



“Inkunzi ezimbini ebuhlanti”

Perceptions of the Legitimacy of Women’s Human Rights in South Africa

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“Inkunzi ezimbini ebuhlanti”¹: Perceptions of the Legitimacy of Women’s Human Rights in the Eastern Cape Province of South Africa

Introduction

The origins of this paper lie in a series of workshops that were conducted by the author with men within the Eastern Cape province of South Africa from October 2000 to March 2001. The purpose of these workshops was to examine men’s perceptions of the role and status of women in the country since the advent of democracy. Instead of focussing on women’s experiences, men repeatedly bewailed their position, claiming that their lives had changed for the worse because of government initiatives aimed at women. During discussions with colleagues that followed the workshops, the author determined the need to investigate this further, especially in the light of the championing of human rights by the present African National Congress led national government. Thus this research project was conceived.

The victory of the liberation movements over the Apartheid regime in South Africa was hailed as a victory for human rights and they dedicated themselves to ensuring that the dignity and value of all South Africans would be protected in the so-called “New South Africa”. The advent of the Constitution in 1997 heralded the recognition of human rights, non-racialism and non-sexism among the core values that the new democracy is founded upon. This was further strengthened by the inclusion of the Bill of Rights into the Constitution. This defines and enshrines the rights of all people of the nation and the state is obligated to “respect, protect, promote and fulfil” these rights².

The African National Congress-led government stated that the movement towards the goal of a democratic South Africa would only be accomplished provided it included significant progress in the struggle to emancipate women. Thus they argued that progress towards democratic transformation should be measured by the progress in the struggle for gender equality. This commitment was emphasised in the efforts the government made to mainstream gender as part of its policies and programmes.

However while the constitution provides for equality for all before the law, the reality for women in South Africa remains vastly different. Legislative change and the adoption of international human rights instruments have proved in themselves insufficient to challenge the present position of women in South African society. Although the state has ensured that women have formal equality, gross disparities exist between women’s lived realities and the assurances provided for. In theory, due to legislative reforms, the situation of women has improved. Unfortunately, these rights have not transformed the lives of women in a substantial way as patriarchal values and customs continue to dominate the social and cultural lives of men and women in South Africa. President Mbeki has acknowledged that the government has made “slow progress... with regard to the important issue of achieving gender equality”³. He reaffirmed the government’s commitment to ensuring gender equality in the country saying that it was vital to the development of a democratic state.

While the government has adopted women’s rights as an important component of the transformation of South Africa, this does not seem to be a common recognition amongst all citizens. This paper therefore examines the perceptions of the legitimacy of women’s rights not by those in legislative positions but by investigating the views of the citizens of the country. Legitimacy is defined for the purposes of this research thus: to conform to acknowledged standards⁴. This was not limited to the standards imposed by the Constitution of South Africa or to legislation that has been enacted since

the first democratic elections in 1994. Rather it referred to all value systems that participants in the research recognised as having validity in their lives.

The research was limited to the Eastern Cape province as this is where the author lives and works.

The position of women in South Africa pre-1994

People's lives are constructed within a particular history and context of social structures and institutions, and also in relationship to others. Thus the way we perceive others and ourselves cannot be separated from our context. The lives of all South Africans have been shaped by a history of colonialism, apartheid, social destruction and armed struggle. People's identities within these social movements have been further constituted by a gender system that has been socially, culturally and politically structured. This system has privileged men and has resulted in women of all races taking their positions within the framework of male domination in the family, in the polity, economy, and society in general. While patriarchy has limited the opportunities of all women in South Africa, apartheid and economics however especially disadvantaged Black women, while the status of White women was elevated in relation to them.⁵

Black women in South Africa suffered a triple oppression. As Blacks—which for the most part defined their class position—all aspects of their lives were controlled by apartheid legislation. As women, they were regarded as dependants and as inferior to men; they were thus even further discriminated against within the framework of apartheid. Finally, a vast superstructure of law and of custom, in which the habits and institutions of a traditional, pastoral society were included into an industrialised state, contributed to difficult position that women found themselves in. Thus Black women's specific disabilities also arose from a combination of social custom, cultural values and apartheid legislation.⁶

Black South African women's resistance to apartheid began as a response to legislation that impacted on "the inner sanctum of home and family life."⁷ This resistance was especially seen concerning the implementation of the "pass laws", whose aim was to control the access of Black people in the areas designated for whites only and into the economy. Their actions often took both the government and the liberation movements by surprise. There were times when the militancy of women's resistance was far greater than that of men already involved in the liberation struggle. Following the march of 20,000 women on the Union Buildings in Pretoria to protest the pass laws on 9 August 1956, Walter Sisulu, former Secretary-General of the African National Congress, asked in jest: "How could they dare?" While Sisulu may have been joking, the male leaders of the ANC had hesitatingly agreed to endorse the march, even calling secret meetings with the leaders of the Federation of South African Women who were organising the march the day before it was due to take place.⁸

The initial response of Black men to the women's protests was paternalistic as they sat on the sidelines and took credit for their achievements. "Men generally expected the women's outbursts to be short-lived and inconsequential."⁹ The attitude of White authorities was that of indifference. They believed that Black women would be controlled by their own men and so made no effort to engage with the women.

As the women's protests continued they grew in militancy. However this soon reached a "ceiling of social tolerance and, at a certain point, it exceeded the bounds of 'acceptability'."¹⁰ Moses Mabhida, a leader of the ANC and an executive of the South African Congress of Trade Unions (SACTU), expressed a widely held view which believed that because of traditional male attitudes which perpetuated the subordinate status of women, "the society didn't expect women to participate in the way they did".¹¹ Both the White State and Black men quickly began to suppress women's actions. The state resorted to force, while Black men used traditional patriarchal authority to order to move to cease their activities. The result of this was ultimately to play as important a role in terminating the women's resistance as was the state's repression.

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Women who took part in activities opposing the Nationalist government had to transcend those cultural and social norms that defined women according to their roles in the home and family. That women had the courage to step outside of these defined roles marked a “major conceptual breakthrough and could only have come about through powerful convictions.”¹² However addressing particular issues rather than a comprehensive struggle aimed at fundamental women’s rights marked this movement. However, the Women’s Charter adopted previously on 17 April 1954 at the founding of the Federation of South African Women, spoke of women’s responsibility to remove “all the social differences developed in past times between men and women, which have the effect of keeping [women] in a position of inferiority and subordination.” The Charter also concluded that the “intolerable condition” women experienced in the country “would not be allowed to continue were it not for the refusal of a large section of our menfolk to concede to us women the rights and privileges which they demand for themselves.”

The result of the protests by women was seen in a more open political culture in which women’s concerns and women’s right to be politically active was confirmed. Fatima Meer wrote in 1985 that “As long as racism continues and a people, not a particular sex, is the object of oppression, the women will continue to overlook their own discrimination and dedicate themselves to the liberation of their people.”¹³

Women’s resistance to apartheid resulted in a greater awareness of gender issues. During the years of struggle the ANC leadership spelled out the role of women who were facing oppression from men within the movement. Oliver Tambo, at the Women’s Conference in Angola in 1981, directed men to be more supportive of the women and their efforts. It was the duty of the men to: “...make it possible for women to play their part in the liberation movement by regarding them as equals, and helping to emancipate them in the home, even relieving them of their many family and household burdens so that women may be given an opportunity of being politically active. The men in the Congress movement must fight constantly in every possible way those outmoded customs which make women inferior and by personal example must demonstrate their belief in the equality of all human beings, of both sexes.” He said further, “The struggle to conquer oppression in our country is the weaker for the traditionalist, conservative and primitive restraints imposed on women by man-dominated structures within our movement.”¹⁴

However, despite these pronouncements, the position of women in South Africa in general, continued to be marked by suppression and male dominance. During the struggle waged against colonialism throughout Africa, it was believed that women’s liberation could only be realised after national liberation. This resulted in the struggle for the women’s liberation being subsumed under the struggle for national liberation. However, the reality was that the attainment of national liberation demanded new priorities like the social, political and economic restructuring as well as protection of the new nation state. As a result women’s issues were continuously relegated to the bottom of the agenda of the states that gained independence from their colonial master. This was made all the more difficult as women’s rights were often regarded as being divisive and moving away traditional African cultural values and practices. Thus the Malibongwe Conference held in Amsterdam, Netherlands, from 13 - 18 January 1990, emphasised that “the emancipation of women in South Africa requires national liberation, the transformation of gender relations and an end to exploitation. We believe that our emancipation can only be addressed as part of a total revolutionary transformation of the South African social and economic relations. National liberation in South Africa does not automatically guarantee the emancipation of women.”¹⁵ This was further emphasised by a statement issued by the National Executive Committee of the ANC on the Emancipation of Women in South Africa from Lusaka, Zambia on 2 May 1990. The statement read: “The experience of other societies has shown that the emancipation of women is not a by-product of a struggle for democracy, national liberation or socialism. It has to be addressed in its own right within our organisation, the mass democratic movement and in the society as a whole.”

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During 1990 women recognised the need to ensure that women's issues were raised during the negotiations for the democratic South Africa that seemed imminent. The Women's National Coalition resulted from a process of workshops conducted throughout the country. The Coalition comprised women's groups from across the political spectrum as well as special interest groups such as rural women, women with disabilities, rape crisis workers, religious groups and women from trade unions¹⁶

The Women's National Coalition held a convention during February 1994. The Women's Charter for Effective Equality was adopted during the convention. The Charter begins:

We, women of South Africa, claim our rights. We claim full and equal participation in the creation of a non-sexist, non-racist, democratic society.

The efforts of women to ensure that women's rights were enshrined in the "New South Africa" were rewarded when the newly elected ANC government committed itself to the conscious transformation of institutions along non-racial and non-sexist lines. The ANC Women's League issued a statement celebrating a "victory for all the South African women." the document ended with the rallying cry, "Never let the boys decide on their own."¹⁷ By way of illustration, in his first speech at the opening of the democratically elected Parliament in May 1994 President Mandela said:

"It is vitally important that all structures of government, including the President himself, should understand this fully. That freedom cannot be achieved unless women have been emancipated from all forms of oppression. All of us must take this on board, that the objectives of the Reconstruction and Development Programme (RDP) will not have been realised unless we see in the visible and practical terms that the condition of women of our country has radically changed for the better, and that they have been empowered to intervene in all aspects of life as equals with any member of society".¹⁸

The Study

The research sought to examine people's perceptions of the legitimacy of women's rights in the Eastern Cape province of South Africa given the country's past and present history.

□ The Eastern Cape

The Eastern Cape province of South Africa is the second largest province in the country and is the third most populous province after KwaZulu-Natal and Gauteng.¹⁹ It is home to 16,4 % of South Africa's total population and has a population density of 38,2 people per square kilometre of land. Of these approximately 65% live in non-urban areas, giving the Eastern Cape a predominantly rural character. Black South Africans are the dominant population group in the province, with 5,448,495 people out of a total population of 6,302,525.²⁰

In 1991 the life expectancy of the inhabitants of the Eastern Cape was estimated at between 60 and 65 years, the second lowest expectancy compared to other provinces.²¹ Females dominate the gender structure in the Eastern Cape, comprising 57% of those in the 15 to 64 year age group – well above the national average of 51%²². This may, in part, be explained by the large-scale movement of men from the Eastern Cape to the mines and Western Cape in search of employment.

The youth dependency ration in the Eastern Cape (0,84) is very high when compared to the national ration (0,60). This means that there are 84 children to support for every one hundred adults in the Eastern Cape. This takes on great significance when added to the high unemployment figures in the province and that the Eastern Cape is regarded as the poorest of the nine South African provinces.

Unemployment is higher in Eastern Cape than in South Africa as a whole. Of the economically active in the province, 41% were recorded as being unemployed in 1995 as compared to 29% nationally. Proportionately fewer people work in Eastern Cape formal sector (45%) than in South Africa as a whole (59%), while 14% work in the informal sector, compared to the national figure of 12%.²³

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Unemployment varies by province as well as by urban as against non-urban areas. The Eastern Cape has the highest unemployment in non-urban areas of all the provinces, namely 49%. This level is considerably higher than it is in non-urban areas nationally (38%). The urban unemployment rate (34%) in Eastern Cape is the second highest in the country. Among males, Eastern Cape's unemployment rate (38%) is the highest in South Africa, while among females the unemployment rate of 47% is the third highest. The rate of female unemployment nationally is calculated at 38%.

Access to basic amenities is lacking, particularly in the rural areas of the province. Only 28,6% of all dwellings have running tap water in the dwelling. Most households still use wood as their main energy source for cooking, with paraffin second and electricity third.

The principal language of the province is isiXhosa, while Afrikaans, English and seSotho are also spoken²⁴.

□ **The Sample**

The sample consisted of 479 men and women living within the Eastern Cape province.²⁵ There were 270 male participants and 209 female participants. The majority of the participants were from urban areas, namely 265 participants. Of these 57.7% were male. Men also accounted for 54.6% of the 214 participants interviewed from rural communities. The ages of participants ranged from seventeen years to eighty-five years old. The majority of all participants were aged between 30 and 49 years old, namely 358 of 479 participants. The majority of participants (408 out of 479) identified isiXhosa as their home language. Two hundred and forty four participants were married.

□ **The Research Process**

The research took the form of individual interviews and focus group discussions. Participants were recruited through the author's existing networks in the Eastern Cape.²⁶ These networks were requested to organise focus groups and individuals to be interviewed. The research was publicised in their communities and people invited to come to the meetings. The size of focus group discussions ranged from four to twelve participants.

The focus group discussions and interviews were conducted in the participants' language of choice. This necessitated the use of co-researchers in this part of the process.²⁷ An interview guide was developed and workshopped with the co-researchers to enable them to conduct the interviews and focus groups discussion where required. The results of the interviews and focus group discussions were then translated into English and written up. The length of the interviews ranged from thirty minutes to an hour and a half, while the maximum length of the focus group discussions was two and a half-hours.

The goal of the research was to examine the participant's beliefs regarding the legitimacy of human rights. Thus the object of the research interview was to obtain "spontaneous, rich descriptions ...where the subjects themselves provide what they experience as the main dimensions of the phenomenon investigated".²⁸ Those conducting the interviews and focus groups asked questions to clarify events, meanings and understandings described by the participants. These questions were based on what Kvale (1995) has termed "red lights" in the responses of the participants²⁹. These included the use of any unusual terms, strong vocal emphases, and repeated statements and phrases³⁰.

It had been hoped to be able to tape record all interviews and focus group discussions. However not all participants agreed to this. This was true for both individual interviews and focus groups. No attempt was made to change the participants' mind where they did not agree to the meeting being taped.³¹ Where permission was not obtained, the author had to rely on written notes from these meetings. The participants "words provided the fundamental data on which all analysis would be based."³²

□ **Analysing the Data**

The interpretative process for this research was chosen to highlight the participants' views. The transcribed discussions were read until the author believed he was fully acquainted with the participants' stories. During this reading he identified common themes which emerged from the data and delineated "the commonalties of the participants' experience."³³

A reading guide was generated when these themes were isolated to facilitate further interpretation of the data. The reading guide has been developed as a means of textual analysis to provide deeper insights into the actions and beliefs of those who choose to participate in research. This is achieved by extracting "those features of texts that clarify the meaning of the text. It involves generating a set of questions through which the data are read. The reading guide brings an order to the interview and ... facilitates the exploration of data".³⁴

The reading guide used in analysing the participants' views of the legitimacy of women's rights included three questions:

1. What are the participants' understanding of human rights and the manner in which human rights have been applied in South Africa since the end of Apartheid regime?
2. What are the historical, social and cultural contexts identified by the participants? How do these contexts influence the meaning that the participants give to women's rights?
3. What are the obstacles to and supports for women's rights identified by the participants in the research? How are these played out in women's lives?

This guide was applied to each interview and the evidence collated across these records. The use of a reading guide enabled the generation of the ideas concerning the plots of the participants' stories and the events and experiences that comprised their life stories. However, the reading guide is not used to direct the manner in which the data obtained is presented in this research.

This paper gives priority to the words of the participants. For ease of reading, all quotations from participants in the research have been underlined. Some participants preferred not to allow use of their given names for the final paper. Thus all names used in the paper are pseudonyms.

Understanding human rights

The struggle to end Apartheid in South Africa was recognised as being a struggle to ensure the human rights of all people within the country. The United Nations declared apartheid a crime against humanity.³⁵ The liberation movements repeatedly spoke of the infringements of people's rights and dignity. Nelson Mandela outlined the history of support for human rights principles by the ANC during his acceptance speech at the Clark University investiture in July 1993:

"Since 1923, when the first ever Bill of Rights in South Africa was adopted by the ANC, human rights and the attainment of justice have explicitly been at the centre of our concerns. Even during the difficult years of the Second World War, when the very survival of democracy in the world was in the balance, the ANC adopted the African claims, a document inspired by the Atlantic Charter, in which we set our vision of the future. In the midst of the nightmare, called grand apartheid, crafted the Freedom Charter, a political programme born of our struggle and rooted in South African realities, which has received international acclaim as an outstanding human rights document... Democracy and human rights, in our view, are inseparable."³⁶

Given this history of this country and the extensive political work that was done in the Eastern Cape in particular, those interviewed holding political office assumed that people's knowledge of human rights was developed.

“How on earth could anyone have lived in this country all their lives and not know what it is about? The whole of the struggle was about this and we all knew what human rights were about.” (John, a 56 year old male holding political office)

The majority of those interviewed knew of human rights and supported the government in their application of these principles in the country. While a sense of optimism prevailed amongst these participants, they found difficulty in defining what their rights were, the origin of these rights or what actual difference these had made in their lives. The participants were asked from where people received their human rights. In this both those who welcomed them and opposed them were united. Depending on their stance the democratic government is either to be praised or blamed for people having these rights. There was no understanding of the history behind human rights nor of the basic tenets, that human rights are those every human being possesses and is entitled to enjoy simply by virtue of being human. Most participants knew of the Constitution, but few knew of the Bill of Rights incorporated in it. They knew that the constitution guarantees their rights, however, when asked to name two or more human rights they generally struggled.

Knowledge of human rights was by and large a new idea in people's lives. Most spoke of this as a new learning since the elections in 1994. There were notable exceptions to this.

Enoch is a 67 year old black male. “In 1956 when we were students at school, we discussed this during our recess. We spoke of how whites were fighting against blacks and how they kept us down. It was just after the Freedom Charter. I remember we spoke about our rights for education, for public facilities – they started to have all those ‘Whites only’ and ‘Non-Whites only signs up then. That was the first time I was educated about human rights. And it made me mad to see what the Boers were doing to us³⁷. And the more things went on the worse things got for us.”

Others spoke of how their involvement in trade unions had made them more politically aware. “It was when I started work on the mines and the trade unions were being formed. The conditions there were terrible. We were far from home and were treated worse than animals. And working underground...each time we went down I nearly died at the start. I hated being there but what could we do. There was nowhere else for us to go. And we needed the money. But then the unions started talking to us and telling us that the owners should not be doing the things they were doing to us. And that is where I heard about rights for the first time.”

The media, especially radio, has been the prime source of information on human rights for those in the rural areas. Since the election of the first democratic government in 1994, the government and civil society has used the radio as a tool for educating people about human rights and changes in the country. While access to electricity is limited in both rural and urban areas, the use of battery-powered radios is very common throughout the province. This makes it a very accessible medium for information and education campaigns. A very low-literacy level in the rural areas also makes the use of this medium important in educating people. The most popular programmes mentioned were phone-in talk shows where people could interact with guests on the radio who brought the information. Those who participated in this research felt that the messages they were hearing through the radio were positive ones and provided an opportunity for change in their lives and the country as a whole.

Jikile is a 43-year-old male, who lives with his wife and three children in a rural village. His children are seven, 9 and 14 years old. Jikile is unemployed and lives in a very basic two-room dwelling with no access to electricity, sanitation or water-on-tap inside his home. He said that this was a “good thing because it spoke about the freedom of people. It gave me hope for especially my children that they would not have to grow up in the same way that I did. When I grew up I wanted to go to school but was not allowed to like my cousins were and I had to go and take care of the cattle while they were at school. Hearing about this new rights made me feel very good.”

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Those participants living in the urban areas had greater access to different forms of information. Aside from the radio, television programmes, newspapers and magazines were mentioned as means of hearing about human rights. Generally those who were oppressed because of the government's Apartheid policies were in favour of these programmes. Many spoke of how their understanding of the Constitution had derived from education programmes and that this made them feel proud to be part of South Africa.

Lindiwe is a 36-year-old woman. She has two children. "I saw TV on Human Rights Day. I watched and saw them tell us about things in the country and how things can be better. I knew then that things will be better. I remember the days when we had nothing and the whites took everything and we had nothing. Those days could not continue. At least this way we have hope. All of us have hope now."

Some participants linked human rights with the dignity of persons. "Apartheid took away our dignity. It made us feel bad about ourselves and each other. The Boers treated us as if we were nothing, and I suppose to them we were nothing. We did not count. That is what Biko³⁸ was all about. BC³⁹ was all about us recognising our value as Black people. Not about us having to apologise for what we are. About standing up and saying we are worth something. I think that in that way human rights say the same thing. They say that we are worth something. That we have dignity as people and we must treat others in respectful ways. That is why I think that Human Rights are a good thing. They help to make us something. We are no longer nothings in this country." Any attempt to go back on the idea of people's rights would mark a "backward step to the times where people were treated as though they were not human beings." Thus, the concept of human rights does more than merely guarantee the rights of people. They are also inspirational for many people of South Africa in that they hold the promise of a country that is truly free, just, and equal. "I want my country to be one where my dreams can come true and human rights show me that."

However, some participants opposed this positive perception of human rights. This was especially true of those white participants who had been privileged under the Apartheid regime. To them human rights poses more of a threat than an opportunity for development of the country. The end result of this could only be harm and destruction. Their pronouncements were tainted with racism and with the rhetoric common during the era of white domination. Human rights were the result of "communist" forces at work whose aim was to destroy the lives of white people. Human rights are part of the "godless" forces who aim to control South Africa. Democracy may have come to South Africa but these peoples' perceptions remained rooted in their past history.

"Everything will be f...d up. You watch and see. Why on earth do you waste your time with this stuff? You know, the Nats were right⁴⁰. They warned us long ago that when all this human rights stuff started that it was just people wanting to destroy things here. Look at the schools. Look at town here. I cannot remember when I last went into town. I go to Greenacres rather [a shopping centre in the suburbs of Port Elizabeth]. At least there I know that I will be safe. Human rights have just brought unhappiness." (Henry, a 37 year old male, married, with three children. He is employed.)

Dirk is a 49 year old male with a professional qualification. He is married with two children. Both children have finished school and are studying at university. "It's just that they want to take things away from us whites. All this talk of human rights is such bulls..t. It's just an excuse to take more stuff away from us. Look at what Mugabe is doing in Zimbabwe. There they started too with this human rights cr.. p."

Opposition to human rights was also found amongst those previously identified as "coloured" during the apartheid days. Alec is a forty three year old male. He is married with two children. Alec is unemployed after being retrenched three years ago. His comments were typical of a section of this population. "Ever since the blacks took over we have nothing but trouble. My life is not better because of it. Before I was not white enough to get better opportunities, but now I am not black enough. We

coloureds are always getting kicked about. And they talk all this human rights stuff. Its not human rights, it's only for the people who are your friends. Things are not equal in this country anymore."

Youth were divided in their views towards human rights. It is not possible to divide the responses of youth according to race, geographic area or level of education. There is amongst all of them a general recognition that the opportunities available to them are greater than before. However the need to protect these opportunities and extend them to others was sometimes lacking.

Half of youth participants interviewed seemed apathetic and disinterested in the topic. They were disconnected from the history of struggle and sacrifice in this country. The following three examples highlight the responses these participants.

Hazel is an 18-year-old black youth. She lives in the urban areas. She was completing her final year of schooling and was hoping to progress to tertiary studies during 2002. Her parents were both deprived of the opportunities for basic education. They are both employed in menial positions. "What must I worry about all this stuff for. It's not my problem. This is all things that have happened in the past and we must move on. I cannot understand why people always go on about Apartheid. That has gone. We now live in different times. Why people bother with this human rights story is beyond me."

Shaun is a 17 year old coloured youth. He is in Grade 11. "Human rights don't mean too much to me. We heard about it in school and stuff, but it's not like it really affects me."

Michael is an 18 years old white youth. He had just begun his tertiary studies when interviewed. "Ja, I heard about human rights. But it's not really important to me. I mean my life is good hey. This doesn't really mean too much to me. It's not my fight."

However the other half interviewed saw the value and importance of human rights.

"This is what it [the liberation struggle] was all about, so that we could have a better future. We only have these opportunities now because of what others went through. I know the stories that my family tells of what they went through. And women now have a better future. I know that I can go on and become anything that I want. I have the chances now." (Lindile, a 19 year old young black women).

"It's important for us to keep remembering rights. That way we will not go back into the ways of the past. And these rights are for all of us. Even those who hurt us before." (Lizo, a 18 year old black male youth).

"I think that human rights show how far we have come. I mean before like whites would not have had black friends, but now we see each other as the same. It's important we protect that too, because we have better chances for things. And I think that human rights does that" (Steven, a 18 year old white youth).

Women's Rights

While the majority of participants welcomed the concept of human rights guaranteed by the constitution and implemented in the country, this was not the case when the issue of women's rights was discussed. The responses from men and some women echoed the struggle that women have faced regarding human rights since the Universal Declaration of Human Rights (UDHR) first came into being.

The UDHR contains a set of basic principles that constitute the rights and freedoms of every person. The universal nature of this declaration is seen in that they are said to apply to all equally "without distinction of any kind such as race, colour, sex, language... or other status" (Article 2). Since 1948 these principles have been further elaborated on by other international instruments. However, "when it comes to the application of these principles, governments, as well as bodies charged with the protection and promotion of human rights have shown a remarkable bias and blandness when it

comes to the rights of women.”⁴¹ As Cook has observed, “International human rights and the legal instruments that protect them were developed primarily by men in a male-oriented world. They have not been interpreted in a gender-sensitive way that is responsive to women's experiences of injustice.”⁴²

Tradition, prejudice, social, economic and political interests have combined to exclude women from prevailing definitions of ‘general’ human rights and have relegated women to secondary and/or ‘special interest’ status within human rights considerations.⁴³ Thus continued gender inequality is reflected in the manner in which women have been marginalised in discussion of human rights. This has further contributed to the perpetuation, and condoning, of women's subordinate status. It has also limited the scope of governments responsibility, by attempting to separate the public from the private, and thus has made the process of seeking redress for human rights violations disproportionately difficult for women and in many cases virtually impossible.⁴⁴

This division between the “private” and “public” spheres is the foundation for all forms of discrimination against women. While women’s equality is often acknowledged in the public sphere, it is not so in the private sphere. Here women’s identity and their role in society are defined by their biological and reproductive roles. Cultural values and beliefs maintain women’s identity and role. Important aspects of the lives of South African women and men continue to be determined according to customary, traditional and religious values and practices. These include marriage, divorce, maintenance, custody of children, issues of land ownership and inheritance. The separation between the public and private spheres enables domestic violence, incest and marital rape to be regarded as “private” matters that are outside the influence of the law and Constitution. Further evidence of the effects of this divide can be seen in the Women’s Convention. This remains the instrument with the largest number of reservations by governments ratifying international human rights conventions. “The fact that almost all of the reservations focus on the spirit of the Convention, which calls for changing unequal power relations between men and women in the private sphere, speaks to the resistance to this area of women’s rights.”⁴⁵

Women’s rights and the indivisibility of human rights

The indivisibility of women’s rights means that no right is more important than the others, and more specifically that they are inter-related. Human rights encompass civil, political, social, economic and cultural facets of human existence. This indivisibility is important for women since their civil and political rights have historically been compromised by their economic status, by social and cultural limitations placed on their activities, and by the ever-present threat of violence that often is an insurmountable obstacle to women’s participation in public and political life. It has been argued that political stability cannot be realised unless women’s social and economic rights are addressed as well as civil and political rights. Social equity will never be achieved until economic justice and women’s participation in all levels of political decision-making is achieved. The splitting of women’s lives into public and private spheres denies them the opportunity to enjoy the full spectrum of rights. Focussing on the separateness of the categories of rights leads to a truncated and incomplete social existence.

Two examples from participants’ responses illustrate the need to focus on the interconnectedness and indivisibility of women’s rights. First women told of how their ability to participate freely in the life of their community was prevented by their fear of rape, assault or attack. This restricted their mobility and increased their levels of dependence. Second, some women told how their husbands restricted them from participating in activities that included community meetings and church gatherings. Mary is a 45 year old Coloured woman. She is married with three children. She spoke of how her husband prevented her from leaving their home at night. “He forces me to stay in. He keeps the car keys and won’t give them to me. If I try to take them then he threatens me and I am too scared to do anything. He always accuses me of wanting to go to find other men and if I do go out anywhere then he always telephones a number of times to check up on me.”

Universality of women's rights and experiences in the Eastern Cape

The principle of the universality of human rights states that human rights belong to all human beings on an equal basis. This is an important concept within the struggle for women's rights in South Africa where women's role and position has been subordinate to that of men. This has been manifest on social, legal and political levels. "Most women define themselves, both as individuals and as members of communities, in terms of cultural factors that are inextricably linked to the social and economic aspects of their lives".⁴⁶ Women interviewed identified themselves with reference to the racial definitions of apartheid as well as their culture. This was especially true of Black and Indian women.

South Africa is a multicultural society that recognises the rights of all cultures within the country and accords them equal status. Nhlapo (2000) refers to this as the "right of a people to retain their cultural identity (linguistic, religious, social and so on) even in a political state concerned with the creation and promotion of an overarching national identity."⁴⁷ Sections 30, 31 and 15 of the Constitution guarantee these rights. However this often makes the struggle for women's rights controversial and divisive. Those who work towards women's rights in Black and Indian communities told of how they are often accused of selling out to White ideals. "I have been told that I am a traitor to my people, that my culture means nothing to me. I must treasure my culture as a Xhosa above all other things. Men will always argue that their rights are protected by the Constitution and that what I am doing is wrong." (Lihle, a community activist). Narsia, who works in the Indian community told of a similar experience. She had exposed her uncle's abuse of his nieces and he had been reported to the police. "My father wanted to kick me out of the house when I told him what I was doing. He said that family is more important than anything else is and my actions would tear our family apart and that was not our tradition. Things were never the same and when he died we had still not sorted things out between us. He blamed me for breaking up the family, while his brother...(Narsia broke down in tears)"

This illustrates the challenges facing those who work towards women's rights while at the same time recognising the importance and value of cultural values and traditions. This challenge is recognised in the Women's Convention. Article 5(a) calls on states parties to the Convention "to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."

While the South African Constitution recognises the rights of all cultures within the country there is a caveat to these provisions. The granting of rights to all cultures "is itself hedged with the requirement that these rights are to be enjoyed only when they are not in conflict with either the Constitution generally or the Bill of Rights in particular."⁴⁸ This provides the opportunity for activists to work towards the achievement of women's rights while being respectful of the diversity of social and cultural expression and identity. However sensitivity towards the particular conditions women experience has not always been forthcoming. Universality of rights has sometimes become confused with universality of experience. Human rights activists have been accused of reducing the experiences of women to that which is common between them in order to present a united front. This commonality has resulted in the specificity of women's socio-economic and political conditions being ignored.⁴⁹

During this research it became clear that while all women in the province experience the effects of discrimination, the effects are more pronounced in the lives of Black women. This is not limited to the Eastern Cape but has been recognised on a national level. "The living conditions of the majority of black women in South Africa starkly illustrate the complex relationship between gender, class and race evident in many unequal societies."⁵⁰ This led participants in the research to argue that it was not possible to equate the experiences of especially White women with that of Black women in the province.

This is perhaps best illustrated by highlighting the following four women whose lives show the vast differences between women's lived realities in this province.

Tandiwe is a 64-year-old Black woman. She received no formal schooling and was married when she was 17 years old. She told of how she was taken from her home in the middle of the night and taken to her husband's home. She never saw her parents or visited their home again. She was married for "many, many years" but is now widowed. She gave birth to five children, all of whom were born at home. She knows for certain that three of her children have died, but she has not seen the other two children for about seven years. She cares for the three children of her daughter who died two years ago. She died of "a cold that never got better", often a euphemism for HIV/AIDS. Tandiwe and her grandchildren live in a rural village with no access to running water on tap, no electricity and no formal employment. The family survives on her pension, but there have been a number of problems with the pension payoffs.

Selma, is a forty-four year old Coloured woman. She left school in Grade eight after falling pregnant. She has been twice divorced and has six children. She is formally unemployed and lives in a tin shack in someone's backyard in East London. Her children no longer stay with her. They have been placed with family members. Selma says that she is an alcoholic and has worked as a prostitute in order to support herself and her children. She relies on begging and handouts in order to survive. She is HIV positive.

Mary is a 40-year-old White woman. She is married and has three children, two sons and a daughter. She stopped working when her children were born to care for them. Her husband owns his own business. The family has three vehicles and she lives in an elite suburb of East London. Mary has a history of being abused by her husband but she will not leave him as she says, "I don't know if I will ever get it this good again. I have everything I need here. What would I have if I left him? And what would it do to his reputation? What about my children then?" She remains in the relationship.

Siphiwe is a 39-year-old Black woman. Her father was a doctor and she was sent to a private school that accepted Black pupils. She has a university degree and is employed by a local manufacturing plant. She has never married and has two children; a son aged fifteen and a daughter ten years old. Siphiwe owns her own home in Port Elizabeth that she shares with her widowed mother.

Understanding the Government's Position on Women's Rights

Diescho (1998) has argued that the gap between the state and the citizens of African countries has widened since they have achieved democracy. This was clearly seen in this research. Both politicians and citizens who were interviewed said that the government has lost touch with those at the grassroots. This was especially galling to many that felt betrayed and that the government had failed to meet the promises they had made.

"They just ignore us now. When it was voting time they came here and made us all these promises but nothing has changed. All they wanted was to get into power and now we are being forgotten. We were just used." (Slimko).

"They (politicians) live up in the clouds. They think that they are in heaven while we are left here." (Tisna)

"What is different for us now. Look at our lives. We are still struggling. Our daughters are being raped. Crime is all over. And we still don't have the chance to go to the clinic properly. When we do they say that they don't have medicine and all we get is headache tablets no matter what our problem is." (Noxolo)

The effects of this alienation are twofold. First people were unaware of what the state has accomplished since 1994 and where they were aware of changes, they did not fully understand what

these changes meant for their lives. This was seen in men's understanding (or lack of) of the need for women's rights and what these rights mean. To many men these rights were aimed at devaluing their roles and instead of equality these rights meant that they were now oppressed.

Second, the state is often unaware of the way people prioritise their needs. This was clear in the case of women's rights. Participants argued that the government did not really know what they wanted. "We want them [the government] to make a change in our lives, to make us safe at home and in the streets. We also need jobs. We've got no food, no anything. We want them to listen to what we want." The personal values of those in government positions at local, provincial and national level were highlighted as leading to conflict with the need to implement the totality of women's rights. A senior women politician interviewed told of how the state had failed women because they had failed to see women's rights as a whole. "We have divided up women's lives into parts that we think that we can manage and the other parts that we prefer to ignore. Don't get me wrong. We have done a lot of things for women to make their lives better. But sometimes the struggles we really face are from ourselves. It remains the responsibility of mainly men to make laws in this country. We also need men in government to change if we are to truly make things better for women in this country." This has been recognised by senior political figures among them Nelson Mandela who called on the men in the African National Congress to change their "backward ideas" in order to achieve political progress for women and equality.⁵¹

Understanding women's rights

Many men met the issue of women's human rights with derision and suspicion. On the whole men seem to have a greater understanding of the concept of human rights. This has been attributed to their playing a more active role in community activism and political struggle. While they thought that human rights were important, they were very sceptical about having particular human rights for women. The government came under fire during these interviews for what was perceived as hurrying through legislation that guaranteed women's equality. Men said that the notion of equality between men and women was foisted onto the country by the government without adequate thought being put into idea. "They have totally ignored us. When did they check with us what we thought?" Men even used the concept of human rights to argue against women's human rights. They argued that it was wrong of the government to force women's equality on men, as "you cannot force a person to comply to suit your own interests".

The government was accused of "intruding in people's homes" through legislation aimed at ensuring gender equality. "This is my home. The government cannot come and force me to do things in the way that they want. This is my place and what I say here goes. Don't come here and try and tell me how I must run my home! Nobody can, just me!" The advent of gender equality has meant that men's identity has been devalued and their role undermined. Men's value was only recognised in their being regarded as superior to women. While women could take up leadership positions in business or organisations, when they came home, they were to remember that they were not the heads of the household. That position was the man's alone and nothing could alter this.

The insistence by these male participants that they must be regarded as the head of home ignores the social and political reality of the country. "The economic history of Africa under colonialism, racial domination and patriarchy, is a history of land alienation, and this had a fundamental impact on the African family life and gender relations."⁵² In order to find employment, men were forced to leave their homes and seek employment on farms and in the cities. Many men left the Eastern Cape province to work on the mines in the present Gauteng and Free State. This marked the beginning of the migrant labour system. The result of this was that women had to assume the 'headship' of their families. The effects of this dislocation of men from their homes to seek employment were also seen in the practice whereby these men found another "wife" while they were away from their families. Thus many men had 'two wives', one in the rural area and one in the urban setting.

Christopher Harper, Carnegie Council Research Report, 2002

Upon further investigation it was discovered that many of the participants who spoke of the importance of male headship had grown up in matriarchal led families. They had nothing but praise for their mothers and the role that they had played in their lives. “Even when there was nothing my mother would find us something to eat. Often she would go to bed hungry because she gave the food to us first. My mother was a very strong woman. She was in charge and we knew it” (Themba). “My mother was the father in our house. There was no man around. She was the one who saw to everything. She showed me that things could be done” (Sipho).

Despite positive memories of their mothers, these men were adamant that it was not right for women to be the head of a home. When asked about this apparent contradiction they were hesitant and resorted to shrugs and said “that’s the way things must be.”

Gender equality was accused of bringing about conflict within families. Previously the male participants spoke of harmony in many of their homes, but now as a result of gender equality trouble exists, “the difference now is that we are equal and this equality now brings trouble into the house.” Thabo, a 43-year-old male, married with four children, lamented, “Things are not like they were anymore. Before things were fine at my home. But now, my wife she gets all these ideas and now wants to change things. Now we fight all the time. I never hit her before, but I must show her who is boss here. She cannot be. And so when she started to get all these ideas and say things in the house, I sorted it out. You cannot have two bulls in the same kraal. Do you know what happens then? They fight it out because you cannot have two strong people there. Only one must rule.”

Women’s equality with men was regularly blamed for the destruction of family life, economic difficulties, the spread of diseases for example AIDS, church anarchy and witchcraft. One participant said in exasperation, “The way things are today is because of women!” Men also argued that since the advent of gender equality the rate of divorce has increased rapidly in their communities. “The way women use their rights leads to divorce. This has a contribution to the moral decay that is existing.” The most chilling comment came from a 42-year-old male participant, who said, “Someone is going to die because of this women’s rights”.

Men also argued that women now had “too many rights that need to be reduced.” The result of these rights is the oppression of men. “Women want to be heard and they want to be the bosses. They control our lives.” Men claimed to be victimised by women, the judiciary and the police. Madoda, a 37-year-old male, married with three children said; “My understanding of human rights is that women are in power now. Men have no rights. This thing has originated from the idea that we must be equal but equality never took place. Women got their rights and men were forgotten. Women have the rights to chase men out of the house because men are no longer called the head of the home.”

Most men knew of an incident where a male had sought help from the police and courts but had been turned away in favour of a woman. Victor, a 29-year-old told this story. “When I went to the police station about my wife I was not listened to because the police only listen to women. Both parties need to be attended to in terms of their rights.” However when he was asked more questions about his story it was discovered that he had gone to the police station only after his wife had laid a charge against him for beating her up so badly that she was admitted to hospital. The question of men taking responsibility for their actions was never high on the agenda on those interviewed. The government and women were largely held responsible for men’s behaviour and situation.

A minority number of women argued that women’s human rights was not something that should be encouraged. Women’s role was to be subservient to that of men and women had to accept their lot in life. Attempts to change this were futile, against God and against cultural values. Those women who supported this view ranged in age from 35 to 67 years old. Women from each of the racial groupings within the province supported this view. The difference between women’s views on the topic was also thought of by the men to show that the concept should not be supported if women themselves were divided.

Men's enthusiasm for highlighting the improved position of women was not met with agreement with women. They said that the concept of human rights had no practical relevance to them. There were two reasons cited for this. First the participants had little or no knowledge or understanding of what women's rights are. Second the lack of implementation of government policies and effective development. Women, and some male participants, spoke of how women's lives continued to be vulnerable to the prevailing social, economic, and political conditions. This makes the realisation of women's rights more difficult.

Women have been identified as being the most vulnerable to poverty, unemployment, illiteracy, HIV/AIDS, gender based violence and low health status.⁵³ Lack of access to political power and to equal justice has also been noted as an obstacle to women seeking to improve their social and economic status within the South African context.

In per capita terms South Africa is an upper-middle-income country, but despite this relative wealth, the experience of most South African households is of outright poverty or of continuing vulnerability to being poor. The distribution of income and wealth is amongst the most unequal in the world, and many households still have unsatisfactory access to education, health care, energy and clean water. Continued gender and racial discrimination, and the rural/urban divide increase vulnerability to poverty. Thus women-headed households in rural areas form the bulk of those living in outright poverty. The poverty rate amongst female-headed households is double that of male headed households, 60% as opposed to 31%.

Gender-based violence against women is endemic to South African society and has been described as "the most extreme expression of the gender inequality that underscores social relations in contemporary South Africa". While there are no reliable official statistics on the incidence of violent attacks against women, what is certain is that South African women, living in one of the most violent countries in the world, are disproportionately likely to become victims of violence perpetrated by men. The high prevalence of violence against women has meant that it has become regarded as a normal and legitimate way of behaving towards women, and has been culturally sanctioned.

The AIDS pandemic is having a devastating effect on the lives of all people in South Africa, and especially on the lives of women. It is estimated that there are currently 4.2 million South African's living with HIV/AIDS. Young women aged 20-30 have the highest prevalence rates and young women under the age of 20 have the highest percentage increase compared to other age groups. There is a popular slogan in the country that says that HIV has the face of a young Black woman. The rate of infection amongst women is increased through their vulnerability to poverty, the inferior status of women, ongoing racism, lack of formal education, illiteracy, and culture and tradition. Women's lack of power in relationships also means that they are not able to negotiate the use of condoms or other safer sex practices with their partners. Many men argue that while it is a woman's role to be monogamous, men do not have that same restriction placed on them.

Most women did not know about specific rights aimed at women's lives. They did seem to know that they were equal with men according to the constitution but this had very little real relevance to their lives. "Nothing has changed for us" complained one woman; "Things are just bad as they were. In fact, we are poorer now. We hear of these things, but nothing changes here. Our men also...they still want to be in charge of everything."

Knowledge of the measures that the government has taken to bring about gender equality since 1994 was limited. As part of its plan to bring about gender equality, the government initiated the Commission on Gender Equality (CGE) and the Office on the Status of Women (OSW). The CGE is an independent state institution is tasked with the promotion of respect for gender equality and the protection, development and attainment of gender equality in the country (Chapter 9 of the South African constitution). The OSW exists within the President's office and its responsibility is to ensure

and facilitate gender mainstreaming throughout all government departments. They have established focal points across all levels of government at a national and provincial level.

However very few women knew anything about this national gender machinery. This was true even for women presently working in government departments. They said that they did not know of the existence of an OSW and were shocked to hear that the offices were right within their midst. Those who knew of these bodies referred to them in disparaging ways and overall, perceptions were very poor even at the level of provincial government.

Three important Acts that the government has legislated are the Domestic Violence Act, the Maintenance Act and the Customary Marriages Act. Some participants spoke of how the Domestic Violence Act had benefited women. It provided the opportunity to have the difficulties dealt with. However, during the research many women complained of difficulties they faced when approaching the police services and magistrates. In many cases the police refused to intervene saying that this was a private matter and that they could not intervene. Some police officers also refused to initially take statements from women, as they knew the alleged perpetrator. One woman after complaining of how she had been battered by her husband told of how she was informed by the police officer that he knew her husband and he was sure that he "would never do such a thing to a woman." Magistrates were also castigated for handing down lenient sentences for men who raped and assaulted women despite new laws in place.

Some women interviewed reported that they had been assisted by the Maintenance Act. However many women had no knowledge of the Act. This was especially true of women living in rural communities. Those who benefited most from the Act were women who lived in urban areas who had greater access to information and services. Many women complained that there was insufficient staff to ensure that men were adhering to the judgements given in the courts.

The third Act, the Customary Marriages Act, has met with a great deal of controversy in the country. Many women activists have attacked the Act arguing that it places women in a subservient position and entrenches women's inequality within customary marriages. While most participants in the research had no knowledge of the Act those who had some knowledge of it opposed it, believing that it can only have negative consequences for women's lives. Polygamy is sanctioned by the Customary Marriages Act. Women see the fact that the law condones men having many wives as discriminatory and they said that it puts them at greater risk of contracting HIV/AIDS or other diseases.

The views of youth regarding women's rights

The question of women's rights also received a mixed reaction from the youth that participated in this research. Two of the young women spoke with passion of the importance for these rights but the five other young women did not recognise the value in women's rights. They argued that things "are much better for women. We can do anything now." The two who valued women's rights dismissed this. They spoke of their positions in their families, of how their brothers were privileged and they were forced to behave in appropriate ways. Lindile argued, "How can you say we don't need rights? Look at what is happening in the schools. How many of us are threatened by the boys? We can't walk in some places at night, and even teachers make school not safe. They [young men and older males] treat us badly still. Yes, some things have changed for us, but not everything yet."

The young males interviewed did not take the issue of women's rights seriously. This was also true of those who supported the concept of human rights. Their responses ranged from disinterest to disdain. "Who cares? Why are they more special than us? I thought that we were all supposed to be the same now, hey. So what's this all about." (Scott, a 18 year old white male). "What do they need women's rights for? Aren't things better for them anyway? Women's rights just take away from men and that is not what things are supposed to be like. How can we take care of things for all people in this country if women want special rights?" (Lizo).

Culture and women's rights

The establishment of a universal system of human rights protection has met with many objections. One of the prime arguments raised against a universal system is the philosophy of cultural relativism. Oloka-Onyongo & Taxale (1995) argue that there are two understandings of the term, both of which have been found in this research. The first rejects universal human rights norms as "either imperialist interference or an assault on religious and time-honoured cultural beliefs and practices."⁵⁴ This belief has been reinforced by the experiences under colonialism where aspects of African culture were suppressed and preference given to western modes of being. Thus proponents of this belief argue that if international human rights norms conflict with particular cultural standards, then "the particularity of culture must take precedence over universalising trends."⁵⁵ Critics of universal human rights standards argue that the ethical basis of human rights law is Western and thus they reject this as a basis for other traditions to be able to commit to this law. In the second understanding of 'cultural relativism' non-western cultures are regarded as lacking the not merely the practice of human rights but the very concept itself. This view leads to the rhetoric of racism and chauvinism. "If African people's were not underdeveloped (that is to say, passive, resigned, and cowardly), why would they accept underdeveloped leaders? We forget that every people deserves the leaders it gets."⁵⁶ However we must question whether the true meaning of these arguments is to be found in the issue of culture or whether it is as Oloka-Onyongo & Taxale (1995) claim "the maintenance of structures of dominance and control.... The one element that all the arguments have in common is the suppression of the human rights of women."⁵⁷ The first understanding prevents international scrutiny of domestic human rights practices, while the second urges greater intervention in non-western societies to 'bring them into line' with western thinking.⁵⁸

Participants in the research saw questions of culture as belonging only to Black South Africans. People from other communities within the Eastern Cape repeatedly referred to "Black" or "Traditional" culture in this regard. This has become something of a norm in South Africa. People who were classified as "White", "Coloured" or "Asian" according to the Apartheid regime's laws did not recognise their own history and cultural context when it came to discussing women's rights. Rather the term "culture" had negative stereotypes for these participants, tinged with racism. The following two responses illustrate this view.

"I do not have experience with African issues and cannot give answers to questions about culture. Those are things you need to ask the Blacks. They are the ones who have big problems with culture and stuff. They do some strange things that are unchristian." (Patrick, a 35 year old Coloured male)
"I don't know why we talk about culture. It's not like Blacks have any anyway. It's just bush-culture. All they know about is how to destroy what we whites have built up in this country." (Michael a 42 year old married White male)

Cultural values and traditions were of much greater importance in the responses of Black participants. While participants from other communities failed to recognise any cultural issues in their lives, Black participants readily identified themselves as belonging to the Xhosa culture and community.

Although cultural relativism is used to argue against human rights in general, culture "is much more frequently invoked in the context of women's rights than in any other area."⁵⁹ This was true of this research. While discussing general issues of human rights, culture was not mentioned as a problem. Human rights were a very positive thing for people, their communities and were valued by the participants in this research. However when the discussion turned to the question of women's rights, the mood changed dramatically and culture was immediately brought to the fore.

The onset of democratic government in South Africa has brought with it a move to re-examine and revive traditional cultural values and beliefs. The aim of which is acknowledging the virtues of historical traditions and the values of African civilisation, which were denigrated during colonialism.

Christopher Harper, Carnegie Council Research Report, 2002

Many male participants argued that there was no need to use Western instruments of human rights as traditional values and belief systems are adequate to care for the lives and needs of people. The implementation of these rights was a sign of the “continued imperialism” of the West and attempted to undermine African cultures and values.⁶⁰ Some participants believed that the emphasis on human rights showed the continuing influence of the racist regimes of the past. Thami, a 53-year-old married man, whose three children have left the rural areas after completing their schooling said; “In our Xhosa tradition women have their rights in our culture but we must remember that women are lesser than men because of their birthright. Women also know this. They must have respect for the man. It is through him that inheritance comes and their futures. To come with this women’s rights stuff is to attack our culture and values. People cannot come in and say we are wrong. We have lived this way always. Why now must we change? Our culture is our culture. All this human rights talk does is to break things down. Whites have tried to import this stuff so that our ways of life will be destroyed.” A 45-year-old clergyman, Thomas, who is married with two children, echoed Thami’s words, “Why must we always look outside of this country to solve our problems? Every time something goes wrong we run to foreigners to sort our stuff out. All they do is come and try and break us apart. Our traditional religions were massacred by them until they became something that we could not recognise. And now this human rights talk. Why can’t we just look at what works in our own culture and sort ourselves out?”

This resurgence of traditional views had conflicting results for women’s rights during this research. On the one hand traditional Xhosa culture was seen to deny women’s rights, while the other recognised women’s rights as being an integral part of the culture. One of the major differences between those who opposed women’s rights and those who supported them was in the understanding of culture itself. For the first group culture was seen as static, while the second group identified a dynamic nature to their culture.⁶¹

Culture was regarded as fixed and immovable for those who opposed women’s rights. Culture is identified with “pre-colonial, pre-missionary or pre-apartheid eras. In this case, being African means living in the past.”⁶² The way things have always been done was the way things should continue to be done. Thus Linde said, “It has always been like this. Why must things suddenly now change? Our culture is our culture and we should not do away with things that are important to us and our lives just because of these new things.” In this system, men are regarded as the dominant gender and women’s role is defined according to her relationship with a man. Khaya, a 41-year-old married male defined women’s identity thus, “A woman must have a man next to her and she must always explain herself to a man.” Women’s rights were seen as a challenge to male dominance and authority.

However, it was not only the male participants in the research who supported the idea that Xhosa culture was synonymous with male dominance. Interviews showed how women have been recruited into a cultural discourse that privileges men over women (Harper, 1999; Richters, 1994). According to these participants the identity and role of women within their culture is defined by a system based on social inequality. They saw men as the dominant gender whose traditional role and status meant that they had to be respected and obeyed. These women spoke of how their identity was determined only in relation to men. This was especially true of married women who spoke of how they had to leave their family home behind and for some never saw their parents again. “I have often wondered what happened to them [her parents]. But I left our village and went with my husband to his family. This is where I belong. I am his wife and I must do the things that he asks of me. It is my duty as a woman to do this. I cannot think other ways of doing things. To be a Xhosa woman means to live for your husband and your children. He is to come first. What I think, well... it doesn’t matter. I used to think about things being different, but I always think back to my mother and grandmother who taught me these things. They showed me the right way, the proper Xhosa way and now I must follow it”.

Traditional Xhosa practices were seen to reinforce this view of male dominance. The prime example of this was *lobola*. This has often been defined as “payment” made by a bridegroom’s family to his bride’s family before their wedding. However, Nhlapo (2000) defines it as the “transfer (or any

negotiation regarding the transfer) of cattle, other forms of livestock or other valuable consideration from the family of the groom to the family of the bride as part of the marriage process.”⁶³ Through this process the families are brought into a new relationship and ties strengthened. However this process is open to abuse.⁶⁴

Many of the men interviewed regarded the payment of *lobola* as purchasing their wife. Their wives are thus treated as “goods” that have been paid for. “When I paid *lobola* she became mine. I am the one who she owes and she must do what I say.” (Thando, 49 year old married male with three children).

The issue of *lobola* had far reaching implications for men. It included discussion about sex. More men than women knew that legislation entitles women to lay a charge of accuse of rape against their husbands. Men vehemently opposed this. “My wife cannot say no to me. I am her husband and if I want sex then she must give it to me. It is her duty to be there when I want her.” (Ezra, a 35 year old Black male). These views were echoed throughout the interviews. Men argued that it was their right within their culture to have sex when and where they wanted to. “I paid what I had to when I gave her family *lobola* so now she can’t turn around and deny me. It is my right.” (Isaac, a 43 year old married male).

Men believed that the payment of *lobola* entitled them to take other girlfriends. “What can she say, I have paid *lobola*. If I want another woman I can just go and take one.” (Dennis, a 35 year old married male. He claimed to have two girlfriends.). Mncedisi, a 42-year-old black male, said that if his wife was not prepared to have sex with him then he would go to his girlfriend and have sex with her. His wife knew that he had a girlfriend and she had been introduced to his family. His family liked her and so there was no problem. Participants’ argued that this was culturally accepted as part of being a man. “Women cannot argue if we go and have other girlfriends,” Lunga said, “They know that we have needs as men. Our wives know this. And if they will not give it to us we will go to a place where we can be looked after. There is nothing for them to complain about. It is not like we are going to prostitutes. They know who we are going to.”

Women participants recognised *lobola* as a contributory factor to male dominance and the manner in which their identity was defined (Harper, 2000; Simons, 1997, Watts, Osman & Win, 1995). Married participants spoke of how they believed that they had no rights in the home and that their husband’s were entitled to treat them as they saw fit because their husbands had paid *lobola* for them. They were now subject to him and his family. Women spoke of accepting their husbands’ girlfriends. “I know that he has one. He goes to see her often, but does not stay with him long and then he is back. Others come and tell me that he sometimes goes out to places with her. There is nothing that I can do about it though. I know that I must let him have his girlfriends as men are allowed to.” (Felicia, a 34 year old married woman). The possible dangers of this though were not lost of women. “We hear lots of things about AIDS today and how do we know that we are safe when our husbands go around with other women. I worry for myself.” (Cynthia, a 39 year old woman).

Male dominance of women was played out in violence toward their partners. Both male and female participants recognised violence as a legitimate way of behaving sanctioned by the practice of *lobola*. “She’s my wife. I can do what I like. You cannot come here and talk about women’s rights. What rights must she have as my wife? If she is out of line then I must sort her out. I cannot have her walking all over me and taking what is mine.” (Eric a 42 year old married male with four children).

Many women participants spoke with what the author has previously called a “resigned pessimism” when discussing the question of intimate partner violence.⁶⁵ They told of how they are unable to challenge their husband’s authority at home. “My husband, he makes the rules and I must listen to him. He must tell me what to do and I must do it. I cannot say anything. I can only keep quiet or else things are bad for me.” (Sindiswa, a 43 year old married woman).

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The participants recognised that women have always been victims of partner violence in their culture and believed that things would never change. “There is no way out of this. It is the way that our culture is and we must just accept it. If we don’t then where would we be? We would have nothing. No people to help us, no culture to call our own. No, it is our way.” (Pumza, a 32 year old married woman) Thus women equated being beaten with it being their fault. They must have provoked or even supported and encouraged their partner to engage in such behaviour towards them. The fault did not lie with their husbands, as it was theirs alone. Thus the "normal" and “acceptable” response of men towards women who have behaved badly is violence that is culturally sanctioned by the roles man and women play in their homes .⁶⁶

A more sinister twist to the belief that partner violence was culturally sanctioned was seen in the belief that if husbands beat their wives, it was a sign of their love for them and benefited women. Both men and women participants highlighted this. Kenya, is a 39-year-old male who has been married for fourteen years. He has four children. “She must know that what she does matters. I want her to do things right, so that there are no problems. This way I teach her what is right. When I was growing up my father did the same thing to my mother and told me that this is the way I am to behave. I am the man in this house and she must do what I need her to do. It is not the only way to solve things with her, but it makes her listen.” He said that he teaches his sons the same thing about being a man. Noxolo, is a 28-year-old woman who has been married for the past 2 years. She has three children with her husband. The eldest is eight years old. “I know that he loves me when he hits me. Otherwise how would I know what is right. He shows that he is interested in me, that he cares about what I do. I think that I matter to him.”

The following is an exchange with a 39-year-old married female participant, Sindi, in the research.

“My husband only hits me if I do something wrong. Why else would he do that?”

“What kind of things do you do that makes him hit you?”

“I talk back to him or ignore him. His mother asked me to do something the other day and I was not respectful to her, so he hit me for that. Things that I should not have done.”

“Do you think that hitting you is the best way for him to tell you that you have done something wrong?”

“I deserve it when he hits me. It is not about it being the best thing or not. I can remember my father also hitting my mother when she was cheeky or did not do what he wanted her to. So it just carries on with me.”

“Does he ever hit you when you think that you do not deserve it?”

“Never, I know that I have always done something wrong.”

“What does he use to hit you?”

“A sjambok⁶⁷, sticks, his hands. He uses them all.”

“And other people think that this is okay?”

“It is the way things are for us Xhosa women. We know we have to look after our husbands and do what they want. It is the way things are.”

The opponents of women’s rights also raised the question of whether people are to be regarded as individuals or as members of their particular cultural grouping. Some respondents argued that being a member of their tribal groupings is of greater consequence than any individual quest for human rights. “Women cannot now say that they have rights and just ignore what their clan expects of them. They are part of us and must not think that rights makes them bigger than us. That is why I say that it is a bad thing for women to have rights. They will just leave things and what will happen then.” For these opponents of women’s rights, a woman’s first allegiance is to her community, ahead of personal needs or desires. Women’s rights are seen to threaten the stability of the community and so should not be sought after.

Some of the male participants vehemently opposed these arguments denying women their rights. For these participants culture is dynamic. They believed that may of the ways in which culture was being

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used today are perversions of the original meaning of their values, traditions and customs. Thus practices such as *lobola* have become thought of as purchasing a wife, instead of emphasising the new links that exist between families. Instead of emphasising male dominance, traditional Xhosa values were invoked as proof of equality between men and women and how women's rights should not be seen as opposing these beliefs. "It [women's rights] is not something new to our culture. It has always been there. The biggest thing has been how things have been messed up. Now it is all about men being the best and having it all. But that is not Xhosa culture." The value of women's rights has been shown in the manner in which the marginalised status of women in South Africa has been highlighted. Participants argued that reverting to traditional practices that deny women opportunities it is argued would be to take a backward step. They argued that this was a necessity in pre-colonial society in order to meet the needs of women. However to revert to this code now would have major implications for women's lives. The ability to sign contracts, to enter into marriage agreements themselves, and to seek redress through the police and courts are examples of where women would experience these difficulties.

This view is supported by the African [Banjul] Charter on Human and People's Rights that was adopted by the Organisation of African Unity on 27 June 1981, and entered into force on 21 October 1986. It has been argued that the need for this Charter lay in the desire to develop a human rights scheme based on the historical traditions and values of Africa that was not reliant upon principles originating in the historical and political contexts of Europe and the Americas. Article 18 of the Charter clearly states that States are obligated to eliminate "discrimination against women and censure the protection of the rights of the women and child as stipulated in international declarations and conventions." Two participants in this research argued that if women's rights were alien to African culture then it would not have been adopted in this document.

These participants met the view that women's rights would upset Xhosa values with scorn. They argued the only reason that men wanted things to stay the same was to protect themselves and their positions. "They think that they have too much to lose", Khaya, a 27 year old married male, answered, "it's only those who still think that they are better than women who think that way." Themba, a 34-year-old married male holding community office agreed, "it's not about losing community, we will always have that. In any case, women's rights are to make things better for all of us. Men think that if women have their rights that they will be worse off and not be the bosses anymore. Well, if being a boss is what matters, then they have our culture wrong."

The argument that beating a woman was a cultural model of a man showing his love for her was met with astonishment. "We cannot say that. It is not true. Being a Xhosa is about having respect for other people. It is about sharing good things. How can you have respect for someone if you beat them like that? These are our mothers, our wives, and our sisters. We cannot make them less than what they are." (Luyanda, a 31 year old married male). Ayanda agreed, "I don't believe that you can say this is a cultural thing. There is a Xhosa saying 'you can't beat a woman because we would not then make a home. So to say it is part of our culture is to get things wrong. Men change things to suite them and what they want. But it is the wrong way of thinking about our culture."

For these participants in the research, primary importance was given to the concept of *ubuntu*. The underlying belief of *ubuntu* is that a person can only be a person through the help of others. In Xhosa this is translated as "umntu ngumntu ngabanye abantu". As Siphso said, "Ubuntu defines what it means to be called a Xhosa." Participants were asked to define what *ubuntu* meant to them. It is based on ideas of "respect" and "tolerance for people." It "seeks to unify" people and extend commonalties. Participants believed that culture without *ubuntu* is "nothing", as "it is impossible to practice culture outside the parameters of ubuntu." Thus the objections other participants had to women's rights could not be based on Xhosa cultural values and traditions. Participants made a link between *ubuntu* and the UDHR and African Charter for Human Rights. They argued that these documents are in fact Charters of *Ubuntu* as human rights expresses the same values of dignity, value and worth expressed by *ubuntu*.

However the ability of these cultures values and practices to protect people and their lives has been questioned. It is argued that they have lost efficacy in providing social, material and emotional security. The communal networks that traditional societies were founded on do not exist in the same form as previously. This highlights the need for and importance of international human rights instruments.⁶⁸

Religion and women's human rights

Religion has always played a major part in South African society, whether it is indigenous beliefs or those of world religions for example Christianity, Islam and Hinduism that came to country during the time of colonisation and the slave trade. Christianity has since become the religion practised by the majority of people in the country.

Religion has also been closely intertwined with the socio-economic and political realities of South African society. This has been true even when faiths have tried to insist on a dichotomy between what is regarded as sacred and secular. While the Dutch Reformed Church (DRC) has been rightly condemned for providing the scriptural justification of Apartheid, the history of other Christian denominations in South Africa is also tainted by the insensitivity of the early missionaries to African culture and by allowing themselves to be used as agents of European colonial expansion. This resulted in the foundations of African culture being undermined. De Gruchy (1986) writes that the effect of this meant that despite the laudable intentions and many notable achievements of the missionaries, white Christianity, if not Christianity itself, is regarded as a form of European domination by many black people within South Africa. This view was strengthened by the actions and attitudes of the Church during the wars between the Boer republics and the British. "There was nothing Christian or civilised about the concentration camps or the grasping for economic gain and power."⁶⁹

The support the National Party received from the DRC meant that it was possible for the government to claim that segregation was ordained by God and so took any moral responsibility away from those who implemented such policies. The DRC also used human rights as an excuse to promulgate separateness. Apartheid would ensure that the human rights of Afrikaners would be protected. The result of this was that many black people within the country have identified Christianity with Apartheid.

However religion was also used to oppose Apartheid and played an important part in bringing about democracy. When the policy of Apartheid was formally introduced in 1948, the Presbyterian, Methodist, Baptist, Congregational, and Anglican churches all expressed their opposition to it invoking not only the Christian faith, but included human rights which they recognised as being rooted in Christian doctrine. Churches, temples and mosques were at times the only places where it was possible for people to hear messages condemning the policies of the Apartheid government. There was thus a clear commitment shown by the Christian church to the cause of human rights of people in South Africa.

During the liberation struggle people who identified themselves as Christians found themselves on opposing sides of the conflict⁷⁰. This research showed that the same can be said when it comes to the struggle for women's rights in the country.

Religion was an argument used by both men and women to condemn the notion of human rights and entrench current patriarchal attitudes. It was not only Christians who used religion as a reason to deny women their rights. Examples of this were also found in interviews conducted with men who followed Islam and Hinduism. Religious fundamentalism proved to be one of the major obstacles for women's achievement of their rights. In this they confirmed Bunch's belief that "all fundamentalisms seem to share the need to control women as symbols of their identity and culture"⁷¹

Some churches have practices that discriminate against women and young girls in the church. In this they clearly violate the terms of international treaties that South Africa have ratified. Many participants

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argued that the Church was above national government and that churches did not have to conform to the values of a non-Christian government. "We must obey God not the rules that man has made up." In all these cases the scriptures were regarded as being the infallible word of God, the cultural settings and interpretation of scripture was disregarded. Thus it was possible for people to claim the superiority of their scriptures over the Constitution and Bill of Rights. At the same time however, these opponents of women's rights did not steer away from claiming the right to religious freedom as set out in the Constitution. They claimed this right the reason why religion did not have to adhere to women's human rights. This is a flagrant contravention and flawed understanding of the Constitution, which while guaranteeing the freedom for people to practice their religion does not permit any form of discrimination under the guise of religious tolerance.

The influence of male religious leaders was very clear within the interviews and their pronouncements carried great authority. Both clergy and ordinands interviewed supported the idea of male dominance within the home and society. The author was also told of a pastor who was reported to have said that women are evil and it takes holy men to bring God's will about.

While completing this paper the author was also involved in co-authoring a report on the government's implementation of CEDAW at the request of the National Parliamentary Joint Monitoring Committee on the Quality of Life and Status of Women.⁷² This report supported the findings of this research and highlighted a number of discriminatory practices that women and young girls faced in their Churches. The practices detailed here are a combination of both projects. The participants who were interviewed for the projects identified all practices.

The use of a dress code for women was identified as discriminatory. While women have to adhere to this code of dresses no shorter than three-quarter length and have to wear a hat, men are not subjected to the same requirements. They can wear what they like except that they have to wear a tie.

The question of women's role in their churches was raised. Women and some male participants were outraged at prohibitions preventing women from holding leadership positions in their churches, be these a priest or pastor, or on the church councils or boards. Some churches do not allow women to talk in the church. One respondent said, "If there is a woman in the church preaching, the men say this is not a church. It is a woman again. They are forward." "Unmarried women are especially not allowed to stand and talk in the church. They are seen as not "secure". Single women "will be easily tempted without a husband and tempt others".

The disciplinary measures some churches used were highly restrictive.

Some churches refuse to let disabled women attend church services because "only sinners are disabled". People who are ill are believed to be "possessed by the devil" and cannot come into church until "the devils have been gotten rid of."

Both mainline and Pentecostal churches take disciplinary action against women or girls who fall pregnant outside of marriage. These actions take a number of forms.

- Some participants spoke of how the women and/or girls are made to stand up in church to make a public confession. The elders of the church then scold them. They are then chased out of the church and the doors closed behind them. Participants spoke of how a young woman was pregnant as a result of abuse by one of the very elders shutting her out of the church. The women have to ask to be allowed back into church after a period of time ranging from four months to over a year. They have to appear in public again to make further confessions and be scolded before being allowed back. In none of these cases is any sanction practised against the male who made the women pregnant. One participant said that their pastor told the congregation that "the sin of Eve is carried on in these women" and this is why they need to be disciplined.
- In other churches the women are forbidden to take communion.

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- In some cases unmarried women and girls or divorced women are forced to sit at the back of the church and not make contact with other worshippers. If women marry someone of a different denomination to theirs, they are considered not married and have to sit at the back of the church.

Participants also told of how women are not allowed to take communion when they are menstruating. Girl servers also received instruction that they could not serve when menstruating as they are regarded as unclean during menstruation. They were forced to inform their pastors when they began menstruating. A woman remembered, “ I had to go and tell the pastor that my period had begun. I was so embarrassed and shy. He was horrible to me too and from the way he looked at me I felt like I was dirty and had done something wrong.”

Participants in the research echoed newspaper articles about church leaders raping many young girls. This violation is hidden because of the position of these men in the church. Many women and girls were afraid to talk of their experience of rape and abuse by church elders. They said that they could not and would not do anything about it, as it was too dangerous for them to do so.

While most women spoke of their wanting to change these ideas, some said that the ideas the faith leaders said were from God and needed to be adhered to. The cultural and social context of their faith was ignored and the church was seen as being independent from these and above the dictates of the world. A large number of women agreed with the view that men were theologically ordained to be over women. They spoke of how the Bible defined them and their roles.

Jan is a 45-year-old married woman with one child. She is employed and is a staunch member of her local congregation. “I don't know what all the fuss is about. I believe that we [women] are not the same as men and should not have the same responsibilities and standing as them. The Bible is very clear on this and I have always lived my married life being submissive to my husband. That is what I have always been taught in the Church. It is God's will. All this talk about women's rights just confuses people I think, and then where will we be. As a Christian woman it is my duty to care for my husband and family. That is my place.”

Participants used selected texts to 'prove' that women were inferior to men and that women's roles were “not as important” as those of men. The Creation stories of Genesis were the most frequently evoked. As these stories are in the scriptures their historical nature had to be true and none of those who rejected women's rights saw them as anything else but fact. Other favourite texts included the Second Testament of the Christian faith that spoke of male headship over women and women needing to be quiet in Church. Participants also claimed that human rights were “blasphemous”.

Clive and Mzu expressed two examples of this extreme anti-rights view.

Clive is a twenty-three year old fulltime worker in an evangelical church. He has responsibility for ministering to 60 people in a small congregation. He has received no formal theological training.

“God did not give us any rights. We are not supposed to think that we have the answers to things. God is the one in control. If we say that we have rights then are taking away from God being in charge of us. We cannot say that we have rights. We are just people. We cannot demand from God. And when we talk about women's rights like you are doing, you just want to change what God has brought about. Do you think that you know better than God? God made man and woman for different things. It is not that God made them equal.”

Mzu, 51 years old, is pastor of a large protestant church in a township near East London. He has been involved in fulltime ministry since leaving theological college. The following is an excerpt from his interview.

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“Human rights are against God as we are born without any rights. Our lives are dictated by God. God gives us our position and life and we are to just accept it. Trying to change things that God has set out is evil.”

When pressed as to why then South Africa needed to become a democracy if things were the way they were because of God’s plan, he got flustered and answered:

“Because people got in the way of God’s plan. God wanted all people to be equal and have the same chance in life. But people messed this up. That is why it needed to be changed.”

He was asked if God meant for women to be thought of as less than men did. Were women just to accept their position as being less than men, having fewer opportunities are, especially if God wanted all people to be equal and have the same chances as he said are?

“It is not the same. Women were created after men. Adam was God’s first creation and women came after to serve man. Right from the start men and women were different and not created equal by God. So you can’t think about Human Rights for women. It is not what God wanted or intended.”

What then did he make of the scriptural statement that men and women being made in God’s image?

“Well...(a pause of 2 minutes while he thought through this)...we are still not the same. Otherwise why would the Bible have said that men are the head of the family? Men are made to be in control of women. Being made in God’s image has nothing to do with being equal. It is just about saying that God has made us. And anyway, God is always said to be a male. Even Jesus called him “Father”. A father cannot be a woman, so when they take about being made in God’s image, it must mean something else. But it has nothing to do with being equal.

He was asked to explain further what he meant when he said that the man is in control of the women.

“It’s in the Bible. Men were made to be the head of the family. That means that we are the ones who must make the decisions and be in charge. Women must listen to us men and do what we tell them to. They must submit to us. It is not that men can hurt or harm their wives. It is not about being a bully, just about being in charge.”

At the same place in the scriptures it says that men and women must submit to each other. What does that mean then?

“Men cannot submit to women. Men are the ones who must be in control. The Bible says so. I mean how can we have women priests like they do in some churches now? That’s evil and against God. We must listen to God not to man. A woman cannot teach men, the Bible says so. Women are supposed to keep quiet in Church. How can you keep quiet if you are teaching? Women have their manyano’s and own meetings.⁷³ That is their place. This women’s rights story, its not what God wants.”

Three participants fiercely opposed the use of religion to deny women’s rights and stifle their opportunities. They argued that religion was a stumbling block in the way to people “really being free”. “All religion does is to cut us down. It says that we are no good. Ever since the missionaries came they have taken our religious beliefs and made us into devils. Our religious traditions had to change to become like theirs. It is as if they could not wait to destroy our heritage and now we are faced with this religion that instead of making us feel valued, wants to make us servants. How can we say that women are free when this religion makes us still be in jail? Women are nothing here. Black women even less.” (David, a 42 year old black community activist).

“All that the Church does is make people apathetic. It stops them thinking for themselves and makes them stuck. Why do women stay on in a church that puts them down? It’s because we have all been brainwashed into giving the church too much power over our lives. If the church was really God in the world then it would not allow these things to happen. But it is just about priests making their lives comfortable at the expense of others. Women don’t stand a chance. Just as before my grandparents

listened to the church about apartheid and just stood back and took whatever was dished out, so it is now with women. The church is in the way of people's lives!" (Mnceleli, a 43 year old veteran of the struggle).

These criticisms of the Christian faith are reminiscent of those made by Biko (2000). He argued that Christianity has contributed to the subjugation of the black people of South Africa. He further challenged black church leaders to action by saying: "God is not in the habit of coming down to earth to solve people's problems on earth."⁷⁴

However not all those interviewed claimed religion as a stumbling block to women's rights. Religious beliefs were also used to confirm women's rights as valuable and necessary.

While the Creation myth was used by some as the starting point for women's oppression, other participants argued that the beginnings of equality also lie in Genesis. "The Bible says that God makes us all in his image. If we are created in God's image how can we say that some people are of lesser worth than others. To do that is to be in the Apartheid days again." For these participants denying women their rights contributed to women's continued oppression in the country. Lumko, a 33 year old married male with three children said, "To deny women their rights is to deny that they are people. And to deny that they are people is to deny God." Participants also highlighted the role of women in the Christian scriptures. Siya said, "Look at the women in the Bible. They played an important role and now we want to make them less than Jesus did. Culture has been allowed to become more important than what the Bible says." Onke agreed, "As a Xhosa man I need to know that the Church has chosen to interpret the Bible based on culture. They say that it is God's word, but it is written by men. And men do things their way."

For many women religion was the first place where they believed they had the opportunity for a better life. "I cannot believe all the things that men say about women anymore because of my church. We had people come and talk to us about what God wants for women and it is so different to what we have been hearing in the church before. We now have the chance to be part of the service and one of our mother's spoke to the church the other day and told them what it is like to be a woman some of the men came and said that they were sorry afterwards. That they didn't know [what they were doing to women]. The church has helped me see new things for my life."

Conclusion

Since the election of the first democratic government of South Africa, the ANC-led government has remained true to its commitment to ensuring women's rights in the country. They have implemented a number of programmes to ensure that gender has been mainstreamed and have ratified the Women's Convention as well as acceding to the Beijing Platform of Action. They have also enacted legislation aimed at improving the lives of women. Formal equality has been attained. Thus the Minister for Health in the North West Province, Dr M Sefularo exclaimed, "Out of the womb of an unjust and inhuman society emerged a system of justice, equality and human rights."⁷⁵

However when the notion of substantive equality is discussed the picture looks very different. Despite government's laudable efforts to ensure formal equality, women's lives continue to be characterised by vulnerability.

Efforts by the government to ensure women's rights continue to be challenged especially by the division of women's lives into private and public spheres. Traditional cultural and religious values are invoked to oppose the implementation of these rights. This led to the denial of the legitimacy of women's rights by a vast number of participants in this research. However the picture was not all bleak. Many men and women spoke of the value and importance of the human rights discourse and women's rights in particular if true freedom is to be attained for all people of South Africa. This discourse was seen as having a home in the same cultural and religious values and traditions that were used to oppose them.

In light of these disparate views, there can be no clear answer to the question whether the participants in this research regard women's rights as having any legitimacy. The answer can be portrayed in two ways, depending whether you see the glass as half-empty or half-full and whether you support or oppose women's rights.

Yes! Women's rights are regarded as being legitimate, but... or

No! Women's rights are not regarded as having any legitimacy, but...

While this may seem to be an unsatisfactory situation it does highlight opportunities for work within the communities of those who participated in the research.

The need for government to take seriously the demands of the Women's Convention to ensure that culture and religion is not used to discriminate against women is clear. This is also in line with the duties expected of the State as outlined in the Constitution and Bill of Rights. Legislation alone is however not enough to ensure the full equality of women and men and the implementation of women's rights.

The government needs to ensure that effective communication campaigns are developed in order to educate the people of this province regarding government's programmes and the philosophies that form the foundation of these programmes. This can be accomplished by working alongside non-governmental organisations and other community-based organisations in order to ensure delivery of the message. This requires a commitment of financial and human resources.

This research has shown evidence of a number of men and women within local communities who are committed to women's rights. These people can undergo further training and be resource persons for their communities. They can also provide a conduit for community education programmes.

Activists for women rights also need to ensure that they engage in dialogue with the cultural activists in order to develop a better understanding of those issues that prevent acceptance of women's rights. This will provide the opportunity for both parties to challenge each other and be challenged regarding their own positions. This will assist in the development of an understanding that will benefit the women of this province.

Notes

¹ The Xhosa phrase meaning "Two bulls in a Kraal". A Kraal is a pen or other enclosure for livestock, especially cattle.

² Chapter 2. Article 7: (2) of the Constitution of the Republic of South Africa.

³ Mbeki (2001)

⁴ Encarta® World English Dictionary [North American Edition] (2001) Microsoft Corporation.

⁵ Before the advent of democracy in South Africa, the government of the day had a system of classifying people that was based on their definitions of race. People continue to define themselves according to these terms. Thus the terms "Black", "White", "Coloured" and "Indian" are used throughout this research, as this was the manner in which the research participants partly defined themselves. The term "Black" is preferred to "African" as this was the way in which participants defined themselves. The use of these categories does not indicate any acceptance of these terms by the author.

⁶ ANC Secretariat (1980), Bernstein, H. (1985)

⁷ Wells, J.C. (1993). p. 9

⁸ The Federation of South African Women (FSAW) was formed in 1954. Its membership was reported to be some 230,000 women, who were drawn largely from the Congress Alliance, but especially from the ANC's Women's League. The Federation had two primary aims: to work for majority rule and end the policy of apartheid; and to build a multiracial women's organisation that would also work for the

rights of, and freedoms for, women. The creation of the FSAW marked the start of a period of expansion of the political involvement of women, especially black women.

⁹ Wells, J.C. (1993) p.133

¹⁰ Wells, J.C. (1993) p.134

¹¹ Schmidt, E.S. (1983)

¹² Wells, J.C. (1993) p.139

¹³ Meer, F. (1985)

¹⁴ Tambo, O. (1981)

¹⁵ The Malibongwe Conference was held in Amsterdam, Netherlands, from 13 - 18 January 1990, under the theme 'Women united for a Unitary, non-racial, democratic South Africa'

<http://www.anc.org.za/ancdocs/history/women/pr900118.html>

¹⁶ Mabandla, (1995) p.68

¹⁷ Issued by the ANC Women's League, Johannesburg. Downloaded from website

<http://www.anc.org.za/ancdocs/pr/1993/pr0819a.html>

¹⁸ Nelson Mandela quoted by Myakayaka-Manzini (1998)

¹⁹ The total population of South Africa according to the 1996 Census was 40,583,573 with 6,302,525 people living in the Eastern Cape. The number of females in the province was 3,394,469, with 2,908,056 males. This was the third largest provincial population behind KwaZulu-Natal and Gauteng.

²⁰ The population groups of the Eastern Cape province are made up of Africans (86,4%), Coloureds (7,4%), Indians (0,3%) Whites (5,2%) and unspecified others (0,7%).

²¹ Recent reports suggest that the average life expectancy of women in South Africa will drop to 37, while the life expectancy of men will be 38 years by 2010 because of the scourge of AIDS. (Daily Dispatch, Friday, April 19, 2002)

²² The Eastern Cape has the second highest proportion of women and girls at 54% of the total population, behind only the Northern Province at 55%.

²³ Statistics South Africa (2000) state there are at least two definitions of unemployment that are used in South Africa - the strict and the expanded definition. Both definitions include people who are aged 15 years or older and who, though unemployed, are available for work. But they differ from each other in the following way. A requirement of the first or strict definition is that a given individual has taken specific steps to seek employment in the four weeks prior to a given point in time. The second or expanded definition focuses on the desire to work and the availability for work, irrespective of whether or not the person has taken active steps to find work. The expanded definition, therefore, makes provision for those people that are known as the 'discouraged' unemployed. For the purposes of this paper the expanded definition will be used.

It has been widely recognised that the strict definition of unemployment, with its narrow approach to unemployment, is less useful than the expanded definition. Far from being voluntary, the decision to stop looking for work is dependent on a wide range of reasons. These include transport costs, food and other difficulties related to job hunting. Job searching entails costs, both economic and psychological, as well as risks. It is in this context that the World Bank has referred to those who have given up looking for work as the 'discouraged' unemployed. This applies particularly to those in non-urban areas, where employment or income-generating activities are scarce, and transport is expensive. This is the case in the Eastern Cape.

This paper therefore uses the unemployment rate in terms of the expanded definition as expressed by the Central Statistics Services of South Africa. It is thus the proportion of people in the economically active population who are not in paid employment or self-employment at a given point in time, but who are available for work or for other income generating activities, and who want to be employed or self-employed.

²⁴ IsiXhosa is spoken by 83,8 % of the population, while 9,6 % speak Afrikaans, 3,7 % English, 2,2 % SeSotho, 0,4% speak isiZulu while the remaining 0,2% is made up of what is termed "Other"

languages.

²⁵ For a more detailed breakdown of the participants in this research see Appendix One.

²⁶ Interviews were conducted within the following communities: Butterworth, Cathcart, East London (including Berea, Buffalo Flats, Cambridge, Cambridge Location, Duncan Village, Gonubie, Highgate, Mdantsane, Nompumelelo, Pefferville, Stirling, Southernwood and Tyolomqa), Engcobo, King William's Town (including Woodlands), Matatiele, Middledrift, Mount Frere, Peddie, Port Elizabeth, Queenstown and Tsomo.

²⁷ I am indebted to Euclid Doans, a colleague in Masimanyane Women's Support Centre, and Mavis Tshetu, a family friend, for their assistance in this regard. Without their help this project could not have been completed

²⁸ Kvale (1995) p.154

²⁹ Kvale (1995) p.154

³⁰ Previous research conducted by the author had shown the importance of this especially when dealing with participants discussions of traditional Xhosa practices and values. Cf. Harper(1999)

³¹ This is in line with the author's belief that the rights of participants in research need to be respected and valued. Any attempt to challenge their denying permission would also have altered the relationship between researcher and participant and may have affected the quality of material obtained.

³² Mergendollar, 1989,p.124

³³ Mergendollar, 1989,p.126

³⁴ Gilbert, van Vlaenderen & Nkwinti, 1995,p.231

³⁵ International Convention on the Suppression and Punishment of the Crime of Apartheid. Adopted and opened for signature, ratification by the General Assembly resolution 3068 (XXVIII) of 30 November 1973, entry into force 18 July 1976, in accordance with article XV.

³⁶ Mandela, N. (1993).

³⁷ The Afrikaans word "Boer" means "farmer". It is colloquially used to speak of the National Party that was were in power, but also refers to white people in general.

³⁸ Steve Biko was a political activist from the Eastern Cape who wrote extensively on Black Consciousness. The Security Police murdered him in 1977, when he was only 30 years old.

³⁹ BC stands for Black Consciousness popularised by Steve Biko, who defined it as "an attitude of mind and a way of life." (Biko, 2000,p.91). It spoke of positive regard for self as a black person, positive relations with the Coloured and Indian communities, also classified Black by the Apartheid government and self-reliance, no longer relying solely on the paternalism of whites.

⁴⁰ "Nats" is the abbreviated form for the white National Party that was in power during the Apartheid era.

⁴¹ Carillo, R. (1997).

⁴² Quoted by Mary Robinson in Harvard International Review, Fall 1999, Vol. 21 Issue 4, p60.

⁴³ Charlesworth, H (2001)

⁴⁴ Bunch, C. and Frost, S. (1997). Bunch, C (1997).

⁴⁵ International Human Rights Internship Program/Forum-Asia (2000)

⁴⁶ International Human Rights Internship Program/Forum-Asia (2000)

⁴⁷ Nhlapo, T. (2000) p.138

⁴⁸ Nhlapo, T. (2000) p.145

⁴⁹ Oloka-Onyongo & Taxale, 1995

⁵⁰ ANC Today (2001)

⁵¹ Sapa (1999) Women's Role Becoming More Important: Mandela. Cape Town, April 21 1999.

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⁵² Myakayaka-Manzini, M.L. (1998)

⁵³ Budlender, D. (1999, 1998, 1996). Foster, D., Freeman, M. & Pillay, Y. (1997).

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⁵⁴ Oloka-Onyongo & Taxale, 1995, p.706

⁵⁵ Charlesworth, H (2001) op. cit.

⁵⁶ Harrison & Huntingdon, 2000, p.70

⁵⁷ Oloka-Onyongo & Taxale (1995) pp.708-9

⁵⁸ Charlesworth (2001) op. cit. writes that "Arati Rao has argued that the notion of culture favoured by international actors must be unmasked for what it is: a falsely rigid, ahistorical, selectively chosen set of self-justificatory texts and practices whose patent partiality raises the question of exactly whose interests are being served and who comes out on top."

⁵⁹ Charlesworth, H (2001)

⁶⁰ The author believes that human rights activists need to take cognisance of the history of the human rights discourse if they are to be able to fully engage with cultural activists. As An-Na'im, A.A. (2002) writes "the modern concept of human rights clearly emerged from European and North American experience...Moreover, little opportunity for contributions by peoples of Africa and Asia at the beginning of the process in the late 1940s existed because the vast majority of these peoples were still suffering from repressive colonial rule by the same European powers who were proclaiming the Universal Declaration of Human Rights at the United Nations. Treaty formulations of human rights and their implementation are premised on the pre-existing power-oriented systems of international law and relations that did not accord much weight to emerging poor and underdeveloped countries. If these facts are not acknowledged and taken into account by the advocates of universality of human rights, cultural relativists can gain advantage with their constituencies by recalling the origins and development of the present standards in order to conclude that these formulations are necessarily inconsistent with non-western cultural and religious traditions." Nhlapo (2000) writes of unequal power between cultures. This is clearly seen in the history of human rights treaties.

⁶¹ The author is aware that the use of the terms dynamic and static to describe the manner in which culture is practised has often been misused especially by outsiders to a particular culture. Cultures are described as dynamic if the result of such dynamism is 'progressive', that is conforming to some preconceived notion of what progress entails, normally the attainment of western ideals of human rights. When applied to traditional Xhosa culture this implies that the Xhosa need something beyond their culture that is better, bigger and greater. Maluleke (2002) argues that this formed the inner core of the self-justifying logic of colonialism. This so-called progressive view often denies the dignity of indigenous African value systems that provided for the social, emotional and material needs of individuals and the community. The terms are used here not meaning a movement towards more liberal views and understandings, but rather to refer to participants' beliefs that their culture was mutable and had undergone a number of changes in response to social, political and economic conditions over time. Cf. Nhlapo (2000).

⁶² Pato, L. (1997) p.45

⁶³ Nhlapo, T. (2000) p.156 n10

⁶⁴ Mokogoro, Y. (1998)

⁶⁵ Harper (1999)

⁶⁶ Jenkins, (1997)

⁶⁷ A sjambok is whip usually made out of leather.

⁶⁸ Mokogoro, Y. (1998)

⁶⁹ De Gruchy, J. (1986). p. 179

⁷⁰ Nolan, A. (1988)

⁷¹ Bunch, C. (2001)

⁷² Foster, L.A. & Harper, C.D. (2002)

⁷³ “Manyano’s” is the name given to women’s groups in African churches.

⁷⁴ Biko, S. (2000). p.60

⁷⁵ Reported in Daily Dispatch, 21 March 2000

Appendix One

Profile of participants in research

Total number of participants 479

Number of participants by gender		
Female	Male	Total
209	270	479

Number of participants living in rural and urban areas		
Rural	Urban	Total
214	265	479

Gender profile of rural participants		
Female	Male	Total
97	117	214

Gender profile of urban participants		
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Female	Male	Total
112	153	265

Age group profile of male and female participants							
Gender	Age group						
	0-19	20-29	30-39	40-49	50-59	60+	Total
Female	7	38	67	62	21	14	209
Male	7	32	93	95	27	16	270
Total	14	70	160	157	47	30	479

Age group profile of rural participants							
Gender	Age group						
	0-19	20-29	30-39	40-49	50-59	60+	Total
Female	3	17	35	29	8	5	97
Male	2	5	47	39	12	12	117
Total	5	22	82	68	20	17	214

Age group profile of urban participants							
Gender	Age group						
	0-19	20-29	30-39	40-49	50-59	60+	Total
Female	4	21	32	33	13	9	112
Male	5	27	46	56	15	4	153
Total	9	48	78	89	28	13	265

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