



**A CASE STUDY OF THE IYWD COURT VISITS MISSION,**

**CASE STUDY: CHIEF MASEMBURA COURT, 18/08/2012**

**Grant No.:** 3729/11-12

**Name of Organization:** Institute for Young Women Development

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### **The case**

A widowed young woman, \*Sara was engaged in a relationship with \*Masara whilst still staying at her matrimonial house. When it was found out by her in-laws, Sara was sent away as it was regarded unacceptable in the in-laws' tradition. After being chased away she went to Masara's house who also happened to be a widow. Masara had during their underground relationship promised to marry and stay with Sara, and as she explained in the court, such promises gave her confidence to leave her home and her children to go and join Masara. What then was shocking and gave Sara the strength to go and report her case to the chief's court was that the way in which she was welcomed by her 'supposed partner'. Upon arrival at Masara's place Sara was harassed and threatened if she does not leave his home. He called her names and abusive words. Sara was confused, disturbed and hurt at this sudden change of attitude and behavior by Masara and had nowhere to go after having sacrificed for him and even left her children. After narrating her case to the traditional court the Masara was asked to tell his side of the story.

### **The accused person's defense**

Masara agreed to what Sara had said. He outlined all Sara had said was true but all that was said and done between the two according to him was all in the spirit of pushing time and having a nice time together. He mentioned in front of the court that he never had the intentions of marrying Sara because she had shown him that she was not morally upright and was loose woman because she had allowed him into her matrimonial home and let them be intimate on her matrimonial bed.

### **How the case was understood**

It was clear from the rumblings that came from the public gallery when Sara was presenting her case that they felt that she deserved what she got from Masara. Questions that followed from the chief's advisors directed to Sara also clearly indicated that the advisors understood this case in favor of Masara. According to IYWD analysis the questions did not seek clarification but sought to expose the complainant and make her shameful and guilty. For instance a question like, 'So young lady you allowed this man in your house and had sex together in your late husband's house?' No questions were asked to Masara.

### **IYWD's role and intervention**

Before making his judgment the chief gave IYWD an opportunity to comment on the presented case. IYWD revealed to the chief that all women have the right to have make love, the right to choose whom they want to be intimate with and that being a widow does not make one an exception from exercising such rights. Also to note was the age of the woman who was still young and of reproductive age and it was obvious that she was not going to remain single forever. IYWD also made it clear to the court that evicting Sara from her home was a violation of her rights to shelter and property. The in-laws were not supposed to have evicted her from her home because when people get married they work together, contribute and support each other to build their home and acquire assets. There was therefore need to allow Sara to make her choice and decision as to when she wanted to move to Masara's house after they had fully prepared to do so. In addition Sara was not a prostitute as referred to by Masara as there was no mention of multiple sexual partners by both parties including from Masara himself. She was not even cheating him as her husband had long since passed on.

IYWD therefore recommended that Sara be compensated for psychological and emotional torture, costs incurred, time wasted and defamation of character.

### **The likely outcome without IYWD advice**

There was a high likelihood that had IYWD not intervened the judgement was going to be done in favour of Masara man since most of the chief's advisors including the headman were saying there was need to punish Sara for such immorality lest all other ladies will not follow suit. Also due to the patriarchal nature of the rural settings, the men present at the court were dominating and were in support of Masara since it is regarded as normal for a man to date and sleep with as many women as possible and even go scouting for sexual pleasure from commercial sex workers at bars but on the contrary very wrong for women to do likewise or even date a man after their spouses have passed on.

### **The Outcome after IYWD intervened**

After IYWD's intervention, the chief finally gave his ruling which was an exciting moment for IYWD. The chief interrogated Masara and asked questions that included if he wanted to marry Sara of which his answer was a no. The chief went on to ask him the reasons for not wanting to marry her and he continued with his arguments that Sara was a 'prostitute'. He

went on to ask Masara what his understanding of a prostitute was his response was - a woman who sleeps with man whom she is not married to. The chief then asked what usually happens to the prostitutes after offering their services and Masara said they do it for money. Through his response the Chief then went on to give his ruling to say since he named Sara a prostitute he first of all had to pay her since that's what is done when one does business with a sex worker: 'have sex with her and pay her off'. Masara was therefore asked to compensate Sara with 1 cow for deliberately having sex with her without an intention to stay with her, an additional 2 goats for wasting her time and for disappointing her after she had sacrificed to leave her children hoping to settle down with him and start a new family. To Sara the chief ruled that she needed a roof over her head and asked to go back home to her children and if any problems arise with the in-laws the court asked her to come back and report the issue. She was also advised to be careful and be alert to meet such men who are there to use and deceive women and will at the end of the day change like chameleons when it comes to commitments like marriage.

NOTE: \* *The names used for the complainant and accused are not real.*