oppression. Patriarchy is not new however; it has a history with feminist thought, used by the anti-Marxist sociologist, Max Weber.

Theoretically, patriarchy used to view and address the issues revolving around the real basis of the subordination of women and to analyse particular issues being assumed. Morris (2002: 17) stated that "the theory of patriarchy attempts to penetrate beneath the particular experiences and manifestation of women's oppression, and to formulate some coherent theory of the basis of subordination which underlies them." Social feminists accept and use the basic principles of Marxism and view the struggle between woman and man as changing historically with changes in modes of production (Beechey, 1997). Marxist feminists have attempted to analyse the relationship between the subordination of women and the organisation of various modes of production.

In fact, Maxists adopted the concept of patriarchy in an attempt to transform Marxist theory so that it can more adequately account for the subordination of women as well as for forms of class exploitation (Angela, 2004).

Patriarchy is a dynamic system in which, when challenged, women win some activities, privileges and status while men give up some (Walby, 1990; Larsson, 1995). Walby (1990) conceptualizes patriarchy as a system consisting of six distinct social structures – patriarchal mode of production; paid employment; state power; male violence; sexuality; and culture of which state power, paid work, male violence and culture are particularly relevant to this research. Patriarchal structures within the ‘state cultural institutions’ (educational, religious, media etc.) have systematic policies and actions biased in favour of men’s interest. Under private patriarchy, men (in their presumed positions as heads of households) control household labour in home-based subsistence production and try to regulate the fertility and reproduction of women (Burman, 1998). Furthermore, women are systematically excluded from participating in public activities, including paid work and community leadership (Gilligan, 1999). These factors eliminate the opportunity for women to provide their input, which may play a critical role in socio-economic developments in most countries.

In public patriarchal systems, women are not excluded from the public sphere but may, at times, be excluded from paid work and or confined to lower paid and socially undervalued jobs. Kandiyoti (1998:144) argues that “in a public patriarchal system, the ability of man to dominate and oppress women in the private sphere is variable, and is restricted by the state rules and regulations”. These state rules in most countries are not properly implemented, particularly concerning the general inclusion of women in decision-making.

Consequently, under public patriarchy, women may have reduced dependence on men and the right to live independently of men, control their own fertility and work for pay outside the home. According to MacInnes (1998) cited in Arisunta (2010:8) “the rise of public patriarchy in recent times has been due to the development of modernity, individual rights, capitalist relations of production, commoditization of labour, and the decline in household or subsistence production”.

Power, and the existence of power, is within the definition of patriarchy. It has been argued that “power does not merely manifest itself in and through gender relations but gender is constitutive of power itself insofar as relations which may not always literally be about

gender, utilize the language of sexual difference to signify or legitimate power differentials” (Kandiyoti, 1998:145). Kandiyoti (1998:145) further argues that “men derive their power from culturally constructed rules on marriage, inheritance, work, social status and participation in politics and other-domestic activities. Other sources of power in contemporary societies include skills acquired, income earned, education attained and official/position occupied. Kabeer (1999:441) argues that “power relations are expressed not only through the exercise of agency and choice, but also through the kinds of choices people make and derive from a deeper level of reality, one which is not evident in their daily life because it is inscribed in the taken-for-granted rules, norms and customs within which everyday life is conducted”. People often make choices to conform to societal expectations, rather than what would have otherwise been their independent preferences. For example, women may tolerate domestic abuse to conform to social norms.

Patriarchy when viewed as a “gender system” entails societal norms or contracts centred on formal and coded or unwritten and assumed rules and regulations that govern the position of women and the prerogatives of men within the family and household, in the sphere of production or labour markets, in political systems, and in cultural institutions (Hirdam, 1991). Gender contracts are in effect male-female power relationships that shape and arise from the social, economic, and sexual dispositions of men and women in a society. According to Brak (1981:23) “various forms of gender contracts constitute a gender system under which cultural norms and common laws defining men’s and women’s rights, privileges, status and duties are defined”.

Gender contracts and systems are formed over long periods through day-to-day interactions and are subject to change through bargaining and negotiations (Hirdman, 1991; Kabeer, 1999). Negotiations is the process where women as individuals or groups of individuals, challenge the status quo or position themselves to access, control and utilise resources located in the public sphere of men (Kabeer, 1999:43).

Patriarchy is criticised as a concept that merges explanation with description and collapses into a form of abstract structuralism, losing the tension between agency and structure necessary to understand complex social processes (Pollert, 1996). Paradoxically, the in-depth, qualitative research of feminist social scientists influenced by patriarchy exposes the very limitation of the concept for understanding the complex and fluid nature of gender

relations. Liberal feminists often see precisely this patriarchy theory as potentially undermining the gains of the women's movement with polarising rhetoric that invites backlash and holds that they overemphasise sexual politics at the expense of political reform (MacInnes, 1998). Queer and postmodernist theorists often argue that the patriarchy ideas on gender are essentialist and that many forms of gender identity complicate any absolute opposition between men and women (Gottfried, 1998).

In the area of social policy and law, reformers have begun to focus on protecting the individual rights of vulnerable household members-women, children and the elderly at the expense of patriarchal privilege. Crucially, whilst the law became aware of the potential for the exploitation of family members and in acting underlines the importance of public attitudes and legislation in maintaining gender inequalities and differential relationships, the reform approach can be seen as an open acknowledgement that socialization patterns and family arrangements are male dominated (MacLean and Kurezewski, 1994:12). One example of patriarchy is where the Church of England experienced challenges from women concerning their ordination to be priests in the church. The relationship between individual men and institutions plays a critical role in the oppression of women. Patriarchal institutions eliminate the power of women and intrinsically promote the oppression of women by men by continuing to allocate men as leaders of churches and placing them in decision-making positions within the church.

Scholars note that patriarchy is an open gender power system where men and women are searching for ways and opportunities for enhancing their power and privileges. This concept helps the researcher to understand the phenomenon that surrounds the influence of culture on widows' land dispossession.

2.3 The gender challenge over land allocation

The process of allocating land in rural areas before 1994 started at local, sub-headmen level and was finalised with the issuing of a Permit to Occupy (PTO) by the district magistrate or commissioner (Ntsebeza, 2005). It appears that a person who was expected to apply for the land was a man. The headmen would first identify the area where land was needed and then approach people in the neighbourhood to establish if there were other claimants and ask for their support. The processes of land allocation before 1994 were clearly silent about

women's land allocation, particularly widows in South Africa, as in practice women accessed land through their husbands. According to Budlender (2011:19), "development text abounds with general statements about women and poverty". These statements focus on the vulnerability of women who need special attention in order to devise strategies needing to be implemented to reduce poverty. These statements also group women according to their vulnerability where the focus was directed on women headed-households rather than women in general. Takane (2007:3) argues that "widows and women-headed households tended to be poorer than male-headed households, especially rural inhabitants although this is not the case in all countries". These statements also compare rural inhabitants with urban inhabitants, which conclude that rural inhabitants are likely to be poorer than urban inhabitants, as well as men living in rural areas. This proves that women living in rural areas are being disadvantaged. One of the main reasons for the confinement of women in rural areas is to take care of children and keep property safe. In a South African context, large numbers of men from former homelands travel to big cities like Johannesburg, Cape Town, and Durban to work in the mines and other work. Andrade (2009:23) asserted that "this means that women who stay at home become the heads of their families and assume control of the rural economy."

2.2.1 Importance of gender in land policy

Gender equity addresses women's rights, explicitly when taking into account and allowing participating in designing and implementing land policy and programmes. Dick (1997:23) argues that "in many cases increased gender equality can also lead to increased economic equality." The full participation of women in policy development and implementation can strengthen their decision-making roles in community affairs and representation in local institutions. This might also improve well-being and ease workloads by facilitating access to basic rural services and infrastructures (Deininger, 2003).

Land appears as the critical asset in most developing countries, especially for the rural poor. Therefore, land is also an important resource for rural women in the event that they become household-heads because of divorce, death and abandonment by men (Cousins, 2009). Women's land rights within marriage may afford them greater claims on the disposition of the assets upon divorce or death of their husbands (Fafchamps, 2002). For widows to have control over land may be one of the few ways that elderly women can elicit economic

support from their children, in the form of either labour contribution to agricultural production or cash in-kind transfers. Maluccio asserted that “ the rights to land and natural resources increase a women’s bargaining power within the house-hold, which results in the increased allocation of house-hold resources to children and women as well as increased household welfare”(2003:126). Maluccio further argued that positive relationships exist between the number of assets that women possess in the time of marriage and the share of household expenditure devoted to food, education, health care, and children’s clothing. In addition to economic and social access, rights to land also often conferred rights to other local natural resources, such as trees, pasture and water (Katz, 2003).

2.4 Rural women and land reform

Black women residing in rural areas experience problems such as lack of income, access to housing, landlessness and poor basic services. Despite the South African Constitution proclaiming concern for gender equality, rural women, particularly widows, have not benefited from land reform. As Meer (2014:10) asserts, “the government’s market-based land reform programme, with its willing buyer, willing seller formulation, also limits redistributive land reform for poor men.” If rural women in South Africa access land through their husbands who are also poor, widows’ chances of accessing and owning land are limited. This clearly means that the reform tended to serve certain individuals with higher economic profiles rather than serving the needs of poor rural inhabitants.

In 1997 South Africa introduced a land reform policy in the White Paper which was intended to redress the injustices of apartheid, and ease the poverty of black women. The reform composed of land redistribution, land restitution and tenure reform. Phase one of the land redistribution programme focused on poverty alleviation, but its aim was to provide land for residential and productive use to households with an income of less than R1500 a month (DLA, 1997: 44). Intentionally, the programme did not outline the specific guidelines that deal with the challenges of rural women. The grants issued appeared to be small in size, and the land price increased which resulted in slowing the pace of land redistribution (Nkuzi Development Association Report, 2000). The rising price of land accommodates those who are economically stable instead of poor rural people. The policy thus reflects its commercialisation rather than redressing the challenges of the past experienced by the poor.

Meer (2014:11) further asserts that “women’s access to land was limited, mediated as it was through their belonging to patriarchal households, within which they were beholden to the decision of the men.” She further states that, in response to this, phase two of the redistribution programme introduced a 30% gender quota, which has enabled some women to benefit as individuals. Those women appear to have made their own contribution a requirement, and thus turn or shift away from the poverty alleviation goals, and the characteristics of beneficiaries were not drawn from rural poor women who were in desperate need of housing and livelihood. The programme becomes distorted because of numerous challenges that existed. A number of policies concerning land reform have been introduced from 1998 with different aims but, now none have been successful in addressing or specifically dealing with the issues that involve widows as heads of their families in rural areas.

As women appear to be more prominent in rural areas where there is no source of income, the likelihood is that they will depend on land for their livelihood, which includes raising of their families and the use of land as a place to reside. In Africa, a sizable population stays in rural areas and practices subsistence agriculture for their living.

According to Kassim (2011: 134), “about 73% of Tanzania’s people live in rural areas and depend on subsistence agriculture”. In his analysis also reflects the issue of more time spent by women in the fields comparable with men and children. The more time spent by women in the fields indicates that women in these rural areas are more dedicated to work for their families in producing food. Some scholars argue that women are classified as unpaid family helpers as they do house work, such as cooking, cleaning, and looking after their elderly family members. Kameri-Mbote (2011) said “given this general understanding that women are more concentrated in rural areas, more dependent on land, and more likely to be poor, it is clear that land is a central issue and is key to advancing the rights and wellbeing of women in Africa” (cited in Stifftong, 2014:6). Even though women appear to be concentrating on land for production that assists them to provide their families with food, the issue of ownership, access and control over land is still questionable for rural women.

2.4.1 Women's access to, use and control of land

Ribot and Peluso (2003:39) define access as “the ability to derive benefits from things including material objects, persons, institutions and symbols, which lead them to conceive of access as a bundle of powers rather than necessarily a bundle of rights.” Access, use and control over land are critical issues for women, which most researchers perceive as playing an integral part in changing the livelihood of rural inhabitants as well strengthening socio-economic development in rural areas. Some researchers argue that although many poor rural women have access to and use land, they are far less able than men to have control over land and its products. As Alma (2011:4) expresses, “many women who have only conditional access to land may lose this land when their husbands die, while others may lose the right to use the land their livelihood depends on if male family or community members believe they can profit by selling it.” These issues appear to be a threat to women, particularly when land prices rise and when there is a scarcity of land. It seems many scholars agree that many women are completely dependent on the male in accessing land; this trend can make it difficult for women to access, use, and control land in their own right. The United Nations (2013:20) reports that “it is important that laws, policies and programmes related to land and other productive resources should be sensitive to the issues that affect women concerning the access, control and use of land and ensure that women are able to access the required resources regardless of their personal or marital status.”

Mann (1999) claims that interventions concerning women's access to land would not necessarily afford them control over land without them being granted ownership. The research conducted by the International Development Research Centre (IDRC) in three different countries reflects that “the problem is lack of control and ownership while land access appears as unimportant” (cited in Budlender, 2011:3). The relations that women have to land reflected from different arguments indicates the vulnerability of women, especially in rural areas. This means interventions directed to give women access to the land they work on will not enhance their well-being or control over their livelihood. Therefore, the interventions should root-out obstacles that prevent the granting of land ownership to women.

In many African countries women are facing some of the challenges identified above, despite the fact that gender power, land resources are negotiated, contested and resisted in many ways, and that these issues move at a snail-pace. These challenges have aroused the interest of various researchers around the world. Most interventions that are employed, which include different treaties to which some of the African countries are signatories still show a lack of consideration in terms of implementation. These interventions focus on addressing challenges faced by particular groups of women in specific areas. The lack of implementation of them, though, shows that countries may experience challenges in developing relevant policies that are meant to assist women seeking greater control over their lives. The issue of proper development of policies that can assist women to control land and land resources shows the importance of land and policies for women.

The ILO report (1996) shows that “women’s access to land is therefore determined not only by women’s household level of living and livelihood, but also food security” (cited in Mutangadura, 2001:3). It seems that the problem of lack of land access is increasing especially in women headed-household in Southern Africa. The UN (2013:9) in its special report highlighted “the gap between de jure and de facto protection of women’s right to adequate housing.” The rights of women in most countries appear to be legally protected, but practically women are socially and economically disadvantaged and face challenges of being discriminated against in accessing houses, land and inheritance rights.

Women’s rights to land and natural resources can affect women’s empowerment. Agarwal (2005) has indicated that women with property ownership are less vulnerable to domestic violence referred to some areas of India. Domestic violence and community reprisal towards women requires careful programme design, and proper planning and implementation of policies that protect women against such an abuses. Land rights may also empower women to participate more effectively in their communities and civil society. According to Leon (2001:12), “facilitating women’s greater participation in extra-household institutions diminishes men’s dominance organizational skills, social networks, and social capital. Due to these assertions, women with land rights are likely to be active members of their communities, as a result of which, community institutions themselves are more likely to be responsive to women’s needs.

The importance of land and policy for women formed the basis for the research in this study, while it is not part of the objectives, to examine how specific factors such as types of marriage, age, levels of education and variations in cultural contexts, create special challenges for widows in particular, is of use.

2.4.2 Land inheritance practices

Inheritance practices are patrilineal, matrilineal or bilateral. In patrilineal inheritance, land is generally handed down from father to son; if a man does not have sons, his brother, nephew, or another man relative of his lineage receives it (Agarwal, 1988). Daughters do not inherit land from their fathers even though they are of the same lineage. The reason is that “cultural norms believe that daughter belong to their husband community” (Larsson, 1995:6-7). He further argued that wives are under the responsibility of their husbands and their families. It is believed if they inherited land their husbands’ families and lineage would obtain control over it. Inheritance practices in matrilineal societies appear to be more diverse; for example, in Indiana lineage and landed property are traced through the mother’s line, and land is passed from mother to daughter (Agarwal, 1988). In a few African countries like Ghana a woman often inherits from her maternal relative, although she can also inherit from her father and she can retain this right even if she marries (Stevens, 1998).

2.4.3 Marriage practices

Marriage practices in customary society include marital residence, where the couple lives after the marriage, and asset transfers that are dowry and bride price (MacLean, 1994). In this case, both sets of practices determine how family land is allocated and who has a right to family land. Generally, in patrilineal societies, residence after marriage is patrilocal and family land is handed down from father to son. The women who marry into the community do not have a right to their husbands’ family land or community land. When a woman manages to inherit land from her birth family and then later gets marry, she loses the land to her brothers.

2.5 Women's position under the customary land tenure

According to Budlender and Alma (2011:5), “the gender and land tenure debate is complicated by the intricacies of diverse land tenure regimes.” They further contend, “that these encompass complex informal and formal systems based on religion or custom, as well as on legal and government frame works”. Scholarly research that investigates the various existing laws that govern land in Africa reveals complexity regarding their proper implementation and contradictions in one another.

Such contradictions play an integral role as a backdrop to continue land tenure struggles. The land tenure regime in African countries, especially in rural areas, appears to be under the control of traditional leaders (USAID, 2010). Despite the utilisation of local rules, norms and customary laws, the allocation of land by traditional leaders to their localities through these rules, may discriminate against widows as they depend on their husbands or male relatives to access land. Budlender and Alma (2011:5) also state, “that the customary laws and practices are an explicit focus of several of the research projects supported by IDRC, including large scale surveys conducted in Cameroon and South Africa”. Customary laws that were previously used in the administration of land in localities face challenges from other laws as they contain bias towards women. These projects also revealed that traditional leaders still play key roles in land distribution in African countries. According to Mazhawidza and Manjengwa (2011), “in Zimbabwe, the headmen still have a role in land distribution in that country's Fast Track Land Programme which implies that the possibility of reducing gender inequalities through reform programmes is complicated by customary practice” (cited in Budlender, 2011:5). It seems that cultural or local practices prohibiting women's ownership of land and are powerful as written laws that allow women to own land.

Mann (2000: 32) claimed, “Cultural dictates that men are the owners of the land and that women have access to land through their relationships with a man.” The evidence reflected upon above reveals that customary laws conflict with other legal statutes, affects access to and control over land and security of tenure. The point of concern is how customary laws interact with other systems that include statutory laws. A general understanding is that various laws remain overlapping each other, even if they are attempting to target common objectives. According to this view, in practice, laws are not necessarily the same.

In this study, arguments revolve around the issue of the registration of land ownership to widows as primary beneficiaries. According to Van Wyk (1999:66), “South African tenure reform policy has done very little to address the needs of the majority of the poor, black, women in South Africa’s rural areas.” The focus of tenure reforms in communal land is based on family acquisition where women generally access land through their husbands or male relatives. This reveals a lack of authority for women, which limits their control over the land and land resources that they are able to access. It has been argued that “although women are particularly vulnerable under traditional and communal land tenure systems, they are not guaranteed land rights under any system of tenure while societal values remain patriarchal” (Kweka 2008:131). This view reveals that tenure systems also play an integral role in eliminating the chances of women having rights to land.

Customary institutions have important implications for women’s right to land. Agarwal (1994: 42) asserted, “Land administration programs require a deep knowledge and a clear understanding of customary tenure systems to know how they will affect and be affected by cultural norms and practices.” These assertions validate the comment above that culture or local prohibitions against women’s ownership of land are often more powerful than written laws that allow women to own land.

2.5.1 Sociocultural difficulties with women exercising land rights

Women’s secondary status, lower socialization level, undervalued productive work and illiteracy in many communities often make them reluctant to claim legal rights and participate in those institutions and activities seen as men’s domain. According to Larsson (1995:16), “women incur significant social costs for going against cultural norms; these costs include social ridicule and the possible loss of social benefits.” In some cases, women experience domestic violence against them when claiming their property rights. The extended patriarchal family generally provides a structure for a lifelong basic welfare of all family members and for assistance in times of social or economic crisis (Giovarelli, 2005: 130). He further argued that daughters continue to concede their rights to brothers to avoid conflicts with their husbands and family.

2.6 Decentralization

Due to the introduction of various forms of legislation, most African countries employ a system of decentralization of powers to monitor service delivery and governance. Lauglo, (2005:23) define decentralization as “distribution of authority to various structures of government and departments including local institutions.”

Regarding land, the reforms often involve the establishment of institutions responsible for land registration and resolution of disputes (Alma, 2011). Decentralization can provide opportunities for women and men to participate and be represented in matters that intimately affect their lives.

African countries developed and established legislations that address the issue of equity and allow women to have the right to land use, access and ownership. Mugwamba (2002) noted from the Ugandan constitution that one of the main aims of the constitution provision is to involve local people in the decision making process in matters that affect them.

According to Budlender (2011:6), “Approaches to decentralization differ in extent, in the seriousness with which they are undertaken, and in the resources allocated to their implementation, among other factors.”

He further argued that, although potentially offering opportunities for women in terms of participation, decentralization can also have a negative impact on women’s access to and control over land.

2.7 Cultural experiences of widows

Culture is generally perceived as the distinctive characteristics of any society. According to Okonkwo (2015:71) culture can be defined as “the society’s guiding principles of human behaviour and existence as transmitted by the same society.” Societies within their communities are supposed to develop and improve their livelihood through inclusion and practice of their culture. Okonkwo (2015:71) further says, “In most cultures in Africa however, widowhood practices have become the exclusive preserve for widows with accompanying elaborate guiding regulations and not for widows for whom the culture or tradition has prescribed little or no mourning rites.” Mourning is a cultural practice after the

death of a person, and such a person is the member of the family; therefore, all members of the family may abide with the cultural rules to mourn their beloved ones equally.

Cultural rules may affect all who belong to a particular society without excluding any particular group. In most African countries, death is treated as an unnatural event, especially when it has occurred to male inhabitants. Cultural practices upon the death of man differ to that of women even if they are married. Women have to mourn their husbands in a way that can be perceived to be oppressive and overwhelming, more so than when a man loses his spouse. Cousin (2013:90) expresses that “after the mourning period of the widow, she must be cleansed, but if the father-in-law or her husband’s brother died before her husband, and the ceremony of cleansing them has not been performed, this will be carried out before her cleansing and the in-laws would use her livestock to perfume such rituals”. Women’s cultural practices, upon the death of their husbands, are espoused as the widowhood rite in most African countries. Widowhood rites are described as the rites performed by women after the death of their spouses.

2.7.1 Widows, tenure and HIV/AIDS

The effect of the HIV/AIDS epidemic regarding the question of security of tenure in African countries is highly popularised. Many scholars reflect that in most African cultures access to land for widows occurs through their deceased husband before they die, thus, increasing the likelihood that after the death of their husband, the widows may face the prospect of not having a place neither for cultivation nor to live. According to Budlender (2011:11), “in some cultures, a widow retains the right to live in the husband’s homestead through a system under which she is forced to have sex with, or even marry, one of her late husband’s male relatives”. For a widow affected by HIV/AIDS there is a high possibility of not being accepted by her husband’s relatives; therefore, there are also high levels of losing access to land. Mutangadura (2004:2) echoes this sentiment as she states that, “the phenomenon of limited women’s access to land is further compounded by the HIV/AIDS pandemic which affects women and men differently; prevalence, impact and effects of HIV/AIDS are harder on women and children in particular”. She further argues that access to and ownership of land are fundamental to basic livelihood sustenance, implying that discrimination against women from owning land is a violation of their human rights.

After twenty years of democracy in South Africa, progress in the redistribution of land and in realising the number of laws promised for secure land tenure has moved at a snail-pace. The former homelands where Nqadu village is situated are still dominated by commercial farms, and women are still experiencing the historic challenges that include inequality, dispossession and marginalization. Theoretically, land reform policies, programmes and slight interventions appear to be inadequate to ensure women's access to land and tenure security. As Stiftung (2014:15) states, "the gap between the rhetoric of progressive legislation and its implementation still calls for advocacy interventions...and challenges facing women's security of land tenure in communal land settings are multifaceted." Due to a lack of adequate policies that address challenges faced by women, in the case of eviction when their marriages end and at the death of their spouses, women are often made unwelcome by their male relatives when they return to the natal home. Scholars confirm that in most cases widows and single women struggle to access residential land because traditional leaders refuse to allocate land for them. Stiftung (2014:15) asserts that women are often excluded from traditional institutions, such as tribal and village council meetings where decisions on land are taken. This exclusion diminishes the land rights of women, particularly widows, and eliminates the chances of traditional interventions when widows are evicted from the land they are supposed to inherit after the death of their spouses.

2.8 Economic dimensions

There is a need to consider economic dimensions of land ownership because of the importance of land centrality and productivity to women in general. Land is recognised as the primary source of wealth, social status and power throughout history. It builds a foundation to create shelter, plant food and harbour economic activities like fishing and transportation of goods.

Access to rights in land is a condition to other rights such as access to water, sanitation and electricity. The rights that society allows for landholders directly affect the willingness and ability of individuals to make a long-term investment in arable land. In emerging economies, sustainable development is contingent on the establishment of inclusive access to property rights in land and security of such rights (FAO, 2002). They further argue that making access to land and the benefit that comes with it more inclusive for women can pave a way

to overcome economic and social disadvantages. Action Aid (2008) reported that women from developing countries produce between 60 to 80 percent of food, while they rarely own the land they are working on or have a tenure security over the land.

2.9 Natural resource management

The security of women's livelihoods is measured in terms of women obtaining their land rights. Land contains some productive resources, such as water, minerals, forests and fisheries that are governed by a number of policies, legislation and local authority norms and values. These various forms of frameworks may play an integral part in impeding women's rights to land. Budlender (2011:11) claims that "it is widely acknowledged that, despite women's complex relationship with productive resources, they tend to remain outside the associated decision-making processes, for cultural or other reasons". This reveals that even if women can own one of the land resources or even land, it is complicated to have a right to other resources that relate to land that could assist in food production. For example, women can own the land but that does not mean they can have a right to mining.

According to Budlender (2011:12), "communal resources are essential to the livelihood of many in rural areas, particularly marginalized groups or individuals who are unable to access individual resources, such as wet lands and fuel harvesting." In the case of women, communal laws reveal conflicting ideas about women's rights to land and they eliminate the chances of power over land. Limited involvement of women in institutions that govern land and land resources have an impact on the livelihood of women as this limits the chances of women in decision making.

2.10 Challenges facing traditional authority over land in South Africa

Since the advent of democracy in South Africa in 1994, confusion exists in the land administration as to who is supposed to take control of land between traditional authorities and local government. The introduction of local government by the government of the African National Congress appeared as a good idea and has clear and important objectives that were based on the local development of communities, especially rural inhabitants. The

conflict that developed between local government and traditional authorities especially during the first democratic elections, were centred on a number of local organisations that were formed and acted against the roles of traditional authorities without any policy guidelines. The most prominent civil organisation formed between 1992-1993 was the South African National Civic Organisation (SANCO). The control over land was at the centre of their struggle, in particular land allocation. In many rural areas SANCO took over land allocation functions from traditional authorities, using the political influence of the ANC based on the Freedom Charter.

This action led to a breakdown in land administration in many rural areas and has also influenced the issue a permit to occupy (PTO). These tensions manifested themselves after the election of local government officials who represented rural areas. they occurred between councillors on one side and SANCO on the other side, as well as traditional authorities. As Ntsebeza (2004:71) explains, “the laws governing the allocation of land in rural areas of the former Bantustans have not been repealed in this regard, the South African Constitution is clear that existing laws will remain in force until such time as they have been replaced by appropriate legislation.” Civic structures in many rural areas demarcated land and allocated plots to its supporters but were not granted PTOs by government officials, as their process was not recognised. It appears that after four years of elections in local government, rural councillors have lost the confidence of their supporters, which means the power has returned to traditional authorities. Ntsebeza (2004:72) asserted that, “That the main cause of the disgruntlement seems to have been lack of delivery of even basic services such as water and road maintenance. After a long battle between government and traditional authority with issues concerning communal land, government published a White paper on local government in 1998 that entailed the possible roles of traditional authorities. Amongst the roles delegated to traditional authorities, the White paper insisted that the traditional leaders should play integral part in the development of their communities (White Paper, 1998). Despite the fact that the White paper tried to converge powers to traditional authority, the statement that associated traditional leaders and community development needs to be reviewed.

2.11 Widows' land rights and South Africa's international obligation

According to the Republic of South Africa's Beijing Report (2015:4), "South Africa has, since the adoption of the Beijing Declarations and its Platform for Action, been making consistent efforts at fulfilling its obligation as contained in the Agreed Conclusions and Political Declarations through enacting legislation, policies, strategies for women's empowerment, advancement and provision of human rights." South Africa achieved democracy in 1994. Central to the achievement of democracy was a commitment to gender equality and the empowerment of women. According to the Constitution of the Republic of South Africa Section 1 (1996:24), "the Republic of South Africa is one, sovereign, democratic state founded on the following values, among others; (a) Human dignity, the achievement of equality (including gender equality) and the advancement of human rights and freedoms." The Constitution guided by a range of international and human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Declaration and its Platform for Action (BDPA). CEDAW, is the critical tool to achieve the full realization of equal rights for women in civil, cultural, political and social domains (The Global Initiative, 2014:2). The CEDAW prohibits any exclusion or restriction based on gender that harms women's human rights and fundamental freedoms (UNCEDAW, 1995:3). This promotes women's rights as equal to those of their counterparts to political, social and economic participation and benefit. CEDAW has comprehensive coverage and obliges signatory states to achieve these goals as expressed in Articles 7-8, 10-13 and 16 of the CEDAW. The Beijing Declaration states that governments should ensure that women have equal access to economic recourses including land credit, science and technology, and vocational training as the means to further the advancement and empowerment of women (UNCEDAW, 1995). The United Nations Higher Commission on Human Rights endorsed resolutions on women's equal ownership access to and control over property and land (UNHCR, 2003:22).

Security of tenure in private, communal and other forms of land ownership can encourage women to invest in the land, adopt sustainable farming practices, and ensure care for other resources (Kagwanja, 2006). The African Charter on Human and People's Rights called upon all Heads of States and Governments of the Organisation of African Unity, to endorse the recommendations of the African Commission on Human and People's Rights to extends

a Protocol on the Rights of Women in Africa and put an emphasis on women's rights as set in the international declaration and convention (OAU, 2003). The Protocol enforces African governments to detour all forms of discrimination against women through appropriate legislative and institutional measures. The Protocol, in a number of articles, conveys issues on women's social, economic and political equality and emphasises the rights of widows and divorcees.

United Nations (UN) agencies and international organisations play an integral part in supporting women's equal rights regarding access to and control over land. The UN Charter in its 55th article provides for universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. In addition, Article 2 of the Universal Declaration of Human Rights, places more emphasis on this point, by stating that everyone is entitled to the rights and freedoms set forth in the Declaration, without distinction of any kind, such as colour, race, language, religion and sex.

The Republic of South Africa ratified these obligations through its Constitution in Chapter 2, section 9(3). The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth (Constitution of the Republic of South Africa, 1996). The United Nations Human Rights Council, after concluding its 15th session in 2010, they called upon all states to fulfil their obligations and commitments. In order to revoke any outstanding laws that discriminate on the basis of sex and remove gender bias in the administration of justice. Considering that, those laws violate their human right to be protected against discrimination (Widows International Right, 2012). The government of South Africa plays a pivotal role by including itself as one of the countries that puts forward signatures to several human rights treaties. This clearly indicates that South Africa has an obligation to respect, protect and to fulfil the rights of all its citizens. South Africa has also signed the treaty of the Southern Africa Development Community (SADC), The Declaration on Gender and Development and its addendum on the Prevention of Violence against Women and Children. These promote the fundamental human rights of South African citizens.

Land is seen as a primary resource for improving the economy, and enhancing the power and social status of those who have access to and control over it (Stiftung, 2010:5). He

further contends that land has long been recognised as key to advancing the socio-economic rights and wellbeing of women and their position in the society. Yet, access control and ownership of land largely remains the domain of male privilege, entrenching patriarchal structures of power and control over community resources, history, culture and tradition. International discourse on gender equality has been influenced by the arguments raised regarding women's land rights in the 1990s, which established the basic component of policy. Gender equality was promoted as a major goal in the Millennium Development Goals – MDGs (World Bank, 2001) and in the country's Sustainable Development and Poverty Reduction Program. "However, persistent gender gaps in landholding rights regarding women's access to and control over land are affected by various factors in their communities" (FAO, 2002). Socio-economic, legal and institutional factors affect widows' access to and control over land in South Africa.

2.11.1 The legal framework affecting widows' land rights in South Africa

A number of laws and policies pertaining to land and property rights in South Africa have been established. Of specific interest to this study are laws relating to access and inheritance of land by widows. The legislations and policies have been sectionalised for discussion in this chapter into international, national, regional and local levels.

The prominent and international legislation that covers a wide spectrum of human rights issues, as they relate to women, is the Convention of the Elimination of all forms of Discrimination against Women (CEDAW). Article 14(g) of CEDAW refers to the issue of land and livelihoods and clearly states that the state parties shall ensure that women have access to agriculture, credit loans, marketing facilities, appropriate technology, and equal treatment in land and agrarian reform and resettlement (WLSA, 2001).

The Commission for Human Rights in 2000 and 2001 consecutively adopted two resolutions; the first refers to women's equal ownership of, access to and control over land and equal rights to own property and adequate housing. The Commission later adopted another resolution on the same subject. The most important instrument that protects the rights of women in Africa is The African Charter. Article 18 of the African Charter protected, inter alia, the family, women, children, the aged and disabled. Article 18(3) of the

Charter provides specifically for women: “the State shall ensure the elimination of discrimination against women and also ensure the protection of the rights of women and children as stipulated in the international declaration and conventions” (African Charter on Humans and People’s Rights, 2003). The critics of the African Charter’s claim that women’s rights have been treated in a desultory and dismissive way, as not only are these rights only mentioned in one provision but, also, they are lumped together with other quite complex and controversial notions of the family, tradition and morality. It appeared that the African Charter could even be used to abuse women’s rights. The reason for this argument is that duties, which placed on the state or individuals, to the family, will ingrain oppressive family structures, which marginalise and exclude women from participation in most spheres outside the home. This also supports discrimination against women because of their gender in all areas of activity (Limann, 2003).

The Women’s Protocol to the African Charter (WPAC) was adopted in 2003, with the aim to supplement much needed and required protection regarding different categories of women (The Women’s Protocol to the African Charter, 2003). Most of the provisions formulated cover the most vulnerable category of women, which they regarded as being widows, by prohibiting discrimination that endangers the health and general wellbeing of women. Article 3 and 4 contain the rights to dignity, life, integrity and security of a person respectively; and ensure that women such as widows are treated in a respectful, human and non-degrading manner (Protocol to African Charter, 2003). Limann (2013: 17) maintains, “The women’s Protocol to the African Charter also boosts up the African Charter’s anti-discrimination clause by highlighting harmful practices, struggles and problems that women are subjected to every day in Africa.”

The Convention on the Elimination of All Forms of Discrimination and the Convention on the Rights of the Child (CRC) both identify a group of human rights that, if fully realised, should protect widows and their children from abuse, and empower widows and recognise them as full members of society (Women 2000, 2001:15).

The Declaration on the Elimination of Violence against Women (DEVAW) is used as a legal tool to ensure that human rights of widows are respected and upheld. South Africa has ratified these Declarations in section 8(a) where it clearly emphasised that “no person may be discriminated against on the grounds of gender-based on violence” (Government of South Africa, 2000:16). It also continues to state in sub-section (c) that women are not prevented

from inheriting family property including land. The Republic of South Africa fully involved itself and signed the treaties but the applications of these clauses are still arbitrary.

In its Land Policy document the African National Congress (ANC) insisted on the need for urgent procedures to ensure that women gain equal access to land and are fully engaged in policy formulation and decision-making (ANC, 1992). The Reconstruction and Development Programme also recognises women by stating that national reform programmes must address gender inequality and support services, and that government should assist women to benefit in agricultural production (RDP, 1994). The Green Paper on South African land reform emphasised a clear commitment to preclude discrimination and ensure gender equality in land ownership (Green Paper, 1996). The White Paper on South African Land states that “a key contributing factor to women’s inability to overcome poverty is a lack of access to and rights to land” (White Paper, 1997).

The post-apartheid government, led by the ANC, negotiated a settlement that necessitated compromises on the issue of land. Whereas the hopes of the black people were that after apartheid they would regain the land or that at least everyone would gain access to enough land for their needs, the negotiated settlement left the distribution of land largely unchanged through the constitutional guarantee of the right to property with only a limited form of restitution (Williams, 2007). “Nevertheless, it was the policy of the incoming government of the African National Congress (ANC) to effect land reform that would to a significant extent ameliorate the injustices of deprivation and denial of access to land as exercised during apartheid regime” Rugege (2004:18).

Land reform would also alleviate poverty, especially in the rural areas, and give some protection against eviction to those who forced generations to live on land without proper rights. In the Reconstruction and Development Programme (RDP), the ANC undertook land reform under three major strategies. Restitution to restore land rights to those who were dispossessed of them under discriminatory laws; redistribution to make land more accessible to those who had previously been denied access; and tenure reform to give security of tenure to labour tenants, farm workers and other rural dwellers who lived on land without secure rights. The access to and control over land can be less important if the accessed land is infertile Source: <http://ccs.ukzn.ac.za/files/LandreforminSouthAfrica.pdf>

2.12 Conclusion

The above literature shows that patriarchy appears as the prime obstacle to women's land access and ownership. Despite differences in level of domination, the broad principle remains the same; women are subordinates of men. The literature reveals that land is an important asset in developing countries, especially in rural areas where women constitute the majority of the population. The above literature also shows that the issue of land ownership, especially with regard to women, is a crisis.

International legislation that catered for the protection of women against discrimination has been formulated and established, and most countries have been given the opportunity to conform to the legislation. The pieces and provisions of this legislation have a broad vision in changing and improving the status of women away from different forms of discrimination. Many countries have ratified their obligations through their constitutions in order to strategise women's empowerment, advancement and provision of human rights.

Some pieces of legislation seek to achieve the realization of equal rights for women in the civil, cultural, political and social domain. Both International and National policies eschew all forms of discrimination against women and call upon all governments to promote women's social, and economic equality, and emphasise the rights of widows and divorcees.

The Republic of South Africa also ratified the obligation through its Constitution in order to redress challenges of the past towards women. According to the literature presented, the challenging issue in the country was to allow full expression of the rights to apply over and above the cultural rules of certain authorities. However, the evidence from the literature shows that the constitutional rights to gender equality as documented, have not been realised because of the overlap between constitutionally enshrined citizens' rights and curtailment of the exercise of those rights by cultural laws.

Although different legislation contains certain rights and responsibilities for women by virtue of the fact that they possess the citizenship of their country, the full exercise of such rights and responsibilities are curtailed in the rural areas; instead traditional and local rules are administered. For rural women, to attempt to exercise their constitutional rights beyond

those areas might result in frustration due to the invocation of the differentiating concepts of gender. These distinctions are pronounced in the rural areas, and usually ensue from political competition for resource control, especially where resources are allocated along gender lines. The literature presented shows that when resources are allocated along gender lines, they often favour men. Communal land authorities, who are perceived as custodians of cultural rules that control land allocation and ownership, have gone through changes and been influenced by the prevailing political climate. Cultural rules, however, continue to have influence over land allocation.

Land discrimination against women appears to be worse when women acquire the new status of being widows. The literature shows that women generally had access to land through their husband; however, upon the death of their husband, widows had to lose the land especially if their husbands died of HIV/AIDS related diseases.

CHAPTER 3

RESEARCH METHODOLOGY AND METHODS

3.1 Introduction

This chapter focuses on the methodology employed in this study for collecting the required data to understand the phenomenon under study. The researcher used a qualitative approach used to design, collect and analyse the data. Babbie and Mouton (2001:270) define qualitative research as “an approach in which research takes as its departure point the insider perspective on social actions.”

A qualitative approach is an approach that privileges the emic perspective, that is the lived experience of the subject, and the meaning the subject attaches to the phenomena investigated, while quantitative research involves the counting, measuring of events, and performing the statistical analysis of a body of numerical data. Babbie (2010:92) explains, “The study of secondary sources of information, focus groups, in-depth interviews and the exploratory paradigm are mostly gathered in a needs assessment fashion which focuses on large scale surveys.” In a very simple approach, qualitative research extensively responds better to ‘why’ and ‘how’ questions, while quantitative research uses ‘when’, ‘what’ and ‘where’ as the basis for its investigations. Rees (1997:231) argues, “Rather than presenting the results in the form of statistics, qualitative research produces words in the form of statements and it offers insights and understanding of participants.”

Qualitative research also aims to study subjects in their original social surroundings and collect natural information that contains non-biased data. The subject in a qualitative study describes data in words, not numerical occurrences, and offers data through observation. According to Creswell (2003:6), “qualitative methods yield large volumes of data obtained from a limited number of individuals”.

Qualitative data collection methods included the use of photography, interview, (group and/individual), observation, field notes, reflective tasks, diaries, projective techniques, life stories and one-on-one in-depth interviews. Quantitative methods include a representation of

an empirical system in a numerical mathematical system for reasoning analytically within the mathematical system.

The decision to use a qualitative methodology in this study was influenced by qualitative researchers who pointed out that qualitative method permitted a considerable amount of flexibility. Grinnel (1987) pointed out that qualitative data, with its emphasis on people's lived experiences, was fundamentally well suited for locating the meanings of the people, place, events, processes and structures of their lives. The qualitative approach has many advantages on which this study draws. These advantages include producing more in-depth and comprehensive information, making use of subjective information and participant observation to describe the context of the variable under consideration, as well as the interaction of the different variables in the context.

According to Khdhir (2015:108) a disadvantage of the qualitative approach, is that "it is very difficult to prevent or detect researchers introducing bias, and the scope is limited due to the in-depth, comprehensive data gathering approaches required". Observers are forced to rely exclusively on their perceptions. They are, therefore, more susceptible to subjectivity, prejudices and selective perception (De Vos, 2002). This could be a major obstacle in participatory observation, as the researcher forms a close link with the respondents and actually becomes part of the total situation (Berg & Lune, 2014).

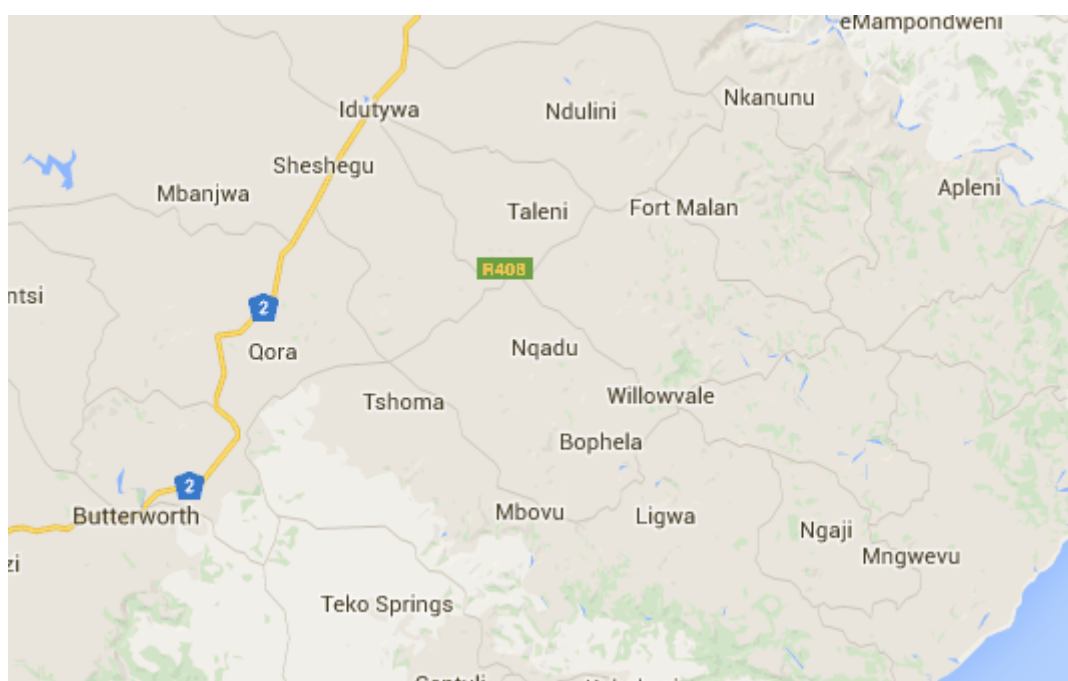
In-depth interviews were the key method of data collection selected and used by the researcher in order to explore the narratives of widows on land dispossession based on key informants. "The goal of this approach was to address ambiguous phenomena, generate rich evidence from the everyday experience, and focus on context" (Bernard and Ryan, 2010; Brower, 2000; Liamputtong, 2011) cited by Birchall (2014:1).

In-depth interviews are qualitative in nature; however, the qualitative approach was effective because it allowed the researcher to explore meaning, elaboration, interpretations and individual experiences. Boyce described in-depth interviewing "as a qualitative technique that involves conducting intensive individual interviews with a small number of respondents to explore their perspective on a particular idea, program, or situation" (2006:3). In-depth interviews allowed respondents to offer a more complete picture of what happened concerning experiences regarding land dispossession. The study sampling of this project

consisted of focus groups where the employment of in-depth interviews ensured its relevance. Boyce argues, “The in-depth interviews provide much more detailed information than what is available through other data collection methods, such as surveys” (2006:3). Widows in this study provided their experiences in the form of discussion in a more relaxed atmosphere and appeared comfortable having a conversation with the researcher about their challenges concerning land issue.

3.2 The study community

Figure 3.1: Map of Willowvale showing Nqadu A/A



Focus area: Nqadu A/A

Nqadu A/A is located in the northwestern part of Willowvale, the small town under Mbhashe local municipality in the Eastern Cape. Mbhashe local municipality is one of the poorest of the poor municipalities in the province. According to the Mbhashe Local Municipality IDP (2012-2017) Nqadu A/A has a population of about 1027 households and has more than 4200 inhabitants. Out of 4200, 55 % are females and 45% are males (Stats SA, 2014). The majority of people residing there during the year are at aged below 22 and above 50. Despite being electrified, the area is comprised of low cost houses built of mud, poor roads, and lack of security and sanitation.

The area under study is blessed with humid weather in summer that maintains running water along the streams that assist in the growing of plants. Subsistence agriculture is the main source of food in the area. Historically, rural women in South Africa played an integral role in subsistence agriculture as food producers who constituted more than half of the agriculture labour (Kehler, 2001). According to Aliber, (2000:6), “women use subsistence agriculture as the strategy to improve livelihoods, and maintain sustainability of their families, culture, villages and communities.” The researcher agreed with the assertion of Aliber because women from Nqadu are living in an area that is faced with the challenges of poverty, such as unemployment, illiteracy and lack of education.

The majority of women in Nqadu are household heads, who face poverty mainly because of the death of their spouses, the breakdown of family structures, and seemingly the enhancement of cultural rules that lead to their land dispossession. It is for this reason that this study examines the narratives of widows of Nqadu A/A regarding their experiences of land dispossession.

3.3 Research design

To cover the purpose of this study in-depth, semi-structured and key informants’ interviews were employed. According to Katito (2010:39) semi-structured interviews are defined as “those organized around areas of particular interest while still allowing considerable flexibility in the scope and depth”. In this study, in order to allow the full engagement of participants, semi-structured questions were used to facilitate the process of exchanging information and experiences. “The legitimate way to generate data is to interact with people, talk to them, listen to them and gain access to their account” (Richards, 2005:38). This technique was regarded as appropriate for the data gathering process among the widows because it allowed for an open interview that enabled the subject to speak freely.

Semi-structured interviews were advantageous as they provided the opportunity to pose questions in an open-ended manner. Since the researcher aimed to elicit responses of an introspective nature, it was flexible and participants’ ideas guided the process. The limitations of semi-structured interviews are that it could be difficult to elicit participation from individuals who have limited time; and documentation and analysis could be time

consuming and might require the assistance of a person who was highly knowledgeable in qualitative analysis.

Key informant interviews are regarded as qualitative in-depth interviews with people who have full ideas about community issues. In-depth interviews were purposely employed in this study to elicit clear experiences from key informants (Gillham, 2000). The advantage of employing key informant interviews in this study was to collect data from a wide range of people, including government officials, who had firsthand knowledge about the community and women land rights problems. This allowed the interviewer to establish rapport with the respondents and provided an opportunity to build relationships.

Focus group discussions as a data-gathering tool were also employed in this study. Govender (2008) defines focus group interviews “as carefully planned discussions designed to obtain perceptions on a defined area of interest in a permissive non-threatening environment.” A focus group is a form of qualitative research in which a group of people are asked about their attitudes towards a product, service, concept, advertisement, idea, or packaging (Neumann, 2000). In this study, the researcher continued motivating every widow to talk freely in the group discussions about their experiences as their input was not linked to their names. Questions were asked in an interactive group setting where participants were free to talk with other group members. According to Babbie and Mouton (2001:291) the main purpose of focus group research is “to draw upon respondents attitudes, feelings, beliefs, experiences and reactions in a way in which would not be feasible using other methods, for example one-on-one interviews, or questionnaire surveys.” These attitudes, feelings and beliefs might be partially independent of a group or its social setting, but were more likely to be revealed via the social gathering and the interaction that a focus group entails (Creswell, 2003). Focus groups elicit a variety of views and emotional processes within the group context, unlike individual interviews that aim to obtain individual beliefs, feelings and attitudes. In focus groups, the interest of the researcher revolves around the behavioural responses and the deduction of common views out of the interaction-taking place within the group.

Babbie and Mouton (2001:192) contend, “As with most other methods of qualitative inquiry, its use is expected to adhere to a number of prescriptions, some of which touch, size of the group-number of participants appropriate for a group.”

Krueger (1988) asserts that focus groups involve small groups of people with a particular characteristic convened for a focused discussion on a particular topic.

3.4 target population

The study's target population consisted of widows, land committees, ward councillors and traditional leaders from Nqadu A/A, and officials from the Department of Rural Development and Agrarian Reform in the Eastern Cape Province. The researcher randomly selected 50 widows from communities in Nqadu A/A who share the same experience of land right issues. The choice of sample size was based on the need for accuracy required by the researcher and the degree of variation in the sample (Babbie, 1990).

The researcher employed purposive sampling to select 12 key informants. The key informants in this study consisted of two ward councilors, four members from local land committee, four traditional leaders, and two officials from the Department of Rural Development and Agrarian Reform. According to Jacobs (2002:26), "Sampling is the process of selecting a number of individuals for a study in such a way that the individuals represent the larger group from which they were selected." The process of sampling is necessary due to the large size of a population and the consequent impracticality and prohibitive cost of testing each member of any population (Denzin, 2000). Purposive sampling is employed for selecting a representative sample, whose findings can be generalized to the larger population. Purposive sampling is employed when a researcher is selecting a sample based on the researcher's knowledge of the population, its elements and the nature of the research aims, in short, based on the judgment and the purpose of the study (Babbie, 2001). Its advantage is that those participants who do not meet the requirements are eliminated and it is less expensive as it involves fewer costs.

Despite its affordability, the disadvantage of purposive sampling is that, the researcher has the responsibility of choosing participants, of which there is a possibility that the researcher can be wrong in selecting suitable participants for the study (Oppong, 2013).

3.5 Research instruments

A research instrument is a tool that is used for collecting data to find solutions to the problem under investigation (Babbie, 2001). The researcher used in-depth interviews, focus group discussions and key informants interviews as the research instruments in this study. In-depth interviews were used to collect a significant amount of the data in this study. Most of the respondents interviewed applying this method were widows who appeared to be sufferers of land dispossession and victims of a violation of land rights. The interviews involved posing questions that explored the widows' experiences on the subject of land dispossession following the death of their husbands and their relations with their spouses' families before and after the death. Interviews were face-to-face meetings between the interviewer and the interviewee (Smith, 1995). A tape recorder was used to record the information from respondents in order to assist the researcher when analysing the data. The researcher also managed to make some notes to supplement the recording.

3.6 Research procedures

Procedure refers to a prescribed specific manner in which the goals are achieved (Grinnel 1987). This study was conducted in Nqadu A/A which is located under the Mbhashe local municipality in the Eastern Cape. The researcher used sub-areas under Nqadu A/A that included Nozizwe, Matolweni, Kumaya, Kulozulu, Weza and Holela. The researcher first sought permission from the King of the Amakhosa known as Zwelonke Sigcawu "Ah Zwelonke" (thus how they salute the king) to work with his subordinates in order to get relevant information for the study. Interviews were conducted from 16 December to 30 December 2015 in the language preferred by the participants (transcripts of interviews were translated into English before analysis). Each interview was conducted at a meeting place that was suggested by the headmen as convenient. These ended up being in a nearby school, nearby churches, community halls and at the headmen's home. Individual interviews were 30 minutes in duration, on average, and focus group discussions were held for about 60 minutes per session. Appointments were made via telephone for interview dates for key informants. Interviews were conducted by the principal researcher using interview questionnaires, transcribed responses, and recorded observations about focus group

participants. Focus group discussions were held at two different Church halls, the headmen's place, Nqadu Junior Secondary School and the Nqadu community hall.

3.7 Data analysis

Data analysis involved structuring and bringing logical order to the vast volume of data collected. The data was first transcribed verbatim from the tape recordings onto a computer. The Nvivo package was used in transcribing and analysing the recorded discussions that were conducted. Scholars argue that no single software package made to conduct qualitative data analysis in and of it. Coffey and Atkinson (1996:166) maintain, "The appropriate use of software depends on the appreciation of the kind of data being analyzed and of the analytic purchase the researcher wanted to obtain on the data." A coding process was employed by the researcher to analyze the data. Coding is the process of organizing the material into 'chunks' before bringing meaning to those 'chunks' (Neumann, 2003). It involved organizing text data into categories and labeling those categories with a term, a term often based on the actual language of the participant, called an in-vivo term (Creswell, 2003).

Coding was employed in order to generate a number of themes that would appear as major findings in the study and appeared under separate headings in the findings section. Smith (1995:17-18) argues, "There is no one correct way to use qualitative thematic analysis, each project creates the appropriate manner for the employment of thematic analysis, and researchers should give meaning to the participant's interview and engage in an interpretative relationship with the transcription."

3.8 Ethical considerations

Respondents were fully informed about the research for which the interview was going to be employed (Henning, 2004). This process was followed to eliminate surprises and unexpected behaviours. Strydom (1998:24) defines ethics as "a set of moral principles which is suggested by an individual or group and is subsequently widely accepted, and which offers rules and behavioral expectations about the most correct conduct towards experimental subjects and respondents." The researcher in this study did not subject

respondents to any anguish, be it emotional, physical or psychological. Before starting the research, the researcher fully explained to the respondents what the research entailed and how it would benefit them and the community at large as well as others.

Because of the nature of some of the information required by the study and because participants might be considered as exceptionally private, such disclosure might have deep implications for them, the principles of voluntary participation and informed consent were implemented during the identification of interviewees and their recruitment to the study (Babbie, 2001). On the consent forms it clearly assured the participants that amongst other things anonymity and confidentiality were the priority of the researcher during and after conducting the interviews. Participants were also assured that their responses would be used only for the purpose of the study. Obtaining participants names during data collection and destroying the record of their names upon completion of the project was one way to maintain confidentiality (Babbie, 2001).

CHAPTER 4

DATA ANALYSIS AND PRESENTATION

4.1 Introduction

This chapter describes the outcomes of the research as well as the analysis and interpretation of the data. All required information is presented sequentially to elucidate the meaning of the data collected. Some of the outcomes presented in this chapter are in the form of figures, maps and graphs that further equip the reader with a distinct picture and understanding of the phenomenon under analysis. This chapter is based on the key findings that were important in the understanding of the widows' experiences of land dispossession and cultural practices of the community with regard to the family systems and ownership of land in Nqadu A/A which could be generalized for rural areas of South Africa.

4.2 General characteristics of the widows interviewed

The researcher felt that the age grouping of respondents might play an integral role in the presentation of the required experiences. Considering the age levels in the case study might expose important information to the researcher, as experiences of respondents could be different due to the number of years in marriage.

4.2.1 Age groups

Widows were requested to indicate their age. That request was not posed to municipal, government officials and traditional leaders. The researcher felt that the issue of age in both government and municipal officials, as well as in traditional leaders, would not have any value in the understanding of widows' land ownership. It was mentioned above that 50 widows were interviewed; their age distribution is illustrated in Table 4.1 below. Respondents' ages ranged from 29 to 70 years. The majority of widows were between the ages of 49 and 58. There were four respondents (8%) in the category between the ages of 29 and 38 years, while 11 respondents (22%) were in the 39 to 48 year age category. In the 49

to 58 year age category, there were 24 respondents (48%), with nine respondents in the category 59 to 68 (18%) age group. There were two respondents (4%) over 69 years. The youngest respondent was 29 years of age, whilst the oldest respondent was 70 years old. Amongst those who were over 65 years, they identified their birth date by certain incidents that occurred in the time period surrounding their birth. This means that they were not exactly sure about the year, month and the date they were born. The age categories are illustrated as follows:

Table 4.1: Age distribution of respondents (widows)

Age range (Years)	Frequency	Percentage (%)
29-38	4	8
39-48	11	22
49-58	24	48
59-68	9	18
Over 69	2	4
Total	50	100

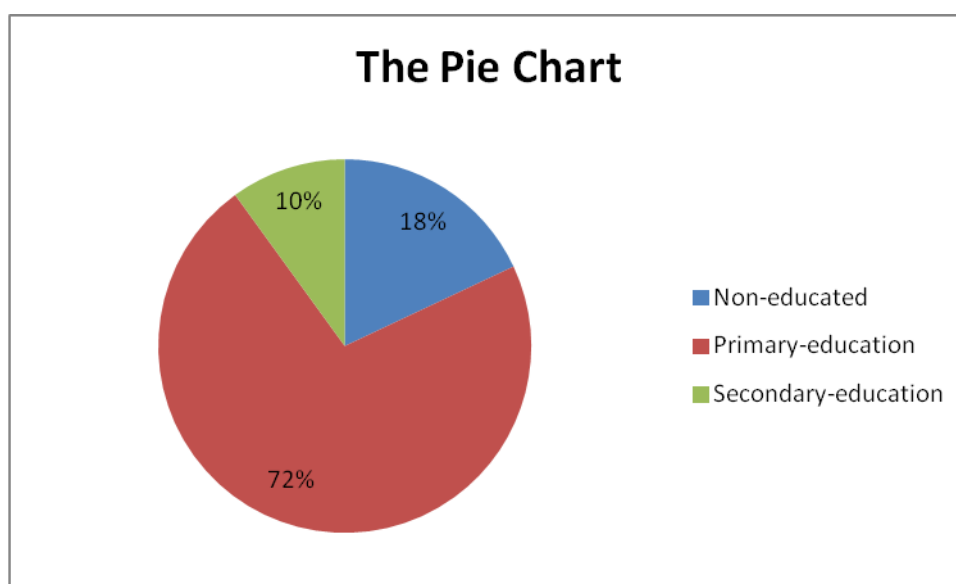
Source: Interview data

The table above indicated the age distribution of 50 widows, excluding government officials from Mbhashe local municipality and the Department of Rural Development and Land Reform as well as traditional leaders. The ages of respondents range from 29 to 70 years. The majority of the respondents were between the ages of 49 and 58 years. There were four respondents (8%) in the category between the ages of 29 and 38 years, while 11 respondents (22%) were in the 39 to 48 years age category. In the 49 to 58 years age category, there were 24 respondents (48%), with nine respondents in the category 59 to 68 (18%) age group. There were two (4%) over 69 years of age. The youngest was 29 years of age, whilst the oldest was 70 years.

4.2.2 Level of education

Scholars noted in their literature, that the levels of education widows possess might play a critical role in cultural practices that could have an impact on their land ownership. In this case the researcher saw the need for respondents to indicate their levels of education. This might show that education had an influence on cultural practices as it equipped people with more knowledge about their own rights. The research revealed that nine (18%) of the 50 widows never attended school. On the other hand, 36 (72%) had a junior secondary school education and five (10%) of them obtained a grade nine certificate, which was no longer recognized by government, as well as the private sector, for employment purposes. The last group contained five (10%) of the respondents who reached senior secondary school education level, although all of them dropped out in grade ten for different reasons. Amongst the reasons, three of the five respondents reported that headaches before writing important tests or quarterly assessments were the cause of dropping out of school. In South Africa, only those who have obtained grade a 12 certificate can be formally employed; therefore, the present levels of education prove that respondents had a huge challenge regarding formal employment. Lack of education also led widows to be financially dependent on others.

Figure 2: 4.1 Distribution of respondents by levels of education



No participants in this study obtained any certificate at the tertiary education level even though qualifications are an important way of gaining recognition to get employment from government and the formal private sector. The lack of tertiary education for respondents also decreases their chances of getting employment, as these positions require skills. It was not surprising that the majority of widows never reached a tertiary education level, especially in rural areas, due to poverty. Rural women in general are regarded as being poor and lacking the formal education skills that might facilitate or play a pivotal role in their livelihoods and in securing any existing jobs, including farm jobs (Wiggins, 2003). Despite the use of the term ‘formal education’, in South Africa grade nine is categorized by the National Qualification Framework as level one (NQF). In most private companies and in the public sector people who obtained NQF level one might be employed as casual workers or employed to perform domestic work. Education less than grade nine did not earn any recognition by the South African Qualification Act (SAQA). The act categorizes levels of education in South Africa. Some of the respondents, especially the older ones, indicated that they went to school just to learn how to read and write so that they were able to read letters from their fathers who were working in mines. This clearly showed that they just went to school to be the ‘communication passage’ for their mothers and fathers while their fathers were working in cities. The low levels of education of respondents also reduced their potential for understanding their legal rights.

4.3 Data pertaining to Research Question 1

As stated in Chapter 1, the first research question was as follows:

What are the narratives of widows in the study community regarding their experiences of land dispossession?

The study findings pertaining to this question indicate varying experiences of widows with respect to access to land after the death of their husband. To facilitate the analysis of the findings, these experiences are grouped into three categories based on the pattern that emerged from the widows’ experiences. The categories are described below:

4.3.1 Category A: Childbearing status of widows

For ethical reasons all respondent names are pseudonyms, meaning no respondent has his/her real name used in this study.

Category A consists of widows who reported having experienced severe distress related to dispossession of their land and property. According to Nowinile (Fieldwork, 19 December 2015):

My husband died when we were in two years of our marriage and we had no children. Within the period of three months my sister in-laws informed me that I had to leave my marital home as they thought I would claim my husband property. However, by the time we had residential land near his home, where my brother's in-laws stayed with their wives, when I reported the matter to them, they also supported her and I had no choice but to leave, I lost the home including building material.

In the case presented above two brothers of the deceased with their wives and their sister were identified as the perpetrators.

Nobonke from Kulozulu attested that:

On my marriage I had a still born child and after the death of my husband I had been told by both my father and mother in-law to leave the marriage home because I had no child and our marriage appears as being unblessed by the ancestors (Fieldwork, 19 December, 2015).

From the discussion where other respondents were familiar with the local customs, it appeared that Nobonke's marital family had a traditional belief that, if ancestors might not welcome a wife during their marriage process, one of the signs shown was lack of childbearing or, if conception occurred, the child would be a stillborn.

It was worse to me as I had been approached by male family elder to engage in extramarital affairs with him while he was aware that community members including his family such practices were not accepted and his wife was still alive (Nokwandisa: Fieldwork, 19 December 2015).

She further explained that when she was approached she already had a relationship with a man from another family clan. Thus, an elder told her that her husband's clan did not accept the man she had a relationship with so, if she continued having an external relationship with him, the ancestors and the spirit of her husband would ruin her life.

Under such pressure I decided to agree with him while he was married, later his wife discovered the relationship and reported to family members whom they forced me to leave the marriage home (Nokwandisa: Fieldwork 19 December 2015).

In the case of Nokwandisa the family elder used traditional belief and family custom to influence and abuse her by infringing on her freedom of choice as a legal right. It appears from how this case was presented that no allegations were posed against the elder but he played the influential role in Nokwandisa's actions.

4.3.2 Category B: Widows who had been married for a long period

Widows whose husbands died after a longer period of marriage fall under Category B. The researcher found that Category B widows suffered moderate distress as they had been married for a relatively long period of time and had children in the marriage. Their experience appeared to be different from those who were widowed after a relatively short period of marriage and/or did not have children in the marriage. Some widows in Category B had access to land for settlement and cultivation before their husband's death. It appeared that land was inherited by their husbands from their family clan. The case of Nolusapho, a 52-year-old widow from Matolweni whose husband succumbed to asbestos disease from the mines and was sick for four years particularly illustrate this category:

I only received the harvest in a period of four years, after that I discovered that a certain portion of the land was being used by his last born without any form of consultation (Nolusapo: Fieldwork, 21 December 2015).

Nolusapo further argued that her husband's land for cultivation was given to the family nominated clan member who controlled the estate in order to cultivate and he should share 30% of the harvests with them. After four years, the clan member transferred almost a quarter of the land to his last-born son without Nolusapo's knowledge. In this case of Nolusapho, the nominated elder used his elder and family powers to manipulate the way Nolusapho's husband land was utilized by his last-born.

In another example, Nombeko attested:

It took time to be employed, but later I had been employed as a domestic work at Kwazakhele township in Port Elizabeth where I was earning one thousand two hundred rands a month (Fieldwork, 21 December 2015).

Nombeko, a widow from Weza, confirmed that she left her marital home without being chased out but she saw a need to find a job in order to assist her two grandchildren whose parents died of HIV and AIDS related diseases three years ago. She continued arguing that her grandchildren were left in her married home under the supervision of a family relative. Her challenge cropped-up when she came back from the city during the December holiday to her marital home where she discovered that her property was misused and broken. Poles that used to make a sheep kraal were taken out and used by community members to make firewood. No one had an idea about what happened or appeared to take any form of action to prevent such an incident.

During the interviews Thembeke, a widow from Nozizwe, confirmed that after the death of her husband she was forced to move to East-London in order to find a job to fend for herself and pay fees for her children. She managed to get an amount of five hundred rand from her natal relative to start her own business of selling vegetables in the nearby train station due to scarcity of jobs. Her children were left under the supervision of her sister-in-law in her marital home:

I did not know that my children sometimes slept without food while I was sending money to my sister-in-law (Thembeke: Fieldwork, 21 December 2015).

Thembeke argued that her sister-in-law claimed that the money she sent for her children did not meet her children's needs and later Thembeke's sister in-law chased the children to their mother's home where there was no elder to look after them.

The chasing away of her children appeared never to have been communicated with Thembeke while she continued sending money to her sister-in-law. The children were verbally and physical abused by members of the community, as they were allegedly suspected of stealing chickens and food from members of the community. After the children were chased away, the relatives of the marital home took the property left by the children such as dishes, blankets and beds.

Nozakuthini from Nozizwe location attested as follows:

I never thought that the elder who assigned to look over my husband's estate would be the one who oppressed my family through infringement of my children, by avoiding them to have word about their father's property (Fieldwork, 21 December 2015).

In her view, as the mother of two female children, the family elder was the leading member in the lobola negotiations of her last-born. After that occasion, he left with the money without clearly informing her about processes and decisions taken to reach the bride price as well as the number of cows required. She further confirmed that when her firstborn attempted to challenge the elder, the entire clan chased out Nozakuthini, as they believed that she was the one who promoted disrespect to her child.

4.3.3 Category C: Widowed in old age

Group C consisted of 15 elderly respondents whose husbands died in their old age. In the case presented by Madlambulo, a 67-year-old pensioner from Kulozulu whose husband died just a year prior to the fieldwork, at the age of 88, the issue was described as follows:

My older son inherited livestock being owned by his father while he was still alive, and, after his death he moved with them to the nearby location and left me with the residential land.

The residential land left to me occupied by two small hut and small gardening that appeared as left cultivation in more than five years and I am solely depended on the pension grants, no other support assistance.
(Madlambulo: Fieldwork, 21 December 2015).

According to the case presented, the age of the concerned widow showed that she would not have the energy to perform extra work in order to supplement the government pension grant she was earning. In this case the son, who appeared to be a selfish person, did not make any effort to assist his mother both economically and socially.

In the case presented below, Mamyirha, a 70-year-old widow, a government pensioner residing at Holela, had one son and two daughters who were not married. According to her, her daughters were helping them in looking after livestock and performing domestic work,

taking care of them particularly when they get sick. She also confirmed that her son was working in one of the small towns where he resided and he did not play any role in supporting them until the death of his father. She reported that in times of difficulties they sold livestock in order to alleviate the situation:

I did not believe when my only son called me by names after the death of his father when I was challenging him from inheriting the large portion of my husband's property, leaving his sisters with nothing (Mamyirha: Fieldwork, 21 December 2015).

It appeared that Mamyirha was verbally abused by her son through insult and anarchy with the aim of suppressing her thoughts about her female children in connection with their right to have access to their father's property. From the presentation, Mamyirha's son took all the livestock and cultivating material that belonged to his father and sold it to community members. After that he went back to where he was residing in Ibika Township in Butterworth.

Mazubula was a 66 year old widow from Nozizwe whose her husband accidentally died at midnight in a traditional ceremony in one of the nearby locations when the men were attacked by drunken boy. According to her, they resided in the same household with their two sons and their wives.

In my home, my daughter-in-law restricted me to use other houses and forced me to use one house after the death of my husband, on her justification, she informed me that her husband remains the head of the family, however, when he is at work, the control of the property depended on her (Mazubula: Fieldwork, 21 December 2015).

In this case Mazubula, was treated unfairly by women who also joined the family through marriage, but the difference was that her son was still alive. The reason for having access to one house by her daughter-in-law was that she took advantage of being the wife of the firstborn, who in most cases was taken as the inheritor in the family. It appeared as evidence from the interviews that wives of the first-born restricted the old widows from using all the houses for fear of being overpowered by them. These widows extensively reflected that if they did have power to get their own land in order to build their own houses they would do so. Such responses clearly reflected during interviews that some old widows felt uncomfortable to stay with their firstborn's daughters'-in-law.

Nine widows from Weza administrative area reflected that after the death of their husbands they decided to form a co-operative that focused on planting vegetables and poultry farming. The objectives of the plan were to feed their families and sell the extra products so that they can meet the financial needs of their families. In their view the project started on the land which belonged to two different families who (widows) were part of the project. According to them, the project produced good vegetables as well as poultry and people around the local areas bought the produce. Nonzame described their bad experience in this regard as follows:

I never thought that after we were working hard in assisting not only our families but the communities at large could the same people vandalized and destroyed our plants and chickens, as well as stealing the fence and burning the shacks where our poultry grew up (Nonzame: Fieldwork, 22 December 2015).

From their point of view, they reflected that the members of their own community (Weza A/A) started fighting them, because they allegedly cultivate throughout the year so the community members were bound to look after their livestock to protect them from grazing on the project. The community members appeared to be neither tired nor jealous of the widows' development. As reported, the incident took place one night where vegetables were cut and damaged, and the community livestock was grazing on the field since the fence was removed. Apparently, the matter was reported to the headmen; however, no case was set. These widows reflected that the perpetrators ended up being their natal family dependents.

4.3.4 Types of marriages of widows and their effect on land dispossession

The researcher felt that the widows' types of marriages should identified, as he believed that some information involving marriage could have an effect on their land dispossession. See Table 4.2 below:

Table 4.2: Types of marriages of widows interviewed

REGISTERED MARRIAGE			UNREGISTERED MARRIAGE	
NAME OF VILLAGE	NUMBER REGISTERED	PERCENTAGE	NUMBER UNREGISTERED	PERCENTAGE
Nozizwe	6	12	6	12
Matolweni	7	14	3	6
Holela	4	8	6	12
Kulozulu	2	4	6	12
Kumaya	2	4	8	16
TOTAL	21	42	29	58

Source: Interview Data

Based on the information presented during interviews, Nozamile, a 58-year-old widow from Matolweni, had a cultivated land owned by her husband, but she experienced challenges after the death of her husband, particularly the dispossession of the land.

My younger brother in-law dispossessed the land which my husband used for cultivation while he was still alive (Nozamile: Fieldwork, 22 December 2015).

In her explanation, her brother-in-law claimed that the land belonged to his father and was inherited by his brother; therefore, when he died the land transferred to him. Nozamile decided to forward a complaint to family elders. During the proceedings of the case the issue of a marriage certificate raised; however, her marriage was registered. The clan family fully agreed that the land belonged to her until her children might decide about it. From the story presented, it clearly appeared that Nozamile was from a well-educated family, and such knowledge played an integral part in influencing the clan members to take a decision favouring Nozamile. Government officials who confirmed that people have to know their rights and be able to fight for them also supported Nozamiles' view.

In another story arising from the interviews, Nokubonga, a 36-year-old widow from Nozizwe, was married as a second wife after the death of the first wife of her husband. On their marriage they conducted a traditional custom called *utsiki* meaning that the wife is welcomed by both family elders and ancestors where the bride is also given a marital name. After their marriage, Nokubonga attested that:

“After four years my husband’s first wife died, we got married and we had agreed on finding our own residential area, on our marriage we had two boys; after my husband died the family clan claimed that our new residential place belonged to the second son of the first wife” (Fieldwork, 21 December 2015).

According to her, she reflected that she tried to fight back for her two boys but the family insisted until she took the case to the headman. The case was set and the headman asked for the marriage certificate, which Nokubonga did not have. At her presentation, she confirmed that she asked to bring a marital relative who was present during the conducting of *utsiki*; however, no family member was willing to assist and she lost her marital home.

The study findings conform initially to assertions of George (2015:133) that “male family members have an upper hand when it comes to rights to inherit land.” The assertions by Rao (2011:1) that in rural areas women acquire land through their relationship to individual males, also conforms to the experiences of the widows in Nqadu A/A. The findings further confirm views expressed by Yngstrom (2010:26) that “women’s rights to land are associated with the institution of marriage.” Therefore, the occurrences of cases of dispossession in Nqadu A/A confirmed that women’s rights to land can be severed when the husband dies (Budlender, 2011:4).

4.4 Data pertaining to Research Question 2:

Research question two was stated earlier as follows:

To what extent do those experiences relate to the cultural practices of the community with regard to family system and land ownership?

Data for this question are presented in the subsections below:

4.4.1 Cultural practices within the community

There are several cultural practices associated with widowhood in the study community. For example, widows are expected to dress differently to other married women. The colour of dressing varies according to families as well as the family religion. During interviews respondents highlighted that they wore the prescribed attire for six to twelve months. During such periods, they were not allowed to raise their voices and to be involved in discussions, particularly those involving land issues. The researcher learnt from the interviews that widows in mourning were not allowed to venture outside even for visits in the neighbourhood, especially in the evening. So even if her chicken strayed into a neighbourhood's yard, she could not fetch it by herself. She would ask someone to assist her. Mamzangwa (who was supported by three other women) confirmed that:

During my mourning period while my two grandsons were at schools 90 % of my livestock disappeared on the veldt until today some community members had an idea about them but no one was willing to confirm their whereabouts (Fieldwork, 22 December 2015).

Mamzangwa, a 65-year-old widow also confirmed that her eyes were no longer in good condition and she believed that community members took undue advantage of her mourning status, age and health condition.

In two different cases where widows with their female children decided to stand up for their rights by demanding their deceased husbands' belongings, the respondents confirmed that they were victimized and accused of witchcraft. Family members decided to make outcasts of the widows and distanced them from the cultural rituals that widows had to perform within their marital families.

With regard to one of the two cases, Thenjiswa reflected:

After my daughters found that the agreement between the clan elder nominated to take care of my husband's field land aborted because the elder utilized land for his benefit, my female children decided to withstand on behalf of me by challenging the decision (Fieldwork, 22 December 2015).

On their challenge, the clan elders highlighted to them that they showed no respect to elders whom they expected to conduct their traditional rituals called *ukuqatywa* and *intonjane*, which meant that a girl might be promoted to adulthood, and such rituals were respected and honoured by family clans in the village. Such information shows that the elders, instead of assisting the female children, imposed suppression on the children's feelings of losing their father's land through intimidation. The female children had to withdraw.

I felt that an apology to my marital family was required in order to protect my children from exclusion in the traditional customs conducted by elders (Ntomboxolo: Fieldwork, 22 December 2015).

Culture and cruelty seemed so interwoven in the study community that drawing a line between the two seemed quite difficult. The findings in the community were confirmed by Grigsby (2004) who argued that, even when women were aware of their legal rights, cultural values and norms suppressed the power of women to practise their legal rights. This was supported by literature even in those countries where pieces of legislation and policies had been established to redress the issue of patriarchy; the power of traditional institutions continued escalating processes that determined access to and ownership of land to men.

4.4.2 The impact of land and property disputes on widows

One of the objectives of the study was to examine the experiences relating to cultural practices of the community regarding the family systems and land ownership. The cultural practices were an agro factor in causing the land dispossession and land disputes in Nqadu A/A. The respondents from focus groups reported that they were accused by their in-laws of failing to maintain the local rules controlling family systems, and also failing to understand the roles of the nominated elders by members of the clan, for taking care of their deceased husbands' property. Apparently, these factors were being used as justifications as to why the evictions and land dispossessions of widows were exercised.

In Kumaya three widows were evicted because they had been accused of having an affair with the men who were not accepted in their husbands' clans. The in-laws believed that the actions of the widows might violate the communication of their ancestors with them.

Six respondents from Holela, Matolweni, and Nozizwe reported that after the death of their husbands they decided to flee to urban areas in search of low skilled jobs in order to be able to fend for themselves and pay fees for their children. Some of these women struggled to get jobs, and those who did manage to get jobs in time the money they earned was not sufficient to assist their children at home, and their in-laws decided to abandon the children as they were residing with them. After the children went back to their homes, where they stayed without the supervision of elders, they were accused of stealing sheep and chickens and they were chased out of their homes. The respondents confirmed that the property they left at home when fleeing to urban areas was stolen, misused and vandalized and they decided to go back to their natal homes.

In the case of two widows whose age ranges between 30 and 38 from Kumaya, they attested that their mothers and fathers-in-laws instructed them to offer with their oxen that would be slaughtered in a ritual ceremony that will be conducted in their marriage big home. According to their report, the women were residing on their piece of land that was allocated for their husbands while they were alive. The ritual for which they were approached was done in their husband's big home. On the family justification as presented by widows, it appeared that the ritual was supposed to be conducted some years ago but that never happened. In addition, their dead husbands had not informed them about such a ritual. The concerned widows challenged the matter with their marital clan families, the case was set, and the decision was taken, and presented. Every family member was told to contribute by bringing something they can afford. Then widows were instructed to embrace the ceremony with an ox because they were the wives of the first born of the family. According to widows, they had to sacrifice with their family oxen while other family members were not committed. The family members used their powers and traditionalist approach to abandon the thoughts and feelings of the concerned widows in dispossession of their property.

The dispossession of land from widows was exacerbated by customs associated with cultural practices. To emphasise this, one widow narrated her struggle as follows:

I have been married to my husband for six years after the death of his first wife. My husband decided to apply for a new residential land for us to avoid conflict between my patrilineal children and me. After the death of my husband in 2011, my brother in-law started to fight with me as he wanted to take the land (Nombasa: Fieldwork, 23 December 2015).

He told me that the land belonged to the second born male since the first male born had to inherit the first land. If her husband did not have a second male child, my brother-in-law's male child should take over the land. Because my husband had only one male child, there was no challenge from my patrilineal children. He insisted on his challenge by telling me that my natal family never brought the prizes (*ukwembesa*) to them to validate our marriage. The headmen during the interview confirmed that married women have a right to own land when their husbands are deceased.

I decide to hand over the matter to the Injoli, who first consulted his local land committee; the committee confirmed that the matter could be resolved at headmen's level as they had no mandate to resolve such cases. At headmen level, the matter was resolved and the land committee provided Nombasa with the copy that confirmed her legal marriage and her right to her deceased husband's land.

4.4.3 The development of wills

Evidence provided by respondents in this study varied according to their local villages but it showed that in Nqadu A/A the practice of will usage by family members was increasingly gaining recognition. However, data collected from this study did not warrant the generalization due to its limitation. In Nozizwe village, respondents reflected that despite the lack of uniformity and enforcement of its provisions confirmed writing of wills. Two respondents complemented each other by reflecting that their husbands had wills but the relatives of their husbands indicating that the wills were written under their influence. One respondent from Holela confirmed that her challenge was based on witchcraft.

She further argued that they stayed with her biological mother as per the agreement between her and her deceased husband; however, family clan members did not accept their agreement as the in-laws suspected her and her mother of having a hand in the death of their brother with the aim of inheriting the entire property that included the land.

According to the respondent:

They also promised to chase me and my mother out although she experienced the same challenge in my home after my father death (Nokuthonga: Fieldwork, 27 December 2015).

To prevent the occurrence of eviction of her mother and out of fear of being accused of bewitching her husband, the respondent decided to withdraw the producing of the will and confirmed that she never challenged the matter further. The second respondent from Matolweni argued that she married as second wife since the first wife was divorced from her husband and certain clan members did not approve their marriage. It was suspected, therefore, that the writing of the will was influenced by her in order to gain the land, despite the fact that they had two children who were supposed to benefit from their father's land.

From the study, it appeared that a sizable number of the widows interviewed reported that their husbands were not informed about the need to write wills, especially in Kulozulu and Kumaya. Even those who seemed their husbands minimally informed they felt that when they produce the wills, however, clan elders would disapprove them. The respondents also appeared as though they had no faith in the legal system, as they thought that the clan family could overturn their appeals when taking such cases to court.

According to one respondent from Kumaya:

I only know *ukuyolela*, which means verbal will or few words a person said before he or she dies, and its where an ill or very old person informed neither caregivers nor those who were close to him or her, about where to be buried only when she or he died (Mandlovu: Fieldwork, 27 December 2015).

During interviews, the researcher also observed that the respondents from Kumaya and Kulozulu might be forced to respect cultural activities that were bound by customary laws within their families and communities; however, the use of wills they took as greediness that woman suck properties from their marital families.

Table 4.3 below indicates the number of men who had written wills in time before their death. As presented by widows, six men wrote their wills from the following villages Matolweni, Nozizwe and Holela. As indicated above, there were no written wills from Kumaya and Kulozulu, despite the verbal will referred to above.

Table 4.3: Number of wills presented by widows

		Percentage
Number of widows whose husband had wills	6	12
Number of widows whose husband had no wills	44	88
Total	50	100

Source: Fieldwork interview

4.4.4 Societal protection mechanism for widows' access to land

The levirate system, where widow married the relative of her deceased husband, was one of the ways to claim and access and right to land. "In such instances widows continued to utilize family land through marriage links" (Jackson, 2003:466). According to respondents interviewed concerning the issue of the levirate custom, it appeared to be non-existent in Nqadu A/A.

One of the respondents reported that:

To our village, to remarry a relative of the deceased husband might reflect as a disgrace and you could be called by names by the members of the community including some members of the family (Madongwe: Fieldwork, 19 December 2015).

The most important way of continuing to have access and rights to land was through the existence of a male child in the family.

Beside powers delegated to male children some of the decisions taken by them also involved us, by doing so they showed respect to us as their parents (Mamjoli: Fieldwork, 19 December 2015).

Other respondents mentioned the important issue of creating good relations with the nominated elderly man of the family who oversees the estate of the deceased. They

continued by emphasising that most of the elderly men were mentors of their male children and they promoted that the male children should respect and assist their mothers through all the difficulties that exist. Mamnqarhwana, a 62-year-old widow who resided in Kulozulu, presented a different view about the family nominated elders:

Families had a tendency of nominating a person who owned properties and resources and he easily fused the deceased property and left the deceased family with nothing (Mamnqarhwana: Fieldwork, 19 December 2015).

4.4.5 Statutory procedures on land dispossession

During interviews, numerous cases were highlighted by respondents about affected families who had suffered land dispossessions and sought assistance to resolve the conflict by taking the matter to traditional courts. In some instances, widows were able to have their access to land restored but in other cases, they failed. The affected widows assumed that corruption was one of the causes of the failure. In one of the interviews, a respondent who had been dispossessed of her husbands' land confirmed that:

I reported a case to the headman where one of my marital families elder was the committee member, the process take a very long time and later get failed” (Nozamile: Fieldwork, 21 December 2015).

Respondents appeared to be aware of the legal route they should take but they feared sanctions based on traditional customs and being attacked during the night.

4.4.6 Threats posed to widows

Out of the 50 respondents, 34 had received threats of different kinds concerning their land rights from their in-laws. At Matolweni three of these widows received death threats. In Holela, threats included eviction from their marital homes issued by their in-laws. In Kulozulu and Nozizwe five respondents confirmed that they received anonymous calls while they were in urban areas which threatened them. Amongst the threats posed to widows who vacated to cities to seek jobs were to chase their children if they did not send the money required by the sister-in-law. One respondent from Kumaya reported that, after the death of

her husband, there were some knocks in the night and when she investigated she found no one next to the door. One of respondents from Holela who was also accused of being involved in witchcraft confirmed that, one of her houses was burnt in the night by an unknown person. Most of the affected respondents, out of 34, were old and younger widows between the ages of 59 and 69 years, and below 33 years respectively. Amongst them there were also those who were the second wives to their deceased husbands. The interviews revealed that there was a relationship that might exist between age and the chances of experiencing threats.

The study went further to analyse the relationship between those who received threats and the existence of their male children. From the interviews, 18 out of 34 respondents had never had male children while four of the respondents confirmed that their male children went to urban areas and they no longer had an interest in residing in rural areas. The threats widows suffered clearly came from their in-laws, who knew that these widows did not have any form of security or protection from their male children. From these interviews, eight women from Matolweni and Nozizwe, even though they were bona fide from the same areas, decided to apply for their own residential land and during interviews confirmed that they were staying on their own piece of land due to the kind of threats they experienced. One respondent from Holela reported that her matter logged to headmen was referred to the police, with the assistance of a ward councillor since the kind of matter was not in the jurisdiction of the headmen, but due to threats posed after the case handed over to the police; dissuade her so that the case should be dissolved.

One respondent from Kulozulu opted to go to the chief who resides at the King's Palace due to the roles delegated to him. It appeared that there was a relationship between the said chief and grandparents of the widow and the case was resolved as she continued to stay in her marital home without any treats.

4.4.7 Inheritance of land

From the interviews widows highlighted that when men died widows were to inherit their husbands' property. This had been confirmed by 31 (62%) of the respondents, while 10 (20%) said the son had a right to inherit the property. Nine (18%) of the respondents said

that the property belonged to both the widow and the male child. Land dispossession following the death of a husband was a major concern in this study where clans control most of the land and leave individuals with limited rights. Through the practice of male inheritance of land, widows are easily left without resources, especially when male children get married, as the widows would then experience limited rights. Statistics from respondents are presented in Table 4.4 below:

Table 4.4: Land inheritance

Heritance	Frequency	Percentage
Widows	31	62%
Sons	10	20%
Both widows and sons	9	18%
Total	50	100%

Source: Interview data

Statistics regarding widows as presented in Table 4.4 above reveal the strength of widows in the accessing and controlling of land. Many scholars' findings on land inheritance contradict the statistics presented in Table 4.4 as they reflect that men were inheritors of land, and then women depend on their husbands or male family members (Nyakoojo, 2002; and Rugadya, 2007 cited by Garber, 2013:2).

The second category of respondents said the son was the inheritor of the land, and their reasons were based on patrilineal tribal traditions, where land was allocated to the male members of the household and women were the secondary beneficiaries (Yngstrom, 2002; Rose, 2003; Jacobs, 2004; Lastarria-cornhiel, 2006; Toulmin, 2008). The law seldom suppressed the right of widows and their daughters to inherit land. Those who said both widows and sons had to inherit the land argued that, according to custom, sons had a legal right to inherit their fathers' land. On the other hand, Plateau (1996) explains, "It seems sons have the legal rights to inherit land whilst their mothers continued to exercise their use rights as before" (cited by Yngstrom, 2002:25).

4.4.8 Land tenure as perceived by headmen in Nqadu village

Nqadu A/A embraced with the existence of the Kingdom of the Amaxhosa, the monarchy and the royal house is located in the same area. Despite the existence of the Kingship in Nqadu A/A, land allocation was delegated to the headmen and land committee, who processed and approved applications that met their traditional legal requirements. Amongst the traditional leaders interviewed, one of the respondents was a sub-headman known in the area as Injoli. The Injoli was defined as one of the traditional leaders who served as a sub-headman and was fully involved in all the social and traditional occasions that occurred in the villages under the jurisdiction of the Nqadu A/A.

The aim of interviewing traditional leaders in the study was to examine the role of the institution of traditional leaders when dealing with the issues of land dispossession, allocation and access for widows. What was their role in the administration of community land concerning family disputes? What was their relationship with widows regarding their land dispossession? In addition, to what extent were their decisions regarding land related issues influenced by cultural laws as opposed to legal laws?

The Injoli confirmed that all land applications in each area under Nqadu A/A were submitted to Injoli's places.

According to the Injoli:

Only circumcised and married males who were promoted to adulthood were eligible to apply for a piece of land for residential purposes” (Manzolwandle: Fieldwork, 27 December 2015).

After receiving the applications, the Injoli had to scrutinize the files and the names of those who were interested in land allocation, and list them in a separate paper according to their areas of interests. The Injoli also confirmed that the sub-village did not have a direct, legal role in land allocation. The Injoli argued that:

We have no role to play in the allocation of land but we have every influence on who gets and where he or she gets land (Manzolwandle: Fieldwork, 27 December 2015).

During the scrutiny period, local rules followed. The order of preference was outlined as follows: married bona fide applicants who have been declared to be adults for a minimum of two years, who have not acted against local laws, who are active in local occasions and have assets (livestock and cultivated land) were automatically accepted and given land in the area of their own choice. Males who did not meet the requirements have to defend their position and motivate their applications.

In the case of women applicants, more requirements were needed. Beside women being a bona fide person, if she was a widow who married according to customary law, her application was easily accepted, although she had to be represented by a male family member for the approval of her application.

The Injoli also argued that:

If a widow was discovered to have a sexual relationship with a man who had a clan name that was not accepted in the local area due to different reasons her application had to be declined (Manzolwandle: Fieldwork, 27 December 2015).

One of the traditional leaders, the headmen, confirmed in an interview that if a man died while owning a residential area, the widow had a full right to own the land. Culturally, widows had to transfer the land to their first-born male child who would support their entire families. Ideally, land should not transfer to a female child who was firstborn since it believed that she belonged to her husband's place.

Another traditional leader reflected that in the community, the prerogative for discussing and resolving land issues lay with the headmen and land committee members. Land committees were elected by villagers to deal with the issues involving land. During land discussions, women were not allowed to attend the said meetings because there was a belief that women would bewitch the process. Respondents also reflected that when approving land applications for women they identified the age especially if the woman was single.

According to the respondent, the age of a woman determines whether she could get married or not. He continued arguing that women might get married to an outsider and brings him in her place as she was entitled to land ownership while a person whose clan name was not

accepted in the locality. For such reason female applicant should not allowed to get land without being represented by a male. Two traditional leaders interviewed supported each other that married women have secondary land rights while the husband was alive.

Zweliyazongoma further argued that:

Widows should have primary land rights because they were the heads of the household (Fieldwork, 27 December 2015).

The other traditional leaders said women in general have secondary rights even if they appear as head of the household. On their continuation of the argument, they said women could not conduct any rituals in their households without the approval and supervision of a man.

4.4.8.1 The role of Land Committees

After the injoli received the applications, he calls a meeting with the land committee to discuss the applicants' tokens of appreciation. The land committee has a responsibility to meet all the applicants to collect their tokens of appreciation that also play an influential role in land allocation. During an interview, one member confirmed that:

Our role is to collect the tokens of appreciation from the applicants that consist of sheep, bottle of brandy and the amount of around three hundred rand. The issuing of tokens depends to the affordability of each applicant (Zamile: Fieldwork, 27 December 2015).

The size of the land allocated for each applicant was determined by the value of the tokens and by the role played in the community by the applicant. Zanozuko, a member of the land committee, reported that:

Our recommendations are based on how the applicant is active in the community and also how much tokens offered by them in order to acquire the land (Fieldwork, 27 December 2015).

From the discussions, land committee members issued temporary letters confirming rejection or acceptance of the applications, which were then finalized at the headmen's place. Some widows argued that the land committees' recommendations sometimes favoured certain individuals whom are related to them, even if they do not have huge tokens.

4.4.9 Responses from government officials and ward councilors

Two government officials from the Department of Rural Development and Agrarian Reform were interviewed along with two Ward Councilors who represented two wards covering the sub-villages under study, which were Holela, Kumaya, Kulozulu, Nozizwe, Weza and Matolweni. Government officials, whose responses were based on the Constitution of the Republic of South Africa Act 108 of 1996, felt that women and men have equal rights to land. They argued that women have a responsibility to maintain families while the men departed to urban areas to seek jobs. That clearly showed the responsibilities imposed on women in the absence of their husbands for maintaining order, caring for children and looking after the property, including livestock. Such responsibilities taken by women while their husbands departed to cities might possibly even when their husbands died. Mr Mbonde stated:

We as the department we have documents and maps concerning ownership of the land, that can act as evidence when dispute erupted, however, we refer family land dispute to court of laws (Fieldwork, 27 December 2015).

Government officials confirmed that very few land cases involving family differences or disputes from rural areas were reported to their offices.

Mrs Maluka (not real name) asserted that:

Rural communities generally aware that communal land being controlled by local traditional institutions, ours is just to assist with the development strategies in order to redress the issue of poverty in our rural communities (Fieldwork, 27 December 2015).

Departmental officials further argued that they had procedural links with the traditional authorities on what steps should be followed after an individual land application had been approved by the local committee concerned.

During the land allocation our role is to measure the plots sizes according to the availability of land and divided all sites equally (Mr Mbonde: Fieldwork, 27 December 2015).

In the interviews, government officials supported each other. By condemning abusive treatment imposed by families as well as community members to widows in general in Nqadu A/A. Government officials also suggested that workshops involving widows needed to be conducted so that every widow or widower should be aware about their legal rights and institutions that might fully protect their rights.

The Ward Councillors in the interviews confirmed that they were aware of land dispossession cases from their wards, although there were very few reported to their offices. From the few cases reported to ward councillor's offices, two cases were successfully transferred to the police but both of them failed due to different reasons. Mrs Madikane confirmed that:

I had to organize Sandiswa to report the matter to the police on behalf of her mother, the case was opened successfully and the docket handed over to the investigator and ended then (Fieldwork, 27 December 2015).

The ward councillor confirmed that she had to make a follow up since she found that there was no progress or report from the family concerned about the reported case.

She reported:

That she made an enquiry about the case and she was told by the investigator that the case withdrawn due to lack of evidence and unavailability of witnesses. In the second case, which also reported against family members by a widow, ward councilor confirmed that it cancelled by the applicant without any further details forwarded to the police". (Fieldwork, 27 December 2015).

It appeared from the discussion that ward councilors were recognized by community members when they dealt with the issues concerning basic services rendered by the local government and the social development department. For social local issues community

members relied on their families and traditional authorities. It also appeared that there was cold blood between ward councillors and traditional authorities concerning the land issues.

The Councillors further argued that to overcome such a situation there was a need to develop programmes that provided for the Department of Rural Development and Land Reform working collaboratively with local government, as everyone who was willing to contribute by taking part in the programme should be allowed to do so. There should be no exclusions. He further argued that according to his experience more women than men participated in these developmental programmes in order to assist their families. One ward councillor felt that everyone has equal rights to land.

Some scholars' arguments reveal that equal rights to land can improve production and food security. Odeny (2013:3) argued, "Gender has become a critical issue in women's land rights due to the fact that there is a direct relationship between accessing land and its resources, secured land rights, achieving food security and overcoming poverty."

CHAPTER 5

DISCUSSION OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 Summary of Findings

The main purpose of this chapter is to discuss the key findings of the study based on the key narratives that were drawn from the interviews conducted with widows, Land committees, Ward Councillors and Traditional Leaders from the sub-villages of Nqadu A/A, and government officials from the Department of Rural Development and Land Reform. The study attempted to capture information surrounding widows' property rights and the effect of cultural practices regarding the family institutions. From the data presented in the previous chapter, the study established that cultural practices and abusive practices pertaining to land matters – with particular regard to widows – were so interwoven that drawing a line between them could prove quite tricky. As in many communities in South Africa, widows in the study communities were exposed to land and property dispossession – as their narratives revealed. However, the study also revealed that the severity of alleged “cultural cruelties” appeared to differ depending on category of widowhood and other sociological variables, as shown in the previous chapter. On the whole, however, the findings showed that cultural practices accompanied by local rules intensified the vulnerability of widows to threats and dispossession of their land rights. Cultural practices inter-alia appear as the gist of the problem regarding widows' livelihood. Therefore, land dispossession and threats to widows' livelihoods were directly informed by cultural practices or naked patriarchy, where land ownership by women almost entirely depended on the continued presence of men in their lives. Once widowed, community members appeared to take the law into their hands and enforced cultural norms that had little or no regard to women's right land.

In the next section, the researcher attempts to make sense of these findings.

5.2 Discussion of Findings

The discussion is made under a number themes, in the following subsections:

5.2.1 Effect of education on widows' land dispossession

The study revealed that levels of education in widows from Nqadu, particularly those who were interviewed, showed a lack of skills for specific opportunities that could arise that include farming of quality produce. Lack of education appears as double edge to widows from Nqadu A/A. Lack of skills from widows increased their levels of financial dependence and lack of understanding of policies that govern land. When a woman is educated, this makes her strongly independent and able to take constructive decisions about her property and be willing to defend herself against any form of abuse. Only domestic jobs were available to them since both public and private sectors no longer recognized the levels of education obtained.

From the scholars' point of view, uneducated people did not have a clear understanding about their own rights as well as policies or laws that protected their legal rights. Without that, they might easily experience different forms of abuse.

5.2.2 Land allocation procedures

The study illustrated that despite international, national and local laws acknowledging consideration of gender equity within the country, women in the Nqadu A/A acquired land through their male relationships. These difficulties emanate from the cultural practices that clearly limit the primary rights of women, particularly widows, to land. Clear evidence has shown that criteria used for allocating land for women entails complexity, strictness and toughness. The literature presented made clear that women, in order to qualify to hold land, have to be represented by male relatives. With regard to married women, traditional leaders considered the allocation of land rights to women impossible; instead, they argue that

women can acquire land through their husbands. From the study, land allocation in Nqadu is based in customary a practice that seems to favour men. The study showed that the South African Constitution addresses the issue of gender equity and allows every adult to have a right to land. Such issues then need to be clearly emphasised to traditional leaders when allocating land to their rural inhabitants. Land committees, as they deal with issues concerning land, have to equip themselves with the skills to address family disputes over land in their communities. Land allocation and size of land varies according to tokens offered by applicants. Some applicants interviewed complained about the recommendations made by land committees that favour certain individuals like their friends, relations and wealthy people.

5.2.3 *Land tenure*

The study findings revealed the predominant role that male members of the household or family have over land. Women solely depend on their male relatives to have access to land. It appeared that even in cases where widows were allocated land they do not have full control over this land. From this study, in cases of a widow's use and rights, brothers-in-laws and sons are the role players. Moser (1991:24) asserts, "In rural areas women acquire land through their relationships to individual males." This was confirmed by the experiences of widows in Nqadu A/A. Land in Nqadu is communal owned, controlled by chiefs and rights to it are managed according to the communal rules. However, the study findings show that the family or clan can be more powerful with regard to family land distribution. A brother of the deceased or nominated elder can easily deprive a widow and her entire family of their rights to land. This is not the reflection of the chiefs interviewed in Nqadu under customary tenure, but is instead confirmed by widows interviewed in this study. This reflects a breakdown in the traditional system, resulting in land tenure tending towards being based more on principles that are subjective. Widows also confirmed this through the different treatment they have experienced.

5.2.4 *Widows' access to land*

Cultural practices have brought some challenges for widows in rural communities. The dispossession of land and threats posed to widows were confirmed in all the sub-villages by respondents in the interviews from Nqadu A/A. In these cases widows lost their homesteads and property. The study revealed that widows in South Africa are exposed to dispossession of land and other property rights. From this study, 34 of the respondents experienced various kinds of threats. There were instances of eviction of widows in Holela, Kumaya and Nozizwe from land that is entitled to the second male child or transferred to the clan. There were also some instances of chasing out of children because of the insufficient amount earned and transferred to their marital home by widows. Vandalism, misuse of buildings, and theft of property belonging to widows were discovered to have occurred according to respondents in this study.

The level of relationships of widows and their in-laws plays a vital role in the widows' land dispossession as well as property grabbing. This has been confirmed by a number of scholars who state that if a widows' relationship with her in-laws is not friendly, that limits her chances to convene family meetings to address her challenges concerning land dispossession or property grabbing. They further argued that even when the relationships are moderate, death might lead to the same consequence. The study shows that there is very little that traditional leaders as well as land committees can do to protect a widows' land dispossession by her in-laws. Widows in this study also indicated that they fear antagonizing their in-laws as this would not favour their children. South Africa's traditional society, even though children belong to both parents, is patrilineal in nature, as children are generally regarded as belonging to the husband's family. Witchcraft was also identified as being used against widows, preventing them from producing wills developed by their husbands while they were alive, thus disposing them to land dispossession. Widows with unregistered marriages and those who are not yet sent (*ukwendiswa*) by their natal families need to be educated about their rights to prevent them from victimization by their in-laws.

5.2.5 Cultural practices within the communities

Findings from this study revealed that cultural practices play an integral role in land dispossession against widows and diminish their chances of inheritance. Another fact is that allocation of land through paternal relations appears barely challenge. This shown in the

study by a few cases in which widows challenged the ruling surrounding land and were allocated land in their own rights. Culture creates what has called semi-autonomous social fields, in that it commands respect. Many widows decided to leave their marital homes after having exhausted all avenues of the family system. Male elders within the families, instead of protecting the vulnerability of their brothers' wives, appear as those who also play an oppressive role in igniting the cruel actions against widows. On the other hand, some elders play a critical role in teaching male children to respect their mothers and act as the family leaders in Nqadu A/A. One of the most critical issues from this study is the neglecting of the female children's views by family elders when challenging issues affecting their families, particularly when protecting their mothers' rights after the death of their fathers. The elders take advantage of being leaders of the clan who perform rituals within families.

5.2.6 Inheritance right to property

This study revealed that widows do have inheritance rights, particularly in the household, after the death of her husbands. It has been shown that even if the walls or fence that surrounds their small garden falls down, the first person to be criticized by community members will be the women, therefore widows have to protect the entire property. Slightly contradicting this, what also appeared from this study was the issue of inheritance with reference to male children, based on the patrilineal tribal tradition, where women would inherit land through their male child.

5.2.7 Development of wills

The study revealed that land dispossession incidences are exacerbated by the lack of writing of wills. In Nqadu A/A very few of those who were interviewed had husbands who wrote wills while they were alive. Due to the fear of antagonizing their marital relatives, widows who have wills decided not to produce them to claim their husbands' property.

Those who did produce their husbands' wills were opposed through intimidation, which implied that they bewitched their husband with the aim of inheriting the property.

A few deductions can be made from the foregoing discussion, and these are presented below:

5.3 Deductions from findings

The findings from this study have shown serious implications for a transforming society. They imply that proper implementation and recognition of international, national and local laws that address the discrimination of women in general, widows in particular, over land rights should be realized, especially with regard to communal land. Gender equity programmes failed widows in rural communities because the impacts of culture affect widows more than widowers who reside in the same communities. This was revealed by a lack of legal protection, traditional authorities, patriarchal patterns of land allocation and cultural restrictions towards widows. Community based organizations in rural communities should be formed, or those which are already formed should have a mandate to address issues related to land and property dispossession that affects widows in particular. An intervention that sought to protect widows through registering their marriages needs support to encourage vulnerable widows to seek help through legal channels.

The study showed that some family members did not recognize certain types of marriages; therefore, there is a critical need to empower women, particularly widows, about different marital laws that governed types of marriages. The empowerment should enable widows to stand firm and be able to claim their rights. The study established that headmen were continuing to avoid allocating land for widows, rather considering different approaches like through a male representative or the type of marriage, and considering the wealthiest of the clan family of the marriage home. This needs rectification in order to reflect that widows can be allocated land in their own rights. From the study, it established that the Injoli conducted investigations about the background and other culturally related information about applicants and later compiled lists that reflected male recognition first. With such there is recognition, a need to re-orientate the systems at local levels, including the Injoli, sub-headmen, local land committees, and headmen to allow for land allocation that is more efficient and prioritizes the widows.

From this study it appears that widows' oppression is exercised by other women from the marital home, therefore, there is a need to educate women at large and families to respect the land rights of widows, with consultation on possible legal actions against violators. Land committees, Injoli and headmen should work cooperatively to resolve widows' challenges related to land grabbing on an equitable and amicable basis. When it is beyond their authority, they should immediately transfer the case to suitable institutions.

This study showed that many rural widows went to school up to minimal levels, a factor that might not assist them in getting employment and enable them to know their legal rights. They need to be educated about their land rights. Even those who managed to acquire some awareness about their rights often did not know what suitable steps to take to enforce those rights. The study also showed that the issue of developing wills concerning estate distribution was clearly opposed by in-laws by accusing widows of having a hand in the death of their husbands through witchcraft, with the aim of inheriting the property themselves. Educational campaigns are required concerning the writing of wills and their legality towards property and land related distribution.

The Department of Rural Development and Agrarian Reform should establish and support committees at both local and district levels to monitor the abuse of widows towards their land rights. They should also support the current land administrators, including the Injoli, local land committees and chiefs to record and file cases that involve evictions and land disputes affecting widows and their communities. Communities should be fully involved in identifying and designing strategies to address local challenges within their localities. Government authorities should publicly educate and encourage communities and custodians of culture to acknowledge that widows deserve to be allocated and inherit land in their own right. Government authorities, on their public awareness campaigns, should focus on cultural practices that are utilized to abuse the rights of widows.

This study revealed that widows are affected by land dispossession. It should be vital that government structures and communal organizations provide appropriate and accurate information about the effects of land dispossession on widows. Widows' position on land issues requires a commitment from both government and local authorities to the promotion and protection of widows' land rights through their institutions and legal frameworks. Studies that are more detailed are required to examine the challenges that widows encounter

in their movement towards achieving equal access to land. This should mobilize persons who have interest in land issues that affect women. Further research on cultural practices affecting widows' land rights is required. It is also vital to interrogate in-laws and find out how they feel about widows' land ownership.

A few recommendations are now apposite.

5.4 Recommendations

From the foregoing findings and discussion, the researcher recommends as follows:

- ❖ Traditional leaders within the rural communities should provide clear and recognizable rules when allocating land to their localities including widows.
- ❖ Traditional leaders working co-operatively with the local land committees elected by communities should devise ways of solving challenges affecting certain individuals within the community in an amicably manner.
- ❖ Local government municipalities have to develop policies that assist traditional authorities in land allocation and provide them with a mandate to allocate land to all members of the communities on an equity basis.
- ❖ Local government, in line with other government sectors like the Department of Rural Development and Agrarian Reform, should develop and implement policies that protect land and property dispossession of widows by both families and members of the communities and punish such perpetrators.
- ❖ The developed policies should realize the existence of widows within the communities by insisting on their constitutional rights and protecting them and their children against any form of abuse instituted by relatives and communities at large.
- ❖ Women should represent themselves during discussions and allocation of land and not have to acquire land through the existence of men.

5.5 Conclusion

The findings from this study have shown the implications for a transforming society. They imply of democracy and gender equity in rural areas that the true reflection (women's full involvement in development of local policies, implementation and decision-making in land issues), and the realization of policies will take time. The new democratic South African dispensation has done little so far to improve rural widows' ownership of land and thereby ensuring their participation in land administration. Gender equality programmes have failed widows in rural areas because government policies and procedures do not take into account their inferiority position in the communities. This inferiority, amongst other things, involves lack of legal protection, cultural restrictions and patriarchal patterns of land allocation. The findings of the study show that it is difficult to translate documented laws into practice while cultural rules are still exercised in many rural communities.

Women's inferior position in a fundamentally patriarchal society has further contributed to policy developers and implementers taking the men as the community perspective. This has to change and policy developers should appreciate the fact that widows are a distinct group and findings based on generalization will not emancipate widows. Non-governmental organizations, community building organization as well as policy developers may actively engage widows in policy formulation and implementation that will require social mobilization and the emergence of a strong rural women's movement. The policy measures to improve widows' access to land may be generic. As presented above the policy should include the provision of education, psychology centers (where abused widows are assisted), childcare facilities and workshops involving human rights.

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APPENDICES:

Appendix A:

Interview guide for widows regarding their experiences of land dispossession.

1. Do you have access to land that you used before the death of your husband? Yes/No
2. If yes, how big and arable is the land?
3. How do you get access to the land?
4. Who makes most of the decisions regarding your land?
5. What challenges did you encounter after the death of your husband regards to land inheritance?
6. Within the challenges, are there any threats? Yes/No
7. If yes, what source of the treats do you encounter e.g. (headmen, community members, government, family members) after the death of your husband?
8. What type of treats do you encounter e.g. property confiscation, eviction, violence?
9. Where do you report these threats?
10. What happened after you reported the case?
11. Do you feel that you have a right to continue using the land after the death of your husband?

Appendix B:

Interview guide for widows, traditional leaders and land committees.

1. Who has the responsibility of allocating land in the communal areas?
2. Who is entitled to receive land in the communal areas?
3. Do widows and widowers have equal rights to land in the communal areas?
4. What challenges do widows face after the death of their husband?
5. According to Xhosa custom, who has the right to inherit the land?
6. Do widows have the right to continue using the land after the death of their husband?
7. What source of threats do widows encounter when they continue to challenge the property inheritance belonging to their husband?
8. What are the consequences of threats to the livelihood of widows?
9. Do institutions exist to address the challenges experienced by widows' in terms of property inheritance?
10. Are there any cases reported regarding challenges experienced by widows? Yes/No
11. If yes, what steps have taken to resolve these challenges?

Appendix C:

Interview guide for government officials

1. Who is supposed to control the overall land in the communal areas?
2. Who has the responsibility to allocate land to the members of the community?
3. To whom does the land have allocated?
4. Are there any criteria followed when allocating land?
5. Do you think that widows and widowers have equal access to land in communal areas?
6. Do widows in communal areas have secured rights to land?
7. Do you have any idea about the threats directed to widows regarding land inheritance? Yes/No
8. If yes, what are the sources of those threats?
9. What are the consequences of the threats?
10. Do institutions exist adequately enough to solve the challenges experiences by widows?

Appendix D:



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ETHICAL CLEARANCE CERTIFICATE

Certificate Reference Number: AKP091SBAL01

Project title: **Between Culture and Cruelty: Narrative of widows on land dispossession in Nqadu Village Mbashe Local Municipality.**

Nature of Project: Masters

Principal Researcher: Zola Baleka

Supervisor: Prof W Akpan

Co-supervisor:

On behalf of the University of Fort Hare's Research Ethics Committee (UREC) I hereby give ethical approval in respect of the undertakings contained in the above-mentioned project and research instrument(s). Should any other instruments be used, these require separate authorization. The Researcher may therefore commence with the research as from the date of this certificate, using the reference number indicated above.

Please note that the UREC must be informed immediately of

- Any material change in the conditions or undertakings mentioned in the document
- Any material breaches of ethical undertakings or events that impact upon the ethical conduct of the research

