

Women, Land and Customary Law

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February 2011



Publisher:

Community Agency for Social Enquiry

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South Africa

Tel: +27-011-6465922

ISBN: 978-0-620-49752-7

The research reported in this publication was made possible through financial and other support received from Canada's International Development Research Centre and the United Nations Development Programme's Gender Team in New York. This support is gratefully acknowledged.

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Acronyms

| | |
|---------|---|
| C A S E | Community Agency for Social Enquiry |
| CLRA | Communal Land Rights Act |
| CPA | Communal property association |
| GG | Government Garage |
| IDRC | International Development Research Centre |
| LRG | Law, Race and Gender Research Unit |
| NGO | Non-governmental organisation |
| PTO | Permission to occupy |
| RDP | Reconstruction and Development Programme |
| SADT | South African Development Trust |
| SANCO | South African National Civic Organisation |

Glossary

Betterment

Forced removals (also called “rehabilitation”) introduced by the central government in the homeland areas from the 1930s through until the early 1970s in some areas. It involved moving rural black families from their scattered homesteads to newly demarcated residential areas with separate blocks of arable land and fenced rotational grazing camps. Many people lost arable land and livestock during this process.

Customary tenure

Land that has been allocated in accordance with customary law, for example by a chief, headman or local structure.

Forced removals

This is where the apartheid government moved large groups of black people from the land on which they were living (and which they sometimes owned) to one of the black “homelands”. The areas from which the people were moved were sometimes referred to as “black spots”.

Freehold title through purchase

Land that is bought and becomes the property of the individual i.e. it involves private ownership which is registered in the Deeds Office. The owner has the right to bequeath and sell the land. Chiefs, headmen and government officials do not play a role in land allocation with this type of tenure.

Homeland

Land designated by the apartheid government for occupation by the African “population group”. Ten homelands were created, some of which were granted “independence”. Also sometimes referred to as Bantustan.

Labour tenancy

A situation where African people provided labour to white landowners in return for use of the land, generally over many generations. Government has redistributed land to African people in this situation after 1994 through the Labour Tenants (Land Reform) Act.

Quitrent

A system in which arable and sometimes also residential plots were surveyed under specific recorded conditions regarding occupation, disposal and inheritance rights; and under which the title holders had in the past to pay an annual quitrent. The ownership of the land was registered in the Deeds office. This system is, officially, no longer in force, but some respondents

nevertheless said that their land was quitrent land. While this tenure system has many similarities to freehold, there were restrictions on the right to sell and subdivide the land.

South African Development Trust land

Land that was added to the homelands between 1936 and 1994 and placed under what was originally called the South African Native Trust, but later renamed the South African Development Trust (SADT). It was reserved for African people who were referred to as 'tenants' of the Trust. People with this tenure were usually issued with permission to occupy certificates (PTOs) under very strict conditions regarding their rights to bequeath, sell, and use the land. Both traditional authorities (headmen and chiefs) and government (via district commissioners) were involved in the process of issuing PTOs. This tenure was known as "Trust tenure".

Introduction and background

Problem statement

The overarching aim of the research described in this report was to investigate the nature of women's land rights in three rural ex-homeland areas of South Africa and, to the extent possible from a cross-sectional survey conducted at one point in time, to explore how the nature of these rights might have changed over time. In particular, the survey aimed to explore how women access land (including different types of land such as residential and fields), their actual use of the different types of land, their decision making capacity in relation to the different categories of land, and the extent of their security or vulnerability to eviction. The survey also aimed to explore the impact of marital status on the nature and content of women's land rights.

The ultimate objective is to record current living customary law and, in particular, ways in which it is changing in progressive directions so that this information can be used by women in their struggles for justice, and as evidence in court cases, policy development, and political engagement from the local to national levels.

The research aims to investigate the following assumptions:

- that customary law is stagnant and cannot be changed;
- that actual practice or "living customary law" is often very different from the version of patriarchal customary law put forward by old laws and many traditional leaders
- that customary law always has negative outcomes for women, especially as regards to land rights; and
- that women cannot challenge and change the patriarchal nature of customary law.

In exploring these assumptions, the research makes an important distinction between customary law as it was codified during colonial times, and customary law as it is practised on the ground. As noted below, it is the latter that has been recognised by the Constitutional Court in several recent court cases.

The research focused on women living in the former "homelands". All these women, their menfolk and children fall under traditional authorities in terms of the Traditional Leadership and Governance Framework Act (no 41 of 2003), with the majority living on communal land of one type or another. The then Department of Land Affairs estimated in a recent court case that 21.5 million people live in communal areas (Sibanda, 2007: para 26). Virtually all these people are African in terms of the apartheid-era classification i.e. the group that was most severely discriminated against. In terms of the 2001 census 58.9% of the people living in areas categorised as "tribal settlements" are female. The "tribal settlements" are roughly equivalent to the former homeland areas. This pattern thus reflects, among others, the legacy of the migrant

labour system and pass laws which made it more difficult for African women than for African men to move to “white” areas where there were more economic and other opportunities. The most recent Income and Expenditure Survey found that in 2005/06, the average household income of rural households stood at R30,859, compared to the much higher average of R98,011 for urban households. Average rural household income from salaries and wages, stood at R14,250 as compared to R66,310 for urban households (Statistics South Africa, 2008: 156). The research thus potentially has relevance for large numbers of people, the majority of whom are poor and disadvantaged. It has relevance for the women on whom the research will most directly focus, as well as the children for whom they bear the main responsibility.

One of the most important immediate motivations for this research were challenges facing women identified at community consultation workshops on the Communal Land Rights Act (CLRA) held during 2002 and 2003. The meetings took place under the aegis of a project co-hosted by the Programme for Land and Agrarian Studies and the National Land Committee, and were attended by approximately 700 people. The consultations highlighted the following problems faced by rural women:

- Women are often evicted when their marriages break down or end. In particular, widows are often evicted from their married homes by their husbands’ families.
- Divorced or widowed women who return to their natal home when their marriages end are often made unwelcome and are evicted by their brothers.
- Unmarried sisters are often evicted from their natal homes by their married brothers after their parents die. This occurs because sons assert that they alone inherit the land, even where the father may have chosen his daughter to be responsible for the family home.
- Married women are not treated as people who have rights in the land. The land is treated as the property of the husband and his natal family. Wives are often not consulted in relation to decisions about the land—whether these are about how to use the land or about transactions in the land. Women are treated as minors, both within the family and the community.
- Women, particularly single women, struggle to access residential land because “traditionally” residential sites are allocated only to men in patrilineal areas.
- Women are often excluded from traditional institutions such as tribal and village council meetings where key decisions about land rights are taken. The problems cited include women not being represented in tribal councils and courts, not being allowed to address meetings, and being denigrated or ignored when they try to speak.
- Tribal courts that decide family and land disputes are generally dominated by elderly men and are perceived to favour men over women. This has serious consequences because disputes may result in women being evicted from their homes, and women being denied redress when they complain that their land rights have been abrogated.

The consultations also, however, illustrated the diversity of experiences of women in trying to secure land allocations from traditional leaders. Claassens & Ngubane (2008) give some sense

of this variety as well as the possible contestations around single women's access to land in the following quote:

In Batlharos in the Northern Cape, a traditional leader said land was also being allocated to single mothers. He was immediately challenged by a woman who stood up and asked why in that case he had refused to allocate land to her... At Mpindweni in the Eastern Cape, women said unmarried mothers had to struggle to be allocated land, and if they succeeded then the land was allocated in the name of a male relative. KwaZulu-Natal women said single women, especially widows and women without sons, were seldom allocated residential sites. They said the problem was worse in areas administered by tribal authorities, and that trusts and communal property associations generally allocated land to women on a more equal basis. Participants at the Sekhukhuneland meetings said stands were not allocated to single women unless they were over 40 and had children.

The project aimed to build up a more solid body of evidence to support (or perhaps refute) what was reported by women in the above-mentioned hearings, and also reported in other interactions with rural women. This body of evidence could then be used, among others, in policy discussions and other engagements with policy makers, submissions and litigation to support women's claims for their rights, in terms of individual claims, struggles in particular areas, and in more national contestations, for example around the ongoing development of national legislation.

The research explores the interface between rights and "custom". The South African Constitution recognises and protects both customary law and the Bill of Rights. Customary law is thus recognised as a fully established system of law in its own right, not simply as a set of traditional or long-established practices. It is recognised as a living system that continues to develop and change. Yet much of the "official" customary law inherited from colonialism and apartheid is both inconsistent with current practice and abrogates human rights, particularly the right to equality. Recent Constitutional Court judgments have addressed the tension between customary law and the Bill of Rights by interpreting customary law to be not the distorted and codified version inherited from colonialism and apartheid and contained in old statutes and judgements, but the constantly changing "living law" that develops as society changes. The relevant judgments include the *Alexkor Ltd & another v Richtersveld Community & others* 2003 (12) BCLR 1301 (CC) dealing with the Richtersveld land restitution claim and the *Bhe and Others v Magistrate, Khayelitsha, and Others*, 2005 (1) BCLR 1 (CC) dealing with male primogeniture and inheritance. The judgments state that customary law derives its authority from the Constitution and must be interpreted in terms of the Bill of Rights. The research, which looks beyond the rights of wives, could also be used to challenge discrimination on the basis of marital status, which is outlawed by the Constitution alongside discrimination on the basis of sex or gender.

The judgments in respect of customary law potentially enable litigation and organisation to build on current initiatives by rural women which challenge reactionary versions of customary law and

claim authority from underlying social values and customary practices. However, as the Constitutional Court itself has pointed out, there are real legal difficulties in establishing the content of changing “living law” for the purposes of litigation. Without evidence of living law, judgments are likely to continue to uphold the patriarchal version of customary law that bolsters chiefly power over land and excludes other rural voices and versions of “living” customary law. Research to provide evidence of “living law” is thus a necessary component of legal and organisational strategies that seek to support existing processes of contestation and positive change.

The decision to conduct this large-scale primarily quantitative research was motivated, in particular, by statements in court cases that suggested that the rich evidence gathered in forums such as the community consultations did not provide solid evidence that change had happened at scale. Thus the Department of Land Affairs’s Dr Sibanda, in his evidence in the CLRA case (paras 69.2; 69.4), noted in respect of the citing of evidence from these forums: “There is no empirical data presented to support such allegations and the anecdotal evidence presented by the applicants”. Similarly, he claimed: “The alleged facts referred to in paragraph 33 are merely anecdotal and the problems referred to therein are not widespread.” The current research aims to establish how widespread the problems are as well as the extent to which practices have changed.

Collaborators

Aninka Claassens played a lead role in the project. The original idea of conducting such a survey emerged from her involvement in land issues, and particularly issues of women in relation to land, over many years. More specifically, the idea emerged from her involvement in the consultations around the Communal Land Rights Bill and related litigation. The Legal Resources Centre, a public interest law firm which has taken forward much of the Constitutional Court litigation and also taken up the issues of rural women in other ways, was also involved from the start. Henk Smith was our main contact from the Legal Resources Centre.

For the first months of the project Aninka was employed part-time as project coordinator. It was during this time that the questionnaire was developed, the three sites for the survey selected, and agreement reached with the local organisations in each site with whom we worked. After Aninka started working full-time on a newly established Rural Women’s Action Research project at the Law, Race and Gender (LRG) Research Unit of the University of Cape Town she no longer formally occupied this position. However, the two organisations – and Aninka in particular from the LRG – continued to work very closely together for the duration of the project. Others from within the LRG who assisted the research project included Dee Smythe, Sindiso Mnisi Weeks, and Mazibuko Jara. The LRG, among others, organised several events at which C A S E discussed the research and presented preliminary findings. The LRG will also help to disseminate findings of the research.

In each of the three sites we worked with and through local non-governmental organisations (NGOs). The NGOs introduced C A S E to the traditional authorities, helped more generally with

access, assisted with recruitment of focus group participants and fieldworkers, and provided advice and support more generally. In Msinga we worked with the Church Agricultural Project, in Keiskammahoek with the Border Rural Committee and newly established women's community-based organisations, and in Ramatlabama we obtained contacts and assistance through the Land Access Movement of South Africa. All of these organisations have worked on land issues for many years, although not necessarily primarily on issues related to women and land.

In addition to these local organisations, Rosalie Kingwill provided information and guidance for the work in Keiskammahoek, including assisting with the training of fieldworkers. Marj Brown and Wayne Jordaan provided background information on Ramatlabama based on their previous work in the area.

Near the beginning of the project, we established a reference group to provide guidance at key points. The members included academic experts both from within South Africa and beyond. The members of the reference group were Thandabantu Nhlapho of the University of Cape Town, Ben Cousins of the University of Western Cape, Sindiso Mnisi Weeks of the Law, Race and Gender Research Unit at the University of Cape Town, Chuma Himonga of University of Cape Town, Dzodzi Tsikata of the University of Ghana, Celestine Nyamu-Musembi from the Institute of Development Studies, Shahra Razavi of the Geneva-based United Nations Research Institute for Social Development, Ambreena Manji of Keele University, Anne Whitehead of Sussex Centre for Migration Research, and Cherryl Walker of the University of Stellenbosch. During the project we also benefited from discussions with Anne Griffiths of Edinburgh Law School. Ben Cousins, in particular, provided support at each stage of the process.

During October 2010 we organised a three-day workshop for six staff members of NGOs working on issues of women and land in Tanzania and Uganda. The NGOs were Tanzania Gender Networking Programme and Women's Legal Aid Centre from Tanzania, and Uganda Land Alliance from Uganda. The aim of the workshop was to share experiences and knowledge about women and land in the three countries and, more specifically, to share our own experience in conducting the survey and associated research. In respect of the latter, both the details of method and findings were shared.

Within C A S E we received support from other staff members beyond the team of authors. We acknowledge, in particular, the assistance of Bongani Khumalo on the fieldwork side, and Sadia Sukhadia in respect of finances and administration.

Finally, we acknowledge the support of particular individuals within the two agencies which provided the financial and other support that made the research possible – Pamela Golah and Eileen Alma from the International Development Research Centre, and Blerta Cela and Winnie Byanyima from the United Nations Development Programme's Gender Team in New York.

The three survey sites

Keiskammahoek

In Keiskammahoek, 433 interviews were conducted in Upper and Lower Rabula, 316 in Cata, and 251 in Upper and Lower Ngqumeya. Keiskammahoek was formerly part of the Ciskei homeland and is part of the current Eastern Cape province.

This site had the most diverse mix of tenure forms. In Cata and Upper Ngqumeya historically the official tenure system was “communal tenure”. Under this system, lot holders were registered and issued with certificates of occupation under the permission to occupy (PTO) system, and the only truly communally held resource was grazing land. Cata’s land is now owned by a communal property association (CPA). However, the CPA was not mentioned in the focus group discussions as responsible for land allocations. In Lower Ngqumeya and Upper and Lower Rabula the official tenure system was, and still is primarily, freehold.

In the past, all localities (“locations”) fell under the joint administration of headmen (who were either chiefs or leaders) and the magistrate at Keiskammahoek. The Native Affairs Department regulated land allocations (and the role of the headmen generally) in terms of departmental proclamations and regulations and the Native Commissioner played an active role in land allocations in the “communal” areas. In the freehold and quitrent areas their roles in land allocation were restricted to issues such as the rights of “squatters” on the commonage and, subsequently, the redistribution of Trust land (see below) to formerly landless people.

The earlier quitrent system in Rabula was similar to the former white-owned land under quitrent. When the quitrent system for whites was abolished in the 1930s, the Rabula quitrent land fell under the more stringent conditions relating to succession associated with black quitrent. However, all title holders in Rabula are usually referred to as “notenga” (people who bought) without distinguishing freeholders and quitrenters. In law, since 1992, quitrent has in fact disappeared and all quitrent land been converted to freehold.

The word “Trust” has multiple meanings in the Keiskammahoek district. Between the late 1930s and 1950s the South African Native Trust acquired white-owned properties and redistributed these to landless families in Rabula. People on these Trust properties saw their tenure as being “Trust tenure” under PTOs. Over time this form of tenure evolved into tenure similar to that in other communal areas. This is in contrast to other black-reserved land, such as in Cata, where the land was considered “vested” in the Trust after 1936, but not “owned” by the Trust. People on Trust land in Rabula therefore generally regard their tenure as being under the Trust whereas people in Cata regard their tenure as being allocated by headmen or the government under the PTO system.

In the 1930s to 1950s Cata was particularly hard hit by the betterment initiative of the the then government. In this process the entire land surface was replanned and the previously scattered hamlets were consolidated into two large residential areas and an irrigation area, with

commonage strictly demarcated and enclosed, and thus removed from further division into residential or arable sites according to need and circumstance. Most people lost access to arable land as a result of betterment. In addition, the newly demarcated arable fields were situated far from their new residential sites clustered in villages. People in Cata may refer to the forced removals to new sites that happened under the betterment process in the 1930s to 1950s as being perpetrated by the Trust but they will not see themselves as tenants of the Trust. The Xhosa term used for reallocation of land through betterment is “ulwabiwo ngokutsha lomhlaba ngenxa yemfuduso ye trust”, where “imfuduso” means removal. After 1994, 334 Cata families lodged a restitution claim in respect of the losses incurred in the betterment process. All claimants gained access to both irrigation and project garden plots.

In Cata, there is currently no traditional system. Instead, the ruling structure is the CPA. Any person above eighteen years of age and living in Cata can become a member of the CPA by filling in a membership form. The CPA has an Executive Committee composed of a chairperson, vice-chairperson, treasurer, secretary, assistant secretary and two additional members. The Executive Committee is elected at the CPA’s annual general meeting and its term of office is one year. It meets once a week and is responsible for issues such as irrigation schemes, tourism, pine and wattle forestry. Community members, together with local chairpersons, decide on land allocations.

Ngqumeya has both civic and traditional structures, with some community members supporting one and some supporting the other. The civic structure consists of a South African National Civic Organisation (SANCO) committee. Fifteen local people are elected at an annual general meeting, each of whom is given responsibility for a portfolio related to those of government departments. The person with the agriculture portfolio is the one whom community members are required to approach with land-related queries. The traditional structure is embodied in a headman responsible for both Upper and Lower Ngqumeya.

In Rabula SANCO is dominant, although there are traditional headmen based in each of the Rabula sub-villages. Each sub-village of Rabula has a SANCO committee which includes a chairperson, deputy chairperson, secretary and sometimes a treasurer. The committee meets twice a month to discuss community issues. A meeting would be arranged with the committee and the community when land is to be allocated to anyone.

Msinga

In Msinga, the survey was conducted in seven izigodi, two of which (Encunjane (39 interviews) and Guqa (250)) fall under the Mchunu traditional authority, while the remaining five (Emashunka (250), Enkaseni (80), Esijozini (84), Kwangubo (166) and Nomoya (131)) fall under the Mthembu traditional authority. Msinga was formerly part of the KwaZulu homeland, and currently forms part of KwaZulu-Natal province.

There are two types of land tenure in Msinga, namely traditional customary tenure and areas in which ex-labour tenants were given land through the post-1994 land reform process. In two of the Msinga – Encunjane and Enkaseni – all homesteads surveyed were ex-labour tenant

families, while in Nomoya 28 of the 131 interviews were with ex-labour tenant families. In general, the labour tenant farms are less eroded and have more grazing land than the old "homeland" areas, and people have more cattle. Respect for chiefs and "tradition" is very high across both types of area.

The land under customary tenure was not part of the SADT, and there are thus no PTOs.

The traditional councils are constituted by the inkosi, izinduna and amaphoyisa (community police). The number of izinduna is determined by the number of izigodi under the abaThembu traditional council, i.e. there is an induna for each and every isigodi. Each isigodi is further subdivided into small areas called imihlathi. Each small area has one community police. The community police report to the induna while izinduna report to inkosi. Izinduna and the community police are elected by the community and then presented to inkosi. Neither izinduna nor the community police have set terms of office.

There is also an igoso lezinsizwa (steward) for each small area (umhlathi). They are responsible, in particular, for issues pertaining to young men within the communities as well as for umemulo. The latter is similar to a 21st birthday ceremony, but mainly for young girls. The Igoso lezinsizwa leads the young men to the ceremony where they participate in traditional dances. He also serves as a support to the community police in disciplining "misbehaving" men.

The traditional council is meant to meet on set days each week to deliberate on cases and other community issues that have been reported to the members of the traditional authority. The office of the traditional council is staffed by a secretary.

Ramatlabama

In Ramatlabama, in the former Bophuthatswana homeland, 714 interviews were conducted in 600 village (also known as Botshabelo), and the remaining 286 in Ikopeleng (also known as 200). Ramatlabama was formerly part of the Bophuthatswana homeland, and is currently part of the North West province.

The "numerical" names of the two villages in which interviews were conducted date from the time of the forced removals, when about 600 and 200 households respectively were dumped in each of these sites. The name Botshabelo refers to the area from which they were moved in the former Lichtenburg magisterial district, which consisted of a Lutheran mission called Botshabelo and a farm called Putfontein.

A total of around 2,000 people were moved from this area between late 1977 and 1979. All the families owned land in Putfontein, with 4,139 hectares owned communally, and 4,711 hectares owned privately by individuals. The people themselves did not want to go, and had filed two applications to the Supreme Court in 1977 and a third in 1978 to try to stop the removal. However, agreements seemed to have been entered into between the apartheid government and their chiefs. (Sources for this section are Surplus People Project, 1983; Brown et al, 1998; and interviews with Marj Brown and Wayne Jordaan).

At the time of removal, the title deeds were given to Lucas Mangope, president of the Bophuthatswana homeland, in trust for the tribe. The GG (Government Garage) officials who dumped the families gave the responsibility for allocating land to families to the chief. In doing so, preference was given to those who had owned land in the Putfontein area.

The then government provided households with compensation of R300 for houses worth about R1,600. The money was paid to the household head, the oldest male, and in some cases the rest of the family landed up as squatters because the person who was paid subsequently moved to a township.

Those who were dumped there in 1977-9 were later joined by others from other “black spots”, an apartheid term used to denote an area inhabited and owned by black people within an area designed for whites. However, 600 and Ikopeleng are still both predominantly Batlounge and fall under a single chief, Kgosi Shole.

After 1994, the Batlounge put in a restitution claim to get their original land back. The application was complicated and drawn-out but eventually at least partly successful. Once the claim was won, the Batlounge decided to form a CPA in which the chief would play a ceremonial role. He continues to play a prominent role, although the details of the role were never spelled out and continue to be an area of dispute. In particular, the CPA feels that it is meant to manage the land while the Kgosi is meant to deal with other “tribal” matters.

The Kgosi gave permission to farm dwellers to use and settle on the land that was restored in Putfontein, and placed a relation of his in the “big house” on the farm. However, many of those who had settled in 600 or were now living and working in Gauteng did not go back. Some planned to do so but were waiting for the municipality to draw up resettlement plans. Others had established themselves elsewhere and did not want to return, especially as housing, services and other facilities were not available in Putfontein.

The traditional council in Ramatlabama is composed of the Kgosi (chief), the kgosana (headmen) and members of the council. The chief is the chairperson and there are between twelve and thirteen members. Just over half the members represent clans while the remainder are elected by community members. The council meets once a month. Its responsibilities include the traditional court and land allocation.

Methodology

Annotated bibliography

One of the first tasks in the project was to scan the literature relating to research on women and land rights in Africa. Our aim in doing so was not to produce a conventional literature review. Instead, the aim was to use the literature to inform the design of our research. In line with this

aim, we compiled an annotated bibliography rather than a literature review. Also in line with this aim, we focused on empirical rather than theoretical research.

The annotation for each source document identified the nature of the document (such as article, paper, chapter, or book) as well as the geographic scope and methods used. The annotation did not report on the detailed findings discussed in each document. Instead it focused on information and findings related to themes relevant for our project. These themes included:

- Customary law, and its interaction with “other” law
- Women’s access to land, including differential access of different categories of women (e.g. marital status, age, with/out children)
- Different forms of marriage and relationship
- Evidence of insecurity, such as evictions of women
- Different forms of access to land, such as ownership, usage rights, etc
- Disputes over control over land by men and women, for example for different uses (such as cropping or livestock), or in relation to control over livestock
- Differences between women according to marital status and whether they have children
- Women’s participation in (or exclusion from) decision-making, and especially decision-making over access to land
- Legal and other strategies employed by women and their allies to access land and other rights and by others to prevent their access
- Contestations by women concerning power relations or the content of custom/rights
- Changes over time in relation to any of the above

The annotation for each source also listed additional references that might be useful to inform the design of the current study.

We recognised that we would probably continue to come across new material over the two years of the project. We thus considered the bibliography to be a “living document”. We put a lot of effort into the bibliography in the first months, given that the main aim was to inform the design of the survey. Once we had covered all the literature of which we were then aware, we made the document publicly available to others with whom we worked. However, we continued to add summaries of further documents that we came across after that.

Archival research

IDRC also provided some funding to support travel and accommodation costs of post-graduate students doing archival work related to women, customary law and land or marriage. Two fourth-year students in Historical Studies, Paula Jackson and Tara Weinberg, decided to embark on such research, and were supervised by Anne Mager of the Department of Historical Studies of the University of Cape Town. Paula did not, ultimately, take up the offer of financial

assistance as she completed her research using the archives in Cape Town. Both students produced papers which received very high grades. Paula's paper was entitled "Social change and the usefulness of customary and common law remedies in the East London and Port Elizabeth Districts, c.1930-c.1960". Tara's paper was entitled "Fighting to Land on their Feet: Gendered struggles over access to land in Fort Beaufort, Keiskammahoek and Peddie, 1930s-1960s". Tara's paper was subsequently published by LRG as an occasional paper under the title "Gender, Place and Land Tenure".

Development of the questionnaire

The literature review undertaken to compile the annotated bibliography did not reveal evidence of any similar detailed structured survey on women's access to land having been conducted in Africa, or indeed elsewhere. While we found evidence of research on related questions, we did not find any examples of a large-scale quantitative survey that used a structured questionnaire with primarily closed-ended questions. A World Bank review (Doss et al, 2008) of the way in which different surveys investigate asset ownership from a gender perspective similarly presents a disappointing picture of the extent to which these issues have been investigated through surveys to date. We thus started with a more or less clean slate. The first step was to identify the key issues we felt were important to cover. The next step was to develop possible ways of asking questions about these issues that would be appropriate for our intended respondents.

Developing questions was not a simple matter. Firstly, we wanted to have questions that were framed in a way that made sense to the respondent rural women, that reflected the way they thought about the world, and that would translate well into local languages. We therefore wanted to avoid theoretical questions and use of jargon. Secondly, we aimed to have questions that would be closed-ended, i.e. with pre-specified options. We also wanted all questions to be non-leading i.e. that they should not indicate to the respondent what answers we wanted to hear, and there should not be some options that respondents would consider more socially acceptable. We also wanted to specify as many questions as possible to be non-"read out". For these questions fieldworkers would be told to listen to the answer offered spontaneously by the woman and try to match it to one of the pre-specified options rather than reading out the pre-specified options to the woman in advance. This approach was favoured as a way of avoiding influencing responses. To allow for comparative analysis, we aimed to have questions that would be relevant over all three sites although we recognised that the pre-specified options might need to differ across sites for some questions. We did not want to omit any questions that might help to understand the situation of the women interviewed. However, we also wanted to restrict the questionnaire to a length that could be administered in about 45 minutes, or one hour at a maximum.

The issue of "ownership", which was a central concern of the research, illustrates some of the challenges. We had to deal with the fact that concepts of ownership found in statutory law are not the same as those that prevail in customary law and practice. Further, the original forms of

customary tenure in South Africa were affected by colonial and apartheid rule so that the three sites had a mix of hybrid forms of tenure. We also wanted to capture the important distinction between ownership (however defined), use rights, and decision-making rights. In practice, we found that the question of ownership was less fraught than complications around marriage and partnerships. However, the difficulties experienced with the inheritance question, which are discussed further below, suggest that we did not adequately capture this aspect of ownership.

Inevitably, we had more questions that we wanted to ask than was feasible. One of the issues we decided to omit was communal land, including land used for grazing and collecting fuel. We made this choice on the basis that our main interest was the extent that women had access, decision-making power and control over the land of the homestead, rather than land more generally. In retrospect, for a comparative study of this kind we should probably have restricted the types of land even further to the main types found across all sites, namely residential, fields, and garden plots.

Once we were fairly confident with the basic questions, we formatted the questions into the standard layout used by C A S E. The questionnaire then went through numerous further iterations as we added, deleted, changed, reordered, split and reframed questions. Drafts of the questionnaire were shared with colleagues, reference group members and the local organisations with whom we planned to collaborate in the different sites.

As discussed below, the first step in each site involved a round of focus groups which, among others, explored the terms used for the homestead, terms used for marriage and similar relationships, the types of land that a homestead might have access to, and ways in which land had been and was acquired in the area. We also spoke to people knowledgeable about each site to gain further information, for example about tenure options. This information was then used to adapt the options for the relevant questions on the questionnaire.

We sent the English version of the questionnaire to a professional company for translation into the relevant language – isiZulu for Msinga, isiXhosa for Keiskammahoek, and seTswana for Ramatlabama. The professional translation was then checked by C A S E staff with knowledge of the relevant language as well as people from the collaboration organisations. During training in each site we also identified a few further refinements of the questionnaire that needed to be made.

We piloted the survey in Msinga, which was the first site, by administering 30 questionnaires. The pilot was used to test the length of the questionnaire and other possible challenges, and resulted in several further refinements. The pilot was done in a part of Msinga which would not be part of the main survey.

Overall, the questionnaire worked well. However, during analysis we recognised some weaknesses. These are discussed at the appropriate point below when discussing the findings.

Focus groups

The survey was preceded by focus groups discussions with men and women in each of the three sites in order to get a better understanding of the types of relationships, local customs and terminology used by community members.

The participants for the focus groups were selected in a way that ensured that important criteria such as gender, age, and marital status were taken into account. In respect of marital status, for example, care was taken to ensure that groups did not consist of only one category, for example, only married women. All focus groups were conducted in the language of the participants.

The following focus groups and interviews were conducted prior to the survey:

- A focus group discussion with (mainly older) men in Cata, Keiskammahoek
- A focus group discussion with women in Cata, Keiskammahoek
- A focus group discussion with women in Rabula, Keiskammahoek.
- A focus group discussion with women in Msinga
- An in-depth interview with an induna (headman) in Msinga
- In-depth interviews with one older and one middle-aged woman in Msinga
- A focus group discussion with women under 35 years in 600, Ramatlabama
- A focus group discussion with women aged 35 or older in 600, Ramatlabama
- A focus group with men in 600, Ramatlabama.

After the survey there was a further set of focus groups to explore questions that arose during analysis of the survey data. For this second round of focus groups, separate male and female groups were convened in each of the following areas, with recruitment aiming to ensure a mix of older and younger men/women in each group:

- Rabula, Keiskammahoek
- Cata, Keiskammahoek
- Ex-labour tenant area, Msinga
- Non ex-tenant labour area in Msinga
- 600 in Ramatlabama

A further focus group discussion of women of different ages was organised in 600 after the first group did not yield material as rich as the other groups. Both Msinga focus groups were conducted in Mthembu areas.

The four questions probed in the second round of focus groups were framed as follows:

- In the survey we found that some homesteads had different types of land such as fields and garden plots, and some did not have these types of land. We found that even where

homesteads had a particular type of land, often they had not used it in the last 12 months. What are the reasons for this? (probe for each type of land; probe for *who* (e.g. young women, older women, etc) uses the land when it is used and who does *not* use it)

- What has changed in how land is allocated from before 1994 and since 1994 (the first democratic elections)? (Probe: What has changed in how the decisions about allocations are made? What has changed in whether and how women get land?)
- In the survey X women in this site/area reported that they or their homesteads had lost access to land, and Y said that the main person responsible for their losing was a relative of themselves or their husbands/partners. What can you tell us about women who lose access to land because of their relatives?
- In the survey we found that women in Msinga are most likely to be married, while women in Ramatlabama are least likely. What are the reasons for these patterns?

Training and fieldwork

As noted above, in each of the three sites we worked with and through local NGOs. The local NGOs assisted in identifying potential local fieldworkers who would administer the questionnaires. Use of local people had a range of benefits. For C A S E, one of the benefits was reduced transport and accommodation costs. For the local area, the money that fieldworkers earned was a great attraction. To protect confidentiality, we ensured that fieldworkers worked outside their immediate area so that they would not interview people they knew.

We explained to the local NGOs that fieldworkers needed to have reached grade 12 and be at least 18 years old. We did not insist that they must have passed grade 12. We asked for a majority of women, but at the request of the traditional authority in Msinga did not exclude men from the exercise. The NGOs collected curricula vitae and assisted with selection of between 32 and 40 fieldworkers for each site. This number would allow the survey to be done over a period of between 20 and 30 days even with some dropouts.

For Keiskammahoek, we developed a competency test for potential fieldworkers who had not reached grade 12 as one of the local organisations that was assisting included older women who did not have the necessary formal schooling. We developed this test in line with the concept of “recognition of prior learning”, which acknowledges that people can pick up skills and knowledge through life experience without having received formal education and training. All the older women passed the test and performed well as fieldworkers. In addition to fieldworkers, in each site we employed supervisors and a coordinator. The supervisors and coordinator were usually people from within the same province who had worked previously for C A S E on other surveys.

Training lasted five days, with the final day attended only by the supervisors. The aim of the training was to ensure that fieldworkers understood the background to the study, the contents of

the questionnaire, and survey techniques. Land tenure experts provided input at the Msinga and Keiskammahoek training so that participants understood the different forms of tenure. Supervisors received extra training on how to check questionnaires and solve conflicts. Each trainee was provided with a fieldwork manual that gave the background to the survey, explained the roles and responsibilities of the different actors, explained the structure of the questionnaire as well as each of the questions which might cause difficulties, explained how respondents were to be selected as well as other logistics, and provided tips on interviewing. Each trainee was also provided with a “participant’s manual” that contained the exercises that they worked through during the training.

On recruitment for the training, participants were told that only those who performed well would be employed as fieldworkers. The training included practical exercises wherever possible so that trainees would feel confident once in the field. In addition, each day the trainees were given homework exercises to do at home. The answers to the exercises were checked the next morning and areas of confusion and weakness discussed further. Almost all trainees passed the test, but one who had struggled during the training dropped out after the first day of fieldwork, acknowledging that she was not able to do the work. Fieldworkers who had not performed as well as others were monitored especially carefully over the first few days of fieldwork.

Fieldworkers worked in pairs for the first two interviews after each of which they reported back to supervisor. At the end of day one all fieldworkers came together with the supervisors and coordinator to look at common mistakes and discuss problems and errors. After starting work on their own, fieldworkers had to report to their supervisor at the end of each day and to call on their supervisor if they had difficulties. Sibongile, the overall fieldwork coordinator for the project, visited the site more or less weekly to do quality control and to give further input on areas where difficulties had emerged. Fieldworkers were paid at the end of the survey, with payment based on the number of questionnaires completed.

Questionnaires were re-checked once received at C A S E head office in Johannesburg. Once all questionnaires for a site had been received, the questionnaires were sent to a data capture company. Despite checking, further mistakes or queries were found after the data were captured. These were corrected through making telephone calls to the sites.

Once the first analysis was complete for each site, Sibongile went to report back to a meeting of traditional authorities and/or the community. A short summary of key findings of the research, in particular those related to marriage and women’s access to, use and control over land, was produced prior to the meeting. The meetings were then used to present and verify the findings.

In Msinga, there were two report-back meetings – one for the Mthembu traditional authority and the other for the Mchunu traditional authority.

In Keiskammahoek, about 20 people, including members of the local executive committees, some ordinary community members, 3 people who had acted as survey fieldworkers and the chief of the area attended the report-back to community members of Rabula and Ngqumeya. In

Cata, there were also 20 participants from the four communities of Cata where the survey was done. Participants included the chairperson of the Cata CPA while the delegations from the four villages included the secretaries of the local CPAs as well as four ordinary people from each village.

In Ramatlabama the report-back happened at a scheduled meeting of the community attended by 80 people from four communities, including the chief and a wide range of stakeholder groups.

Highlights from the annotated bibliography

As noted above, the main purpose of producing the annotated bibliography was to inform the design of the survey and development of interests. The purpose was not to produce a literature review. This short section thus aims only to present some highlights from key themes in the literature read so as to give an indication of what previous research has found, and what this research aimed to build on.

There were many documents that provided evidence of **single women accessing land** in South Africa. Mills & Wilson (1952: 52) report that “many” daughters of Rabula land-owning couples married in community of property inherited land, while others whose parents were not married in this way also pressed claims for inheritance based on this example. The authors note that the latter would usually succeed in their claim unless the matter was brought to the notice of lawyers or the Native Administration. They present a table showing that 13% of all those surveyed who reported inheriting land were daughters of the previous owner, while 17% of those who owned land were daughters or matrilineal descendants of a previous owner.

More recently, Alcock & Hornby (2008), writing about Msinga, report that families could allocate subdivisions of their site to unmarried male or female relatives if the headman gave permission. They note, however, that most tribes were much more willing to do this for unmarried women than for unmarried men. Some of their informants claimed that the new practice of allocating land to unmarried women had been encouraged by the drop in the rate of marriage. Bentley et al (2006: 57) quote the chief and a spokesperson of the King in one of their Eastern Cape sites as saying that all were entitled to land, including unmarried “girls”. In one of their KwaZulu-Natal sites, in contrast, they note that a woman could not access land independently but had to be supported by men in doing so. In a Limpopo site, unmarried women could gain access to land if they had the permission of their parents.

As noted in the introduction to this report, Claassens & Ngubane (2008: 23) record contradictory reports from Batlharos in the Northern Cape. They note that a traditional leader claimed that land was being allocated to single mothers, while a woman contested this saying that he had refused to allocate land to her. Claassens & Ngubane report that women in the Eastern Cape said that, where unmarried mothers were given land, it was allocated in the name of a male

relative, while those in KwaZulu-Natal said that single women were seldom allocated residential plots, especially in those areas administered by traditional authorities rather than trusts and communal property association. In Sekhukhuneland in Limpopo women with children could be allocated land if they were 40 years or older.

All these accounts contrast with the assertion by Cross and Friedman (1997: 32) of a little over a decade ago, that across all forms of tenure, single mothers were unlikely to obtain land in rural areas. The authors note further that where single women did establish households, which was more likely to occur in peri-urban areas, “they tend to be viewed as a social problem. They are often treated with condescension or at best with pity and charity”. In the same publication, Meer (1997: 3) quotes CA Murphy of the Institute of Natural Resources in KwaZulu-Natal as noting that “Apparently there is no tribal law stating that women cannot have access to land in their own right. This is a negotiable issue with the tribal authorities (all male), and depends on the extent to which the woman can persuade the tribal authorities to grant her land rights. However it is difficult for women to gain access to land ... a woman gaining land in this way appears to be the exception rather than the rule.”

Also in the same volume, writing about three villages that were part of the Lebowa homeland, Small (1997) notes that while access to land was dependent on marital status for both women and men, for men marital status was relevant only in respect of the initial land grant, while for women their relationship to men remained important after that. For example, they could be threatened with dispossession if they divorced or were widowed. Single men could also inherit their parents’ land but this was not usually the case for single women. However, an unmarried woman considered too old to get married could get a stand (plot) if her brother took her to the royal kraal to request this.

Several writers (for example, Claassens & Ngubane, 2008) suggest that at least part of the reluctance to grant women land was the fear that they would then have male partners from other clans or areas who would, through these women, gain access to the local land. A further concern was that these “outsider” men would not accept the authority of the local structures.

Other literature suggests that it is not only in South Africa that unmarried women could access land under customary forms of tenure. Daley (2008), writing about historical patterns in a district of Tanzania, notes that women could inherit their parents’ land and bequeath land to their children, but were likely to inherit less land than their male siblings. She notes further that it was easier for unmarried than for married women to get land in their own right.

All the above provide evidence that unmarried women could in some cases access land. The survey was intended to investigate how widespread the practice is, and – to the extent possible from a once-off survey – whether it has become more common over time.

Several documents (including Adoko, 2008; Razavi, 2007) engage with the assumption by some gender advocates that **customary law is always inimical to achievement of women’s rights**. Tripp (2008) discusses the different positions taken both within the women’s movement and

within the World Bank. She illustrates the debates with examples drawn from the history of struggles around tenure legislation in Uganda and Tanzania, including divisions within and between civil society organisations.

Griffiths (2008) also provides a useful summary of the debates and different positions. She concludes her summary by noting that, despite the different positions, “the discussion remains entrenched, for the most part, in advocating for individual property rights to take precedence over customary land tenure or vice versa. By framing the debate in this way – in terms of the old, juridical form of legal pluralism that treats customary law as separate and distinct from western-style law ... – what is rendered invisible is the gendered world in which women and men live and how this shapes their access to and control over resources such as land... Analysis at this level ignores what happens on the ground, where land rights are highly complex, and involve multiple and overlapping uses and claims” (page 141). Griffiths argues instead for a more “grounded perspective”.

Whitehead (2008) observes that while many people attribute the fact that women tend to have less land than men to inferior property rights under customary practices, this might not always be the case. Instead, she suggests that the small size of women’s holdings is a result of their capital and labour constraints and inability to make strong legal claims against men in both formal and customary law. The latter she sees as resulting from discriminatory registration practices, greater male power in the market, and differential access to other resources.

Some of the literature engaged with the question as to whether the **concept of “ownership”** can be used in relation to customary tenure, and what alternative terms and conceptions might be. Adoko & Levine (2008:9) suggest that the fact that a woman cannot “own” land is not important, as virtually all women will marry and, on marriage, will gain rights to the land of the clan of her husband. They note further, that men do not have a strong right of ownership as the land is “under his stewardship” rather than personal property. They therefore suggest that one should ask about rights in land, rather than ownership.

One of the chapters on South Africa in Swaminathan et al (2008: 53) also stresses the issue of rights rather than formal tenure status. The chapter notes that “[m]any respondents’ sense of tenure security appears to have less to do with the formal tenure status of the land on which they live than with the acceptance by family and local community members that they are the primary rights-holder or with the quality of their relationship to the person who is regarded as the primary rights-holder... Thus answers to the question ‘Whose place is this?’ did not necessarily foreground formal rights in the sense of registered title deeds or contractual tenancy... In these complex social dynamics it is possible to see the manifestation of ‘living’ customary law as an unstable amalgam of old and new values, calculations and practices that both regulate and challenge social attitudes and behaviour around tenure.”

Somewhat similarly, Englert & Daley (2008), writing about Eastern Africa, note that even when formal tenure has been introduced, customary practices continue. A similar observation is made in the South African context by Cross & Friedman (1997) in discussing the different forms

of tenure prevalent in rural South Africa in the mid- to late-1990s. Given this amalgam of different approaches, Englert & Daley suggest that the term “customary practices” is preferable to “customary system”. Englert (2008) notes that the variations in practice found within a small area of Tanzania suggests that “solutions” cannot be based on generalised assumptions about land tenure. The diversity found within, as well as across, the three sites of our study provide support for this assertion.

Many other documents refer to the **changing and flexible nature of customary law and practices**. Alcock and Hornby (2008), who write from Msinga, note that the perhaps “erratic” changes in what is regarded as acceptable that have occurred in response to women’s changing needs have drawn on values found in customary law.

Adoko & Levine (2008) suggest that customary law should be codified so that all are clear about their rights, and the codification can be used as the basis for adjudication. However, a footnote to the paper notes that the flexible and changing nature of customary law would present challenges for such codification.

McClendon (1995: 531) describes the codification of customary law into the Natal Code, as part of an early form of what would become “indirect rule” elsewhere in colonised Africa. In addition to noting that this codification assumed that customary law was an unchanging system, McClendon notes that the law, as codified, was “created through the interaction of white colonial officials and African chiefs and elders. The resulting system emphasised the rights and authority of males and elders, while it also emphasized the powerlessness and deference of women and juniors”. He notes further that the preamble to the Natal Code listed the subjection of women as the first of a small number of basic principles.

While McClendon’s 1995 article elaborates on how entrenchment of customary law might serve the interests of chiefs and male elders, a later book (McClendon, 2002) has more discussion of how it might have served the interests of colonial rulers, and (more briefly) how these interests intersected with concerns of missionaries. The book also notes that the court records reveal that most Africans who participated in these cases had a very different understanding of customary law from that enshrined in the law. In particular, they did not see it as fixed and unchangeable. They therefore did not accept that because a particular custom had been practised in the past, it necessarily needed to be followed now.

Several of the documents discuss the nature and process of **marriage**. Comaroff and Roberts (1977) are among the most detailed in this respect. Their article focuses on Botswana, but at least some of their assertions are likely to apply to Tswana-speaking people living in the neighbouring North West province of South Africa, such as those in Ramatlabama. They note that, unlike common practice in Zulu- and Xhosa-speaking areas, in the first period after negotiations between two families the couple usually co-habits at the homestead of the woman. They note further that there is neither a set price for bogadi (the Tswana form of bridewealth) nor a set time by which it must be fully paid. As a result, they claim that there are a range of

different forms of union which form a continuum. While they see both bogadi and recognition by kin as distinguishing features of marriage, both are “open to interpretation”.

Comaroff and Roberts suggest that challenges in understanding Tswana marriages arise from our trying to force western conceptions on a very different phenomenon. Griffiths (1997: 114) also writes about Botswana, drawing on previous work, including that of Comaroff and Roberts. In contrast to the latter, she looks at both customary and common law, and how individuals draw on each of the two at different times. Of particular relevance for our topic, she notes that “customary law as lived in everyday life, often referred to as ‘living law’ (Ehrlich, 1936), may differ from that which is applied by local customary courts, which may vary yet again from what is interpreted as customary law in the most senior courts that form part of a national legal system.” Her observations on the interplay of customary and other practices mirror those discussed in respect of tenure above.

Also in this theme, Odgaard & Benton (2008: 203), on the basis of research conducted in the mid-1990s in two districts in south-western Tanzania, state that regulation of land at family level draws on a range of different sources of law. These include local customary rules and norms, national legislation and international regulations. Odgaard & Benton suggest that this may be termed ‘local law’” (page 203). They refer to Hellum who defines local law as a “mixed product and a hybrid form of law that has evolved in colonial and post-colonial countries in Africa”. Odgaard & Benton show how customs and traditions, if seen as non-static, do not necessarily block women’s ownership of land. However, they also note that in interviews in both districts the men’s and women’s accounts on gendered rights to land reflected differences both between and within these groups. For example, the younger men claimed that women had no personal rights to land in their natal area, while women and elderly men felt that land allocated to a woman in case of divorce or widowhood was her own land, rather than borrowed land.

Also of relevance for our research, which finds high rates of childbearing outside of marriage, Griffiths notes a “growing disjuncture” between pregnancy and marriage, with most procreation happening outside of marriage. She notes that, despite this, marriage continues to have powerful ideological meaning. She claims that bogadi is not a necessary feature, and may only be paid when the next generation starts marriage negotiations. Like Comaroff and Roberts she argues that social recognition is thus far more important than bogadi in identifying marriage.

Hosegood et al (2009: 280), writing on South Africa, observe that marriage patterns have been “exceptional” from at least the 1980s. They note that there is a ten to 15 percentage point difference in the proportion of never married women between urban/peri-urban and rural areas, with those in urban and peri-urban areas more likely to be unmarried. This would lead one to expect higher rates of marriage in our survey areas.

While Hosegood et al claim exceptional status for South Africa, other countries in the region also have patterns that could be considered exceptional. Thus Izzard (1985), writing about neighbouring Botswana, cites the work of Schapera, Roberts and Molenaar which finds sharp

increase in the proportion of unmarried women (and men) between the late 1930s and 1970s. In Mochudi village, rates for women were as high as 55% in 1973.

For the **Keiskammahoek** site, the volumes of the Keiskammahoek Rural Survey of the early 1950s provide a particularly rich source. Mills & Wilson (1952) describe the tenure patterns of the district, which included freehold, quitrent, and communal, with South African Native Trust land added in 1936. The volume includes very detailed findings of both qualitative and quantitative research that cover tenure, residential and migration patterns and marriage among a range of other topics. In terms of women's access to land, the authors note that all married women were traditionally entitled to a field, which they alone cultivated, and which was usually inherited by their youngest son. Previously, small fields were often given to daughters who had children outside marriage, daughters who were minor wives, widowed daughters who had returned home and remained unmarried, and divorced or separated daughters who lived at home. However, this had become less common over time due to land scarcity. The government administration was also opposed to land being given to unmarried women as it was "not in favour of establishing the independence of such women" (Mills & Wilson, 1952: 24). Previously homestead sites had also been given to divorced, unmarried or widowed women who had obtained land from their parents, but at the time of the survey only one woman said that she had been given her homestead site by the village council.

The authors report that there were more widowed, divorced and unmarried daughters with illegitimate children living in their fathers' homestead in freehold and quitrent villages than in communal ones. They argue that this is because the freehold and quitrent systems provided some security for unmarried women as they would not be left without a home on the death of their parents.

Volume 3 of the survey (Wilson et al, 1952) describes social structures, based on two communal villages, one of which – Upper Nqhumeya – was included in the Keiskammahoek site for our survey. Of the 90 homesteads covered in the random sample, 3% were headed by "lineage daughters", i.e. unmarried mothers, or women who had returned after divorce, desertion or widowhood.

In respect of marriage, the authors note that before 1890, only 17% of marriages were Church marriages, but by the time of the survey over half were church marriages. They attribute the increase to increasing numbers of Christians and the "European" administration's emphasis on church marriage, including the rule that a man could not become a village headman if he had not married in Church.

The authors report that the father of the bride often collaborated with his daughter and prospective son-in-law around elopement (*ukuthwala*) to avoid the expense of a marriage ceremony. Over the two decades preceding the survey, there were more *ukuthwala* marriages than customary marriage in the two villages surveyed. The increase in *ukuthwala* marriages has been mirrored by an increase in marriages by civil rites performed in the Native Commissioner

offices. Cata differed from other areas in that church marriages predominated and there were very few “office” marriages.

Overall, in 1946, 16% of men aged 25 years plus were unmarried, 77% were married, 6% widowed and 0.3% divorced. Among women aged 20 years plus, 17% were unmarried, 56% married, 26% widowed and 0.4% divorced. The authors note that the “surplus of marriageable women” even if one restricts analysis to those who have never been married, combined with the abandonment of polygyny as a result of Christianity and poverty, results in widespread concubinage given that “celibacy is still regarded by most people as intolerable” (pages 92-3).

The volume includes an interesting discussion of the terms used to describe women at different stages of their lives. These terms illustrate the way in which stage in the life cycle, rather than formal age, determines how a woman is perceived. The authors note that a woman who bore a child outside of marriage remained an “intombi” or “idlikazi” (woman without a husband) regardless of her age until she married. A married woman who had not borne a child was “umtshakazi”, but became a young wife (umfazana) when the first child was born and then had more freedom. If she returned to her natal home, she would be called “inkazana”, and have more freedom and fewer duties than when living with her in-laws. Women became “abafazi” when there were enough younger women to perform the duties that they were performing, or if there was no other woman with this status in the homestead as each household needed an indoda and an umfazi.

Findings from the pre-survey focus groups

Types of relationships

The focus group participants were asked about the different types of marriages and relationships that people in their area entered into. They were asked to identify the most common of these and to discuss whether the most common types of relationship had changed over time. Participants were also asked about the specific words they used to describe these relationships and whether these were the same for men and women.

Customary and civil marriages were identified as the main type of relationships in all three sites, while cohabitation was another type of relationship identified in two of the sites, namely Keiskammahoek and Ramatlabama. It was the processes and customs of these three types of relationships that varied, as well as the relative prevalence of each.

Keiskammahoek

In Keiskammahoek two types of customary marriages were identified by participants. The first was known as ukuthwalwa meaning to get abducted into marriage and the second was a more common type of traditional marriage agreed upon by the man, woman and their parents.

Ukuthwala

There were some discrepancies in the reports of the participants about marriage by abduction. It was reported by one participant to be a form of arranged marriage in that a father would see a woman with qualities he would like in a daughter-in-law, and would inform his son of his wishes and ask him for money. The participant did not specify what the money was for.

“The first one is the marriage called ukuthwalwa of a person. That means a case where we as the couple did not know each other, say I am working in Gauteng or Cape Town, then when I come back my father tells me that he has seen a girl from a certain family for me, we have never met or been involved with this girl but he [father] has seen some qualities from this girl like she is not lazy and is respectful and can build a home with my son. When I come home they tell me how much they will need to make this process move forward and I will simply pop out that money and the girl will be abducted without knowing where she was taken to.” (Cata man)

Another participant had a different description of abduction:

“This one was just kidnapped, kicking and crying and people pretending that they do not know what is happening is called uthwelwe. Then she’ll be here until the next morning staying behind the door because she does not have clothes to change. Then it is said uthwelwe.” (Rabula woman)

Although these marriages are accepted as customary marriages and the abducted women remain in their husband’s home, this male participant added that these types of marriages took place in the 1980s and 1990s but are no longer common because they are not permissible by law.

Another participant had a different account of abduction saying that it often involved two people who knew each other. It would take place when a man had “damaged” a woman, meaning he had impregnated her, after which he had the option of either paying damages to her family or he could go through the proper procedure of marrying her by starting with lobola negotiations. She would be considered to be thwelwe because it was thought that the man impregnated her on purpose in order to make her his wife. As one woman participant reported:

“Ukunyaka nengalo is when a boy has damaged a girl, then he must pay damages. But some men prefer to marry the girl and that is called ukunyuka nengalo because you started by getting the girl pregnant with an intention to take her as a wife.” (Cata woman)

She then went on to say:

“It’s not umshato. She was more like abducted, but she was in fact taken as a wife through lobola and there were also negotiations. We say that person has been abducted (thwelwe).” (Cata woman)

Ukwenda

The second type of customary marriage identified in Keiskammahoek was one where the man and woman both consent to get married, either through arrangements made by their parents or through meeting with each other. A woman who undergoes this process is said to be endile. (The term endile is derived from ukwenda, which refers to the movement from one area to another that is associated with marriage for a woman. There is no corresponding male term.)

Focus group participants reported that traditional Xhosa marriages had changed over the years. Many of the older women commented that marriages were more dignified in previous years than they are now. One of the older women described how a traditional marriage process used to be carried out:

“The Xhosa wedding is the one that was done by Mr. Dyontyo in 1962 while we were still girls. A girl was taken to the family of the man wearing nothing on the upper body, exposing the breasts outside, and will be led to the kraal to stick a spear on the ground. By doing so she is eating what is called amasi and that is in the Xhosa wedding. After that she is taken to the centre of the lawn of the home with her husband. After that she is then given a dress to put on and paraded on the lawn. In that way the girl has been fully accepted by the family and the ancestors.” (Cata woman)

An account of other stages of a traditional Xhosa wedding came from another older woman in Cata:

“A man would come to ask for a woman carrying what is called ubuso bentombi (face of the girl), and a bottle of isazisimzi (introduction to the homestead) to pay your lobola. There is a cow to ask for the girl and still organize for the visitors to sleep at the girl's home for three days and they are called abayeni. The last bit will be a group of men from the man's family called abakhozi will also come to ask for the girl and in that way three steps of lobola are agreed in these trips. Then the wedding will happen after all these trips. In this process a name to be given to the woman is asked by the family of the man and called three times by the priest and then agreed by both families. The next step is the umkhwelo ceremony where there are horses parading to the girls' family followed by uduli to come and take the woman to the family of the man.” (Cata woman)

The participants reported that some customary Xhosa marriages do not have a certificate or any signed piece of paper to reflect the ceremony and marriage. Therefore in the case of the man's death usiki is done to prove that the woman is indeed the deceased's wife. A witness from the man's family stands up for the woman's rights and confirms that she is an accepted member of the family.

The term used for a marriage that is registered is ukutshata. The main reason given by participants for having a marriage registered is for inheritance purposes. As a female participant reported:

“Ukushata is the paper because without that paper a lot of things are happening because men take a girl and leave her at home, take another one and stay with her but when the man dies it becomes a problem with all these girls now. This poor girl is staying at the man’s home and the man is with another girl in the city. The man dies and girl from the city comes back with the certificate and inherits everything.” (Cata woman)

Participants said that if a woman moves into a man’s home and takes the role of the wife, she can be regarded as the wife over time even without lobola being paid. A woman for whom lobola has not been paid may still be treated as a wife but she is considered to be an insult and referred to as “just a wife” (umfazi nje), i.e. a wife without real standing. One participant reported:

“A woman who is not lobola[ed] is an insult but still treated as a wife by the family. I know my brother’s wife is like that. My brother did not pay lobola for her and we keep insulting her that she must not forget that we did not feel any pain by her coming to be a wife here. She is always unhappy for her whole life because of such things.” (Cata woman)

However there are instances where such a woman will be rejected as part of the family. Participants reported that a woman who comes to stay with a man but still acts and dresses as she did before will not be accepted as the man’s wife and the relationship will be seen as a form of cohabitation (masihlalisane) instead of a marriage:

“Staying with the man’s family even though the woman will dress as [she did] before she came to stay with the family. The woman will not have a doek around her waist, around her head and is not given the name of marriage. You see us we have these doeks and marriage names. There must be a sign.” (Cata woman)

Participants said that in the event of the man’s death a woman who enters into a relationship in this way is not accepted will not have any rights and none of the man’s family will stand up for her.

“She does not have the rights and when the man dies she even runs away by herself because she knows that. She then continues with her life from home. She has nothing to do with the rights and she knows she must just leave and bury the man on the day of the funeral and that is it.” (Cata woman)

Polygamy

Another type of customary marriage mentioned by the participants is polygamous marriages. Although some Keiskammahoek participants reported having relatives who were in polygamous marriages, when asked about this type of marriage they reported that it was no longer practised. One of the woman participants who reported having a family member in a polygamous marriage gave the following account.

“As I am old now I saw my brother taking two wives with the names of Nonice and Nophindile and there was also a third but the third one did not have any children. Yes Mr. Shumayi stayed

with all his wives but it was in Cumakala and not here. There were only two huts there, with the main one big for everyone and the small one which they used to do things that we did not know. They used to take turns in sleeping in that other hut; he would rotate all his wives in that small hut like that.” (Cata woman)

Civil marriage and white weddings

In addition to customary marriages it was reported that the other form of marriage, which was also the most common in Keiskammahoek, was civil marriage. Some participants referred to this as the “white wedding”. They said that this type of marriage had become more common over time in Keiskammahoek as well as in Ramatlabama.

One male participant in Cata who described what he called a “white wedding” in detail provided a description that was very similar to that of the customary marriage in that it involved lobola negotiations. However it also involved attending a church ceremony and having the marriage registered.

“I go out as the man to go and ask for a girl in a certain family. As I am going I have to be empowered with the requirements like what is called a cow to buy ubuso bentombi. I am given a bottle of brandy called isazisimzi [how did I know this home], then after the cow I will be asked where is the stick that I have been using to drive the cow and I must give out another bottle of brandy. Then the men I have been talking to agree to my request and after that they meet as the family of the girl, then after that they tell me that everything has gone well... Then my lobola request will be answered and I will be instructed to bring two more cows and a horse with isali (saddle). Then I will get the word and I must bring the last requirements and then I will be told that everything is in our hands now for the wedding ceremony to take place. The father of the man then informs the man of the progress and then a date will be set by the man and that is called a marriage. That marriage will go through the church and the priest where marriage is registered with the witnesses there.” (Cata man)

Another participant disagreed with the man’s account of a “white wedding”. He reported that a white wedding was more about a ring and going to the magistrate than it was about customary processes such as those that the first man had described. He felt that the marriage that was being described by the other man was more customary than civil. Another participant added the following:

“I do not know but there is a marriage that you go to the magistrate and take your witnesses only. Then there is this one for white dresses and that also involves priests. That marriage in other areas they refer to it as a holy marriage. Then there is another marriage which he explained in the beginning which is the Xhosa marriage and that makes three marriages.” (Cata man)

There was thus some dispute about the nature of a civil marriage or a “white wedding” in terms of whether it had some elements of a traditional marriage or not. A civil marriage was also referred to by many terms including “the marriage of democracy” and a marriage in which “your

thing is yours and mine is mine”. One participant blamed democracy for all the changes that had taken place resulting in terms of how marriages and weddings are conducted. Democracy was also blamed for the declining rate in marriages. Another “democracy” phenomenon of which both the men and the women seemed to disapprove is that of a woman paying her own lobola. A woman participant in Rabula said that such a marriage had no dignity.

Cohabitation

Cohabitation was also seen as a mark of the changing times and most of the participants disapproved of this type of relationship. The older women in Cata blamed the arrival of “white men with pills” as a mark of the end of marriages. They said that it took away a girl’s incentive to keep her virginity and refrain from having full sexual contact with a man. As one participant reported:

“Men do not want to pay lobola and the reason for men to do this is because girls of today do not do what we used to do in the past which is called playing with a man rather than having full sexual intercourse. Today if a man has had sex with the girl they see no reason to pay lobola because they have tasted the nice stuff” (Cata woman)

Msinga

In Msinga, instead of the planned two focus groups with women and one with men, a focus group was conducted with one group of women, and in-depth interviews were conducted with an older woman and one of the Indunas. Three types of marriages were identified, of which customary marriage was the most common.

Participants said that a woman could either enter into a “full” or “incomplete” customary marriage or a civil marriage without any traditional component. A full customary marriage is one where lobolo is paid for the bride and all the required steps have been completed and the marriage is also registered. A marriage that is incomplete is one where lobolo has not yet been paid in full and only some of the required steps have been completed by the man. According to one participant:

“A proper marriage, that is, one that completes all the steps or more importantly, one that involves the slaughtering of the cattle in each household and ‘umsindo uyagida’, means that the ancestors will recognise the makoti [daughter-in-law] as being a member of the family” (Msinga woman)

Ukugida

Full marriages for which the term “gidile” is used were said to be rare because of the cost involved, especially with regards to gifts given to the women’s family. In a focus group of 16 women, only one reported that she went through all the fourteen steps of a full marriage. Another reason for the decline in “full” customary marriages is that a son is not permitted to marry a woman in “full” unless his mother is properly married. If she is not, he has to ensure that

the mother's marriage is complete before he can continue with his own, which can be a very costly endeavour.

There was some disagreement within one of the groups about when one can be considered a "full" inkosikasi (daughter-in-law). One participant reported that as long as lobola has been paid for you, even if you are not married (gidile) then you are inkosikasi, to which another said:

"Yes, even if lobola has been paid for you with eleven cows as long as your people at home ... your father's house report to your ancestors that today we are taking out so and so from our house. We are taking her to so and so's house and they pour some inyongo on you. At your new home they must also pour inyongo on you to accept/ welcome you. You are now a full inkosikasi. Even if the wedding and the dancing (ukugida) has not taken place but as long as inyongo has been poured on you from both sides and the ancestors have been told about taking you out of your father's house to the new home. At the new home they also report you to their ancestors and say here is so and so bringing her child to this house." (Msinga woman)

The male equivalent of a daughter-in-law is called insizwa or umkhwenyana. It was reported by one of the female groups that the son-in-law is not considered to be a man until he has children. He gains respect only after having fathered a child:

"If he doesn't have children they call him by his name. He has no dignity. But once he has a child then he starts to be respected and you can't call him by his name. You get scared to call him by his name." (Msinga woman)

Ukugana

Participants said that a woman whose marriage is incomplete is said to be ganile.

The induna reported that instead of umgido (wedding) people are now practicing umemulo. Umemulo refers to a ceremony where a young girl's parents slaughter a cow for her to thank her for being good, meaning taking good care of herself as a woman and not giving birth before marriage. The induna reported:

"Umgido is scarce but umemulo happens all the time. Umemulo is easy but if it's a wedding [umgido] then there is a lot to do." (Msinga induna)

Like many of the participants in Keiskammahoek, the induna attributed the decline in marriage to the democratic era. He added:

"We are blaming democracy because it came with changes to a lot of things and they are not happening the way they used to before. It spoiled a lot of things." (Msinga induna)

Cohabitation

Msinga was the only site in which cohabitation was not mentioned as a common form of partnership. Participants reported that women either stayed unmarried and had children and continued to live in their father's house or they would move out of their father's home if

“damages” were paid for a child being born out of wedlock, after which lobola proceedings would begin. It was reported that there is a stigma attached to unmarried women who move out of their parents’ home after falling pregnant. Participants said that such a woman is treated the same as a child minder and has no standing within the household.

Ramatlabama

In Ramatlabama, the most common type of relationship identified by participants was civil marriage. These marriages often included both customary and civil customs where a man would pay magadi to the women’s family following which there would be a “white wedding” where the couple would have a ceremony in a church.

Customary and civil marriages

Customary marriages were said to be more common among older people or in cases where a family does not have enough money for a “white wedding”. One participant observed that customary marriages used to be more common in the past, when there were a lot of arranged marriages and in some instances the woman would be taken against her will to the man’s place. A male participant reported:

“I’d say this customary one is no longer practised that much because now each and every one of us has rights. Like if I’m talking about women we knew, the way we were told, you would indicate when you’ve seen the daughter-in-law (sego sa metsi) there. Maybe I want to get married to a certain person. Sometimes she would be abducted and taken home and they’d do what was done. But now I think each and everyone want to do it the way it’s being done. They go sign at the municipality so that both parties are equal. It’s no longer the same as the first one because if you look at the customary one, the customary one was oppressive.” (Ramatlabama man)

Therefore, in many ways the customary marriage was seen to be somewhat of an archaic practice and people would rather opt for the more modern form of marriage in which both parties’ rights are recognised. However, one participant reported that sometimes customary marriages were entered into in cases where the family wanted the wedding to be discreet. She reported:

“Here in our village we are Tswana people for the most part. So the people that prefer only to have magadi paid for them without having the white wedding afterwards are people that have certain reasons for doing so, which have to do with witchcraft.” (Ramatlabama woman)

She went on to say:

“It happens a lot between families. Sometimes a person could have magadi paid for them and someone else might not like that too much and try to bring ill onto their relationship. So to prevent that, after the customary portion is done, they do not come back to that family for the ‘white wedding’; they rather go and sign quietly.” (Ramatlabama woman)

Other participants disputed this view and said that witchcraft is not always the reason for people not having “white weddings” and that sometimes it had to do with financial constraints. However it was clear from all the participants that civil marriage with a “white wedding” was the desired and most common type of marriage.

Although, most people opt for the civil marriage, negotiations for magadi are still a highly valued and relevant traditional practice within the community of Ramatlabama. One participant gave a detailed description of the bogadi processes:

“The process starts with the groom’s family writing a letter proposing to pay bogadi for me on a set date. In turn my parents or family confirms with me if I know the potential groom. After my confirmation they reply to accept the day. Come that day, which is normally very early in the morning, the hosts prepare food for the groom’s party. Bogadi is negotiated, the bride’s family set the price, say R10 000. If that is fine, okay. But sometimes the groom’s family could request a reduced amount until a consensus of the amount is reached. The agreement must be co-signed by both families with independent witnesses.” (Ramatlabama woman)

She went on to say that the negotiations take place in the absence of both the bride and groom and the amount is sometimes based on the educational level of the woman, the number of marriages she has had as well as the number of children she has given birth to in previous relationships. Therefore, an educated women with no children who is marrying for the first time will garner a lot more money than one who only has a few of these qualities. The issue of the amount that is paid for magadi is a highly contested topic. Some male participants saw it as a means of exploiting the man’s family and paying for the expenses of the wife’s family while others viewed it as a means of uniting two families and showing appreciation for raising the woman as they did. The idea of exploitation was echoed by one of the older females who said:

“The folly of the bride’s uncle is sometimes evident in the magadi negotiations. Some uncles charge high amounts for their nieces but report on lower amounts in order to pocket some of the money. Our forefathers used to call these amounts matla a mpapana ya motlogolo. Using a euphemism this means that the uncle enjoys the fruits of his niece’s beauty or body. Literally and derogatively it means that the uncle enjoys power of his niece’s vagina.” (Ramatlabama woman)

The practice of uncles overcharging can be overcome by a practice that allows both families and their witnesses to sign a certificate of bogadi which reflects the amount that was agreed upon. Once this part of the marriage process is complete, the white wedding will follow.

Cohabitation

The third type of relationship that was reported to be increasingly prevalent in Ramatlabama was cohabitation, or “vat en sit”. Unlike in Keiskammahoek, where a women would move into a man’s home or his family’s homestead, focus group participants in Ramatlabama said that the man and woman would leave their homes and establish their own home without payment of magadi or receiving any blessings from the parents. It was reported that the partners would

usually get a stand or land and build their shacks (mukhuku) or be granted Reconstruction and Development Programme (RDP) houses. In these relationships, women keep their maiden name and any children they have will take the mother's surname because the marriage is not formal. Participants reported that this had implications with regards to inheritance if the man were to pass away. Participants said it is not uncommon for a woman to be chased away and denied inheritance of any of her partner's assets if the two were cohabiting.

Even though this type of relationship was said to be on the rise, almost all the participants disapproved of it and agreed that it could not be considered a real marriage. The practice was also said to be more common in urban areas than in rural areas. One of the older women reported:

"Our girl children leave their homes to look for employment in big cities. There they find employment as live-in domestic workers. After a time she finds a boyfriend who moves in and stays with her. From this union children are born. I have experienced this situation in my home. My son is in such a relationship. I don't know where they learned this embarrassing set-up. This never happened when we grew up." (Ramatlabama woman)

The participant elaborated on the implications of such a relationship:

"I have spoken to my son about this and I have also approached the girl's parents to advise their daughter to desist from staying with her boyfriend until magadi has been negotiated between the two parents. I have now thrown in the towel and left it to God that is if one of them dies we will see how their children and assets will be taken care of by the two parents." (Ramatlabama woman)

Not only can "vat en sit" relationships cause problems for the unmarried women if the man passes away, but it was reported that they can also cause problems in cases where the couple does not follow traditional processes or does not even inform their families and gets married in secret. One participant reported:

"Sometimes it complicates issues when one of the partners of ma se hlalesani dies. When partners in this relation have been together for say 10 years and have children the woman partner, claiming undying love for the man, advises the man that they must not go and hassle their parents about bogadi considering the length of time they have been together resulting also in the birth of children. They then decide to go to the magistrate and marry legally without the knowledge of parents. When one dies, particularly the woman, her parents/relatives go to the undertakers/mortuary to claim a corpse of a Moroke family and on arrival a tussle for the corpse ensues. The husband is Musi, and so is the corpse by virtue of the marriage certificate he has, and it entitles him to take the corpse of his wife for burial. On the other hand the wife's family also wants the corpse for burial because they "rightfully" claim that their child is not married as they never received bogadi for her. This conflict trickles down to who should take custody of the children and other assets of the deceased wife." (Ramatlabama woman)

Defining the homestead

After the types of relationships had been identified, the focus group participants were asked to discuss the groupings in which people and families live and the names used for those groupings.

In Keiskammahoek participants reported that there are different words used to describe one's home, namely *umzi* and *ekhaya*, depending on whether it is the natal home or a home the couple has built for themselves after marriage or moving out of the natal home. One of the male participants in Cata made this distinction by saying:

"That is my umzi and is not my ekhaya but when it comes to my children if they move out to build their own umzi, when they come back to my umzi they are coming back to their 'ekhaya. These children are also called the usapho (family) of that umzi. The umzi is made of izindlu (houses) which can be two or three within the yard of umzi. One site will have houses, toilet, kraals, garden." (Cata man)

Another participant added:

"You see the man who is talking now, he has his umzi called by his name and he also has ikhaya a home where he was born and his parents are. But he moved out to build his own umzi hence it is called Phumzile's umzi now and not called by his father or mother, so that umzi is his wife and children. When his children grow up they will be expected to move out because that land is not enough for the children to build there also, they must go out and look for another site and they can nominate one of the children to remain behind, whoever they want, it can be the oldest or the youngest, the choice is theirs." (Cata man)

Other terms such as *isiza* and *indlu* were used by other participants to describe the house or household, but the most common was *umzi*.

A male participant added that the family all lives in what is referred to as the main house (*umzi*), but there is another house called *intanga* which is set aside for the sons to live in. He reported that a boy will live in the main house until they are old enough to get married, then they will move outside to the *intanga* till they are married.

When asked the name by which the homestead is known a female participant reported that her homestead is known by her father-in-law's name. Although her father-in-law and her husband had passed away, she still considered the home to belong to the father-in-law.

"My umzi is called kwaMbolekwa. It is umzi of my father-in-law, it is not mine but it is my father-in-law's even though he has passed away and also my husband died. I am the only one left with the children, two sons but that is not their umzi." (Cata woman)

Fathers-in-law were said to have played a larger role in decision making regarding the land in the past rather than husbands. One reason given for this is that the husbands were always away working in the mines in Gauteng or other areas and they were only expected to send

money, so the women were left with the husband's extended family. According to one of the participants, the father-in-law still holds a high position within the family and is responsible for making decisions regarding the use of the land:

"The father-in-law is the head of the home. All of us as the wives of the sons and the mothers follow what the father has said. If they are ploughing we follow to do the weeds. At the time of the harvest the trams will go and take the produce from the fields." (Cata woman)

Naming the homestead after the husband also seemed to be something common, even with women who reported that they had built the home themselves.

"With me it is at my indlu (house) also emzini wam because I moved out of ekhaya khulu (main parental home) and stood by myself and built my own place at my own isiza (stand). It is referred to as eMabheleni as my husband was called Mabhele." (Cata woman)

A couple of woman challenged this notion by saying that the home is called by the name of the person whose name appears on the title deed and that the home is jointly named for both the man and the woman. One participant reported that her home is known by the name of her mother-in-law. However, despite a small number of differences that were reported, the majority of the male and female participants agreed that homes are named after a man rather than a woman.

In Msinga the focus group participants identified similar words to those used in Keikammahoek in describing the homestead. The words ikhaya and umuzi are the most commonly used words to describe the homestead. However, in Msinga it was reported that the two mean the same thing, regardless of whether it is your parent's home or your own. They said that the word used to describe starting one's own household is inxiwa. One participant said:

"Your ikhaya is where you've built as us old ones don't have old men anymore. You've built your umuzi with your children and everything is fine. If you decide to take inxiwa then you are destroying this umuzi and going somewhere to start a new umuzi. You are staying with your children and nothing is wrong and you have everything. Those who want to leave can leave but you won't count them anymore. If somebody wants to build his own inxiwa he will start another umuzi." (Msinga woman)

Another participant used these words interchangeably by saying:

"Ikhaya is umuzi that is built which has got people inside. Where they say there is so and so's umuzi – that's ikhaya. You still have your mother there, your father, your brothers and sisters and children and maybe there is even omalokazana (sister-in-law). They say there is so and so's umuzi. Even if the old people have died and you are left with your sisters-in-law and brothers but they will always say there's so and so's ikhaya." (Msinga woman)

When asked about the name by which the homestead is known the participants reported that it was called by the father's name. As one of the women reported:

“They will tell you the name of the old person of the umzi, the man of the house and not the young boys. You don’t tell people about the boys of the umzi but you use the name of the father of the house.” (Msinga woman)

In cases where a woman lives with her children the home will be called by the children’s name, meaning the name of the father of the children. However there is an exception in cases where a woman is an ishwele. It was reported that married women who had left the household and came back and were given a piece of land on the side or near the homestead are called ishwele. In this case the woman would be living alone with her children but the household would be called by her name. A female participant reported:

“Ishwele [mercy] is let’s say you’ve built a big house and there’s a girl who was married and she came back home. You don’t build a house for her in the yard but you find a place nearby your house so that you can see each other. It must be near so that the elders can keep an eye on her house even if she’s gone to work and her children can come back to the big house. Ishwele must not be far away from the main house.” (Msinga woman)

She added:

“Ishwele is different firstly from a person who never got married but had children and is taken out by her parents. In that umuzi she will not be called by the surname for her children’s father but will be called by her own surname. She will have her own surname while she is in that umuzi.” (Msinga woman)

In Ramatlabama the most common words used to identify the homestead are legae and lelapa.

Access to land

Participants were then asked how they came to live in the areas in which they live. They were also asked about ways one could get access to different types of land in their respective communities. They were asked about the process of acquiring land, the criteria used in allocating land as well as the individuals who are responsible for making these decisions.

In Keiskammahoek participants in Cata reported that they were moved by the government from a place called Jwili between 1962 and 1963. Participants recall that they had as much land as they wanted before they were moved and allocated land in Cata. In Jwili they had enough space for huts, kraals and fields. One participant said:

“At that time our mothers used to build or reside in a place as big as they pleased. If a person wants to build from here, you stop where you like, unlike today where they allocate [cut] a place for you. These days we are allocated land [cut] and in the past you would build as much as you like no matter where you want to stop. Our mothers used to have big, big imizi at that time. Here it is the committees that have authority over us. We are ruled here, we are not ruling ourselves.” (Cata woman)

Another participant reported a similar experience:

“I’m from the other side [across] as you came from that side, beyond that river. Our home used to be there and we had five huts with a field just below the yard until the river side and the government removed it from there and put its own things, dug holes and put slots that were dug and dug saying they were taking a certain land for something that we do not know. So we were forced to leave our homes with our property breaking along the way and they put us here now.” (Cata woman)

The female participants from Cata went on to say that once they were moved they had land allocated to them which was significantly smaller than their previous plots and the fields they used to have were now situated across the river which made it increasingly difficult for community members to maintain the land. However, one participant said that the fields remain unused because people are too lazy to go and cultivate the land. Another said that it is not necessarily a matter of being lazy but rather that people no longer have the same amount of livestock they once did to do the manual labour required and they lack other equipment such as tractors to be able to use the land to its fullest potential. A female participant reported:

“Our fields are eaten by the cattle as they are just not used, the river gets full and we are unable to go to the fields and end up sleeping. We decided to stop using those fields because the cattle on the other side feed on the fields, so we stopped everything.” (Cata woman)

In addition to not using the land the participants reported that they are not able to sell or rent it to people who might put it to good use. It was reported that the land is under a trust in which residents can only obtain the right to occupy the land but have no rights over its disposal. According to one participant, only people who they refer to as nothengas have these rights. Those without title deeds can only allow others to use the land in exchange for goods produced, and even then it is only permitted for a short period of time. The nothengas are people who have their own land and were not allocated any by the government, but instead bought the land. Participants reported that they were the only ones in the community with the power to rent or sell it. One participant described nothenga as follows:

“Everything that we have counted here in terms of pieces of land that we share as the community, they own it as it is their land, the camps there and the fields there belong to them. The umzi there is theirs and nothing involves the government or the community. Those people rule in their homes.” (Cata woman)

Another said:

“Even the titles that we have do not allow us to sell land. The real titles are those of the nothenga because they bought their land and have rights over it.” (Cata woman)

When asked about the process of women acquiring land, participants reported that in the past if a woman was unmarried or if she was mabuyekwendeni (someone who’s back from a marriage) she would need to have a male member of her family to approach the chairperson of the

community on her behalf, who would then approach the community to decide if the land should be allocated to the woman. Participants said that these days this is no longer practised, as the leaders of the community only take the woman's age into account and her ability to provide for herself.

However, although women's access to land had become easier, it was reported that when a man and woman want to acquire a piece of land only the man's name appears on the title deed. It is only when the man passes away that the name can be changed to the woman's name. One of the men in Cata confirmed this by saying:

"Okay what happens is that when the site is allocated for umzi, it is not allocated to someone who is a woman but only to men and the example is there at Phumzile's umzi, the umzi is mine. It may be ours because I have a wife but what is registered in the books is that this is Phumzile's home." (Cata woman)

A female participant in Cata also reported:

"The name of the woman does not appear on the title. It only appears when the man dies. That is why she has to go and change the ownership now." (Cata woman)

This sentiment was echoed by other women who said that even given changes over time, women still felt that they had no rights.

"You can have your own house and own it, but most of the women – I am sure 65% of women – feel they have no rights, most women to such an extent a woman would be expelled from her own house. Even if she was here when the house was built, they would meet and decide to go and start their family together and do the permission ceremony, he would forget all of that and chase you out if he has to." (Rabula woman)

Focus group participants in Msinga reported similar stories to those of Keiskammahoek. It was reported that in the past women were not given land unless they were married. According to participants there was social pressure to get married because the household would have sons and daughters-in-law living on the same land as the parents. Therefore unmarried women were encouraged and in some cases pressured to get married by family members. One participant reported that a lot of the pressure came from women's brothers and sister-in-laws:

"Your father doesn't say that but your brothers and their wives say that. They will keep talking about why are you staying at home, and then your brothers come and approach you. It's the wives especially that influence the brothers. They influence the brothers to chase away the sisters." (Msinga woman)

When asked what would happen to the women who did not get married in the past, such as women who were not approached by men for marriage, the participants said that the culture of marriage was so strongly engrained in the community that all women eventually got married, even ones who were considered unattractive:

“There were ugly ones but they used to gana. The ugly ones were there but they also used to gana. Sometimes we could see that a person is ugly but she would gana.” (Msinga woman)

Therefore in the past there were very few requests from single women to have access to land because it was assumed that their acquisition of land would come through marriage. These days it was reported that there has been a decline in marriage, the pressure to get married is no longer strong and this has made it easier for women to have access to land. It has, in particular, become easier for women with children to be given a site. Indeed, in some cases a woman having children was the motive behind her family wanting her to get her own site because they consider her to be troublesome.

“Now they give her a house because she doesn’t want to listen. She keeps having children and so they say she must have her own house” (Msinga Induna)

Despite all the reports about it being easier for women to acquire land, when the induna was asked how many women he had given land to in the past three years, specifically women with children and women who had returned home after being married, he reported:

“Since I started I don’t even think I’ve got ten”. (Msinga induna)

This could mean that not many women had approached the traditional authorities about getting access to land even though they reported that the process had become easier.

In Ramatlabama, participants reported that after the forced removals of the late 1970s most homesteads only had access to a residential plot on the homestead’s land. Community members who had livestock could access cattle ranches that were a little further away from the village. There were also some communal fields that community members could use, but very few people had access to these types of land on their own homestead. The few who did were people who had been farmers in Botshabelo. One participant reported:

“No, it’s not the same with that land. According to my understanding, only people who farmed in Botshabelo before the forced removals were given farming land here. So not just anyone can get that type of land, you have to be a family member of someone who was a farmer before we were moved.” (Ramatlabama woman)

Ramatlabama participants reported that there had been other major changes with regards to access to land. The process was not very easy in the past:

“In the beginning, years gone by, only married people were given stands. In exceptional cases, where the youth always fights the parents, the latter can approach the traditional council and request that their son/daughter be allocated a stand for peace’s sake. It can also happen for an 18 or more years person to get a stand but subject to the approval of their parents” (Ramatlabama woman)

However, according to the participants currently there was no discrimination and anyone could have access to land. It was reported that all one had to do was go to the traditional office to apply for the land and be a member of the local community.

“You just have to be over 18, whether you’re married or not and whether or not you have children, whether you are a man or a woman, it doesn’t matter”. (Ramatlabama woman).

When asked about issues of inheritance, participants reported that married women were not likely to lose access to land in the event of their husband’s death. Women who were likely to encounter problems with regards to inheritance were those who were cohabitating. Only those among the cohabitantes who signed the deed with their partners had rights to the land. One participant reported:

“It depends on who signed up for the land. If you went together then there is no problem because both your names are on paper. But if he went alone and acquired the land on his own then you might have a problem. Sometimes if someone dies, his family might come and say that it now belongs to them and chase you away.” (Ramatlabama woman)

Another participant said:

“In this community if you’re not married, you’re not married. If your partner dies, his family can come and claim his land, regardless of how long you’ve been staying with him.” (Ramatlabama woman)

Participants reported that one could only get access to residential land. Farming land was not available for anyone who did not fall under what was called the “original farmers” group. This group is comprised of people who had farms in Botshabelo from which they were forcibly removed. Upon arriving in Ramatlabama, this group of people was given land on which to farm. People who have an interest in farming but fall outside this group have the option of renting land from the original owners. One participant reported:

“As long as you have money and can afford the asking price for the plot, you are welcome. Presently most of our agricultural land has been rented out to white farmers. The money is paid to the chief who in turn distributes [the money] to the community”. (Ramatlabama woman)

Another participant added:

“The rent income from the white farmers is distributed among the villagers by the chief at the village gathering. All land except family stands is owned by the community and is regulated by the chief and his council. Agricultural land can only be rented out but not sold to anyone.” (Ramatlabama woman)

Overall the focus groups revealed that there has been a significant change in the way that land is allocated to women. The degree to which women’s rights are recognised varied greatly across the three sites, with Ramatlabama seemingly the most progressive of the three and Msinga the least progressive. It was also evident that there were some women who did not feel

that they had rights to access land even though changes were being made to the way customary law was implemented.

Findings from the survey

The composition of the homestead

The survey involved interviews with individual women. However, all the women were members of homesteads with multiple members. In all societies individuals tend to live in groups, and their situation and many of their choices are determined in part by the nature of these groups. This is particularly the case in relation to land in the context of customary law, where land is often seen as being accessed through and for the homestead rather than by the individual. The situation of the woman surveyed cannot be properly understood without considering the nature of the homestead, including its composition and livelihood strategies. This section of the report provides this background.

At the beginning of the interview, we asked all the selected women to list and then answer questions about the people they considered to be members of the homestead. We asked them to exclude people who had not come home in the past two years as well as those who had established their own homesteads. Standard practice in many household surveys is to regard as household members only those who are regularly present in the household. One reason for doing this is that it avoided an individual being “counted” in more than one household. However, the approach does not necessarily match ordinary people’s perception of who is a member of their household (or homestead). For this survey we adopted a broad definition of homestead that did not require that the person was present on a regular basis at the homestead. Instead, respondents were to include all those they regarded as homestead members as long as they had been present at least once over the past two years.

During supervision of fieldwork at the first site, Msinga, it became evident that our approach matched how local people understood homestead membership. Thus there was a common understanding that adult children of the homestead who were employed in Johannesburg were still living with the parents as they had not established homesteads in Johannesburg and still came home for holidays and other important events.

We asked about each homestead member’s gender, marital status and their relationship to the respondent. We obtained an indication of their age in terms of the respondent’s categorisation of them as a child, adult or older person and left it up to the woman to define these categories. We also asked how frequently each member was present in the homestead.

A total of 20,652 members were recorded across the three sites. On average, homesteads were larger in Msinga than in Keiskammahoek and Ramatlabama. This is evident from an average

homestead size of 8.9 members in Msinga compared to 6.5 and 5.3 respectively in Keiskammahoek and Ramatlabama.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|--------|---------------|--------|-------------|-----------|
| Male | 45 | 47 | 45 | 46 |
| Female | 55 | 53 | 55 | 54 |
| Total | 100 | 100 | 100 | 100 |

Table 1: Sex of homestead members by site

Table 1 reveals that, across all three sites, homesteads were dominated by female members. Of the total of 20,652 members recorded, 11,190 (54%) were female. If we include only those members who are at the homestead most nights, most weekends, or most working days, the female percentage increases to 57%. As discussed further below, this is explained by greater mobility of men. If the analysis is further restricted to include only those classified as adults or older people, the female dominance increases even further, to 64%.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|--------------|---------------|--------|-------------|-----------|
| Child | 32 | 45 | 35 | 38 |
| Adult | 58 | 48 | 52 | 52 |
| Older person | 10 | 7 | 13 | 10 |
| Total | 100 | 100 | 100 | 100 |

Table 2: Age group of homestead members by site

Overall in terms of age, more than half (52%) of homestead members were reported to be adults. Close to four in every ten (38%) homestead members were children and a smaller proportion (10%) was older persons. A larger proportion of children were reported in Msinga (45%) than in Ramatlabama (35%) and Keiskammahoek (32%). This is, at least in part, a reflection of the larger numbers of children borne per woman reported below. Given that the table reflects the percentage distribution, it is not surprising that a smaller proportion of older persons was reported in Msinga (7%) than in Ramatlabama (13%) and Keiskammahoek (10%).

We examine the overall composition of homesteads by combining the sex and age information and classifying members as (adult) women, (adult) men and children. Thus all those reported to be either adults or older persons are classified into the sex-disaggregated adult groups, while those reported to be children are classified as children. Homesteads are then categorised according to the combination of the three different sex-age groups that they contain.

Across the three sites combined, the most common composition includes men, women and children. These homesteads account for 70% of the total. A further 15% of homesteads include men and women, but no children, while 11% include women and children but no adult men. The only other substantial group consists of homesteads made up only of adult women. This group accounts for 4% of the total.

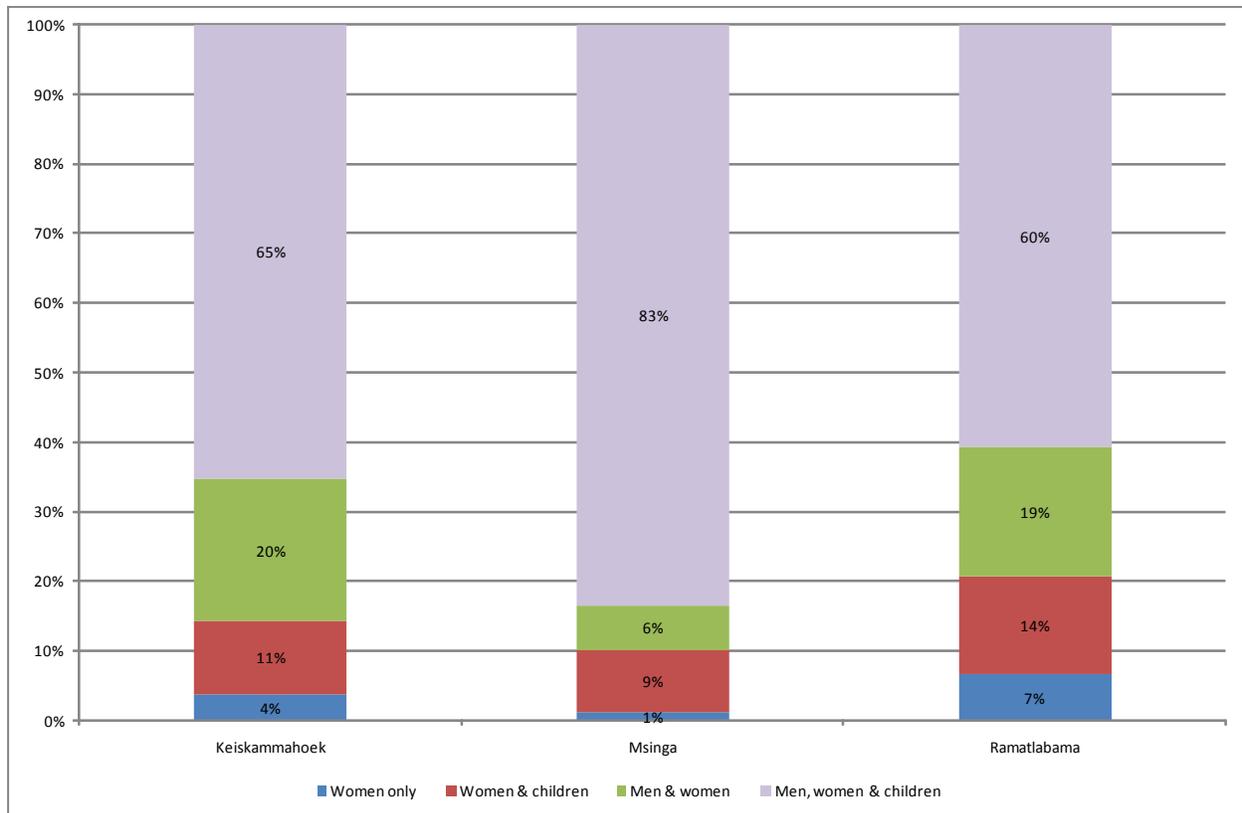


Figure 1: Composition of homesteads by site

If we restrict analysis of composition to members who are regularly in the homestead, the picture changes. We do this by including all members who were said to be present most or all nights, during working days although away most weekends, or during weekends but away during working days. Homesteads that include men, women and children then make up only 51% of the total, with a further 26% consisting of women and children, and only 14% made up only of men and women. Close on a tenth (9%) are made up only of adult women. In Keiskammahoek 13% of homesteads consist only of adult women, compared to 9% in Ramatlabama and only 3% in Msinga. Homesteads made up of women and children account for 33% of the total in Msinga, compared to 24% in Keiskammahoek and 20% in Ramatlabama.

Figure 1 reveals substantial variation across the three sites in terms of homestead composition. Homesteads containing women, men and children account for 83% of Msinga homesteads, but only 65% of those in Keiskammahoek and an even lower 60% in Ramatlabama. In contrast, homesteads containing only male and female adults account for only 6% of Msinga homesteads, compared to 19-20% in Keiskammahoek and Ramatlabama. Women-only homesteads meanwhile account for 7% of the total in Ramatlabama, compared to 4% in Keiskammahoek and only 1% in Msinga. This confirms other findings in relation to Ramatlabama women's relative independence from men.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|--------------------|---------------|--------|-------------|-----------|
| Never married | 72 | 70 | 79 | 73 |
| Married | 19 | 23 | 13 | 19 |
| Divorced | 1 | - | - | - |
| Separated/deserted | 1 | - | 1 | 1 |
| Widowed | 6 | 7 | 5 | 6 |
| Cohabiting & other | 1 | - | 2 | 1 |
| Total | 100 | 100 | 100 | 100 |

Table 3: Marital status of homestead members by site

In all three areas, more than seven in every ten homestead members (73%) were reported to be never married. The proportion that was reported to be never married was higher in Ramatlabama (79%) than in Keiskammahoek (72%) and Msinga (70%), despite Msinga having a much higher proportion of children than Ramatlabama. Conversely, a smaller proportion of homestead members was reported to be married in Ramatlabama (13%) than in Keiskammahoek (19%) and Msinga (23%).

Overall, a larger proportion of males (78%) than females (69%) was reported to be never married. This is expected given that men tend to marry at a later age than women. Conversely, a larger proportion of females (10%) than males (1%) was reported to be widowed. This reflects, among others, greater longevity of women, and the fact that women tend to marry men who are older than them. Widowed men might also be more likely to remarry than widowed women. The percentage that was married was similar for males (20%) and females (19%).

| | Keiskammahoek | | Msinga | | Ramatlabama | |
|--------------------|---------------|--------|--------|--------|-------------|--------|
| | Male | Female | Male | Female | Male | Female |
| Never married | 76 | 69 | 76 | 65 | 82 | 76 |
| Married | 21 | 18 | 22 | 23 | 14 | 12 |
| Divorced | 1 | 1 | - | - | - | 1 |
| Separated/deserted | 1 | 1 | - | 1 | - | 1 |
| Widowed | - | 10 | 1 | 11 | 1 | 8 |
| Cohabiting & other | 1 | 1 | - | - | 2 | 3 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 |

Table 4: Marital status of homestead members by site and sex

Larger proportions of males (82%) and females (76%) in Ramatlabama were reportedly never married than males and females in the remaining two sites. A larger proportion of females in Msinga (23%) than their counterparts in Keiskammahoek (18%) and Ramatlabama (12%) was reported to be married. Similarly, larger proportions of males in Msinga (22%) and Keiskammahoek (21%) than in Ramatlabama (14%) were reported to be married. The proportions of males and females who were reported to be cohabiting were higher in

Ramatlabama than elsewhere. Cohabitation was almost non-existent in Msinga. These patterns give a foretaste of the findings in respect of the respondent women reported below.

| | Child | Adult | Older person | Total |
|--------------------|-------|-------|--------------|-------|
| Never married | 100 | 64 | 16 | 73 |
| Married | - | 28 | 44 | 19 |
| Divorced | - | 1 | 1 | - |
| Separated/deserted | - | 1 | 1 | 1 |
| Widowed | - | 4 | 36 | 6 |
| Cohabiting & other | - | 2 | 2 | 1 |
| Total | 100 | 100 | 100 | 100 |

Table 5: Marital status of homestead members by age group

In terms of age, a larger proportion of older persons (44%) than adults (28%) was reported to be married, while no children were reported to be married. As noted above, the categorisation into child, adult and older person was left to the respondent rather than based strictly on age. It is thus likely that marital status affected whether someone was reported to be a child i.e. a young woman of 16 could have been reported as an adult on account of being married even though she was under 18 years of age. As expected, a much larger proportion of older persons (36%) than adults (4%) was widowed.

In many surveys household member's relationship to the "household head" is recorded. The concept of household head was purposefully not used in this survey as, firstly, there are serious conceptual problems with the concept and, secondly, it was not relevant to the survey. Instead, the respondent was asked to report what the relationship of each homestead member was to herself.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|------------------------------------|---------------|--------|-------------|-----------|
| Self | 15 | 11 | 19 | 15 |
| Husband/partner | 6 | 5 | 5 | 5 |
| My child | 34 | 30 | 30 | 31 |
| Grandchild | 20 | 12 | 10 | 14 |
| Partner's family | 3 | 13 | 1 | 7 |
| Respondent woman's family | 18 | 18 | 31 | 21 |
| Co-wife/co-wife's' child/stepchild | 1 | 6 | - | 3 |
| Other | 3 | 5 | 4 | 4 |
| Total | 100 | 100 | 100 | 100 |

Table 6: Homestead members' relation to respondent women by site

Overall, more than three in every ten (31%) homestead members were reported to be the respondent woman's child. A larger proportion of homestead members was reported to be the grandchild of the respondent in Keiskammahoek (20%) than in Msinga (12%) and Ramatlabama

(10%). This might be related to the fact that, as will be seen below, larger proportions of respondent women in Keiskammahoek were 50 years and older than in the remaining two sites.

A larger proportion of the homestead members in Msinga than elsewhere was reported to be the husband or partner's family (13%) or a co-wife, co-wife's child or stepchild (6%). This reflects both the higher rates of marriage in Msinga, and the larger homestead size. In contrast, a larger proportion of homestead members in Ramatlabama (31%) than the remaining two sites was the respondent woman's own family i.e. parents, grandparents, siblings, own niece or nephew or other relative.

| | Keiskammahoek | Msinga | Ramatlabama | All |
|--|---------------|--------|-------------|-----|
| Present most or all nights | 58 | 79 | 81 | 73 |
| Present during working days but away most weekends | 1 | - | - | - |
| Present during weekends but away most working days | 2 | 1 | 2 | 2 |
| Present about once a month | 5 | 8 | 7 | 7 |
| Present for one or two periods in the year | 30 | 7 | 4 | 13 |
| Present during school holidays | 4 | 3 | 4 | 4 |
| Other | 1 | 1 | 1 | 1 |
| Total | 100 | 100 | 100 | 100 |

Table 7: Presence of homestead members by site

Overall, more than seven in every ten (73%) homestead members were reported to be present on most or all nights of the week. The proportion was lower in Keiskammahoek (58%) than in Msinga (79%) and Ramatlabama (81%). Conversely, a much larger proportion of homestead members was reported to be present for one or two periods in the year in Keiskammahoek (30%) than in Msinga (7%) and Ramatlabama (4%). This suggests a more mobile and migrant population in Keiskammahoek than in the other two sites.

| | Male | Female | Total |
|--|------|--------|-------|
| Present most or all nights | 69 | 77 | 73 |
| Present during working days but away most weekends | 0 | 0 | 0 |
| Present during weekends but away most working days | 2 | 2 | 2 |
| Present about once a month | 7 | 6 | 7 |
| Present for one or two periods in the year | 16 | 11 | 13 |
| Present during school holidays | 4 | 4 | 4 |
| Other | 1 | 1 | 1 |
| Total | 100 | 100 | 100 |

Table 8: Presence of homestead members by sex

A larger proportion of female (77%) than male (69%) homestead members was reported as being present on most or all nights of the week. Conversely, a slightly larger proportion of males

(16%) than females (11%) was reported as being present only for one or two periods in the year. This suggests higher rates of mobility and/or migrancy among men than among women.

Demographic characteristics of the respondent women

This section describes some key demographic characteristics of the respondent women and the homesteads in which they live.

Age was asked for in ten-year age groups to avoid possible resistance to providing this information, as well as to avoid long discussions as to the exact age or date of birth.

| Age group | Keiskammahoek | | Msinga | | Ramatlabama | | Total | |
|-----------|---------------|-----|--------|-----|-------------|-----|-------|-----|
| | N | % | N | % | N | % | N | % |
| 18-19 | 26 | 3 | 38 | 4 | 25 | 3 | 89 | 3 |
| 20-29 | 88 | 9 | 207 | 21 | 170 | 17 | 465 | 16 |
| 30-39 | 121 | 12 | 213 | 21 | 210 | 21 | 544 | 18 |
| 40-49 | 207 | 21 | 195 | 20 | 189 | 19 | 591 | 20 |
| 50-59 | 202 | 20 | 146 | 15 | 153 | 15 | 501 | 17 |
| 60-69 | 183 | 18 | 124 | 12 | 148 | 15 | 455 | 15 |
| 70-79 | 124 | 12 | 50 | 5 | 79 | 8 | 253 | 8 |
| 80+ | 49 | 5 | 27 | 3 | 26 | 3 | 102 | 3 |
| Total | 1,000 | 100 | 1,000 | 100 | 1,000 | 100 | 3,000 | 100 |

Table 9: Age group of women respondents by site

Table 9 reveals that close on a fifth (18%) of the women were under 30 years of age, while 44% were 50 years or older, leaving 38% in the middle age group of 30-49 years. Msinga had the youngest age profile, with 25% of the women respondents under 30 years of age, and only 35% aged 50 years or more. Keiskammahoek had the oldest profile, with only 11% under 30 years of age, and more than half (56%) aged 50 years or more. These differences in profile could result in differences in access to and control over land given the relationship between age and marital status, and the importance of both age and marital status in determining status.

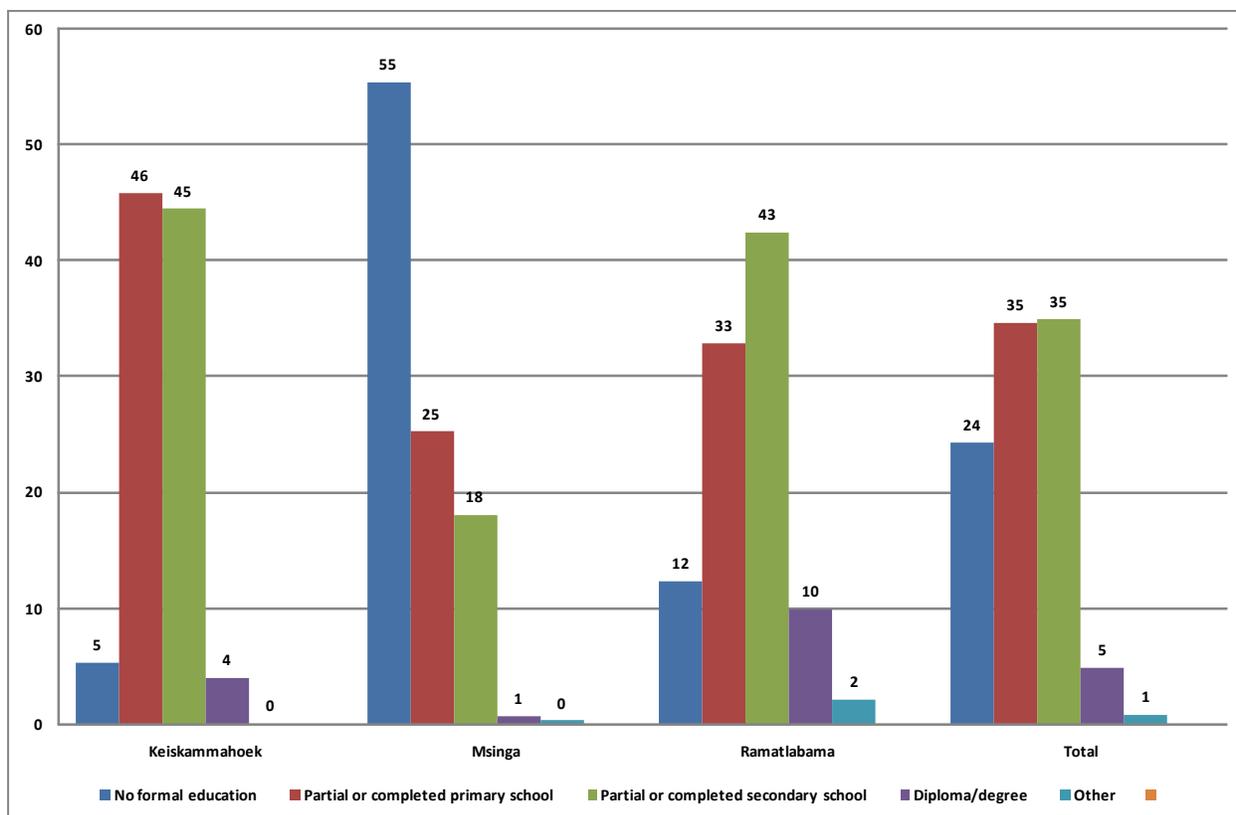


Figure 2: Highest level of completed education

Overall, approximately a quarter of the women reported that they had no formal education and only 1% said that they had a university degree. Keiskammahoek had the highest proportion of women who had completed or partially completed secondary school while Ramatlabama had the highest proportion who had a post-matric qualification.

Over two fifths of the women in Keiskammahoek reported that their highest level of education was a partial or completed primary school education, a similar proportion of women reported that they had partial or completed secondary school while only 4% reported that they had post-school qualifications.

In Msinga, levels of education tended to be much lower. Thus more than half of the women reported that they had no formal education, a quarter said that they had partial or completed primary school, and only 1% had post-school qualifications.

Ramatlabama had the most dispersed educational profile of the three sites, with more highly educated women than Keiskammahoek, but also more with no formal education. Over two fifths of the women reported that they had either completed or partially completed secondary school, a third had partial or completed primary school and about a tenth reported post-school qualifications.

The table below compares the level of education against age and further shows that older women were more likely to report that they had no formal education than younger women. Thus two fifths of the women over the age of 50 reported that they had no formal education while just under a tenth of the women aged 18-29 reported this. These patterns are expected given limited access to education during the apartheid years.

Conversely, women aged 18-29 were more likely to report having obtained a post-matric qualification than women aged 30-49 and women over the age of 50.

| | 18-29 | | 30-49 | | 50+ | | Total | |
|---------------------------------------|-------|-----|-------|-----|------|-----|-------|-----|
| | N | % | N | % | N | % | N | % |
| No formal education | 18 | 3 | 268 | 24 | 446 | 34 | 732 | 24 |
| Partial or completed primary school | 124 | 22 | 324 | 29 | 593 | 45 | 1041 | 35 |
| Partial or completed secondary school | 359 | 65 | 456 | 40 | 236 | 18 | 1051 | 35 |
| Diploma or certificate completed | 37 | 7 | 60 | 5 | 22 | 2 | 119 | 4 |
| Degree | 3 | 1 | 17 | 1 | 10 | 1 | 30 | 1 |
| Other | 13 | 2 | 10 | 1 | 4 | 0 | 27 | 1 |
| Total | 554 | 100 | 1135 | 100 | 1311 | 100 | 3000 | 100 |

Table 10: Highest level of completed education by age

There were several questions related to work and income.

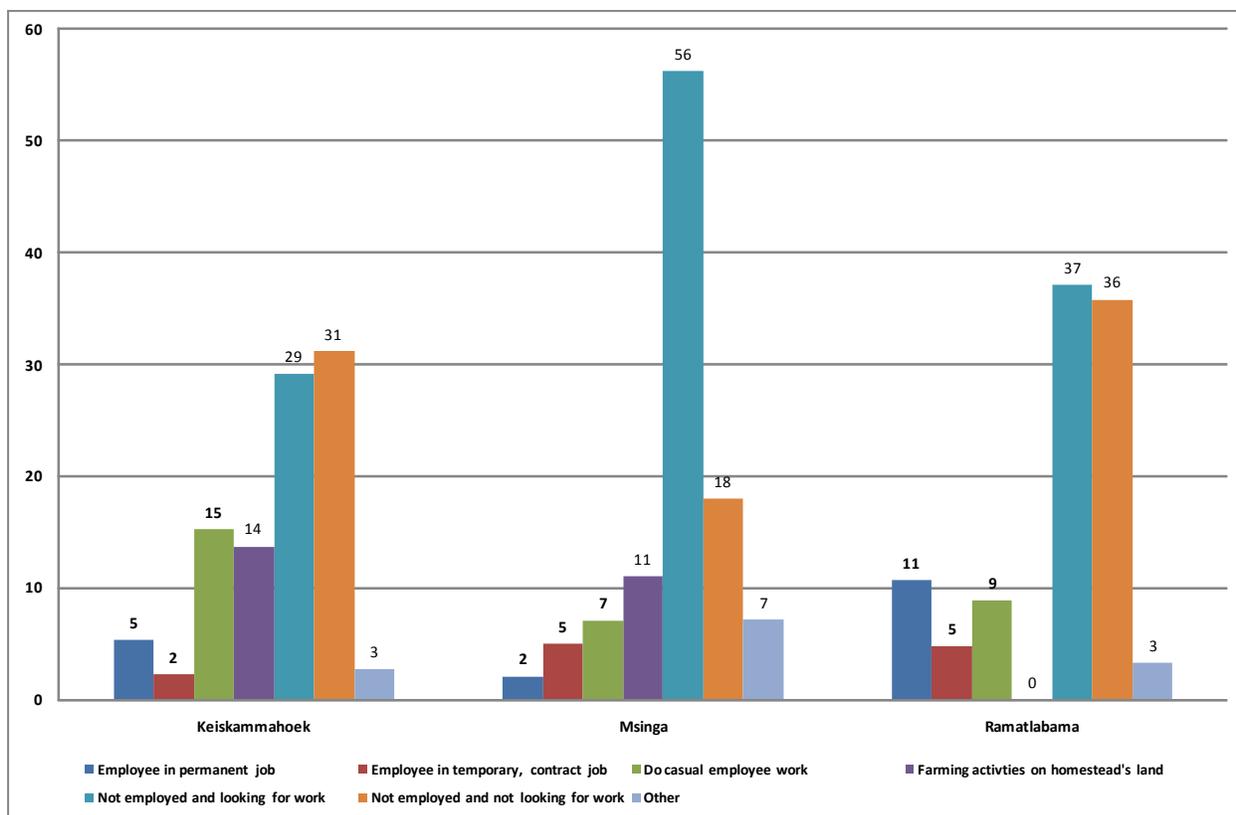


Figure 3: Types of work done in the past year (%) [Multiple response]

Respondent women were asked about the types of work they had done in the past year. They could report more than one type of activity over the year. Overall, two fifths of the women were unemployed but looking for work, over a quarter was unemployed but not looking for work and a tenth said that they had done casual work. About a tenth (10%) of the women reported that they worked as an employee in a permanent or temporary contract job. Only 8% said that they did farming activities on the homestead's land. This is fewer than the number who later in the questionnaire said that they had "used" various types of land. The difference could be explained by the women not considering use of land for their own use as "farming".

In Msinga, approximately a fifth of the women reported that they were not employed and were not looking for work, compared to just under a third in Keiskammahoek and over a third in Ramatlabama. In contrast, more than half of the women in Msinga reported that they were unemployed and looking for work, compared to somewhat over a third in Ramatlabama and less than one in three in Keiskammahoek. This pattern could partly reflect the lower age profile in Msinga.

Over a tenth of the women in Keiskammahoek and Msinga reported that they were involved in farming activities on the homestead's land, but this was not reported by any of the women in Ramatlabama. In contrast, Ramatlabama had the largest proportion of women of all the three sites who reported that they were employed in a permanent job and Msinga had the smallest.

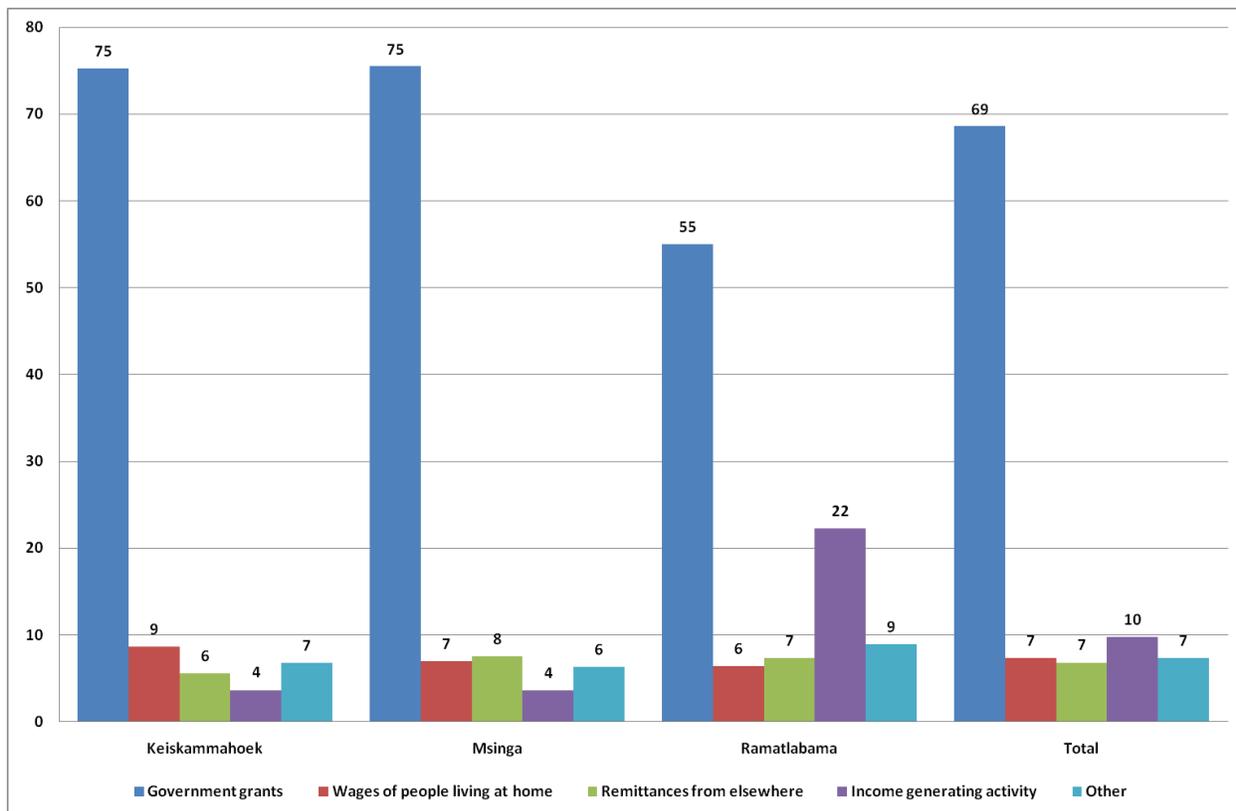


Figure 4: Homestead's main source of income

Paid work is not the main source of income for these homesteads, in that over two thirds of the women reported that their homestead's main source of income was social grants from the government. One in every ten women reported that their homestead's main source was income-generating activities and just under a tenth said the main source of income was from wages of people living at home and remittances from elsewhere. The "other" category included 72 women who said the main source of homestead income was small business, 66 who said it was private pension, and 37 earnings from own farming activity.

There were some differences across sites in respect of main source of income. In particular, the figure above shows a difference in the homestead income profile for Ramatlabama when compared to the other two sites. Thus three quarters of the women in Msinga and Keiskammahoek reported that their homestead's main source of income was from government grants, while just over half of the women in Ramatlabama reported this. Conversely, over a fifth of the women in Ramatlabama reported that their homestead's main source of income was from income-generating activities, compared to less than 5% of the women in the other two sites who reported this.

These patterns can be compared with crude indicators of mean personal income calculated from results of Census 2001 recorded on the Municipal Demarcation Board's website (<http://www.demarcation.org.za/municprofiles2003/index.asp>, downloaded 16 October 2010). It is widely acknowledged that the income estimates reported in the Census are generally inaccurate and, in particular, below actual values. Indeed, the Demarcation Board's website

includes a warning to this effect. A further challenge is that income is reported in income brackets rather than absolute amounts, which disallows simple calculation of means and medians. However, we can arrive at rough estimates by using the mid-point of each bracket. This yields estimates of R216 per month for Msinga, R470 for Amahlati (the relevant municipality for Msinga), and R805 for Mafikeng (the relevant municipality for Ramatlabama). The greater likelihood of Ramatlabama homesteads having income from income-generating activities is also linked to geographical location near a town (Mafikeng), while Keiskammahoek and Msinga, in particular, are much further from similar-sized urban centres. Finally, in Ramatlabama the very limited fertility of the land and low rainfall diminish possibilities of self-subsistence.

The table below shows the situation in respect of grants received by the respondent women themselves. Overall, 26% of the women received an old age grant, 5% received a disability grant, and 49% received a child support grant in respect of at least one child. 3% of the women were 60 years or older and thus eligible for an old age grant in terms of their age, but said that they did not receive this grant.

| | Old age grant | | Disability grant | | Child support grant | |
|-------|---------------|-----|------------------|-----|---------------------|-----|
| | N | % | N | % | N | % |
| Yes | 790 | 26 | 113 | 5 | 1,460 | 49 |
| No | 94 | 3 | 2,122 | 95 | 1,540 | 51 |
| NA | 2,116 | 71 | - | - | - | - |
| Total | 3,000 | 100 | 2,235 | 100 | 3,000 | 100 |

Table 11: Distribution of government grants

Comparing across sites, receipt of the old age grant was most common in Keiskammahoek and least common in Msinga. This pattern is at least to some extent expected given the different age profiles of the women reported above. For child support grants, the pattern was different. This type of grant was most common in Msinga and least common in Ramatlabama. Again, this pattern matches the profiles for homestead members reported above.

| | Keiskammahoek | | Msinga | | Ramatlabama | | Total | |
|---------------------|---------------|----|--------|----|-------------|----|-------|----|
| | N | % | N | % | N | % | N | % |
| Old age grant | 345 | 35 | 193 | 19 | 252 | 25 | 790 | 26 |
| Disability grant | 38 | 4 | 36 | 4 | 39 | 4 | 113 | 4 |
| Child support grant | 484 | 48 | 570 | 57 | 406 | 41 | 1,460 | 49 |

Table 12: Number and percentage of women receiving specific grants by site

Marriage

Marital status is widely recognised as a key determinant of women's access to land. In particular, accepted wisdom is that under customary law married women will have access to land through their husbands, but often lack control over the land and its proceeds, single women

might have access through fathers or brothers, but will lack control, and widows might be temporarily responsible for land while their sons are under-age, but will not have control in their own right. One of the explicit aims of this research project was to explore if these accepted wisdoms held in different sites in South Africa, and to what extent they might have changed over time. It was thus important to capture this variable in a way that accurately reflected socially recognised relationships.

The section above reporting on the pre-survey focus groups discusses in some details the different types of relationships that were reported to be common in each of the three sites. The questionnaires for each of the sites differed in terms of the options offered, in particular for women in relationships. For example, the questionnaires for Msinga offered options related to “ganile” and “gidile” women, those for Keiskammahoek offered options for “endile” and “thwelwe” women, while those for Ramatlabama referred to cohabitation as “vat en sit”. For the purposes of cross-site analysis, the site-specific options were standardised.

Basic analysis revealed that, overall, 37% of the respondent women were married, 34% had never been married, and 24% were widowed, with much smaller numbers in each of the other categories. Further, 60% of the women became a member of their current homestead through marriage or another relationship with a man, compared to 31% who did so through birth, 2% through adoption, and 7% through other means. The percentage that became a member of the homestead through marriage or a similar relationship varied between 76% in Msinga, 64% in Keiskammahoek and 40% in Ramatlabama. As will be seen below, these patterns are mirrored in different rates of marriage in the three sites.

As noted above, the research aimed to explore the situation of all types of women rather than concentrating, as has been the case with some research in the past, on the situation of a particular group, such as widows. On visiting each homestead the fieldworker was thus required first to list all female members of the homestead aged 18 years and above who were generally present in the area. From this list, the fieldworker was then required to select the respondent using a random selection grid. The intention was that this approach would give a sample of respondents that “represented” all the women in the site in terms of basic demographics such as age and marital status.

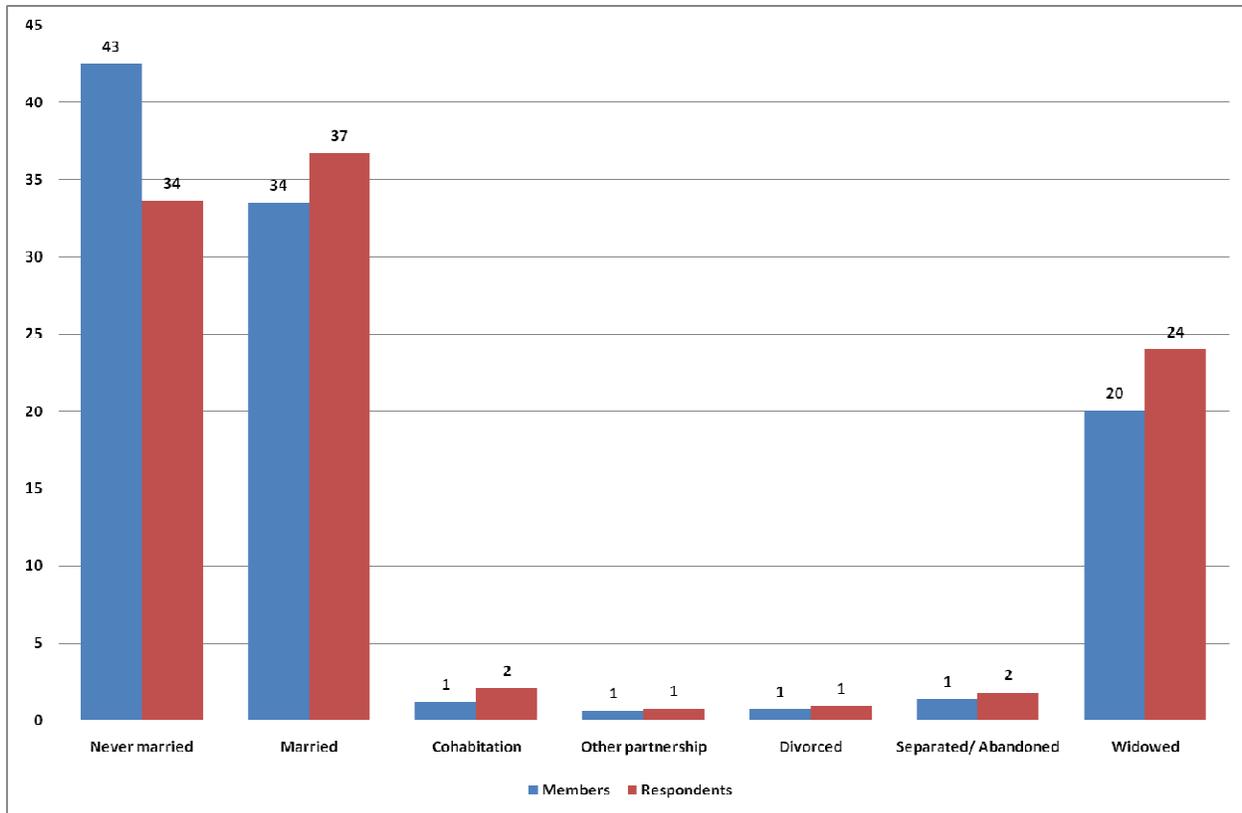


Figure 5: Marital status of female homestead members and respondent women

Figure 5 compares the marital status of the respondent women with the marital status of all adult females who were named as permanent members across the three sites.

Just over 2 in every 5 of the female homestead members were reported to have never been married. In contrast, just over a third of the respondent women had never been married and over one in every three respondents and homestead members were married.

Approximately a quarter of the respondent women compared to a fifth of the homestead members were widows. These patterns suggest that, despite there being a specified method for random selection of the respondent, there was some bias in favour of older women in the homestead. This bias was found across all three sites. The reason for the bias is unclear. One possibility is that in the homestead listing, because there were not the same careful checks as for the respondent women, women who had not completed full marriages (and were thus not “gidile” in Msinga or “endile” in Keiskammahoek) could have been recorded as never married. There could also have been pressure on some fieldworkers not to speak to younger women even when they were the ones randomly selected on the basis that they were unmarried, and thus not fully responsible adults able to respond. It could also be that younger women were less likely to be in the homestead at the time the fieldworker visit and that, instead of – as instructed in the training – re-visiting the homestead at a time when the selected woman would be there, the fieldworker interviewed an older woman who was present. The bias is disappointing, but

should not substantially affect the findings of the analysis as, despite the bias, the sample in each site included enough never married women to allow for reliable analysis.

| | 18-19 | 20-29 | 30-39 | 40-49 | 50-59 | 60-69 | 70-79 | 80+ | Total |
|--------------------|-------|-------|-------|-------|-------|-------|-------|-----|-------|
| Never married | 86 | 335 | 216 | 152 | 97 | 72 | 41 | 10 | 1,009 |
| Married | 3 | 110 | 253 | 316 | 218 | 156 | 38 | 8 | 1,102 |
| Divorced | 0 | 0 | 2 | 9 | 10 | 6 | 1 | 0 | 28 |
| Separated/deserted | 0 | 3 | 8 | 16 | 14 | 9 | 2 | 3 | 55 |
| Widowed | 0 | 2 | 46 | 73 | 149 | 205 | 166 | 79 | 720 |
| Cohabiting & other | 0 | 15 | 19 | 25 | 13 | 7 | 5 | 2 | 86 |
| Total | 89 | 465 | 544 | 591 | 501 | 455 | 253 | 102 | 3,000 |

Table 13: Marital status by age

The above table reveals that, overall, a third of the respondent women had never been married. Almost all (96%) women aged 18-19 reported that they had never been married. For the other age groups, as expected, the likelihood of never having been married decreased with age. Thus close to three quarters of women between the ages of 20 and 29 reported that they had never been married, and the age group that had the smallest proportion of women who had never been married was women 80 years and older.

Just over a third of the women were married. This figure includes women who were “ganile”, “gidile”, “endile” and “thwelwe” as these are generally accepted by the communities concerned as socially recognised marriages. It excludes those who were co-habiting, including those in Ramatlabama who were said to have a “vat en sit” relationship. While this relationship was reported to be common among members of that community, during the focus groups it seemed that it was generally frowned upon. Indeed, informants said that for this reason it tended to happen more in the cities, where social controls were looser, than in Ramatlabama itself.

Of the married women in Msinga, 80% were “ganile” rather than “gidile”. This finding confirms that completion of the full customary procedures is relatively uncommon. Of the married women in Keiskammahoek, 95% were “endile”, leaving 5% who were “thwelwe”. However, during the report-back meetings participants suggested that the proportion who were “thwelwe” was probably much higher, and that the term ukuthwala did not only refer to cases where abduction had occurred, but instead to all marriages where the full process had not been completed. The Cata chairperson suggested that ukwenda was so rare that it was probably happening only once in ten years!

Half of all married women were between the ages of 30 and 49. The proportion of women who were married increases with age until it peaks in the age group 40-49, after which it starts to decrease. If cohabiting women are included, close on four in every ten women were in a stable relationship.

Close on a quarter of the women were widowed. This figure includes women who reported that they were “ganile”, “gidile”, “endile” and “thwelwe” as these terms are often used whether or not the husband is still alive. The questionnaires thus distinguished, for example, between “ganile – and husband still alive” and “ganile – husband deceased”. Just over a third of the widowed group was over the age of 70.

Of the widowed women in Msinga, 52% reported themselves to be “ganile” and 48% “gidile”. The fact that the proportion reported to be “gidile” was so much higher than for those currently married suggests that it is becoming less common for the full customary process to be completed. However, this finding must be treated with caution as some of the “ganile” women whose husbands are still alive might still complete the process.

After the relatively small number of women (23 women) reported to be in “other” forms of marriages or partnerships, the least common marital category across all age groups was divorced women. In Msinga there were no women in this category. This was explained in the report-back to the Mthembu authority by the fact that the traditional court in the area had ruled that if a woman had spent 10 years in a marriage and the husband wanted to leave her, he would have to pay the woman’s family a cow for each year they had stayed together plus a further cow for each child. In the Mchunu area participants stated simply that there was no divorce in “Zulu culture”.

There were also very few women who reported that they were separated or had been deserted by their partner. However, further analysis shows that 110 women reported that they were married, but when asked to list all the homestead members - excluding those who had not come home in the previous two years - no husband or partner was listed. This could indicate that the number of divorced and effectively separated or abandoned women may be more than what the responses on marital status alone reveal in that these 110 women could be regarded as effectively separated. This suspicion is borne out by the statement in the Mthembu report-back meeting that where there were problems in ukugana relationships, the couple would not divorce but instead simply separate.

Marital patterns differed substantially across the three sites, as shown in the table below. Women in Msinga were most likely to be married (46% of the Msinga total, with a further 27% widowed and thus previously married), while those in Ramatlabama were least likely (26% married plus 15% widowed). Conversely, women in Ramatlabama were most likely to have never been married or be co-habiting, while those in Msinga were least likely to be in either of these two categories. Participants in the report back meeting to the Mthembu traditional authority reported that cohabitation (ukukupita) was discouraged through charging men who had not paid lobola for the woman with whom they were living R160 per year.

| | Keiskammahoek | Msinga | Ramatlabama | Total |
|---------------------------------------|---------------|--------|-------------|-------|
| Never been married | 298 | 219 | 492 | 1,009 |
| Married | 381 | 460 | 261 | 1,102 |
| Cohabitation | 11 | - | 52 | 63 |
| Other form of marriage or partnership | 8 | 8 | 7 | 23 |
| Divorced | 16 | - | 12 | 28 |
| Separated or abandoned | 15 | 17 | 23 | 55 |
| Widowed | 271 | 296 | 153 | 720 |
| Total | 1,000 | 1,000 | 1,000 | 3,000 |

Table 14: Marital status by site

Given that the likelihood of being married varies across age groups, it could be that these substantial cross-site differences in marital pattern might be explained by differences in age distribution across the three sites. We therefore investigate this possibility.

The table that follows shows the age distribution across the three sites. It confirms that the age patterns differ across sites. In Keiskammahoek just over a tenth of the respondent women were between the ages of 18 and 29, a third was between 30 and 49 and over half were over the age of 50. In Msinga a quarter of the women were under the age of 30 and just over a third was over the age of 50. In Ramatlabama there was the same proportion of women (two fifths) between the ages of 30 and 49 and those over the age of 50. Expressed differently, in Keiskammahoek the median age group was 50-59 years, while in Msinga and Ramatlabama it was 40-49 years. Thus overall Msinga women tended to be younger, while Keiskammahoek women tended to be older.

| | 18-29 | 30-49 | 50+ | Total |
|---------------|-------|-------|-------|-------|
| Keiskammahoek | 114 | 328 | 558 | 1,000 |
| Msinga | 245 | 408 | 347 | 1,000 |
| Ramatlabama | 195 | 399 | 406 | 1,000 |
| All sites | 554 | 1,135 | 1,311 | 3,000 |

Table 15: Age group by site

Nevertheless, these differences in age distribution across the sites do not fully explain the differences in marital status. Thus further analysis reveals that while 59% of the younger age group had never been married in Msinga, the comparable percentage was 85% in Keiskammahoek and 92% in Ramatlabama. At the other end of the age spectrum, 63% of Msinga women aged 50 years or more, compared to 43% in Keiskammahoek and 34% in Ramatlabama were widowed.

The discussion above compares the pattern across the three sites. There can also be variation in patterns within a single site. In Msinga, we can compare those areas which were formerly labour tenant areas with other areas. The table below shows that women in labour tenant areas were much more likely than those elsewhere in Msinga to be married or in another ongoing

relationship. This accords with perceptions of key informants that the communities living in ex-labour tenant areas tend to be more socially conservative.

| | Ex-labour tenant | Other areas | Total Msinga |
|--------------------|------------------|-------------|--------------|
| Never married | 17% | 23% | 22% |
| Married/partnered | 56% | 45% | 47% |
| Separated/deserted | 1% | 2% | 2% |
| Widowed | 26% | 30% | 30% |
| Total | 100% | 100% | 100% |

Table 16: Marital status by area within Msinga

Children of respondent women

As noted above, it is commonly thought that under customary law and practices, widowed women will be given temporary control over land if their husband dies while the sons of the marriage are still under-age. Further, where the restrictions on single women accessing land are relaxed, it is thought that those with children are more likely to be given land in recognition of their need to provide for these children. In particular, those with male children might be more likely to be given land on the basis that the children, when adult, can take over control of the land. These observations and assumptions about customary law and practice made it important to include questions on children in the questionnaire. Each woman respondent was thus asked to list all children to whom she had given birth, whatever the current age of the offspring and regardless of whether they were still alive and whether they were living with the woman in the homestead. A series of questions then followed about each child, which enquired about the age of the children, where the child was living, the relationship of the woman to the child's father at the time the child was born, whether the father was currently a member of the homestead. For children under 21 years who were living in the homestead, we asked whether the father had contributed materially in any way over the past 12 months, and whether the homestead received a child support grant or care dependency grant in respect of the child.

| | Number | % |
|---------------|--------|-----|
| Keiskammahoek | 923 | 34 |
| Msinga | 923 | 34 |
| Ramatlabama | 867 | 32 |
| All sites | 2,713 | 100 |

Table 17: Number of women with children by site

The table above reveals that nine in every ten women interviewed (90%) reported having given birth to at least one child. The percentage who had given birth was higher in Keiskammahoek and Msinga (92%) than in Ramatlabama (87%). On average, each of the women who had borne children reported four children. Ramatlabama accounted for a slightly smaller proportion of all women with children (32%) than the remaining two sites (each 34%). This is explained, at least in part, by the slightly lower prevalence of childbearing in Ramatlabama. In addition, women in

Ramatlabama tended to have fewer children than women in the other two sites. Thus women in Ramatlabama who had given birth reported on average 3.2 children compared to 3.8 in Keiskammahoek and 4.2 Msinga.

In total, the 3,000 women reported 10,108 children, of whom 8,379 were reported to be still living. Thus more than eight in every ten children born (83%) were reported to be alive. There were no noticeable differences across the three areas, with 82% of children alive in Msinga, 83% in Ramatlabama, and 84% in Keiskammahoek. There were also no noteworthy differences in terms of gender of the child.

The analysis which follows is based on children who were reported as alive at the time of the interview.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|--------|---------------|--------|-------------|-----------|
| Male | 1,457 | 1,523 | 1,214 | 4,194 |
| % | 49 | 49 | 53 | 50 |
| Female | 1,496 | 1,575 | 1,089 | 4,160 |
| % | 51 | 51 | 47 | 50 |
| Total | 2,953 | 3,098 | 2,303 | 8,354 |
| | 100 | 100 | 100 | 100 |

Table 18: Sex of children

The table above reveals that the children were more or less equally divided between male and female. However, a slightly larger proportion of male children was reported in Ramatlabama (53%) than in the other two sites (both 49%). The reason for this is not clear.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|-------------|---------------|--------|-------------|-----------|
| 0-4 years | 6 | 16 | 10 | 11 |
| 5-9 years | 6 | 14 | 11 | 10 |
| 10-14 years | 7 | 16 | 9 | 11 |
| 15-19 years | 10 | 14 | 10 | 11 |
| 20+ years | 71 | 40 | 60 | 56 |
| Total | 100 | 100 | 100 | 100 |

Table 19: Age of children by area

The majority (56%) of the living children was reported to be 20 years or older. Larger proportions of children were reported to be 20 years or older in Keiskammahoek (71%) and Ramatlabama (60%) than in Msinga (40%). A larger proportion of children 15 years or younger was reported in Msinga than in the other areas. There were no noteworthy age differences in terms of gender.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|-----------------------------------|---------------|--------|-------------|-----------|
| In their own homestead | 29 | 14 | 22 | 21 |
| Living with me | 46 | 70 | 55 | 57 |
| Living with their father | 1 | 1 | 1 | 1 |
| Living with my family | 8 | 2 | 7 | 5 |
| Living with their father's family | 3 | 1 | 2 | 2 |
| Other | 14 | 12 | 13 | 13 |
| Total | 100 | 100 | 100 | 100 |

Table 20: Residence status of children aged 0-19 years by area

Close on six in every ten children (57%) under 20 years of age were living with their mothers at the time of the study. A larger proportion of children of this age in Msinga (70%) than in Ramatlabama (55%) and Keiskammahoek (46%) were reportedly living with their mothers. A smaller proportion of children in Msinga (2%) was reported to be living with their mother's family than in the remaining two areas. A surprisingly high proportion (29%) of children 0-19 years in Keiskammahoek was reported as living in their own homesteads. It could be that in this site "own homestead" was interpreted broadly to mean a homestead other than that of the mother.

We can compare the situation in the three sites with that which pertains nationally among African children by analysing data from Statistics South Africa's general household survey of 2009. Analysis suggests that overall, 26% of the population under 20 years of age was living with their biological mother and father, with a further 28% living with their mother but not their father. This gives an overall total of 54% of this age group among Africans living with their mothers. In Msinga, the proportion is substantially higher than this, and in Keiskammahoek quite a bit lower, while Ramatlabama is similar to the national picture. The lower rate in Keiskammahoek might be related to the higher rates of migrancy and mobility of people in this area noted above.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|-----------------------------------|---------------|--------|-------------|-----------|
| In their own homestead | 37 | 31 | 36 | 35 |
| Living with me | 33 | 38 | 36 | 35 |
| Living with their father | 1 | 1 | 1 | 1 |
| Living with my family | 7 | 2 | 6 | 5 |
| Living with their father's family | 4 | 1 | 1 | 2 |
| Other | 18 | 27 | 20 | 21 |
| Total | 100 | 100 | 100 | 100 |

Table 21: Residence status of children 20 years and older by area

The table above suggests that more than about a third of children (35%) aged 20 years or older had established their own homesteads while a similar number (35%) were living with their mothers. Smaller proportions of older children in Msinga than in the remaining two areas were reported to have established their own homesteads (31%).

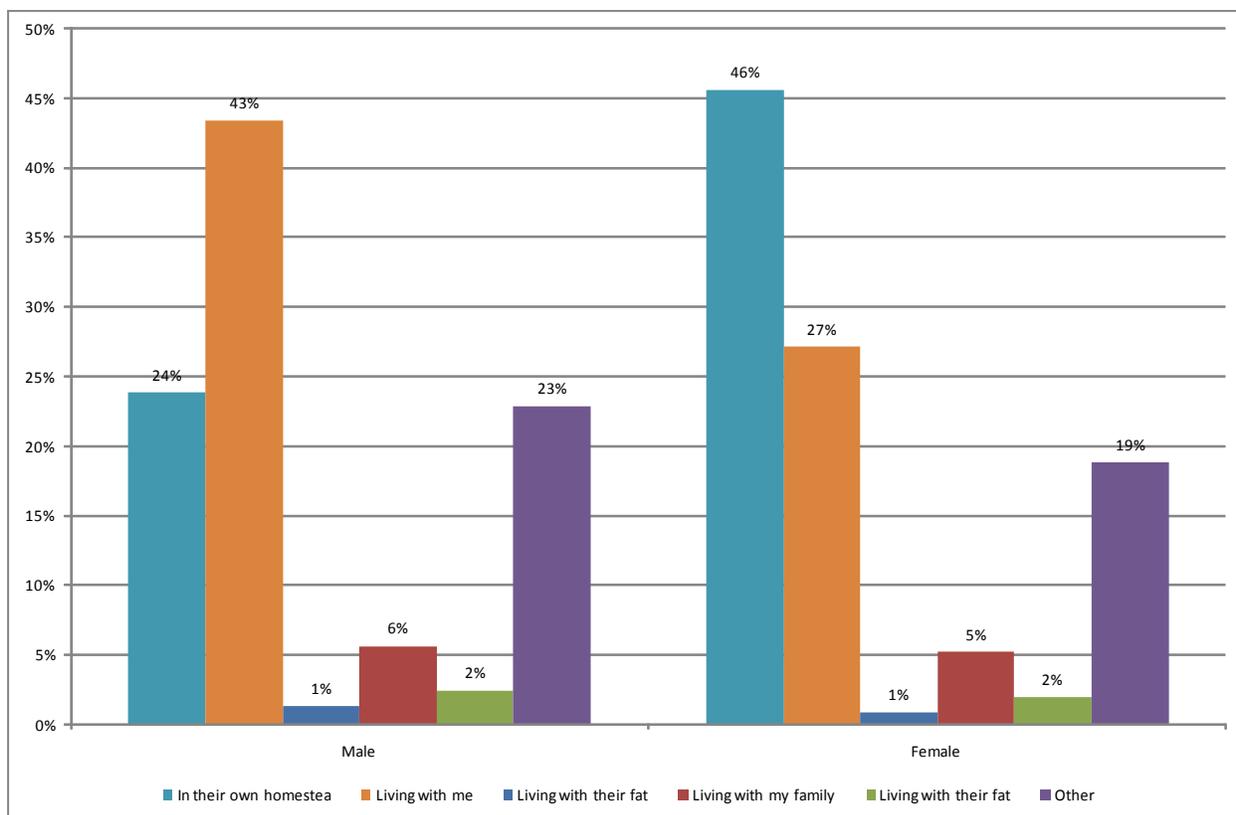


Figure 6: Residence status of children aged 20+ by sex

Figure 6 reveals marked differences in the residence status of older male and female children. Thus about a quarter (24%) of the male children were likely to be living in their own homestead, compared to nearly half (46%) of female children. Conversely, 43% of male children were said to be living with their mother, compared to 27% of female children. This pattern could, in part, reflect the fact that daughters are likely to marry at a younger age than sons, and that sons, when married, are more likely than daughters to remain in the same area as their parents. For younger children, there is very little difference between the residence status of boy and girl children.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|----------------------|---------------|--------|-------------|-----------|
| Husband or permanent | 75 | 84 | 50 | 72 |
| Boyfriend | 24 | 15 | 49 | 28 |
| Other | 1 | 0 | 1 | 0 |
| Total | 100 | 100 | 100 | 100 |

Table 22: Relation to the child's father at time of child's birth

Women were asked about the nature of their relationship to the father of the child at the time of the child's birth. Table 22 reveals that women in Msinga (84%) and Keiskammahoek (75%) were more likely than those in Ramatlabama (50%) to report that the child's father was their husband or partner at the time of the child's birth. Women with children in Ramatlabama

reported for about half of all their children that the child's father was a boyfriend at the time when the child was born.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|----------------------------------|---------------|--------|-------------|-----------|
| | 1131 | 1165 | 802 | 3098 |
| Father is deceased | 39 | 37 | 35 | 37 |
| Resident member of the homestead | 32 | 36 | 31 | 33 |
| Absent member of the homestead | 11 | 17 | 5 | 11 |
| Not member, but father is alive | 18 | 9 | 29 | 18 |
| Do not know | - | - | 1 | - |
| Total | 100 | 100 | 100 | 100 |

Table 23: Homestead membership status of the child's father

Table 23 shows that the fathers of more than three in every ten were reported to be deceased (37%) while a further third were reported to be resident members of the homestead (33%). Close to three fathers in every ten of children in Ramatlabama (29%) were reported to be alive but not a member of the homestead, a proportion larger than the remaining two areas. A larger proportion of the fathers in Msinga (17%) than Keiskammahoek (11%) and Ramatlabama (5%) was reported as absent members of the homestead.

We asked women to indicate for each child under 21 years and living with them whether the child's father had made any material contribution towards the child's upbringing in the 12 months preceding the interview. This question was answered in respect of 97% of the relevant children. Seven in every ten of these children (70%) were reported to have received material contributions from their fathers. The proportion was slightly smaller in Ramatlabama (67%) than in Msinga (70%) and Keiskammahoek (73%).

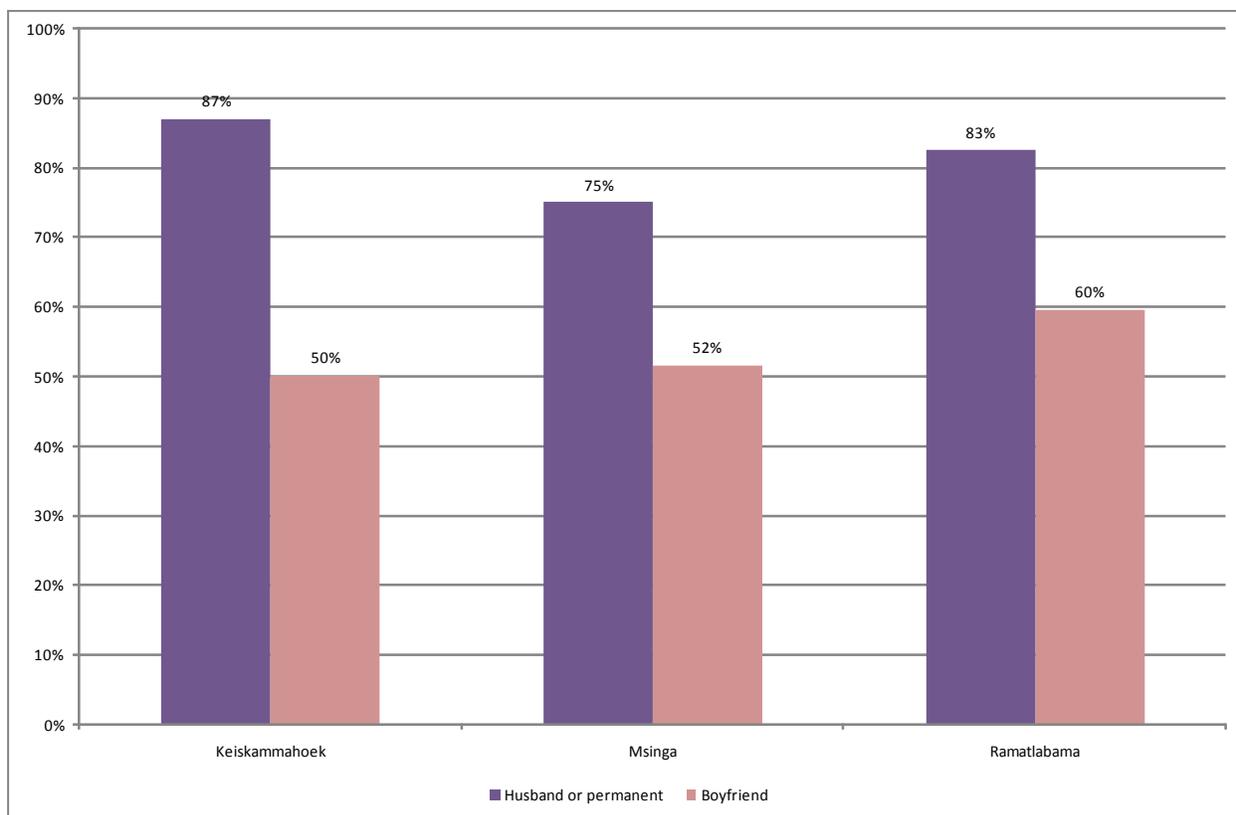


Figure 7: Material contribution by child's father by relationship to mother

Over all three sites combined, more than three quarters (79%) of the fathers who were married to the women at the time of the child's birth had contributed materially, compared to just over half (55%) of those who were not married to the mother. Figure 7 suggests that fathers in Keiskammahoek who were married to the mother of the child were most likely to contribute while fathers in Msinga were least likely to contribute. The pattern is different in respect of fathers who were boyfriends of the mother at the time of the child's birth, as here fathers in Ramatlabama were markedly more likely than those in other sites to contribute towards the upbringing of the child.

We asked women to indicate for each child under 15 years if they were accessing the child support grant. At the time of the survey this grant was available to the primary caregiver of a child if the caregiver had income below a specified means test. In March 2010, more than 9.4 million children were receiving this grant (National Treasury, 2010: 361). A much smaller proportion of children in Ramatlabama (59%) than in Keiskammahoek (75%) and Msinga (86%) were reportedly receiving the CSG. This pattern mirrors the different levels of poverty in the three sites as well as the higher level of fathers reported to contribute towards the upbringing of their children.

We also asked women to indicate for each child under 18 years whether they were receiving the care dependency grant in respect of the child. This grant is available to caregivers of severely disabled children aged 1 to 18 years who require 24-hour care. In March 2010, about 119,307

children nationally were benefiting from this grant. It thus has much smaller reach than the child support grant. In the survey, forty children were said to be receiving the care dependency grant of whom 6 were aged 20 years or older. Half of the child beneficiaries (50%) were aged nine years or younger. Close on half (48%) of the care dependency grant beneficiaries were in Ramatlabama, with a further third (33%) in Keiskammahoek and 20% in Msinga. These patterns do not mirror relative poverty levels. Instead, they might indicate different degrees of access to this grant during the apartheid years, and differing levels of knowledge about its existence at the time of the survey.

The sections above looked, firstly, at the marital status of the respondent women and, secondly, characteristics of their children. The following paragraphs combine these two aspects.

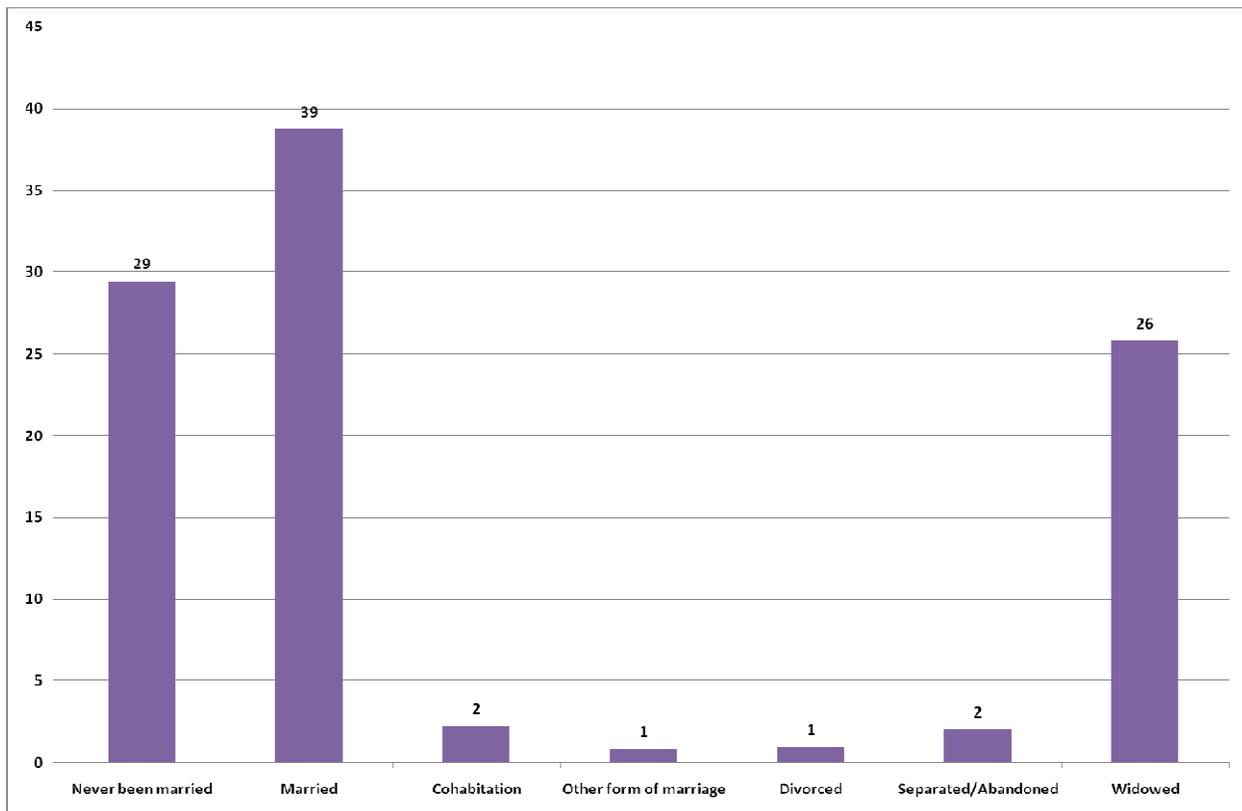


Figure 8: Percentage of women within each marital status category with at least one child

The figure above reflects the distribution of women who had borne children across the different categories of marital status. Across the three sites, more than one out of every four of the women who had given birth to at least one child had never been married, while close to two fifths were married. Just over a quarter of the women who had borne at least one child were widowed. This confirms other evidence that pregnancy and childbirth commonly occur outside of marriage in South Africa. The patterns in the figure also accord with the patterns reported above in respect of the woman's relationship to the father of the child at the time of the child's birth.

Another way of looking at this issue is to calculate the proportion each marital status accounted for among the total number of women who had ever had a child. For this analysis, we focus on the three most common categories of marital status, namely never married, married, and widowed. However, the total number for each site includes women whose marital status does not fall within one of the three main categories, and the percentages are calculated against this total.

| | Keiskammahoek | | Msinga | | Ramatlabama | | Total | |
|--------------------|---------------|-----|--------|-----|-------------|-----|-------|-----|
| | N | % | N | % | N | % | N | % |
| Never been married | 243 | 26 | 165 | 18 | 389 | 45 | 797 | 29 |
| Married | 366 | 40 | 444 | 48 | 245 | 28 | 1055 | 39 |
| Widowed | 266 | 29 | 288 | 31 | 148 | 17 | 702 | 26 |
| Total | 923 | 100 | 921 | 100 | 868 | 100 | 2712 | 100 |

Table 24: Women with at least one child in each site

Table 24 shows that over a quarter of the women in Keiskammahoek who had given birth to at least one child had never been married. In Msinga somewhat fewer – just under a fifth – of the women who had had at least one child had never been married. In Ramatlabama, in contrast, more than two fifths of the women had never been married.

The combined analysis of children and marital status suggests that if customary law and practices determine access to and control over land on the basis only of marital status, they will exclude large numbers of women who have children, most of whom live with them. Further, many of these women bear this responsibility in the absence of the fathers of the children, and without any assistance being provided by the fathers. Thus, for example, 50% of all never married women have at least one child under the age of 20 living with them and the children's fathers are not resident members of the homestead.

Married women

The discussion above paid greater attention to never married women than to those in other marital status categories. This section focuses on married women. While marriage may, in terms of customary laws and practices, give married women access to land through their husband, the degree to which they enjoy access to and control over land and, in particular, security of tenure after the marriage, may differ according to the characteristics of the marriage.

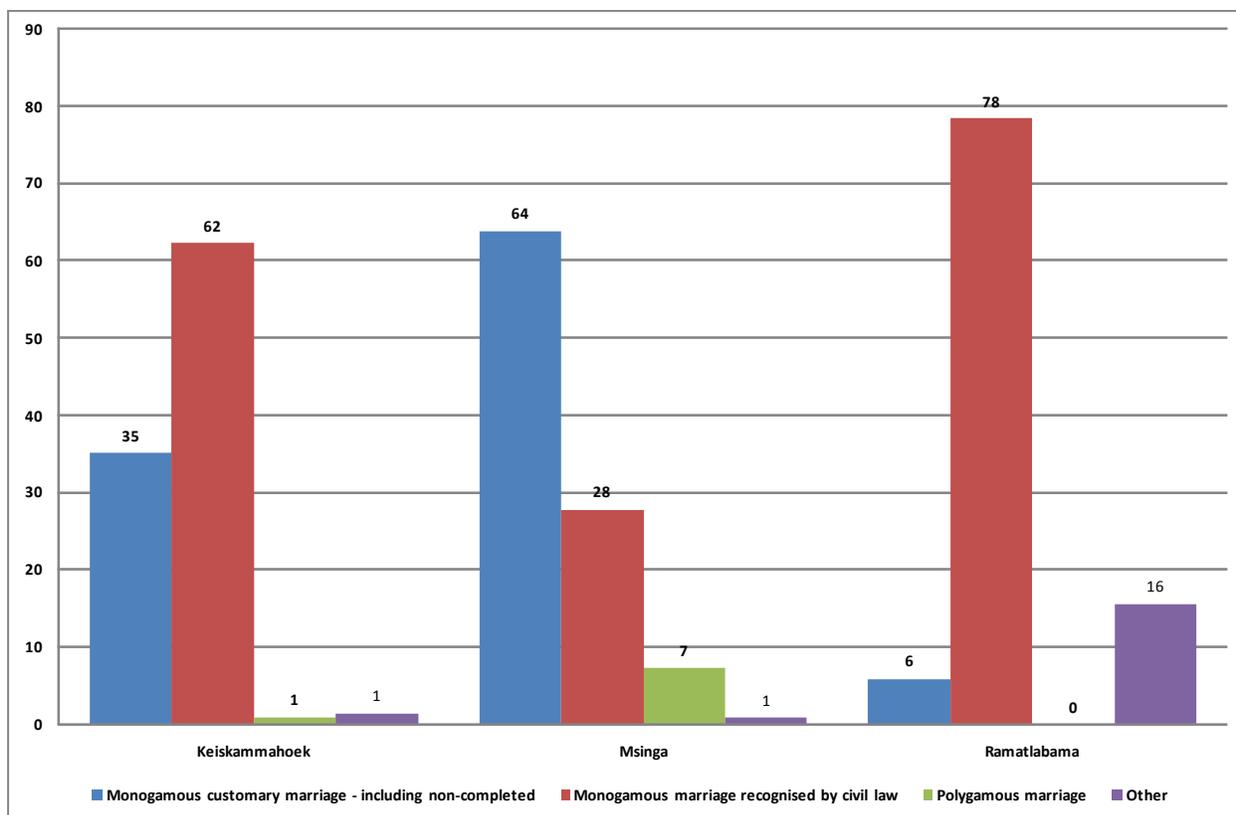


Figure 9: Detail of marriages

Overall, half of the women who were married, widowed or in a stable relationship reported that they were in monogamous marriages recognised by civil law. By law, the husbands to these marriages cannot take a second wife. Just over two out of every five women reported that they were in monogamous customary marriages. These marriages could, potentially, become polygamous in future. However, less than 5 percent of all the married women reported that they were currently in a polygamous marriage.

Comparing across sites we find that women in Keiskammahoek and Ramatlabama were more likely to enter into monogamous marriages recognised by civil law than those in Msinga. Over two thirds of the married women in Msinga reported that they were in a monogamous customary marriage while less than a tenth reported this in Ramatlabama. Msinga also had a higher rate of polygamous marriages than the other two sites. Meanwhile, Ramatlabama had a much higher percentage of women who reported that they were in other forms of partnership, which were mainly relationships of cohabitation.

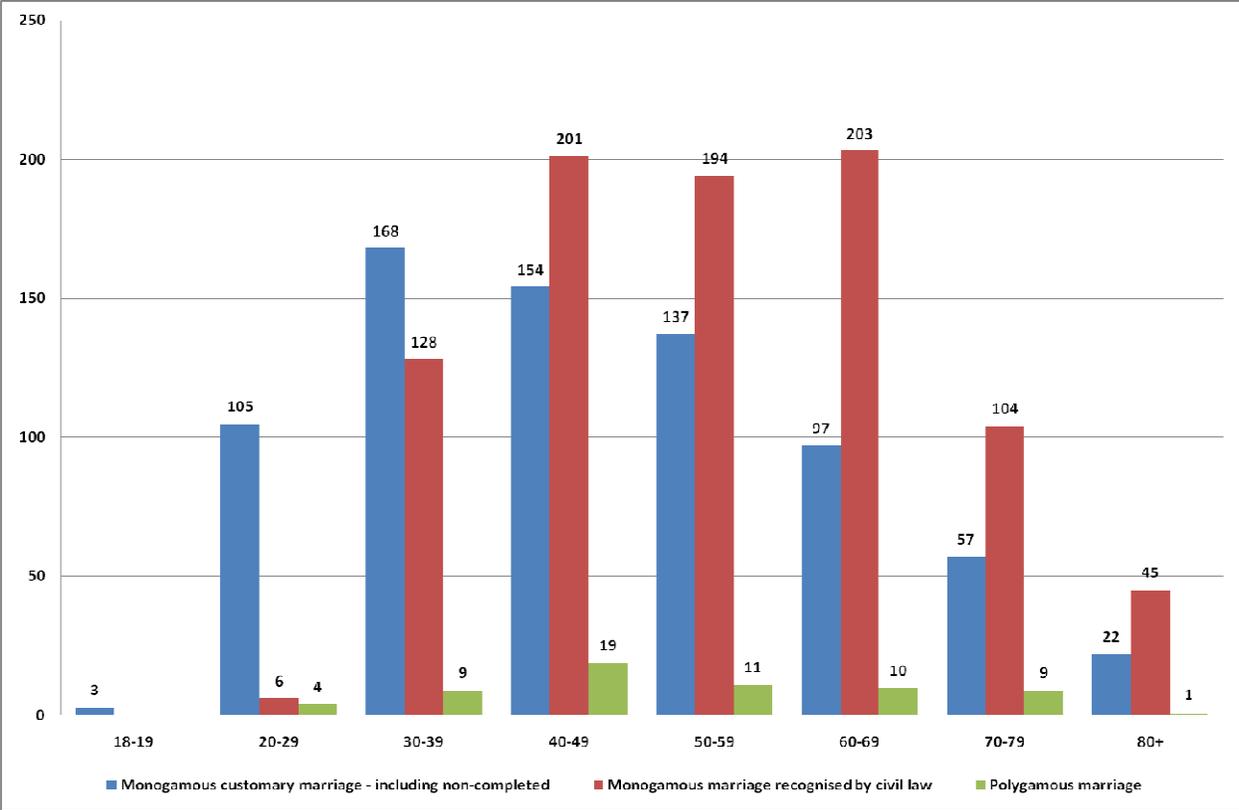


Figure 10: Detail of marital status by age

Overall, 743 women reported that they were in a monogamous customary marriage. The figure reveals that monogamous customary marriages were more common among the youth. Thus all the women aged 18-19 who reported that they were married also reported that they were in customary marriages and more women aged 20-39 were in customary marriages than in civil or polygamous marriages. This pattern suggests that it is women who marry at a young age who are more likely to enter into customary marriages. In contrast, monogamous marriages recognised by civil law were most common among women aged forty and above. It is possible that some women who first married under customary law later converted this into a civil marriage because of the perceived benefits. The benefits might include the fact that the husband then cannot take a second wife and – perhaps more importantly given low rates of polygyny – that the marriage is more easily proved when claiming entitlements, such as access to a deceased husband’s pension or death benefits.

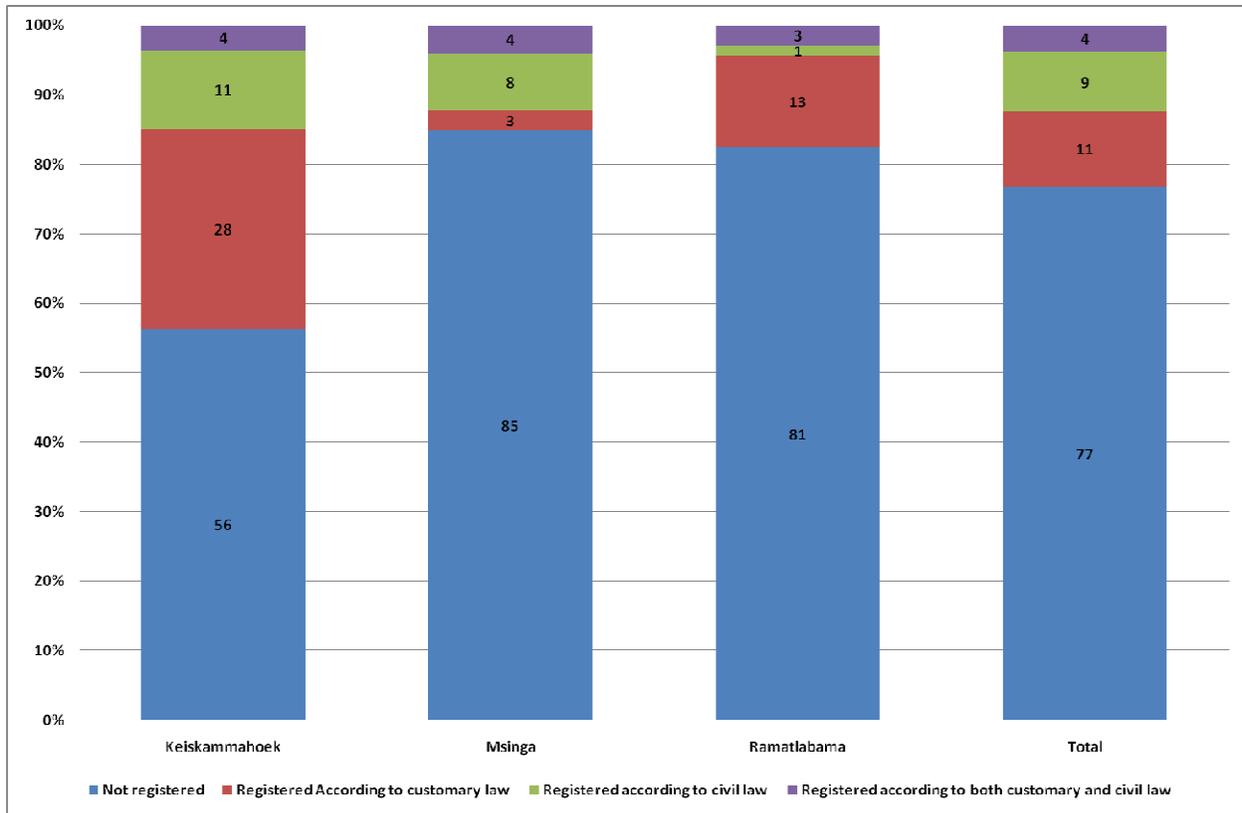


Figure 11: Registration of customary marriages

In 1998, the South African parliament passed the Recognition of Customary Marriages Act. This Act was intended to place those married under customary law on a more equal footing with those with civil marriages (with the latter including marriages conducted according to Christian or Jewish rites). The 1998 Act provided the opportunity for customary marriages to be registered, but did not make registration compulsory.

Overall, of the 873 surveyed women who were in customary marriages, four out of every five reported that their marriage was not registered. A tenth of the women had marriages registered according to customary law, and approximately a tenth had marriage registered according to civil law. Less than 5% of the women reported that their marriages were registered according to both customary and civil law.

There were some differences in the patterns across sites. Non-registered customary marriages were most common in Msinga, while marriages registered according to customary law were most common in Keiskammahoek. In one of the report-back meetings in Msinga, participants noted that some families would not allow a husband who still owed some lobola payments to register their daughter as the wife of the man. The low rate of registration may thus reflect the high rate of incomplete (ukugana) marriages.

One of the main aims of this research project was to investigate whether and how women's access to and control over land had changed over time. Given the relationship between marital

status and access to and control over land, the related question arises of whether and how rates of marriage have changed over time.

Examination of census statistics reveals that rates of marriage among Africans have been declining since at least the 1960s (Mhongo & Budlender, unpublished manuscript). Further, over the period 1960 to 2001, the date of the most recent census, there was a larger increase in the reported numbers of never married people among women than among men. This pattern persists if analysis is restricted to those aged 50 years and above. Thus in 1960, 2.9% of African women aged 50 years and above were reported as never married, while in 1996 the percentage stood at 19.0% and in 2001 at 17.0%. This pattern suggests that the decline is not simply a result of increased age at first marriage. Instead, greater numbers of women, in particular, are remaining unmarried throughout their lives.

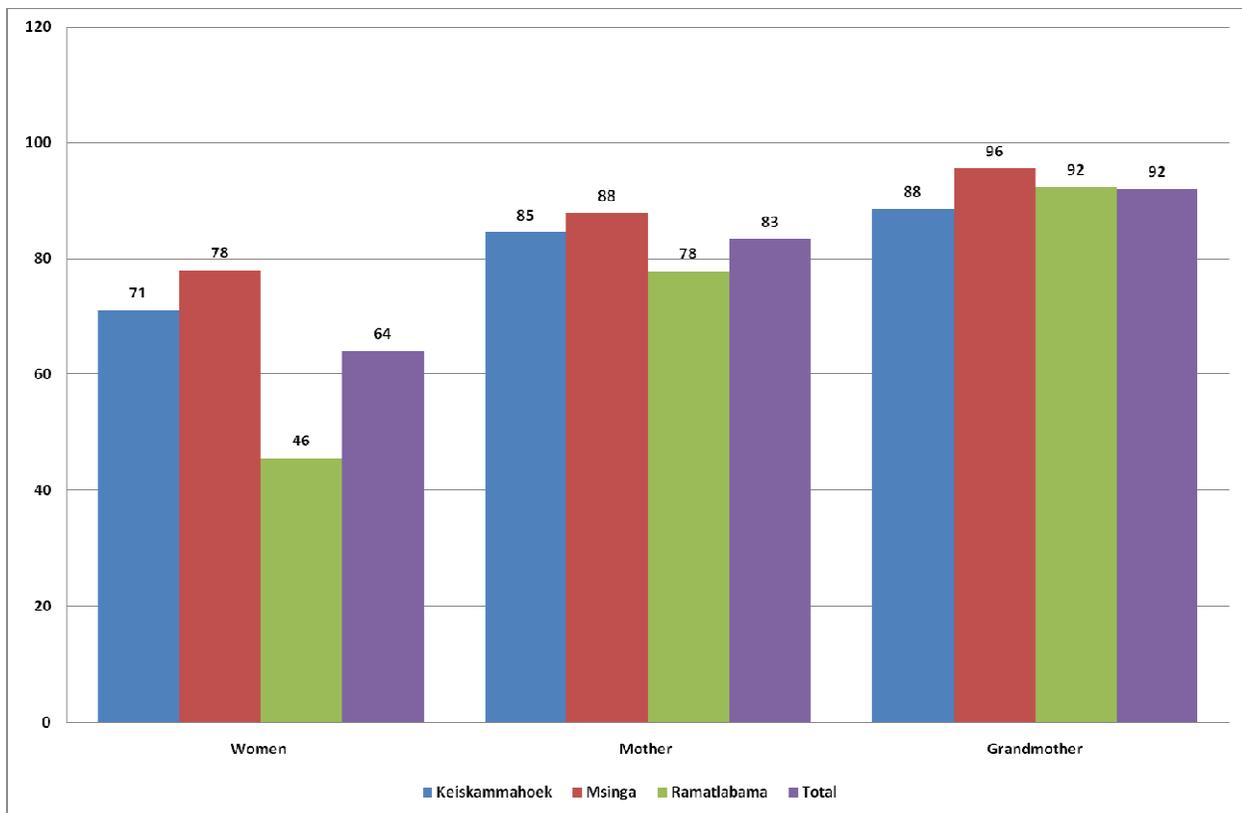


Figure 12: Percentage of women, mothers and grandmothers who were ever married (%)

To investigate this question, in the survey women were asked if their mother and grandmother had ever married. The figure above excludes those who said they did not know the marital status of their mother or grandmother.

Of the women who knew their mother's and maternal grandmother's marital status, over four fifths of the women in each site reported that their grandmothers had been married at some point and more than three quarters reported that their mothers were married at some point.

The rate of marriage thus decreased from the grandmothers to the respondents themselves, as only two thirds of the women reported that they themselves had been married. The same pattern was found across all three sites. This provides some support for the hypothesis that rates of marriage have fallen over time. Overall the evidence is not conclusive as some of the never married women – as well, perhaps, as some of the never married mothers – might still marry. Nevertheless, the large difference between the proportion of women in Ramatlabama who were married and those who reported that their mothers and grandmothers had been married at some point provides a strong indication that at least in this area the rate of marriage has fallen over time.

In both Msinga (i.e. Zulu custom) and Keiskammahoek (Xhosa practice) the anthropological literature suggests that, on marriage, a woman moves to the homestead of her husband's family. Usually the couple will live with the husband's father for some years, after which they might be given land to establish their own homestead. In Ramatlabama (Tswana practice), the literature suggests that the husband might move for some time to the homestead or area of the woman's family. However, where this happens the couple will subsequently move to the homestead or area of the husband's family. In other cases, as with Xhosa or Zulu marriages, the couple will move to the husband's area immediately on marriage.

The anthropological literature suggests that when a woman is widowed, she will generally stay in her deceased husband's area. However, where a marriage breaks down the woman will often move back to her parental homestead. Traditionally, the woman's father (or family, if the father is deceased) would then be expected to give back the cattle paid as bridewealth. The focus groups also suggested that when, on widowhood, the woman is dispossessed of land by her in-laws, she might also move back to her parental homestead.

The questionnaire included several questions that investigated the extent to which these patterns were reflected among the women surveyed. Some questions were asked in respect of the homestead itself, while other questions were framed in terms of the area in which the parental or husband's family's homestead was located.

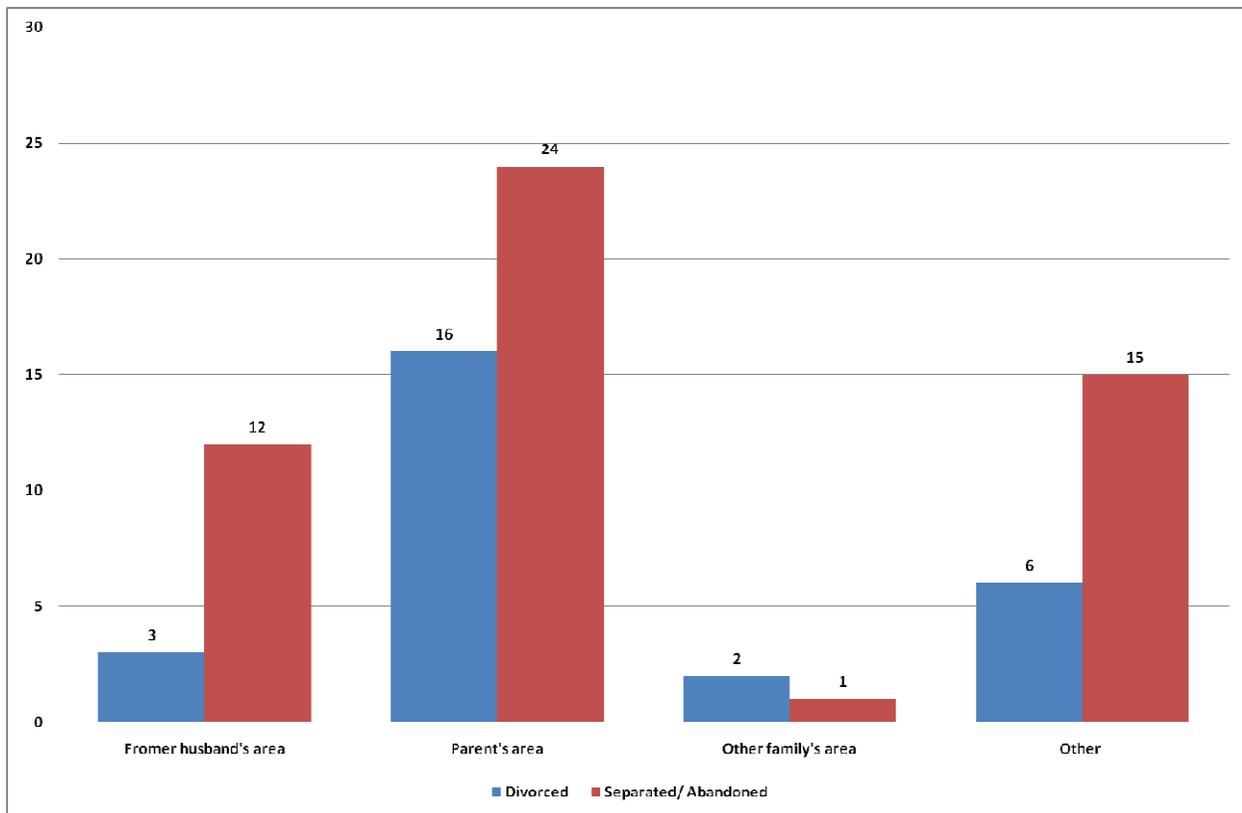


Figure 13: Area of residence of divorced, separated or abandoned women

Women who reported that they were divorced, separated or abandoned were asked about the area in which they lived. Of the 79 women who were divorced, separated or abandoned, 40 reported that they lived in their parents' area. This finding, which relates to only about half the divorced, separated or abandoned women, accords with the anthropological literature. A further 15 women reported that they lived in their former husband's area, and only one woman said that she lived in another family's area. Divorced women were less likely to live in their former husband's area than women who were separated or abandoned.

This left 23 women who did not live in any of the areas pre-specified on the questionnaire. Women who reported living in "other" areas included those living in their own homes and one living in a neighbour's home. This finding suggests that there are perhaps more options open to today's women than existed in the past.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|-----------------------|---------------|--------|-------------|-----------|
| Former husband's area | 2 | 1 | 9 | 12 |
| Parent's area | 22 | 7 | 14 | 43 |
| Other family's area | 2 | 0 | 1 | 3 |
| Other | 5 | 5 | 11 | 21 |
| Total | 31 | 13 | 35 | 79 |

Table 25: Area of residence of divorced, separated or abandoned women by site

The above patterns related to all three areas combined. As always, we are also interested in differences across the three sites. Table 25 combines divorced, separated or abandoned women so as to avoid very small sample size, and compares the current area of residence of these categories combined across sites. The number of women involved is small even after combining the categories, and the findings must thus be treated with caution. The table shows that two fifths of this category of women in Ramatlabama reported that they lived in their parent's area, while over two thirds reported this in Keiskammahoek. This suggests that there might be more other options open to women in Ramatlabama than in Keiskammahoek. In Msinga the numbers of women in this category are too small to allow generalisations.

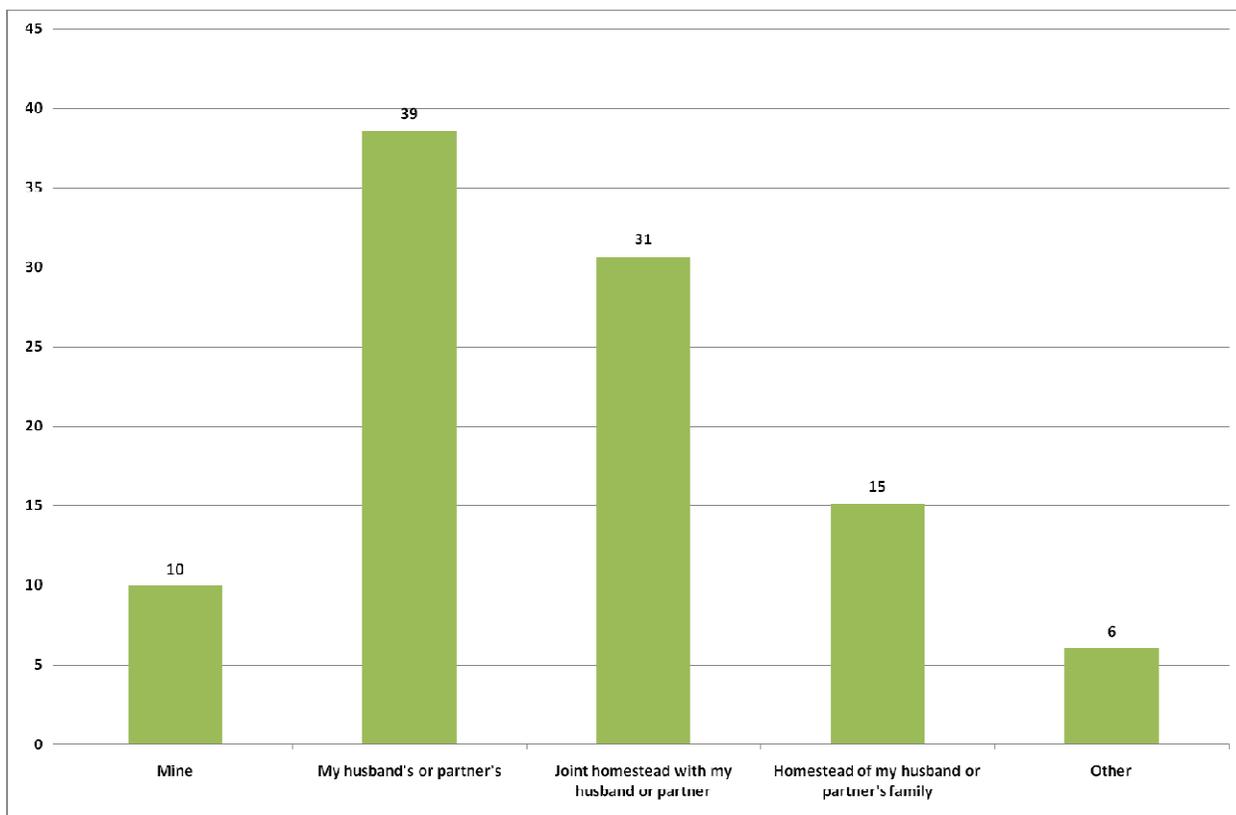


Figure 14: "Owner" of the homestead where women, married or in a stable relationships were living (%)

Married and widowed women as well as those in other forms of stable relationships were asked whose homestead they were living in. (We at times use the term "owner" to refer to the person/s the women named in response to this question although strictly speaking the homestead will often not be "owned" in the private property sense in which this word is usually used.) Approximately two out of every five of these ever married women and women in some other form of relationship reported that they lived in the homestead of their husband or partner. About a third reported that they lived in a homestead that belonged jointly to them and their husband or partner. One out of every ten women reported that the homestead in which they lived belonged to them, while 15% say they were living in the homestead of their husband's or partner's family (rather than the husband/partner's own homestead). These patterns confirm

that in the majority of cases – but certainly not all – married and widowed women live in their husband’s area, either in the homestead of their husband’s family, or in a homestead established through the marriage.

As noted above, 110 women who reported that they were married, did not record any person as husband when listing the absent and present members of the homestead. Nevertheless, 26% of these women reported that they were living in their husband’s homestead, 27% reported that they were living in the joint homestead of their husband and themselves, and 11% reported that they were living in the homestead of their husband’s family. The percentage reporting that they lived in their own homestead – at 19% - was, however, higher than that for all married and widowed women combined. In addition, 14% of the women said that they were living in their parents’ homestead. Members of this latter group, in particular, do not seem to be firmly in a marriage.

Going back to the full sample, the following table compares the situation across the three sites for women who were or had been in stable relationships. It shows that women in Keiskammahoek were most likely to say that it was their own homestead, while those in Msinga were least likely to say this. Conversely, women in Msinga were most likely to say that the homestead was that of their husband or partner while those in Ramatlabama were least likely to say this. Joint homesteads with the husband were most commonly reported in Ramatlabama. The patterns confirm that women in Msinga are least likely to consider the homestead as belonging to them, whether individually or together with their husband. Women in Ramatlabama are most likely to see the homestead as belonging to them, whether individually or together with their husband.

| | Keiskammahoek | | Msinga | | Ramatlabama | | Total | |
|--|---------------|-----|--------|-----|-------------|-----|-------|-----|
| | N | % | N | % | N | % | N | % |
| Mine | 103 | 15 | 36 | 5 | 47 | 10 | 186 | 10 |
| My husband’s or partner’s | 193 | 29 | 469 | 62 | 80 | 17 | 742 | 39 |
| Joint homestead with my husband or partner | 259 | 39 | 38 | 5 | 279 | 59 | 576 | 30 |
| My parents’ homestead | 24 | 4 | 16 | 2 | 22 | 5 | 62 | 3 |
| My brother’s homestead | 1 | - | - | - | 1 | - | 2 | - |
| Homestead of husband or partner’s family | 79 | 12 | 191 | 25 | 20 | 4 | 290 | 15 |
| Other | 12 | 2 | 8 | 1 | 24 | 5 | 44 | 2 |
| Total | 671 | 100 | 758 | 100 | 473 | 100 | 1,902 | 100 |

Table 26: “Owner” of homestead by site

The next table disaggregates the analysis into the three broad age groups used previously. It shows that the younger women in stable relationships were more likely to say that the homestead belonged to the family of their husband or partner, while older women were more likely to say that the homestead belonged to their husbands or partners. This pattern is expected. It reflects the likelihood that women, when first married, move into the homestead of

their husband's family. After some years, however, the couple – or the husband – may be granted their own homestead.

| | 18-29 | | 30-49 | | 50+ | | Total | |
|--|-------|-----|-------|-----|------|-----|-------|-----|
| | N | % | N | % | N | % | N | % |
| Mine | 1 | 1 | 28 | 4 | 157 | 15 | 186 | 10 |
| My husband's or partner's | 39 | 30 | 275 | 38 | 428 | 41 | 742 | 39 |
| Joint homestead with husband or partner | 7 | 5 | 209 | 29 | 360 | 35 | 576 | 30 |
| My parents' homestead | 4 | 3 | 33 | 5 | 25 | 2 | 62 | 3 |
| My brother's homestead | 0 | 0 | 2 | 0 | 0 | 0 | 2 | 0 |
| Homestead of husband or partner's family | 73 | 56 | 157 | 22 | 60 | 6 | 290 | 15 |
| Other | 7 | 5 | 24 | 3 | 13 | 1 | 44 | 2 |
| Total | 131 | 100 | 728 | 100 | 1043 | 100 | 1902 | 100 |

Table 27: "Owner" of homestead by age

Table 27 also shows that older women are much more likely than younger women to say that the homestead belongs to them. This age pattern could in part reflect the fact that older women were more likely to be widowed. We therefore differentiate between married and widowed women so as to be able to compare the patterns for each group.

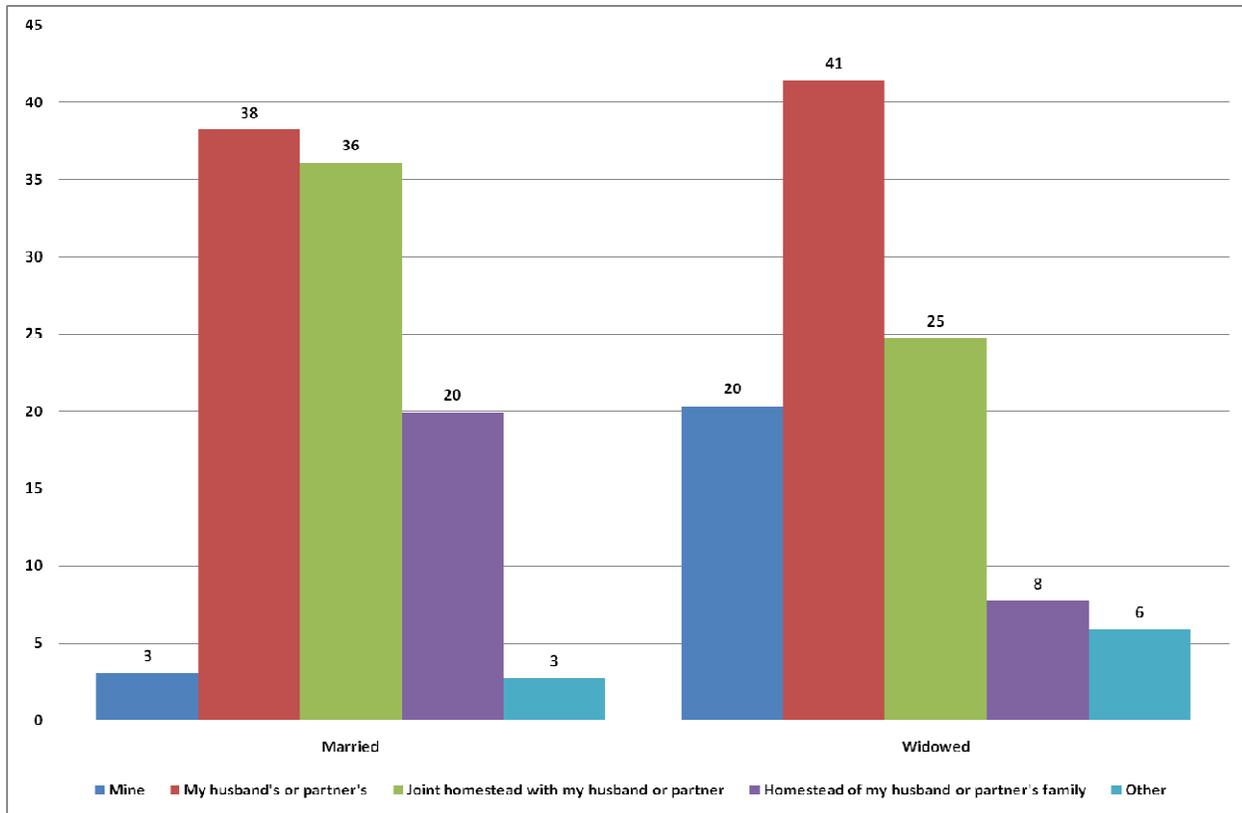


Figure 15: “Owner” of homestead for married & widowed women (%)

The above figure shows that approximately two fifths of the women who were married reported that they lived in a homestead belonging to their husband or partner. Similarly, just over two fifths of the women who were widowed said they lived in a homestead that belonged to their partners.

However, differences arose between married and widowed women in respect of the other categories of homestead. Thus more than one in every three married women reported that they lived in a homestead that belonged to both them and their husband or partner while only a quarter of the widowed women lived in a homestead that belonged to them and their husband or partner. An even bigger difference is found in terms of women saying that the homestead was their own. This was reported by only 3% of the married women but by 20% of the women who were widowed. Further, a fifth of the married women said they lived in the homestead of their husband’s or partner’s family, but only 8% of those who were widowed.

If we compare across sites, in Msinga only 1 of the 453 married women said that it was their own homestead, while less than a tenth of the married women in Keiskammahoek reported that the homestead was theirs and less than 5% of women in Ramatlabama reported this. Among divorced women, over 1 in every 10 women in Msinga said that the homestead was their own, compared to more than a quarter of the women in Keiskammahoek and 23% in Ramatlabama.

| | Keiskammahoek | | Msinga | | Ramatlabama | | All sites | |
|---------|---------------|----|--------|----|-------------|----|-----------|----|
| | N | % | N | % | N | % | N | % |
| Married | 25 | 7 | 1 | 0 | 5 | 2 | 31 | 3 |
| Widowed | 76 | 28 | 33 | 11 | 35 | 23 | 144 | 20 |

Table 28: Married and widowed women who reported that the homestead was theirs

In order to get a sense of possible changes over time in where women lived, we asked the respondent women in whose area their biological mother and maternal grandmother were living either currently or at the time of their respective deaths.

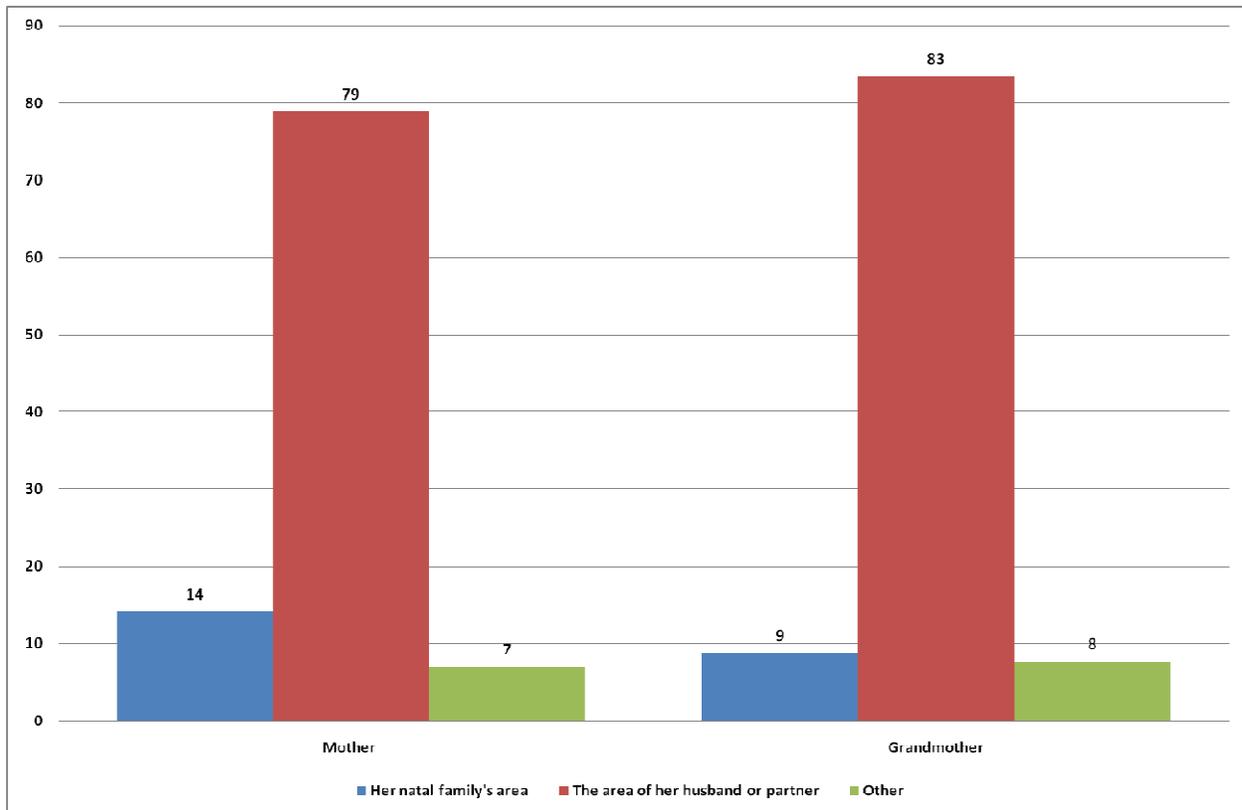


Figure 16: Area of residence of respondent's biological mother and grandmother

The majority of women reported that their mothers and grandmothers either at the time of the study or at the time of their death were living in the areas of their husbands or partners. Slightly more mothers than grandmothers lived in their natal family's area. This might be the result of declining rates of marriage.

Comparing across sites, mothers in Msinga were the most likely to live in the area of the husband or partner while mothers in Ramatlabama were the least likely. For grandmothers, those in Msinga were most likely to live in the area of their husband or partner while grandmothers in Keiskammahoek were least likely. These patterns confirm Msinga as having higher rates of marriage than the other two sites.

| | Keiskammahoek | | Msinga | | Ramatlabama | |
|---------------------------------|---------------|-------------|--------|-------------|-------------|-------------|
| | Mother | Grandmother | Mother | Grandmother | Mother | Grandmother |
| Her natal family's area | 19 | 14 | 7 | 4 | 17 | 9 |
| The area of her husband/partner | 78 | 77 | 90 | 94 | 71 | 80 |
| Other | 4 | 9 | 3 | 2 | 12 | 12 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 |

Table 29: Area of residence of respondent's mother and grandmother by site (%)

The homestead's land

An individual women's access to and control over land cannot be considered in isolation. It must, instead, be seen against the background of the homestead's access to land, including when and how the land was acquired, and what types of land it includes. The questionnaire thus included a section that probed these issues before asking about the women's personal use of and control over the different types of land.

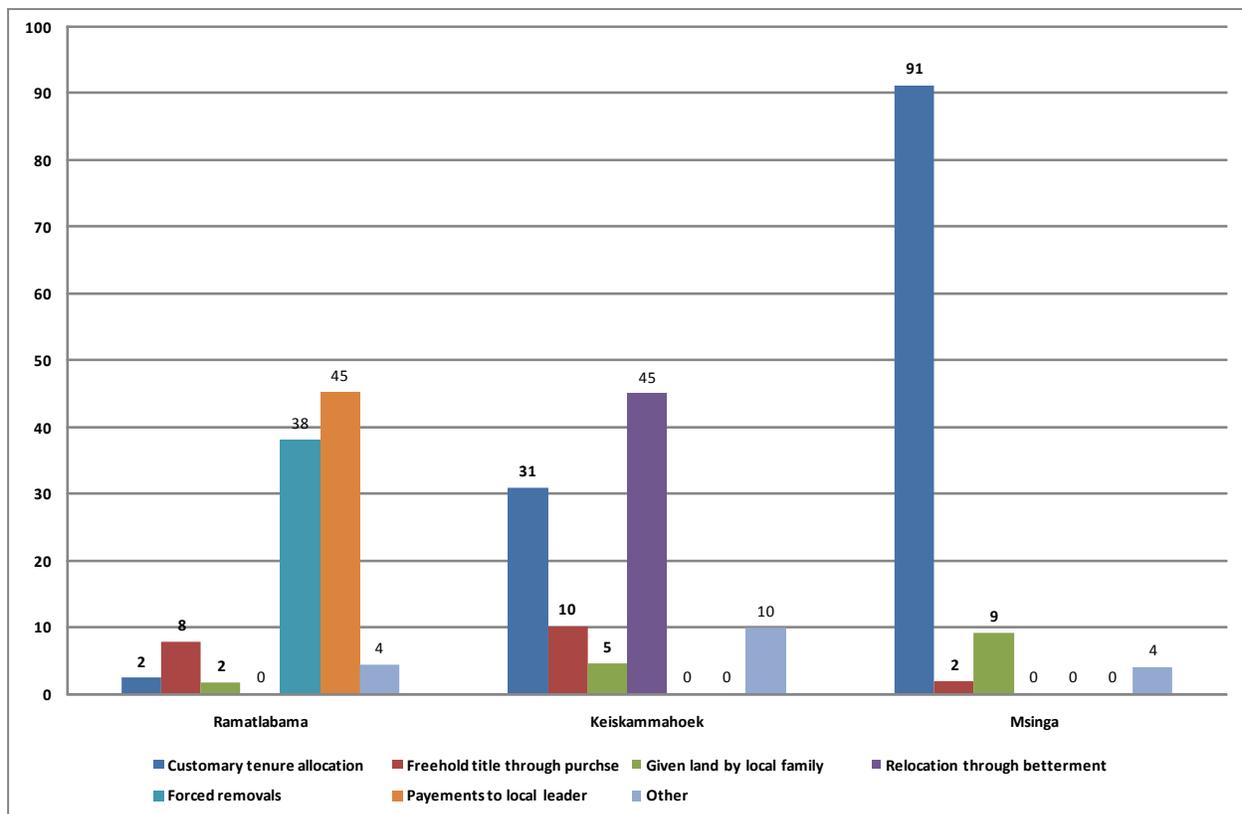


Figure 17: Homestead's land tenure status [Multiple response]

In the first question in this section women were asked to explain the arrangements through which the homestead had gained access to its land.

Figure 17 reveals that the arrangements in terms of which land was acquired differed markedly across areas. Here, as with some other questions, combining the answers from the three sites did not provide a useful picture as the combined picture was dissimilar to each of the three sites. The patterns reflect the very different histories of the three areas in terms of land dispossession and tenure.

The differences were already stark in terms of customary tenure, which some might expect to be the most common means in rural areas. However, while 91% of women in Msinga said that the homestead's land was obtained in this way, a much smaller 31% in Keiskammahoek and only 2% in Ramatlabama did so. In Keiskammahoek there is, in fact, no longer any customary tenure, and this option was used instead for those who indicated the land was said to be acquired through the chairperson or committee. This approach was taken in line with our understanding that the current practice in Keiskammahoek can be seen as an evolved form of the previous customary practice. Relocation through betterment was given as a response only in Keiskammahoek, where it was named by 45% of women. This reflects the colonial history, whereby there was large-scale implementation of this approach in the middle of the twentieth century in this area, but only minimal implementation in Msinga. The approach was not relevant for Ramatlabama as the forced removal to this area occurred after the betterment period. Freehold title through purchase was also found mainly in Keiskammahoek. Again, this was an approach introduced during colonial times.

Forced removals and payments to local leaders were named only in Ramatlabama, where they were offered as the means of acquisition of homestead land by 38% and 45% of the women respectively. As briefly outlined above, the forced removals occurred in the late 1970s. Payments to local leaders are a more recent phenomenon, although some would argue that they mimic the "khonza" fee that is sometimes paid when land is acquired from a chief or headman through customary tenure.

Multiple responses were permitted for this question, but only 85 women (3% of the total) named two arrangements. More than three-quarters (66) of those naming more than one type of land were from Msinga. The most common combination was customary tenure together with being given land by a local family.

The women were then asked which types of land the homestead had. The pre-specified options offered were garden plots within the homestead, fields, irrigation scheme plots, project garden plots, and additional land reform land. It was assumed that all homesteads had access to residential land. In practice, there is not always a sharp distinction between garden plots and fields in that both may be used to grow similar crops. However, garden plots will generally be located near to the dwelling, while fields might be further away. As with other questions, we used local words for the two types of land and left the decision to the woman how to classify particular pieces of land to which the homestead had access.

Several of the pre-specified options were included because they were relevant for a particular site. Thus irrigation scheme plots were included because they were particularly relevant for

Msinga. Project garden plots were also added for Msinga but were, in fact, reported across all three sites. We exclude these types in some of the analysis below both because of the relatively small numbers involved, and because we cannot compare patterns across sites for them.

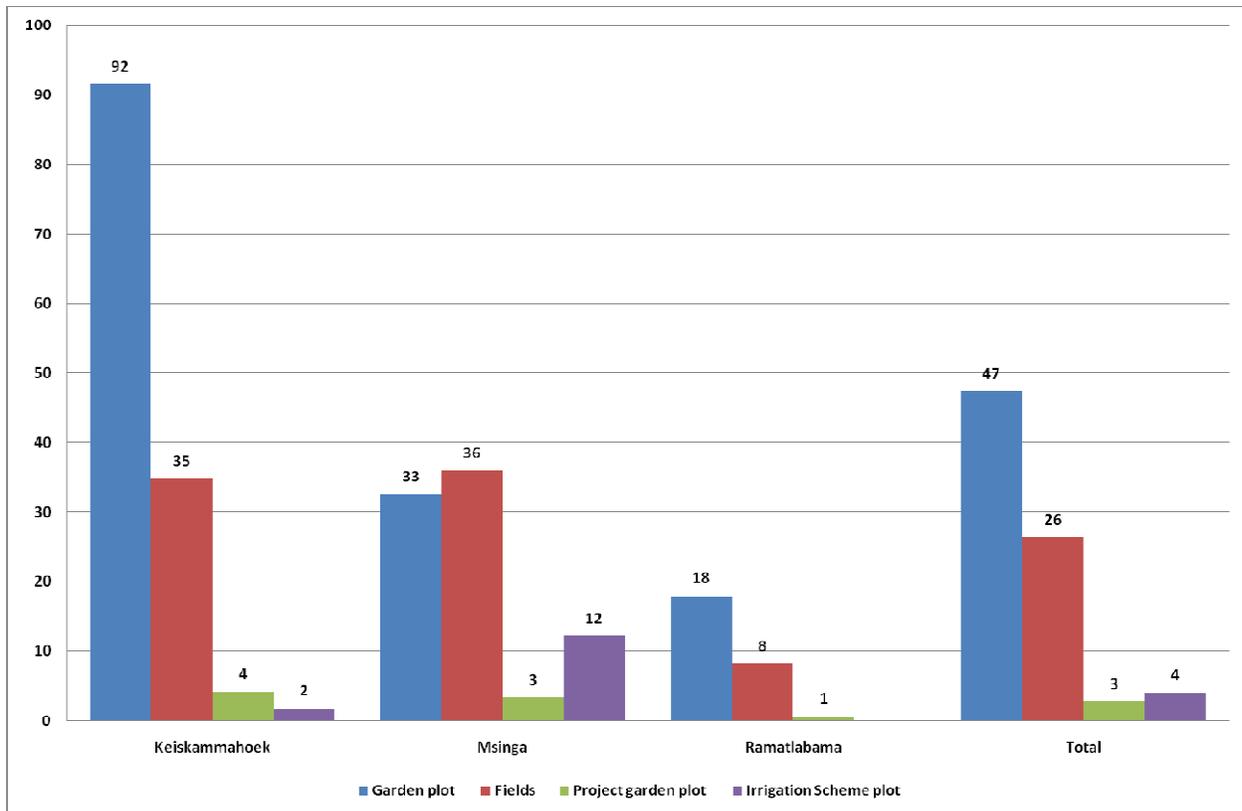


Figure 18: Homestead's access to land (%)

Almost half of the woman reported that their homesteads had access to garden plots and just over a quarter of the homesteads had access to fields. Very few homesteads had access to project garden plots and irrigation scheme plots.

Comparing across sites, access to garden plots was most common in Keiskammahoek, with 92% of women reporting that they had access to this type of land. It was least common in Ramatlabama with only 18% of women reporting this. Access to all types of land was least common in Ramatlabama, as access to fields was only reported by 8% of the women in Ramatlabama compared to 35% and 36% in Keiskammahoek and Msinga respectively. Access to irrigation scheme plots was, as expected, most common in Msinga while none of the women in Ramatlabama reported having access to this type of land. Thus 87% of the women whose homesteads had access to irrigation scheme plots were from Msinga.

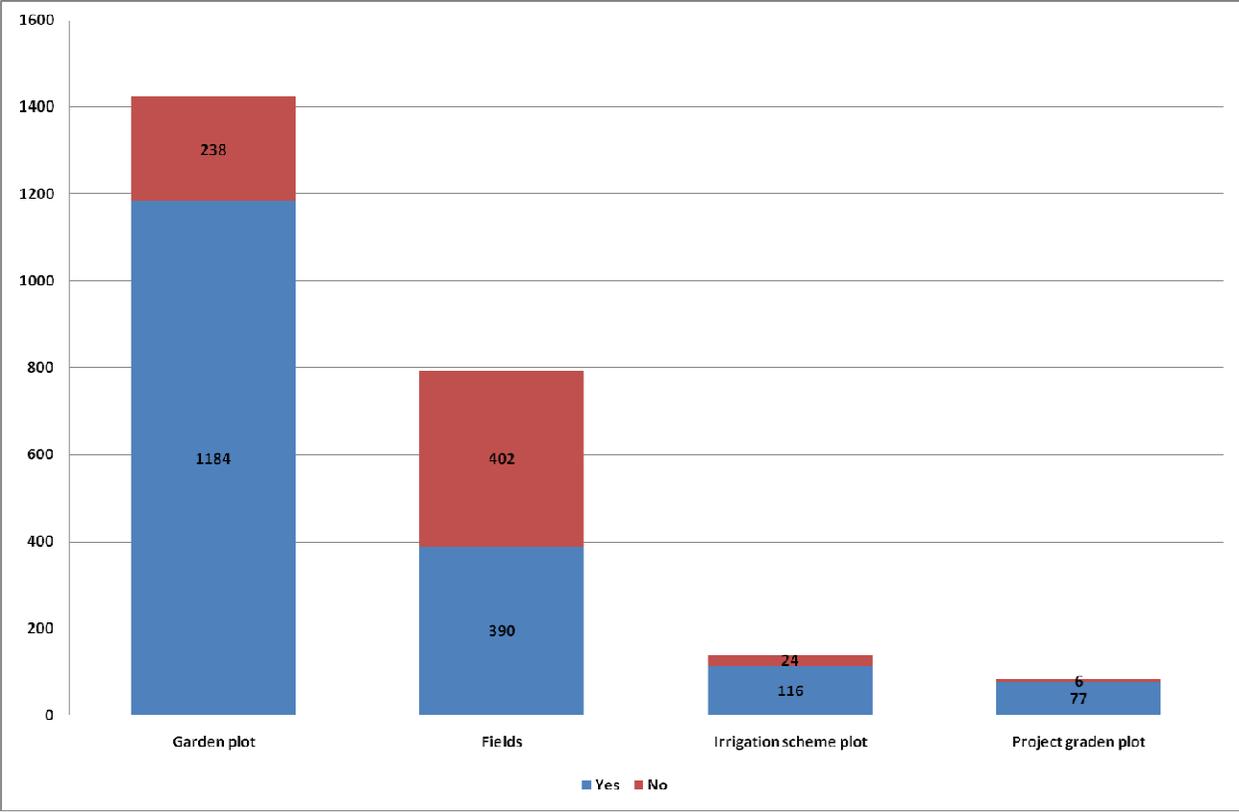


Figure 19: Homestead's usage of available land over past 12 months

Women were asked whether the homestead had used the various types of land to which it had access in the 12 months preceding the interview. The majority (83%) of the 1,422 women whose homesteads had access to garden plots said that the homestead had used the plot over the past 12 months. Less than half of those who reported that their homesteads had access to fields said that the homesteads used the fields in the 12 months preceding the study while of the 140 women who had access to irrigation scheme plots, more than four fifths had used them. Of the women whose homesteads had access to project garden plots, almost all reported that they had used it in the past 12 months. The question of why so many of the homesteads who had access to particular types of land did not use it was pursued in post-survey focus groups, and is reported on elsewhere in this report.

| | Keiskammahoek | | Msinga | | Ramatlabama | | Total | |
|-------------|---------------|----|--------|----|-------------|----|-------|----|
| | N | % | N | % | N | % | N | % |
| Garden plot | 723 | 79 | 292 | 90 | 169 | 94 | 1,184 | 83 |
| Fields | 103 | 30 | 227 | 63 | 60 | 72 | 390 | 49 |

Table 30: Homestead's usage of land by site

Table 30 shows the patterns in respect of use of the different types of land across the three sites in respect of garden plots and fields. It shows that almost all (94%) of the women who reported having access to garden plots in Ramatlabama, had used them in the 12 months preceding the study, compared to the 90% in Msinga and 79% in Keiskammahoek.

Of the women who had access to fields, Ramatlabama had the highest percentage (72%) of women who reported that the fields had been used in the 12 months prior to the study. This figure includes those whose homestead had been allocated portions of communal fields which they rented out to white farmers to use rather than working on it themselves. In comparison, 63% of the women in Msinga reported that the fields had been used in the 12 months prior to the study and only 30% in Keiskammahoek. However, in absolute terms far fewer women in Ramatlabama than in other areas reported that their homesteads had used fields in the past 12 months as so few in relative terms had access to fields.

Women were asked when each of the different types of land was acquired. This was a key question that is utilised below to compare patterns of land acquisition before and after the 1994 elections. But the question is also useful more broadly in illustrating the duration of the homestead's access to different types of land.

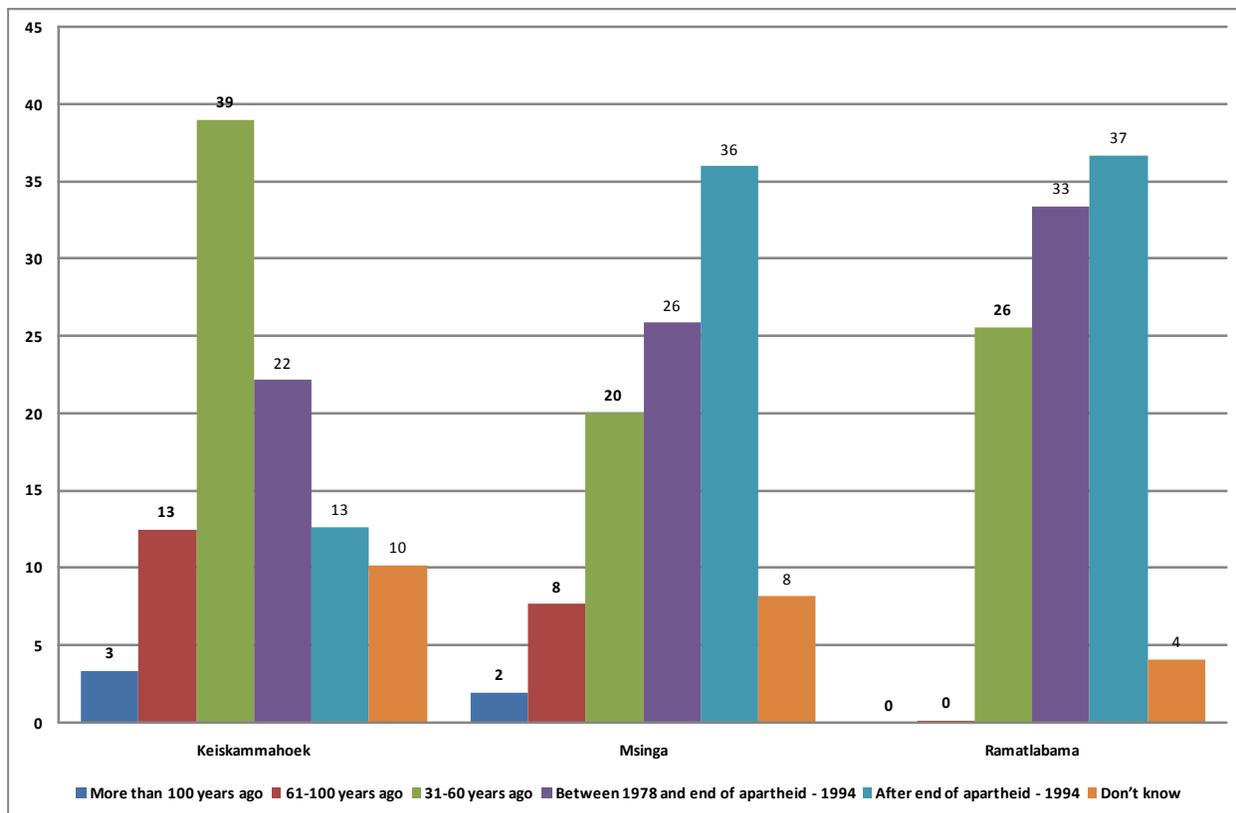


Figure 20: Time period in which the homestead's residential plot was first acquired

Less than a tenth of the residential plots were acquired more than 61 years ago. Well over a quarter of the women reported that the residential plots were acquired 31-60 years ago. Just over a quarter of the women reported that their homestead's land was acquired between 1978 and the end of apartheid. More than a quarter also reported that their homesteads were acquired after the end of apartheid in 1994.

Figure 20 confirms that the combined picture hides substantial differences across the three sites. In particular, the dates are biased towards earlier periods in Keiskammahoek when compared to the other two sites, while Ramatlabama has virtually no women reporting acquisition in the first two periods. Again, these patterns reflect the different land histories of the various sites. This is illustrated if we tabulate the time period in which the residential plot was first acquired against the arrangements by which the land was acquired. To simplify the analysis, we focus on four forms of acquisition, namely customary tenure allocation, relocation through betterment, payments to local leader and forced removals. We will also limit our focus to two time periods - before and after 1994. (In analysing this table, we must remember that in Keiskammahoek the customary tenure option was used for allocation through the chairperson or committee as there is no customary tenure in the area.)

Approximately a third of the residential plots that were acquired through customary tenure allocation were reported to have been acquired after the end of apartheid and over half were reported as acquired before the end of apartheid. These differences within customary tenure could, at least in part, reflect the difference between those living in parental or in-laws' homesteads and those who have, whether together with partners or separately, established their own homesteads. Over four fifths of the residential plots that were acquired through relocation through betterment were acquired before the end of apartheid and only 5% were reported to have been acquired after the end of apartheid. If the women who did not know when the land was acquired are excluded, 95% of land acquired through betterment was reported as having been acquired pre-1994. (Women were presumably more likely to say that they did not know the date of acquisition if this had happened in the more distant past. Supporting this assumption is the fact that younger women were more likely than older ones to report that they did not know when land had been acquired.)

Acquisition of residential plots through payment to the local leader was only found in Ramatlabama and in over half of these cases the land was acquired after the end of apartheid. Similarly, acquisition of residential plots through forced removals was only found in Ramatlabama and in over 90% of these cases the land was reported to have been acquired before the end of apartheid.

The fact that some women reported betterment and forced removal after 1994 results from the approach adopted in this research, where fieldworkers were instructed not to argue with respondents who provided answers that to them seemed incorrect. Instead, fieldworkers could gently query responses that were surprising, but were instructed to record diligently whatever the woman herself saw as the correct answer that reflected her reality.

| | Customary tenure allocation | | Relocation through betterment | | Payment to local leader | | Forced removals | |
|------------|-----------------------------|-----|-------------------------------|-----|-------------------------|-----|-----------------|-----|
| | N | % | N | % | N | % | N | % |
| Pre-1994 | 743 | 60 | 391 | 86 | 183 | 40 | 355 | 93 |
| Post-1994 | 403 | 32 | 22 | 5 | 254 | 56 | 24 | 6 |
| Don't know | 99 | 8 | 40 | 9 | 15 | 3 | 2 | 1 |
| Total | 1,245 | 100 | 453 | 100 | 452 | 100 | 381 | 100 |

Table 31: Time period and land tenure status

Below we tabulate the “owner” of the homestead of married women and those in stable relationships (1,901 women) against the time period in which the residential plot was first acquired. Of the women who reported that the land was acquired pre-1994, 9% said it was theirs, 37% said it was their husband or partner’s, and 16% said it belonged to the family of their husband or partner. Of the women who reported that the land was acquired after 1994, 11% said that it was theirs, almost half (47%) said it was their husband or partner’s, and 8% said it belonged to the family of their husband or partner. This provides weak support for the hypothesis that land acquired more recently was more likely to be claimed by the woman as belonging to her.

| | Pre-1994 | | Post-1994 | | Don't know | |
|---|----------|-----|-----------|-----|------------|-----|
| | N | % | N | % | N | % |
| Mine | 110 | 9 | 64 | 11 | 12 | 9 |
| My husband's or partner's | 451 | 37 | 244 | 43 | 47 | 35 |
| Joint homestead with my husband or partner | 377 | 31 | 181 | 32 | 17 | 13 |
| My parents' homestead | 47 | 4 | 13 | 2 | 2 | 1 |
| My brother's homestead | 1 | - | 1 | - | - | - |
| Homestead of my husband or partner's family | 196 | 16 | 46 | 8 | 48 | 36 |
| Other | 22 | 2 | 14 | 2 | 8 | 6 |
| Total | 1,204 | 100 | 563 | 100 | 134 | 100 |

Table 32: Time period and "owner" of the homestead's residential plot of women in stable relationships

As discussed further below, the questionnaire asked, for each type of land, through whom the land was first acquired. The following table compares the person responsible for acquiring the homestead’s residential plot for all women against the time period in which it was acquired. Two fifths of the women who reported that they were responsible for acquiring the residential plot said it was acquired

before 1994 and over half said it was acquired after 1994. Two fifths of women who reported that they and their husbands or partners were responsible for acquiring the residential plot said it was acquired before 1994 and almost a third said it was acquired after 1994. Among those who said they and their husband together acquired the plot, an even larger percentage (66%) said the land was acquired pre-1994. This again provides some support for the hypothesis of women more likely to acquire land post 1994.

| | Me | | My husband or partner | | My husband and I | | My parents | | My father | | My mother | | My husband's family | |
|------------|-----|-----|-----------------------|-----|------------------|-----|------------|-----|-----------|-----|-----------|-----|---------------------|-----|
| | N | % | N | % | N | % | N | % | N | % | N | % | N | % |
| Pre-1994 | 135 | 41 | 429 | 60 | 271 | 66 | 239 | 77 | 172 | 73 | 70 | 50 | 297 | 76 |
| Post-1994 | 189 | 57 | 250 | 35 | 133 | 32 | 59 | 19 | 49 | 21 | 58 | 42 | 41 | 11 |
| Don't know | 7 | 2 | 42 | 6 | 6 | 1 | 13 | 4 | 14 | 6 | 11 | 8 | 52 | 13 |
| Total | 331 | 100 | 721 | 100 | 410 | 100 | 311 | 100 | 235 | 100 | 139 | 100 | 390 | 100 |

Table 33: Time period and person responsible for acquiring the homestead's residential plot

Table 34 shows the percentage of never married, married, and widowed women reporting that the residential plot was acquired through them for the periods before and after 1994. (In this table the percentage before this date includes those who said that they did not know when the land was acquired on the assumption that women are less likely to know earlier dates.) This analysis provides a much clearer picture of change over time. For both never married and widowed women the percentage reporting that the residential plot was acquired through them is substantially higher for the post-1994 period. For married women there is minimal difference between the two time periods.

| | Before 1994 | After 1994 | Total |
|---------------|-------------|------------|-------|
| Never married | 8 | 33 | 15 |
| Married | 2 | 3 | 2 |
| Widowed | 10 | 42 | 17 |

Table 34: Percentage of women reporting plot acquired through them by marital status and period

Table 35 disaggregates the information by site. The table confirms substantial shifts between the two periods in who was responsible for acquiring the residential land for both never married and widowed women across all three sites.

| | Pre-1994 | Post-1994 | Total |
|---------------|----------|-----------|-------|
| Never married | | | |
| Keiskammahoek | 9 | 44 | 13 |
| Msinga | 3 | 11 | 5 |
| Ramatlabama | 9 | 40 | 20 |
| Widowed | | | |
| Keiskammahoek | 10 | 48 | 13 |
| Msinga | 9 | 41 | 18 |
| Ramatlabama | 15 | 41 | 22 |

Table 35: Women reporting plot acquired through them by marital status, period and site (%)

Among the never married women who said that the residential plot was not acquired by them, there was also a noticeable shift after 1994 in terms of who was responsible for acquiring the plot. Thus 25% of the never married women who had not acquired the plot themselves and where the plot was acquired after 1994 said their mother was responsible for acquiring it, compared to 9% who said their mother was responsible for acquiring plots that were acquired prior to 1994.

The survey thus provides strong and consistent evidence of marked changes in never married and widowed women's access to land before and after 1994. As explored below, these changes are to some extent mirrored in changes in the ways in which the land was acquired pre- and post-1994. The questionnaire explored this by asking, for each type of land that the homestead had, how this land was first acquired.

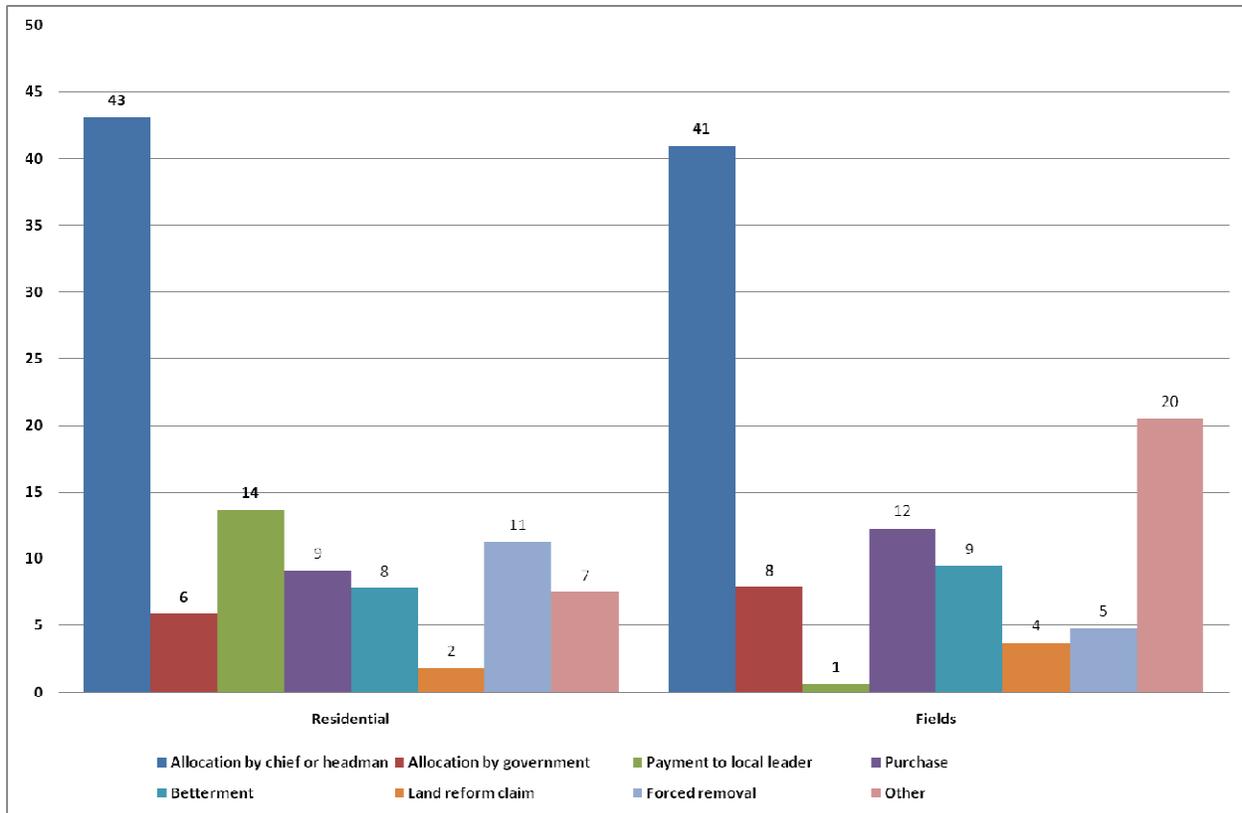


Figure 21: Ways in which homestead's land was first acquired

More than two out of every five women reported that the residential plot was acquired through allocation by the chief or headman, and almost the same proportion reported this for fields. As with the previous question, in Keiskammahoek this option was used to indicate allocation by the chairperson or committee as chiefs and headmen are not responsible for allocation of land. After allocation by the chief or headman, the next most common means of first acquisition – cited by over a tenth of the women – were payment to local leader and forced removals.

Comparing means of acquisition for residential plots and fields, payment to a local leader was much more uncommon for fields, as was forced removals. These patterns are expected as in Ramatlabama, where forced removals and payments to local leaders were common practices, there was much less access to fields than in the other two sites.

Choice of the unspecified “other” was much more common for fields than for residential plots. Of the women whose homesteads had access to fields, two out of every five said they were acquired through means “other” than those specified. These included inheritance, an agreement with the church or other community members and renting of the property.

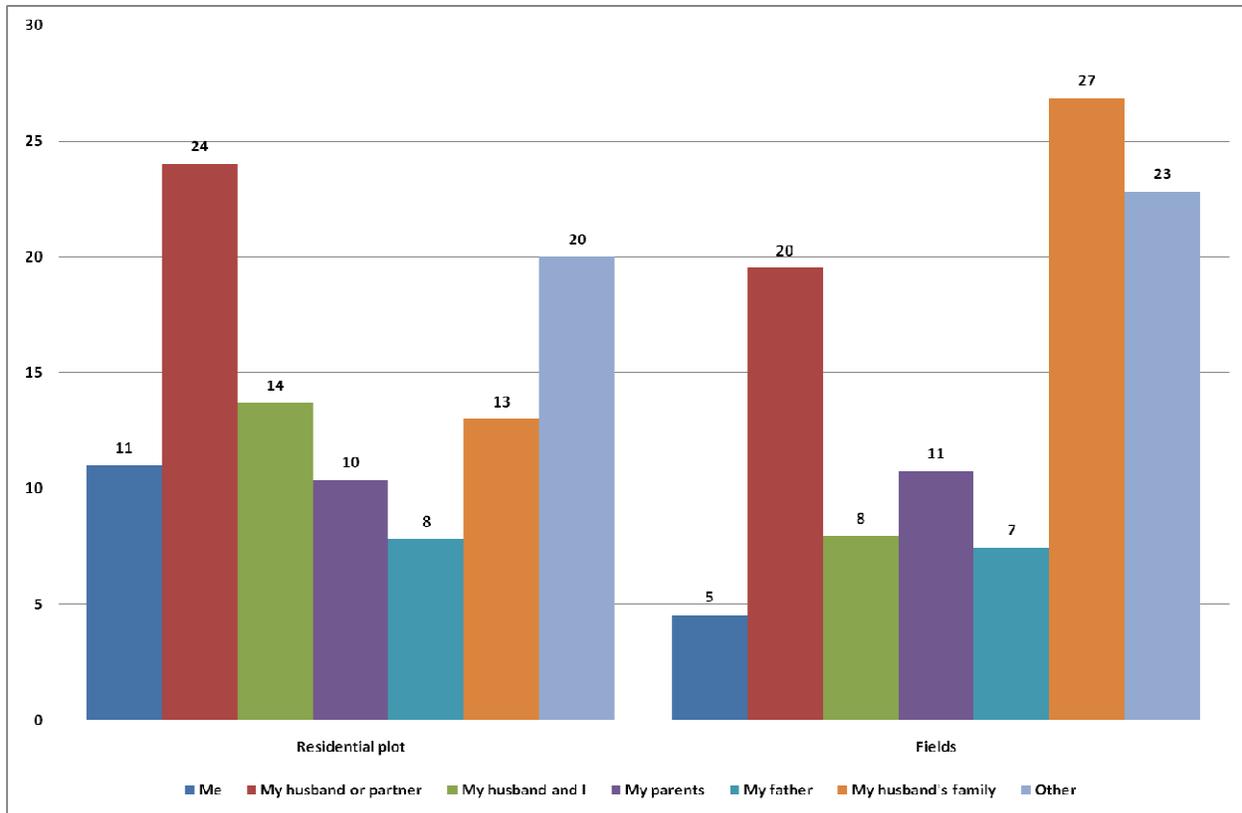


Figure 22: Person(s) responsible for acquiring the land

As noted above, the questionnaire also asked through whom each type of land was acquired. A quarter of the residential plots were reported to have been acquired by both the women and their husbands or partners, while a tenth were acquired by the women alone.

In contrast, over a quarter of the women said their husband's family was responsible for acquiring the homestead's fields and about a fifth said the fields were acquired by them and their husbands. Just over a tenth of the women reported that the fields were acquired by their parents, while only 5% said they themselves were responsible for acquiring the fields.

Comparing residential plots and fields, the woman was far less likely to name herself in respect of the fields than the residential plot, and far more likely to name her husband's family in respect of fields. More than a fifth of the women reported that the residential plot and fields were acquired through someone other than those shown in the figure. These other people include the women's mothers, grandparents, siblings and extended family.

Focusing in on residential plots and comparing across sites, we find that women in Ramatlabama were most likely to say that they were responsible for acquiring the residential plot while women in Msinga were least likely to report this. Women in Msinga were more likely to say that their husbands or partners were responsible for acquiring the residential plot while women in Ramatlabama were least likely to report this. These patterns in part reflect the different rates of marriage in the different sites.

| | Keiskammahoek | | Msinga | | Ramatlabama | | Total | |
|-----------------------|---------------|-----|--------|-----|-------------|-----|-------|-----|
| | N | % | N | % | N | % | N | % |
| Me | 97 | 10 | 80 | 8 | 154 | 15 | 331 | 11 |
| My husband or partner | 212 | 21 | 388 | 39 | 121 | 12 | 721 | 24 |
| My husband and I | 163 | 16 | 47 | 5 | 201 | 20 | 411 | 14 |
| My parents | 126 | 13 | 55 | 6 | 130 | 13 | 311 | 10 |
| My father | 46 | 5 | 83 | 8 | 106 | 11 | 235 | 8 |
| My mother | 36 | 4 | 31 | 3 | 72 | 7 | 139 | 5 |
| My husband's family | 177 | 18 | 193 | 19 | 20 | 2 | 390 | 13 |
| Other | 143 | 14 | 123 | 12 | 196 | 20 | 462 | 15 |
| Total | 1,000 | 100 | 1,000 | 100 | 1,000 | 100 | 3,000 | 100 |

Table 36: Acquisition of residential plot by site

Disaggregating by marital status and focusing on the three most common marital statuses, we find that widowed women were more likely than those who were married to say that they themselves acquired the plot and the married women were least likely to report this.

| | Never been married | | Married | | Widowed | |
|-----------------------|--------------------|-----|---------|-----|---------|-----|
| | N | % | N | % | N | % |
| Me | 147 | 15 | 26 | 2 | 122 | 17 |
| My husband or partner | 14 | 1 | 424 | 38 | 251 | 35 |
| My husband and I | 8 | 1 | 242 | 22 | 154 | 21 |
| My parents | 244 | 24 | 21 | 2 | 28 | 4 |
| My father | 176 | 17 | 31 | 3 | 17 | 2 |
| My mother | 105 | 10 | 12 | 1 | 12 | 2 |
| My husband's family | 9 | 1 | 268 | 24 | 100 | 14 |
| Other | 306 | 30 | 78 | 7 | 36 | 5 |
| Total | 1,009 | 100 | 1,102 | 100 | 720 | 100 |

Table 37: Acquisition of residential plot by marital status

Previous analysis revealed a marked shift among never married and widowed women in the likelihood of the women being the person through whom the residential land was acquired when comparing the pre- and post-1994 periods. These changes go together with changes in how the land was first acquired. For the sample as a whole, the percentage saying the residential land was allocated by a chief or headman was fairly constant, at 42% pre-1994 and 45% post-1994. In contrast, acquisition through payment to a local leader increased from 9% pre-1994 to 26% post-1994, while purchase increased from 2% to 6%. Payment to a local leader, with the biggest increase in percentage point terms, could be considered a hybrid mode somewhere “between” custom and freehold purchase. As expected, acquisition through betterment and forced removals was reported primarily for the pre-1994 period.

| How land acquired | Pre-1994 | Post-1994 | Total |
|--------------------------------|----------|-----------|-------|
| Allocation by chief or headman | 31 | 17 | 22 |
| Allocation by government | 12 | 2 | 6 |
| Payment to local leader | 17 | 42 | 32 |
| Purchase | 2 | 25 | 16 |
| Betterment | 3 | 0 | 1 |
| Asked local family | 3 | 8 | 6 |
| Land reform claim | 2 | 0 | 1 |
| Forced removal | 29 | 1 | 12 |
| Other | 2 | 5 | 3 |
| Total | 100 | 100 | 100 |

Table 38: Means of acquisition of residential land by never married women

If the analysis is restricted to never married women who said the land was acquired through them, Table 38 shows that the percentage allocated by the chief or headman falls from 31% to 17%, while the percentage allocated through payment to local leaders increases from 17% to 42%, and that allocated through purchase increases from 2% to 25%. As noted above, some would argue that payment to local leaders mirrors the customary practice of paying “khonza” fees for land.

Productive use of the land by the homestead

The above section explored the homesteads’ access to land. It included some indications of use – or lack of use – of the land. Before moving on to investigate the access, use and control of the homestead’s land by the woman herself, this section provides some further indications of the extent to which the land is being, and can be, used productively. In a crude way, this section also gives a sense of the “value” of the land. This is clearly an important consideration when we assess the significance of women being able to access, use and control of the land.

The responses to questions reported on below must be read with the understanding that the underlying fertility of the land varies across the three sites. As is evident from the post-survey focus groups discussed below, participants across all three areas claimed that lack of water was one of the most important reasons for non-use of available land. The South African Rain Atlas (<http://134.76.173.220/rainfall/index.html>, downloaded 17 October 2010) gives average annual rainfall of 648,6 mm for Mafikeng (relevant municipality for Ramatlabama) and 712,9 mm for Msinga compared to a lower 542,9 mm for Keiskammahoek. These averages suggest that Keiskammahoek is less fertile than the other two sites. However, the monthly averages show the mean falling to minimal amounts as low as 3,5 mm in Mafikeng and 10,0 mm in Msinga during the peak winter months. In contrast, in Keiskammahoek the variation is between 80,8 mm in March and 19,9 mm in June. Those who know the three areas would cite Keiskammahoek as the most fertile, followed by Msinga (at least in the summary), with Ramatlabama seen as largely unattractive for farming purposes.

Perceptions of the fertility of land are almost certainly influenced by expectations. Thus older focus group participants suggested that younger people were no longer willing to work the land, including because they were more educated and because they were interested in cash-related activities and products bought with cash. However, the extent to which there has been change over time might in some cases be exaggerated. Thus Mills and Wilson (1952: 66), writing about Rabula approximately 60 years ago, note that nearly one-third of the arable land was not being used. They argued that the reason was that many married men in this land-owning area preferred to work in town rather than as rural peasants. Because they owned land, they were not forced to use the land or otherwise lose access as those subject to other forms of tenure were at the time.

As will be seen below, there are many cases in which homesteads have land but respondents report that they have not used the land in the past 12 months. This phenomenon is puzzling, given the levels of poverty of these homesteads. However, the finding is to some extent expected as “under-farming”, where previously cultivated land is no longer used, has become an increasingly common phenomenon in rural (ex-homeland) areas of Eastern Cape and KwaZulu-Natal, as well as other provinces (Andrew et al, 2003). Reasons offered, many of them echoed in the focus groups, include shortage of labour, capital and inputs, soil erosion and damage by livestock, losses through lack of fencing, and lack of markets.

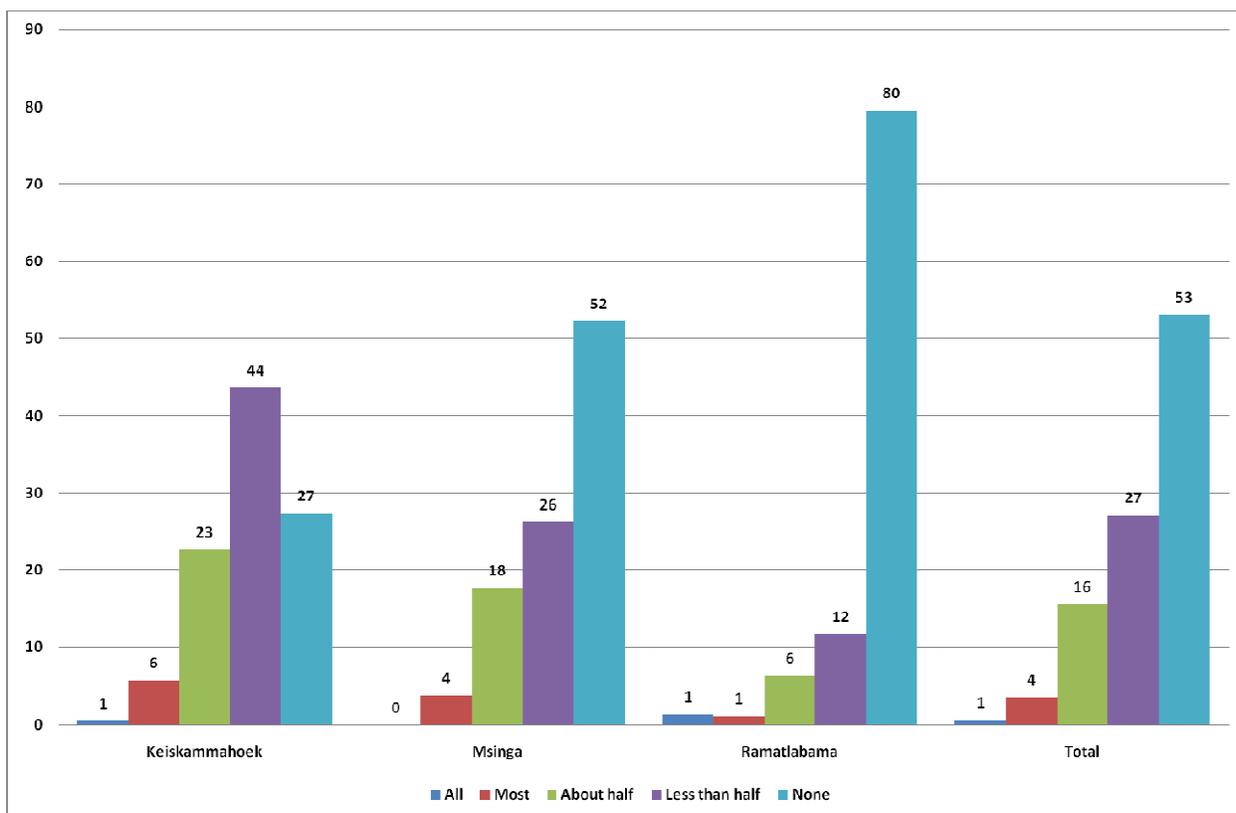


Figure 23: Amount of food that the homestead consumes that it produces itself

To get an indication of the extent to which the homesteads were able to rely on the land for part of their livelihood, respondent women were asked how much of the food that the homestead consumed was produced by the homestead itself. Overall more than half of the women reported that none of the food consumed by the homestead was produced by the homestead, over a quarter of the women said the proportion of food produced by the homestead was less than half of what was consumed and only 1% reported that all of the food consumed was produced by the homestead itself.

Ramatlabama homesteads were less likely to be involved in producing for own consumption than the other two sites with 80% of the women reporting that the homestead did not produce any of the food that it consumed, compared to 52% in Msinga and 27% in Keiskammahoek. This is not surprising given that Ramatlabama was reported to have the smallest proportion of homesteads with access to garden plots and fields.

Keiskammahoek had the highest proportion of homesteads that produced either half, most or all of the food that they consumed. Over two fifths (44%) of the women in Keiskammahoek reported that their homestead produced half of the food that was consumed, compared to 26% in Msinga and 12% in Ramatlabama. This is also not surprising given that Keiskammahoek had a very high proportion of women (92%) who reported having access to garden plots and over a third (35%) reporting having access to fields.

Comparing across the areas within the site, the homesteads in Cata were more self sufficient than those in the other two areas of Keiskammahoek, with 40% of the Cata women reporting that the homestead produced half or more than half of the food that it produced, compared to 24% in Ngqumeya and 24% in Rabula. This pattern almost certainly reflects the agricultural support which the Border Rural Committee has provided to the people of Cata.

| | Cata | Ngqumeya | Rabula | Total |
|----------------|------|----------|--------|-------|
| All | 2 | - | - | 1 |
| Most | 9 | 5 | 4 | 6 |
| About half | 29 | 19 | 20 | 23 |
| Less than half | 27 | 54 | 50 | 44 |
| None | 33 | 22 | 27 | 27 |
| Total | 100 | 100 | 100 | 100 |

Table 39: Amount of food that Keiskammahoek homesteads consume of what they produce themselves

In Msinga, the differences between sites were even greater. Encunjane had the highest proportion of women whose homestead's produced half or more than half of its food, with 64% of the women reporting this. Mashunka had the smallest proportion of women reporting this. These differences can be largely explained by variation in availability of arable land. For example, eMashunka is an overcrowded, rocky area in which there is very little arable land, Encunjane is a former labour tenant farm which has relatively low population density despite the return of some former people, SiJozini includes people who work on Tugela Ferry Irrigation

Scheme plots, and Nkaseni includes some irrigable land that was formerly farmed by white commercial farmers.

| | eMashunka | Encunjane | Enkaseni | Esijozini | Guqa | Kwangubo | Nomoyo | Total |
|----------------|-----------|-----------|----------|-----------|------|----------|--------|-------|
| All | - | - | - | - | - | - | - | - |
| Most | 1 | 10 | 5 | 7 | 4 | 5 | 2 | 4 |
| About half | 10 | 54 | 23 | 32 | 17 | 15 | 14 | 18 |
| Less than half | 16 | 15 | 13 | 30 | 36 | 36 | 25 | 26 |
| None | 73 | 21 | 60 | 31 | 43 | 45 | 59 | 52 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |

Table 40: Amount of food that Msinga homesteads consume of what they produce themselves

Ramatlabama had a low proportion of women in both surveyed areas who reported that their homesteads produced half or more than half of the food it consumed.

| | 600 | Ikopeleng | Total |
|----------------|-----|-----------|-------|
| All | 2 | 1 | 1 |
| Most | 1 | 1 | 1 |
| About half | 7 | 6 | 6 |
| Less than half | 13 | 7 | 12 |
| None | 77 | 85 | 80 |
| Total | 100 | 100 | 100 |

Table 41: Amount of food that Ramatlabama homesteads consume of what they produce themselves

Use of and control over land of respondent women

The final main section of the questionnaire explored the individual woman's use of and control over land. Use was explored by asking whether the woman had used each of the types of land to which the homestead had access over the past 12 months. Control was explored by asking to what extent woman had been involved in decision-making over use and/or disposal, and what the main basis of her decision-making power was in these respects.

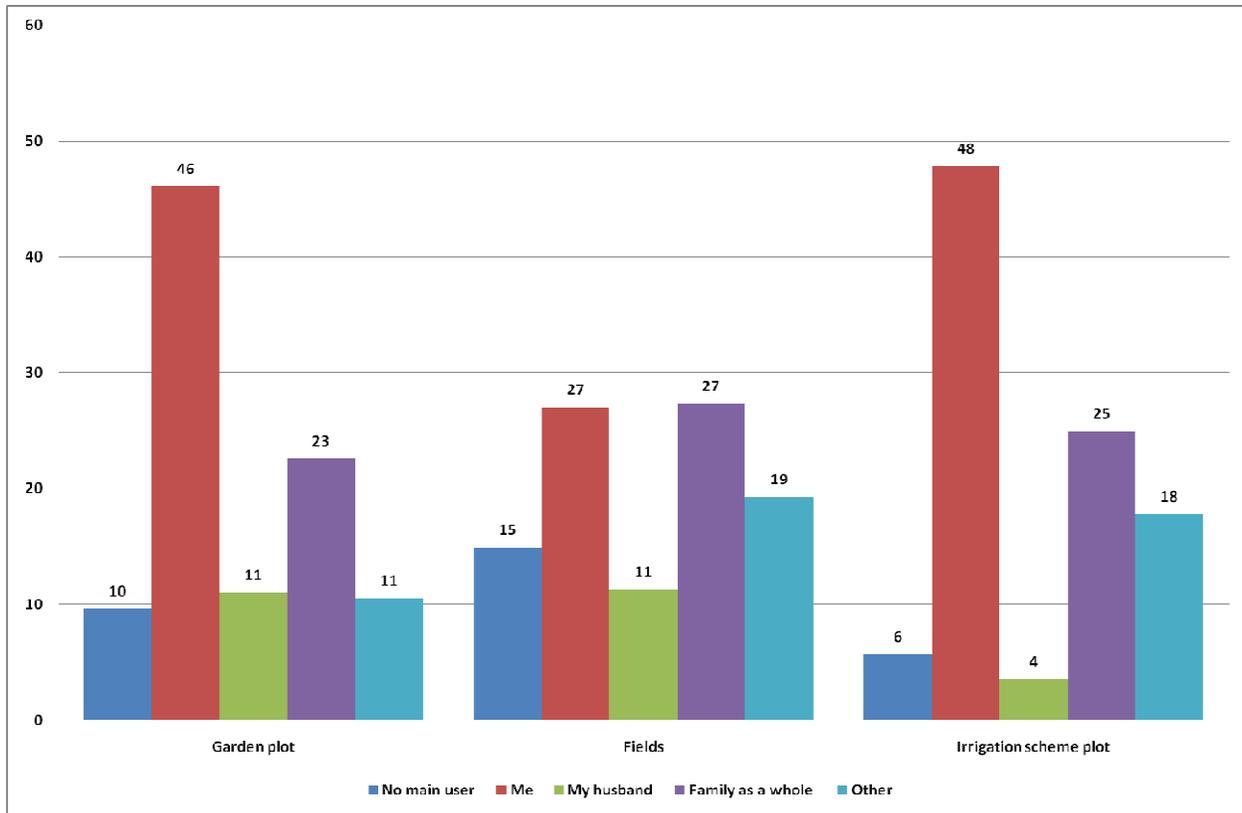


Figure 24: Main user of various types of land

Almost half of the women whose homesteads had access to garden plots and irrigation scheme plots reported that they were the main users of this land and over a quarter said that they were the main user of the fields. Second next most common after the women, the family as a whole was reported to be the main user of all three types of land. The community as a whole accounted for the majority of the 'other' people who were named as the main users of the fields. This option was chosen most often in Ramatlabama.

Comparing across sites, women in Msinga were more likely to say that they were the main user of the garden plot than in the other two sites. Over half (53%) of the women in Msinga who reported having access to garden plots reported that they were the main users, compared to the 45% in Keiskammahoek and 41% in Ramatlabama.

Similarly, women in Msinga were more likely to say that they were the main users of the fields, with just over a third (34%) reporting this. Women in Ramatlabama were least likely to say they were the main users of the fields, with only 2% reporting this.

| | Keiskammahoek | | Msinga | | Ramatlabama | |
|-------------------|---------------|--------|-------------|--------|-------------|--------|
| | Garden plot | Fields | Garden plot | Fields | Garden plot | Fields |
| No main user | 11 | 19 | 6 | 14 | 7 | 6 |
| Me | 45 | 25 | 53 | 34 | 41 | 2 |
| My husband | 14 | 20 | 2 | 6 | 13 | 2 |
| Family as a whole | 23 | 24 | 22 | 31 | 23 | 24 |
| Other | 8 | 11 | 16 | 15 | 16 | 65 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 |

Table 42: Main user of various types of land by site (%)

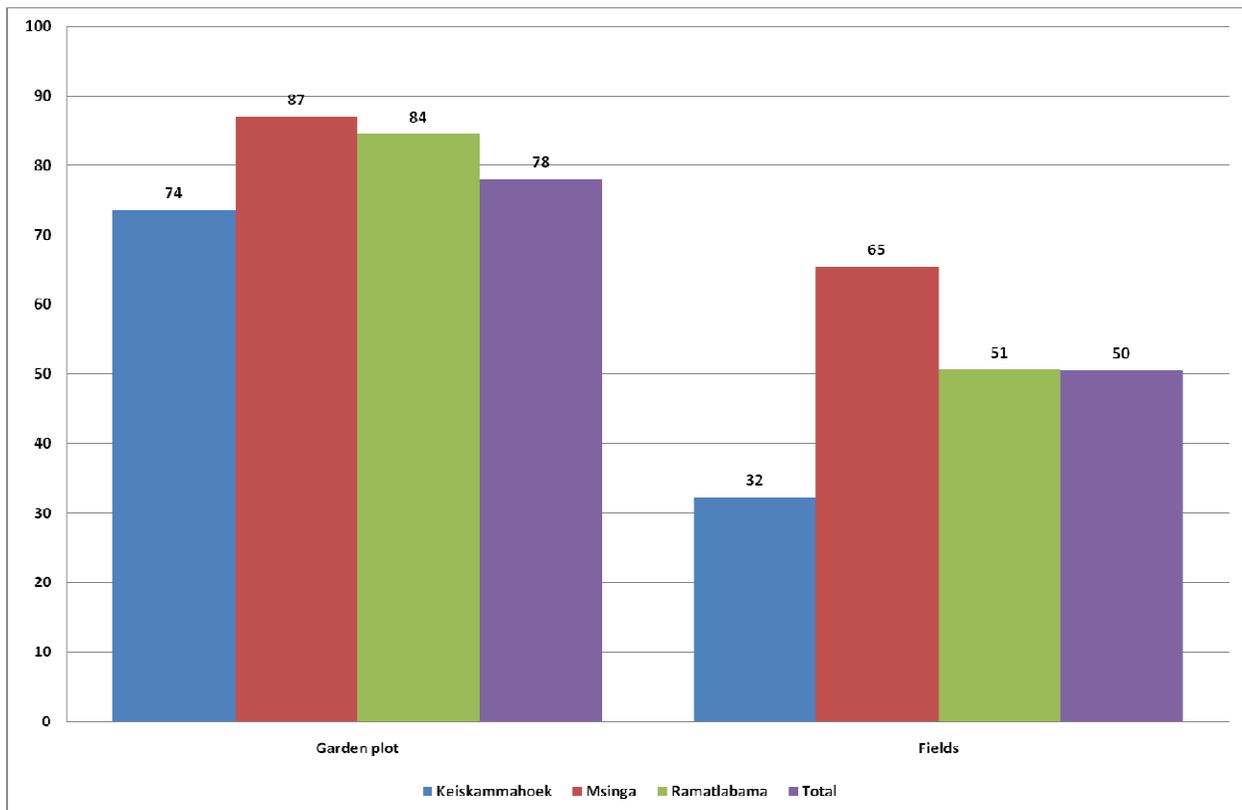


Figure 25: Respondent women's personal usage of land in the 12 months prior to the study

Women were asked whether they had personally used each type of land to which the homestead had access in the 12 months preceding the interview.

Over three quarters of the women whose homesteads had access to garden plots reported that they had used the garden plots in the last 12 months and half said that they had used the fields.

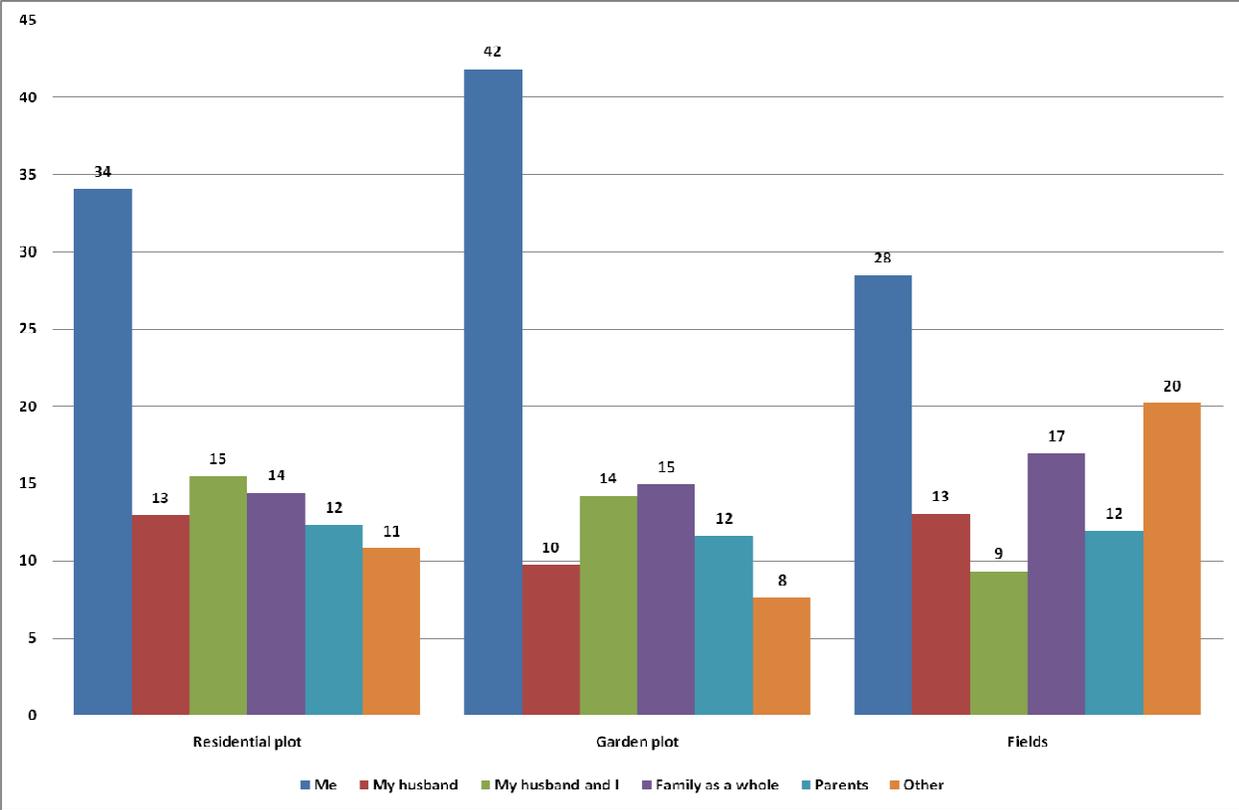


Figure 26: Person(s) taking responsibility for decision making regarding the use of various types of land

Women were asked whose responsibility it was to make decisions regarding the use of the various types of land to which the homestead had access. The women were most likely to report that they themselves were primarily responsible for decision making regarding all three of the most common types of land. This pattern can be at least partly explained by the fact that 15% of the homesteads contained no adult men.

Over a third of the women said they were responsible for decisions regarding the residential plot, while a tenth reported that their husbands were responsible for making decisions. Over two fifths of the women whose homesteads had access to garden plots reported that they were responsible for decision making regarding these plots, and a tenth said their husbands were responsible for decision making. Over a quarter of the women whose homesteads had access to fields reported that they were responsible for making decisions and a fifth said that ‘other’ people were responsible. The “other” category referred mostly to the community as a whole.

Figure 26 is similar to Table 42, which shows the main user of the various types of land. In all cases, the categories most likely to be named as the main users were the same as those most likely to be named as responsible for making decisions about the land.

The following table shows this correspondence more clearly by cross-tabulating the responses in respect of the garden plot for main user and person responsible for decision-making on use of land. Close on three quarters (71%) of the women who reported that they were the main users of the garden plot, also reported that they are the main person responsible for making decisions regarding the use of this land. Nearly half of the women who said their husband was the main user said that they together with their husband took the decisions, compared to 38% who said that their husband was the decision-maker. Overall, the women said that they were the main decision-maker in 42% of cases, with their husband taking decisions in 10% of cases and the couple together deciding in 14% of cases.

| Main user | Main decision-maker | | | | | | Total |
|-------------------|---------------------|------------|------------------|-------------------|---------|-------|-------|
| | Me | My husband | My husband and I | Family as a whole | Parents | Other | |
| No | 54 | 7 | 10 | 14 | 7 | 9 | 100 |
| Me | 71 | 8 | 11 | 6 | 2 | 3 | 100 |
| My husband | 6 | 38 | 48 | 6 | 1 | 1 | 100 |
| Family as a whole | 11 | 5 | 13 | 41 | 24 | 6 | 100 |
| Other | 11 | 1 | 2 | 8 | 42 | 36 | 100 |
| Total | 42 | 10 | 14 | 15 | 12 | 8 | 100 |

Table 43: Main user and person responsible for decisions on the use of the garden plot

The patterns in respect of both questions are influenced by the marital status of the women respondents. The table that follows illustrates this by cross-tabulating marital status against main user of the fields in those cases where the homestead had access to fields. Of the women who indicated that they had access to fields, widowed women were more likely to say they were the main user of the fields, with almost half of them reporting this.

| | Never been married | Married | Widowed | Total |
|-------------------|--------------------|---------|---------|-------|
| No | 15 | 15 | 15 | 15 |
| Me | 12 | 27 | 46 | 27 |
| My husband | 3 | 22 | 4 | 11 |
| Family as a whole | 37 | 23 | 23 | 27 |
| Other | 32 | 12 | 13 | 19 |
| Total | 100 | 100 | 100 | 100 |

Table 44: Marital status and main user of the fields (%)

Similarly, the table that follows illustrates the influence that marital status has on decision-making in respect of usage of fields. Of the women who reported having access to fields, two thirds of the widowed women reported that they were responsible for making decisions regarding the use of the fields. In comparison, only 16% of married women said they were responsible for decisions regarding the use of the fields and only 15% of women who had never been married reported this.

| | Never been married | Married | Widowed | Total |
|-------------------|--------------------|---------|---------|-------|
| Me | 15 | 16 | 66 | 28 |
| My husband | 1 | 28 | 4 | 13 |
| My husband and I | 1 | 20 | 2 | 9 |
| Family as a whole | 22 | 14 | 14 | 17 |
| Parents | 36 | 1 | 2 | 12 |
| Other | 24 | 21 | 13 | 20 |
| Total | 100 | 100 | 100 | 100 |

Table 45: Relationship between marital status and person taking responsibility of decisions regarding the use of fields (%)

Regardless of whether they were the main decision-maker, women were asked if they were involved in decisions concerning the use of the land and, if so, the level of their involvement.

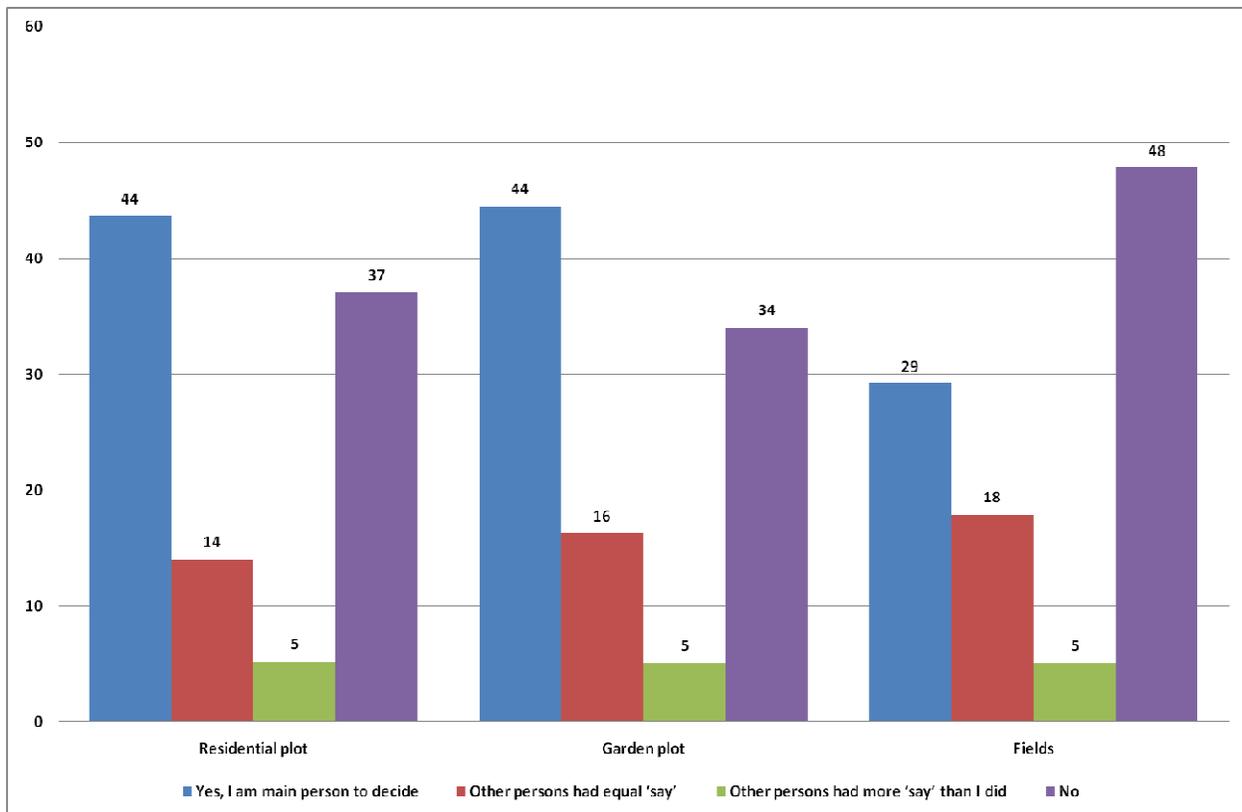


Figure 27: Women's involvement in decision making about the land

Figure 27 reveals that, with the exception of the fields, the patterns are similar to those concerning the main user of the homestead's land. Thus more than two fifths of the women reported that they were the main decision-maker on issues regarding the use of the residential plot and the garden plot. However, over a third reported that they were not involved in decision making in respect of these types of land. Almost half the women reported that they were not involved at all in decision making about the use of the fields, while over a quarter said they were the main person consulted.

There is again a relationship between marital status and the answers to these questions. The table below shows the responses on level of engagement in decision-making in respect of use of the residential plot. Widowed women were two times more likely than never married and married women to say that they were the main person involved in decisions regarding the residential plot. Women who had never been married were more likely to say that they were not involved at all in decisions regarding the use of the residential plot, with half of them reporting this.

| | Never been married | Married | Widowed | Total |
|-----------------------------|--------------------|---------|---------|-------|
| I am main person | 33 | 32 | 74 | 44 |
| Other persons had equal say | 9 | 24 | 5 | 14 |
| Other persons had more say | 7 | 7 | 2 | 5 |
| No | 50 | 37 | 18 | 37 |
| Total | 100 | 100 | 100 | 100 |

Table 46: Relationship between marital status and women's involvement in decision-making about the residential plot (%)

There is also a relationship between the age of the women and her influence in decision-making. We use the residential plot as an illustration. The clear patterns shown in the table to some extent reflect the impact of marital status, in that older women were more likely to be married, and subsequently widowed. Involvement in decision-making regarding the residential plot increases with age, with three quarters of women over the age 80 reporting that they were the main person involved in decisions regarding the use of the residential plot, compared to 12% of women between the ages of 18-29.

| | 18-19 | 20-29 | 30-39 | 40-49 | 50-59 | 60-69 | 70-79 | 80+ | Total |
|-----------------------------|-------|-------|-------|-------|-------|-------|-------|-----|-------|
| I am main person | 3 | 9 | 30 | 45 | 56 | 66 | 70 | 75 | 44 |
| Other persons had equal say | 7 | 7 | 15 | 21 | 16 | 13 | 10 | 10 | 14 |
| Other persons had more say | 9 | 6 | 8 | 7 | 4 | 3 | 1 | 2 | 5 |
| No | 81 | 78 | 48 | 27 | 24 | 18 | 19 | 14 | 37 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |

Table 47: Relationship between age and women's influence in decision-making about the residential plot (%)

Comparing levels of influence in decision-making about the use of the residential plot across sites, we find that women in Ramatlabama were most likely to say that they were the main person to be consulted on decisions regarding the use of the residential plot and women in Msinga were the least likely to be consulted. Furthermore, more than half of the women in Msinga reported that they were not involved at all in decisions regarding the residential plot, compared to 30% in Keiskamahoeok and 26% in Ramatlabama. These patterns are expected given earlier analysis that suggests that women have the greatest independence and control in Ramatlabama, and the least in Msinga.

| | Keiskammahoek | Msinga | Ramatlabama | Total |
|-------------------------------|---------------|--------|-------------|-------|
| I am main person | 42 | 32 | 57 | 44 |
| Other person(s) had equal say | 22 | 7 | 13 | 14 |
| Other person(s) had more say | 7 | 5 | 4 | 5 |
| No | 30 | 55 | 26 | 37 |
| Total | 100 | 100 | 100 | 100 |

Table 48: Women's level of influence across sites (%)

If we restrict analysis to never married women, only 1% of those under 30 years said that the residential plot was acquired through them, compared to 24% of those aged 30 years and above. Of the never married who acquired the residential plot themselves, 89% said that they were the main decision-maker, compared to 24% of those who had not acquired the residential plot themselves. Similarly, of the never married under 30 years of age, only 8% said that they were the main decision-maker, compared to 52% of those aged 30 years and above. Thus both age and having acquired the plot are strongly associated with decision-making powers.

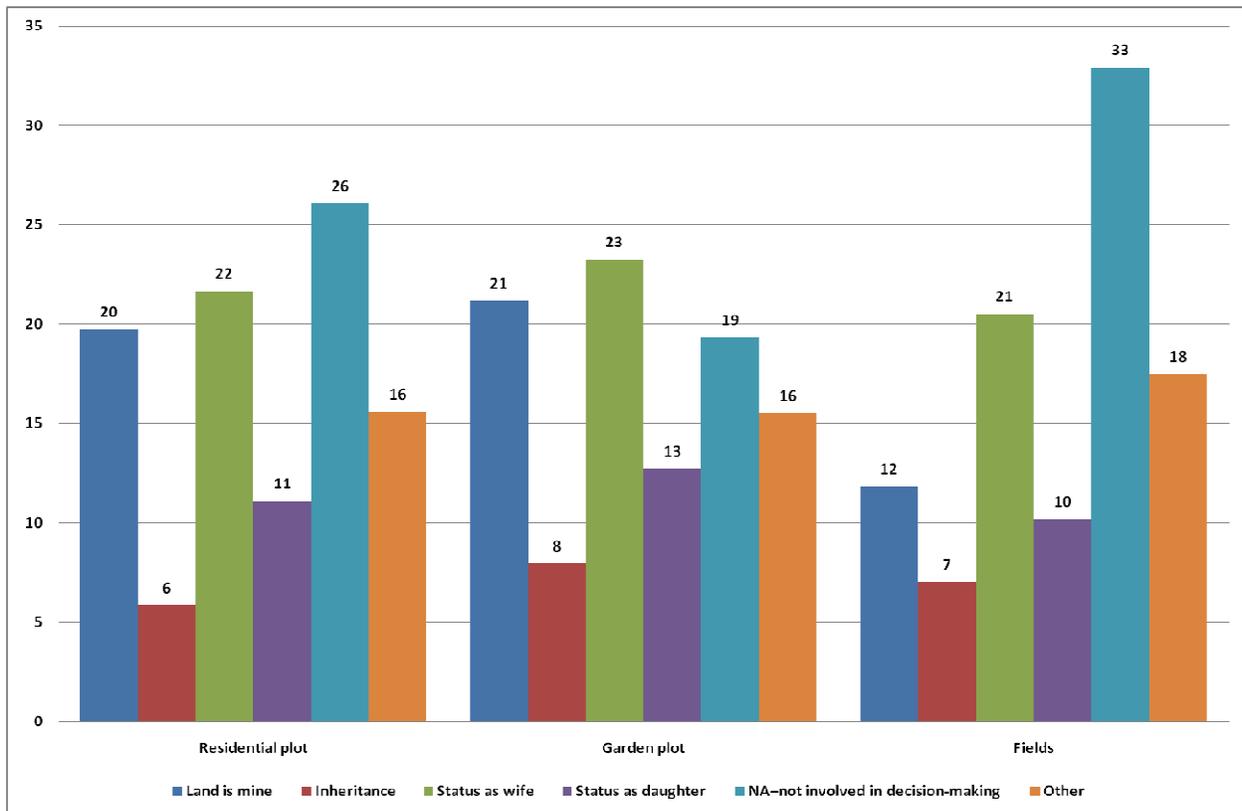


Figure 28: Main basis of women's decision making

Above we showed in numerical terms the relationship between marital status and influence in decision-making. This relationship also emerged from a further question in which women were asked on what basis they had decision-making power. Twenty-nine percent of women who reported involvement in decisions relating to the use of the residential plot said their decision

making powers were based on their status as the wife, while 27% said their decision making powers were based on the fact that the land was theirs.

Over a quarter of the women attributed their involvement in decision making regarding the garden plots to the fact that the land was theirs, a fifth of the women said that their involvement was linked to their status as wife and 15% said it was because of their status as a daughter.

The table below compares the main basis of women's decision making regarding the residential plot across sites. Over a quarter of the women (27%) in Ramatlabama attributed their involvement in decision making to the fact that the land was theirs, compared to 20% in Keiskammahoek and 12% in Msinga. These patterns mirror the earlier patterns in respect of the person responsible for acquiring the land.

Women in Keiskammahoek were more likely to report that the main basis of their decision making was because of their status as wife and women in Ramatlabama were least likely to report this. The percentage who reported this in Keiskammahoek is higher than for Msinga, despite the higher rate of marriage in Msinga. This apparent anomaly is explained by the fact that 44% of Msinga women said that they were not involved in decision-making compared to only 13% in Keiskammahoek.

| | Keiskammahoek | | Msinga | | Ramatlabama | | Total | |
|---------------------------------|---------------|-----|--------|-----|-------------|-----|-------|-----|
| | N | % | N | % | N | % | N | % |
| Land is mine | 199 | 20 | 121 | 12 | 272 | 27 | 592 | 20 |
| Inheritance | 103 | 10 | 20 | 2 | 52 | 5 | 175 | 6 |
| Status as wife | 283 | 28 | 189 | 19 | 178 | 18 | 650 | 22 |
| Status as daughter | 160 | 16 | 37 | 4 | 136 | 14 | 333 | 11 |
| Not involved in decision-making | 128 | 13 | 441 | 44 | 213 | 21 | 782 | 26 |
| Other | 127 | 13 | 192 | 19 | 149 | 15 | 468 | 16 |
| Total | 1000 | 100 | 1000 | 100 | 1000 | 100 | 3000 | 100 |

Table 49: Main basis of women's decision making regarding the residential plot by site

In comparing the main basis of women's decision making by marital status, widowed women were most likely to report that their involvement in decision making was based on the fact that the land was theirs and married women were least likely to report this.

| | Never been married | | Married | | Widowed | | Other | | Total | |
|--------------------------------------|--------------------|-----|---------|-----|---------|-----|-------|-----|-------|-----|
| | N | % | N | % | N | % | N | % | N | % |
| Land is mine | 159 | 16 | 76 | 7 | 315 | 44 | 42 | 25 | 592 | 20 |
| Inheritance | 64 | 6 | 28 | 3 | 71 | 10 | 12 | 7 | 175 | 6 |
| Status as wife | 8 | 1 | 499 | 45 | 122 | 17 | 21 | 12 | 650 | 22 |
| Status as daughter | 287 | 28 | 11 | 1 | 14 | 2 | 21 | 12 | 333 | 11 |
| NA - not involved in decision-making | 406 | 40 | 279 | 25 | 52 | 7 | 45 | 27 | 782 | 26 |
| Other | 85 | 8 | 209 | 19 | 146 | 20 | 28 | 17 | 468 | 16 |
| Total | 1,009 | 100 | 1,102 | 100 | 720 | 100 | 169 | 100 | 3,000 | 100 |

Table 50: Main basis of women's decision making regarding the residential plot by marital status

After the questions about use of the land, women were asked whose responsibility it was to make decisions regarding the sale, transfer or renting of the land to which the homestead had access. The question, and those that followed, were intended to explore women's control over disposal of land.

The findings in respect of decision-making over disposal of land are probably less reliable than findings related to most of the other questions asked. Unlike other questions in the questionnaire, the questions on disposal were hypothetical, asking about what "would happen" if the homestead decided to dispose of the land. In contrast, other questions were factual, asking about what had happened or was currently happening. Answers to hypothetical questions are known to be less reliable than answers to factual questions. A further confounding factor could be that most homesteads are unlikely ever to consider disposing of their land. Reasons for this would include that the land is not "owned" through private property but instead allocated through customary and other processes, and that there is a limited market for much of this land. The unlikelihood that land would be disposed of would add to the unreliability of the hypothetical answers.

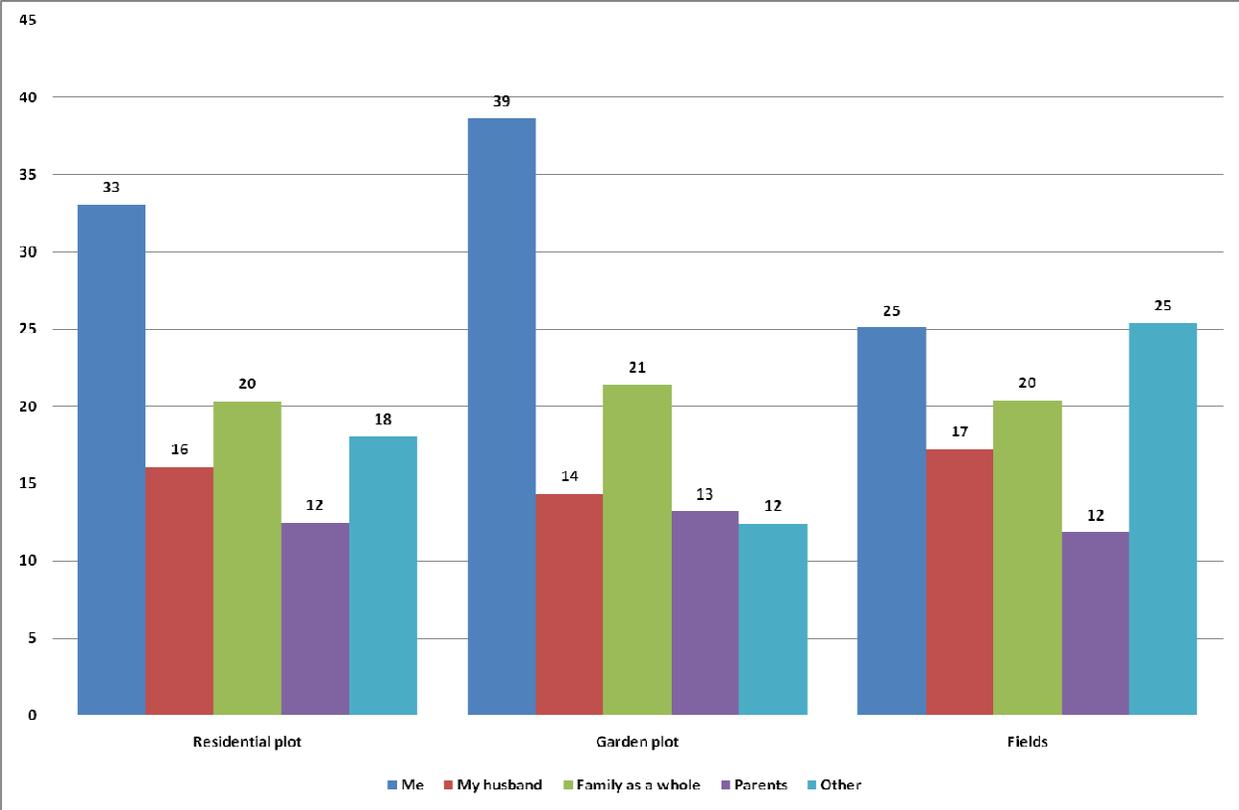


Figure 29: Person(s) responsible for decisions related to sale, rent or transfer of land

Women reported a greater likelihood of sole involvement in decisions related to the sale or transfer of the residential plot and the garden plot than of their husbands or the family as a whole having these powers. One out of every three women reported that they were responsible for decisions related to the sale, rent or transfer of the land and over a tenth reported that their husbands were responsible. Approximately two fifths of the women who had access to garden plots reported that they were responsible for decisions about the sale, rent or transfer of the plot and a quarter reported this for fields.

Across all three types of land the family as a whole was cited as being the second most likely to make decisions about the sale or rent of the homestead’s land, with a fifth of the women reporting this for each type of land.

The following table is included to investigate whether there is any difference in the patterns regarding decision-making on use of land and decision-making on disposal of land. We focus first on residential plots and then on fields. A large majority (91%) of the women who reported that they were the person responsible for decision-making with regards to the use of the residential plot also reported that they were responsible for decision making with regards to the disposal of the residential plot. Across most categories, the cell with the highest percentage is the one in which the person named as decision-maker is the same.

Only 5% of the women who said they were responsible for decision-making with regards to the use of the residential plot said their family as a whole was responsible for decision-making regarding its disposal and 1% said their husbands were responsible.

| Decisions on disposal of land | Decisions on use of land | | | | | |
|-------------------------------|--------------------------|------------|---------------|-------------------|---------|-------|
| | Me | My husband | Husband and I | Family as a whole | Parents | Other |
| Me | 91 | 10 | 3 | 2 | 1 | 1 |
| My husband | 1 | 78 | 34 | 2 | 1 | 1 |
| Family as a whole | 5 | 5 | 38 | 80 | 4 | 3 |
| Parents | 0 | 0 | 0 | 8 | 88 | 4 |
| Parents-in-law | 0 | 0 | 0 | 2 | 4 | 26 |
| Other | 3 | 8 | 25 | 6 | 4 | 65 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 |

Table 51: Responsibility for decision-making on the use and disposal of the residential plot (%)

Similarly, the following table shows that a large majority (81%) of the women whose homesteads had access to fields and who reported that they were the person responsible for decision-making with regards to the use of the fields also reported that they were responsible for decision making with regards to the disposal of the fields.

Only 6% of the women who reported being responsible for decision-making with regards to the use of the fields said their husbands were responsible for decisions regarding the disposal of the fields while 7% said their family as a whole was responsible for this decision.

| Decisions on disposal of land | Decisions on use of land | | | | | |
|-------------------------------|--------------------------|------------|------------------|-------------------|---------|-------|
| | Me | My husband | My husband and I | Family as a whole | Parents | Other |
| Me | 81 | 6 | 3 | 2 | 1 | 1 |
| My husband | 6 | 77 | 51 | 4 | 0 | 0 |
| Family as a whole | 7 | 4 | 40 | 78 | 2 | 3 |
| Parents | 1 | 0 | 0 | 7 | 84 | 2 |
| Parents-in-Law | 1 | 0 | 0 | 1 | 8 | 31 |
| Other | 3 | 12 | 6 | 8 | 5 | 63 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 |

Table 52: Responsibility for decision-making on the use and disposal of the fields (%)

As was done in respect of use of land, or each type of land to which the homestead had access, women were asked whether they had ever been consulted about decisions regarding the disposal of land.

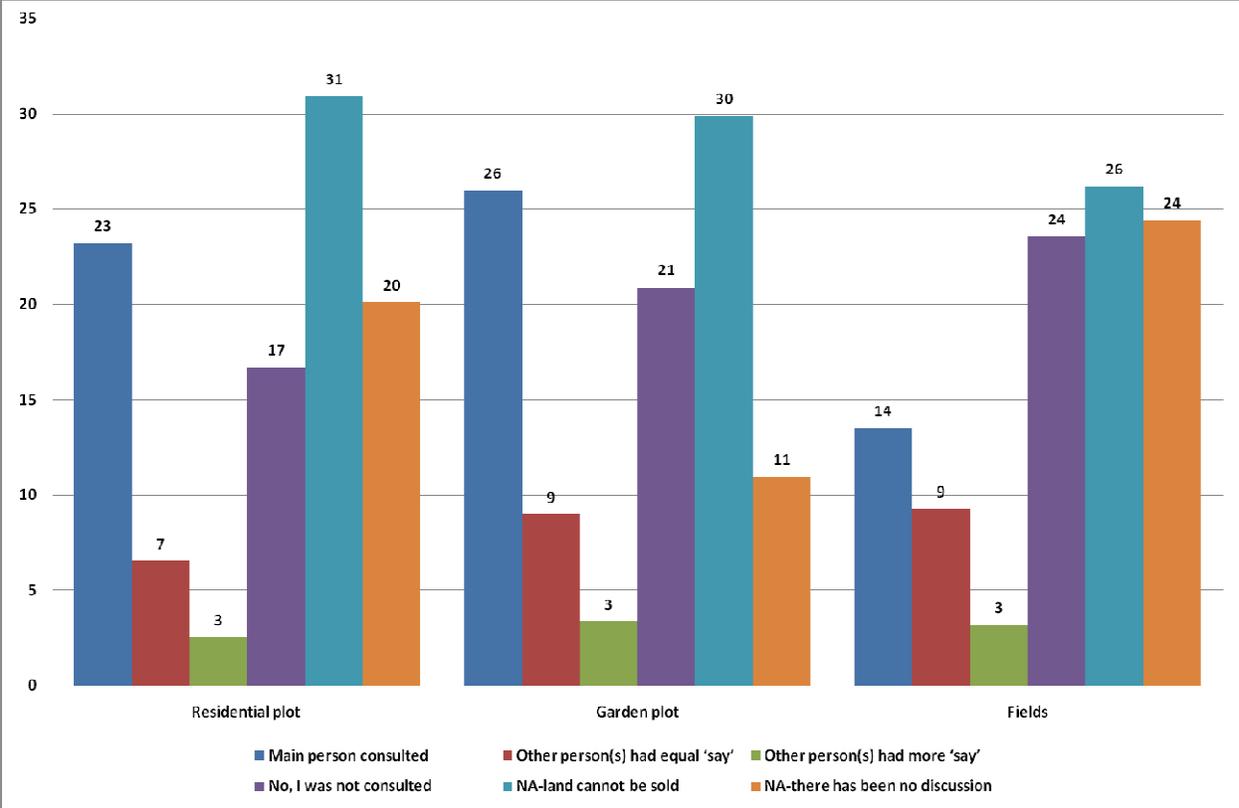


Figure 30: Consultation regarding decisions made about the disposal of the homestead's land

For the residential and garden plot almost a third of the women reported that the particular type of land could not be sold. Almost a quarter of the women reported that they were the main person who was consulted regarding disposal of the residential plot, over a quarter said that they were the main person consulted regarding the garden plot and over a tenth said this in respect of disposal of fields.

Approximately one in five women reported that they were not consulted at all regarding the decisions made about the disposal of the residential plot, a tenth reported that they were not consulted about disposal of the garden plot and almost a quarter were not consulted regarding the fields.

The following table is included to investigate whether there is any difference in the patterns regarding involvement in decisions made about the use of land and consultation about decisions on the disposal of land. We focus first on residential plots and then on fields. Over half of the women who reported that they were the main person involved in decision-making with regards to the use of the residential plot also reported that they were the main person consulted with regards to the disposal of this land. Close on a further third of the women who said they were the main person involved in decisions about the use of the residential plot reported that the land could not be sold.

| Consultation on disposal | Consultation on use | | | |
|-----------------------------------|----------------------|-------------------------------|------------------------------|-----|
| | I am the main person | Other person(s) had equal say | Other person(s) had more say | No |
| I was the main person consulted | 51 | 1 | 2 | 2 |
| Other person(s) had equal say | 1 | 41 | 1 | 1 |
| Other person(s) had more say | - | 1 | 30 | 2 |
| I was not consulted | 3 | 5 | 7 | 38 |
| NA - land cannot be sold | 31 | 38 | 41 | 27 |
| NA - there has been no discussion | 13 | 13 | 20 | 31 |
| Total | 100 | 100 | 100 | 100 |

Table 53: Consultation of women on use and disposal of residential plot (%)

The table below shows that more than two fifths of the women whose homesteads had access to fields and who reported that they were the main person involved in decisions regarding the use of the fields also reported that they were the main person consulted with regards to the disposal of the fields. A further quarter of the women said that the land could not be sold.

| Consultation on disposal | Consultation on use | | | |
|-----------------------------------|----------------------|-------------------------------|------------------------------|-----|
| | I am the main person | Other person(s) had equal say | Other person(s) had more say | No |
| I was the main person consulted | 42 | 2 | 5 | 1 |
| Other person(s) had equal say | 2 | 45 | - | 1 |
| Other person(s) had more say | - | - | 41 | 2 |
| I was not consulted | 8 | 8 | 3 | 41 |
| NA - land cannot be sold | 25 | 34 | 35 | 23 |
| NA - there has been no discussion | 22 | 12 | 16 | 32 |
| Total | 100 | 100 | 100 | 100 |

Table 54: Consultation of women on use and disposal of fields (%)

As with decision-making on use of land, women who said they were consulted regarding the disposal of land were asked to specify the main basis of their being consulted.

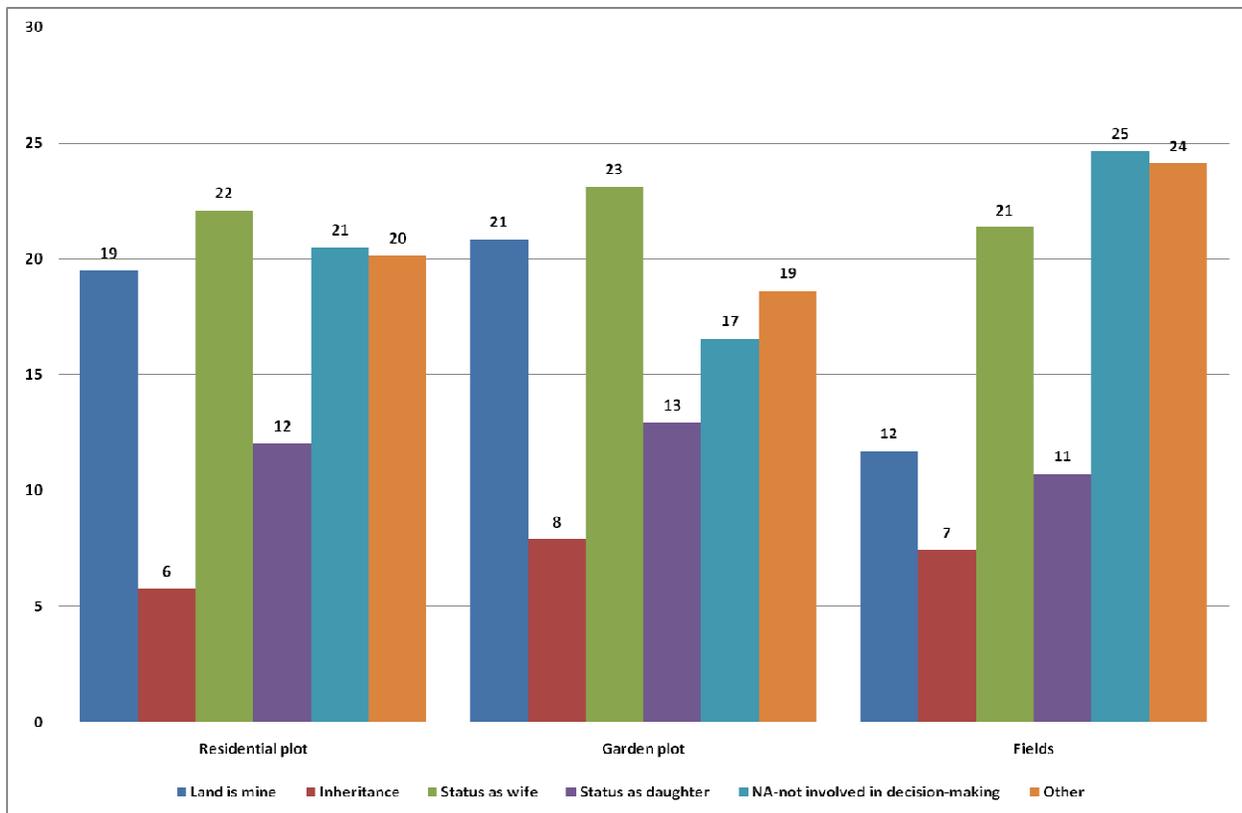


Figure 31: Main basis of women's involvement in decision making related to the sale or transfer of the land

With regards to the residential plot and garden plot one in five women said their involvement in decision-making was based on the fact that the land was theirs. Over a fifth of the women ascribed their involvement in decision making for all three types of land to their status as a wife. Other reasons cited as the main basis of women's involvement in making decisions included inheritance, status as the mother and being responsible for the land while the male head of the homestead was away.

In respect of fields, a larger percentage noted that they were not involved in decision-making, with a much smaller percentage than for the other types of land saying that they had decision-making power because the land was theirs. This accords with earlier analysis showing women's lesser access to and involvement with fields than with the residential plot and garden plots.

Inheritance

After answering the questions about decision-making, women were asked whether they would inherit any (part of) each of the types of land to which the homestead had access. In retrospect, this question was not well conceived. Firstly, although an option of "not applicable" was included, we did not think carefully about the reasons why the question might not be applicable. These included, for example, that the woman had previously inherited the land, or acquired it through other means. Some respondents might also, and correctly, think that the land could not

be inherited because it was not freehold. So, for example, in the report-backs to both the Mchunu and Mthembu traditional authorities in Msinga, participants said that the land belonged to the chief, and no-one else had the right to inherit it. Similarly, during the report-back in Ramatlabama, participants said that inheritance would depend on the title deed, and that in the case of tribal and trust land, homesteads could only be given rights of usage. Thus our questioning of the concept of “ownership” in a customary tenure situation should have led us also to question the concept of “inheritance”.

Secondly, this was again a hypothetical question, reflecting what the woman might think or hope would happen. The responses to the question must thus be treated with caution, especially as it seems the question might have been interpreted somewhat differently in Ramatlabama than in the other two sites.

Thirdly, we were told that in neighbouring Botswana it is considered inappropriate to discuss inheritance as it could suggest that one is anticipating the death of a family member (personal communication: Anne Griffiths).

To explore the reasons for high rates of the “not applicable” response in Ramatlabama, we did check-backs with some of the women who had responded that the question was not applicable to them. In doing so we excluded women who said that the residential plot had been acquired through them on the basis that we would expect these women to have responded that the question was not applicable.

Many of the women with whom we did check-backs said that they and their partner had joint ownership. Some of these women had reported that their husband had acquired the land. Other women who said that their husband had acquired the land had also reported in response to an earlier question that their husband was the “owner” of the homestead. The fact that these women considered the inheritance question “not applicable” could indicate lack of clear boundaries between cases where the homestead is seen as “belonging” to the husband and those in which the woman perceives that there is joint ownership. It suggests that in some cases, at least, marriage is seen as conferring automatic rights to remain on the land “owned” by the husband.

We also realised that the fact that homesteads in Ramatlabama tended to be smaller than in the other two areas would increase the likelihood that the respondent woman saw herself as the “owner” because there would be fewer other adults present. Thus there were several women who had reported that their parent/s had originally acquired the residential plot, but during the check-back reported that they were now the only adult staying at the homestead.

The responses to the question on inheritance must be treated with caution given the weaknesses in how the question was conceived and framed.

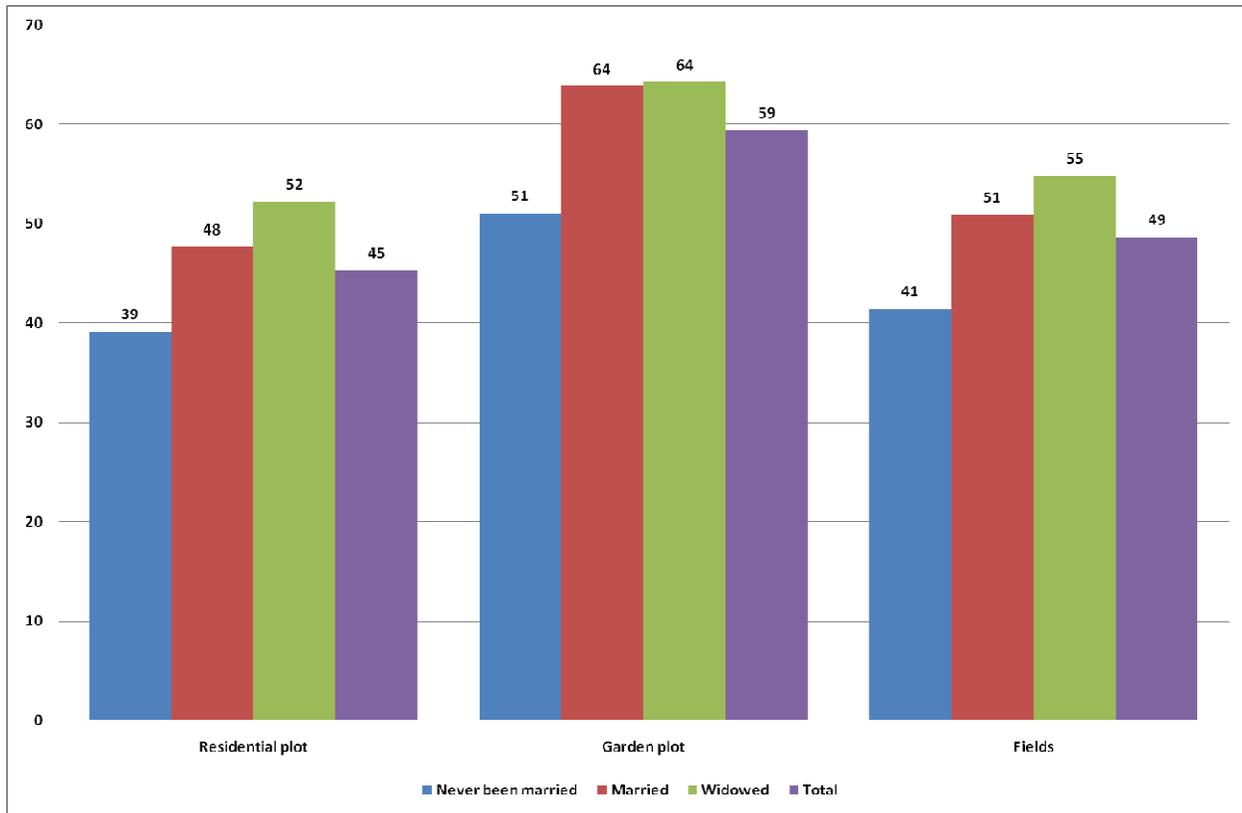


Figure 32: Inheritance

Overall, over two fifths of the women said that they would inherit the residential plot. Of those whose homesteads had access to a garden plot, more than half reported that they would inherit that land, and almost half said they would inherit the fields.

Widowed women were most likely to say they would inherit the residential plot and fields. One wonders here whether they were saying that they had already inherited these lands, or expected to do so at some point in the future. The same proportion of married and widowed women said that they would inherit the garden plot, with almost two thirds of the women reporting this.

Across all three types of land, women who had never been married were least likely to report that they would inherit the land. Nevertheless, almost two fifths of these women reported that they would inherit the residential plot, over half said they would inherit the garden plot and just over two fifths said they would inherit the fields.

Comparing across sites in respect of residential plots, and focusing on the three main categories of never married, married and widowed women, we find that never married women in Keiskammahoeek were most likely to say that they would inherit the residential plot, and never married women in Msinga were least likely to report that they would inherit this land. This is also the case when we exclude the women who indicated that this question was not applicable to them for this type of land. The greater likelihood of never married women in Keiskammahoeek

saying they would inherit the plot could be related to a shrinking population in this area, which could result in less contestation over inheritance than in more land-starved areas.

When comparing married women, if we exclude those who responded that the question was not applicable, women in Keiskammahoek were again most likely to say that they would inherit the residential plot while married women in Ramatlabama were least likely to say this. When we include all married women, including those for whom the question was marked as “not applicable”, the patterns change dramatically for Ramatlabama, but stay more or less the same for the other two sites. When all married women are included, women in Ramatlabama are least likely of all three sites to be reported as likely to inherit the residential plot

Among widowed women, the ranking is Keiskammahoek most likely, followed by Msinga and then Ramatlabama. This ranking remains constant whether or not we include those who responded “not applicable”. However, the large difference in percentage in Ramatlabama when considering all widows and when excluding the “not applicable” responses provides strong evidence that many of those who did not respond might already have inherited the residential plot.

| | Keiskammahoek | | Msinga | | Ramatlabama | |
|--------------------|---------------|---------------|--------|---------------|-------------|---------------|
| | Of all | Of applicable | Of all | Of applicable | Of all | Of applicable |
| Never been married | 65 | 66 | 18 | 18 | 33 | 49 |
| Married | 77 | 82 | 35 | 35 | 28 | 59 |
| Widowed | 74 | 86 | 52 | 52 | 10 | 44 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 |

Table 55: Inheritance across sites

Loss of land

The questionnaire ended with a series of questions about past loss of land. The primary purpose of these questions was to uncover possible cases of eviction. Given the sensitivity around this word and topic, the initial questions were framed more broadly, with filter questions to identify likely cases of eviction. The questionnaire did not attempt to explore eviction in any detail. This would have been inappropriate for at least two reasons. Firstly, the number of cases of eviction in a sample of 3,000 would hopefully not have been large enough to allow reliable analysis. Secondly, the sensitivity of the issue would require other research methods to obtain reliable information.

The first, more general, question asked whether the woman had “ever personally lost access to, or had to leave, any of the following types of land”, with prompts following this in respect of the homestead plot, garden plot, fields, irrigation scheme plots, and “other”.

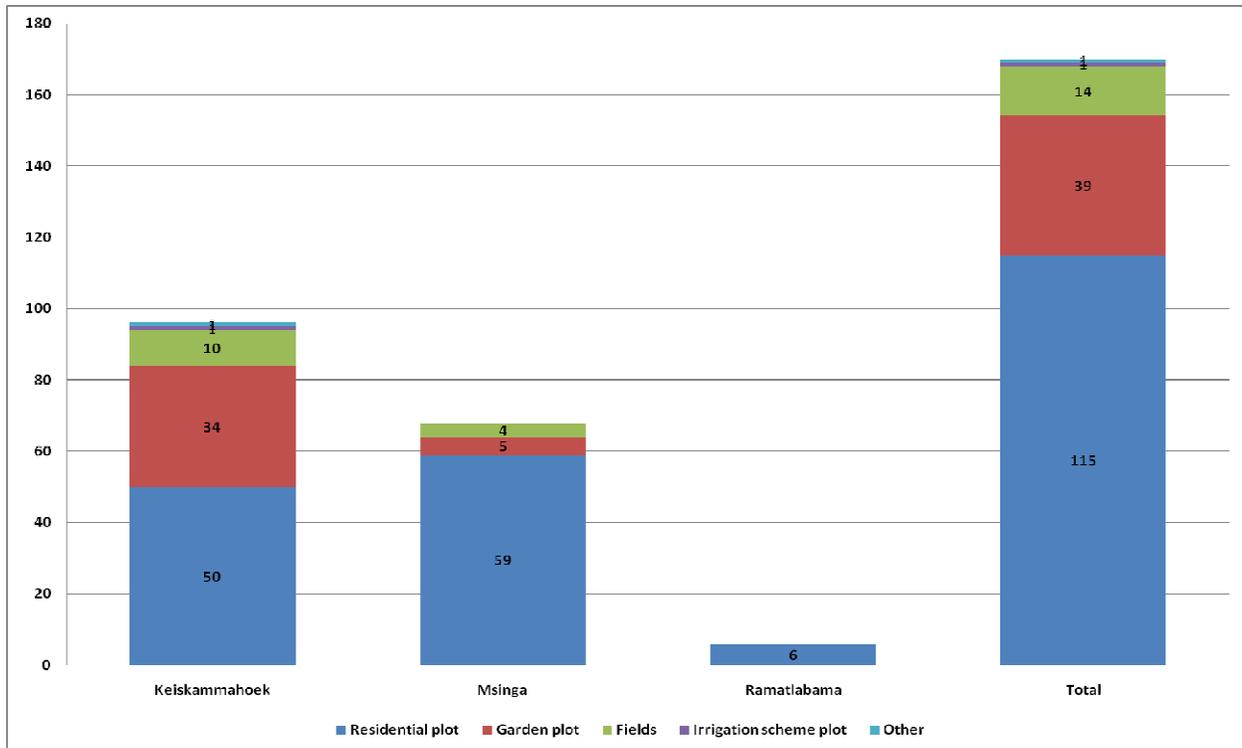


Figure 33: Women who have personally lost access to, or had to leave land

A total of 115 women reported that they had personally lost access to, or had to leave the residential plot. Just over half of these women were in Msinga, over two fifths were in Keiskammahoek and only 6 women in Ramatlabama reported losing access to this land. None of the women in Ramatlabama reported losing access to any other type of land other than the residential plot.

A total of 39 women reported losing access to the garden plot. Thirty-four of these women (87%) were in Keiskammahoek. Furthermore, 10 of the 14 women who reported losing access to fields were in Keiskammahoek.

The table below explores the main reason given by the respondent women for loss of the residential plot across the three sites. The main reason given by women in Keiskammahoek was that they were evicted. In Msinga over a third of the women who had lost access to the residential plot reported that they chose to move to a better alternative, but that they were not forced to move. However, just under a third of the women in Msinga reported that they felt forced to move because of bad relations. In Ramatlabama, 2 of the 6 women who had lost access to the residential plot reported that they were threatened with eviction.

| | Keiskamma -hoek | Msinga | Ramatla- bama | All sites |
|--|--------------------|--------|------------------|-----------|
| I felt forced to move because of bad relationships | 12 | 19 | 1 | 32 |
| I chose to move to a better alternative but I was not forced to move | 10 | 21 | 1 | 32 |
| I was threatened with eviction | 1 | 4 | 2 | 7 |
| I was evicted | 24 | 6 | 1 | 31 |
| Other | 3 | 9 | 1 | 13 |
| Total | 50 | 59 | 6 | 115 |

Table 56: Main reason for loss of the residential plot

In the next table we compare the main person responsible for the respondent women's loss of land across the three sites. In Keiskammahoek, approximately a quarter of the women who had lost access to the residential plot reported that the government was mainly responsible for their loss. Almost a fifth said it was their choice and over a tenth said their husband or partner was the main person responsible.

In Msinga almost two fifths of the women said they were the main person responsible for their loss of land because it was their choice to leave and a tenth reported that it was relatives of their husband or partner who caused them to lose access to the land.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|---|---------------|--------|-------------|-----------|
| Husband or permanent partner | 7 | 6 | - | 13 |
| Relatives of husband or permanent partner | 6 | 8 | - | 14 |
| Brother/s | - | 1 | 1 | 2 |
| Sister/s | 1 | - | 1 | 2 |
| Son/s | - | 1 | - | 1 |
| Local government | 12 | - | - | 12 |
| Other level of government | 7 | 2 | - | 9 |
| Private non-relative owner | 1 | - | 1 | 2 |
| Neighbour/s | 2 | 4 | - | 6 |
| Me-it was my choice | 9 | 22 | 1 | 32 |
| Other | 5 | 15 | 2 | 22 |
| Total | 50 | 59 | 6 | 115 |

Table 57: Main person responsible for loss of homestead

The following tables indicate whether various types of action were taken by the respondent women after losing access to the residential plot. The analysis excludes women who reported that it was their choice to leave.

When asked if the loss or eviction was taken to the headman or traditional court two thirds of the women reported that it was not. Of the 28 women who said that they had taken it to the traditional court, 20 were in Msinga.

Women who reported taking the decision to the traditional court or headman were asked if the process was fair. Half of the women (14 women) reported that the process was fair, 11 said it was not fair and 3 were undecided.

| | Keiskammehoek | Msinga | Ramatlabama | All sites |
|-------|---------------|--------|-------------|-----------|
| Yes | 6 | 20 | 2 | 28 |
| No | 33 | 18 | 4 | 55 |
| Total | 39 | 38 | 6 | 83 |

Table 58: Was loss/eviction taken to the headman or traditional court

The women were also asked if the loss or eviction of land was taken to the magistrate's court. Over four fifths of the women said it was not taken to the magistrate's court. Of the 15 women who had taken the matter to the magistrate's court, 9 were in Msinga, 5 in Keiskammahoek and 1 in Ramatlabama. When women were asked if the magistrate's court process was fair, 9 women said that it was fair, 4 women said that it was not fair and 1 was undecided.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|-------|---------------|--------|-------------|-----------|
| Yes | 5 | 9 | 1 | 15 |
| No | 34 | 29 | 5 | 68 |
| Total | 39 | 38 | 6 | 83 |

Table 59: Was loss/eviction taken to the magistrate's court

After answering the questions about losses that they personally had suffered, all the surveyed women were asked if any other women who were members of the homestead had been pressured to leave. Table 60 shows that 77 women – 2,5% of the full sample – reported that other women had been pressured to leave since the time they became a member the homestead. Msinga had the highest number of women reporting this and Ramatlabama had the lowest.

| | Keiskammahoek | Msinga | Ramatlabama | All sites |
|-------|---------------|--------|-------------|-----------|
| Yes | 27 | 40 | 10 | 77 |
| No | 973 | 960 | 990 | 2,923 |
| Total | 1,000 | 1,000 | 1,000 | 3,000 |

Table 60: Other women in the homestead who have been pressured to leave the homestead land

Findings from the post-survey focus groups

Use of land

The survey revealed that some homesteads had access to various types of land such as fields and garden plots, while others did not. It also revealed that even where homesteads had fields and garden plots, in many cases the land had not been used in the past twelve months. The post-survey focus group participants were therefore asked why the land was not being used in

these cases. As will be seen below, the answers to this question did not vary much across the three sites.

Keiskammahoek

In Keiskammahoek as well as the other two sites, lack of money was cited as one of the main challenges to using the land because it had an impact on almost every aspect of farming. Participants reported the challenges they had with regards to cattle and farming equipment. One participant reported:

“The reason why people no longer use their fields is because we no longer have cattle. Now people are unemployed and cannot afford to hire tractors to plough the fields so that we can have good harvests. We want to cultivate our fields, but we do not have tractors, we have no money and people are unemployed.” (Rabula woman)

Another participant reported:

“A person gets R1000 from his/her old age pension. She has to pay R200 for the tractor to plough the garden. Then the person will have to hire five people to assist and they charge R50 per day. So those are some of the things that discourage people.” (Cata man)

There were some participants in the focus groups who were using their land and they shared with the other participants how they are able to do so on a limited income. A Rabula woman reported:

“I cultivate my garden. I’ve planted corn and everything else. When the corn is ready for harvest, I sell it and set aside the money I need to hire a tractor. That assists me with the ploughing of my land and cultivating my corn.” (Rabula woman)

Another participant said:

“It is my responsibility to cultivate my garden because it is my garden. And I am also training my grandchildren – because my children no longer live with me – so that they can see that they are not dependent on education alone. That they can also survive off the land. Because when the garden is ready for harvest, you can sell cabbage, you can sell pumpkin and then you will have money for soap [for instance]. I take my grandchildren into the garden in the morning. Even now, I have already ploughed [with a tractor] my land; I have cabbage growing as we speak because I tell them to water the garden. What I do not have, that you could help me with, is water..... If I were to have water, I would have a farm. They have to collect water with wheelbarrows in order to water the garden.” (Rabula woman)

In addition to the financial challenges, some participants reported that the reason the fields were not being used was because they were a considerable distance from the village. In some instances in Keiskammahoek the fields were situated across the river.

“Let me respond with reference to my own home. My home’s fields are ... a distance away from the village where I’m staying. So our land is across the river. As my mother got older and weaker in terms of strength, she became unable to go to the fields... This resulted in our leaving our land fallow and regarding it as dead because it is far away.” (Cata woman)

The Keiskammahoek participants reported that the long distances resulted mainly from the betterment relocations that took place during apartheid. However, at that time there were mechanisms in place that encouraged them to continue to use the land despite the inconvenience of its being so far away. The participants reported receiving a lot of assistance from the government of the time, especially in terms of equipment and fencing of the fields. They also spoke of rangers who would stand on guard over the river and fields and watch out for people dismantling the fence or attempting to steal crops. Participants reported that there were also fields that were designed specifically to cultivate food for cattle so that during the dry seasons they would have cattle feed.

According to the participants, all this came to an end when the Ciskei was disestablished. Participants reported that in the years leading up to the new democratic regime the people became ungovernable and all the fences were dismantled and looted. When the new government came into power people were not able to restore things to the way they were before. In addition, drought struck the community and it was then that people began to see a decline in the use of the land. A participant reported:

“The former government rewarded us with homelands, then the government of Mr Sebe subsidised us or gave freely by having our gardens and fields cultivated for us... When it ended everybody was already used to it. They could not pick up from where the government left off.” (Cata man)

Some others who also pointed to the betterment relocations as the source of the decline in farming, did not feel that the new government was to blame. Instead, these participants reported tax and other restrictions that were introduced after the relocations, which made it more difficult for people to tend to their land.

“The relocation of people from places where they used to live to a single area had an impact. Firstly, a tax was introduced – something that was not there before. People never used to pay cattle tax, they would simply graze. Then the tax was introduced for cattle so people started reducing the size of their herds at that point.” (Cata man)

The participant added that the tax even extended to dogs, fields and residential land. Therefore, it discouraged people from having large herds of livestock and big pieces of land.

Some participants suggested that another reason why land was not being used was that the culture of “ubuntu” had died out. They reported that the culture of helping each other as community members, mainly in a practice known as “share cropping”, was no longer there:

“In the olden days if you did not have cattle but had the land to use, you would approach someone who had the cattle and have your fields ploughed. That culture has finished. That co-operation between people has stopped.” (Rabula man)

Another said:

“I do not want to say that the times have changed but I must say that the spirit of ubuntu does not exist with people anymore.” (Rabula man)

However, another participant pointed out that the practice of share cropping rested on the idea of giving something to get something in return. He was in favour of a more selfless way of sharing, involving giving and not expecting in return. He reported that one way in which land could be put to use is if it were given to those who have the means to use it without expecting payment:

“If you have 20 hectares of land of land and someone wants to use part of the land to plough, you could give him five hectares and he would use it and not share any of the produce in the end, but it’s just to make sure that the land is being used.” (Rabula man)

Some participants reported that tending fields and garden plots required physical strength that many people no longer had. Older participants reported that they had become more reliant on the help of other people because they could no longer work the fields themselves as they used to. They said further that money was needed to hire additional help to work the land because the younger generation in the family was not prepared to work in the fields. A woman in Rabula reported:

“In the olden days the people who tended to the field were our parents around our age. We no longer have the strength. Our children don’t do much around the home and we find it difficult to do what we used to do as children. Sometimes we do not have the means to hire trucks to turn the soil and sow the seeds”. (Rabula woman)

A Rabula man reported similarly:

“This used to be the responsibility of the mother and father of the home. The problem that we have now is with the rights that have been given to our children because when the mother and father are ageing the fields die. The children of the past generations would take over from the parents and continue with ploughing the fields, as ... we never bought food from the shops. We used to eat pumpkin from there. But our children now as we are ageing they do not want to use the fields. They want to go play football. They put earphones in their ears. They tell us they want to eat rice and tell us that it was our time when we had to plough and eat. This is the time of the new generation. ... they say, that is abuse.” (Rabula man)

When asked to explain the youth’s lack of interest in farming, the participants reported that there had been a shift in the value that is placed on land and its potential for sustenance. They reported further that the younger generation was lazy and tended to look down on farming

activities. They said that youth would prefer to get jobs in the cities and buy food instead of producing it, and that even those who were at home and unemployed did not want any part in tending to the land. One participant reported:

“They are still fresh but they look down on [cultivating]. For example, if we were to collect a number of people from Fort Cox, from the Department of Agriculture, you would only find a handful of youth working there in the fields because they are unable to find better employment. Our children look down on that sort of work.” (Rabula woman)

The participant went on to say:

“Another thing they say is, “that was your time”. You see we used to wake up around 3 am when we were younger. We would yoke the cattle and head for the fields to plough. By the time we went to school we would have already come back from the fields. We can’t do that to them now. If they don’t want to do it then that’s the end of it because they have “rights”. That is what has spoilt them. A child can refuse to do something without fear of repercussion.” (Rabula woman)

The suggestion that youth see working the land as a sign of poverty and something of which one should be ashamed was confirmed by the input of one of the younger participants, when she was asked directly about her lack of interest in working in the fields or garden. The young woman reported:

“You get embarrassed. For instance you might see your boyfriend walking past and you won’t want him to see you going into the garden and getting dirty. Those are some of the reasons.” (Rabula woman)

A Rabula man reported that it is not only the children who do not want to help in working the field but sometimes the women are also reluctant:

“You are alone as a man. The women these days have made their hair nicely and cannot go to the fields to disturb their hairstyle.” (Rabula man)

However, at other times in the focus groups it seemed that women bore a disproportionate responsibility for working the land.

In addition to the challenges reported above, some participants said that there were people who were simply too lazy to cultivate their land and that even with equipment and assistance these people would not take any interest in working the land.

Msinga

In Msinga the main problem cited was lack of water. One participant reported:

“The problem is this one, we do have fields, but the problem is water. For many years we have cultivated and not get anything out of the fields because of the drought. This place used to be a place rich in food production. God was helping us with rain for irrigation.” (Nkaseni man)

Participants said that the lack of water informed what was to be planted because some plants needed more water than others and only those that required less water were an option for most.

“We plough things like spinach, beetroot. We do not have money to plant mealies because that needs lots of water and the only way that we have water is to carry it on our heads. We also have cabbages in our small gardens. We are just doing small things as we cannot go big because of the problem we are faced with.” (Nkaseni man)

When asked how frequently it rained, one participant reported:

“Ever since I got married here, it has not rained and I have six kids and some of them have their own kids, it is a long time ago.” (Mashunka woman)

Participants also reported that in times of desperation when they were unable to plant anything they would collect wood and carry it to “umtato” to the people who had the means to plant but needed materials to fence off their crops. They would trade wood for produce such as tomatoes so that they would be able to feed their families.

As in the other sites, participants in Msinga reported money as one of the main challenges to using the land.

“Money talks here because if you do not have, then there is nothing that you can do. Everything is about money: buying seed is money, buying manure, hiring a tractor, there are chemicals that are needed for your seed to grow well, this is money, everything here needs money... no one has money.” (Nkaseni man)

Another reported:

“Our problem is the equipment to plough, we do not have tractors. You find that the tractor that we get is expensive only to find that we do not have the money.” (Nkaseni man)

One of the Msinga participants from a former labour tenant area reported that people were more productive during apartheid, when they were working under the supervision of white people and that they had lost the drive to work now that they were free:

“Most of the time we were under white people and people now are no longer the same as we were working for white people. They are now lazy, especially the youth.” (Nkaseni man)

In Msinga the apathy of youth was once again given as a reason for the decline in the use of the land. Many of the participants in Msinga were of the view that the rights that children had acquired after 1994 were to blame for the disciplinary problems that they now face. One participant reported:

“The reason is that we grew up knowing that if they say you must do something, you have to do it whether you like it or not. Even if you have to fetch livestock, you have to definitely do that. If

you go and play with the ball, when it is the afternoon, you should do your work because you would get a hiding at home if you did not bring back the livestock.” (Nkaseni man)

The participant went on to say:

“I see that the reason is because before they used to beat us, but now if you beat a child you are going to be arrested. Because of these rights...” (Nkaseni man)

The perceived destructive nature of rights also extended to wives according to some men participants in Msinga. The men reported that woman had become defiant and often sided with their children in terms of working in the fields. One respondent reported that it was no longer an option to hit your wife in such disagreements because it would lead to one being in trouble with the law.

“Because even if tell my wife that I do not understand this, she would say I am abusing her child because she also has her right to answer me. We did not know that before, we only knew that my father would take a sjambok and hit her head. My mother never answered back to my father. That does not happen anymore. If you slap her in the face the police van would come and you would be arrested. But if she fights with you the police won’t come. That is how this world perishes as you can see, it is because of these things.” (Mashunka man)

There were some who disagreed and argued that everything depended on how one raised children. They argued that it was not true that all children were insolent and did not want to work in the fields. Thus a participant from Nkaseni reported that girls often work in the fields:

“They cultivate with the women. Girls will go with their mothers to the fields to help with the cultivation. They cultivate and harvest as well. They will carry on their heads what is harvested back home. The girls are involved, they help carry the water” (Nkaseni man)

When asked whose responsibility it is to make sure that the land was being used, most of the Msinga men said that it was their responsibility. Others said that the man’s main responsibility was making sure that resources, such as the tractor, seeds and manure were available, while the woman’s responsibility was to concentrate on working the land; ploughing and weeding it and so forth. A female participant gave another account in reporting:

“I am staying with my children’s father. I no longer have parents, so, if the children’s father is not there and there is a need that has to be attended to, it is upon me that I do that, take that role and do what he would have done. At times he is not around and does not know that at a certain time something has to be done. As I am around and know what needs to be done, I am going to do that. If it is time to cultivate the land and he is not around, I do that. If there is a need for seeds, I would be the one that knows about that because he is not around. He only comes at a certain time and he does not know what is happening when he is not around. I know.” (Mashunka woman)

Ramatlabama

Participants in Ramatlabama cited lack of water as the main reason for not using land. They reported that there was a water pump that was meant to serve the entire community, but it was not strong enough to keep up with the ever-growing population of 600 village. As a result, a certain part of the village's water supply was cut off completely and only residents who had boreholes were able to engage in any form of subsistence farming. A participant reported:

"Each and every house should have a tap in their yard but you find that people who live in the new stands – the water is cut off and doesn't reach that side. So you find that they don't have taps in their yard and that's why they don't have gardens in their yard." (Ramatlabama man)

Participants reported that people in this part of the village often trade daily essentials such as electricity in exchange for water. For example, they would pay the light [electricity] bill of a neighbour who had a borehole in exchange for a tank of water. This meant that they barely had enough water to live on daily, let alone water to cultivate a garden.

Second to the lack of water, the other major reason cited for land not being used was that the soil in Ramatlabama is not fertile. Some participants called it a semi-desert area while others simply said that the soil was weak and therefore did not retain water. As a result many of the people who previously farmed in Botshabelo during apartheid and had the means to do so opted to go back and farm there when they had the opportunity of receiving the land through restitution. According to the participants, prior to their departure, these farmers had farmed for all the people who had fields, who fell into the different councils, and the profits were shared equally among them. The land became fallow after they chose to go back to Botshabelo. One participant reported:

"We had fields in Botshabelo and then we came here. When we came here the men who were farming there continued to do so and they would give us bags of food. We would then take the crop and make flour. As time went on and they started using tractors and things started to become weak. For two or three years nothing has been done." (Ramatlabama woman)

She went on to say:

"Those who farmed here went back to Botsabelo. Those who had the tractors went back there because they were given the land again." (Ramatlabama woman)

It was reported that after the departure of many of the farmers the only time the fields were used was when white farmers came and hired the land for a short period of time. The proceeds of the crops would be shared in the same way they had been before, with each council receiving a share of the profits:

"When the boers come that's when they farm and the fields are used. They farm all those fields and like mama said they share them between the different councils like they'll say this is for the Taungs, this is the Phiris this is for this one and that one, just like that. So they sell and once they've sold the different councils meet and they are told that the produce has been sold and

they are then given money per council. The members of the Taung council will get a little something and that council will also get something. So last year I don't think anything happened, there was no farming. The fields are there though, but last year they were not used." (Ramatlabama woman)

Another participant reported that the land had not been used for a long time prior to 1994. She reported that without the solicited help of the white farmers, the land would have remained unused for a long period of time.

"I think we were lucky in that the chief found people to come and do something for us because before 1994 even in the 1980s until 1994 there was nothing being done. This land was just sitting there. At least after 1994 the chief was able to have a connection with people and they came to farm and things were better." (Ramatlabama woman)

Participants in Ramatlabama were of the view that their inability to keep up with farming activities was due to lack of involvement on the part of the government. They reported that after they had been relocated from Botshabelo they were promised assistance from the government, and that without that assistance farming proved to be more effort than it was worth.

"It's not a place meant for farming, that's why the farming is weak. And also the water – fields need water. The thing is, the Department of Agriculture damaged us in many ways because they promised us a lot of things from the time people were moved from there. They said that they would help people continue their work here because the people were used to farming, they were not used to going out and buying things. So they thought that when they came here they would continue, but they found that the place is dry. So those people that promised them are nowhere to be found." (Ramatlabama man).

Another participant said:

"There is no support from the Department of Agriculture. Like if you look at other villages, there are extension officers and certain programmes that deal with all these issues of agriculture." (Ramatlabama man)

Those who did not have fields, but only small gardens within their homesteads reported the various reasons these were not being used, including crops being eaten or damaged by animals:

"Sometimes, you find that pigs can go in, and some people they don't take care of them, they don't have a place to lock them up. They escape and go into other people's yards and destroy everything. So some lose interest because after they have planted, other people's animals come in and destroy everything." (Ramatlabama woman)

Another reason given, although not as common as the others, related to crime:

“You have to think of the thieves here, people like to go into other people’s yard. So maybe if you’ve decided to plant, someone might come at night and steal and when you wake up there’s nothing. So those are the things that make people not want to plant.” (Ramatlabama woman)

As in the other two sites, laziness was a further reason given for the land being left fallow.

“There are some people who do not like to do anything for themselves. They have the ability to do it but if you ask them why they don’t plant. They’ll say maybe they will. They tell you, I don’t have seeds, who’s going to buy seeds for me? They want things to be done for them. Some people need to be pushed.” (Ramatlabama woman).

Land allocation before 1994 and after 1994

Participants were asked how land was allocated before 1994 and after 1994. They were asked if there was a difference in the way people were able to gain access to land between the two periods and the people who were responsible for allocating the land.

Keiskammahoek

In Keiskammahoek participants reported that in the past titles were given indicating allocation of land in the homeland area and for this one would go to the headman. A participant reported:

“One would go to the headman. If I have a son, and I have residential land and a title, I now want him to get a place of his own. I would help him look for a place that is fit for farming. When he has found that plot, we would then approach the headman and advise him. If that land is not reserved for grazing land, they [the headman] would then go and assess that land and he would be given the title. The title implies the right to use the land.” (Cata man)

He also reported:

“Someone who is young like me [at] that time was never entitled to get a field, even a building site. If they were allocated one it would be of a certain class, less than that of someone with a title.” (Chata man)

In terms of women, a Rabula woman said:

“In the olden days an unmarried older woman would stay in their parental home and build her own hut within the site. An unmarried woman would not be allocated a site.” (Rabula woman)

Other participants reported the procedure through which betterment relocation was effected in the 1960s:

“They would divide the land along with agricultural officers. They would evaluate each person. While one person would be allocated a site that could fit four buildings, another person would be allocated a site that could fit two buildings. It used to be called a “v” where there would be two buildings belonging to the same homestead on the site of the land. So if you take a look outside

you will find that some buildings are built closely together because of this “v” formation”. (Cata woman)

The people in these “v” formations did not have fields; they were restricted to a certain size garden and number of buildings, which were considered inadequate.

In Rabula, allocation of land was reportedly done differently. There they used a sort of lottery system where numbers were drawn from a hat and one would have to take the stand number given and build there no matter how far it was. In allocating land, people were also asked to bring referral letters from former neighbours and community members. However this practice was reportedly stopped because they had no way of verifying if the letter was legitimate.

Participants reported that after 1994 titles were no longer used and that the headmen were replaced with the committee chairperson. In the new order it was reported that to acquire land one only had to go to the chairperson, who would then call a meeting with his committee and the land would be allocated. Participants reported that allocation of land was largely for residential land, and people were no longer able to acquire fields. A participant reported:

“One goes to the chairperson now to get land allocated. He would then go to the community and inform them that you are requesting a site and one will be allocated for you. Fields are no longer allocated now, just small sites. You would then make space on your land for a small garden.” (Rabula woman)

A Rabula man reported similarly:

“I can say that izibonda [headmen] no longer play a big role. We have chairmen in our areas these days. The chairman has his own committee. What happens with us here at Ngqeqe, when someone needs a place to stay we ask for a fee of R50 to build a crèche which replaced the old law of izibonda who demanded a bottle of brandy when someone needed a stand. This brandy was drunk by the headman next to the kraal and we decided to change it so that people should pay R50 not to buy a stand but to help in the crèche.” (Rabula man)

Another participant reported that the land application had to be lodged with the magistrate’s office first to ensure that the site could be allocated. However, this was done through the committee rather than by the individual applicant. As one participant reported:

“You won’t be the one to go to the department. There is a committee to handle the whole thing. The committee will be sent from the area and they would advise the department of the number of people seeking sites in Cata. The agricultural officers would then state the day on which they will come to Cata. When the department comes the person would then point out the site that he wants. The agricultural officers would then allocate that land by “chain” and demarcate the boundaries of the land. They would then do the same for the next person and so forth.” (Cata woman)

The process of land allocation also changed in favour of women, as a Cata man reported:

“Nowadays, if a person wants a site, even if they are female, land is allocated to them. They are given residential land. However, in the old days an unmarried person would not be allocated residential land.” (Cata man)

When asked when the processes of allocating land in the village had changed, many reported that it changed after the 1994 elections:

“It changed after the elections and voting that said everyone had rights.” (Rabula man)

Msinga

In Msinga the responses about the allocation of land during apartheid varied between the former labour tenant areas and non-labour tenant areas.

Participants in the non-labour tenant area reported that anyone who wanted land would approach the local induna. They said that women were not allowed to be given land before 1994 and only a father could go and request land on behalf of his son. Even women who were married and returned home were not given land. Instead, they would be given a piece of land on their parent’s homestead.

Several participants in the non-labour tenant area reported asking white people for land. Thus one reported:

“You would go to the white person and tell him that you are asking for land you want to build your house. Then he will decide to locate you in a place he wishes to and also it’s his choice. Again he refuses if he wants to.” (Mashunka woman)

In Nkaseni, the former labour tenant area, participants did not report any actual allocation of land to black people. However, a participant reported that things were run a lot more efficiently during the time of apartheid.

“It is difficult because the white people were managing this country very well as you can see how it was like, but now as it belongs to us, we black people are careless.” (Nkaseni man)

He continued:

“Everything the white people had was clean. If his fence is there, it would always be right. But with us black people if there is a fence, you will find it being cut in other places. We black people do not behave like white people to look after our things as we did during the time we were under the white people.” (Nkaseni man)

Participants in the non-labour tenant area reported that after 1994 land allocation was still done through the local induna. Women could only acquire land through family members, while men were free to go to the induna to acquire land.

“A woman is allocated by the family members. If she leaves home, it is the family that allocates for her. But, if it is a man that wants to leave his home, if you have lots of children, you have

boys and an older boy is still at home and the young boy child want to move out, the younger boy child will go to an induna to ask for a place. A boy child or a man will go on his own to ask for a place of his own.” (Mashunka woman)

When asked about the difference between pre- and post-1994 in the allocation of land, many participants reported that they had not seen a difference. One participant reported:

“I have not seen any difference. To me it is still the same as it was. Things are still done the same way as they were.” (Mashunka woman)

Another woman reported:

“When you do not have a boy child, getting permission is just not possible. It is still like that even now. For now, there is no woman that is allowed to build a house because even when she builds, she does that when she builds under the name of the child and to say that this house belongs to this child as this child is at home. It is difficult to take a girl out from home and say you are going to build there because she would change partners.” (Mashunka woman)

A Mashunka woman who had attempted to gain access to land reported:

“When I came home and asked that I want to have my own place, they said it is not going to happen because I had no child. They said it is not allowed that a person with no child or children to have a place of her own. They said it would be better that I build a house within the family yard and I did that.” (Mashunka woman)

However, participants reported that it was difficult for single mothers to gain access to land, even those with sons, because these women often had children by different men, which entitled each child to a plot of their own. Therefore in an effort to prevent a situation where a woman claims land for each of her sons, single women were prevented from acquiring land. A participant reported:

“There would be surname changes there. We tried to avoid that but it still happens because while she is here at home, Bhengu and Khumalo (children) are here at home they are born to this girl. She goes to Newcastle and comes back with a child, she goes to Durban and comes back with a child, she goes to Ladysmith and comes back with a child; they have different fathers.” (Mashunka woman)

She continued:

“The girl would then have children of all these surnames and they are the cause that we find that we are short of the land because she wants Bhengu to have his own place and Khuzwayo to have his own place. All these children are from the same mother, but they must have their own places because they have grown up now. Children must have their own surnames.” (Mashunka woman)

Married women who had returned to their natal home from marriage reportedly had an easier time getting access to land because all their children had the same surname.

People who came from outside the village could also be allocated land through the induna and this happened, for the most part, through a consultative process with members of the community. When one asked for a piece of land, neighbours would be present at the meeting and all would have to agree before the individual was given that piece of land. If there was no consensus, another area would be sought out for the individual, where the same process would take place again. A woman gave a detailed account of the allocation process:

“It differs because a woman is allocated by the family members. If she leaves home it is the family that allocates for her. But if it is a man that wants to leave his home, if you have lots of children, you have boys and an older boy is still at home and the young boy child wants to move out, the younger boy will go to an induna to ask for a place. A boy or a man will go on his own to ask for a place of his own. He goes himself or can ask his father to go on his behalf.

I am here today but I come from a different place. I came with my husband to this place, we both went to an induna to ask for a place to live. We first spoke to the men within the community and they said we can get a place around here. We then went to an induna to ask and we informed him that we have spoken to some men in the community and they said we can get a place. Induna then gathered these men and they discussed our request. He then set up a date in which we were to be given a site. Normally something is done, something like brewing of the traditional beer when the induna and community men pay you a visit, to indicate where you will be allocated. It is then known that this is your place and you can start building as it is your place.

It differs, because in my case, I was coming from somewhere else, it was not like I was moving out of my parent’s place but I was coming from outside of the area. I wanted to have a place of our own and I had to be accepted by the community first and they did. We spoke to the men within the community first and they accepted me and eventually the induna heard and accepted us and we were allocated a place and we built on it. (Mashunaka woman)

Ramatlabama

In Ramatlabama there was a clear distinction between processes of land allocation before 1994 and afterwards. One of the older participants recalled the process one went through to get access to land during apartheid:

“In the village when one got married they would go to the chief and give what was called “sehuba sa kgosi”. I think it was R60 at that time. You also produced your pass and you went to look for work. So that’s when you would be given a stand; you took out that “sehuba sa kgosi”, I think it’s called a labour tax and that’s how it was done. It was only for men though. The women could not get a stand in that way. They were under parental care and would get a stand once they were married” (Ramatlabama man)

It was reported that in the past only people who were married were considered, and the married people who wanted to acquire land were asked a series of questions about what they intended to do with the land. When asked what would happen if a single woman came to ask for land before 1994, the chief who was a participant in the focus group reported:

“A single woman wouldn’t have come to ask because she knows. There is always a law in the village and this law is known by everyone. Everyone is aware of how things are done; it’s the agreement of all the elders in the village. So if the law says you must have two children in order to qualify for a stand. You know that if you only have one child you should not come to ask for one. But today you can come as a single person and ask for one.” (Ramatlabama chief)

Therefore single women would either get married or stay in their parental homes during apartheid.

In contrast, participants reported that there was a large increase in single women who asked for land after the end of apartheid. Participants were then asked about the process of acquiring land after 1994.

“You go to the traditional council. A person comes from their (parental) home and they know that they want a stand. They would start off by going to the chairman in their council first before coming here. Let’s say you work, so you would tell that chairman that you would like a stand, and it is he who comes here (traditional office) to ask on your behalf because he knows you. So first your name is put on the agenda when there is a legkotla meeting. They have meetings once a month. So the consultation is just to ensure that you are so and so, from such and such as place.” (Ramatlabama chief)

Another participant reported:

“Before there was a sort of protocol. You start at home and consult with parents or uncle or whoever. They would then go to meet someone who works for the chief, you would not meet the chief directly. And they would come to the office and do all these things that relate to registrations and find out which family you belong to and all that.” (Ramatlabama man)

When asked about the cause of the change of land allocation between the periods during and after apartheid one of the participants said that it was the chief who was responsible for making things easier for women to have access to land. She reported that the chief did this to alleviate the problem of having many family members under one roof and resultant family conflicts. Another participant disagreed with her, as follows:

“To me for that change afterwards it’s the government that caused the change. They are the ones who said that if one wants a stand there’s a certain procedure that had to be followed. I don’t think it’s the chief who one day said, if you want a stand come to me and take out R500 and all that. According to me I think it’s the government that caused that change. So in my view I think it’s our constitution that changed everything because they say that everybody has the

right to shelter, education, blah blah blah, so I think it's them that changed everything. It's the government." (Ramatlabama woman)

Loss of access to land

Participants were told of the findings from the survey that related to loss of access to land. They were told the number of women in their site who reported having lost access to land and were asked about the possible reasons that would lead women to lose access to land.

Keiskammahoek

In Keiskammahoek participants reported that women were most likely to lose access to land after the death of their husbands or partners. They said that inheritance was a highly contested issue between a woman and her in-laws. In the event of the death of her husband, the woman would often be chased away to prevent her from inheriting any land. They reported:

"That was what used to happen in the old days. When the husband of the woman who had been abducted into marriage passed away while working in the mines and the family was expecting a windfall from the money he had made while working there, they would cast out the wife. Even if she had five children they would deny knowing her. And say that she was not their daughter in law." (Cata woman)

Another reported that this was not something that only happened in the past. It still persisted today:

"The younger generation loses their land due to the husband's death. She would be given a tough time by her in-laws. Some are even stripped of their fields that they may have been given to cultivate. The woman would be forbidden to cultivate the land as though she is laying a false claim to the land which was initially given to her by the in-laws". (Rabula woman)

Some participants reported that women are not always forced to leave but that sometimes the deceased's family put pressure on the woman to leave by making her life a little unbearable. Therefore in many instances, instances that might not be documented as eviction, a woman will leave on her own accord in order to keep the peace.

"If that woman was unhappy in her marital home, she would leave that land when her husband died and opt for independence. She would be of the view that the treatment would worsen in the absence of her husband because he would no longer be able to protect her. She would therefore leave and opt to request her own land. She would only return to the marital home to perform traditional rights or customs for her children. She did not leave because she wanted to and would not be cast out, but she was not happy in the home. She was there because of her husband." (Cata man)

Participants added that for this reason a "paper marriage" was of great importance, especially in cases where one was abducted into marriage. They said that women who were abducted into

marriage were generally advised by family members to go in the morning to the magistrate to sign a marriage certificate for the purposes of inheritance.

There were also reported instances in Keiskammahoek where a woman would be cast out of her husband's home and rejected when she went to her natal home because she was seen as bringing more mouths to feed. This would render these women homeless. A participant reported that the eviction of women from their marital homes was an indication that women were only valued so far as they were wives, and that once the men passed away they were considered redundant:

"It happens and something puzzles me about marriage. It would appear that the person your in-laws value most is their son [your husband] to the extent that, even if you had had a good relationship with them while your husband was alive, once he has passed away everything changes. It seems you are kept around for the sake of the children, who are viewed as his. You have then been left out. I don't know whether this is part of our custom, that marriage is seen as a waste of one's time [once the husband has passed on]. I don't know what brings that about."
(Rabula woman)

In many of the accounts given of women losing access to land, the land had been acquired by the man or his family. Participants reported that women were less likely to be evicted if the marital home was not on their partner's natal homestead or acquired by any of the partner's relatives:

"The one whose husband has died and already had her own residential land, would not be cast out from her land. She would remain there since it was her house along with her husband and children. The one whose husband has died while still living in his parental home can be allocated a site with its own garden, where she can be independent and live with her children. I think the same would have applied even in the old days." (Cata man)

Msinga

In Msinga, the death of one's husband was again cited as one of the reasons for loss of access to land. Participants reported that in the Zulu culture it was customary for a man to marry his brother's widow. In cases where the deceased did not have any brothers, the woman would be chased away and told to marry elsewhere.

"Others you find and their husbands do not have other siblings and there is no other brother who can marry his deceased brother's wife.... So she has to go and marry somewhere else."
(Nkaseni male)

He added that these days loss of land does not only happen to women. A man could get cast out of the home if he mistreated his wife.

Women in Msinga were also said to be liable to lose access to land when abandoned by their husbands or partners. It was reported that some men would go to the cities to work and would

start relationships with other women there and would not return to the village. The man's family would then chase the woman away.

There were various other reasons that were reported by the participants as grounds for chasing women away. These included a woman's misbehaviour:

"Another thing that happens is that she lost access to land because she cannot behave. You find that she has her husband but does not behave. She gets everything she wants from her husband but she does not behave and would end up losing access to land." (Nkaseni man)

He elaborated by saying:

"Because the lobola has been paid, maybe eight cows, and you find that livestock is lost because she does not do all the rules she was told when she came here at home. You find that she is no longer cooking for her in-laws, they are now eating bread at night." (Nkaseni man)

One participant argued that it is sometimes the in-laws who are to blame for the conflict in the marital home and the woman's reaction to the conflict could be misinterpreted as misbehaviour. She reported that sometimes how the daughter-in-law is treated while the husband is alive is the cause for them leaving.

"In my case it was the aunt. My mother in-law liked her a lot and I did not see eye to eye with her and that was the cause of the problems in my marriage and the in-laws will always see that as a lack of respect, and that I want to do as I wish. Sometimes, the mothers in-law are guilty because of the way they treat their daughters-in-law. You find that they are doing things to make you feel that you are not part of the family, do things like leaving you out. To an extent you feel you do not belong, always involved with their daughters and forgetting that these girls will one day leave them behind, they will go and be married somewhere. When their daughters are gone, who is going to be close to them?" (Mashunka woman)

Infidelity was another reason given for women losing access to land. This was especially common in cases where the husband worked in the city and did not return home for months on end. A Mashunka woman reported:

"One will see that her husband is gone for three, four months and not coming home. She goes out as though she is gone to collect wood. She does not collect wood only, she is seeing someone else and what happens next, the breakup of her family." (Mashunka woman)

Another participant said:

"When you get romantically involved while living with the in-laws, you will be banished. The thing is, we the younger ones no longer want to be told, we want to do things ourselves, on our own, in our way. But the reality is, men are the ones that lead at home. We do not want to hear that. We do not want to be controlled. We want to say what is going to happen. In some families, you are told that you brides should not come home when it is late/when the sun has set

but you would come in late, you would come in when the sun has set. These are some of the problems.” (Mashunka woman)

Participants also reported that the exclusion of women from inheriting land is a major factor in the loss of land. It was reported that in the Zulu culture women were left to the mercy of their husbands and in-laws when it came to inheriting land. A woman did not have any land rights in her own family and therefore had to marry in order to acquire land. If there was any conflict with her husband or in-laws her rights of inheritance could be jeopardised or she could lose access to land completely. It was reported:

“She is born with a surname from her father. She will leave that surname when she gets married, she will exchange her surname for her husband’s when she is married. If you grow up and are not getting married, you eventually end up with no place to stay. You can have a place to stay while your mother is alive but when she dies, your place is no more. You would say you want to have a place of your own and you will not get it because you have no children, you have no boys. Truly speaking, a girl or a woman has to marry. We are born to be “sold” to another family to get a surname for ourselves.” (Mashunka female)

A Mashunka man reported similarly:

“Because the other thing that I know even though I am still young, we know that the girl does not have anything here at home, isn’t it so? If she is married there, she does not have any inheritance here at home.... Even before she’s married, she is told that here at home you do not have any say, you are a visitor.” (Mashunka man)

Similarly in polygamous marriages, participants said that only the first wife was entitled to inherit the land. Therefore, unless a man clearly divided his possessions between his wives while he was still alive, only the first wife would have land when he dies.

Ramatlabama

In Ramatlabama, as in the other two sites, participants reported that loss of land was usually related to the death of a husband or partner. Many reported that the women were believed to be occupying a home that belonged to the husband’s family, so in the event of his death was no longer welcome.

“Mostly in families it depends on how members within a family live and relate to each other. So if I’m married and I’m not on good terms with my in-laws or my wife is not on good terms with hers, then the day I pass away these things could come up. They might then come and tell her that the house actually belongs to their family and that the person she was here for is not longer around, so she’ll have to leave.” (Ramatlabama man)

While some participants considered such evictions to be wrong, others, including some women, supported them because they felt that the women did not have a right to inherit the land in the first place because it was the man’s natal home and belonged to his whole family. One woman participant reported:

“When we talk about the man that I marry maybe he’s the last born and he had sisters. I can’t tell myself that the stand is mine even if I live in it. That stand belongs to all the children of that family. I have to go, and if my husband passes away I have to build my children another home not assuming that if my husband is the last born that stand will belong to him. So I think that those who lost land may have thought that when the husband passes away the stand now belongs to them, but then the sisters of the husband come and tell you that this is not your home and they would be right because it belongs to someone else’s family. So it’s better to go and build your own house and live with your children there.” (Ramatlabama woman)

They added that in the Tswana culture the last born child, regardless of sex, was usually the one to inherit the land, but if the last born passed away, the land would go back to the family; it would not be given their spouse. So, women who had been chased away from their husband’s land were said to have mistakenly believed that they would inherit that land. One focus group participant conceded to this fact, but argued that she should be able to inherit on the basis of having raised her children in that house.

“I’m not forcing the issue because this is a discussion okay. I just think that the stand is mine because of my children. There will be children who are born from that marriage right? So my mother-in-law had passed away and my father-in-law has passed away and my husband’s sisters who are married come. Let’s say the husband was the last born or the only boy in that house and I married him. That house may not be my house but it’s my children’s home.” (Ramatlabama woman)

She added that many times women were evicted out of spite, by their partner’s sisters who were married and had their own homes. Therefore the house from which the woman was evicted often stayed empty. This woman’s input evoked the following response from another participant:

“I think that sometimes if you’ve lost land like that woman you just tell yourself that you must leave to avoid conflict because sometimes if people don’t want you there they could even end up killing you.” (Ramatlabama woman)

Marriage

The survey indicated that the rate of marriage in Msinga was very high, with over half of the women in the survey reporting that they were married. In Ramatlabama in contrast, far fewer of the women reported that they were married. Participants were asked to speculate about the differences found between these two sites and offer possible reasons for the discrepancy.

Keiskammahoek

In Keiskammahoek participants had very little knowledge of the cultural dynamics in Msinga and Ramatlabama that would cause the marital disparities. However one of the participants speculated that a decline in the rate of marriage could be an indication that women were becoming more independent. She reported:

“In the old days women were dependent on men. Nowadays our children work and have their own money. They can be independent, put their children through school and feed them. Having seen the mistreatment of other women, she would then decide to remain unmarried because she can provide for herself. Rather than having a husband with whom she is likely to encounter a lot of troubles, she would decide to remain by herself and raise her children on her own.” (Rabula woman)

Another participant speculated that women were being put off marriage by the examples they have seen. However, she added that each person was different and one therefore could not know with certainty why the difference existed between the two sites.

Msinga

Msinga participants reported that for women, marriages were a means of inheriting land and for a man it was a means of making sure that your children had your name and would carry on the name of your family. A participant reported:

“What makes women marry is that if a husband is working and it happens that he dies, the woman would show that she is married to the man so that she can get something, because if she is not married, she is not going to get anything. They get married so that her children should have their father’s surname and not use their mother’s. They get married because they do not want to be told that they do not have wives, that they did not pay lobola and they are having ‘mkipiti’ (live in lover).” (Mashunka woman)

Responses from other participants suggested that even in Msinga marriage was no longer afforded the same value as previously. As one participant reported:

“The marriage of today is no longer the genuine marriage about family and all that. It is more about getting something if a man dies, getting something if the man is working. It is no longer the marriage where you would see young men dressed in their traditional garb, with their shields and spears going to dance in a wedding. It is all about writing these days, you hear that so and so went to sign. They are signing but you never heard of so and so doing a ceremony before marriage. The Zulu culture is no more. If there is, it is very little.” (Mashunka woman)

Participants also said that for men the Zulu culture almost demanded that one should get married. From the time a man was born all the males around him were married, therefore it would be taboo for one not to get married. Some men reported that there were financial benefits to being married when one was employed and these also formed part of the reasons why men sought wives. A Mashunka man reported:

“That is true when my father here says that the important thing about marriage was when you were working, there were monies that you would not get if you were not married. That is where there was a difference. Even now it is still like that, when you get employed in the firm they ask you whether you are married. If you are not married, there is certain money they are deducting from you but when you are married, they give you that money.” (Mashunka man)

Another participant reported that in Msinga they had the means to pay lobola because they had livestock, therefore possibly making it easier for them to propose marriage:

“Maybe the reason why many women here are married is because we have livestock here, we have cattle in the kraals, we do not need to buy cattle but you know that once you (man) spot a woman you love, you just take cattle from your father’s kraal no matter if you do not have money. But if you do not have cattle in the kraal, because in other nations they do not have cattle but use money to pay lobola, so they may not get married because they do not have money.” (Nkaseni man)

Other participants speculated that women had very few options if they were uneducated. It was reported that the only other way, apart from marriage, that women could acquire land and possessions was if she worked for them herself. If not, she was doomed to a life of poverty and would never have the opportunity to own anything.

“I think it is lack of education. When you look around, many have very little education. When you look again, you find that a person does not feel worthy when she is just staying at home, they look and see that there is nothing else and eventually make a decision they are going to get married with the hope they will benefit if they are married. When a person is educated, she has opportunities of doing things for herself, making a life for herself, she is in no hurry to do things, she does things in her time, she is self-reliant.” (Mashunka woman)

Some participants disagreed with the results of the survey and said that there had been a decline in marriages in Msinga, which they attributed to education. A participant reported:

“Education has killed our children. It is education that has killed our customs and culture.” (Mashunka woman)

Ramatlabama

In Ramatlabama participants attributed the decline in marriages to the high rate of unemployment. As one said:

“I think that it’s because people here are suffering, there are no jobs. You could find someone you want to marry but he does not work, and when you tell your family they will say, he’s going to ask for mealie meal from us now. We are starving as it is and you want to bring an extra mouth to feed.” (Ramatlabama woman)

Another respondent reported that the rate of marriages was higher in Msinga because polygamy was permitted in their culture whereas it was not permitted in the Tswana culture.

“You know what, Msinga is not like here. The Zulu culture and Tswana culture are not the same. I take only once, I don’t take twice [wives]. If you told me to take two I would be scared because I don’t know if it would be accepted. Even if I went to take someone from Msinga and brought her here and she expected me to take a second one I would be surprised. How would I support

them? Even if I had something and I could support them, I couldn't take a second one.”
(Ramatlabama man)

Some of the youth speculated that there was a difference in terms of morals and respect between the two sites, which made it more likely for women in Msinga to be married than those in Ramatlabama. They said that women in Msinga were respectful and followed their traditions, while those in Ramatlabama were prone to drinking and having children out of wedlock. In addition the youth suggested that women in Ramatlabama had more of a choice in terms of choosing their marriage partners, as opposed to Msinga women, whose partners were chosen for them:

“You don't have to get married if you don't want to. You can refuse, you can say, “no I don't want him you can have him”. So the Zulus, they choose for them. In Msinga once a girl is 18 or 17 years old they start to look for a partner for them. At that point someone has already seen them and speaks to the elders and magadi is paid for them. So here we have this thing that we will not marry anyone we do not love.” (Ramatlabama woman)

Another participant said:

“Let's say I'm mme xxx's daughter and I have a boyfriend who loves me but mme xxx doesn't love him, she likes the one from next door. Those are things that make us not get married. I want to marry someone who I love not someone who my mother loves. I have to go where my happiness leads me, you can't tell me who to marry and where to get married.” (Ramatlabama woman)

This freedom of choice was not always the case. An older participant told of how a husband was chosen for her:

“I was introduced to a man that I did not want to marry. My father said that if I didn't want him then I had to leave the house. So I gave in and married him and he gave me children and left me the house.” (Ramatlabama woman)

According to the participants, the choice that was now available to women in terms of choosing a partner as well as the easier access women had to land rendered marriage a non-necessity. As a result cohabitation had become more prevalent within the village. However, the input of one of the woman suggested that there was also reluctance on the part of men:

“There just isn't marriage. You find that you could be living with someone for twenty years or so and he's not saying anything, he's not doing anything. You could even ask him when he's planning on marrying you but...” (Ramatlabama woman)

A male participant gave his view on why cohabitation was increasing:

“The other thing is that when you're desperate, when you need money and clothes you will accept anything. So then xxx comes along and you know that he has a job and his grandfather left his house to him. So at his house you can eat cabbage and meat but at your own house you

only have cabbage and spinach. Are you going to settle for cabbage and spinach? No. So you will sit there and accept the situation and you will be taken care of, you'll be able to get your hair done and all that. That's what causes a "vat en sit". (Ramatlabama man)

The men also suggested that the level of poverty sometimes put women at a disadvantage because in wanting to be taken care of they would accept a relationship in which the man had no intention of marrying them.

Conclusion

The preceding pages provide a rich description of the situation of 1,000 women in each of three areas – predominantly Zulu-speaking Msinga in KwaZulu-Natal, Xhosa-speaking Keiskammahoek in Eastern Cape, and Tswana-speaking Ramatlabama in the North West province.

The evidence from the focus groups and interviews provide clear evidence that women have a greater degree of access to land than would be expected from reading the standard literature on customary law and practices. In particular, both the survey interviews and focus groups reveal that the access of women who have never been married and widowed women has increased noticeably if one compares the period before and during apartheid with the period since 1994. This change is found across all three sites. When community members are asked for the reasons for these changes, "democracy" and "women's rights" emerge repeatedly as having contributed to the increase in women's opportunities.

All the women surveyed in this research live in former homeland areas that currently fall under traditional authorities in terms of the Traditional Leadership and Governance Framework Act. The changing customs and practices revealed by the research thus provide documentary evidence of what in these three areas currently constitutes "living" customary law. The research refutes statements that individual cases in which single women gain access to land are "anecdotal" exceptions to customary law and practice. In so doing, the research achieves one of its primary aims with a degree of clarity in terms of the extent of the changes that we did not expect when we embarked on the research.

The sheer length of this report testifies to the fact that the research has shown much more than this. It has given insight into a range of aspects of the lives and situation of women and their families in these three homeland areas. It has shown that while there has been some progress, there are still many challenges facing women in these areas. We hope that this information will be interesting to many people, and that it will be used by the women themselves, the organisations and institutions that support them, and other actors in addressing the problems faced by them and in claiming their rights.

The analysis presented in the preceding pages by no means exhausts the possibilities for analysis of the large dataset collected through the survey. We plan to make the dataset available to others who wish to analyse it and hope that it will be further used to expand information and knowledge of the situation of rural women in South Africa, and to assist in their struggles.

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