



European Union



BASELINE EVALUATION

Khulumani Sekuyisikhathi Collective: Participatory Action for Socio Economic Rights

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ACRONYMS

CREATE	CBR Education and Training for Empowerment
CSO	Civil society organisation
DPO	Disabled People's Organisation
FGD	Focus group discussion
GBV	Gender based violence
GLN	Gay and Lesbian Network
HIV	Human Immunodeficiency Virus
ID	Identity number
iOC	Intermediate outcome
JAW	Justice and Women
KC	Khulumani Collective (original name)
KII	Key informant interview
KRCC	KwaZulu Regional Christian Council
KSC	Khulumani Sekuyisikhathi Collective
KZN	KwaZulu-Natal
LGBTI	Lesbian, gay, bisexual, trans and intersex people
LHH	Land, housing and health (for this project)
LL	LifeLine
M&E	Monitoring and evaluation
NGO	Non government organisation
OC	Outcome
OP	Output
PH	Power holder
SA	South Africa
SRHR	Sexual and reproductive health and rights
TSEG	Targeted socially and economically excluded group
TU	Tholulwazi Uzivikele

GLOSSARY

Amadlozi: Ancestors

iNduna: Tribal councillor or headman (plural: *Izinduna*)

Ingoduso: Fiancée, or person for whom some but not all *lobola* has been paid

iNkosi: Tribal chief (plural *Amakhosi*)

Isangoma: Traditional healer or diviner (plural *izangoma*)

Isiphingi: Adulterers

Isthumbanja: A situation where an unmarried or 'divorced' woman is allocated a small piece of land just outside the homestead, under the watchful eye of the power holder in the family. She has no freedom of using the allocated land as her own. This applies also to persons with disabilities.

Lobola: A bride price, traditionally paid in cattle, money can be an alternative but to the same value as the cattle

Makoti: Married woman where *lobola* is fully paid and all rituals undertaken or daughter in law

Ukuthwala: A form of abduction that involves kidnapping a girl or a young woman by a man and his friends or peers with the intention of compelling the girl or young woman's family to endorse marriage negotiations. The abduction is sometimes with the consent of the parents.

Umfelokazi: Widow for whom *lobola* was paid at the time of marriage

Umthakathi: A person who practices witchcraft

Vat en sit: Women and men cohabit as partners who cohabit with their partners, without being married or engaged

INTRODUCTION

The European Union (EU) has provided funding for civil society organisations (CSOs), through its Socio- Economic Justice for All Programme.

A collective of CSOs operating in KwaZulu- Natal (KZN) province, South Africa (SA) called the Khulumani Sekuyisikhathi Collective (KSC) (formerly the Khulumani Collective), was awarded funding to implement a project called ‘Participatory Action for Socio Economic Rights’ in KwaZulu- Natal in areas under the leadership of *Amakhosi* or traditional leaders. The socio economic rights chosen to be addressed are the rights to land, housing and health. The groups of people socially excluded from accessing these rights in these areas are rural women, people with disabilities, and lesbian, gay, bisexual, trans and intersex (LGBTI) people. These groups are known in the project as TSEGs: Targeted socially and economically excluded groups. In order to claim their rights, TSEGs have to work with power holders.

The project commenced in July 2016. A significant portion of the first year of the project has been spent in collecting and analysing baseline information, firming up the design of individual organisations’ projects, and working and learning together as a collective.

KHULUMANI SEKUYISIKHATHI COLLECTIVE’S PROJECT

Objectives of the project/ action

During the development of the project, the log frame originally presented in the proposal was revised, and the revision accepted by the EU (24th October 2016). This baseline reports against the revised log frame, which is given in Appendix 1.

The overall objective of the Action: Improved social status¹ for poor rural women, people with disabilities and LGBTI people living in 4² rural districts governed by traditional leaders in KZN.

Specific objectives/ outcomes (OC), and intermediate outcomes (iOC):

OC 1 : Through collective action, TSEGs hold power holders accountable for the realisation of their rights to land, housing and health.

iOC1.1 TSEGs have increased understanding of unequal power relations and other factors that hinder the realisation of their rights to land, housing and health

OC2 : Power holders (PHs) change their practices and services to enable the progressive realization of TSEGs’ socio economic rights

iOC2.1 PHs have increased understanding of unequal power relations and other factors that affect TSEGs access to land, housing and health

¹ Social status as defined by TSEGs having land, housing and health care available to them.

²The number of districts where the project is working was reduced during the finalisation of the contract, to work within the budget limitations.

iOC2.2 Increased level of knowledge among PHs on issues affecting TSEGs

iOC2.3 Increased acceptance and support of TSEGs by power holders

OC3: KC (now KSC) collaborates strategically in a transformative way

iOC 3.1KC is sensitized to how partners constructively use power within the collective

iOC3.2 KC understands different methods of collaboration

iOC3.3 KC has increased capacity to work collectively

THE ACTION/ PROJECT

This action is implemented by a Collective of 6 organisations undertaking different but complementary work with women, LGBTI and people with disabilities across 4 different rural KZN districts that largely fall under Traditional Authorities. The choice of these target groups is based on previous work done by the partners in the Collective that shows a disconnection between the experiences of these marginalized socially and economically excluded, groups and the rights that have been guaranteed them by the SA Constitution's Bill of Rights. Little attention seems to have been paid to the specific issues facing women, LGBTI and people with disabilities governed by Traditional Authorities in rural areas. The proposed action seeks to fill this gap.

Underlying Values and Principles:

The following agreed values and principles guide the separate and collaborative work of all 6 partner organisations in the proposed action.

- The premise that those who are the most negatively affected by current systems that limit their access to their socio-economic rights (TSEGs) are those to take the lead in any actions designed to achieve these rights.
- This implies that the primary roles of the implementing partner organisations in this action, include:
 - opening safe spaces for TSEGs to critically analyse their situations, affirm their strengths, articulate their problems and issues, and define solutions and ways forward that make sense in their local contexts at a particular time
 - providing access to relevant information, skills, coaching and mentorship (as needed) as the TSEGs undertake their planned activities
 - sensitising power holders³, in order to facilitate their improved responsiveness to the issues raised by the TSEGs.
- Meaningful inclusive democratic practices require work at the level of underlying social and cultural norms that reproduce inequalities. This can be threatening work as it requires critical self-reflection and critique of the other. This means that the initial activities take

³ This term refers to all those with institutional power, to make decisions, set policy, influence attitudes and social norms, act as gatekeepers as to access to resources, and/or monitor performance. In this action, the term specifically refers to targeted traditional and religious leaders as well as government officials. It also includes family members.

place separately with TSEGs and power holders, to open up some of these deeper conversations in a safer space, which will allow for greater openness in any joint engagements that follow.

- For institutional power holders to change discriminatory and ineffective practices, their perception of and attitudes towards TSEGs need to change substantially. Once power holders take seriously the perspectives of groups that are normally excluded from decision making processes, they become more open to reviewing their practices accordingly.
- To facilitate such attitude and practice shifts, the approach of this project is grounded in the value of *Ubuntu* – the recognition of one’s humanity in the humanity of the other. A reason for starting with *Ubuntu*, is that it is rooted in African traditional values, which continue to form the bedrock of the rural communities targeted in this project. This offers a common starting point to discussions around access to land, housing and health. The conversations can then link these traditional values to an examination of harmful traditional practices and a rights-based discourse, which are often rejected as a western imposition.

Participatory methodologies are being used in the project, for creating opportunities to allow for maximum participation, in particular of the most marginalised / excluded. This is because all three of the socially and economically excluded groups tend to be silenced and stripped of their agency in different ways in rural communities:

- **Women** are socialised from early on not to speak about their bodies, their sexual and reproductive health, their sexual preferences, or not to refuse a man sex. Many customary practices revolve around women’s virginity and fertility, which are highly prized, linked to economics through *lobola*⁴, and so are strictly controlled. Women’s virginity and fertility are contested terrain, over which women themselves have little say. This affects their freedom to access health services, and also makes them extremely vulnerable to sexual abuse. The fact that they cannot independently access land or housing under customary law further reduces their power to speak and be heard, and makes escape from abusive relationships difficult.
- **LGBTI**: Taboos around speaking about sexuality in rural areas is compounded for people of diverse sexual identities and orientations by the rejection of homosexuality by most rural churches and communities. According to traditional Zulu culture, both men and women who do not enter into heterosexual marriage, are denied the rights accorded adult men and women. For LGBTI people, this means denial of the person’s right to land, housing or even a decision making voice.
- **People with disabilities** are regarded as perpetual minors, who have to be spoken for by a family member, may not independently apply for land or housing, and in many cases may not even be given the choice of whether to take an HIV test, without a family member present. They are unlikely to be taken seriously if they try to report sexual abuse. Such cases are normally resolved between families, thus effectively denying people with disabilities the choice to access legal or health care support.

⁴ Traditional bride price.

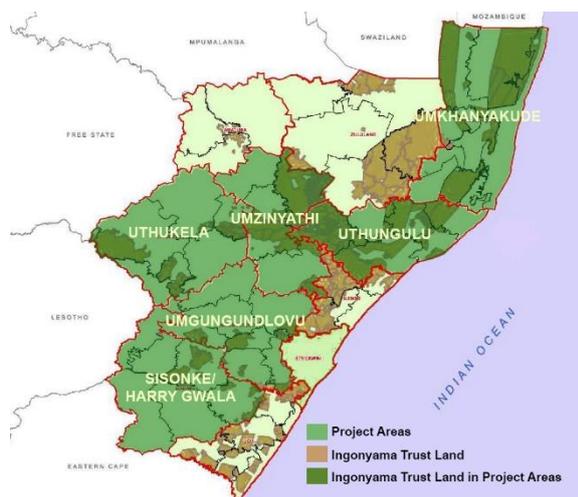
In most cases, all these groups have internalised these norms, and it takes time for them to ‘unlearn’ self-stigmatising attitudes and to develop the confidence to consider their own needs and rights, and speak about them, and not just the needs of their family or community.

The design of this action aims to accompany women, people with disabilities and LGBTI to overcome the abovementioned barriers to their participation, and to enable them to contribute to building an inclusive democratic practice. The role of the participating organisations is not to intervene directly and become the centre of the action, but to facilitate a process whereby TSEGs become able to identify what is blocking them accessing their rights and then identify and implement solutions so that they do claim their rights.

Project area

The map below shows the province of KZN, where the project is being implemented, with the districts marked. The Ingonyama Trust land is marked, and it demonstrates what a large proportion of the provincial land falls under the Trust.

Figure 1: Map showing location of the project, and Ingonyama Trust lands



The project is working in 4 districts: uMkhanyakude, King Cetshwayo (formerly known as uThungulu), uMzinyathi, and uMgungundlovu. (This is a change from the original proposal, as there was a significant budget cut resulting in the work having to be geographically curtailed.)

THE SIX PARTICIPATING ORGANISATIONS

Key information about the 6 participating organisations is given in the following table:

Table 1: Participating organisations

Organisation	Expertise in rural areas, and target groups	Districts and target groups
CREATE	Advocacy, training and research in disability issues, with people with disabilities, traditional leaders and traditional courts	King Cetshwayo District
Gay and Lesbian Network (GLN)	Community sensitisation about LGBTI issues, with young unemployed LGBTI people. Connecting community & Chapter 9 Institutions for advocacy support	uMgungundlovu District
LifeLine and Rape Crisis, Pietermaritzburg	Counselling, Gender Based Violence GBV services and managing crisis centres and Thuthuzela Care Centres, Sexual and Reproductive Health – SRHR; HIV/ AIDS services	uMsinga Municipality in uMzinyathi District
Justice and Women (JAW)	Community development focused on SRHR and GBV with women, their partners, families, traditional leaders- to transform discriminatory gender norms.	Mthonjaneni Municipality, in King Cetshwayo District
KwaZulu Regional Christian Council (KRCC)	Conscientisation of churches, community leaders about socio-economic justice, including gender justice, working with LGBTI people	uMlalazi municipality in King Cetshwayo District.
Tholulwazi Uzivikele (TU)	Community development focussed on economic strengthening, facilitating the forming of self-governed community structures, early childhood development and life skills training, and supporting community structures as they work and grow.	uMhlabuyalingana Municipality in uMkhanyakude District

LifeLine Pietermaritzburg is the lead organization for the project.

THE BASELINE EVALUATION

The following section lays out the purpose of the baseline, and the key questions which framed the research, followed by the baseline evaluation approach and methodology.

BASELINE PURPOSE AND KEY QUESTIONS

The purpose of the baseline for the KSC project is twofold:

- To find out what the current situation is in the areas where the project is being implemented, in order to adjust the design of the project
- To gather data to on indicators, in order to evaluate project performance in the future by establishing what changes have occurred.

The key questions which framed this baseline evaluation were:

1. What are the current customary practices with regard to TSEGs in relation to land, housing and health (LHH) in the communities where the project is being implemented?
2. What are the lived realities for women, LGBTI and people with disabilities (with regard to LHH)?
3. Who are the powerholders with regard to LHH, in the communities where the project is being implemented?
4. What are the perceptions of power holders about TSEGs in relation to LHH, and why?
5. Has there been any collective or individual action taken by TSEGs in the area relative to LHH?
6. Is there transformative collaboration between partners of the KSC?

The findings of this baseline evaluation are presented in themes arising from the key questions.

BASELINE EVALUATION METHODOLOGY

The **methodology** for the evaluation included a variety of methods, mostly qualitative:

- Key informant interviews (KIIs)
- Focus group discussions (FGDs)
- Questionnaire/ mini survey/ structured interviews
- The use of participatory methods/ games such as 'The Game of Life'.

The **approach** for the evaluation was participatory and provided many opportunities for joint learning:

- The partner organizations participated in an initial joint monitoring and evaluation (M&E) workshop, to develop a common understanding of the project, and to discuss how to take the baseline process forward
- The partner organizations (except one) were visited on site by the M&E consultant, for further planning of the project, and for developing a plan to collect baseline data

- Further participation was through e mail and telephonic contact with the M&E consultant, and sharing of experiences, tools etc with the group.
- The participating organisations collected and organized their own data, again in consultation with the M&E consultant.
- Another joint workshop was held for sharing of information, and learning about and doing data analysis. The logframe and the indicators were further refined at this stage.
- After the workshop, the organisations built on what they had done and further analysed their results.

DESIGN OF THE BASELINE

After the initial joint workshop, it was realized that the participating organisations were all working on different and very diverse aspects of the interactions between TSEGs and power holders, with regard to land, housing and health. Thus the use of one uniform set of instruments by all organisations for collecting data which could be aggregated was not appropriate.

Instead, each individual organization went through a process of refining what they would address through the project (narrowing of the broad focus the project had initially), and working out how the log frame indicators would be framed for each of their projects. A joint workshop and site visits by the M&E consultant allowed discussion about which data would have to be collected by each organization, bearing in mind that the baseline needs to describe the context at the start of the project, so that change can be measured at a later stage for each organisation's contribution. Organisations designed their data collection activities based on their particular intervention and the log frame.

INSTRUMENT DEVELOPMENT

Each organization developed their own instruments. The instruments were shared with other members of the collective in a number of cases. These instruments are given in Appendix 2. The majority of the tools were key informant interview (KII) guides, and focus group discussion (FGD) guides, with a few of the organisations doing mini surveys. The Game of Life instrument was adapted for use by some organisations.

Some organisations translated their instruments into isiZulu, and others did translation 'on the spot' when they were administered. All respondents were able to answer in isiZulu and answers were then translated into English during the data capture process.

The M&E consultant was available throughout the process of instrument development, sampling, data collection and data capture, telephonically and via e mail.

SAMPLING

Each organization decided on who would be interviewed, and would participate in their survey if they were doing one. Those who participated were in most cases the people who are also participating in the intervention. The baseline data collection activities were often introduced when

the organisations met those whom they would be working with for the first time. Thus the sampling was convenience sampling of key roleplayers.

DATA COLLECTION, DATA CAPTURE, DATA ANALYSIS

Data collection: The following table shows the data collection which the organisations carried out.

Table 2: Details of fieldwork undertaken by the organisations

Participants	Data collection method	Date	Number of Male/ Female
CREATE			
People with disabilities	KIIs	15/03/2017	1M 1F
	FGD	16/03/2017	5M, 13F
		27/03/2017 29/03/2017	3M, 3F 4M, 1F
Traditional leaders	KIIs		3M
	FGD	29/03/2017	3M
GLN			
LGBTI people	FGD	23/03/2017	L4, G3, T1
Nurse	KII	24/03/2017	1F
Community members (women)	FGD	24/03/2017	10F
Community members (men)	FGD	24/03/2017	10M
<i>iNduna</i>	KII	05/05/2017	1M
LGBTI group: Men who have sex with men (MSM)	FGD	05/05/2017	G4, B6
JAW			
Women living in 2 rural communities	Observation Game of Life Facilitated questionnaire	15/03/2017	21F and 5M 20F
		16/03/2017	
		15/03/2017 16/03/2017	13F 20F
Women living on their own piece of land in their own homestead	FGD	22/03/2017	11F
Traditional leaders	Facilitated questionnaire FGD	24/03/2017	5M 1F
Traditional leader	KII	15/03/2017	1M
Homestead heads	Questionnaire FGD	23/03/2017	7F
Traditional Healers	KII	21/03/2017	6F 1M
Department of Justice	KII	13/ 03/2017	1F
Municipal Councillor	KII	23/03/2017	1M
Traditional Court Secretary	KII	30/03/2017	1F
KRCC			
Rural Women	FGD using	10/ 03/ 2017	Approxi

Participants	Data collection method	Date	Number of Male/Female
	questionnaire as a guide		mately 25F
<i>iNduna</i>	Questionnaire	09/03/ 2017	1M
Rural Women	Questionnaire	26/05/2017	5F
LL			
Women 18 years and above	FGD	06/03/2017	10F
	FGD	06/03/2017	10F
Men 25 years and above	FGD	09/03/2017	13M
Rural hospital assistant manager	KII	16/03/2017	1M
<i>Izinduna</i>	FGD	16/03/2017	6M
Church leader	KII	29/03/2017	1F
	KII	29/03/2017	1M
TU			
Power holders (<i>Izinduna, Amakhosi</i>)	KIIs	17/03/2017 22/03/2017 24/03/2017 30/03/2017	11M
People with disabilities	FGD	23/03/2017 28/03/2017	7M 1F

Data Capture: A mix of data capture methods were used. Some organisations recorded and transcribed interviews and discussions, others made field notes, or took photographs. For the Game of Life, a scoring sheet was developed. All organisations were asked to transfer any hard copy data to electronic data through scanning or photographing the data.

Data analysis: In order to build capacity for data analysis, and share learnings from the data collection process and about the data which was gathered, a 3 day data analysis workshop was held, with at least 2 participants from each organization. The main topics covered in this workshop were:

- Feedback about the data collection process
- Sharing of data to answer the key baseline evaluation questions
- Making meaning of the data, and comparisons of what was found at various sites
- Orientation to qualitative data analysis
- Values for the indicators in the log frame

There was excellent participation by all, and the experience allowed the Collective to gain a deeper understanding of the context in which all the organizations work.

Ethical considerations: In some cases, participants were informed about the project and the baseline data collection activities, and of their rights when participating in the interviews and discussions. In other cases, where data was collected as part of the initial project intervention, the project was explained, but formal consent was not obtained.

Limitations of the study: The baseline activities were carried out with limitations in budget and time. This was not a formal research project, rather an exercise in mapping the current context against

which to measure change in the future. Some of the translations from English to isiZulu and back, which were done 'on the spot' may not have been completely accurate, and some of the notes taken may have missed some of the points which were made. However, all the project managers participated in the data collection along with the facilitators, and thus were able to troubleshoot problems as they occurred, and report with insight about what had been found.

THE PROJECT: WHO IS DOING WHAT?

The findings of the baseline evaluation activities are discussed under themes arising from the key evaluation questions.

WHAT ARE THE ISSUES THE PROJECT IS WORKING ON?

Overall, the project is working on the following issues:

- Land for poor rural women, often for those who are in abusive family or marital relationships
- Land for people with disabilities
- Land for LGBTI people
- Housing for LGBTI people
- SRHR and GBV for poor rural women
- Health in general and in relation to cleansing rape of people with disabilities
- SRH for LGBTI people

WHO ARE THE POWER HOLDERS THE PROJECT IS WORKING WITH?

In order to address the issues laid out above, the following have been found to be power holders:

- Families, in particular men/ husbands/ partners, parents- in-law, and first born males (land, health, housing)
- Older women (mothers in law) within Homesteads
- Traditional leaders: *Izinduna* and *Amakhosi* (land)
- *Amadlozi* or ancestors (land)
- Traditional Healers (in terms of ancestral practices and meaning making)
- Health care service providers (health)
- The church
- Councilors/ municipality (housing)
- NGOs such as the Disabled People's Organisation (DPO) (land)
- Community structures such as Disability Forums (land)

WHAT EACH ORGANIZATION IS FOCUSING ON

The focus of activities for each of the organisations is given in the following table.

Table 3: Organisations, project focus/ specific intervention with TSEGs, and power holders

Organisation, project focus, specific area of intervention with TSEGs, vs power holders	Men	Family	In laws	DPO/ other NPOs	Traditional leaders: <i>iNduna/ iNkosi</i>	<i>Amadlozi/</i> ancestors	Church leaders	Health care service providers DOH/Justice service providers DOJ	Councillor/ municipality
CREATE Land Access to land for people with disabilities		X			X	X			
CREATE Health Stopping cleansing rape of people with disabilities		X			X	X		X	
GLN Land Access to land for LGBTI people		X			X				
GLN Health Access to SRH services for LGBTI people								X	
GLN Housing Access to housing for LGBTI people									X
JAW Land Access to land for rural women in abusive family /marital relationships		X	X		X	X		X	
KRCC Land Access to land for rural women		X			X		X		
LL Land Access to land for rural women			X		X				
LL Health Access to SRH services for rural women	X		X				X	X	
TU Land Access to land for people with disabilities				X	X	X			

All 6 organisations have a focus on Land, 3 have a focus on Health, and 1 on Housing

FINDINGS

During the baseline process, time was spent on getting a common understanding of customary practices/ laws, and the Ingonyama Trust lands.

CUSTOMARY PRACTICES/ LAWS AND THE CONSTITUTION

South African customary law refers to a sets of customary practices developed and practiced by rural communities of South Africa. In KZN, the British colonial rulers of the province codified these practices which resulted in the distortion particularly of the role of the *iNkosi*, whose power was exaggerated. The apartheid government used this distortion to their political advantage when ‘insubordinate chiefs were often stripped of their power and replaced by those willing to collude with the grand apartheid scheme’⁵ As a result much of what is referred to as ‘customary law’ needs to be viewed with caution.

The SA Constitutional Court is cited as having developed a jurisprudence that is best able to do this as it recognizes that customary law is a constantly evolving system of beliefs and practices related to the context and circumstances of particular communities and refers to it as ‘Living customary law’. The baseline evaluation works with this definition and views customary law as fluid and changing over time and among different groups of people

The South African Constitution recognizes traditional authority and customary law under Section 211. Customary law is further protected within the Bill of Rights, most notably under the right to freedom, belief and opinion (s 15), the individual right to language and culture (s 30) as well as the collective right pertaining to cultural, religious and linguistic communities (s 31). There are a number of issues where there is some non- alignment between the Constitution and customary law, and in these cases, technically the Constitution takes precedence. However, the lived reality of people residing in traditional communities shows that customary practice holds sway over people’s lives and access to resources.

In this document, the term ‘customary practices’ is used rather than ‘customary law’, as the practices in question are fluid and changeable. The activities of the project seek to influence negative customary practices which block access to rights, to bring about change which benefits all people, particularly TSEGs.

Table 4: Comparison of customary and constitutional law

Customary law/ practices	Constitutional law
Generally, it is not written down, but it is communicated orally between people, from place to place, and from generation to generation.	It written up within legislation, which courts refer to when making judgements the legal courts, government, and parliament
Recognised within the Bill of Rights which is within the Constitution, as long as the Bill of	Needs to be aligned to the Constitution and Bill of Rights

⁵ W Wicomb. 2013. Securing women’s customary rights inland “The fallacy of institutional recognition” pg 55. In A Classen and D Smythe: Marriage, land and custom. Juta.

Customary law/ practices	Constitutional law
Rights takes precedence in any matter	
Implemented by traditional leaders, family members	Implemented by the legal system
Covers people living in areas under traditional leadership	It covers all people living in South Africa
Might be applied differently between different areas and traditional leaders	Applies uniformly to all people across South Africa
Customary law uses (or is supposed to use) restorative justice which means that the emphasis is on restoring relationships and creating harmony in the community. Thus an offender might be asked to apologise to the family or the victim.	Constitutional law uses retributive justice in which offenders are prosecuted, tried and often sentenced to a jail term. The emphasis is on punishment rather than restoring relationships.

INGONYAMA TRUST LANDS

The Ingonyama Trust was established for the land which fell in the former KwaZulu homeland (consisting of over 50% of KZN), during the CODESA negotiations for a free South Africa in 1994. The sole beneficiary of the Trust is the Zulu King. The land is held in trust for the King by traditional leaders, namely, the *Amakhosi*. Under this Trust system, there is no ownership of land, as understood/codified in Western/constitutional law, as the land remains within the Trust.

CURRENT CUSTOMARY PRACTICES AROUND LAND AND HOUSING

The research carried out by the organisations during the baseline process indicate that the project is extremely relevant for the TSEGs, as the implementation of customary practices for land and housing are discriminatory against women, people with disabilities and LGBTI people.

Land for housing, and the concept of 'building households'

The initial impetus for this project arose out of the recognition that many women remain in abusive domestic relationships because they are unable to access land to live independently. Although this would seem straightforward to address, given the constitutional recognition of equality of all people, implying that all people should be equally eligible to acquire land for housing, there is a complex web of customary practices underlying the current situation for women. The customary practices are based on relationships, underpinned by the generally held cultural belief that the role of women is to bear children, to take the clan name of the man forward, and that land is to be used to support households, rather than being for the use of an individual.

Land under the Ingonyama Trust is not for sale, therefore customary practices are used to determine who should have access to land.

Two other issues were raised about acquiring Trust land:

- If the land is not used after being allocated to someone, it can be re-allocated to someone else.

- The issue of inheritance of the land, and housing on it, is complicated.

PROCESS OF ACQUIRING LAND IN INGONYAMA TRUST LANDS

The following steps were mentioned in all the areas where the project organisations are working.

1. Discussion are held within with the family with whom the person wishing to acquire land is living (in laws or own family), stating his/her desire to acquire a piece of land to build a house on, with reasons.
2. A suitable piece of land is identified and the current land holder is approached. A price is agreed upon.
3. If the current land holder agrees to give the person land, the person must approach the *iNduna* in that area to secure his or her support.
4. The *iNduna* inspects the site, consults with neighbouring community members and if satisfied supports the proposal.
5. The *iNduna* will then accompany the person to the traditional leader (*iNkosi*) (or council) and supports the request for land. If the *iNkosi* agrees, the person pays a '*khonza*' (homage) fee to the office of the traditional leader which should issue a receipt for the payment. This receipt acts as proof of the land being 'leased.' The *khonza* fee amount varies from area to area.⁶ In some instances a person with a disability will be exempted from paying *khonza* fee.
6. If the person is moving to another area, the following steps are taken to check the credentials of the person:
 - The *iNduna* of the current area must write a letter about him/her, and the reasons he/she wants to move.
 - The person may have to pay an *isangoma* to check that he/she is not an *umthakathi* (a person involved in witchcraft)
 - The neighbours may also do a background check on him/her.
 - There may be a 'goodbye' fee to the *iNduna* in the original area.
7. Gifts are given when requesting land, and upon receiving land, such as brandy, a case of beer, food.
8. Then if all is agreed and paid up, the land is granted and a ceremony is carried out where the *iNduna* and others walk the boundaries of the newly designated property. There is payment to the original land holders of the piece of land.
9. If moving to the area of another *iNkosi*, then another fee is payable to 'new' *iNkosi*.

It will be seen from the description above, that power holders have a number of points at which to influence the process positively or negatively, namely, the family (Step 1), the *iNduna* (Step 4) and the *iNkosi* (Step 5) If the power holders decide against the person wanting land at any of these points, the person will struggle to get land.

⁶ Sometimes the *iNduna* will take the *khonza* fee and give it to the traditional authority. This applies particularly to large tribal authorities where certain *Iziduna* have been given authority by the *iNkosi* to govern over areas involving other *Iziduna*.

CURRENT SITUATION FOR WOMEN, PEOPLE WITH DISABILITIES AND LGBTI TO GET LAND AND HOUSING, LIVED REALITIES

Women and land

Women and customary law/ practices

One of the issues regarding customary law is that of gender equality because customary practices accords more rights and authority to men than to women, and so the recognition of customary law has been seen as a danger to women's rights and interests. Women have been denied many rights under customary law and are often viewed as minors, regardless of their age.

Why do women want their own land?

In terms of customary law women can have no direct access to land, as land is the preserve of married men. Women only gain access to land through their relationships to men, either in their natal family or through their husband and his family when they marry. It is the link between land and relationship which provides the reason why women want their own land as large numbers of women are unhappy in their relationships.

- A woman may be abused by her own family members or their husbands/ partners
- The woman's children may be abused by her natal or married family members
- The husband may have taken another wife and the woman is unhappy
- The woman is evicted by family members
- A widow may be abused by family members
- A single woman with children may want her own land

Currently, the level of access women have to land is dependent on how, through their relationships, they are contributing to 'building households', rather than because they want to live independently. A key issue to whether the family will consider whether to accede to a women's request for land is whether the relationship a women has with her partner/ husband has been formalised by the payment of *lobola*. In this regard the following 'categories' of women were identified as living in the tribal areas:

1. *'Vat en sit'*: Woman living with a partner, no *lobola* paid
2. *Ingoduso*: Woman whose *lobola* is partly paid, 'fiancée'.
3. *Makoti*: Woman whose *lobola* has been fully paid, married
4. *Widow ingoduso*: Not fully married, then widowed
5. *Widow umfelokazi*: Fully married, then widowed
6. Woman not living with a partner, but has children

An important factor affecting women's ability to access land is whether she has children, and more particularly, the gender of the children. If a woman does not have a son, but has daughters, her chances of getting land decreases. This is tied to the notion of land being for 'building households' which requires the presence of a man in patriarchal societies which follow patrilineal inheritance principles. Furthermore, the long term outlook for the household is considered, namely, when the

women dies, would a stable household in term of composition remain? Thus single women (or even single men) are less likely to be given land.

The belongings a woman has acquired are another consideration if the woman wants to move out and live independently, with women often not being able to take the belongings that she has accumulated with her. The same issues applied to her children, with women whose *lobola* has been fully paid experiencing extreme difficulty in securing custody of their children, as the children are seen as 'belonging' to the husband and his family homestead.

The powerholders with regard to woman's access to land are the family (her own family and her in-laws), the traditional leaders and community members, with the ancestors playing some role.

Constraints for women

In all the areas, the following examples are constraints which women face from current customary practices:

- A woman needs a male representative when going to the *iNduna*. This could be a family member, such as a brother or father, or even a son. The current practice is that the male representative gives his identity document (ID) number, so the land is really in his name, he is a proxy and the land is not in the woman's name.
- A single woman will not get land, but it is unlikely that a single man will get land either.
- Women who are not married but have children (such as unmarried women in her natal family or a woman in a '*vat en sit*' relationship) are more likely to be able to leave a relationship or household, but they would need their family's support in order to access land.
- Single unmarried women with children may, with her family's support, be given access to a piece of land which is part of the family land holdings. This is called *isthumbanja*.
- A 'fully married' woman (*makoti*) is least likely to be able to set up a household on her own. If she leaves her in-laws' house, she may be given a place near her father's house, on her father's property (so she falls under her father's household) (*isthumbanja*).
- The ancestors have to be told or requests made to them when a woman moves, in order for family harmony to be restored or preserved.
- When a woman has children outside of marriage or in a '*vat en sit*' relationship children born of these relationships have often not been recognized by their fathers family /clan through the payment of the customary ritual of 'damages' and thus may not carry their fathers family name. This situation deeply affects particularly adolescent youth.

In general, in the project areas, patriarchy remains unchallenged, women and children may be oppressed because they are unable to leave abusive or unhappy relationships, and women cannot get land. For those women who manage to leave, few have the necessary family support or financial resources needed to access Trust land and they are forced to leave the area. They often go to townships or urban areas, where they can buy land, but are forced to leave their children behind.

People with disability and land

The process of people with disabilities acquiring land follows the same steps as those for women, with the addition of steps about the disability. When considering the request (Step 4 of the process as described above), the *iNduna* will take into account the fact that the person applying has a disability, and his decision will be influenced by his perceptions about disability, and the nature of the disability. People with disabilities most often have land within their family's compound rather than in their own right (*isthumbanja*).

Constraints for people with disabilities

At family level: People with disabilities are considered to require assistance, and are seldom 'allowed' by their families to live alone in their own households. This is usually as a result of the families desire to protect and care for the person with a disability, but it does limit the independence of those who wish to set up on their own. However, there were examples of people with disabilities being kept isolated in their families homes, due to families being 'ashamed' of them.

At the level of the *iNduna*: The *Izinduna* would only make land available under certain conditions, namely that the land is accessible for the person with a disability and that the person has protection from their family. The underlying assumption that the land should be used for 'building households' also comes into play. There are negative attitudes that a person with a disability shouldn't get married, and that people with disabilities shouldn't have children, thus it is thought that through these constraints, the land would not be used for future generations.

LGBTI people and land for housing

The process of acquiring land is dependent on the *iNduna's* analysis of the situation of the person making the request, and with that person meeting the social requirements as determined by culture. There is generally a requirement that those who inherit the land should either be married or in a committed relationship. Most LGBTI who are living openly, are treated as 'minors' in many respects, one of the reasons being that they are unlikely to undertake a heterosexual marriage or relationship which will result in children.

Thus in order to secure land, LGBTI people living openly also use proxies, namely their heterosexual family members when they attempt to get land for themselves. Alternatively they can access land in their own name if they hide their sexual orientation, for example through being in a long term relationship with the opposite sex (ie in a heterosexual relationship), married or seeking land and housing as a widow with children.

Single men and women (both heterosexual and homosexual) are considered as a possible threat to the sexual agreements and livelihoods of other community members. Most LGBTI people interviewed live at home, and fear being disowned by their families if they 'came out of the closet', and this level of stigma makes it extremely difficult to think of applying for land on their own.

LGBTI people and housing

Those who are seeking housing such as RDP housing, have to consult the political leadership, namely the (ward) councillor to get a house, and fill in an application form. The potential site of the RDP house is visited, but the *iNduna* has to give permission for a house to be built, if it is to be built on Ingonyama Trust land. Problems arise with inheritance of the house, as the land is not owned by the house owner, rather it remains Trust land.

Land for agriculture

There appear to be fewer difficulties for women and for people with disabilities to get land if they go as a group and ask for land for agriculture. The *iNkosi* will give land for this purpose. This is because it is a communal rather than an individual issue, which is in line with the cultural value system.

CURRENT CUSTOMARY PRACTICES AROUND HEALTH, LIVED REALITIES FOR WOMEN, LGBTI AND PEOPLE WITH DISABILITIES

What aspects of health is the project focusing on?

The project is focusing on

- Sexual and reproductive health (SRH) rights, in particular the right to contraception for women, and support for and access to health services after rape (HIV test and post exposure prophylaxis) and other forms of gender based violence, including domestic violence.
- The right to safety from 'cleansing rape' for people with disability (ie, stopping this practice), and access to health service in the eventuality that this does occur. Also the right to receive any health service required, in the event of rape occurring.
- The right to LGBTI -specific health services for LGBTI people

Access to health services: A series of power holders

As with accessing land, the accessing of health services requires a chain of events for TSEGs, with power holders and circumstances at a number of points which may prevent the woman/ person with disability / LGBTI person from accessing their right to health. The project is raising the awareness of TSEGs about the way in which power holders influence their access to rights, through opening a space for discussions, and through bringing them together with powerholders.

Women and health

Contraceptives: The right to decide when and how many children to have: Data gathered for this baseline indicate that in general, women do have access to contraceptives if they can get to the clinic. Clinic staff assist women with contraceptives if they visit the clinic. However, the constraint is

that women need their husbands/ partners/ in-laws blessing or support to go and get contraceptives. The opinions of some church leaders about the role of women and their obligations to their husbands also play a role, for example, data collected for this baseline indicates that religious leaders believe women are meant to produce children for their husbands. If women go 'secretly' to the clinic without these permissions, they run the risk of neighbours being at the clinic who might tell the partners and in-laws, and gossip about this, which then makes it more difficult for TSEGs to access the service in future. Due to these difficulties some women fall pregnant. Currently, most women are taking action individually by 'sneaking out' to get contraceptives.

For similar reasons, women are unable to make the decision independently over whether to have a child, as they are dependent on the opinion of their husband and in-laws. Women may also have to have children to prove that they are not barren, and to provide male heirs.

Abortion: In general, if a woman has an unwanted pregnancy, abortion is not viewed as an acceptable option, as it implies the woman is uncertain of the paternity of the child. There are also constraints in that a person having an abortion may be regarded as a murderer.

Rape: The right to report rape and receive medical assistance: If a woman is raped, and should she decide to tell her family, they (the family) will decide how to handle the problem. Many families choose not to report the rape legally, preferring to follow customary practice of working with the family of the guilty party to reach a financial settlement known as payment for 'damages'. Data gathered in focus groups for the baseline indicate that the family's dignity is more important than the rights of the rape survivor. The consequence of this, is that firstly the incident is not viewed as rape, and secondly, that women are not able to access health services, and are thus vulnerable to HIV infection and unwanted pregnancy. The rape of widows also goes unreported because of fears that the widows will be called *iziphingi* (adulterers).

If the family does decide to report the case as rape, it is not reported to the traditional leaders or tribal courts, but rather, it is reported at the relevant departments, such as Department of Health, South African Police Service (SAPS) and to NGOs such as LifeLine.

Domestic violence is not seen as a criminal offence in many families, rather, if it occurs, it is viewed as a 'family problem', and most domestic violence goes unreported as a result. As a result of the different perceptions of rape (a criminal offence) and domestic violence (a family problem), gender based violence (GBV) (a criminal offence) is seen as encompassing rape but not domestic violence.

Ukuthwala: This is a form of abduction that involves kidnapping a girl or a young woman by a man and his friends or peers, with the intention of compelling the girl or young woman's family to endorse marriage negotiations. This practice is no longer prevalent in the project areas.

People with disabilities and health

Access: Although there are health services available to people with disabilities, the problem with access involves them not being able to actually get to the clinic and other health facilities. Another aspect is that specialized services are sometimes required: People with disabilities are not able to get assistive devices from the local clinic, and have to go to the hospital instead, where the assistive

devices are not always available. For a person with a disability, going to the hospital involves significant transport costs: For the person with the disability, for the assistant and sometimes for an assistive device, such as a wheel -chair. When they get to the hospital, there are long queues, they are sometimes not attended to, and staff may have a negative attitude to them.

Pregnancy: Pregnant women with disabilities face discrimination, with nurses having a negative attitude towards them and the fact that they are pregnant. This results in them often not attending all the antenatal clinics which are recommended.

Rape: If a person with a disability reports a rape to his/ her family, the family decides whether the incident 'was rape or not', and therefore whether it gets reported further or not, or alternatively the family works with the family of the accused. Sometimes if the rape involves another family member, the family does not report it.

If the rape of a person with a disability is reported to an *iNduna* or *iNkosi*, they advise the person to report it to the police, as rape is seen as a serious criminal offence.

'Cleansing rape': The phenomenon of 'cleansing rape' has been reported, where a widow who wishes to be cleansed of her 'bad luck' will rape a male with a disability. Similarly, a widower may rape a female with a disability for cleansing. The extent of this practice could not be established, as many (including the *Izinduna*) denied that it occurs. However, there are sufficient reports from people working with one organisation of the KSC for it to be considered a problem.

LGBTI people and health

Access to LGBTI specific services: LGBTI people can access health services, but they are not specific to LGBTI needs. There is limited understanding of how to provide services to LGBTI, for example, lack of understanding of how HIV can be transmitted in lesbian relationships. There is often a lack of knowledge of LGBTI specific commodities for SRH (such as dental dams) in both the LGBTI community and amongst the service provider. Thus lack of knowledge is an issue in access for LGBTI health services.

POWER HOLDERS AND THEIR ATTITUDES TO WOMEN, PEOPLE WITH DISABILITIES, AND LGBTI PEOPLE

Families: Attitudes

Families are significant powerholders, and may be a major barrier to TSEGs accessing to land, housing and health.

Families' attitudes to women:

- The Ingonyama Trust lands are populated by a strongly patriarchal society, where men have authority over women in all aspects of society. Women are required to be subservient to men. Their role is commonly held to be that of being producers of children, which can perpetuate

the husband's family name. This influences what men in families will agree to in terms of women accessing land, with women commonly being required either to have a male partner, or to use a proxy (eg a brother or father) to be able to get land for housing.

- In some cases, women are perceived as minors, who can't live on their own.
- A patriarchal attitude also influences certain aspects of women accessing health, particularly in terms of getting contraception. Men do not want to allow contraception at all, or insist that a woman has children to build the family, before going onto contraception. Women's sexuality is seen as something that must be controlled by men or the older women in the family.
- Currently women are more empowered than in the past, but men are frustrated about this, and feel that their authority in the household is being eroded as women have protection from the state.
- The interpretation of gender based violence (GBV) such as rape and domestic violence as issues to be kept within the family and not reported is also coloured by the narrative that 'I as a man have power over you as a woman'. There is an attitude that domestic violence is not seen as a criminal offence, but as 'punishment for misbehaving', where a woman has not obeyed her partner or husband. In some cases, women are themselves blamed if they are raped.
- There are men who do have an awareness of the rights of women with regard to GBV, and know that this should be reported, with women being able to access services in the process.
- In general, men feel frustrated, disempowered and left out of household decision making, which leads to increased alcohol consumption, which may then fuel domestic violence.
- *Ukuthwala* was practiced by power holders (men) previously, and men blame human rights movements for removing such practices. *Ukuthwala* was apparently not practiced as a form of abduction and forced marriage in the project areas. Thus the finding of this baseline is that *ukuthwala* is not an issue which needs to be addressed in the project area.
- In some areas, there is no confidence in women as leaders in the family or in the community. The church perpetuates these perceptions, as women are perceived to be 'servants', and men as 'masters'.
- Being 'free' or single is not perceived as a norm, rather it is seen as a threat to the stability of the community.

Families' attitudes to people with disability

- Some families love and cherish the person with disability, but disempower them through subscribing to the 'charity model', where decisions are made on behalf of the person with a disability, thus denying him/her control over issues which affect his/her life. This attitude influences issues such as whether a person with a disability should seek land on their own behalf, or should get married and have a family.
- When families are not able to accept the person with a disability for who they are, and are looking for cures for them, for example, faith based treatment, medical treatment or treatment from an *isangoma*, there is a drain on family resources and tensions may arise within the families.
- Other families view a person with a disability as a source of shame, or problematic, and may even lock them away and isolate them from other people. The extra cost involved in caring for a person with a disability and other factors may put stress on the family.

- People with disabilities often have poor quality and limited education, due to difficulties with access, and their families' attitude towards disability. Low levels of education and literacy undermine the ability of people with disabilities to advocate for themselves, leaving them subject to the power of the family and community power holders.
- Mothers of children with disabilities may be rejected by the father's family, and also not be accepted back by her own family, because it is seen as a sign of a 'curse'. In such instances the mother is forced to find someone who is willing to take her together with the child with the disability. Living unsupported in this manner places increased financial and emotional stress on the mother and child.

Families' attitudes to LGBTI people

There is a generalized attitude of discrimination against LGBTI people, leading to them not being open about their sexual orientation, and the families not knowing this is the case. However, there are families who are accepting of their LGBTI members.

Traditional leaders: Attitudes

Traditional leaders are key powerholders and very influential in the lives of communities, and thus specifically in the lives of women, people with disabilities and LGBTI people.

Customary practices are not formalized or written down, with the consequence that traditional leaders act on their own discretion and it is difficult to hold them to account or challenge them, due to power relations. There may be inconsistencies in customary practices from area to area. Allocations of land are dependent on the traditional leader and their attitudes to and perceptions of the applicant, which for this project, may be a woman, a person with a disability or an LGBTI person. However, they are one link in a system of interlinked powerholders, and may also promote practices to benefit these TSEG groups, such as inheritance of the land by women.

Traditional leaders' attitudes to women: These has been discussed in some detail in previous sections of this report. Traditional leaders mostly have a patriarchal outlook on the role of women in society. Attitudes are however changing, particularly with the presence of a female *iNkosi* in one of the areas, who is sympathetic to the plight of women.

Traditional leaders' attitudes to people with disabilities: Some *Izinduna* say that people with disabilities should get equal treatment to people without disabilities, while others say that treatment should be different. There is often a discrepancy between what is said by power holders and what is done. Part of this is related to differences in understanding of equality and equity.

Other perceptions which traditional leaders hold about people with disabilities which were noted in the data collection include:

- People with disabilities feel sorry for themselves, and have low self esteem
- People with disabilities are scared of approaching traditional leaders

- People with disabilities need to be protected because they are vulnerable and not able to fend for themselves

There is not always a broad understanding among the *Izinduna* of what the term disability covers, with a number of *Izinduna* focusing on only physical limitations when talking about this.

Traditional leaders may hold the same perceptions about people with disabilities as the general community, namely:

- The family of a person with a disability may be being punished for something by *amadlozi* or spiritual powers or they may have been sent as a punishment for the person's parents.
- The causes of disability may be related to the anger of the *amadlozi* or ancestors. These beliefs may contradict medical or natural causes. If the belief exists, then families are expected to appease the ancestors. In these cases, disability is viewed as a curse.
- There is little understanding of the difference between temporary disability and permanent disability.
- Some traditional leaders mentioned that people are given a disability by God, so that they can be healed in order to see the glory of God.
- For some *Izinduna*, disability is an indication that the community is no longer performing cultural practices, or not carrying out these practices correctly.
- Families, traditional leaders and community members feel sorry or pity or want to be charitable to people with disabilities, rather than seeing them as people with rights to be claimed. People with disabilities may be regarded as children who need to be helped by others, and decisions made on their behalf.

Traditional leaders' attitudes to LGBTI: Traditional leaders feel that LGBTI people should be viewed as minors. LGBTI *izangoma* are more respected than other LGBTI people, as it is thought that an ancestor (who are revered in general) is working in that person. There is the belief if LGBTI people hide their sexual orientation, they can access land.

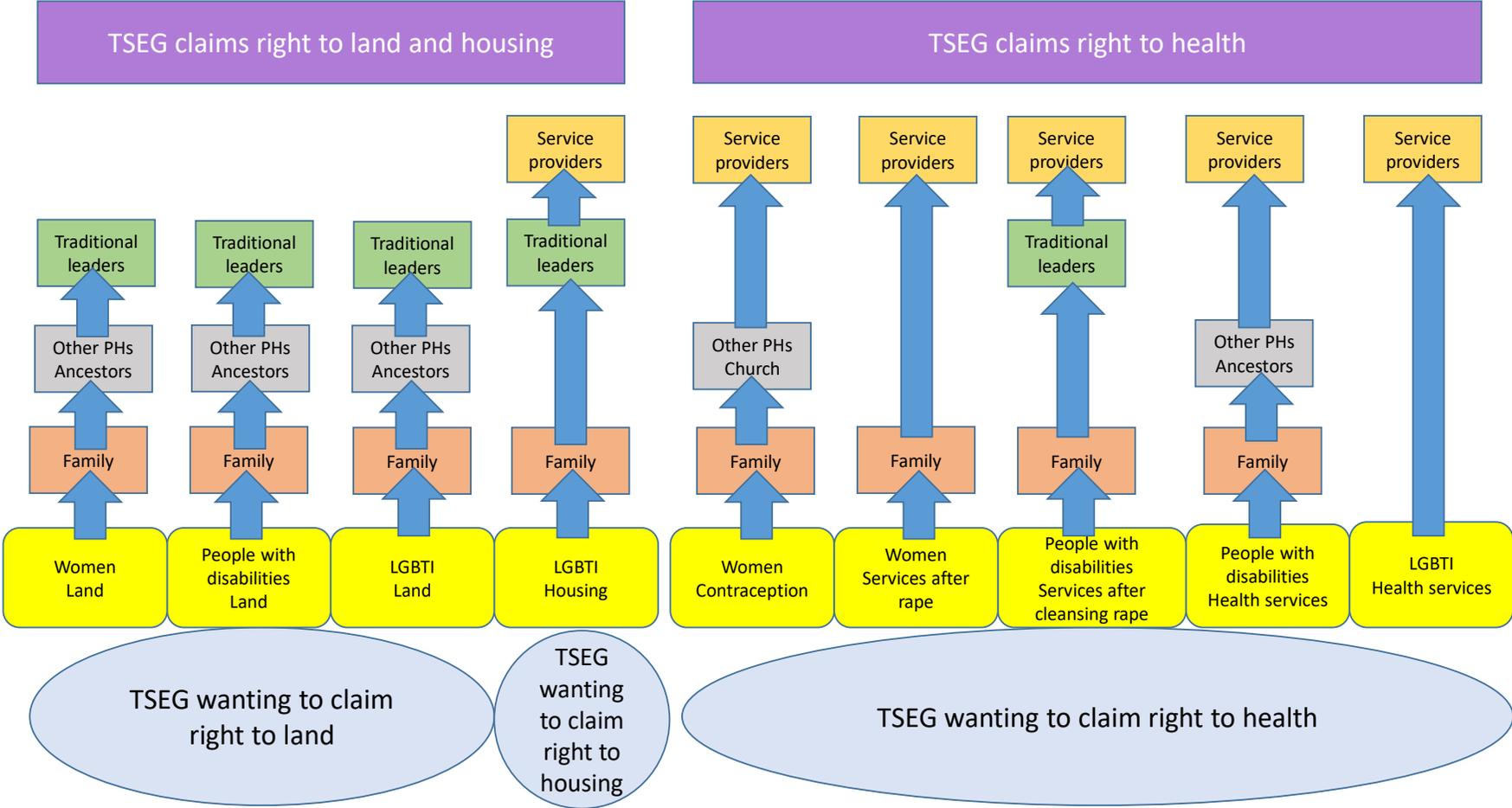
Other power holders: Attitudes

The church: Data gathered for the baseline indicates that the church leaders interviewed did not have much knowledge about different forms of contraception, as they (including female church leaders), subscribe to the notion of a woman being obedient to her husband, including being obedient to having a child if the husband decides on this. They exert a great influence on church members, who comprise a significant proportion of the community.

Service providers: The few health care service providers interviewed during the baseline activities, noted that there is access to services for all people at the health facilities. However, there was an acknowledgement that there might be humiliation for LGBTI at health services, as there are knowledge (and possibly attitude) gaps amongst staff about specific requirements for LGBTI people.

The following diagram shows the major power holders which TSEGs have to interact with positively, in order to access land, housing and health.

Figure 2: Diagram showing various power holders whom TSEGs have to negotiate with in order to claim their rights to land, housing and health



KNOWLEDGE OF RIGHTS, AWARENESS OF POWER ISSUES

With all TSEGs, knowledge of their rights was low, and there was general acceptance of the status quo of living in a community where customary laws determine what access people have to land, housing and health. Power holders also had patchy knowledge of rights, or knew about the rights but gave preference to customary practices if there was a discrepancy between them. Some *Izinduna* indicated support for the Constitution, while others felt it was being imposed upon them.

A number of *Izinduna* expressed the need for training by government on rights issues, but also to be provided a space to talk, and for their perspective to be considered. Many traditional leaders indicated that they found it difficult to combine constitutional law and customary practices.

TSEGs were on the whole, accepting of the customary practices, but many enjoyed the questions being posed in the data collecting activities for the baseline, and said they were thinking and talking about things which had not been discussed before. Some power holders were in denial about some customary practices (such as cleansing rape), and feel entitled through their positions to have power and to implement customary practices with regard to TSEGs.

Thus the project's aim of opening spaces for discussions of the use of power through customary practices is extremely relevant.⁷

INDIVIDUAL OR COLLECTIVE ACTION OF WOMEN, PEOPLE WITH DISABILITIES, AND LGBTI PEOPLE

In general, a major finding of the baseline evaluation was that the TSEGs are not working collectively to access their rights to land, housing and health. Exceptions are the Disabled People's Organisations (DPOs) and community structures such as Disability Forums, where collective work is being done on disability. In one instance a DPO is not engaging with powerholders, because of internal disagreements and power struggles.

At individual level, there are signs that members from each of the TSEG groups are attempting to influence power holders to claim their rights.

Women

In one area, women have been individually requesting land. However, they have had to depend on a family member for support (and as proxies). In another area, there has been no or few initiatives led by women themselves in order to gain land. However, women have enthusiastically participated in initiatives run by an NGO, with the women reporting land related cases to the NGO, which then worked with the women to resolve the issues. A few women have accessed land in this way. In another area, women protested collectively about land which hawkers had been using, but which was taken away from the hawkers who were mainly female. This refers to land for commercial use rather than for building a home, but is an example of collective action around land by women.

⁷In one area, the *iNduna* requested a copy of the baseline questions, which he wanted to use to stimulate discussion in his community on disability rights and customary practices.

An important shift was seen in that traditional healers in one area were willing to do ceremonies to help the women bring the ancestors to the new homestead, which has great significance for the new home.

With regard to health, women act as individuals and 'sneak out' to get contraception from the clinics without their partners' knowledge. In cases where they are refused their preferred health service, many women feel they would not be able to demand their rights from the service providers, as these people are 'learned' / well educated, and they are not.

Some women are leaving abusive relationships if they can organize a home somewhere, and they are starting to talk about abuse. However, they need to find support systems outside the family, for example, neighbors, stokvels and so on, to be able to withstand the pressure from powerholders.

People with disabilities

Success in realizing TSEGs' rights depends on the actions of power holders. In one area, there is an *iNkosi* who has a person with a disability on the traditional council, who has made other traditional councils aware of disability issues. In that area, there are some people with disabilities who have accessed land for housing. In another area, land has been granted for a child care centre (for children with disabilities) and for offices for a DPO, but this is not land for housing for individuals.

With regard to health, there are instances where people with disabilities are members of clinic committees, where they can have far reaching effects for people with disabilities using the facilities. Disability awareness workshops have been run, which will assist with changing negative perceptions about people with disabilities. One organisation is also trying to find a way to include parents of children with disabilities, in order to shift attitudes of these key power holders over children with disabilities.

However the power holders often operate in 'charity mode' rather than from a rights perspective.

LGBTI people

No collective action taken about the issues of land and housing for LGBTI. The NGO which is part of the collective, has been working to improve access to LGBTI specific health care, but in different areas from their current project area. Individually, not much has been done, as people hide behind heterosexual relationships or marriage, to avoid discrimination and thus ensure that they have access to services. Some individuals 'hide' behind the ancestors and claim to be *izangoma*, as this demands respect from the community. LGBTI people often seek health services away from their own communities to avoid being identified or 'outed' and stigmatized.

These attitudes and perceptions will have to be altered, before TSEGs can claim their rights and social change occurs.

GAME OF LIFE: OVERALL STATUS IN THE COMMUNITY OF TSEGS IN RELATION TO LAND, HOUSING AND HEALTH

In order to get an idea of the relative social status of the TSEGs in relation to other community members, an activity was developed called the 'Game of Life'. This game was adapted by the partner organisations for the particular TSEGs they are working with. The game was played during the participatory engagements with TSEGs and power holders, and provided a way of visually representing the status accorded to various groups of people.

About the Game: In brief, individual people are asked to represent different categories of people of interest in the project. For example, a group working with women, had people representing '*vat en sit*', married women with children, widow *ingoduso* with children and so on, whereas another organisation working with people with disabilities had people representing unmarried woman without a disability, unmarried men without a disability, unmarried women with a disability and so on. These participants all stand in a straight line. Various scenarios are then read out, such as 'an abused woman wanting her own land', or a '*makoti* who is not ready for a child'. All participants (both those representing different groups and observers), all decide whether the person will take steps forward if something is likely to happen, or steps back if it is unlikely to happen. A cumulative score after the discussion and movement for a number of different scenarios of interest, allow people to see who has moved forward the most, and who has moved backwards. There are discussions about why this is the case for each category of people.

Results: Four organisations adapted and used the game. The results show the following:

Working with women for land: '*Vat en sit*' women with children is the group most likely to be able to get land, whereas *makotis* (married women) and *ingoduso* (fiancées) are most unlikely to be able to do this. Widows and single women fall between the two.

Working with women for land and health: A married man was the highest in the hierarchy, followed by a married woman with children. A single woman with a child and a single woman without a child were least likely to be able to make decisions affecting use of land and health.

Working with people with disabilities for land: Married and unmarried men and women without disabilities scored more highly than married women and married men with a disability. Unmarried men with a disability had a low score with the lowest score being for an unmarried women with a disability.

The game is able to show how various factors such as gender, marital status, whether a person has children, and disability affects the social status of a person, and what they are able to access in terms of their rights.

WORKING AS A COLLECTIVE: SYNERGY

One of the objectives of the project is that participating organisations work together in a transformative collaboration. The organisations designed an instrument to assess systematically

whether the collective is working together in a transformative way. The results of an assessment by the collective for the situation at the start of the project, and then 7 months after, is given below.

Rating of the collective at the time of the baseline and at 7 months after the project began):

1=poor, 2=fair, 3=good, 4=excellent

Table 5: Characteristics of the collective

	Characteristic	At baseline	At 7 months
1	The organisations are interdependent: Narrative reporting Financial reporting M&E reporting Delivery / implementation reporting Attendance Communication	NA NA NA NA NA NA	NA 1 1 2 4 2
2	Sharing of knowledge skills and resources	1	4
3	Developing a common understanding Listening to each other Surfacing conflict Resolving conflict	1 1 NA NA	2 3 4 2
4	Flexibility (except in financial accountability)	NA	3
5	Collective ownership: Goals Outcomes	NA NA	Emerging NA
6	Reflection on process and practice	NA	3
7	Newly created activities	NA	2
8	Sharing of power: Share power Take power	NA NA	2 1

This tool will prove useful in mapping the progress of the collective over time.

VALUES OF THE INDICATORS FOR THE LOG FRAME

One of the functions of the baseline is to capture the situation with regard to each indicator, so that progress or change can be measured at the end of the project.

The values for the indicators for the log frame are given in the table below, reporting the situation as assessed by each organisation for the group they are working with, and the issue (ie land, housing or health).

A summary of these results is given in the log frame in Appendix 3, which has been revised again. It has been slightly adjusted to align better with the work of the organisations in the collective. Changes to the log frame are indicated as track changes in this appendix.

Table 6: Values for indicators assessed during the baseline, for all organisations

	Organisation	Formulation of indicator for organisation	Value of indicator
1	All organisations	# of TSEGs who report good social status	High level indicators not assessed by the organisations. Relative status of various TSEG groups was assessed using the Game of Life.
2		# of TSEGs who have independent access to land	
3		# of TSEGs who have independent access to housing	
4		% of TSEGs who are satisfied with services for them from public health care facilities	
5	# of actions TSEGs have taken to hold power holders (PHs) to account concerning LHH		
	CREATE	# of actions people with disabilities have taken to hold traditional leaders to account concerning land and health	Out of 29 PWD, 2 have held the TLs to account around land 15 have held the clinic sister to account around health
	GLN	# of actions LGBTI have taken to hold PHs to account concerning land, housing and health	-No collective action taken against power holders - Individual decisions to seek medical assistance from health facilities outside of the community Some remained closet, do not mention sexuality when seeking medical assistance
	JAW	# of actions women have taken to hold powerholders to account concerning land and health	2 married women have succeeded in getting land 5 unmarried women were able to complete all processes and got their land
	KRCC	# of actions women have taken to hold PHs to account concerning land	Very few initiatives have been taken by women as far as land Most initiatives are KRCC initiated
	LL	# of actions women have taken to hold PHs to account	Few women are leaving abusive relationships 1 protest by women to the <i>iNkosi</i> Most women are sneaking out to get contraceptives
	TU	# of actions taken by PWD to hold PHs to account concerning land for housing	2 went back to tribal court to enquire about their land being sold to another woman Then went back to the <i>iNduna</i> because the land belongs to the other person.
6	# of reports of TSEGs identifying solutions to their problems		
	CREATE	# reports of people with disabilities identifying solutions to their problems/ report the problem got resolved	
	GLN	# of reports of LGBTI identifying solutions or taking action for their problems	1 person had got land through his brother
	JAW	# of reports of women identifying solutions to their problems	2 married women, 5 unmarried women, and 4 where family died and they were left in the homestead: 11 women
	KRCC	# of reports of women identifying solutions to their problems	None It emerged that they are happy to have someone to do this for them: there is room to enhance their self esteem.
	LL	# of TSEGs identifying and taking action for their problems	8 out of 32 women took what's perceived to be emergency contraceptives Few are leaving relationships if they are abusive
	TU	# of reports of TSEGs identifying solutions to their problems	1 boy with assistive device Child care centre 4 people with disability employed Land for offices, Special school built (long ago)

	Organisation	Formulation of indicator for organisation	Value of indicator
7	Level of knowledge of TSEGs of their rights to land, housing and health (rights include human rights and customary entitlements)		
	CREATE	Level of knowledge of people with disabilities of their rights to land and health	Out of 29 people with disabilities interviewed: 1 had slight knowledge of right to land 20 knew about their basic health rights
	GLN	Level of knowledge of LGBTI of their rights to land, housing and health	They are not fully aware of their rights in terms of land and housing, particularly pertaining to the processes of accessing land and housing LGBTI have not made active strides in acquiring land and housing because of perceived stereotypes about LGBTI individuals LGBTI are aware of their general health rights, although they have limited access to commodities and knowledge of various ways of protecting oneself
	JAW	Level of knowledge of women of their right to land	99 women completed the questionnaire: 1: Clearer about rights in terms of legislation DVA, inheritance, widowhood 2: Unsure re living customary practices: ie widowed and unmarried women need ??? to independent access. Land: mixed: taking children almost 50/50 Widow ingoduso & umfelokazi leaving husbands homestead: 3: Confusion re interface between constitutional and customary law on traditional land: which applies? 4. Different levels of knowledge within different zones worked in.
	KRCC	Level of knowledge of women of their rights to land	Women have good knowledge of customary practices as well as their rights In terms of customary laws they are limited as they haven't been capacitated yet in this regard.
	LL	Level of knowledge of women of their rights to health and land	Most women have low levels of knowledge on health rights
	TU	Level of knowledge of people with disabilities of their rights to land	Little to non-existent knowledge: 2 out of 9 knew about the constitution.
8	Level of awareness of TSEGs of how power affects their rights to land, housing and health		
	CREATE	Level of awareness of people with disabilities of how power affects their rights to land and health	Out of 29 people with disabilities interviewed, 10 were aware that their families were 'oppressing' them and undermining their right to land.
	GLN	Level of awareness of how power affected LGBTI's rights to land, housing and health	They are not accessing or utilizing their rights in terms of land and housing because of their anticipated power of the power holders. They understand the gender dynamics that plays into culture and translate that into their own reality, which prevents them from accessing land and housing. Attitude of power holders affects their access to SRHR services
	JAW	Level of awareness of how power (customary law and practice) affects women's rights to land	88 women completed the survey High level of awareness of how customary practice impacts on women's independent access to land/ children /to take property / children to inherit property Vat en sit have the greatest level of autonomy: they have already broken custom, are not formally married Single unmarried with children: next level of autonomy, not married Umfelokazi widow: fully married: carrying the husbands name and ancestors Least autonomy: Makoti: fully married and part paid <i>lobola</i> ingoduso.

	Organisation	Formulation of indicator for organisation	Value of indicator
	KRCC	Level of awareness of women of how power affects their right to land	Some women are fully aware However, the majority of women accept the situation as it is, and are not aware of how their rights are affected.
	LL	Level of awareness of women of how power affects their right to land and health	Health: no awareness Land: some awareness
	TU	Level of awareness of people with disabilities of how power affects their rights to land	Non existent The status quo is not questioned. People with disabilities do not approach power holders for land because they know of requirement which they cannot meet.
9	# of traditional courts who hear cases of TSEGs		
	CREATE	# of traditional courts who hear cases of people with disabilities	This was not part of the questionnaire, but individual reports indicate that 'trivial' issues relating to disability came to traditional courts, but many more important issues were not referred on beyond the level of <i>iNduna</i> .
	GLN	# of traditional courts who hear cases of LGBTIs	Cases are heard by family, <i>iNdunas</i> traditional courts and other structures such as churches and NGOs. Still to be measured
	JAW	# of traditional courts who hear cases of women re land	2 courts traditional Queries re women and land: Escalates up from family to <i>iNduna</i> to <i>iNkosi</i> Focus on mediation to restore relationship and harmony, reduce conflict. <i>iNkosi's</i> word is final # of cases in the last year: to get an estimate # of cases during the project (to monitor monthly from the court secretary) To monitor quarterly through interviews with <i>iNduna</i> Traditional leaders' final responsibility for land in traditional areas being questioned at the moment. New legislation tables to harmonise traditional practices with constitution Different use of land: different rules, different people to speak to re homestead and vegetable garden vs agricultural production.
	KRCC	# of traditional courts who hear cases of women (time frame: the last year?)	Cases are heard by the family, individuals, traditional courts and other structures such as churches and NGOs
	LL	# of traditional courts who hear cases of women NB include number of cases	7 traditional courts
	TU	# of traditional course who hear cases of people living with disabilities	Tembe Traditional Council, <i>iNduna</i> Gumede
10	# of powerholders who facilitate access to services for TSEGs		
	CREATE	# of clinic sisters and TLs who facilitate access to services for women	Out of 6 interviewed, 6 are doing something, promoting their charity model.
	GLN	# of powerholders who facilitate access to services for LGBTI	CAPRISA currently doing research with MSM and offers HIV testing and counselling (ie facilitating access). However they are not being sensitized on all LGBTI issues so they do not offer all LGBTI services. Solely focused on MSM Still to measure with regard to land and housing

	Organisation	Formulation of indicator for organisation	Value of indicator
	JAW	# of powerholders who facilitate access to services for women	Starts with household head: vested interest in terms of <i>lobola</i> , property, children, linked to completion of marriage. More invested where marriage completed/ partially completed: more resistant to women leaving h and marital homestead: 100% endorsement of cultural practices and values. Role of <i>iNduna</i> is different: mediation of conflict, restore harmony, respond to requests from community members. Not trained for the role, are elected by the community and <i>iNkosi</i> , interestingly all understood that both female and male children could inherit property/ land from the landholder. Also both that women with either boys or girls could access land Deep understanding in both PHs; HH and TL of DVA. Blood crime referred to SAPS, SAPS role.
	KRCC	# of powerholders who facilitate access to services for women	More precise information from Umlazi Coalition meeting on the 25 th and consultation meetings
	LL	# of powerholders who facilitate access to services for women	1 health powerholder
	TU	# of powerholder who facilitate access to services for people with disabilities	Tembe traditional council for land to build offices Land for child care centre
11	Proportion of PHs demonstrating knowledge of TSEG rights (Bill of rights)		
	CREATE	Proportion of traditional leaders who have knowledge of rights, demonstrate this knowledge in relation to people with disabilities	Of 3 <i>Izinduna</i> and 3 <i>Amakhosi</i> interviewed: 2 <i>Izinduna</i> and 3 <i>Amakhosi</i> have knowledge, 1 <i>iNduna</i> and 0 <i>Amakhosi</i> demonstrated the rights
	GLN	Proportion of PHs demonstrating knowledge of LGBTI rights	Health practitioner are aware of general health rights of the community, but are not aware of LGBTI specific rights Still to measure with regard to land and housing
	JAW	Proportion of PHs demonstrating knowledge of women's rights	No of power holders: 7 HH heads and 6 traditional leaders Level of knowledge differs between HH heads and TLs: Different levels of personal investment in practices HH: Most conservative answers to 5 of 6 questions related to customary las. All rated similarly in knowledge of civil law and bill of rights: HHs showed greatest level of knowledge TL: Greatest knowledge re DVA and role of constitution as primary document for all laws. Confused re role of civil law in traditional areas. Clear re access to land not dependent on ?? unclear about whether married widows / women can leave to access her own land. Wills: clear message across all groups: ie power to determine who inherits property.
	KRCC	Proportion of PHs demonstrating knowledge of women's rights	Many power holders (traditional leaders and in laws in the village are a bit behind as compared to religious leaders, especially those in mainline churches
	LL	Proportion of PHs demonstrating knowledge of women's rights	Health: all 4 are aware Church: Low <i>Izinduna</i> : Low Men: Low
	TU	Proportion of PHs demonstrating knowledge of people with disabilities' rights	None
12	# of TSEGs who serve on decision making structures		
	CREATE	# of people with disabilities who serve on decision making	Out of 29 people interviewed: (some are in more than 1 decision making structure)

	Organisation	Formulation of indicator for organisation	Value of indicator
		structures	Disability Forum (municipal): 20 Disability Forum (district): 1 Clinic committees: 2 Traditional councils: 2 Ward Committees: 3
	GLN	# of LGBTI who serve on decision making structures	Still to measure
	JAW	# of women who serve on decision making structures	Traditional structure: 1 women Yanguye, 2 female <i>Iziduna</i> Nthambana under which Njomelwane falls. Appointed by <i>iNkosi</i>
	KRCC	# of women who serve on decision making structures	There are very few Those few are also serving in the church structures or local womens' groups in their respective communities.
	LL	# of women who serve on decision making structures	2 on ward committee, Church leaders
	TU	# of people with disabilities who serve on decision making structures	3: <i>Ndunonkulu, iNduna</i> , Umshushisi wesigungu senduna
13	All organisations	Transformative collaborations within the KSC	On a 7 item scale, levels of collaboration were low or non existent at baseline.
		# of organisations which have changed their practices due to the collaboration	Not applicable
		Level of knowledge of different methods of collaboration of KSC members	Not applicable

CONCLUSIONS

The baseline data has clearly demonstrated that the project is highly relevant to TSEGs who were mostly unable to achieve their rights to land, housing and health at the time of the baseline study.

It is likely that individual TSEGs will try to access land, housing and health, armed with new knowledge of their rights, but still having to operate within a customary practices framework and context. Individual powerholders within the families, amongst the traditional leaders, and amongst the service providers, are likely to change with the participatory processes, and increased awareness of issues, which the project offers. However, creating a space where TSEGs feel they want to work collectively will provide more difficult, but it is as collectives of TSEGs that more systematic change would be likely to happen. It will also be important for the project to identify powerholders who are doing things differently and let them interact with their peers to promote change. Finally the self esteem of the TSEGs must be built up so they feel confident to identify solutions, make plans, and if necessary challenge power holders and hold them to account in order to get their rights to land, housing and health.

This report provides an assessment of the current context, against which to measure change in the future.

LIST OF APPENDICES

Appendix 1: Log frame dated 24 October 2016

Appendix 2: Instruments

Appendix 3: Revised log frame dated 30 June 2017