

**Traditional Courts Bill Workshop
KwaZulu-Natal - Cedara (Pietermaritzburg)
Organised In Conjunction with the Rural Women's Movement
28 - 30 OCTOBER 2008**

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LIST OF DISTRICTS REPRESENTED

1. Estcourt
2. Newcastle
3. Underberg
4. Greytown
5. Tholeni
6. Ixopo
7. Melmoth
8. Sayidi
9. Colenso
10. Babanango
11. Banasfield
12. Nongoma

COMMUNITY INPUT CONCERNING HOW TRADITIONAL COURTS CURRENTLY WORK IN THE DIFFERENT AREAS AND PROBLEMS FACING RURAL WOMEN

Nongoma - different speakers

- A woman cannot represent herself and give input in a traditional court. She needs a male to represent her. This means she is dependant on others, and cannot raise the issues she deems most relevant. Because of male dominance in the area, most women are scared. They are only allowed in courts on sufferance and on the basis that they are submissive to the rules that suppress them. The dynamics of the court silence women. Men tend to dominate, some because they want to assert themselves, others because they have an interest in the matter. A further challenge is that women who are not supported by a male representative are denied access to justice in the traditional court.
- In some instances the proceedings are not conducted in a proper manner in that some people speak in a disrespectful manner and they are not held in contempt of court.
- Once a decision is made in the traditional court it is possible to appeal to a Magistrates' Court but for most people it is a difficult process. When a decision is initially made at a traditional court the chief is not present but when the decision is taken on appeal the person making the appeal will have to face the chief directly in the magistrate's court. Some people are afraid to appeal because they do not want to face the chief, fearing that they will be evicted from the area – because of the perception that the land belongs to the chief.
- The court has no power to ensure that sanctions or orders made by the traditional court are enforced, which results in victims being exposed and further victimized and the perpetrators being let off.
- Other forums of resolving disputes exist in the community that are effective as well as affordable. These forums include family meetings, neighbours meetings, community meetings as well as courts convened by headmen. If the Traditional Courts' Bill only recognizes one traditional court then the community's access to justice will be decreased. Women would be especially affected because under customary law women are not allowed to speak or represent themselves in the chief's traditional court.
- Many matters are dealt with at "lower level" tribunals or courts, for example at the level of headmen. Yet headmen receive no training and the proposed law does not provide any support or checks and balances at this level.
- The manner that cases are dealt with in the traditional court also depends on who the parties are. If a family is close to the chief or one of the headman the court will be biased and lenient toward that person at the expense of the other party.
- In the traditional court only those few men who are close to the chief make the decisions, which then impact on the whole community. The community is not able to choose suitable people to be councillors in the chief's court.

- To open a case at the traditional court the complainant has to pay R200 to the chief's police (iphoyisa lenkosi).
- Widows suffer because when their husbands die their in-laws will do everything that they can to take over the house and everything that the husband jointly owned with his wife. The in-laws think that the solution is to evict the widow so that she cannot challenge them. There is a huge problem with widows that have no access to their husband's estate and traditional courts do not help in that situation.
- If a girl gets pregnant while living at home, even if lobolo is paid, the family have to pay a certain amount to the chief. Levies have to be paid towards the chief's car and house. Yet the chief receives a salary every month. Everyone in the community must pay including widows and mothers that receive child care grants. No receipts are issued for levies paid to reflect proof of payment. If the headman dies the community must collect money which is then taken to the chief. The court will not assist people who are not up-to-date with their levies.
- There were elections held in September 2007 to elect members of the traditional council. In fact the headmen together with the chief pinpoint the people that they want chosen and they try to influence the community. So you end up getting the same people serving in the traditional council as well as the chief's committee. The headmen do not want the community to hold meetings without their permission because they want to make sure that they are aware of everything that is going on in the community. It has always been like this even before the elections.

Underberg

- The woman representing the Underberg community, Mrs S, is also a member of the Traditional Council. She explained that in her area the community contributes to the chief's expenses such as his car, educating his children etc. Each household is expected to pay a certain amount depending on the expenses.
- An unmarried woman cannot ordinarily be allocated residential land if she wishes to establish her own household. She must have a man representing her. Unmarried women have to pay a penalty of R200 in addition to R180 for the land itself. Even so an unmarried woman will not be allocated land without a male representative to 'assist her'. Women who are "ganile" [incomplete customary marriage] and living with a partner but not formally married according to customary law or civil rites also have to pay the fine.
- The traditional court is unable to deal with all the cases that come before it. There was a case of theft where the accused was arrested and released on bail. When he came back to the community he started harassing the persons that had a hand in his arrest. The community went to complain to the chief and the chief said that the community must then kill him (the accused) because the traditional court cannot control him.
- The traditional court in this area does not follow procedure nor does it protect the interests and rights of women. An example given was of a married woman who discovered that she was HIV positive. When she told her husband he evicted her. She approached the traditional court for assistance and the court confirmed her eviction on the basis that her husband had 'divorced' her. The court held that the family home belongs to her husband and that as a divorced wife she has no land rights.
- Mrs S's own husband passed away when she was young and her husband's family took everything in his estate because they said that she was going to spend the estate with another man. In the process she was dispossessed of a property that she had acquired herself. Because in Zulu custom a woman cannot own property, she had to rebuild her life from scratch to provide for her children.

Colenso (personal story): I am from Colenso but I was born in Washbank. There are six children in my family – two boys and four girls. My father died in 1994. After his death we continued to stay in our family home. Then in 2001 my oldest brother built a house in Newcastle and when he moved he took my mother with him. At the time I was not staying at home. He took my mother because she was receiving an old age grant. In 2003 we went home but when we arrived we found that another family had moved into the house. We then had to look for a place in Colenso and I managed to build a small house for myself. After we digested the fact that we no longer had a home we decided to approach Inkosi M to assist us. We told him that when we arrived home we found that another family had moved into our home. The chief said that he doesn't know what we should do and that it is none of his business that our brother sold the house. We then asked him if our father had included us as beneficiaries of the house. He then showed us a page where our father had written that all his children must benefit from his estate. The inkosi again said that this was none of his business and added further that he does not speak to women. Some days later the inkosi phoned me and said that our brother requested that we meet at the traditional court to discuss the matter.

In order to get to the meeting at the traditional court I had to take leave from work and I had to travel from Estcourt where I was employed. Inkosi M was also present during the proceedings. When our case was called he stood up from his seat and he said that our family must leave the court and go outside to talk amongst ourselves. The inkosi and my brother had already planned that the matter would not be discussed inside the court but that we would be ordered to go outside. We then did as we were told and left the court. When we were outside our brother fought with us and asked us why we did not marry because if we had married then we would not be running around after our father's estate. But we cannot simply marry when we are not ready to marry. We then realised that there was no one that we could turn to for help.

My uncle felt sorry for us and he called the family together. At the family meeting my brothers said that they did not want to discuss this issue and said that we should have married so that we could rule in our own houses.

In 2006 my mother died while she was still staying with my oldest brother. We made all the arrangements for the funeral. Our mother never went to school but she was intelligent and she worked well with her hands. She had purchased shares in a company. We found out about the shares after she died. She had named all of her children as beneficiaries of those shares. We were supposed to divide these shares at the Tugela Magistrates' Court. We went there in January 2007 and we were asked to choose one person amongst us that would wind up the estate. My sister nominated my oldest brother because he was not employed at the time and would have the time. He then wound up the estate and then requested that we meet at the court to divide the estate. I had to travel from Colenso to Tugela Ferry and I only had R100. When I arrived there I only had R5 left. My brother, because he is a man and thinks that he has every right, did not want to give us our share. He told us that he did not have any money on him but yet he was the one who had called us to come. I then asked him for transport fare since I only had R5 left. He said he did not have money and he left me there to see to myself. To date I am in constant argument with my brother over these monies. The inkosi said that the estate belongs to my brother as he is the oldest son. I then showed the inkosi the letter from court naming all of us as beneficiaries of my mother's estate. The inkosi said that he does not care about that and that all he is concerned about is that our family only has one oldest son and that he should be the one to inherit from his parents. The chief added that my brother will share with us only if he so wishes.

Where I live in Colenso the councillor looks at which political party you support before he helps you. In 2007 I became infected with TB and I was seriously ill. My older children were not working at the time and I was supporting my family with only R190 which was a child care grant that I was receiving in respect of my younger child. I was told to get food vouchers. I was not able to get those vouchers because the councillor thought that I was an ANC supporter whereas I do not support any political party. I did not get assistance that day. I only had R10 on me that I had borrowed with the hope that I would be receiving the vouchers. I had to hike from Colenso to Ladysmith. When I arrived at the Ladysmith municipal offices they had already closed for the day and I was not able to get the vouchers.

At the moment, I am trying to get a piece of land so that I can plant and have my own garden. I have gone to the councillor four times with this request. He asks me who am I to want a piece of land and whether I know what the purpose of land is. And secondly he wants to know what political party I support. I told him that the political party that I support has nothing to do with the piece of land that I want. He then told me that he would not be able to assist me because I am a stubborn woman.

In conclusion the speaker said:

- Women who are not married have no status. Some women resort to marrying men they do not love simply because otherwise they would be denied access to land.
- There is a general problem with the chief, headmen as well as male government officials. Before government officials assist you with anything they ask you which political party you support. Men in high positions especially are abusive towards women.
- If we take a case to court, the chief wants us to give him things. According to the chief, we are his "inheritance". That is why we need government help to remove us from the power of chiefs.

Greytown (personal story): I married my husband after his first wife passed away. They had two children together, a girl and a boy. When we got married his children were young and I took care of them as if they were my own children. When I married my husband he did not have anything to his name. I bought most of the things that we had in the house and I contributed a lot to the building of our house. My stepchildren grew up and I have two girls with my husband. After my husband died my relationship with my stepson began to go down the tubes. He now thought that everything in my house would belong to him because his

father had died and he is the only son. I was not going to give up everything that I worked for simply because he feels that he is entitled to it. He has made all sorts of threats to me but I am prepared to stand my ground. My stepson has built a house for his family in my yard but I cannot even have contact with my grandchildren because he has turned them against me. I am constantly living under stress. I reported this matter to the headman and he was not able to assist me. I then went to the chief and it seemed like we agreed but when I went to see him the following day he had turned against me. Then I decided that it would be better to seek legal advice but that did not help either. So I can testify from my own experience that widows suffer the most in the community and if you do not have a son it is even worse. My stepson is doing all these bad things to me because I do not have a son.

Women who have not borne sons are especially vulnerable because the in-laws then have an excuse to come and take over the home. But if there is a son then he can take his father's place and will be more sympathetic to his mother. Because of this discrimination against women who do not have sons many women try their utmost to give birth to a son. In some instances women with six to eight daughters continue having children in the hope of a son. In some instances women are afraid that their husband will marry a second wife if they fail to give birth to a son.

Babanongo (personal story): In the area where we live most people that want to open a case will not go to the headman but will go to isikebhe first. [Isikebhe is the name of a local "self protection" or vigilante group that people subscribe to for protection against criminals.] It is only if the case is not finalized at isikebhe that they may proceed to the headman. Isikebhe is a group of people who decide on cases referred by the community or a complainant. For example if something was stolen from you and you suspect someone, you would go to isikebhe and tell them who you suspect. The isikebhe will then go to that suspect and beat him or her until they confess."

At first the isikebhe used to deal only with cases of stock theft but now they take on any case. The isikebhe is made up mainly of men from the different communities in Babanongo. Anyone who wants to join isikebhe for protection has to pay a joining fee. Isikebhe exist in many areas. For example there is one in Melmoth, Kandla, Nquthu, Vryheid. So when a person is suspected of wrongdoing, members of isikebhe from all these areas would beat the suspect. Isikebhe is independent from the headman's court as well as the traditional court. If your case is not successful at isikebhe then you can take your case to the headman or the traditional court. The traditional court can overrule isikebhe.

Most people do not like isikebhe. The only people that support it are the members.

There was a boy in our neighbourhood who set a house on fire. The case was taken to the police but the police did not do anything about it. The owner of the house was a member of isikebhe so the matter was referred to them. The isikebhe approached the boy's family. They beat the boy until he confessed that his father had told him to set the house on fire. Isikebhe then took the confession to the police and again nothing was done. The isikebhe then took the matter to the headmen where it was ordered that the family compensate the owner of the house.

"My brother was accused of stealing a cellphone from a neighbouring house. Apparently the owner left the phone charging at a neighbouring house and when she returned to check it she found that it was gone. The owner then enquired about her phone from a lady that was living in the house. The lady answered by saying that my brother had slept over the previous night and that he might have taken the cell phone. The owner then took my brother to isikebhe where he was intimidated. My brother then drank petrol in an attempt to commit suicide but fortunately he survived. When we ask him why he drank petrol he says that he is tired of this issue with isikebhe and he is afraid for his life.

Isikebhe approached my mother and they told her that she should pay for the phone otherwise they would come back for her. My mother does not want to report the matter to the headman because she is afraid for her life as well as the lives of her children.

Ixopo (personal story): We live on a farm owned by Mr B. He built us houses there and we live peacefully without the chief and Municipality. The neighbouring chief and headman have a problem with Mr B and the work that he does for the community. I personally do not recommend anything that has to do with the chief or headman because they send people to steal from father B and the police do not do anything about it. If the headman and chief did their work as they are supposed to then there would be no thieves in the area. Mr B is constantly in and out of court because he has to attend to these theft cases. In my opinion there is no space in our society for headmen and chiefs. Mr B was generous to give the community land so that they can build houses. But the headman is not willing to resolve the theft issue. All the people that are caught stealing from Mr B come from the areas that the chief and headmen rule.

I came to live on the farm because of bad experience on tribal land. I had hired a company to build my house for me. After the foundation was completed a neighbour who was male said that he did not want a woman living next to him. He then went to the chief and told him that he does not want to live next to me because I am a woman and I do not have a husband. One day his horses were killed by an unknown person and next thing he was in my yard accusing my sons of killing his horses.

My sons were furious and told me that they wanted to take care of this man "once and for all". So I decided that it would be better to move before my children do anything that they would regret. It was clear that I was not going to get any assistance from the chief. So I purchased a house in another area and I paid R7000 for it. The headman came to me and said that because I come from another area I have to go and get a letter of reference from my previous chief. I then went to get that letter and I was charged R240. The headman in the new area then said that on top of the R7000 I must pay R2200 for ukubekwa endaweni. On top of all of this I had to bring a case of beer, cool drink, meat and bread. My son then told me about the plots and houses that were available on the farm. So I sold that house and I moved. I have spent so much money but my money cannot do anything for me.

At Ixopo (where I lived before) whenever a woman brings her case to the traditional court her case will keep on getting postponed until eventually it is taken off the court roll. A woman is not allowed to stand in public to present her case. Even if a woman has money obstacles will be placed in her way to make sure that her money does not work for her.

Estcourt: Women who are not married are generally not given plots. But women who have children while still living at home may be allocated land, in order to enable them to raise their children. In fact the chief encourages development and is sensitive to women's rights.

Mbulwane (personal story): I live under the leadership of a chief but unfortunately I do not know him. My sister wanted to have her own house. She thus went to the chief's councillor and asked to be allocated a plot of land. The councillor said that my sister cannot be allocated a plot of land because she does not have a husband and does not have a male representing her. He told her that she should marry first. She was then approached by a family who were moving from the area. They asked her to look after the house for them. They also gave her permission to build on the property if she wanted to. The councillor said he could not allow the arrangement because the land belongs to the chief. The family fought for her and eventually she was allowed to build. But before she could build she had to pay for ukubekwa endaweni. She also had to buy a case of beer and vodka. The councillor then told my sister that if she builds there it would be at her own risk and if anything goes wrong he will not be liable and that she must not report any problem to him.

Sayidl: There are many problems in the area that I come from. It seems to me that most of us rural women have similar problems. In our area women are indeed sometimes allocated a plot of land to build. However even if you are lucky enough to be given a plot of land it is difficult for a woman to get a title deed [Permission to Occupy certificate] because for that she has to speak to the chief's committee. The committee consists of men and it is against custom for women to be able to go and speak freely to men. After you have been allocated that plot then you have to pay for ukubekwa endaweni and buy beer and vodka. The price of a site starts from R5000.

The site costs R5000 and further an amount of R750 must be paid to the chief, R50 to the chief's police and 2 bottles of vodka and a case of beer. In October every year the community (each family) has to pay R30 or R40 for isidwaba (Zulu traditional skirt) for the chief's wife. Besides that the community has to pay for the education of the royal children.

I am the secretary of a women's committee in the area. We had to go to the office to ask for a PTO certificate for our project. We first had to go to the chief and we were given permission to get the certificate. We were then told to go to the office. On the day that we went to the office unfortunately for me I was carrying my child. When we arrived they said they cannot listen to women who are carrying children. We told them that our chief directed us to come. When we entered the room where all the traditional council members were seated we were not invited to sit down and we stood by the door and told them why we were there. They started making comments about me bringing a child with me implying that I was being disrespectful towards them. In the end though we did manage to get the PTO, but the process was difficult for us as mothers. If you want a PTO for a project then you have to pay R1000 and for your own house you pay R750. It is up to the chief if you receive a PTO or not. If the chief decides that he does not want you to have a PTO then you have to accept it.

There is a woman who is a chief. Her husband was a chief and when he passed away she took over from him. Her husband's family is fighting her because they say that according to their law a woman cannot be a chief but government law overrules them. The woman is now renting the position of chief from her brother in

law. At the end of the month when she receives her salary she must go and pay her brother-in-law a certain amount as rent for the position.

Melmoth: The speaker explained that their chief never visits their community nor does he solve or attempt to solve the problems that community has to deal with. If the community wants to the chief to come to their area then a goat or cow must be slaughtered – and the community must take care of the expenses entailed.

Women in this area never get the opportunity to take their dispute to the traditional court. The headman himself will advise them that it is pointless to take their case to the traditional court because they will not be successful. Most people are afraid to lose their livestock so the community is reluctant to take their disputes to the traditional court.

Newcastle – Ingogo: The traditional court will first look at the status of the parties to a dispute before it makes the decision. If your family is wealthy or you are a relative of the chief or headman then if you are found to be guilty the sanction will be light. Most of the time sanctions will be in kind for example livestock or community service.

We have a chief but most of the time we refer our disputes to the headman. It costs R50 to open a case with the headman. It is difficult to win a case against the headman or his family. Instead if you are the victim and institute a case against headman or his family you will end up compensating them. Whether you are successful in a case or not depends on who you are, and your position in the community.

Another problem is that orders that are made by the traditional court are not enforceable. The court can order that you must be compensated but there is no one to ensure that the money is paid to you.

Banesfield: We now have a new chief whom we have not yet met. Our old chief did not co-operate with the community. If you belong to his clan then the chief would deal with your problem and solve it quickly because you are related to him. If something happens to somebody else or another family then that person or family must resolve their own problem. When the chief elects a headman he will choose someone that he likes and the community has no say in the matter. He does not listen to the views of the community. If projects come up in the area then the chief only chooses people that are close to him to benefit from those projects. The headman does not deal with the cases referred to him in a proper manner. All that he cares about is collecting money from the community. Most of the time when a donation is made to the widows or orphans in the area it does not reach the people that it was meant for. There is also a problem with tribal levies. All families are asked to pay ridiculous amounts to cater for the expenses of the chief.

GROUP DISCUSSIONS

Group questions:

1. 'African justice', does it work? What are the benefits? The Bill talks about restorative justice – in practice is this more secure than magistrates' court justice?
2. What are the problems that women face in magistrates' courts compared with the problems that they face in traditional courts?
3. Suggestions for how to improve access to justice for women? What do women need from government?
4. What is wrong with the Traditional Courts Bill? How can the Bill be improved?

Feedback from groups:

Group 1

1. Magistrates' court are better than traditional courts because in magistrates' court the presiding officer is trained to deal with cases whereas in traditional courts the headman or the presiding officer is not trained to handle disputes. The sanctions in traditional courts are not fair throughout – the presiding officer first looks at who you are in society before he imposes a sanction. In a magistrates' court there is less discrimination and the law is clear because it is written down and the court is not biased against women.
2. In the Magistrates' court victims are allowed to present their case and they do not have to be assisted whereas in a traditional court a woman cannot speak for herself and that has the potential to hurt her case if the person that is representing her does not present her side of the story fully. The downside of a magistrates' court is that cases sometimes take longer to finalize whereas the traditional court handles matters relatively quickly.
3. In order to improve access to justice for women the group suggested that it would be better if magistrates' courts were closer to the rural areas so that women can have a choice if they want to go to a traditional court or a magistrates' court. If the magistrates' courts are far then they have no option but to approach the nearest court. They also suggested that there should be more female magistrates.

4. Some words in the Bill such as 'assault' are too open. Too much power is given to the presiding officer with regard to the sanctions that they can impose. Training must be made compulsory for the presiding officers and training must take place before presiding officers preside over cases so that better decisions can be made.

Group 2

1. There must be more women chiefs and the chief's wife must be more involved and she must also be able to perform the duties of the chief. In that way women will have somebody that they can bring their problems to who will understand where they come from. It presents a problem when sanctions in traditional courts are not the same. In order for the system to be fair, sanctions should be uniform throughout.
2. In traditional courts women are not protected nor are they safe. To be successful in a traditional court a woman has to have a relationship with the headman or chief. In some instances a woman will agree to have a sexual relationship with the headman so that her case can get to court.
3. It is not right that in a magistrates' court a rapist or a murderer can get bail. This is not good because the victim lives in fear that the rapist will come back to the community and cause more trouble.
4. The Bill gives powers to a few people who then have the power to make decisions that affect the whole community. The Traditional Courts Bill is unconstitutional because it enables ongoing discrimination against women.

Group 3

1. Customary courts are good because small cases can be easily finalized. The families can sort out disputes without referring them to a formal forum. A magistrates' court is not sympathetic to small offences that are committed by youngsters. With small issues you find that youngsters get a criminal record for minor issues that could have been better resolved in a traditional court.
2. In a traditional court a woman cannot represent herself, whereas in a magistrates' court a woman is able to present her case. The problem with traditional courts is that if a woman cannot find anybody to represent her, then she does not get the opportunity to have her case heard.
3. The group suggested that it would be better if all the parties to disputes were allowed the representative of their choice. The representative need not necessarily be a person that has experience in law; ordinary community members could be chosen. Those people that are chosen as representatives will be able to make fair decisions because they will be fair and impartial.
4. The Bill is not sensitive to rape cases in that they are not specifically excluded as matters that cannot be heard by the court. This puts women and children at risk of having a rape case heard in the traditional court. The sanctions that the Bill provides are too wide and therefore open to abuse by the presiding officers. For example the presiding officer can order that a person work for the community without pay.

REPORTING CASES TO THE POLICE

The women were asked if they know of cases where other women had gone straight to the police with their problems/disputes instead of going to the headman or approaching the traditional court.

The general response from the group was that most of the time the police make fun of women's problems and advise them that they should submit to their husbands or whoever is abusing them.

One delegate gave the example of a woman who was abused by her husband's family after he passed away. It is Zulu custom that if a man dies leaving his wife, then his brother takes over the household and becomes a husband to his sister-in-law. This particular woman resisted her brother-in-law and approached the police for assistance. When she tried to lay a complaint with the police officer on duty he asked her if she did not know that it is custom that her brother-in-law will now be her husband. She did not receive any assistance from that police officer. She then approached the headman who also asked her the same question. In the end she was forced to submit to her husband's family, failing which she would have had to leave her children and all her belongings and start a new life on her own.

The same delegate further commented that the magistrates' court system works only for people who understand it and know how to use it. Often cases opened by women are not followed through and the file stays in the police station cabinet and collects dust.

Another delegate added to this by describing the dangers of using the police in the rural context. She had a spaza shop and was robbed at gunpoint by a group of youths. Fortunately she managed to defend herself and later reported the incident at the police station. The robbers were located and arrested. She thought that was the end of the problem. However she started to notice that there were people following her and she later found out that the families of the robbers were seeking revenge because she had reported the crime to the police. Nothing has yet happened to her but she now lives her life in fear.

A delegate from RWM shared the story of a woman who had approached the police with her problem. She was successful in court but her decision to approach the police had terrible consequences for her. This family had received lobola (11 cows) from the groom's family for their daughter's hand in marriage. According to custom the eleventh cow belongs to the mother of the bride. However this woman's husband sold her cow to a neighbour. She was not informed that her cow had been sold and only became aware of the transaction when the buyer came to collect the cow. She told him that the cow belonged to her but he insisted that it was sold to him and he left. The woman then laid a complaint at the police station and her case went to court. The magistrate decided in her favour and ordered that the cow be returned to her. Her husband was livid and ordered that her son be killed because, according to him, she acted out of line. The woman was successful in the courts but the result was that she lost her only son.

In conclusion we can say that there are positive as well as negative consequences for women when they turn to the police and magistrate's courts. Each woman has to weigh up the risks involved and make her decision based on the context and the risks she faces.

PROBLEMS FACING WOMEN COUNCILLORS IN TRADITIONAL COUNCILS

There were two women in this group that are members of the traditional council in their area: one from Tholeni, and the other from Underberg.

The first became a member of the traditional council in 2001 but she resigned in 2004 because her working conditions had become intolerable for her. At the time she was the only woman in the council. As the only woman in the council she was the only one who was sympathetic to women's problems. Every time she tried to involve the other members in resolving the challenges that women face, she received no help and was instead told that she should deal with it. As a result she felt overwhelmed as she was not given the platform to do her work properly, nor did she receive any remuneration for her many hours of service.

She was elected again in 2005. There are two other women councillors who were appointed by the chief. There is discrimination within the council between members elected by the community and those appointed by the chief.

An RWM organiser reported that she visited a traditional court at Kwadlangezwe at Empangeni. She was looking around and then saw a list of the names of the members of the traditional council and none of them was a woman. She then made an enquiry to the chief's brother as to why there were no women in the council. He responded by saying that women are not members because they are lazy and not clever enough to think about the important issues that men have to think about.

GIRLS FORCED TO MARRY MEN WHO RAPE THEM

It came out in the meeting that there are several cases of girls who have been raped and then forced to marry their rapist by traditional courts. In one case a girl of 14 was raped by her mother's relative. It was later discovered that she was pregnant. The matter was taken to the traditional court where the men discussed the matter and then decided that the rapist must pay lobola and marry the girl.

The meeting felt that this type of "solution" does not take into account the rights of the woman who receives no acknowledgement or counselling for the trauma that she has suffered. Instead she is put directly under the power of the rapist. This particular 14 year old girl committed suicide because she felt there was no way out for her.

This kind of tragic problem reflects the reality that many fathers see their girl children primarily as a means to gain wealth through lobola.