

# **LEGAL LITERACY**

**A Tool for Women's Empowerment**

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Production by Helen Chan and Dennis M. Coluccio  
PACT Communications, New York  
Copyedited by Linda Bloxham

Printed by Automated Graphics Systems

Cover Photo: CIDA Photo, David Barbour, India

Distributed by UNIFEM  
WIDBOOKS, P.O. Box 20109, Dag Hammarskjold  
Convenience Center, New York, NY 10017

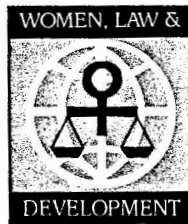
Library of Congress Catalogue Card Number  
92-081682



# LEGAL LITERACY

**A Tool for Women's Empowerment**

Edited by Margaret Schuler & Sakuntala Kadirgamar-Rajasingham



**Women, Law and Development**  
**OEF International**



## Contributors

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Other books on Women, Law and Development:

*Empowerment and the Law:*

*Strategies of Third World Women*

Margaret Schuler, (Ed.) 1986

*Freedom From Violence:*

*Women's Strategies from Around the World*

Margaret Schuler, (Ed.) 1992

Series on Issues and Strategies for Change

- *Action for Change, 1990*
- *Asia Pacific Forum on Women, Law, & Development: Origins, Issues and Vision, 1990*
- *Women in Law and Development in Africa: Origins and Issues, 1990*

# Contents

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<b>About the Contributors</b>	ix
<b>Preface</b>	xiii
<b>Introduction</b>	1
<b>PART I: OVERVIEW AND THEORY</b>	
Legal Literacy as a Tool for Women's Empowerment <i>Margaret Schuler and Sakuntala Kadirgamar-Rajasingham</i>	21
<b>PART II: MAKING THE LAW ACCESSIBLE TO WOMEN: LAWYERS AS RESOURCES AND AGENTS OF LEGAL LITERACY</b>	
Designing Legal Literacy to Make the Law Accessible to Women in the Caribbean <i>Roberta Clarke</i>	73
From Theory to Practice: Reflections on Legal Literacy with Women in India <i>Ratna Kapur</i>	93
Experiences with Legal Literacy in Sri Lanka <i>Savitri Goonesekere</i>	117
Challenges of Promoting Legal Literacy Among Women in Uganda <i>Florence Butegwa</i>	139
<b>PART III: DEPROFESSIONALIZING THE PRACTICE OF LAW: PARALEGALS AS RESOURCES AND AGENTS OF LEGAL LITERACY</b>	
Paralegals as Community Resources in Peru: Asociación Perú Mujer <i>Elizabeth Dasso</i>	163
Paralegals and Labor Organizing in India: The Self-Employed Women's Association <i>Meena Patel</i>	189

Gender, Community Development and Paralegal Training in the Philippines: Pilipina Legal Resources Center <i>Emelina Quintillan</i>	209
Legal Literacy and Community Development in Bangladesh: Bangladesh Rural Advancement Committee <i>Salma Sobhan</i>	229
<b>PART IV: LEGAL LITERACY AND POLITICAL ORGANIZING</b>	
Women's Legal Rights Organizing and Political Participation in Africa <i>Lisa VeneKlasen</i>	249
Feminist Organizing in Mexico: From Consciousness Raising to Action <i>Ximena Bedregal</i>	283
<b>PART V: EDUCATIONAL CONCERNS: PROBLEMS AND METHODS</b>	
Legal Literacy and Law Enforcement Agencies in Ghana <i>Akua Kuenyehia</i>	301
Fostering Rights Awareness through Community Publishing in Zimbabwe <i>Kathy Bond Stewart</i>	313
<b>Bibliography</b>	333
<b>Index</b>	341

## About the Contributors

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***The Editors:***

***Margaret Schuler*** initiated OEF's Women, Law and Development program in 1983 to promote women's rights strategies and networking in Asia, Africa and Latin America. With a background in social studies and adult learning, Dr. Schuler has worked with organizations in many countries throughout the world to develop legal literacy and related women's rights strategies. She is author and editor of several other publications on women's rights.

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# Preface

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Women's personal and social disempowerment emerged as an issue and as a priority for action on an international scale at the Nairobi Women's conference in 1985. "Empowering women to make the law relevant and real in their lives" was identified as an imperative. Legal literacy thus emerged as an important strategic concern—the basis by which women could acquire the capacity to use the law as a resource.

*Legal Literacy: A Tool for Women's Empowerment* is about this search for solutions: for strategies for women's empowerment. It follows in the path of *Empowerment and the Law: Strategies of Third World Women and Freedom from Violence: Women's Strategies from Around the World*, previous initiatives to learn from women's global strategies to confront structures of inequality and the effects of marginalization and to identify means of transforming them.

The production of this book has been both an intellectual challenge and a test of our commitment to the vision, premises and processes that the concept "legal literacy" incorporates. The purpose of this book is to contribute to the conceptual and methodological clarity about legal literacy and the issues surrounding it. This has been done by focussing critically on several of them, such as operative concepts of legal literacy, program designs, and the actual and potential roles of lawyers and other agents of legal literacy. These and other concerns surfaced by sharing cross-cultural experiences and engaging the network of activists in an on-going dialogue. The variety of cultural contexts and the diversity of experiences and strategies represented in this book establish the background for the emergence of a common analytical perspective. This book is meant to be a resource for activists and advocates of women's issues who are engaged in the daily struggle to include women in the political economy, to empower them socially, politically, economically through service programs, education and public awareness campaigns, law reform activities or other strategies.

The contributors to this book deserve special appreciation and thanks for their work: Ximena Bedregal (Mexico), Kathy Bond-Stewart (Zimbabwe), Florence Butegwa (Uganda),

Roberta Clarke (Trinidad and Tobago), Elizabeth Dasso (Peru) Savitri Goonesekere (Sri Lanka), Ratna Kapur (India), Akua Kuenyehia (Ghana), Meena Patel (India), Emelina Quintillan (Philippines), Salma Sobhan (Bangladesh), and Lisa VeneKlasen. They have all taken time off from their demanding schedules to reflect on and communicate their experiences, creating the empirical foundations for this work.

On the production side, thanks to Dennis Coluccio and Helen Chan from Pact Communications for their technical support in the publication, Charlie Roberts for the translations, and David Dumper for typing parts of the manuscript.

We also owe thanks to Willie Campbell of OEF International for her support and encouragement. Sincere appreciation is offered to the Ford Foundation for their generous support of the OEF publications exploring issues and strategies related to women, law, and development, of which this is the third. Finally, we wish to thank UNIFEM for supporting the final stages of the project and for the distribution of this book.

Margaret A. Schuler  
Sakuntala Kadirgamar-Rajasingham  
Washington, D. C.  
April 1992

## Introduction

Margaret Schuler  
Sakuntala Kadirgamar-Rajasingham

At the 1985 Nairobi Women's Conference, the women lawyers, advocates and "rights activists" attending the "Women, Law and Development Forum" established priorities for women's rights work. They agreed to undertake a "Know Your Legal Rights" campaign with the goal of :

Empowering women throughout the Third World. Such a campaign should include popularizing the language of the law by using mass media and other strategies to demystify the law, and make it more accessible...and working toward an 'alternative law' which maximizes women's rights and is drawn from the language, reality and experiences of the vast majority of Third World peoples. (Schuler, 1986, p. 428).

In the same context, they articulated as their theme and goal for the next period: "*empowering women to make the law relevant and real in their lives.*" It was not an easy concept to frame, but the statement contains an affirmation that sums up and justifies a legal rights approach to achieving women's equality. It also offers an important insight about the role of legal literacy. It is significant that the statement does not affirm that the *law* will empower women, but instead, that once empowered, *women* become the proactive social agents who act upon the law to make it relevant, who know how to use and direct the law to forge new and more adequate forms of social organization and interaction.

As often happens at significant moments of creativity—such as occurred at the Nairobi NGO Forum—utopian visions

consolidate in what appear to be “flashes” of inspiration. In fact, such insights are not fully understood the moment they are uttered because they both result from and precede the experience of those who articulate or assent to them. Consequently, their meaning and method must be validated through an ongoing praxis that elucidates the original inspiration and articulates new and more refined understandings of the future envisioned—including its challenges, limits and contradictions.

Such has been the process of understanding the link between law and empowerment. At Nairobi, there existed an incipient pool of experience and an insight about the potential of using the law to empower women, but the complexities of the insight were not yet fully revealed or tested. The six years since Nairobi have provided both time and opportunity to explore, experiment, reflect, frame and reframe ideas about the meaning of empowerment and how to do it. It was an important time for learning, for developing frameworks and skills, for validating some insights and rejecting others. It was a period in which the concept of legal literacy gained broader currency, while it also came under attack for its potential to be coopted or manipulated. The vision and enthusiasm still exist, but are perhaps tempered with caution over the elusiveness of concepts like empowerment, conscientization, and mobilization and the dangers of misdirected approaches. Suddenly, the simplicity of the original insight turned out to be far more complex than formerly imagined. Not only does legal literacy involve content, but methodology. Not only is it rooted in theories of law, but in theories of learning and of social change.

### ***What is Legal Literacy?***

The definition of legal literacy that we will take as our point of departure is one that has evolved over the past few years through practice.<sup>1</sup> We understand legal literacy to be:

The process of acquiring  
critical awareness about rights and the law,  
the ability to assert rights, and  
the capacity to mobilize for change.

The book is primarily concerned with how women develop the knowledge and the cognitive, social and political skills related to rights awareness and action and how lawyers and other advocates can foster their formation. The book is also

concerned with how legal literacy, as a *component of a strategy*, fits into a broader political struggle for justice. Thus, for the definition to be useful, we must explore the meaning of “empowerment,” the “politics of rights” and how rights are viewed, the meaning of “critical awareness,” what “mobilization” means and for what kind of change. Having clarified these concepts in some kind of holistic framework, it is then important to draw implications for method, action and advocacy.

### *Tensions and Challenges*

Legal literacy is situated at a crossroads in which law, education, gender, and political action intersect. This fact creates an inherent challenge since each of these domains has its own theory base, its own language and framework for action. As a field of practice, legal literacy tends to be fragmented. Many programs turn out conceptually and methodologically lopsided because they rely on a single source for definition.

What often happens is that agents of legal literacy fail to appreciate that while their formal training or experience might equip them to understand some aspects of legal literacy processes or content, it does not necessarily equip them to deal with every aspect. Understanding the pitfalls of the “rights discourse” and having a passionate critique of the limitations of the state, for example, does not automatically lead lawyers to appreciate the connection between educational processes and social change strategies. Those who work in nonformal or popular education and have certain passions about processes they trust to produce certain kinds of learning and action, may not be conversant with critical legal studies or understand the potential or limits of the law as a strategy focus.

These tensions that plague the participants and allies of legal literacy initiatives are often based not only on differentials of training but of power, social identity and self-confidence. The tendency to divide the world into lawyers and nonlawyers supports the impression that other skills, disciplines or people who are not members of the “legal fraternity” have little to offer in matters of law. This practice only reinforces the great caution or resistance toward anything associated with the law by those outside the fraternity.

In legal literacy, the tension between law and social activism represents a recurrent disjunctive. Unless there is conscious

effort to develop a framework in which law, education, gender, and political practice are adequately aligned, the best intentioned of legal literacy initiatives will miss the mark. Overcoming this limitation requires a serious exchange that engages lawyers, community organizers, educators, and political activists in efforts to develop a coherent framework for action that confronts and clarifies the issues of power, purpose, leadership and process.

A final and related challenge has to do with developing a functional lexicon of terms related to this work. The semantic struggle is a recurrent but necessary one, for if terms like legal literacy, empowerment, consciousness raising, and others are not clear, or if their significance and connotations are not shared, then they become rhetorical clatter, incapable of providing meaning or guidance in carrying out the work.

### *The Structure of the Book: Themes and Issues*

This book is divided into five parts. The first contains the introduction and a theoretical critique of legal literacy as a tool for women's empowerment. The others group the papers into categories relating to some of the issues associated with the practice of legal literacy. Of course, there is considerable overlap among the papers and none can be rigidly categorized as dealing with only one issue. Nevertheless, to enhance the conceptual clarity of the book, the papers are grouped according to "strategic themes" highlighting the role of lawyers as agents of legal literacy (Part II), nonprofessional community-based organizers as agents of legal literacy (Part III), and legal literacy and political organizing (Part IV). Two other papers that have important, but unique offerings are found in the final section (Part IV).

#### *Part I: Legal Literacy as a Tool for Women's Empowerment: Conceptual Overview*

Margaret Schuler and Sakuntala Rajasingham address two issues directly. First is how women develop rights awareness and the cognitive, social and political skills needed to take action on them. Second is how the needed awareness and action skills can be fostered. They view legal literacy as a strategic tool in these processes and expand the definitional, conceptual, theoretical and methodological parameters of legal literacy as commonly practiced. Challenging the limited and narrow perspective of

legal literacy as an information acquiring enterprise, they develop the concept of critical legal literacy, a form of cultural politics. Understanding the social, political, cultural and psychological dimensions of women's oppression and the role the law plays in establishing women's status is central to this perspective. They encourage going beyond the "letters" of the law to understand the fundamental social values reflected in and shaped by the law. Their paper reinforces the point that only when women understand the law in the context of their social and economic position can they use the law as an instrument for empowerment and social change. As part of a social change strategy, legal literacy empowers people personally and socially to participate in creating their society. It provides a transformative learning experience, developing a critical consciousness among grassroots women, lawyers and activists working with gender issues. Legal literacy, however, does not stop at critical awareness, but develops skills and fosters organized action as an integral part of the process. It is this programmatic aspect, often ignored in legal literacy strategies, that is reinforced in this paper.

### ***Part II: Making the Law Accessible to Women: Lawyers as Resources and Agents of Legal Literacy***

The four papers included in this section are similar in one major respect: they all explore the role of lawyers as "agents" of legal literacy. What unites these papers is not just that lawyers play a dynamic role in the programs they describe; rather, it is the struggle of socially committed lawyers to understand their role as educators in making the law accessible to women, the degree to which their preparation in law equips them for this role, and the skills and perspectives they need to develop to be effective in legal literacy. They ask important questions about the design of the programs, the techniques and strategies used, and the strengths and weaknesses that emerge when lawyers play leadership roles in processes directed at transformative social change for women.

Roberta Clarke, from the Caribbean Association for Feminist Research and Action (CAFRA) details the genesis, design and implementation of a regional legal literacy project. The paper highlights the importance of the planning process and how developing a legal literacy design based on the *real* needs of women requires their participation from the outset.



Initial research on women's legal status demonstrated both the paucity of information on women's issues and the lack of strategic action undertaken, even in areas such as domestic and sexual violence, labor law and family law, which are well known to be problem areas for women. A further survey highlighted a more detailed list of concerns. As CAFRA set about designing a program to strengthen the legal literacy of Caribbean women, it soon became evident that many women already had information and knowledge of the basic elements of law most relevant to their lives. What they lacked was a method to translate that knowledge into systematic and collaborative strategies for engendering appropriate change. CAFRA responded to this and structured its program accordingly.

Using a mix of strategies, the CAFRA program fosters collaboration between governmental and nongovernmental organizations, taking care not to duplicate initiatives. Careful consideration is given to the design of educational materials and to topic-specific training for organizations that work with women experiencing legal problems. These organizations include halfway houses, rape crisis centers, and trade unions. As a regional organization, CAFRA plays a complex role and is conscious of the need to be an effective coordinator and to ensure participation both at the national level and at the level of the women's organizations.

Ratna Kapur (India) discusses methodological implications of gender-based legal literacy. From a clearly formulated theoretical base, she draws lessons from three experiences in legal literacy programming presented in the form of three mini case studies. The first experience, which involved a development organization working in an urban slum, highlighted the lack of critical consciousness among the women and the inability of the organization, given its model of development, to stimulate it. The second case study of women and legal literacy describes a workshop at an information and knowledge "fair." Despite limitations caused by the unwieldy size of the group and the short time span of the workshops, the lawyers focused on stimulating critical consciousness among the women by relating the information to the participants' specific contexts and conditions. Kapur's third case study describes a workshop on women's health and law with a group that had already developed awareness of gender disparities. The women's analysis

of the issues demonstrated the capacity of women to articulate not only their frustrations with the inequities they recognized in their lives and discovered in the law, but alternatives and solutions as well.

This paper underscores the importance of critical consciousness in legal literacy. Kapur notes the importance of situating legal literacy in the context of broader programs having an impact on women's lives (health, public administration, labor) and focusing on the specific social problems of the group. She proposes that legal literacy should not only provide information about the law, but should stimulate women to explore gender and the limits of the law, and formulate strategies for social and economic empowerment. Engaging women to understand the "limits of the law" is important to prevent their developing a dependency on the law or placing false expectations in it. Finally, Kapur reflects on the need for educators to come to terms with their hierarchical position in the educational relationship by acknowledging their power and then using the power creatively rather than denying or rejecting their role.

Florence Butegwa outlines the challenges of legal literacy work with women in Africa and develops a critique of strategies used in Uganda. The analysis targets the legal literacy strategy of "sharing information about the law and available legal remedies with as many people in the country as possible," a common approach to legal literacy by NGO's and one in which women lawyers play a dynamic role. A legal literacy program linked to Uganda's recent constitution-making process provided an opportunity to explore issues involved in the design and implementation of legal literacy in the "campaign" format and raised questions about whether the approach used for the program was the appropriate one and yielded the benefits it could have.

In her analysis of the experience, Butegwa unsparingly identifies the structural problems, and organizational and methodological flaws that obstructed the realization of goals of both governmental and nongovernmental organizations. She focuses on the importance of deciding on a strategy, the target of beneficiaries, techniques to be adopted, and the need for continuity and follow-up services. Recognizing the need to develop appropriate communication skills, Butegwa exhorts women lawyers to pay attention to the approaches provided by popular education. She

also confirms the need for the various groups involved in legal literacy to network and coordinate their efforts to increase their impact rather than work in insolation, and even in competition with one another. She underscores the importance of scrutinizing the content and context of the literacy campaigns and evaluating them periodically so that mistakes are not perpetuated and the programs keep pace with the real needs of women.

Writing on legal literacy programs in Sri Lanka, Savitri Goonesekere documents and critiques the strategies adopted and services offered by the government and nongovernmental services. She assesses the limited impact of printed legal literacy materials in a country with a high literacy rate, because they inform without provoking deeper analysis of ideologies and norms. The quality and impact of the seminar-type discussions offered to middle class or professional audiences are also of limited impact because they are an exercise of "discourse by the initiated for the initiated." Their saving grace, however, appears to be that many of these discussions have had a "conscientizing" impact on a small but critical group of judges, legislators and policy makers.

Goonsekere points to the failure of many research organizations to monitor the media and the courts and for failing to use media pressure to highlight women's issues. Lobbying for law reform, law enforcement, and changes in social and cultural practices have also been weak in Sri Lanka, attributed largely to the inability of women's organizations to utilize the information they have to mobilize for change. According to Goonesekere, most organizations appear to have adopted a service-oriented and politically disengaged model of legal literacy.

In analyzing the structural constraints on legal literacy, Goonesekere points to a political context in which people are alienated from the law at several levels. Not only does the language of the law and its procedures constitute an impenetrable mystique, but the "law and order" problems consuming the country for several years have further diminished faith in the law as an acceptable method of social control. Unless women's organizations are willing to bring women's issues into the broader political debate, legal literacy cannot be empowering. Goonesekere concludes that to be empowering, legal literacy must address the reality of the community's "vulnerability to the abuse of power" and give voice to both individual victims of human rights violations

and legitimacy for fundamental freedoms, public interest litigation and legal reform.

*Part III: De-professionalizing the Practice of Law:  
Paralegal as Resources and Agents of  
Legal Literacy*

Parallel to the focus on the lawyer in legal literacy—her role, responsibility, influence and potential contribution as an agent of legal literacy—is a trend that offers at least a partial answer to these concerns. As an alternative to the lawyer as sole or primary agent and communicator, the community based “paralegal” is emerging as an important means to make the law accessible to the grassroots. In the process, legal literacy is becoming “de-professionalized.” The lawyer still has a role to play, but the emphasis is different. The next four case studies explore the concept of the paralegal and their contributions as resources and agents of legal literacy. Paralegals, when developed as communicators, educators and organizers in the community, play an important role in demystifying the law and making it accessible to ordinary people.

Elizabeth Dasso’s study about a legal services project in Peru reveals her profound faith in what grassroots women can accomplish, despite the dominant ideology of social prejudice, class oppression, and legal exclusion that characterizes Peruvian society. The program she describes is an alternative to the traditional, welfare-type, “professional” approach to legal services in which the unequal relationship between lawyer and client remains unchanged. *Perú Mujer*, an association dedicated to promoting and developing grassroots women, adopted a program of community-based legal services in which the women of the community play a major role in legal literacy and legal defense. The goal of the *Perú Mujer* program is to make women proactive bearers of rights, and agents facilitating the exercise of rights. Key to the program is the formation of a corps of “paralegals,” who manage the legal services in their own communities.

Their formal training rests on three theoretical supports: the alternative use of law; popular education; and the gender perspective. Alternative law provides a base for demystifying the law and challenging the monopolistic control over the law by lawyers/professionals. It also stresses the power of information

and legal resources, redefines the relationship between lawyer-client to one of facilitator and user. The alternative use of law also helps break down the myths that limit the exercise of rights, and helps to develop innovative approaches to creating and organizing legal defense. Popular education provides a base for developing creative, participatory methods and innovative resources to reinforce the content of learning. Respect for the participants own thinking, for everyday practices and for commonly held attitudes regarding justice and injustice are incorporated in the content of the programs. The gender perspective provides insights into the magnitude of gender-based issues affecting the content and exercise of women's rights.

In achieving the goal of developing the legal resourcefulness of the community the importance of community counselors and paralegals is clear. They represent a qualitative leap in the effort to achieve justice by integrating participation from below with everyday practice. The Peruvian program also underscores the importance of an interdisciplinary approach and not being dependent only on lawyers, but cautions all professionals about overrating their role; rather, professionals and all the other players in legal literacy must remain faithful to the requirements, perspectives and values of popular education.

Meena Patel describes the involvement of the Self-Employed Women's Association (SEWA) from India with the legal system and how paralegals were incorporated into their work. Initially, SEWA was primarily concerned with the labor-related matters affecting its membership. However, it was soon apparent the women faced a multiplicity of problems, many of which may have legal remedies. Thus, SEWA developed an approach to law that recognized the value of litigation in securing the interests of its members. This active use of law and litigation led to legal education and research to enhance the legal knowledge of its members.

Over the years, however, SEWA has not lost sight of its original purpose, which is to serve as a union for the unorganized. All the strategies SEWA has used and developed are determined by this. The use and training of paralegals is a case in point. Although it originally responded to a specific need at a certain time, the paralegal program continues to develop *in function* of the needs of SEWA as an organization. Thus, the paralegals engage directly in litigation and court procedure to

serve organizational ends. This is a slightly different approach than that taken in Peru. However, what the two have in common is proving that women with little formal education can be successful in using the legal system to their own ends, and in the process, they break down stereotypes about who can do so.

Emelina Quintillan writes about the experience of Pilipina Legal Resources Center (PLRC) in the Philippines. In this case, the search for effective provision of legal remedies and modes of community intervention led to the introduction of a paralegal training program. Geared to enhancing the knowledge and skills of the people already active as community organizers, PLRC's broadly based training program covers not only legal topics, but gender and community organizing as well. The topics include self and community analysis, gender analysis, the laws, rules, regulations and regulatory agencies relevant to the community, organizing skills, skills in data gathering, and documentation.

The program provides two levels of paralegal training. Basic level training is geared toward the personal benefit of the women. The advanced training is for those who finish the basic course and show interest and aptitude in going further. They are given greater exposure to more complex and challenging ideas. The paralegal's role may cover several functions: educating the community about women's rights and human rights; assisting in conflict resolution; documentation; and referring dependent parties to the relevant administrative and judicial fora. After their training, the paralegals return to their communities and apply their legal knowledge in the context of other community involvements. In this way, the law becomes an added resource to them and to the community. While they can fall back on a body of legal professionals if they so choose, the majority of those trained do not maintain a structured relationship with PLRC after the training is over. By and large the Pilipina Legal Resource Center prefers the minimalist role of catalyzer.

Salma Sobhan describes the development of a paralegal program that focuses on the educative role the paralegal can play at the community level. The Bangladesh Rural Advancement Committee (BRAC), detected the need for legal literacy among its members and proposed the program. The designers started from a flexible position that recognized that the paralegal



could probably play a positive role as a teacher, perhaps as a counselor or intermediary rather than as a legal assistant. Beyond this framework and a concern that the program be structured on participatory lines and not be exclusionary, nothing else about the program was foreordained.

For these reasons program content was not predetermined, nor was a literacy requirement imposed. The lack of a clear perspective on these issues initially handicapped the program, but the process enabled the group to come up with creative solutions to some of the emerging problems. After the paralegals received their training and BRAC established how they were to carry out their "teaching" role, they launched a legal awareness program. By 1989 it was estimated that the paralegals were reaching as many as 9,000 people in classes per year. The legal awareness program, which was not directed primarily toward women, included some content that related to women's rights. Although there were mixed reactions to the quality of the program, an evaluation indicated some changes in attitudes about women were taking place and that there was a growing awareness about the issues of dowry and divorce. Even if people's behaviors have not yet changed, a positive sign is that people are beginning at least to discuss the issues.

The varied perspectives of these programs are reflected in how they understand the role of the paralegal, the content of the training the paralegals receive, the level of social analysis they include in the content of the legal literacy, and the emphasis they give to understanding gender oppression. Despite these differences, each of the cases contributes ideas about the possibilities and value of making the law accessible through community channels that are not entirely dependent on the professional.

#### *Part IV: Legal Literacy and Political Organizing*

Moving from a focus on the legal literacy program, per se, this next section consists of two papers, one about Africa and the other about Mexico, that take a broad view of legal literacy as an essential part of developing the political capacities of women. Placing legal literacy in the framework of a strategy to achieve change at both local and policy levels, these papers highlight the importance for women organizers to develop a clear perspective and appropriate methods.

Lisa VeneKlasen presents an overview of women's legal rights organizing and political participation in Africa. Referring to political, economic and social conditions in Africa which traditionally and routinely discriminate against women, she points to the difficulty of promoting women's rights when they run counter to customary law and deeply ingrained negative attitudes toward women. Apart from these constraints, the general undemocratic structures of most African states function as an additional obstacle, limiting women's rights organizing and participation at all levels.

However, VeneKlasen recognizes that important political changes are taking place in Africa that provide a window of opportunity for women's rights organizing. Her survey of initiatives undertaken in eight African countries (Uganda, Zambia, Tanzania, Nigeria, South Africa, Mozambique and Zimbabwe) convey the direction of participatory movements, emerging gender issues, and related activities.

The main emphasis of her paper however, is about advancing women's legal rights within a "strategic" political strategy. This requires influencing institutions that enforce and administer policies, as well as educating and organizing women at the base. In selecting the issue, those that affect large numbers of women and challenge basic institutional and attitudinal obstacles for women have the greatest organizing potential. Thus, it becomes important for women's groups to do more research and in-depth analysis on the strategic issues affecting women. VeneKlasen also underscores the importance of developing community-based approaches and building local leadership and taking advantage of emerging political opportunities to strengthen civil society. In the new openness to democratic processes, legal rights information could be broadened to include civic education and thus lead toward building women's political participation and redefining women's status.

Mobilization and participation remain critical strategies for women's movements to adopt. A greater diversity among organizers and activists could do much to add value to legal rights organizing. As VeneKlasen points out, lawyers have played the most significant leadership role in this respect but it is important to draw others, professionals as well as non-professional, into legal rights and legal literacy work and to bridge the rural/urban gap.



In her analysis of the feminist movement in Mexico, Ximena Bedregal also offers a critique of approaches and attitudes toward women's rights strategies and political participation. In Mexico, the feminist movement's association with left parties and their historical opposition to the official party, led the movement to place priority on bringing political pressure to bear on the government. Given the governing party's proven capacity to co-opt social movements, the strategy was not inappropriate at that point. However, it led the movement to a conception of autonomy that hindered negotiation and made the movement more marginal. The fear of cooptation superseded any drive to have an impact, resulting in an inclination to denounce rather than propose alternatives.

Bedregal's organization, The Center for Women's Training and Research (CICAM) was founded to address three major issues:

1. The feminist movement's inability to acknowledge and recall its own experience and history and reverse the lack of communication among its divergent streams;
2. Its repetitive and ineffective methods of diffusion; and
3. The imbalance between the capital and provinces in terms of resources and support.

The Center's work straddles both grassroots practice and academic work. On the theoretical side, the Center does research, evaluation and assimilation of lessons learned and documentation. All of this work is ultimately designed to strengthen the capabilities of the movement, specifically through the women's organizations that are working on domestic violence and other issues of women's rights. The approach of CICAM is to work with these groups to assimilate the lessons of the past and to develop their analytical and political skills. The goal is to make the feminist movement more politically effective in bringing about social change, in proposing alternatives and developing strategies, in engaging the state in ways that move beyond protest and denunciation, and in improving educational and dissemination capabilities.

### ***Educational Considerations: Problems and Methods***

The last two papers do not fall easily into a single category. One discusses the problem of legal literacy and law enforcement issues in Ghana and the other presents an experience

from Zimbabwe that offers some useful methodological insights about how to foster rights awareness. In different ways they both deal with changing deeply ingrained social attitudes and the importance of recognizing that legal literacy cannot be seen only in terms of women, but also in the context of other structures and sectors of society.

Akua Kuenyehia from Ghana points very specifically to the legal problems faced by women that are not linked to the nature and content of the laws, but to the ineffectiveness and gender insensitivity of law enforcement agencies such as the police and the courts. In her critique of the nature of the judiciary and the law enforcement agencies, she points out that the lower courts comprise that section of the judiciary which has the most immediate impact on women's issues. The Lower Courts are often staffed by village elders and chiefs who have traditional and nonprogressive attitudes toward women. Thus, when women's issues come before them, they are resolved within the terms and world-view of the judges and not the law. In this way, the courts become instruments of oppression. Likewise, the police often fail to respond to domestic disputes leaving women vulnerable to the oppression of their menfolk. In addition to the damage done to individual women's rights in these cases, they send a powerful "message" to the public about the law and women's rights and the kind of justice she can hope to achieve in the system.

Kuenyehia suggests that these problems require a different strategy for resolution. A campaign on women's rights and issues needs to be directed not just to women, but to the custodians and interpreters of the law. Judges and Law enforcement officers need to be made literate in women's issues, and their gender bias confronted. Kuenyehia suggests that an approach to education that targets this very special group is necessary.

The final paper by Kathy Bond-Stewart contributes a case study about participatory educational methodology. She describes a program in Zimbabwe that engages village-level people in a program to produce educational books about development. After selecting a major theme, the issues to be included in the books are surfaced, discussed and analyzed through participatory community workshops in which people's real feelings emerge and the content of the published material represents their reality and reflections. The purpose

of the program is not just to produce the physical books, but to make producing the books an educational process for people's development. In the process of analyzing the issues and actually writing about them, participants develop new skills and ways of perceiving the issues and their lives. Since the finished products, the books, represent the participants work, they feel a great deal of commitment to what the materials represent and they become very effective in replicating the learning process through workshops with village people.

In the project to produce a book on women, the issue of women's rights was a major theme, developed within a setting of popular resistance to the perceived imposition of a new law meant to benefit women. The fracas associated with the Legal Age of Majority Act provides one of the clearest examples of the importance of engaging the population in the process of defining changes in legislation and then presenting the law in a way that deals with people's perceived interests and feelings. The book project allowed people to vent their fears and frustrations and to develop a better understanding of their own needs in terms of the law. At the same time the project surfaced new issues not previously recognized as problems for women. It reinforced the importance of linking economic, cultural, social and legal issues to provide, a holistic perspective on women's issues. The relevancy of this case study to the discussion of legal literacy is that it provides an example of an alternative to the ineffective educational methods that are often used in legal literacy. This approach just might be a creative way of producing effective legal literacy materials.

### ***Putting Legal Literacy in Context***

*Legal Literacy, A Tool for Women's Empowerment*, represents part of an on-going international dialogue about the conditions under which the law can be a tool for women's empowerment. The papers are from Bangladesh, India, Sri Lanka, Peru, Mexico, the Caribbean, Uganda, Ghana, Zimbabwe and the Philippines. They are at once specific and diffuse. They highlight gender-based inequities in the legal and political systems, as well as pervasive social oppression. They offer evidence of unequal outcomes for women in the distribution of economic resources and in the delivery of justice, even where the laws themselves are neutral and nondiscriminatory. They highlight

the conditions of poverty, ignorance, violence and isolation in which many women live, and the lack of control and direction in their lives. Indian women in the unorganized sector in Ahmedabad, women workers in the Caribbean, Peruvian women in the *pueblos jovenes*, African women chattelized by customary law—their contexts are different but their conditions and the content of their experiences are the same.

Besides providing primary sources for identifying the issues facing women, the case studies provide a sample of strategies used to empower women. The articles work through the concepts underlying the objectives of empowerment and their selection of strategies for empowerment. They place the key issues of this book (legal literacy and empowerment, the meaning and relevance of rights, the role of lawyers, political and social activists) in a concrete political and socioeconomic context. The empirical reality they convey is a powerful contribution to the construction of a framework for conceptualizing legal literacy as a means of empowerment.

In general, the collection of papers offers an eclectic mix of resources and agents of legal literacy, and methods and strategies by which legal literacy and its long-term political goals can be pursued. They freely discuss strategy problems, the failure of certain methods and programs, unrealized expectations, and positive and successful experiences. It is largely the frankness of the authors in discussing both their central concerns and problems and the strategic approaches they adopted that give value to this book as a facilitating instrument in the dialogue surrounding legal literacy.

## NOTE

1. The definition we will use in this book was a consensus definition by the group of paper writers meeting in June of 1989 to discuss and prepare an initial conceptual framework for this book.

UN/C. Smit Vasan



UN/Ray Witin



VERC/Bangladesh



World Vision International



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**PART I:  
OVERVIEW AND THEORY**

**Legal Literacy as a Tool  
for Women's Empowerment**

*Margaret Schuler &  
Sakuntala Kadirgamar-Rajasingham*



## **Legal Literacy: A Tool for Women's Empowerment**

**Margaret Schuler  
Sakuntala Kadirgamar-Rajasingham**

### **"Legal" Literacy: Reading the ABCs of Law?**

Like "empowerment," legal literacy is one of those terms whose apparent transparency of meaning comes under attack in direct proportion to the acceptance it gains. It is unclear exactly where or when the term "legal literacy" was coined or first used, but over the past ten years, as it has gained wider use, at the same time some of its "applications" have been found wanting. Legal literacy is clearly in a process of scrutiny—semantic, ideological and political—a necessary condition for clarity to emerge. However, legal literacy has no primary source to which to refer to explore an intended, original meaning. It is not a question of further elucidating its initial content and exposing inadequate interpretations. Since it is one of those ideas open to broad and often disparate interpretation, to clarify the meaning of legal literacy requires scrutinizing the term itself, its ancillary or supportive concepts, and the manner in which its practice is unfolding.

At first glance, the connection between legal literacy and literacy seems simple and obvious: legal literacy is to law what literacy is to the alphabet. If literacy means being able to read and write the "ABCs" (basic symbols) of written culture, then legal literacy means being able to read and understand the "ABCs" of law. It assumes that filling a void in the individual (learning to read) will make her able to function well in the literary or legal milieu. While such an interpretation seems



reasonable at first glance, it is simplistic and misleading. First, it assumes a static view of culture and of law. Second, it locates both the root of the problem and the remedy in the individual. By placing emphasis on the individual's skills, it does not address structural obstacles to participation. In literacy, this approach is often tied to an ideological perspective that seeks to incorporate the poor or underprivileged into the logic of the dominant cultural tradition (Giroux, 1989).

Corollary *legal* literacy perspectives assume that the law is capable of providing women protection and redress and see the problem only in terms of women's lack of knowledge. Key to this view is the assumption that when women *know* the law—their rights and obligations—they will be more functional citizens. Such a perspective essentially supports the status quo, while celebrating the egalitarian achievements of law. Like mainstream literacy, it reaches out to incorporate a disadvantaged group (women) into an ethic that fosters traditional values, particularly respect for the state, authority, the family, and stratified social roles. Yet, because of its overt goal of improving the situation of a disadvantaged sector and contributing to greater citizen participation, literacy programs may incorrectly appear quite benevolent.

The first fallacy of this approach to legal literacy is that mere knowledge of the law is sufficient to assure enjoyment of rights and citizen participation. Enjoyment of rights is not an automatic process. In most societies, laws and their application are skewed against women, especially poor women, but even where the laws are responsive, powerful social, cultural, psychological and political constraints hinder women's enjoyment of rights. Social structures do not encourage or sometimes even permit women to act independently in their own interests. Patriarchal, economic, and cultural biases and practices keep women isolated, lacking the self-confidence, resources, access to the legal system, and support needed for making a claim or complaint. Where women have managed to gain access or recourse to the legal system, the insensitivity of the judiciary becomes another major obstacle.

A legal literacy approach that merely gives women knowledge about laws, rights and obligations, or the functioning of the legal system in such a context, rests on shaky pedagogical and ideological ground. A danger inherent in legal literacy is

that it can end up supporting the status quo. As a reflection of the spirit of the people, law reflects and reinforces not only the strengths, but the weaknesses of a society (Sobhan).<sup>1</sup> Unless the strengths and the weaknesses are distinguished and confronted, legal literacy fulfills a retrogressive function. On the other hand, unless the content of the legal literacy has relevance to the lives of those who will supposedly benefit, there is little likelihood that the information will produce change or even reach its target. This simplistic approach to legal literacy in no way resonates with the perspective articulated at Nairobi, of legal literacy as a process for empowerment and a tool for emancipation.

In the alternative perspective of what is called "critical literacy", the learning process:

not only empowers people through a combination of pedagogical skills and critical analysis, it also becomes a vehicle for examining how cultural definitions of gender, race, class, and subjectivity are constituted as both historical and social constructs (Giroux 1987, 6).

Building on the work of Gramsci, Freire and others, Giroux defines critical literacy as "cultural politics," a process of self and social empowerment grounded in an ethical and political project that permits people to participate in understanding and transforming their society.<sup>2</sup> Within this framework, critical legal literacy is also a form of cultural politics concerned with reading, understanding and transforming the cultural values and social norms embodied in the law. With regard to women, legal literacy becomes a "cultural politics of *gender*" concerned with understanding the social, political, cultural and psychological dimensions of women's oppression, its expression in law, and effective action for change.

### **Law, Gender and Political Participation**

Although the terms "oppression," "marginality," and "dependency" best characterize the female condition, so freely used are these particular words in contemporary discourse that they sometimes border on being slogans and cliches, thus weakening their impact on social consciousness. Nevertheless, since no other terms describe the status of women as succinctly as these do, it is necessary to do more than merely describe the

parameters of women's lives and identify the features of their oppression, marginalization and dependence. It is necessary to go beyond the descriptive level and understand who and *what* causes women's collective lowly status, what are the functional reasons for their oppression, marginality and dependency, and how these inequities are perpetuated. In other words, the status and condition of women has to be critiqued holistically. The collective low status of women is not the result of an historical accident, or the operation of "market forces," or the law of the jungle ensuring the survival of the fittest. Women are herded into unequal positions and roles and are conditioned to accept inequality; men believe that women are unequal; political, legal and social institutions, the laws, economic relations and other interactive relationships perpetuate this inequality.

As John Stewart Mill pointed out over a hundred years ago, women's negative self-image is determined by a full range of social forces in which the law is both a reflection and an instrument perpetuating them.

All women are brought up from the very earliest years in the belief that their ideal of character is the very opposite to that of men; not self-control, but submission, and yielding to the control of others. All moralities tell them that it is the duty of women, and all the current sentimentalities that it is their nature to live for others; to make complete abnegation of themselves, and to have no life but in their affections (Mill, 1971).

More recently, the feminist movement has incorporated as an operating principle its appreciation that laws represent a formal codification of cultural attitudes toward women and definitions of gender (Garfinkle, Lefcourt, & Schulder, 1971).

### ***The Role of Law in Women's Subordination***

One of the most powerful insights of the contemporary women's movement is about the critical role the law plays in establishing women's status, and particularly in upholding and legitimizing women's social and economic subordination. Essentially, societies regulate the acquisition and control of land, jobs, credit, and other goods and services through their legal systems, that is, through legislative and adjudicative processes. In a totally just society, the interests of all citizens

would be protected through this process, but such is not the reality of life on earth so far. Utopias do not exist, and even if they did, ideas about justice and equality would continue to develop. To varying degrees, what happens in all societies is that law skews access to these resources to the benefit of some and the detriment of other social sectors. In doing so, the law plays a key role in defining or supporting differential power relations based on gender, class, ethnicity, race, caste, etc. With specific reference to gender, patterns of legally sanctioned female subordination are established by limiting women's access to economic and political resources through law.

Thus, women in Asia, Latin America, Africa and Europe, though separated geographically by race, religion and ethnicity and by a lack of common consciousness, are nevertheless subject to a similarity of experiences, a similarity that even transcends class divisions and the dichotomies of urban/rural living experiences. Women are oppressed, marginalized and dependent in the political, legal, economic and social spheres. Rarely do women actively participate in the political process. Since they are not active constituents, most of the laws do not take their interests into account. Many of the laws are actually hostile toward and discriminate against women. The customary laws prevailing in Asia and Africa are perhaps the most telling examples of political, legal, economic and social exclusion and oppression, although gender oppression is not confined to customary law.

Women's subordination, based on unequal gender relations, is manifest in the law in several key areas, particularly labor law, penal law and civil law, which governs legal capacity, rights and obligations in marriage, guardianship, inheritance, income, land rights, and participation in public affairs. In some instances women's inferior status results from formal legislation, but it can also result from prejudicial social practices not challenged by the law. Where attempts to redress the gender imbalance through legislation have occurred, women's status can remain unchanged *in practice* due to the inaccessibility of their rights through differential, discriminatory application of the law by the courts, or lack of understanding or misunderstanding of women's rights by women and society in general. The gap between *de facto* and *de jure* treatment is a clear measure of women's social value.

The idea of a "public" versus a "private" sphere as expressed in law is another key measure of society's perception of women's rights. The private sphere (domestic life, home, and family) is considered the traditional domain of women. The public sphere (work and politics) is accepted as the domain of men. This public/private dichotomy is deeply ingrained in the law. Regardless of the operative legal system or cultural context, laws touching the public arena (e.g., labor law) have typically been modernized and brought into line with more enlightened thinking, while family and personal matters in the private sphere have, for the most part, been left untouched by the state. In Asia and Africa the phenomenon is visible in the way state law governs the public sphere and personal (or religious) and customary laws cover family matters in often rigid and regressive ways (APWLD, 1990). But even in Latin America and other regions where there are single legal systems, the state's hands off attitude is confirmed by the slowness with which it makes reforms in family related matters.

While the particular legal manifestations of women's subordination vary from country to country, there are also striking commonalities. In the family, women's legal rights to make decisions, control resources, inherit, contract marriage and divorce, among others, are deficient in many countries. In the workplace—whether in the formal or the informal sectors—women's roles are still not sufficiently recognized and the exploitation of the female worker's labor is often sanctioned by law. Finally, violence against women in its many manifestations—from rape and battering to trafficking in women and even murder—can be found in every country of the world. In most of them, penal law ignores the gravity of the problem—even as the population takes a passive stance in the face of it. This is due to the notions of female sexuality that are ingrained in the law and in popular consciousness that make it possible to tolerate and depreciate the violation of inalienable and fundamental rights to life and physical integrity.

Another major problem with the law is that the vast majority of women are "outside the system," especially rural and urban poor women. Taking into consideration global demographics it is probably safe to conclude that most women on the face of the earth do not think of themselves as having rights, much less as having any relationship with the official

legal system. They are outside the system partly because they don't know what it offers them, but partly because the system doesn't offer them very much. When a woman has been raped and the only response she gets from the law (police and courts) is an accusation making her the guilty party, how can she possibly feel that law offers her anything? When a woman is being beaten by her husband and all she wants is for the beatings to stop but all the law offers her is divorce, she will not see the need for recourse to the law the next time she is in need. While we all would like to believe that our systems of justice and of law protect the rights of all citizens, they do fail and the messages of their failure penetrate deeply. (One only has to recall the recent response to the "not guilty" verdict in the case of the four White Los Angeles policemen whose irrefutable brutality toward a Black man was recorded on tape for the world as well as the jury to see. Even more than the street riots, the image of the tear-stained face of a young woman before the television cameras summed up the impact of this miscarriage of justice when she said: "It means that we don't matter. It means that our lives don't matter.") Such are the messages that penetrate the psyches of those who feel betrayed by the system, never valued by it, or never part of it in the first place. Where consciousness of group dignity and of fundamental rights is high, protest is an appropriate response. But where there is little sense of one's group or one's self as being the subject of rights (as in the case of women) the response is withdrawal and alienation.

Thus, in many places a kind of parallel "law" functions that has its own unwritten norms, such as: "Don't get married, don't register births, don't get title to your property and don't make a will" (Zurutuza, 1989). Poor women, particularly, stay outside the official law not only because the laws and procedures of the official system are complicated, expensive and incomprehensible, but also because they are inadequate and informal remedies seem to work better than the formal legal ones. However, since law is an instrument of legitimacy and social order, staying out of the official system also means being marginalized from the benefits of the system. Not being married or not having official documents often carries negative social and economic consequences for women.

In sum, laws reinforce women's oppression by legitimizing hierarchical gender relations, proprietary rights of men over



women, unequal division of labor, and power over the allocation of resources. Three mechanisms are key to this process:

- Unjust laws that are discriminatory and limit the scope of women's rights;
- Prejudicial enforcement of laws favorable to women by police or gender biased judgments in the courts;
- Ignorance of the law and of law-making processes by women who tend to be unaware of their status, of the rights they do possess, of the effect the laws have on them, or the role they might play in changing the law.

Functioning as both legitimizer and as regulator, the law thus plays a critical role in maintaining sexual stratification and in shaping the inferior social and economic position of women in society. Perception of the manner in which the law functions as an instrument of control has become a keystone for the movement in discerning how to create strategic responses with the potential to transform gender biased social structures, processes and relations.

### *Legal Strategies and the Political Agenda*

A second powerful insight of the women's movement relates to the processes by which the law not only reflects but shapes fundamental social values. According to legal sociologists, Nader and Todd:

Law has many functions. It serves to educate, to punish, to protect private and public interests... to distribute scarce resources, to maintain the status quo, to maintain class systems and to cut across them, to integrate and dis-integrate societies—all these things in different places, at different times, with different weightings... Law may be a cause of crime; it plays, by virtue of its discretionary power, the role of definer of crime. It may encourage respect or disrespect for itself (1978, 1).

Since law can and does reflect the contradictions that exist among visions of the "ideal" society, it represents a "work in progress" as society struggles to define itself. Perceiving the law in monolithic terms is a way of empowering the law in a negative sense. Regarding it as sacrosanct and unapproachable is to imbue it with extraordinary and undeserved power and fail to recognize that in fact, the law is not a finished project, but it is the product of historical social processes.

Recognizing the law as a project of social endeavor is to perceive law making and adjudication in political terms, and to recognize why law can be both an instrument of social change and an obstacle to it. Understanding these dynamics led the women's movement to perceive the potential in using the law for creating new norms reflecting new values.

### *Strategies for Improving Women's Status*

Since the causes of women's inferior status and unequal gender relations are deeply rooted in history, religion, culture, in the psychology of the self, in laws and legal systems, and in political institutions and social attitudes, if the status and material conditions of women's lives is to change at all, the solutions must penetrate just as deeply. Solutions amount to more than a result, an end, a goal or an objective. A solution necessarily includes a method, a process or a strategy that is linked to the result or the end. The method and the outcome are integral and in many cases inseparable. Thus, the focus of the solution-strategies should include not only the immediate and specific problems confronting a given group of women and how they may be dealt with, but also the problems facing women on a structural level. The governing political and legal ideology, along with social mores and attitudes, fall within the category of "structural problems" that women face and they constitute the hidden agenda requiring change.

Unfortunately, in the history of recent women's initiatives, social change and the transformation of women's status and condition have been too often linked to objectives more compatible with patriarchal norms than to changing them. Many advocates targeted improving specific conditions of women's lives rather than the structures perpetuating their exploitation and domination. Social change was sometimes viewed only in tangible terms, yielding specific results and gains by way of wage increases, law reform or court battles, rather than in transformative terms.

### *Legal Rights Strategies*

Since law provides a framework within which to define and understand rights, social change strategies for women have often been debated, planned for and pursued in legalistic terms. Many social change initiatives adopted the "discourse



of rights" with its "faith in the *political efficiency and ethical sufficiency of law* as a principle of government" to bring about change (Scheingold, 1974, 17). Favoring the legal paradigm, these initiatives give preeminence to legislatures, courts, litigation, rules, and the leadership role played by lawyers. Identifying constitutional values with social justice, the framework of the rights discourse breaks down social problems into responsibilities and entitlements established under law to be dealt with accordingly. Such an approach places faith in lawyers and relies heavily on their representation, an attitude reinforced by the experience in recent constitutional "revolutions" of gains made through lawyers and the legal process.<sup>3</sup>

However, in recent years, the limits of the rights strategy has come under increased scrutiny and has been exposed for several inadequacies. On a practical level there is concern, for example, that where there are no laws to protect women, or where the laws are hostile to women, too much energy can be spent initiating favorable legislation and securing law reform. There is a tendency to view law reform and the creation of rational-legal codes as ends in themselves, but that once the laws have been enacted and the objective achieved, all else is forgotten. Little attention is given to the administration and implementation of those laws. Furthermore, even where there are clearly defined rights, the rights that could be pursued through the legal system are individualistic and formalistic. The ability to pursue a right through the court system presupposes some level of assertiveness or empowerment on the part of the individual. The majority of the marginalized and oppressed women do not know what levels of protection they enjoy at law, and even if they do have this knowledge they are unable to activate the legal system on their behalf. They may lack the financial resources needed to pursue their rights through formal fora such as the courts of law; distances and communication may be a problem; or they may be culturally entrapped and fear the social consequences of aggressively pursuing their rights. To understand why women do not pursue their rights thus requires a holistic understanding of their circumstances. While lack of information or knowledge of their rights may play a significant role, it is by no means the complete explanation; nor is the economic factor or the lack of accessibility to legal resources. But together these factors combine to present a formidable barrier.

On a conceptual level the pursuit of rights as a primary or sole strategy must be critiqued as a myth that incorrectly links litigation, rights and remedies with social change. As Scheingold points out, the rights discourse provides a legal frame of reference which obscures or tunnels the vision of both activists and analysts, leading to an oversimplified approach to a complex social process. It is an approach that grossly exaggerates the role that lawyers and litigation can play in a strategy for change. The myth of rights or the rights discourse assumes that litigation can evoke a declaration from the courts; that the declaration can be used to assure the realization of those rights, and that the realization of rights is tantamount to meaningful change.

He also points out that the problems associated with a "litigation-inspired" model of rights redress are many. Judges cannot be counted on to formulate a right to fit all worthwhile social goals. Their own ideological predispositions may preclude them from doing so. Furthermore, there is no guarantee that a judicial remedy exists for every right. Since rights and remedies amount to a test of wills and resources between the parties to a suit, they are not directly assimilable to a program of social action. This approach has the additional disadvantage of reducing major political conflicts into a mere dispute between two parties at a given time, thereby neutralizing what should be a stirring issue. In fact it amounts to a no-win situation, for victory in litigation may be purely symbolic, providing instant gratification but diverting attention away from the forces which sustain the status quo; whereas courtroom losses can be crippling both in terms of finances and morale. By and large the "rights discourse" draws and maintains an elusive distinction between law and politics.

More importantly, the litigation-inspired strategy can amount to a major distraction to the process of political organization. Lawyers have a natural inclination to think of litigation as a self-contained objective, a "target of opportunity." This method detracts from a careful sorting out of priorities as they relate to long-range goals. Unless the "limits of the law" and the "myth of rights" is well understood, the rights discourse may ramble on, losing the woods (the empowerment of women and change for women) for the trees (singular achievements in law reform, or success in litigation).

### *Rights as a Political Resource*

However, this critique of the rights discourse is not to say that rights have no relevance to a theory of social change for women. Rights, laws, legality and even the role of lawyers have an important role to play, but within a *political* perspective on social change. Since the character of law, as well the opportunities for using law as a strategy are linked to the character of the state, the need for a political perspective in developing legal strategies becomes critical. Only a political understanding can locate the patriarchal, class and ethnic biases in the law in a specific context. Only a political understanding can guide the design of strategies that use law as a resource and not as an end in itself. It is only through a political approach that legal struggles can be placed in the context of larger issues of social justice and transformative change. Particularly relevant in this context is the admonition of Brenda Cossman:

Long term political objectives, as developed by the social movement must not be lost to the shorter term objectives of litigation strategies. Without such linkages, we run the risk of both isolating and reifying the struggles in the legal forum. There is, moreover, the constant danger that the social movement will itself become legalized, its agenda will be set by lawyers and individual plaintiffs rather than by the women organized as a collective political force, and the effect may well be demobilization rather than mobilization (1991).

Only a political understanding of rights as fluid resources and not as a finished product and a social fact, will overcome the shortcomings of the "myth" of rights. Law and rights become a powerful tool for social change when viewed as *goals of public policy* and as *political resources* in the hands of those who want to alter the course of public policy. "The direct linking of rights, remedies, and change that characterizes the *myth of rights* must...be exchanged for a more complex framework, the *politics of rights*, which take into account the contingent nature of rights..." (Scheingold, 7) From this perspective, the value of a right depends less on its inherent sanctity than on the circumstances and the manner in which it is employed.

Tapping into perceptions of entitlements associated with rights can nurture political mobilization leading to social

change at two points: in the process of defining rights and in the process of defending the rights. It is this perspective on rights that makes litigation and law reform strategies relevant and provides the justification for educational and legal literacy strategies. When people see themselves as entitled to rights, they cease to sublimate themselves and their grievances and begin to seek redress. Entitlements contribute to enhancing self-esteem. Deprivations that were endured as a symptom of personal or collective inadequacy are viewed differently. When groups acquire words with which to express and legitimize demands they begin to tap into and build their own political power. On the one hand "the general character of legal enactments can lay the basis for a collective political identity, since the entitlements provide a joint stake and the deprivations a mutual cause" (Scheingold, 136-137), but in another sense, political identity can also be built in the process of defining the right and pressing for its legal enactment.

Once it is recognized that rights are political tools, it becomes equally clear that the assertion of rights is a political act. The rights discourse then becomes transformed into a political discourse and rights then become anchored less within the legal paradigm than within the politics of social change. The tools that flesh out the legal paradigm—laws and litigation—are recognized as tools more useful in fomenting change when used as agents or strategies of political mobilization than when they are used in the more conventional way for asserting and realizing specific rights. The politics of rights involves the artful management of rights, as much as their achievement.

### *Gender, Law, and the Political Agenda*

In the Third World, the idea of using the law as a political tool coincided with the focus on women's participation in development stimulated by the UN Decade for Women. The women's movement realized that law, law-making and law enforcement needed to be "democratized" in the sense of taking them out of the reified realm of the untouchable and inaccessible and putting them into the political realm to be shaped and reordered through organized political endeavor.

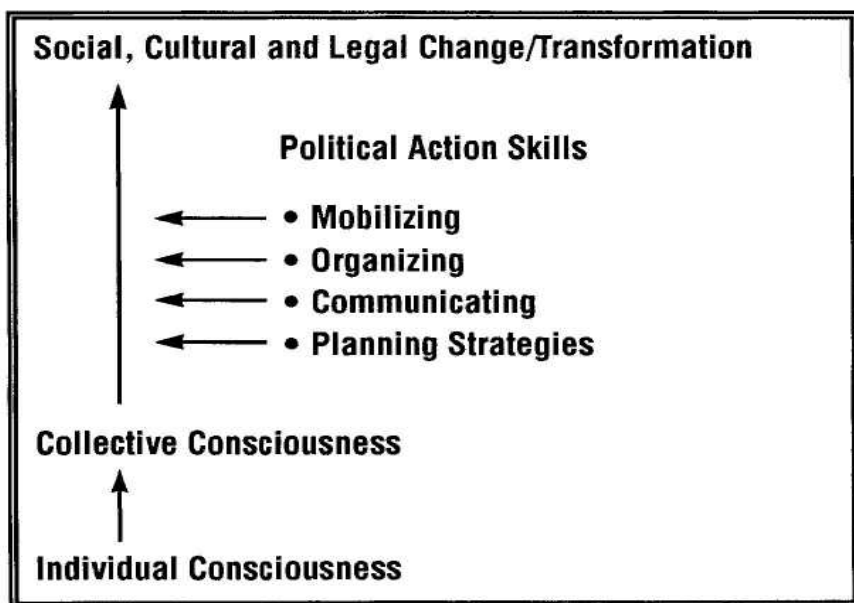
Legal strategies (that is, strategies that engage the legal system in some way) have come to form part of a political agenda to improve women's status. These strategies target either the

law's substance (the content of the law), structure (the courts, enforcement and administrative agencies of the state), or culture (the shared social attitudes and behaviors sustaining the law).<sup>4</sup> Where the *content of the law* is discriminatory or unjust, the remedy requires changing, abolishing or creating new laws and policies. Where the *structures of the system* are the major problem in achieving access to justice, the strategy must challenge and change institutions (courts, police, etc.) through activities such as formal legal representation, counsel and advocacy in various forms. Finally, since inadequate, gender biased and unjust legislative formulations, law enforcement, and adjudication mechanisms reflect underlying social values, changes at those levels require confronting the cultural ground upon which the system rests. In practice, no changes can be effected at the substantive or structural levels without strategic educational inputs.

In the context of actions to press for more adequate laws and policies, women gained a clearer understanding of the importance of approaching the law in a *political* way. Developing the capacity to effect or influence the formulation and application of law and policies within the courts, the legislative and administrative bodies of the state meant mobilizing the population to understand the social, political, cultural and psychological dimensions of women's oppression and to take effective collective action for change. Approaching the articulation of legal strategies from this political perspective meant going beyond merely placing increased *numbers* of women at policy making levels or focusing exclusively on the "Three Ls": lobbying, legislation, and litigation. It has become clear that effective work at public policy levels must be accompanied by organizing, consciousness raising and skill development at the grassroots. On the other hand mobilization at the grassroots alone is not sufficient to change the system either. Achieving effective change requires action and presence at all levels along the continuum, from the grassroots to the highest policy levels.

The idea of democratizing law-making and public policy work was accompanied by a recognition that the exercise and practice of the law by professionals also needed to be democratized. This led to the development of the concept of "alternative law" and "alternative lawyering," which searched for ways to make technical legal information and services accessible to

women of disadvantaged social groups and the popular sectors. Many local initiatives drew inspiration from the legal resources approach to services, and the concept of the community "paralegal," "adviser," "promoter," etc. began to the surface.<sup>5</sup> Developing community people as a "multiplier" factor with regard to the exercise of the legal rights, "deprofessionalizing" the legal profession, and proving that ordinary people can participate responsibly in exercising the law also became part of the politics of law.



Margaret Schuler

### *Legal Literacy and the Political Process*

A woman jurist wrote in 1981 with reference to India: Women's status is determined only in part by 'law'. Social conditions, the values of a masculine culture, religion, [and] economic imbalances are very important extra legal factors that shape attitudes that determine status. What is needed to improve the status of women in India is not a constitutional battle... Instead there is an urgent need for a powerful social movement (Jethmalani, 14).

The call for an assessment of the context in which changes are sought implicitly recognizes the importance of developing women's critical and political capacities. To the degree that



women learn to “read” (i.e., understand, assert or critique and redefine) the cultural values and social norms embodied in the law, their authentic participation in the sociolegal and political process will be realized. Legal literacy can play an important role in bringing this about. However, to do so legal literacy must take as its point of departure an analysis of where women are vis-à-vis the system and where the system stands with regard to women. The agents of legal literacy need to understand women’s isolation and alienation from the system as well as the limits of the law as defined and practiced. Legal literacy must move beyond equating political participation with voting, and citizenship with national identity and patriotism (Dasso & Montaña, 1991). Legal literacy must transcend the naive view that because constitutions give women the right to vote, the system is functional to women. It must overcome the mistaken notion that to participate, the only thing women need is information about their rights, and that if they assert their rights they have become full citizens. To be effective, legal literacy’s proponents must view social change and the transformation of unjust power relations as *imperatives* of the democratic process, and that women must be key players in deciding the changes to be made. Legal literacy must recognize that in addition to knowing what the law says, women need to develop the skills that allow them to participate fully in *defining* their rights, not just asserting them. Such a strategy recognizes that to do so, women not only need to understand the issues, but to develop the skills to articulate alternatives and mobilize resources to press for effective change. Thus, legal literacy is only justified if it is a process of self and social empowerment that moves women not only to activate the rights they do have, but to redefine and reshape the inadequate ones as expressed in law and in practice.

### ***Empowerment***

To understand legal literacy as a process of self and social empowerment, it is useful to examine for a moment the meaning and dynamics of empowerment. The term *empowerment* is another of those appealing but slippery terms that lend themselves to multiple, sometimes contradictory, meanings. The literature of women’s empowerment, if such can be said to exist, does not confine itself to a single discipline or paradigm.

Empowerment draws on individual psychology, anthropology, political science and economics for theoretical grounding. The literature that deals with empowerment directly—particularly women's studies, popular education and women in development studies—rarely offers a complete or precise definition. In the context of legal literacy, however, it is important to clarify what we mean by empowerment, since it is central to the concept of critical legal literacy. Three sources contribute useful elements for conceptualizing legal literacy as facilitating the empowerment process.

Bookman and Morgen (1988) use the terms to “connote a spectrum of political activity ranging from acts of individual resistance to mass political mobilizations that challenge the basic power relations in our society.” In the context of rethinking women and politics from the perspective of working class women in the United States, they draw on the literature of “power as social relations” (Gramsci, 1971; Foucault, 1980) to establish a framework for understanding women's empowerment:

Power is not only understood as something groups or individuals *have*; rather it is a social relationship between groups that determines access to, use of, and control over the basic material and ideological resources in society (4).

Within this framework, they define the term specifically as “a *process* aimed at consolidating, maintaining, or changing the nature and distribution of power in a particular cultural context” (4). This definition reflects a view of empowerment as essentially a *collective* process, while acknowledging individual acts of resistance. Bookman and Morgen's critical insight relevant to legal literacy is about the political character of empowerment as a process in which women are engaged in challenging and changing social power relations.

Taking a different approach in their study on the social and behavioral manifestations of empowerment,<sup>6</sup> Sidney Schuler and Sayed Hashemi (1991) began with a definition of empowerment as “a process through which women increase their ability to shape their own lives and environment; an evolvment in women's self awareness, status, and efficiency in social interactions (4). Their study, still in progress, seeks to validate the assumption that participation in credit programs leads to empowerment and that empowered women are better



equipped to control their environment and make decisions that lead to improved quality of life, particularly in reproductive health. Using literature reviews and key informant interviews from Bangladesh, they constructed a list of "manifestations" of women's empowerment. Grameen Bank and BRAC (Bangladesh Rural Advancement Committee) program directors, field staff, and women participants were asked to identify the changes that indicated to them that women were empowered. From the list of manifestations came a set of six general categories or aspects of empowerment:

1. *Sense of security and vision of a future*—related to planning for the future.
2. *Ability to earn a living*—related to participation in credit programs and increased control over income they earn.
3. *Ability to act effectively in the public sphere*—manifest in participation in credit and microenterprise programs and in seeking access to health and other services.
4. *Increased decision making power in the household*—related to income, health, and reproductive decisions.
5. *Participation in nonfamily groups*—using solidarity groups as sources of information and support.
6. *Mobility and visibility in the community*—manifest in women's participation in solidarity groups, use of credit, etc.

The study identifies two program features that most significantly contributed to empowerment. One was women's required participation in "solidarity" groups, and the other factor was the new opportunity for earning cash income the programs provided. These two factors—participation in solidarity groups and increased earning capacity—were considered important because they contributed to changes that are essential to women's taking action and effecting a change in gender relations, namely, women's enhanced self-perception and self-esteem and their strengthened bargaining power within the family.

Stromquist (1988) analyzes empowerment in terms of three components (cognitive, psychological, and economic) considered essential to its development. The cognitive refers to women's understanding of the conditions and causes of

subordination. The psychological relates to the development of feelings, such as self-esteem and self-confidence, that are prerequisites for women to take action to improve their conditions. The economic refers to the ability of women to engage in some productive activity that offers a measure of economic independence and improved status. The mix of knowledge and skills that women need to be able to alter their situation are of three types, according to Stromquist: reproductive, productive, and emancipatory (11). Women's reproductive and domestic burdens need to be lessened and their financial autonomy increased. However, neither of these factors is sufficient to change women's situation unless they also realize that they live under conditions of subordination and must develop the skills needed to change them.

Stromquist juxtaposes empowerment to participation and consciousness-raising. In her view, empowerment combines and moves beyond both consciousness raising, (which she defines as "developing a critical mind of the micro and macro reality of an individual") and participation (political involvement identified with the vote). While not everyone would define consciousness-raising and participation so narrowly, Stromquist's main point about empowerment is well taken. It means that "individuals not only understand their society and the place they currently have in it, but undertake efforts to modify social relations" (12).

Each of these approaches to empowerment highlight important aspects that taken together yield a useful framework for understanding empowerment.

1. Empowerment is essentially a *process*. However, there are two aspects of process that need to be distinguished. One aspect covers the *actions* involved in confronting and changing unequal power relations, particularly gender relations. Another aspect of the process relates to *acquiring the capacity* (psychological readiness, social analysis, organizational skills) needed to take action.
2. Empowerment has both individual and collective dimensions. Through group involvement with others of similar interests, women begin to make changes in attitude and perspective and develop the organization and mobilization capacity needed to take effective action.

3. Empowerment produces certain outcomes, that is, new ways of acting and relating that imply changes in women's social and economic roles and reflect changes in women's view of themselves and the world.

Thus, empowerment could be viewed as a process for acquiring the psychological and social capacities needed to effect changes in social relations. These capacities range along a continuum from individual awareness to collective political action skills. As a tool for empowerment, legal literacy has a role to play at various points along this continuum.

### **Legal Literacy as Transformative Learning**

In this book, legal literacy has been approached as part of a social change strategy in which it functions as a process that empowers people, personally and socially, to participate in creating their society. It is important now to focus on the process itself and explore the workings and mechanisms that move people to become sufficiently motivated intellectually and emotionally to participate in shaping their society. It is clear that women will not be able to assert rights as long as they see themselves as inferior, no matter how much information about their rights is available. Thus, it is important to know by what means women stop accepting prejudicial treatment as the norm and start to make decisions that contribute to changing those norms in both daily experience and in the law.

If women are to engage positively and effectively in assessing the cultural and legal frameworks that determine status, if they are to participate constructively in making changes in the way social and gender roles and relations are defined, if they are to benefit from the changes that have been made, new consciousness and new skills are needed. Acquiring a new consciousness and skills means transforming old understandings about the world and oneself and developing new understandings and new ways of relating.

Formative learning in childhood, which occurs through socialization and schooling, equips people with their initial frameworks for interpreting the world and their own experiences.<sup>7</sup> Throughout life, culture conspires to maintain those frameworks and related social institutions as the only viable

option for seeing and relating to the world. However, continuing to take these frameworks for granted and to accept unquestioningly the sources of authority that define norms of behavior, social status, role, interaction, etc., becomes counterproductive in adulthood—at worst perpetuating oppressive relations, and at best stifling growth, creativity, and full human potential. While some of culture's definitions are valid and need to be reaffirmed, others need to be challenged. It is only by critically examining culturally defined paradigms assimilated through socialization that new, transformed ways of seeing and relating to the world are created. Developing new ways of seeing and acting requires reformulating old interpretive frameworks by assessing the validity of the assumptions sustaining them (Mezirow, 1991). For women, this implies recognizing culturally-given gender roles and stereotypes, evaluating their supportive rationale, and moving to affirm more valid ways of defining gender differences, of acting and relating. Since societies traditionally define women as second class citizens, the property of some male protector, women will not become full citizens until they recognize accepted gender disparities and question their validity. If women do not have the opportunity, or fail to do so, not only will they remain trapped by the oppression of the stereotype, but they become the unconscious agents of their perpetuation, passing on their own internalized acceptance of their role to the next generation.

Understanding the dynamic of transformative, liberative learning for women is essential to developing a framework for legal literacy. The work of Paulo Freire provides an important source for this understanding, concerned as it is with the processes by which the oppressed became liberated from the structural constraints that limit social, intellectual and political participation.<sup>8</sup> Freire, who saw education "as the practice of freedom," made important theoretical and methodological contributions about how consciousness is transformed.

### ***Conscientization: The Development of Critical Consciousness***

Freire (1973) defines a hierarchy of consciousness that distinguishes between an unreflective way of confronting the world and a "critical" vision of the world. The person with

unreflective consciousness is "person as object" without the ability to make choices, subjugated to the choices of others. At the other end of the consciousness continuum in Freire's scheme is critical consciousness, characterized by total engagement with reality, participation in the creative dimension, capacity to make choices and transform reality. This is the "person as subject," maker of history and culture. The difference between the two is the ability to objectify reality and know it in a critical way (Freire, 1970, 36). The process of moving from one kind of consciousness and action to the other is what Freire calls "conscientization" (*conscientização* in Portuguese).

Conscientization includes both critical reflection and transformative action. Critical reflection is the mechanism for developing an "awakened consciousness," a change of mentality implying an objective, realistic awareness of one's insertion in nature and society; the capacity to analyze critically the causes and consequences of social relations, and finally, action aimed at transformation. Conscientization, however, "implies more than overcoming false consciousness, it means critical insertion into a demythologized reality" (1970, 47). It is a process of developing a genuine theory rooted in some historical struggle.

Freire saw that the modes of consciousness are historically and culturally conditioned by social structures. Closed societies produce consciousness lacking in structural perception. The result is the "culture of silence" in which the dominated remain passive and submerged with a fatalistic perception of their situation. When openings are produced in closed societies through economic, ideological or political challenges, changes in consciousness also occur and people become able to move toward creative autonomy. To maintain their legitimacy, closed societies use tradition, religion, culture, and law to formulate ideological frameworks that are difficult for their members to question.

With regard to gender, for example, closed societies use the public/private dichotomy as a cornerstone of an ideology supported by law, religion and culture, to justify control of women's mobility, sexuality, productive and reproductive capacities. Even in so-called open societies, there are closed enclaves when it comes to gender issues. The closed society, unquestioned ideology, and the "culture of silence" go

hand-in-hand. In this context, legal literacy must be aimed at breaking the culture of silence among women.

Integral to conscientization is a "radical denunciation of dehumanizing structures accompanied by the proclamation of a new reality to be created" (1970, 46). Thus, conscientization needs to be rooted in some historical struggle leading to a utopian vision and a genuine theory.

The educational process that produces the critical capacity of people grows out of dialogue about meaningful situations in their lives. Rejecting the form of education in which the teacher or authority figure has the answers and the learners are recipients of the knowledge, a basic tenant of the Freirean concept of "critical education" is that both the "educator" (coordinator, facilitator, etc.) and participants join in a common search for truth about relevant problems. Together they search to understand the meaning of living in a changing society. Learning is accompanied by a process of probing "the ambience of reality, objectifying it, analyzing it (Freire, 1974, 25). There is a distinct role for the educator in the group, however. As the participants analyze the situation, the educator challenges them "to penetrate the significance of the thematic content with which they are confronted," but does not tell them what they know or should know (48).

There are several methodological implications for promoting critical consciousness. The learning context is the group and dialogue the medium. The subject matter is the real life situation and problems of the group members, who analyze themes closely related to their reality. Dialogue is stimulated through visual images or other forms of representation that function as "coded" problem situations. "De-coding, as an act of knowing, allows them to 'enter into' their own prior perceptions of their reality" (1973, 161).

At the heart of conscientization is the concept of "problematizing" reality; that is, analyzing a real life situation in the broader social context. The codification/decodification method provides a powerful tool for exploring a problem and analyzing it, and understanding its micro and macro causes. Although the educational process may begin before a person even recognizes the existence of a problem, the development of critical consciousness starts with the recognition of the problem and moves on from there to analysis and then to



action and organization. In a study of the conscientization process in several poor urban communities of Lima, Peru, Barndt (1980)<sup>9</sup> identified seven stages in which critical consciousness emerges (pp. 189-201). Using photographs of "codified" problem situations related to the experience of participants in a literacy program, the study identified a developmental progression of critical awareness.

1. *Description*: When confronted with the situation, the first response is descriptive, without analysis.
2. *Personal Association*: Internalization begins with a personal association of participant's experience.
3. *Social Relations*: Here there is a jump from seeing the issue only in personal terms and recognizing it as experienced by others. (When asked who knows more about the problems in the community, the teacher or the women, one woman responded: "The women. They suffer; they live the problems." [p. 200])
4. *Contrasts/Contradictions*: Now begins confrontation of the issues and analyzing causes more explicitly ("We survived on the farm, how we worked for food in the sierra. But here it costs money, you have to buy it.")
6. *Exploration of Alternative Solutions*: Beyond explanation of the problem is the attempt to explore solutions, to discover what is possible in confronting a problem and changing conditions.
7. *Critical Action*: Taking action on the problem is where critical consciousness is most effectively developed. In trying to transform reality people learn most effectively about the constraints and possibilities of their own situation. At this point "dialogue is no longer abstract, but deeply grounded in actions taken or observed" (203).

### ***Feminist Consciousness-Raising***

Feminist consciousness-raising, developed in the early stages of the "women's liberation movement" in the 1960s and 1970s, demonstrated the power of the conscientization process in both personal and political terms. In the process of reevaluating and reinterpreting their own experience, women began to understand and act against their own oppression (Hart, 1991). In coming together to share their experiences, women realized that what most people accepted as characteristically

"female" behavior was in fact a culturally defined role. They also realized that personal problems had "a social cause and probably a political solution" (Hole & Levine, 1971, 125). These new insights solidified into a powerful new collective understanding about the detrimental consequences of the "public/private" ideology in women's daily lives. Taking as its slogan, "the Personal Is Political," the movement simultaneously challenged the trivialization of women's issues and called into question what was legitimately considered "political."

Two principles governed the methods and procedures of consciousness-raising. First, discussion topics were derived from concrete experience, and second, they had to contribute to illuminating female oppression (Hart, 1991, 53). The issues discussed covered topics such as motherhood, childcare, housework, and jobs. Through the medium of the group, perceptual changes in the way women saw their lives and its meaning began to unfold. "Through a process of mutual self reflection women's experiences became de-privatized; each individual woman's life became meaningful for herself because it became meaningful within the larger context of women's oppression." (56). Through this process, women's issues were able to transcend the realm of the private and become issues of public concern (Schechter, 1982).

If the "personal" was important as a starting point, it was also important that the process not remain at the level of experience, but move on to analysis in order to formulate new explanations and visions for the future. In writing about consciousness-raising as a form of transformative learning, Hart describes the three essential components of feminist consciousness-raising: "an analysis of sexual oppression, a grounding of this analysis in everyday experience, and a structure of analysis that calls for a reciprocal, interactive relationship among knowers who are linked by common experiences" (48).

### *Methodological Implications*

These ideas about conscientization, consciousness raising and critical consciousness provide the foundation for a dynamic and effective approach to legal literacy. However, they can easily be misunderstood or misinterpreted with the result that the practice of education misses the point entirely. Here is a word of caution about several key problem areas.



*Participatory process and learning content:* The process must actively engage the participants as a necessary condition for learning to occur. However, "group dynamics" and games are not equivalent to participatory education. What is needed is dialogue and interaction within the group about the theme or issue being developed. But participatory education is not an end in itself. The content also contributes to participation in the broader sense and to developing skills leading to more self-confident decision making and political action. It is not just a question of participatory education, but education for participation as well.

*Problem posing method:* This is not the same as problem solving, in which there is an assumed answer. Using photographs or drawings to reinforce the content (answers) is not the same as using them to provoke dialogue so that the participants explore their deeper meaning and significance to their lives. Only in this way will information be incorporated into a broader analytical framework rather than simply committed to memory.

*Analysis:* This is the most important aspect of conscientization, i.e., developing the capacity to see problems in the broader social context; objectifying them to understand their causes and to develop solutions. Without this, no real conscientization has taken place, even though the participants may be able to repeat political slogans or someone else's analysis. For women, it means understanding their condition as the result of social and historical processes and knowing that they can contribute to changing the definitions of gender, social roles, etc. through both organized political action and by making changes in the praxis of their daily lives.

*Action:* Conscientization is not just overcoming false consciousness, but "insertion into a demythologized reality." This has important implications for action. Having begun to recognize oppression (breaking the culture of silence) does not mean that people automatically move toward social transformation based in authentic, democratic and productive action. It is possible to substitute one set of myths for another and for "fanaticized" consciousness to take hold (Freire, 1970, 1973). This is often seen, for example, in ethnic revivalism. After breaking the culture of silence and recognizing their objective oppression, groups sometimes develop solutions that are based on the oppression of other groups and usually their women, all in the name of overcoming their own oppression through

solidarity which requires reinforcing their ethnic or religious identity. This is also seen in political mobilizing where people are herded into simplistic analyzes and solutions that do not represent authentic responses their needs. It is done in the name of populism, yet the constituents have not participated in shaping either the analysis or the solutions.

*The role of the "educator":* In Freire's writings the role of the educator is an essential part of the conscientization process. However, it also appears to contain an inherent tension; the "educator as participant and learner" who "enters into" and discovers new dimensions of social reality is also the "educator as guide," "leader," the one who challenges. In the context of literacy, Freire describes the educator's role as fundamentally one of entering into dialogue with the learners about concrete situations and offering the instruments with which they can teach themselves to read and write (48). From this it is clear that the educator's role is not merely passive, as she or he must "offer the instruments." Nor is it the ultimate factor, as the learners must "teach themselves" to read and write. For Freire, it is in dialogue that the educator integrates the learner/leader roles. The validity of an educator's specific contribution to the process will be found in how he or she resolves the tension between the two roles and avoids the traps of either "giving the answers" or providing no guidance at all.

### **Putting it All Together: Legal Literacy, a Tool for Empowerment**

Reiterating the original definition offered of legal literacy, it is affirmed to be:

the process of acquiring:  
critical awareness about rights and the law,  
the ability to assert rights, and  
the capacity to mobilize for change.

The first important concept underlying this definition is that of "empowerment," a process aimed at transforming social relations and requiring the development of psychological, cognitive, social and political capacities in order to take effective action for change. Within this perspective, legal literacy becomes personally and collectively empowering to women when it fosters *understanding* of women's oppression as expressed in law, and their

*capacity to take action* to transform the social relations that maintain it. Because it is a vital prerequisite to become fully engaged socially and politically, the first imperative of legal literacy is to promote the development of critical consciousness in women as part of the analytical and action oriented capacities and skills needed to take action for change.

In the context of creating and defending rights, legal literacy plays an overt political role in this process at several critical points. A "women's rights strategy" is viable and dynamic only if it is grounded in a political understanding of the problem as well as the solution. If laws are inadequate or oppressive, if the application of laws are biased against women, and if rights are inaccessible because of misinformation or lack of information, then certain actions must be taken to remedy the negative effects these problems have on women's lives. Law and rights must be redefined and the process by which they are defined opened up and democratized. The structures of the system must be exposed, challenged and required to be responsive to gender issues. Lack of awareness and misinformation must be rectified by making laws, rights and the functioning of the system intelligible, understandable and usable.

In order for women to become active agents in effecting these remedies, they must acquire certain critical and analytical capacities as well as skills geared toward political action. Understanding the causes and mechanisms of women's oppression and taking action for change requires more than *information*. A woman in an urban shanty town of Lima or a rural village in Uganda who is in an abusive relationship she believes to be "God's will," will benefit little from a pamphlet that tells her that the law gives her certain rights in marriage, unless there is also some way for her to recognize and articulate her own personal oppression. For the information to be of value to her it requires a process of critical reflection and assessment of the relevancy of the information to her life. Understanding the cultural and legal constraints that limit women's rights and ability to participate fully in society requires more than *critical awareness* of oppression by them. It is not enough for a women who has suffered a rape and then discovers that she will find no remedy in the law, to develop a critique of the limits of the law if this critique only serves to oppress further with its inevitability. Unless there is some way

to understand her violation in broader collective and political terms and to channel her frustration toward some positive action, her consciousness of the limits of the law could lead her to nothing more than a bitter acceptance of her lot.

In this process of developing the critical analytical capacities and action skills, legal literacy can play an important and vital role. But the legal literacy that is needed is not just about disseminating information, it is about developing capacities in women that allow them to use the law and rights as a political resource and to gain the skill and power needed to effect positive social change within the family and the broader cultural, social, and political community. In the context of what we are calling a cultural politics of rights, legal literacy is a process to empower women by promoting their ability to participate fully in assessing and reshaping the cultural and legal frameworks that determine how status, rights and gender are defined in law and in practice. Legal literacy does this through educational processes that develop the knowledge and skills women need to participate politically in transforming the conditions of their lives. The kind of knowledge and skills needed cover a range—beginning with critical consciousness about gender roles and status, and legal rights and lack of them—to ability to make choices about what can be changed and how to change it.

<b>LEGAL LITERACY IS AN EDUCATIONAL PROCESS TO</b>	
<b>Promote capacities to:</b>	<b>by developing knowledge and skills about:</b>
<ul style="list-style-type: none"> <li>• <b>critically assess the law and meaning of rights</b></li> </ul>	<ul style="list-style-type: none"> <li>✓ Gender roles and status and how the law defines them</li> <li>✓ The meaning of fundamental rights, the content of specific laws and their relevancy to life</li> </ul>
<ul style="list-style-type: none"> <li>• <b>assert rights</b></li> </ul>	<ul style="list-style-type: none"> <li>✓ The content and relevancy of laws</li> <li>✓ How to exercise the rights defined (where to go, what to do)</li> <li>✓ How to get moral and technical support</li> </ul>
<ul style="list-style-type: none"> <li>• <b>mobilize for change</b></li> </ul>	<ul style="list-style-type: none"> <li>✓ What needs to be changed</li> <li>✓ How and where to participate in actions for change</li> <li>✓ Organizing, strategizing, communicating</li> </ul>

## GENDER AND THE LIMITS OF THE LAW

The Problem	Effects on Women
<ul style="list-style-type: none"> <li>■ <b>Laws and Policies are:</b> <ul style="list-style-type: none"> <li>• <i>Inadequate</i></li> <li>• <i>Discriminatory</i></li> <li>• <i>Unjust</i></li> </ul> </li> <li>■ <b>Adequate Laws and Policies are not applied or enforcement by police and courts is:</b> <ul style="list-style-type: none"> <li>• <i>Inadequate</i></li> <li>• <i>Unjust</i></li> <li>• <i>Discriminatory</i></li> </ul> </li> <li>■ <b>Rights defined by law are not accessible because of:</b> <ul style="list-style-type: none"> <li>• <i>lack of information/promulgation by the state;</i></li> <li>• <i>contradictory messages about meaning of the law from the police, the courts, other agents of the state;</i></li> <li>• <i>contradictory social beliefs and practices;</i></li> <li>• <i>lack of knowledge, skill and motivation needed to assert rights and to confront the unfriendly system.</i></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>■ Unequal definition of gender roles in the law makes women more:           <ul style="list-style-type: none"> <li>• vulnerable to violence;</li> <li>• likely to be denied economic, health and other social rights and benefits;</li> <li>• marginalized politically.</li> </ul> </li> <li>■ Unjust application of the law permits           <ul style="list-style-type: none"> <li>• violation of women's rights to be the "norm," reinforcing women's subordinate status;</li> <li>• the state to violate rights defined by law and international agreement with little accountability;</li> <li>• adverse effects on women's social, economic and political status as above.</li> </ul> </li> <li>■ Through lack of knowledge and misinformation women are:           <ul style="list-style-type: none"> <li>• marginalized from the mechanisms and processes by which society defines and defends legitimate interests;</li> <li>• adversely affected in their social, economic and political status as above.</li> </ul> </li> </ul>

<b>TAKING ACTION FOR CHANGE</b>	
<b>The Remedy</b>	<b>Requirements</b>
<p><b>SELF and SOCIAL empowerment of women to take action for change:</b></p> <p><b>LAWS:</b></p> <ul style="list-style-type: none"> <li>• <i>Redefining rights and the concept of gender in the law and in practice.</i></li> <li>• <i>Democratizing law-making processes.</i></li> </ul> <p><b>APPLICATION of the law:</b></p> <ul style="list-style-type: none"> <li>• <i>Exposing, challenging the inadequacies of the legal system (courts, police, etc.)</i></li> <li>• <i>Requiring system to be accountable and responsive to women and to gender issues.</i></li> </ul> <p><b>EXERCISE of rights:</b></p> <ul style="list-style-type: none"> <li>• <i>Demystifying the system, making it intelligible, understandable, and usable.</i></li> <li>• <i>Developing self and social advocacy strategies.</i></li> </ul>	<p><i>Critical and analytical skills</i></p> <ul style="list-style-type: none"> <li>• Awareness and assessment of the validity of socially defined gender (and other relations) and their expression in law.</li> <li>• Recognition that the law and culture are not immutable, but do and must change to remain vital.</li> <li>• Articulating the meaning of law in everyday life and knowing when to use, change or challenge it.</li> <li>• Developing the self confidence and commitment needed to take action for change.</li> <li>• Understanding basic rights, procedures of the system</li> </ul> <p><i>Skills for action</i>—being able to:</p> <ul style="list-style-type: none"> <li>• Access the resources needed to assert rights.</li> <li>• Assert rights through the legal system when appropriate</li> <li>• Make the legal and political system functional to the interests of women.</li> <li>• Make gender an issue of broad social and political interest.</li> <li>• Design and carry out strategies for social change.</li> <li>• Organize and mobilize for action.</li> </ul>

## Legal Literacy in Practice

### *Education and the Gender-Focused Rights Strategy*

A comprehensive gender-focused political strategy of rights includes educational interventions that target many groups and institutions having a bearing on the definition and exercise of women's rights. The cornerstone of such a strategy is direct, primary legal literacy carried out with women whose living circumstances and opportunities have prevented them from understanding and taking action related to the extent and limitations of their status and rights. From the perspective of the broader rights strategy outlined in this paper, it is important to consider the other types of legal education, the groups to whom they are directed, and how they relate or have an impact on direct legal literacy for women. In general there are three distinct educational levels that should be distinguished. The purpose, content and format required for each varies accordingly. The chart on page 56 graphically summarizes the differences.

#### *The Public*

At the first level is the public "at large." The values people assimilate come largely through the family, school, religion, and other easily identified institutions concerned with the preservation of culture. The communications media, (newspapers, radio, television, film, etc.) plays an essential role in passing on culturally rooted values about gender, legality, justice, rights, etc. and in raising issues for public consideration. Thus, any strategy that targets changing values, beliefs and norms of behavior must consider how to influence the messages that pass through the media. Sometimes the message can be general, such as "women's rights are human rights"—a message gaining resonance with the public in many countries. Through decades of human rights monitoring and reporting many people now understand that a core of fundamental, inalienable rights exist—whether or not they know the exact content of their constitutions or the Universal Declaration of Human Rights.<sup>10</sup> In this instance, the media can play a key role in moving the public to take the next step and to begin to see women's rights in this light. At other times the issues and the message are more specific, as in raising public clamor about the



incidence of rape or violence against women in the community. Where legislative change is required, it is often essential to use the media to gain public support for specific issues. Disseminating simple information through the media is also useful if the conditions and the motivation exist for women to make the connection between the information presented and their real life situation and needs. For example, the success of "hotlines" in some places depended not only on the media's getting the message out, but on a growing awareness among women that they did not have to suffer abuse in silence, and thus responded to a perceived problem. "Get out the vote" campaigns are not successful if they only give information about times, places and candidates. Unless citizens are personally motivated to vote, the information will make no difference in their decision on whether or not to vote.

### *The "Community"*

At the next level is the "community," where people no longer exist "in general" but have names and faces, participate in economic, social, and cultural groupings, and can be directly reached. This is where legal literacy "proper" is located and where most programs need to be rooted. In contrast to the goal of public education (general information and influencing public opinion), the goal of community legal literacy programs is empowerment.

Targeted primarily to women, community-based legal literacy programs ideally seek to develop women's understanding about rights and themselves as subject of rights. Only in this way can rights become a political resource. The purpose of direct legal literacy is also to develop women's functional understanding about the system; that is, specific laws and procedures, so that they will be able to take an active role in asserting their rights, demanding justice and confronting the system. This is where transformative learning takes place, where critical consciousness is developed, and other skills generated. This is primarily where legal literacy becomes a tool for women's empowerment. Essentially, community-based legal literacy programs work on developing the analytical and political skills women need to participate in taking action for change. They also target the wider community within which women live, especially the men. Grassroots women are very aware that



men also need to understand and respect women as subjects of rights! (Butegwa).

### ***Legal "Professionals"***

The final general category of educational interventions is geared toward the "professional" and "structural" levels. Developing gender awareness within the legal system is one of the primary goals for this type of work. Most of it is of a "remedial" nature, since it is geared toward unlearning detrimental attitudes and behaviors related to the women and to the law. This kind of reeducation is important not only because of the effects biased judges and police can have on women in particular cases, but because of the undermining effect they can have on community legal literacy efforts (Kuenyehia). While it may be unconventional to speak of the "legal illiteracy" of judges, in a very real sense gender bias prevents even judges from "reading" the law adequately. The "Gender Bias in the Courts" program in the United States is an example of the importance of consistent work aimed at changing the attitudes of the judiciary through education and monitoring of their judgments (Wikler, 1987). Most Third World countries have yet to begin judicial education programs, but a few, such as Sri Lanka, (Goonesekere) have undertaken modest initiatives along this line. Of course, at the structural level there are also police and prosecutors whose function in law enforcement has an important effect on how the public understands and tolerates crimes of gender. Programs to educate the police, particularly with regard to rape and domestic violence, are important. Finally, lobbying as a type of educational work targeted primarily to legislators and policy makers, also has its place.

In addition to education aimed at the structures of legal systems, educational work at the level of the professional lawyer focuses more on the profession or the *practice* of law than on the law itself. Its primary concern is with changing the classical liberal paradigm of law, and to generate and disseminate alternative approaches to law. Training of "lay" professionals to handle aspects of what has been the absolute domain of lawyers is part of this work, and retraining lawyers to relate to the community in new ways and develop skill as educators is another.

### ***Primary Legal Literacy: Roles, Models, and Issues***

Primary (i.e., community-based, programmatic) legal literacy is essentially a planned educational process. Although learning happens informally throughout daily life and it may be possible to acquire in this manner the analytical capacities and skills needed for action, programmatic legal literacy pursues these goals "by design." It is a *strategic* approach to promoting the acquisition of critical awareness about gender roles and rights and the skills needed to assert rights and mobilize for change. Legal literacy programs seek to accelerate the learning, which may or may not happen informally, by having some control over the process and content of the learning. It is the theory base that provides the framework for deciding how to shape the process. The task, according to the framework presented here, is basically to design programs rooted in an educational methodology compatible with a political approach to gender and to rights.

In practice however, there is a wide disparity in the design of legal literacy programs. While there are several factors at work, the primary difference among programs depends on whether programs are approached in purely legal terms or in political and educational terms. The legal approach is generally favored by lawyers and the political approach is favored by organizations representing the interests of specific groups at the community or national levels. Thus, the disparity breaks down along practical lines to a variance between legal literacy organized primarily by lawyers and based on legal criteria, and legal literacy designed and organized by nonlawyer groups (which usually include lawyers) using broader political criteria. The most important difference between the "legal" and the "political" approaches is the place law occupies. In the former, the law and rights are assumed, *a priori*, to provide a solution to people's problems, and therefore, there is a heavy reliance on them. In the latter, the problem rather than the solution is the point of departure, with the result that the assertion of rights through legal mechanisms forms only part of an overall strategy, including organization and education. This may appear to be a subtle difference, but in practice it is easy to detect.

### EDUCATIONAL INTERVENTIONS OF A GENDER-FOCUSED POLITICAL STRATEGY OF RIGHTS

TYPE	PURPOSE	GROUPS	FORMAT/METHOD	CONTENT
Mass	<ul style="list-style-type: none"> <li>• Provide Information</li> <li>• Raise awareness about gender</li> <li>• Affect public opinion</li> </ul>	<ul style="list-style-type: none"> <li>• Public in General</li> </ul>	<p>MASS MEDIA</p> <ul style="list-style-type: none"> <li>• Radio/TV</li> <li>• Print news media</li> <li>• Books, posters, pamphlets</li> <li>• Events/demonstrations</li> </ul>	<ul style="list-style-type: none"> <li>• Usually on some issue of current relevance</li> <li>• Often linked to reform efforts</li> </ul>
Community ("Primary" legal literacy)	<p>Develop:</p> <ul style="list-style-type: none"> <li>• Identity as subject of rights (self-esteem/self-confidence, critical awareness)</li> <li>• Understanding about rights, justice, how legal system works</li> <li>• Skills needed to use the law to defend rights, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Women alone</li> <li>• Women with men, family, community groups</li> </ul>	<ul style="list-style-type: none"> <li>• Structured learning programs: (Workshops, Courses)</li> <li>• Informal dialogue</li> <li>• From experience of defending rights and developing self advocacy strategies.</li> </ul>	<ul style="list-style-type: none"> <li>• Nature, structure and function of legal system</li> <li>• Concepts of gender, justice and rights</li> <li>• Content of laws</li> <li>• Citizenship</li> <li>• Limitations/inadequacies of the system</li> </ul>
Professional Structural	<ul style="list-style-type: none"> <li>• Unlearn class &amp; gender biased attitudes about law and women</li> <li>• Develop alternatives to traditional practice of law</li> <li>• Break lawyer's monopoly of law</li> <li>• Augment legal professional's capacity to work with the grassroots</li> </ul>	<ul style="list-style-type: none"> <li>• Judges, Police, and Prosecutors</li> <li>• Legislators</li> <li>• Lawyers, law students "Lay" professionals</li> </ul>	<ul style="list-style-type: none"> <li>• Training programs</li> <li>• Seminars</li> <li>• Scholarly publications</li> </ul>	<ul style="list-style-type: none"> <li>• Theory</li> <li>• Content of specific laws</li> <li>• Procedures</li> <li>• Gender and rights</li> </ul>

Lawyer-initiated, law-based legal literacy tends to be content-focused, information-oriented and rooted in the fallacious view that information and knowledge of the law are sufficient inputs for people to exercise their rights. Many of the problems associated with this approach are due to the type of professional training in law that most lawyers receive that places undue faith in the law. It is not surprising that lawyers would invest faith in law as a social change strategy and carry over into their progressive social action initiatives the legal paradigm's undue emphasis on the leadership role played by the lawyer.

These formative limitations, however, can have disastrous effects on legal literacy. The educational disparity between university trained lawyers and grassroots women with little formal education causes considerable frustration. This cultural gap becomes exacerbated by the lawyers' use of methods that reproduce their own educational experience from the university, particularly, the lecture format and written materials. Having heard that it is better to use "group dynamics" they may incorporate games or a question-and-answer format to their lectures, but miss the point about the need to develop the learner's analytical capacities and action skills, and that the process of developing them is linked to certain pedagogical principles as outlined in this paper. When embedded in legal services programs that preserve the lawyer's proactive role in defense of individual rights, this type of legal literacy actually fosters the passive role of the person or group the program is supposed to benefit. Again, the law-based approach to legal literacy rests on the lawyers' inflated belief in their own role and view that the law—in all its aspects—is the specialized domain of the legal professional. Despite the evident good will and commitment of the lawyers who do this work, unless they are sufficiently self critical (professionally and politically), they are guaranteed to end up expending enormous amounts of energy with little to show for it. In the end, lawyer initiated, law-based legal literacy is at best an ineffective educational strategy. At worst, it reinforces the status quo, preserving the lawyer's stake as the primary custodian of rights.

Legal literacy programs do exist, however, that are based on the principles outlined in this paper and that overcome the pitfalls of the type just described. They tend to be organization-initiated, politically framed, and gender oriented, focusing

primarily on the interests of the groups they represent rather than on law. Community-based, politically-framed legal literacy regards law and rights as political resources and education a tool to empower women to develop the capacities needed to participate as full citizens in advancing their concrete interests. Such programs are interdisciplinary in character, drawing on education, psychology, communications and other disciplines as well as law. These legal literacy programs are often rooted in projects aimed at women's development such as health (including reproductive health), stopping gender violence, productive enterprises, labor organizing, etc. Their forms and methods of legal literacy tend to be varied and quite creative and their impact on women significant. The lawyer's role is often described as a "resource" to the community, understood in terms compatible with the needs and goals of the group. The interdisciplinary setting helps clarify the distinction between the lawyer's role as "professional in law" and as "educator."

Here it should be noted that the issue is not the presence or absence of lawyers, or that all community organizations run by nonlawyers have developed adequate frameworks and methodological approaches for this work (Kapur). Lawyers play an important role in many of these community-based programs. The critical factors are their perspectives on law, gender and the educational function.

### *Community-Based "Paralegals"*

One of the most innovative trends emerging from these programs today is the training and development of "lay" community members to play a primary role in legal literacy. Sometimes called "paralegals," "community legal educators," "legal promoters," or "advice volunteers," they take on important functions in disseminating information about rights, organizing, educating, even handling legal procedures. The fact that there is no uniform terminology to describe this phenomenon reflects a "state of the art" in which no consensus has yet emerged about their role in the community, the training they need, the organizational setting in which they should be based or the follow-up they require. Nevertheless, the paralegal trend has important implications for legal literacy for women.<sup>11</sup>

The community paralegal approach responds to the need to demystify the law and put legal knowledge into the hands of

community women as a tool for their own advancement. Consonant with the idea of law as a resource, training community women in rights advocacy and legal defense is geared toward developing women's capacities to be proactive subjects of rights and change agents. However, contextual variables and differences of conception about what is appropriate for a "lay" person to handle with regard to the law leads to differences in how paralegals are trained and what they are expected to do at the community level. Programs also vary in the degree of consistency they maintain between the content of the paralegals' training and their function.

In some programs the paralegal is a resource in a very *informal* sense and the knowledge she receives in a training course is expected to carry over to her neighbors in the community to be activated in the event of need, without a formal structure or support system. Here, distinctions are vague, if they exist at all, about the knowledge and skills that any legally literate person should have, in contrast to those a paralegal should have to fulfill some function. The term "paralegal" should probably not be applied here, but programs do exist that use term in this manner. In other programs, the paralegal is fundamentally a disseminator of information about law, rights and where to find legal assistance. They often rely on pamphlets, other written materials, and presentations to groups as their primary method of dissemination. Moving a step beyond the "transfer of information" concept of education to an understanding of the educator as "capacity builder," the emphasis turns to consciousness-raising about status and rights, and the development of capacities geared toward action. Preferred methods are counselling of individual women and structured educational sessions (using nonformal, popular education methods) with community groups on the themes of fundamental and human rights, citizenship, the functioning of the system, etc. At the next level is the educator/organizer concept, which emphasizes the paralegal's role in enabling women to solve problems individually and collectively. Here, the paralegal works directly with community organizations to involve women in developing and organizing their own defense strategies.

These differences in the concept of the paralegal do not just represent a simple progression of functions along a continuum, all of equal value. The "paralegal as organizer/educator" is the standard by which paralegal programs should be judged.



Paralegals who function as mere disseminators of information are limited in the impact they may have.

Paralegals sometimes also play a role in direct legal defense and carry out a more technical legal function. In some programs they work as "lawyer's assistants," connoting a more traditional concept of paralegal as one who does some preparatory work on a case, but the lawyer actually handles it. In other programs, while working with lawyers, paralegals take on certain types of cases that are usually of an administrative nature and common to women of their communities. For example, in Peru, Dasso reports that some paralegals prepare and submit child support claims, birth and marriage registrations, land titles, etc. In the Philippines Quintillan describes how paralegals have independently taken the initiative to prepare and submit to the public prosecutor appropriate documentation denouncing rape and human rights violations. In the case of SEWA, an organization of women workers in India, Patel describes how paralegals have gone so far as to successfully argue their cases in court. Of course, how far a nonprofessional will be permitted to tread on territory jealously guarded by the legal establishment varies from country to country. In many countries the legal definition and regulation of "legal practice" is such that it excludes all non-credentialed lawyers from doing anything but the simplest administrative procedure. Until just a few years ago, the professional association of lawyers in Kenya would not permit even lawyers to offer free legal aid, which they regarded as a threat to their professional standards and economic well being (Schuler, 1986). In Peru, however, after much struggle to overcome prejudice, the Ministry of Justice agreed to give formal credentials to community paralegals who met certain criteria (Dasso).

While there is no consensus about the appropriateness of this technical function of paralegals, the discussion is very relevant to legal literacy. It is true that if paralegals get caught up in handling case after case, they may also fall into the trap of "nonstrategic legal aid" and recur to the law to solve every problem; but it is also a source of power to community women that some among them have developed a certain level of skill in managing the system and making it work for women. In addition, and perhaps more importantly, this knowledge can enhance the paralegal's educational and mobilizing function.



Despite the inconsistency among programs, it is evident that paralegals can play a vital role in legal literacy on the condition that their educational and organizing role is emphasized and their training provides them with the knowledge and skills they need to fulfill this role. Unfortunately, training is another place where legal literacy programs sometimes stumble. Not surprisingly, law-based legal literacy programs are likely to see paralegals, if they have them at all, as assistants to lawyers or as disseminators of information—a limited role of dubious value. But even politically oriented legal literacy programs, which tend to see paralegals as capacity builders and organizers, do not always follow through consistently with their training.

Since legal literacy is geared toward women's full participation in society as proactive subjects of rights, the content and process of the educator's formation is of critical importance not only for the paralegal, but for the program, the organization and the women in the community. For example, knowing how critical consciousness happens provides a framework for designing problem posing learning experiences and deciding what content to include and how to guide the process through dialogue. Understanding rights as a political resource, not as ends in themselves, and that women can be empowered in the process of defending and asserting their rights as well as in the process of defining them, is another powerful concept providing a framework for exploring with the women the meaning of the rights in their lives, how the law defines rights and whether it is an adequate definition, and what action can be taken to defend, assert or redefine rights in practice and in the law. Thus, to develop the paralegals' capacities for legal literacy work in the terms discussed in this paper, what is needed—and sometimes lacking—is systematic training grounded in a solid understanding of empowerment and relevant insights drawn not only from law, but from psychology, political science and education. Such a program will of necessity include as major content areas of personal development, law, educational and organizational methods.

1. *Personal Development.* As noted in the discussion about empowerment, there are psychological states, particularly self-esteem and self-confidence, that are prerequisites

to taking action for change. Developing the paralegals' own awareness and analysis of the causes and consequences of female subordination, of sexuality, and gender roles, among other themes, are a necessity if they are to work with other grassroots women in legal literacy. Thus, personal development must be intentionally included in a program to develop community women to work in legal literacy.

2. *Legal Content.* In addition to specific legal content related to the issues and needs of the women in the community, if the legal literacy is to foster women's active participation in engaging the system, the training should always cover fundamental, constitutional, and human rights law-making and the democratic process, the concept of justice, rights as political resources, alternative remedies, the functioning of the system, and relevant legal procedures.
3. *Educational Process and Organization.* The training also needs to include educational methods and organizing processes such as leadership, democratic decision making, and community organizing.

It should be noted that paralegal training or formation programs need to develop these themes using experiential, problem posing methods that the participants will be able to incorporate into their own future work. Moreover, it should be recognized that paralegal development cannot be accomplished in a weekend or two, but will require a commitment of several months for the initial training input and probably several years of follow-up, evaluation and support afterwards. Another critical ingredient in the paralegal's development is adequate organizational structures and mechanisms through which they can carry out their tasks, receive support, evaluation and feedback. Without this, the learning cannot be expected to remain vital. However, where the training, follow-up and organizational structures exist that permit women to develop the paralegal function in the terms described, they have a profound impact on the lives of the paralegals and the community within which they live. An organizer of a program in Peru, expressed it this way:

The process of understanding that women's problems are not 'natural', nor individual and isolated, and learning

about their legal rights generates a gradual process of validation and self-esteem for the paralegals. Their loss of fear of speaking in public and new capacity for critical analysis is demonstrated in their growing involvement in leadership positions in the community... Other achievements are having placed women's problems in a broader context than a strictly legal one, making links between acts of self-defense and police protection and law enforcement, combining law with non-traditional remedies, and searching for collective solutions to problems. The community respects the paralegals as mediators of conflicts, to whom both men and women may come (Yañez, 1991).

In this book, importance been given to the concept and formation of paralegals for several reasons. First, the presence of trained paralegals in a community is one of the most effective ways to make the law and rights available as resources to women at the grassroots, and should be given priority. Once paralegals have proven themselves they become a valued resource of knowledge, leadership and support within the community. Their transformation makes them role models for other women. Second, the process of developing the knowledge and skills of the paralegal highlights the same issues and skills that all women need to develop if they are become proactive subjects of rights; that is, development of self-esteem and self-confidence, knowledge and analytical abilities related to the law, and rights and political action skills. Third, the lawyers and other professionals who develop and carry out legal literacy, if they want to bridge the gap of educational and class differences, will also benefit by understanding the "process" of the paralegal's development.

### **Implications for Legal Literacy**

This paper has explored the theoretical underpinnings of the concept of legal literacy and some of the practical and methodological issues that have emerged from experience in implementing legal literacy. The resulting framework, which situates legal literacy within a gender-focused strategy of rights, makes it possible to articulate criteria to guide decisions about where to locate legal literacy programs, the audience to whom they should be directed, and the kind of methods that

must be used to make them effective. In this context, there are several important points to consider.

### *Developing a "political" rights strategy*

- Law plays a role in maintaining and shaping women's inferior social and economic position in society through unjust legislation, unjust application of laws, or inaccessibility of rights to women. Each of these problem areas are potential targets for change.
- Law reform and litigation strategies, however, are inadequate to the goal of social change unless they form part of a broader political strategy of rights; one that engages women as political actors in the process of critiquing, defining and asserting rights.

### *The Place of Legal Literacy*

- Legal literacy is an essential component of a political rights strategy since the function of legal literacy is to prepare women to take part in these processes.
- Legal literacy is thus, not only a process for disseminating information about women's rights, legal remedies and how to activate them, but a process of promoting women's abilities to assess the meaning of rights, assert rights, and/or take action to change the definition of rights through the political process.

### *Legal Literacy in Practice*

- Keeping this concept of legal literacy in mind, agents of legal literacy, particularly lawyers, should redefine their role and develop the appropriate educational skills to be compatible with the goal of developing women's capacities.
- Programs need to have an interdisciplinary approach to assure adequate preparation of their personnel in participatory, problem posing methods of education as well as law.
- The approach to legal literacy that develops community-based paralegals as educators and organizers is an important innovation in the legal literacy process and should be promoted.
- Community-based programs aimed at women's development (production and income generation, labor organizing, education, community development, reproduction and health, violence against women, etc.) provide a great

potential for establishing programmatic legal literacy among women.

- Community-based, direct legal literacy needs to be supplemented with educational strategies that also target the public through the media and the structures of the legal system, especially the police and the courts, schools and other public institutions, law school curricula, and continuing education of legal professionals.

## NOTES

1. References to authors with articles in this book will be indicated by placing their names between parentheses, e.g., (Sobhan). No date appears either within the parentheses or in the text. References to other material follows the APA convention of listing the author's surname together with the year of his or her publication.
2. This use of term "cultural politics" should not be confused with a narrower use that refers to the politics of subjective cultural identity.
3. The early nationalist struggles of Asia and Africa and the persistent and inventive use of litigation to score major legal victories by the American Civil Rights Movement reinforced the belief in lawyers and litigation as a strategy.
4. One useful approach to understanding and categorizing strategic action is by analyzing the structure and interactions of the legal system (Friedman, 1973).
5. Conceptualizing law as a "resource to the community" is the cornerstone of many legal services programs in various parts of the world. The International Center for Law and Development, and the Inter American Legal Services Association, have provided support and inspiration to many groups in making the idea a workable reality.
6. A multicountry network of studies on women, credit, empowerment and reproductive health began in 1991. Developed by the Empowerment of Women Program of the JSI Research and Training Institute, in conjunction with programs that provide credit to poor women for self-employment purposes, the first of the studies are being conducted in Bangladesh and Bolivia.

7. One source for explaining how adults develop new frameworks for thought and action is transformation theory (Mezirow 1991; Mezirow & Associates, 1991), which builds on and synthesizes the work of Habermas, Freire, and many other learning theorists. Mezirow's approach to transformation theory draws on constructivism, critical theory, and deconstructivism in social theory in the social sciences, law, and art as well as cognitive psychology and psychotherapy.
8. Freire's seminal work, *The Pedagogy of the Oppressed*, written in 1970, is complemented by several other important essays, particularly, "Education as the Practice of Freedom" (1969) and "Extension or Communication," (1969), published in English as "Education for Critical Consciousness", (1973).
9. In the study of a literacy program in an urban community of Lima, Peru, Barndt (1980) explored the relationship between action and reflection in the learning process. Using the medium of the "photo-novel" on the theme of the literacy program itself, women participants revealed their thoughts and reactions that the photos provoked in them.
10. A study reported on one of the major news networks in the U.S. (heard by the author) at the time of the bicentennial of the U.S. Constitution, found that most people thought health care was a constitutional right. While it probably ought to be and maybe someday will be, health care is not, in fact, guaranteed by the Constitution of the United States. The number of people who believe it to be so, however, reveals how values and beliefs about law, rights, and entitlements can and do change on a massive scale and that the media is a key player in that process.
11. Here the term paralegal will be used to connote the role and range of functions that community-based women, trained in some aspects of law and community organizing, have developed. It is acknowledged that paralegal is not a perfect term for our purposes since its use is not consistent and may connote to some people elements that are antithetical to our meaning. However, none of the other terms available works well in English. For example, the term "promotora" in Spanish is much closer to the concept we seek, but there is no uniformity in Latin America on terms, and "promoter" in English does not work at all. "Advice

volunteers," used in Africa connotes a too limited function. The term "barefoot lawyers" is insulting and "community legal educators" doesn't quite cover it either. Thus, given that "paralegal" is the preferred term with many groups in both Asia and Africa, we ask the indulgence of the Latin Americans in our use of the term paralegal, which is rarely used there.

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**PART II:**  
**MAKING THE LAW**  
**ACCESSIBLE TO WOMEN:**  
**LAWYERS AS RESOURCES AND**  
**AGENTS OF LEGAL LITERACY**

**Designing Legal Literacy to Make  
the Law Accessible to Women  
in the Caribbean**

*Roberta Clarke*

**From Theory to Practice: Reflections on  
Legal Literacy with Women in India**

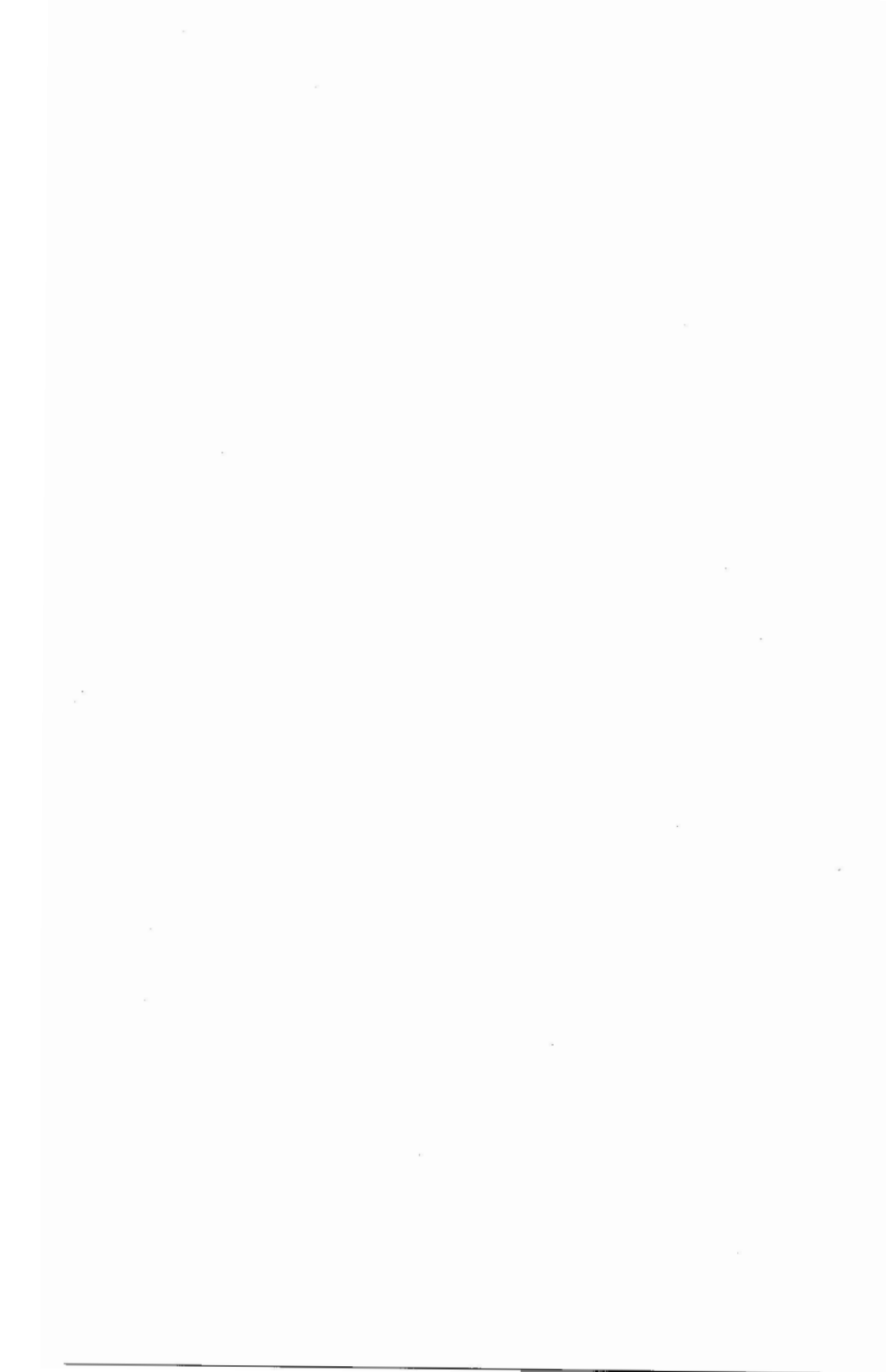
*Ratna Kapur*

**Experiences with Legal  
Literacy in Sri Lanka**

*Savitri Goonesekere*

**Challenges of Promoting Legal Literacy  
Among Women in Uganda**

*Florence Butegwa*



# **Designing Legal Literacy to Make the Law Accessible to Women in the Caribbean**

**Roberta Clarke**

## **The Legal Status of Women in the Caribbean**

During 1987-1988, the Caribbean Association for Feminist Research and Action,<sup>1</sup> in collaboration with the Inter-American Legal Services Association (ILSA), embarked upon the Regional Women's Rights and the Law Project. ILSA initiated the project in response to an awareness that the legal system has fundamental implications for the women's rights movement in its struggle for greater social equality. The aim of the project is to generate knowledge and information to enhance the effectiveness of women's legal services and women's rights campaigns, and to encourage research on issues related to women and the law.

The main finding of the research undertaken for the project (Clarke, 1989) was that very little previous research or action on women's legal issues went beyond academic audiences. Another important finding was that although many women's organizations in the region identified domestic and sexual violence, and family law and labor law as areas of central concern to women, funding constraints, and institutional and technical limitations have prevented organizations from addressing legal concerns. A survey highlighted several areas the responding organizations identified as priorities for legal reform and education:

### Violence against women

- Incest
- Domestic violence
- Sexual assaults
- Marital rape

### Labor Law

- Occupational health and safety
- Equal pay for equal work
- Maternity benefits
- Workplace rights
- Collective bargaining and minimum wage rights
- Child labor
- Sexual harassment in the workplace

### Family law

- Matrimonial property
- Common law spouse rights
- Child maintenance
- Provision of day care centers
- Abortion

An analysis of the socioeconomic context of the Caribbean woman highlights the significance of labor issues, family relations and violence in their lives. These issues represent areas that either limit or promote women's social and economic development.

### *Labor Laws*

Women tend to work largely in underunionized or non-unionized sectors of the economy, i.e., in distribution, service and manufacturing sectors. A recent study of enclave industries in the Organization of Eastern Caribbean States, found that only a tiny minority of these enterprises had unions. "The majority (of enterprises) relies on intimidatory or paternalistic industrial relations or some combination of the two to keep the work force in line."(Green, 1988, p. 148).

Similarly in Trinidad and Tobago, an examination of sectoral collective bargaining agreements reveals that trade unions have managed to gain the greatest access to economic enterprises in the manufacturing and petroleum sectors



(Clarke & Mendes, 1990). Significantly, nearly two-thirds of all women workers are located in the service and distribution sectors. These two studies reinforce the findings of a 1986 ILO study that showed that the growth rate of women in the workforce across the world is not balanced by a similar rate of unionization.

The absence of trade union representation, in effect means that women are extremely vulnerable to job insecurity, low wages, exploitative working conditions, and inadequate occupational health and safety provisions. The leadership of most Caribbean unions is male dominated, including those unions having a majority of female members. The effect of this phenomenon is that unions tend not to undertake the task of sensitizing union membership to issues of gender inequality and the need to struggle against them. Furthermore, issues that pose special problems to women, such as the absence of maternity benefits, sexual harassment, and inadequate provisions for day care, are not given priority in the larger context of industrial relations (Green, 1988, p. 195). For these reasons, an awareness of the working conditions of women and reform of labor laws is necessary.

### *Family Law*

Similarly, making family law a priority for reform (particularly child maintenance provisions) mirrors the real needs of women and targets an area of immediate benefit to women by improving their standard of living. Women head a large proportion of households in the Caribbean; the figure is as high as 44 percent in some countries (Massiah, 1983). Furthermore, in some countries, over 80 percent of all births are to unwed mothers (UNECLAC, 1989). Consequently, many women are solely responsible for the economic well-being of their children. In the context of high unemployment, low wages and inadequate state support for low-income families, securing realistic financial contributions by fathers is an issue of vital importance to many women.

In the past, the law regarded child maintenance as an individual problem confronting specific women. The fact that many organizations around the region now identify it as a major concern and an area for collective action is significant. There is a growing recognition that child support laws and

their enforcement are at best unresponsive to the needs of a large proportion of the female population, and at worst, actively hostile to the culture of matrifocality and single motherhood. The law's inadequacy in stipulating provisions for child maintenance (as low as \$15.00 per child per week in one country<sup>2</sup>), and women's difficulty in enforcing child maintenance orders, point directly to an ideology that assigns child maintenance to female responsibility and sanctions male avoidance of parental obligations.

Significant numbers of conjugal unions in the Caribbean are common-law rather than marriage-based. In most of the English-speaking Caribbean countries this is a social fact not recognized by the law.<sup>3</sup> No matter how long an unmarried couple lives together, the law neither acknowledges the union nor imposes any duties or obligations on the parties toward each other, particularly in relation to succession, property rights and maintenance. Many negative consequences affecting women flow from this omission, particularly in property disputes upon the breakdown of the union, or the death of one party to the union.

Women do not tend to be vigilant in ensuring that their names appear on the title deeds of property they may have acquired jointly with their partners. Neither do they record the contributions they make to improve the property they hold through their home maintenance efforts. Upon the breakdown of the union, these women are not automatically entitled to a share of the property commensurate with their contribution. To obtain and enforce legal rights to the property, these women must go through protracted and therefore expensive litigation that most cannot afford. Where the woman's contribution has been in-kind, that is, household upkeep and child care, there is no guarantee that the judge (who is likely to share societal perceptions that undervalue women's work) will find this contribution sufficient to justify an equitable property distribution.

### *Violence Against Women*

Throughout the Caribbean, there is a growing awareness of the prevalence of extreme violence against women and children. This awareness has resulted from the increasing number

of reports to police departments of both domestic violence offenses (assault and battery) and sexual offenses, and in the increasing use of crisis centers, hot-lines and shelters by victims of rape, incest and domestic violence. There is also a strong belief by many that the prevalence of all these forms of violence is much greater than the number of reports to the police would suggest. For example, in Trinidad and Tobago the police estimate that a rape is committed every 1.75 days. This figure is based on official reports. However, the rape crisis center estimates that only one in eight victims go to the police. Therefore, it may be closer to the truth to estimate that on average, four women are raped every day in Trinidad and Tobago.

The issue of violence against women has been given considered attention by many women's organizations in the region. Its importance can be gauged by the number and kind of responses to the issues that have been made by Caribbean States and voluntary agencies in the late 1980s. Nongovernmental organizations in the region have addressed this issue by forming centers, networks, media watch and legal aid clinics whose primary purpose is to assist victims of abuse. Only a few territories have promulgated legislative reform to answer the many shortcomings of the existing law.<sup>4</sup> Many victims of violence prefer not going to court over facing an agonizing trial where questions of corroboration, immediacy of complaint, and past sexual relationships are still considered relevant in proving or disproving consent. However, at the regional level, the CARICOM<sup>5</sup> Secretariat has developed model legislation on sexual offenses and domestic violence for consideration by the CARICOM governments.

By 1990, rape crisis centers had been established in Trinidad and Tobago, Puerto Rico, Belize, St. Lucia, Jamaica and St. Croix. Similar initiatives are being taken to establish centers in Grenada and Dominica. Crisis Center hot-lines are in existence in Barbados and Grenada. A special police unit was established in Jamaica, a move considered desirable in other territories as well. The nongovernmental legal aid clinics in Surinam, Grenada, St. Lucia, Jamaica, Puerto Rico and Belize all reported that much of their case load involved representing battered women.

## **Ideology and the Law**

Notwithstanding these initiatives, there is urgent need to reflect on the potential that these activities have for effecting structural change. At a recent regional meeting on women, violence and the law, participants voiced concern that the work on violence against women should not continue to function in an ideological vacuum. They felt that what is needed is a framework that consciously seeks to eliminate gender inequality. Furthermore, participants stressed the need to work on all fronts of the legal system and deal with the substantive, structural and cultural aspects of gender inequality. Legal reform is important not only because laws regulate behavior, but also because laws relating to gender violence tacitly support female subordination and gender inequality. Patriarchal values justifying the abuse of women can and often do subvert the intention of the legislators. Therefore, there is always a need to complement legal change with consciousness raising programs (CAFRA, 1991a). Feminist critiques of law in the Caribbean are only now starting to emerge.<sup>6</sup> There have been no theories or analysis available to women that pinpointed the legal system as a powerful transmitter and reproducer of gender and class ideology. Neither have there been any blueprints about how law can be used as a tool or agent of change in the Caribbean context.

Legal scholarship that did exist adopted a descriptive and historical approach, limiting itself to a review of the law; i.e., what the law was in the past and what it is today. It is a scholarship predicated on assumptions about the law's autonomy. Perceiving the law as a neutral and independent structure, this school of thought is blinded to the role of the legal system as the tool subordinating women.

The implicit acceptance of law as an autonomous institution led to the approach in legal writing and popular discourse that regards women's problems with the law as problems relating to particular rules. Caribbean legal scholarship has now reached the point where it can reject these assumptions and start to build a popular understanding of the law as a form of practice that defines the social order. Those working in this field have started the process of unraveling the role that the law plays in maintaining and reproducing gender and economic divisions in society.

Law is a body of rules that regulates human behavior in society. But this regulation does not take place in an ideological vacuum. The law is a manifestation of the dominant vision of society. Laws, particularly social legislation, are passed in response to dominant social values and norms. Law, therefore, is not a neutral force. Neither is it objective—if by “objective” it is meant that laws are created without reference to the values, ideas and needs of particular groups in society.

The most graphic illustration of the relationship between law and ideology is manifested in the treatment of women in recorded legal history. Women’s treatment by the legal system reflects the social vision of women as inferior to men and accords differing rights and responsibilities to men and to women. The law at the turn of the century—and even today—reflected a vision of women who were lower in value than men, and who in fact were the property of men. Historically, this manifested itself in denying women the right to vote or hold public office. Married women were not allowed to hold property in their name and when their husbands died, the bulk of his property went automatically to the eldest son. The husband’s place of residence determined the laws that applied to the wife, irrespective of where she was living.

The law has changed significantly in many territories around the world. In most countries of the Commonwealth Caribbean, women are now guaranteed equal rights under their various Constitutions. Women have the right to vote, hold public office, and the right to work (albeit not for equal wages). Married women now have the right to manage their property and to keep, acquire or change their nationality. Those measures that have improved the social and legal status of women, placing them on more equal footing with men, resulted from the advocacy and the lobbying of women.

Notwithstanding these positive developments, however, other areas remain to be addressed. Direct discrimination continues to exist. For example, in Barbados, St. Vincent and Grenadines, wives of nationals are automatically entitled to citizenship or permanent residence, although the converse is still not applicable for the husband of a national. In St. Lucia, unmarried female pregnant teachers can be dismissed upon a second pregnancy. A single male teachers with children faces no such disability. There are some countries where women still

do not enjoy a guarantee of equal rights under the Constitution, and where children cannot receive a passport without the signature of the father on the application form.

Indirect discrimination, in which the law fails to take into account the socioeconomic reality of women's lives, continues to exist as well. Many women in the Caribbean bear the sole responsibility for the economic well-being of their children. Yet, in most countries of the Caribbean, there are no laws that grant women the right to paid maternity leave. Women acquire these rights, if at all, under collective bargaining agreements. Many women work in sectors that are under-unionized, e.g., the export processing zones, the hotel sector, the sales sectors and as household assistants. In these cases, women have to rely on the benevolence of employers to grant them maternity leave. In a labor surplus economy, the absence of legislative protection places women in an extremely vulnerable position.

In many countries, the lowest level of minimum wage is accorded to domestic workers. In one country the minimum wage for household workers is even less than the minimum wage set for working juveniles (CAFRA, 1991a). More often than not, household workers are women. The undervaluing of this type of work (in reality women's work: cleaning, cooking and child care), reflects most directly the low societal perception of the value of women's contribution in the home.

Many Caribbean states have steadfastly refused to legislate in areas involving the private sphere of life, where women are most vulnerable to the power of men. Thus, it can be argued that the state condones domestic violence and the subordination of women by failing to make strong legislative provisions to deal with perpetrators of domestic violence. It is only recently that legislation started to appear that deals with the reality of domestic violence and offers women practical alternatives, such as restraining orders, and effective enforcement measures against abusive partners. No country in the English-speaking Caribbean region considers rape within marriage to be criminal if the parties live together.

Because of the negative impact that law or the absence of law has on women's lives, it is important to develop an analysis of the legal system, to outline a scheme of reforms, and to make such reforms effective. When people, and women in



particular, think about the legal system, they tend to think about the structures of legal administration—courts, judges, lawyers and police. This world is very alien and inaccessible to the average woman at the community level. The legal system is one that can have a profound impact on the lives of women, it is necessary to challenge and change this situation. In challenging the law to respond to women's needs, it is necessary to develop an analytical framework for understanding the culture and structure of the legal system.

Understanding the legal system's components is an important prerequisite for developing appropriate action strategies. Changes in the content of specific laws will not produce desired results unless they are supported by programs that focus on the structure of the legal system as well as cultural attitudes toward the law.

For legal change to benefit women, it must reflect and address the real needs and interests of women. To ensure this, women must therefore participate in the formulation of legal change, and monitor those changes to ensure that they are working in the manner intended. Fostering a conscious constituency of women through education and organization is, therefore, a necessary complement to legal change.

## **CAFRA's Women and the Law Project**

CAFRA is currently carrying out a "Women and the Law" project in five English-speaking Caribbean countries.<sup>7</sup> The project essentially aims at strengthening legal literacy. Using the Canadian Law Information Council model,<sup>8</sup> such a legal literacy program seeks to ensure that participants:

- know and appreciate the fundamental role of law in their society;
- exercise their legal rights and assume their legal responsibilities;
- recognize the legal aspects of their activities;
- take appropriate preventive measures to avoid common problems;
- know when and how to obtain legal advice and be aware of the full range of legal services available to them;
- participate in the legal process.



The philosophy underpinning the project is that development is a holistic process in which social problems cannot be isolated from legal or economic problems. An analysis of the legal system must be predicated on the understanding of the relationship between legal policy and the national development policies of governments.

The project is based on an understanding of development as a process that occurs through people's ability to manipulate those institutions that control or have a substantial impact upon social life. Developing the ability to manipulate institutions—such as the legal system—to make them responsive to social needs is directly dependent upon a process of analysis of these institutions. Unfortunately, the legal system can be very intimidating. Persons not trained in the workings of the law are distanced from it by its technical and arcane language and administrative procedures, not to mention the authoritarian atmosphere that surrounds the court house.

If women are to make sustained and meaningful impact upon the legislative process and on the organization of their society, an understanding of the role of law as an agent of change must be engendered. The need for this understanding was stated clearly at the Nairobi Conference in 1985. The Nairobi Forward-Looking Strategies for the Advancement of Women recommended several measures for implementation at the national level. Paragraph 61 of the Forward-Looking Strategies referred to the need for the establishment of institutional procedures by which laws could be effectively enforced from the village-level up, and be adequately monitored so that the individual woman could seek to have discriminatory treatment redressed. It was asserted that the task of reviewing and monitoring legislation should not be exclusively the domain of technical experts, whether governmental or nongovernmental.

The activities of the CAFRA Women and the Law project focus on education, training, legal reform and providing legal services. The specific objectives of the project are as follows:

- To create an awareness and understanding of laws that have an impact on women in their daily lives;
- To provide law-related information that women, particularly rural and low-income women, can use when making significant decisions on key areas of their lives, e.g., family, work, sexual/domestic violence;

- To create a body of knowledge on the manner in which the legal structure [laws, courts, legal aid clinics, etc.] operates;
- To identify specific areas in which action should be undertaken, including recommendations about the types of institutions that might undertake such actions, e.g., the development or strengthening of legal aid initiatives;
- To influence overall legislative policy, the provisions of specific laws, and administrative procedures that will benefit women and their capacities to deal with sociolegal problems.

The project will produce popular education materials such as pamphlets, brochures, posters, radio and television programs and videos based on the proceedings of workshops at which nongovernmental and governmental agencies participate. It will also develop and implement paralegal programs for agencies that work with women experiencing law-related problems.

### *Project Design*

The final project design is emerging as the result of a participatory methodology. Discussions with women at the community level revealed that assumptions about legal illiteracy were misplaced. Women do know the basic elements of the law that are most relevant to their daily lives, and can articulate clearly that many laws are either inadequate or dysfunctional in promoting personal and national development goals. The problem experienced by many women occurs in the translation of that understanding into systematic and collaborative strategies for engendering appropriate change. This inability is due to the fact that law is the preserve of the trained professional, courts and parliament, and legal reform procedures intimidate the average person and render her/him apathetic or paralyzed.

The CAFRA project's design requires that agencies participating in the various project activities have outreach programs with rural and low-income women. The project is targeted primarily toward women whose low income levels and educational attainments distance them from the legal system due to its technicalities and arcane nature. Other beneficiaries are women and children who are forced to use the services of rape crisis centers, legal aid clinics, and halfway houses.

Collaboration between nongovernmental and governmental agencies is necessary for effectively carrying out project activities. Given the scarcity of resources generally, available resources must be used effectively. Through their community development programs, governments are able to reach women at the community level. Sometimes they have also worked through the various women's bureaus on legal programs. To avoid duplication of efforts and to strengthen initiatives that have already been undertaken, collaboration between state and NGO sectors is crucial.

It is interesting that in most of the project countries, the governmental organizations for women have been able to work with women's organizations relatively unfettered by political partisanship. Although no study has been done on this phenomenon, such collaboration may be partly explainable by the relative impoverishment of many of these organizations, (as evidenced by inadequate staffing, funding and administrative support) and the shared understanding that women's issues are not priority political issues to any of the contending political parties.

### ***Project Implementation***

Reports on the legal status of women in the project countries were prepared as an integral part of the implementation of the project. The reports examine several areas affecting women and suggest, where appropriate, the relevant legal reforms required in each. The report covers seven major areas.

**Family Law:** status of children; status of common-law spouses; child custody; child maintenance; divorce; maintenance orders; property rights of spouses (married and common-law); minimum age for marriage.

**Labor Law:** collective bargaining rights; minimum wage; occupational health and safety; maternity leave and benefits; equal pay for equal work; sexual harassment in the workplace.

**Property Rights.**

**Constitutional Guarantees** against discrimination on the basis of sex.

**Citizenship and Immigration.**

**Sexual Offenses and Domestic Violence.**

**Succession Laws.**

Based on these reports, CAFRA held National Consultations on the Legal Status of Women Reports in the project countries. The objectives of the National Consultations were to present the report for discussion to a broad cross-section of governmental and nongovernmental agencies and the public, and to collectively develop a program of action informed by the same.

At these consultations, the participants also discussed the administration of the project, focussing on the possible collaboration of both the governmental and nongovernmental sectors. Advisory teams for the execution of the project were selected from among the participants and timelines were discussed. The rationale for setting up the advisory teams was to make project execution as decentralized as possible and ensure maximum participation of women at both organizational and community levels.

At the time of writing, all the consultations have been held. The fact that all the countries raised very similar issues for follow-up action (CAFRA: 1991c) reflected the existence of commonalities in the legal and social situation of the various countries. In all five project countries, child maintenance held priority for legal reform and education (CAFRA, 1991b). The inadequacy of maintenance provisions, particularly for children born out of wedlock, came up at all the consultations. This is not surprising, since in the English-speaking Caribbean there is a high percentage of female headed households and the responsibility for the care of children rests solely with the mother. For a woman living in a situation of economic deprivation,<sup>9</sup> clearly, some contribution to child care by the father is essential. The absence of support often means that children will not have adequate nutrition, housing and education. Such recycling of poverty contributes in great measure to the stresses under which low-income women labor in the Caribbean.

Other areas identified in all the countries as requiring legal reform include the status of the common-law spouse, violence against women, minimum wage, and sexual harassment. Again, the consultations were critical to identifying the real needs of women. While women's organizations in the Caribbean have done substantial work on violence against women, the urgency of the situation was not reflected in the priorities for legal change the women presented at the consultations. It seems that many women have analyzed economic

deprivation as the key factor making them vulnerable to the power and domination of men, not only in the home, but also in the workplace. Given this analysis, it is not surprising that the issues of minimum wage and sexual harassment were targeted as areas for action and legal reform.

Based on these consultations with women and women's organizations, the need to integrate socioeconomic issues in the project became apparent. For example, the question of the minimum wage essentially involves a political struggle and is not solely predicated on gender inequality. Minimum wages are so very low in many countries precisely because governments base their economic policies on the belief that the economies need to be attractive to foreign investors. This attractiveness is created not only by tax concessions and other fiscal incentives to the investors, but by low labor costs. To raise the issues of minimum wages, maternity leave benefits, and occupational health and safety considerations is to confront the appropriateness of national development policies.

The project design calls for developing popular education programs that will provide information on the content of laws and explain the parliamentary and judicial administration systems. The educational methods to be employed will vary among the project countries. The important consideration will be producing the materials in forms most accessible to women at the community level. As such, methods used include not only pamphlets, audiovisuals, and posters but also popular theater.

Another important consideration in the production of these educational materials is the need to build on women's understanding of existing laws and their inadequacies in content and administration. Topic-specific workshops will bring together not only women at the community level, but also professionals who provide some service to women. For example, on the matter of violence against women, crisis center and halfway house personnel, police, health workers and lawyers will meet with women to discuss the content of the law and its administration.

This approach is based on the philosophy of popular education, which recognizes the need to base education on individual experience and to analyze that experience within its socioeconomic and historical context. A primary characteristic

of popular education is that it is group-oriented and geared toward change. It builds on the concrete experiences of the participants, encouraging an understanding of the interaction between practice, theory and process (ILSA, 1989, p. 16).

The education materials that will evolve from these workshops will contain more than an exposition of the law. They will include an outline of legal procedure and administration, and information on agencies that the abused woman can go to for assistance, as well as specific recommendations for change. This material should serve as a resource base for the development of strategies that have clearly articulated goals for legal reform, and that will be carried out systematically through collective action and by women's organizations.

The final component of the project is the development of topic-specific paralegal training for organizations that work with women experiencing legal problems. These organizations include halfway houses, rape crisis centers, and trade unions. The intention is to equip these organizations with the skills necessary to assist women who come to them. The program will include discussions on the law in general, and on the courts, legal personnel, and legal procedures. The participants in the paralegal training will be drawn from community organizations and workers who interact with the public through their work as health workers, trade unionists, community development workers, and adult educators.

Some countries in the English-speaking Caribbean have a shortage of lawyers and provide no governmental legal aid services. This means that the available legal services are expensive and beyond the means of the many unemployed and underemployed women. Although the magistrate court does not require every type of action to be performed by lawyers, this fact is not widely known. Even where women are aware of it, they do not take initiatives themselves because they feel intimidated and lack an adequate understanding of the law and court procedures. Paralegal training will enlarge the pool of personnel at the community level who can be used as resource persons on the law and on magistrate court procedure, and who can act in an advisory capacity for women seeking information about their rights.



## Problems and Constraints

In setting up a project of this kind, there are several problems that have to be kept in mind. A critical challenge facing CAFRA is how to implement the project in such a way that the participants are empowered as much by their participation in the process, as by the results of the activities. The project must also respond to the real needs of women. The National Consultations began this process with a wide cross-section of women who articulated their concerns on the subject and focus of the project.

As a regional organization, CAFRA is committed to working, wherever possible, with national-level organizations. Such collaboration is necessary to avoid duplication of efforts, to maximize program outreach, and to strengthen the capabilities of national-level organizations. The challenge comes in involving women's organizations in the execution of the project and ensuring that this happens in each country in a decentralized manner.

The geography of the region makes travel between islands expensive. The ensuing hurdles in communications can sometimes lead to over-centralization in decision making or alternatively, inefficiency in implementation once the project is placed exclusively in the hands of community-level organizations that may not have adequate human, administrative and financial resources. Therefore, the central problem for the administration of the project is to create and maintain a balance between efficacious implementation, and democracy and decentralization.

Linked to the question of effective implementation is the challenge of working with national-level women's organizations that are not necessarily committed to our analysis of the causes (class, gender and race) of women's subordination. Traditional women's organizations tend to be involved in indirect action through the provision of services for women, charitable work, and some skills training. Holding a clear gender analysis may result in confrontation with governments, which, though not intended to be hostile, may be construed as such. In small societies, such confrontation may have widespread effects and lead to extended conflict among women, and sometimes to the breakdown of their organizations.

Another problem is that for many women in the Caribbean, the word "feminist" still connotes the image of the bra-burning man-hater, brainwashed by her North American sisters. As an organization committed to understanding the subordination of women and to working actively to end such subordination, CAFRA has had to confront this negative imagery head-on and ask that the organization be judged on the basis of its work. However, for many women, reservations about CAFRA remain, and while there is no indication that the program will be adversely affected, the organization has to be mindful of this. It is necessary to define what feminism means in the Caribbean context, and constantly recall that definition, lest the group lose track of it.

This project is the first of its kind in the English-Speaking Caribbean. Other work to educate women about their legal rights has been done, but often in the absence of an understanding of the ramifications of the legal system in all its components as a transmitter and reproducer of the prevailing gender ideology. It is still much too early to assess the project. However, based on the response to the first phase of the project (i.e., the preparation of the Legal Status of Women Reports and the National Consultations) it is already apparent that women have a clear understanding that the quality of their daily lives could be enhanced if they had the capacity to collaborate in carrying out clearly defined strategies aimed at changing those laws that discriminate against them, either directly or indirectly.

## NOTES

1. The Caribbean Association for Feminist Research and Action (CAFRA) is an umbrella organization of regional women's organizations and women activists. It was founded in April, 1985 to meet the communication, information, research and solidarity needs of women's activists and organizations in the Caribbean.

CAFRA's membership is not limited to a single linguistic area. It includes representation from the Spanish, English, Dutch and French-speaking Caribbean. The CAFRA Secretariat is based in Trinidad and Tobago, but national representatives function in all countries where CAFRA



members operate. The main purpose of CAFRA is to provide an effective network among women activists and organizations in the region working to improve the status of women in the Caribbean.

CAFRA carries out regional action/research programs which are developed collaboratively on issues of concern to the regional women's movement, and which are implemented at the national level by facilitating agencies in collaboration with CAFRA.

2. In Grenada, the minimum weekly allowance which the court can grant for the maintenance of a child is GDN \$15.00. The maximum is unstated. However, in a report on the Legal Status of Women in Grenada prepared by Christopher Nelson, it was reported that more often than not, the court awards the minimum sum.
3. Barbados is the only country which recognizes common-law unions for the purposes of succession and property rights. A couple who have lived continuously for five years are treated in the same way by the law as married persons for the purposes of intestate succession. In Jamaica and Trinidad and Tobago, there is a more limited legal recognition.
4. At the time of writing, Trinidad and Tobago is the only country in the English-speaking Caribbean which has reformed the laws pertaining to sexual offenses, particularly the evidential rules such as recent complaint and past sexual relations of the complainant. The law also provides that the trial should be held *in camera* and the victim should remain anonymous. Both Trinidad and Tobago and Puerto Rico have passed laws pertaining to domestic violence. The laws provide for wide ranging protection orders. In the case of Trinidad and Tobago, such protection orders (including the prohibition of the man from entering the family home) can be applied with respect to women in common-law unions as well.
5. CARICOM (the Caribbean Community) is a regional grouping of independent English-speaking Caribbean countries.
6. The Women and Development Studies Group, in collaboration with the Faculty of Law of the University of the West Indies, held a seminar in 1990 on Engendering

Justice: Gender and the Rule of Law in the Commonwealth Caribbean.

7. The project countries are Antigua, Dominica, Grenada, Saint Lucia and Trinidad and Tobago.
8. As reported in the ILSA report of an International Symposium to promote legal services in the Caribbean 1986. Colombia 1989, p.39.
9. In a 1989 UNECLAC publication it is reported that in St. Lucia, St. Vincent and Trinidad and Tobago some 59.5%, 60.4% and 58.4% respectively, of persons in the lowest income group in society are women. The corresponding figures for Dominica, Jamaica and St. Christopher and Nevis are 43.1%, 44% and 40.7%.

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## From Theory to Practice: Reflections on Legal Literacy Work with Women in India\*

Ratna Kapur

### Feminism and the Liberal Discourse of Rights

Rights and law have played an integral part in the women's movement for social change in India over the past decade.<sup>1</sup> Feminists have struggled for, and to some extent achieved, legal reform of the rape and dowry laws and are still demanding reform in different personal laws, and in laws relating to *sati*, and amniocentesis.<sup>2</sup>

In the area of rape, women have secured significant reforms in the law governing rape by persons in authority, including police officers, in which case a presumption in favor of the rape survivor and a mandatory minimum sentence of ten years for the offender have been established.<sup>3</sup> The dowry issue was addressed through several amendments in the law (Dowry Prohibition Act & succeeding acts, 1961). The amendments aimed at preventing the giving or taking of dowry at the time of, or in connection with a marriage.

With respect to personal law, there has been a considerable amount of debate over the question of lobbying for a uniform civil code that would be applicable to all persons regardless of their religious conviction or affiliation (Dhagamwar, 1989; Towards a Uniform, Secular and Non-Sexist Civil Code, 1989;

\* This work was carried out partly with the aid of a grant from the International Development Research Centre, Ottawa, Canada. The names of the organizations and participants referred in this work have been changed or omitted in the interests of confidentiality and to emphasize the process of legal literacy rather than the work of particular organizations.

Menon, 1986 & Singh, 1986). Several petitions are currently pending in the Supreme Court of India challenging the *sati* law and seeking the closure of temples glorifying or worshipping *sati* (*All India Democratic Women's Association and Janwadi Samiti. Union of India and Others*, 1989). Women's organizations are also lobbying for legislation to ban the practice of amniocentesis.

The main strategy pursued by the women's movement has involved lobbying the legislature for law reform, and raising constitutional challenges by using the discourse of rights in the courts. This strategy can be seen to be informed by a liberal understanding of law which focuses on the individual and on the need to protect individual rights from the state. Although the approach taken by the women's movement has secured formal rights for women, this liberal approach precludes an understanding or inquiry into the deeper relationships of oppression underlying and sustained by the law, particularly of the economic relationships that make people unequal, notwithstanding formal equal treatment (Williams, 1987; Schneider, 1986; Smart, 1989; Fudge, 1989). For example, although the women's movement has put a considerable amount of energy into securing reform of the dowry law, the demands for dowry and dowry murders persist, and are on the increase. The Act remains unworkable, primarily because of the liberal discourse adopted by the Act and used by much of the women's movement in lobbying for change—although the discourse adopted by the movement in our strategies and lobbying may not be the same as our analysis of the problem. The strategy's liberal discourse precludes an analysis of the underlying factors responsible for dowry; the unequal economic relationships between men and women and the patriarchal relationships on which the family is based. The issue can be addressed only in terms of individual rights and remedies, rather than the relationships within the family and the broader socioeconomic context that deny women access to property and wealth (Kishwar, 1988a, 1988b; Lakshmi, 1989; Kusum, 1987). Similarly, despite the challenges and amendments to the rape law, rapes continue to happen, women do not report them, and the acquittal rates remain disturbingly high in those cases that are reported and tried (Agnes, 1990). The failure of the rape law reflects the movement's failure to sufficiently

question the concepts of sexuality that inform the law, and the socioeconomic conditions that prevent women from having access to their rights.

In approaching the law, we have not adequately appreciated the complexity and problematic nature of law or rights; we have approached law as a solution to the problems of discrimination, violence and violations experienced by women. This is not to suggest that we have been exclusively dependent on law reform for women's empowerment.<sup>4</sup> Nor that the campaigns to reform rape, dowry or other laws have not generated awareness of the issues among those exposed to or participating in them. Yet when we have approached the law we have failed to explore the limits of the law in addressing these violations. The specific capitalist and patriarchal interests that the law sustains and perpetuates do not facilitate women's empowerment. Although we need to continue to lobby for formal rights, these rights cannot in and of themselves transform women's lives. Lobbying for more rights without a deeper understanding of the limits and possibilities of law, creates a false expectation that the law can change women's lives. Furthermore, using rights and the rights discourse in the courts often depoliticizes our claims and can be used by groups with opposing political agendas to undermine ours (Kapur, in press). For example, in the context of growing religious fundamentalism in India and the emerging relationship between fundamentalism and the state, there are increasing challenges to women's hard won rights. Fundamentalists are increasingly claiming their own rights as fundamentalism permeates the courtrooms. They are proving just as effective in mobilizing around rights, and thus, exemplify how rights discourse may be equally efficacious for feminist and antifeminist movements. We need to take a different look at rights discourse, understand how it is linked to broader political struggle and the purpose it serves for mobilizing women. We need to develop a more comprehensive understanding of rights that exposes the limits of rights in struggles for social transformation. The question we need to ask ourselves is how to rely on law and rights without creating either a dependency on law, or the expectation that law will provide the solutions to our problems.

## Legal Literacy: In Theory

Legal literacy is often advocated as a means of realizing the formal rights guaranteed by law. The lack of awareness of these rights is seen as a major factor in the gap between the formal rights of women and other disadvantaged groups, and the continuing social and economic inequality of these groups. According to this approach, legal literacy involves educating people about their legal rights, so that they will be in a position to enforce these rights. It is essentially an information-giving model. Access to information about legal rights is seen as the first, and often the most significant step ensuring women's access to the law. The standard approach is to convey information about the law through lectures, pamphlets or one-day seminars, in which the participants are passive, uncritical listeners.

There is no doubt some validity to this approach—women do lack awareness of law and of their rights. However, this approach to legal literacy is profoundly flawed in its understanding of both law and pedagogy. First, an information-giving approach to law does not communicate to the participant the limits of the law and its use and role in transforming women's lives. That is, it does not convey any understanding of the limits of the law and its relation to the broader structural causes of their oppression. In fact, such an approach merely reinforces the prevailing understanding of law as the solution to women's problems, without questioning the interests law serves to sustain and promote. Information giving, without communicating the limits of the law and the legal system, creates a false consciousness about the law. By resorting to law as the solution to the violations women experience, the approach inflates the power and status of law without necessarily empowering women in the process. The law is shaped and formed by the structures of patriarchy and capitalism (Haksar & Singh, 1986). We need to understand these assumptions, find ways of challenging them, and use our knowledge of rights and the law to empower women. One way of addressing this issue is to develop an approach to legal literacy that empowers women, as opposed to empowering the law.

Secondly, the standard approach to legal literacy is further inadequate in its understanding of pedagogy. An information-giving approach does not give women an understanding of

their own oppression because there is no participation in the learning process (Freire, 1970). An interactive approach to education about law must be adopted in which the women actively participate in the learning process. Recognizing the limitations of a mere information-giving approach, it is important to work with methods that do not treat participants as passive listeners, but as active participants in producing knowledge for their benefit. The role of the educator or facilitator is to actively engage the participants, contextualize the learning process within their own lives, and provide the legal and technical tools for the participants to decide if and how law can be useful in their struggles for social transformation (Paul & Dias, 1985).

A feminist approach to legal literacy involves education to empower women for action and change (Schuler, 1989). Rather than simply conveying information about law, the objective of a feminist approach to legal literacy is to develop consciousness that enables participants to think critically about the power relationships sustained by the law that affect women's lives, and ultimately, to take action to challenge and transform these relations. It begins from and includes this understanding of both the limits and possibilities of law.

In terms of pedagogy, we must place ourselves within the framework of the learning process, and attempt to break down the hierarchy and distance from the women with whom we are working, recognizing that there is no such thing as the universal "we."<sup>5</sup> We are not all situated similarly in terms of power and privilege. Yet we must also move beyond the "us and them" approach to education. Such an approach treats the other as unknowledgeable and inexperienced and the educator as possessing all relevant experience and knowledge. It sets up a hierarchy between the participant and the educator that treats the former as passive and ignorant (Maguire, 1987). Ideally, the process must involve sharing our experiences, placing our differences before the group, and most importantly, acknowledging our position of power and privilege. We need to be conscious of our power and acknowledge it. We must work with it so it does not cultivate dependence, but works to politicize women struggling for self-empowerment. We need to continuously think about our use of power and the equations we set up with one another.



It is also essential that legal literacy be integrated into broader educational programs for women that similarly seek to provide women opportunities to participate in learning, acquiring information, and understanding their social context. In isolation, legal literacy programs will only reinforce a non-contextualized conception of law and its role in our struggles for social change. Isolated legal literacy could lead to further reliance on law and lawyers, and hurt the women it is intended to benefit by encouraging them to see law and rights as a solution to their problems. It is only by integrating legal literacy strategies with these broader programs that women will learn about law in the context of the broader social movement they are creating, and strategies for using law will be developed that are responsive and accountable to this social movement (Cossman & Kapur, in press).

A feminist approach to legal literacy, therefore, provides knowledge about law that will be empowering to women and bring them to understand what law means in the context of their lives. Women must be allowed to reflect upon their lives, to work toward an understanding of the violations that have occurred in their lives, link these violations with broader structural causes such as class, caste or gender, and understand how these structures are supported and sustained in the law. The process develops critical consciousness about women's subordinate position in society, the role of law in reinforcing that subordination, and hopefully leads to the development of strategies for social change.

### **Legal Literacy: In Action**

The most difficult challenge lies in translating this preferred approach to legal literacy into action. Beginning from the premise that legal literacy for women should be situated in broader-based educational programs involving issues such as health, public administration and labor, I have done legal literacy with different community-based groups and programs involved in such processes. Through these experiences, I have become aware of the extent of differences among their approaches, their process of interaction with the communities, and their understanding of empowerment.

In the sections that follow, I will describe and evaluate the extent to which these different approaches facilitate and/or limit legal literacy. My remarks are based on my experiences and observations in attempting to conduct legal literacy with various groups. My remarks are tentative and mediated through the partiality of my experience and perspective. I am attempting to build on my previous work where I have tried to explore how legal literacy can contribute to the transformation of women's lives (Cossman & Kapur, in press).

I will relate the stories of three different experiences with three very different approaches to community-based development and education. The first story concerns a development organization working with women in some urban slums in a northern industrial city in India. The second story is about rural women from a southern state participating in a government education program for women's equality. The third story relates to a workshop conducted by a feminist organization with rural women from a northern state.

### *The First Story: The Development Organization*

The first group involved a development organization working with women in some urban slums in a major industrial city in northern India. I visited the organization to explore the possibility of doing legal literacy workshops with the women.<sup>6</sup> The organization, like many other development organizations working with women, focused its activities on saving schemes and income generation. Little or no attention had been given to consciousness raising and participatory education for women from a feminist perspective.

I visited the slums and in my conversations with women, became aware of the horrors of dowry and its effect on poor women's lives. When I inquired into the nature of these demands I learned that dowry demands over the past two years had become extortionate. Yet women did not question the giving and taking of dowry and accepted it as a part of being born a daughter. There had been little focus on the question of dowry by the development organization whose major concern was the economic empowerment of women. The issue of dowry had been discussed and some space created, perhaps for women to speak about their pain or the violence in their lives. However, the discussions were limited to sharing some

experiences of dowry without addressing the underlying conditions that are responsible for the harms caused by dowry. Without making these connections, women will not begin to understand that dowry is not a natural condition, but socially determined. Naming the personal pain is not adequate for changing consciousness. Naming women's pain in relation to structures of domination is also an essential part of the process for coming to political consciousness (Hooks, 1989). This understanding must then be linked to the overall struggle for developing collective political resistance.

The development organization had not emphasized developing critical consciousness in their interactions with the women. Their focus on economic empowerment reflected their analysis of women's condition primarily within the structures of international and class inequalities. Like many development organizations, they operated from the assumption that women's position will improve if and when international structures become more equitable (Rathgeber, 1989). In the meantime, the organization focused on developing intervention strategies designed to address women's under-representation in economic, political and social structures. Consequently, savings schemes and income generating activities were encouraged. However, these schemes often exhibit a lack of awareness of the experience of women's lives, particularly the extent to which women are already overburdened with tasks and responsibilities (Gupta, 1986). The common assumption is that access to income will be a sufficiently powerful stimulant to encourage women to rearrange their time so that they can take part in yet another activity. Yet when participating in a savings scheme, women will most often save on themselves, by eating less or spending less money on their health care. The internalized notions of good wife and mother keep women from spending less on their husbands and children. Such schemes do not challenge the traditional system or structures of power within the home (Stichter & Parpart, 1990; Dube, Leela & Patriwala, 1990). The approach does not analyze women's situation in terms of the relationship between patriarchal attitudes, differing modes of production, and women's subordination. It does not work toward a fundamental shift in the social relations of gender.

This approach to development affects the approach to legal literacy. Focusing on income generation or savings schemes for women does not create awareness of the connections between such developmental activities and women's position in society, a necessary condition for empowering education and for situating legal literacy. Further, if the organization is involved in income generation or savings schemes, it would be primarily interested in learning about those aspects of law related to these schemes. Other aspects of women's lives such as violence in the home, contraception, and child bearing and rearing would not necessarily be addressed and thus remain invisible because of a focus on income activities.

Thus there is a direct link between the model of development being pursued and the issues that will be addressed in a legal literacy scheme set up by the organization. Unless such groups question their development approach and its lack of gender focus, any effort to do legal literacy for women that is empowering will be limited. Instead of focussing exclusively on service oriented activities, there needs to be a greater emphasis on critical consciousness. This involves developing a process that encourages a critical understanding or approach to development and its impact on women. Legal literacy should be incorporated into this broader educational process. Otherwise, legal literacy would give rise to all the standard problems associated with the traditional model; that is, information-giving and looking to the law for solutions. Therefore, there is a need not to rush prematurely into legal literacy programs before the groundwork, in the form of critical consciousness, is done.

### *The Second Story: The Government Program's Equality Fair*

A second experience with conducting legal literacy involved a large number of women. An information or knowledge fair was organized for village women participating in a government program of education for women's equality in Karnataka. More than 1300 village women participated in the three-day fair.

A law workshop was organized for the fair, to be conducted with the participation of three to four hundred different women per session.<sup>7</sup> Each session was four hours, and one session was conducted on each of the three days. Conducting the

workshop had both strengths and limitations. Ideally, the process should be conducted with small numbers of women in spaces that are specifically for women, over a long period of time. At the fair, it was not possible to adopt such a process to produce a feminist consciousness about law.

Given the limitations, as facilitators we still had to work out methods that did not reduce the workshop to merely giving information to women about the law. We focused on our objective of enabling women to challenge the understanding of law as a solution to the problems and violations they experienced in their lives. The first concern was to identify the issues to be addressed with the participants. As gender consciousness had been a focus of the program over the two years, some specific issues concerning women emerged from each area (Mahila Samakaya Karnataka, 1990). Women had become aware of oppression within their lives as they were given space in the program to articulate and understand these experiences. Different communities of rural women attended the workshop, including *devadasi* women,<sup>8</sup> *adivasi* women,<sup>9</sup> and scheduled caste women.<sup>10</sup> They experienced a range of problems including the dedication of women to temples, the expulsion of tribal women from their forest dwellings, sexual assault, domestic violence, cruelty, bigamy, and desertion. Accordingly, we decided to address the specific concerns of a different community of women each day. On the first day we addressed the problems of *adivasi* women and the forest laws (Indian Forests Act, 1927). On the subsequent day, the issues of *devadasi* and prostitution were addressed with the *devadasi* women and other women from their area (Karnataka *Devadasi* Act, 1982). On the final day, we dealt with the concerns of other rural women, specifically in the context of the family. Further, the fear or experience of sexual assault was common to all women, regardless of their diverse cultural and economic background. We decided to address the issue of sexual assault with each group, on each of the three days.

Within this framework, we then decided to use only one hour to convey some information on the issue of particular concern or relevance to the group being addressed. In the second hour, we divided into smaller groups to explore the issue in greater detail and to allow women to listen to one

another's experiences. We formulated stories for the women to consider and decide the extent to which law could assist or limit their efforts to address the violations. In the final half hour, the groups then reported back to the group as a whole.

The first day mainly *adivasi* women attended the session on forest laws. We shared with them basic information on forest laws and sexual assault. The participants then divided into smaller groups for a more detailed discussion, one facilitator sitting in each group to help guide the discussion. The *adivasi* women spoke about the changes that occurred in their lives as a result of their forceful removal from the forests, their original habitats. Both as tribals and as women, the shift to a settled way of life had resulted in economic and cultural deterioration (Fernandes & Menon, 1987; Singh, 1989; Shiva, 1985). The effects of these changes included an increase in violence both inside and outside the home, erosion of *adivasi* culture, and lowering of women's status in their community. We then talked of the role of the forest laws in bringing about changes in the lives of the forest dwellers more generally, and the women of those communities specifically. We looked at the interests served by the laws, particularly the state's interests in securing revenue by reserving forests for its purposes. We discussed the role of the law in forcing *adivasis* out of the forests into settled agricultural lifestyles and the waged economy (Singh, 1985). All of the groups came back together and a participant from each shared the discussions with the entire group of women.

Similarly, on the issue of sexual assault, the participants were given information on the rape law and domestic violence in the big group. In the smaller group sessions, women were asked about the definition of rape and how it was distinct from sexual assault. Was this distinction valid? What was the difference and should there be a difference? In most groups women felt that sexual assault that did not involve penetration, did not make the offense less harmful to women. Most forms of sexual assault were both violent and humiliating for women. In each group women were asked to discuss different problem situations, such as what they might do if their daughter was raped by a neighbor or if her son raped a village girl. No consensus resulted in any of the groups as to how to resolve these



situations. They were torn between the rights of the family and those of the woman. The discussion forced women to think about the institutions that challenge and frequently take priority over women's rights. It further forced them to think about how to meet this challenge through consciousness raising and using rights as a strategy for mobilizing women.

We followed a similar format on both the second and third days. We began by providing basic information about the subject areas, and then broke down into smaller groups. Despite the format, the second day began rather spontaneously, with the participants singing songs. One group of married women sang a song about the duty of all women, if they were good women, to serve their husbands regardless of his nature, appearance or treatment of her. The *devadasi* women then sang a song of how they were born from a diseased womb and destined to serve one "master." The images of the good and bad women provided the basis of discussion on the law governing *devadasi* and prostitute women.

In the discussion on *devadasi* practice, prostitution and child marriages, some *devadasi* women shared their experiences with the group. They were all rural harijan women who had little economic security and frequently had to resort to prostitution. They were unable to find employment or participate in society because of social stigma and rejection from other women (D'Cunha, 1986; Fight for Prostitutes' Rights, 1990; Demand for Legalisation of Prostitution, 1983). We looked at the different legal provisions governing the dedication of women as *devadasis* and prostitution, and the extent to which such laws helped protect or further hurt these women. We attempted to illustrate how the law continues to reinforce the stigma attached to *devadasi* and prostitute women as it penalizes them for the kind of work they do. The law is based on assumptions of morality, that is, the moral conduct and behavior of women not men, and is concerned with protecting public rights as opposed to women's rights. Women who are engaged in offering sex for money, or under the guise of religion, are immoral and threaten public moral values, in particular the values on which the family is based. It does not protect the rights of these women or attempt to address the economic conditions, compulsions or the class interests responsible for their situations.

In the small groups, the participants were presented with different situations and asked to respond to each in light of the knowledge they had acquired about the law.

Situation #1: There is a woman in your village who is a *devadasi* with two children? How do you treat her?

Situation #2: You see a dedication taking place. A 12 year old girl in the village is being dedicated. What do you do? A pimp will take her to Bombay. What can you do?

The group consisting of *devadasi* women were asked: What is your self-perception? Do you see yourselves as workers? Are you different from prostitute women? Should the law treat *devadasi* women as immoral? Should the law treat prostitute women as immoral? Do you see either of these women as immoral?

The purpose of this discussion was to force women to question the assumptions on which the law is based and whether the distinction between prostitute/*devadasi* women and all other women is a legitimate distinction. Should women be denied access to their rights because of the nature of the work they do? Furthermore, it challenged the distinctions that women themselves practiced, and the need to break down these distinctions between women if there was to be any possibility of developing solidarity amongst women.

On the third day, virtually the same format was followed with regard to domestic violence, cruelty, bigamy and desertion. In general, both the large and small groups were used to provide an opportunity for women to think about law differently and think about its role in changing their lives/conditions or in reinforcing their situation. The purpose was to internalize an understanding of the possibilities and limits of the law. It was possible for women to share their experiences on specific issues, then talk about and convey a sense of the limits of the law with respect to each issue. Yet the process was limited primarily by the large numbers present, the lack of familiarity between the participants and the facilitators, and the limited amount of time allotted for conducting the legal literacy workshop. It is essential for such a process, where the main achievement has been in getting women to think about the law differently, to be followed up in the different districts or villages of the participants. The follow-up will enable



educators or facilitators to work with smaller numbers, build familiarity and trust, and enable further exploration of the issues of specific concern to them and the role of law in addressing those issues.

### *The Third Story:*

#### *The Feminist Organization's 10-day Workshop*

The third group consisted of approximately fifty women who attended a ten-day workshop on women and health, and women and law. The workshop had been preceded by a continuous feminist educational process that had been going on for almost two years. Out of this process emerged a need expressed by the participants for a workshop on health and law. The law sessions were conducted primarily by activists from a feminist group with the assistance of two lawyers, including myself. The focus of the workshop was on the right to equality and nondiscrimination. We took up different issues affecting women's lives, gave information about laws governing those issues, and the extent to which such laws facilitated or undermined a women's right to equality. Some of the issues raised during the workshop concerned wages, rape, marriage, divorce, and alcoholism. These issues were explored primarily through the medium of plays and songs. We used facts from different decided cases and asked the participants to enact the cases, bringing out the questions raised by the particular issue.

Women enacted plays on decided cases about abortion and the restitution of conjugal rights. They divided into small groups to discuss the cases and then put together a play to be enacted before the entire group. One case concerned the story of a woman who had an abortion without her husband's consent (*Sushil Kumar Verma Usha*, 1987). Her choice was held to constitute an act of cruelty and grounds for divorce under the Hindu Marriage Act, even though a woman has a right to terminate her pregnancy under the Medical Termination of Pregnancy Act without seeking any other party's consent, including that of her husband.

On the issue of restitution of conjugal rights, the facts of two cases were presented. The right was primarily used by men, and could result in forcing a women to return to the matrimonial home and his conjugal "company" (*Sareetha V. T. Venkata Subbaih*, 1984). In their play, the participants raised important

questions about a supreme court decision that held that the man's right did not violate a woman's right to equality and that, in any case, constitutional rights to equality and liberty had no place in the family (*Smt. Saroj Rani Sudarshan Kumar Chadha*, 1984). The play raised important questions for discussion, such as whether a man has the right to order his wife to return home when she is unwilling? How is this different from rape? Why didn't women enforce their right of restitution of conjugal rights when their husbands left the home without good reason? One response was that women were essentially homeless, that if they have no real home, how can they ask their husband to return?

Through the discussion of the plays, the participants concluded that the law was primarily functioning as a mechanism for protecting man's right to have an heir, a son to light his funeral pyre, to have unhindered sexual access to his wife, and to protect a husband's rights over his wife's body. The method enabled women to understand the limits of the law and to develop critical consciousness about the laws, the primary objective of a legal literacy workshop.

The question arose that if the values of decision makers/judges are so biased, what is the solution? Should more women be in places of power from where they can shape the law? ("No, because even in that place she is surrounded by men, she doesn't have the space to develop herself.") Can law ever benefit us if this is the situation? Some bold answers included the responsibility of women to claim their rights and change the law. In a subsequent group discussion consisting only of single women, we heard some women argue for property rights in their natal family, something that is not acknowledged in the law. They also felt entitled to rights to education, to control their bodies, to speak, to wear the clothes they wanted, and to move about freely.

Voicing needs or rights that women consider relevant to their lives did not merely raise expectations. In fact, the group proceeded to talk about how to secure rights that are not recognized in the law. Honest, genuine, empowering stories of resistance, struggle and opposition emerged. We listened to the story of Asha, a village woman, who told us how she was sexually assaulted. Her assailant made several attempts to rape her, but she was able to struggle free. She brought the issue

before the panchayat, a local body of village elders, all male, who determine disputes arising from the village. She refrained from making a complaint and going to court, where she had already experienced a bitter lesson. Asha had gone through a divorce and was presently fighting for the return of her dowry. Her initial enthusiasm diminished as the court process turned out to be lengthy, the lawyers appearing to be the only ones to materially benefit. She decided not to use the courts to fight the case of sexual assault. Her experience taught her that her struggle in the courts would be a lonely one, where she would have to fight as an individual against her aggressor and would also, at best, secure a decision long after the assault occurred and no one would hear about it. The assailant attended the meeting accompanied by local thugs hoping to intimidate Asha. Yet she arrived at the meeting accompanied by a large number of women from nearby villages to whom she had related her story. This display of solidarity was sufficient to intimidate her assailant, who was forced to apologize and was publicly humiliated by his family, who beat him with a sandal. Asha did not resort to traditional legal processes that could not have delivered justice to her in the same manner or speed, if at all.

By working with a feminist group we were able to conduct the legal literacy workshop using feminist approaches. The process was intensive, involved working with small numbers of women, and used consciousness raising as a specific method of empowerment. Such an approach provides a space in which women can talk about or share their experiences, work through those experiences to achieve a greater understanding of their material context, and with that awareness, ultimately work together to transform that context. It is the ideal place to situate legal literacy that enables women to critically consider when and how law may be a useful tool in their lives.

There were some important limitations of the workshop that need to be understood and further explored. The discussions raised many contradictions, frictions and inconsistencies. The main obstacle to the process was that women attended from different areas and raised different issues that were relevant to their particular context. It may be more useful to explore these issues in much smaller groups, and in relation to laws that are of particular relevance to each district.

Further, the workshop process raised important questions about pedagogy and the role of facilitators in conducting a legal literacy workshop. We need to explore more deeply the role of rights as a tool of empowerment, our role as facilitators, power and women's relationship to it, and the idea of interlocking or interrelated oppression. A deeper understanding of each of these conceptual areas needs to be communicated in the course of giving practical information about the law. The goal is to deepen our understanding of law, using a participatory approach to explore both its limits and possibilities.

On the question of rights, we need to think more about our understanding of rights, needs and obligations. How do rural women define their rights? What is our understanding of a right as trainers and educators? Is it a language we feel comfortable with? To what extent is it empowering or liberating? To what extent does it merely introduce the power of the state into our lives? Is the idea of individual rights a radical notion for those who have not had the privilege or power to be recognized as individual agents? These questions will assist in problematizing our understanding of rights, and move beyond a formal notion of rights.

The question of power needs to be addressed more intensively. It can be raised in relation to any laws that clearly discriminate between different groups of people. These include, among others, tribals and nontribals; legitimate and illegitimate children; and prostitute women and married women. Both participants and facilitators need to understand the role of law in reinforcing existing power relationships. Also, we need to ask when do we experience power; as a village woman, resource person, facilitator, or in our families? How can women experience domination, and be capable of dominating and oppressing others?

Lastly, in a legal literacy process, we must be acutely aware of how gender is mediated through other oppression, such as class, caste, or religious community. How do these factors affect a woman's experience of gender? As a feminist, I must confront the difficulty in speaking about feminism across such differences, and the different experiences of gender and gender relations. How can we speak across these divisions?

## Conclusions: Toward a Beginning

What conclusions can we draw from these different experiences of doing legal literacy? What are the implications for our understanding of rights and the role of law in women's struggle for social transformation?

Legal literacy will only be effective to the extent that it is compatible with broader approaches to education and development. It must be premised on an adequate understanding of class and gender. This means probing beyond the grassroots experience or nature of an organization or program with which we are working. We need to understand the nature of the relationship they are attempting to establish with the communities in which they are situated. This understanding involves looking at the relationship with the community being established, the assumptions of gender and development which are being pursued, and the understanding of empowerment that informs the organization's approach.

Further, the experiences related also indicate the need to develop a flexible approach to legal literacy. That is, the structure of a workshop will be determined by the nature of the group attending in terms of its class, caste and religious identities, the number of women participating, as well as the level of gender consciousness in a group. Where there is little or no gender awareness, then a consciousness raising process must precede a legal literacy program. Consciousness raising enables women to reflect on their lives, critically analyze and evaluate their experiences, and understand the possibilities of transforming their lives. A legal literacy program must enable women to apply that critical awareness to the law and legal process, discovering both the limits and possibilities of law in the struggle for social transformation.

In a legal literacy workshop, we need to talk more about the use of rights both inside and outside the courts. It is important to come together and relate struggles of women, both successful and unsuccessful in court, and try to understand the reasons for success or failure. We also need to continue to share the struggles that have taken place outside the courts. This sharing is important for expanding the use of law for social change in women's lives. Our purpose is not to exclude the traditional approaches to law, but to expand the scope and dimension of

rights strategies, to explore the full potential of rights, and use them in ways that can be more effective and practical for rural women in particular. Information giving is essential, for an informed woman might at least have a chance to challenge persons in positions of power who are prone to abuse their power. Yet legal information must be placed in context if we are to understand its full potential and its limits. To tell a woman that bonded labor is illegal is to provide her with information that will make no difference to her life. To work toward formulating strategies for social and economic empowerment with the knowledge that bonded labor is illegal must be the goal of an effective legal literacy strategy.

## NOTES

1. The India Women's Movement is not a universal movement in India. It is a diversity of movements, ranging from party affiliated women's organizations to regional autonomous women's groups that differ in terms of class, ethnicity, language and region. To speak of a homogeneous group would obscure the diversity of the movement, diversity that has in many respects been its strength. While there is no common experience of the women's movement, law has, nevertheless, been a common site of struggle for many, although by no means all, women.
2. In India there is no uniform family law. It is governed by the laws of the different communities. Therefore, Hindus are governed by Hindu law, Muslims by Muslim law, Christians, Parsis and Jews by their respective personal laws.
3. The amendments were brought about as a result of protests by academics and agitation by the women's movement against the decision of the Supreme Court, acquitting two police officers of the rape of a young girl named Mathura. See Tuku Ram State of Maharashtra, AIR 1979; *Report of the National Meeting of Women's Organisations Against Rape*, 1990 and Rao, A., Juneja, M. & Vaid, S., 1980; Indian Penal Code (1860), amendments to sections 375 and 376 by the Criminal Law (Amendment) Act 1983 and insertions of sections 376A, 376B, 376C and 376D.



4. The women's movement has used a variety of methods for women's empowerment, primarily in the form of consciousness raising, using plays, songs and workshops for generating critical awareness about women's oppression and the factors responsible for that oppression.
5. In referring to we, I am talking about those of us working in and through the law using feminist processes; those of us working to use law to empower women. The use of we is intended to critically engage the reader in the struggles and challenges that face us.
6. I was assisted by Geetenjali Gangoli, a Masters in Philosophical History student at Delhi University.
7. The workshop was conducted with the assistance of three law students and a faculty member of the National Law School of India University.
8. *Devadasi* refers to the class of women, who through various ceremonies of "marriage," dedicated themselves to the deities of temples and other ritual objects. The practice is subtly sustained by feudal landlords, normally of a higher caste, who use religion as a guise for keeping a mistress. Further, pimps and touts frequently recruit these women for prostitution in urban centers.
9. *Adivasis* are people who have traditionally resided in the forests and have developed a culture and heritage that is directly linked to their relationship with the forests.
10. Scheduled castes are those castes, races or tribes, or part of groups within such castes, races or tribes that have been historically disadvantaged or deprived as a result of discriminatory practices. They consist primarily of the economically weaker sections of society. See further definition under Article 341 read with 366 (24) of the Constitution of India.

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# Experiences with Literacy in Sri Lanka

Savitri Goonesekere

## The Background

Sri Lankans were once described by colonial administrators and government officials as a "litigious" people. Village studies on land partition litigation and economic rights in rural communities in this century, as well as reported cases on inheritance, suggest that this litigiousness reflected a concern with justice and claims for legal relief from interference with perceived rights. As in other former colonies, colonial laws and post-independence legislation changed customary rights, and often effectively deprived people of an important economic asset. Regulatory measures introduced to encourage plantation agriculture in the nineteenth century provoked articulate protests from peasant farmers (Bandarage, 1983). At a later stage, people recognized the need to resolve their claims in the newly established British Courts, thus accepting the court's status to settle disputes.

The traditional tribunals had emphasized the importance of dispute settlement through mediation. It has been pointed out, for instance, that "administration of justice" in these tribunals (was) largely empirical, often taking the form of an equitable settlement (Hayley, 1923). Just settlements had to be pursued in a later era through adversarial court proceedings in British courts, which functioned in an alien language (English) and the mystifying terminology of legislation or foreign law. Because the judiciary and the court system attracted respect, these forums appeared to be dispensing objective justice. Men and women in even remote village communities were encouraged to take their disputes over economic rights to these courts.

The need to use the court system to assert land rights inevitably gave lawyers and paralegals a role as communicators in the new legal order. Justice in Britain and in the post independence world was administered generally in courts where litigants obtained access only through an intermediary. The adversarial nature of the proceedings required a litigant's cause to be presented by a range of professionals and paraprofessionals. These were the attorney, the attorney's clerk, the notary drafting the deeds, the village proctor, who had acquired familiarity with the law as a frequent litigant, and even a "tout" who frequented court premises and helped introduce a poor client to a lawyer. They all informed, counselled, and ultimately provided access to remote justice. Though laws had little influence on marriage, family relationships, inheritance, and land rights, lawyers and paralegals in litigated disputes and court decisions channeled the new legal ideas to these communities, according to village studies (Obeyesekere, 1967; Risseau, n.d.).

Sri Lanka's formal legal system, however, recognizes only lawyers and notaries as entitled to provide legal services. In the *Intermeddler with Suitors Ordinance* (1894), anyone who attempts to help a poor litigant find a lawyer for a prosecution case is considered as soliciting or intermeddling with a litigant. This law was described at the time by a nonlawyer as "a lawyer's bill from end to end" (Hansard, 1885). The law remains on the statute book today as testimony to the legal system's insistence that justice can be obtained in the courts only through the "proper" intermediaries, the professional lawyers. This circumstance has also influenced Sri Lanka's approach to legal literacy.

In the debate over the *Intermeddler Ordinance* one legislator articulated the need to give people direct access to legal materials so that they would not be exploited by professionals or by law enforcement authorities. But for the greater part of this century, the idea of providing independent information on the law to the citizen, as a strategy for ensuring access to justice and empowerment, was unfamiliar to members of the legal profession and the public.

The need for demystification of the law could hardly be recognized in a context where court proceedings were conducted in English rather than the local languages. In fact, courts provided official interpreters to translate the local languages into English but not vice-versa. Except for occasional, eccentric,

English speaking clients, only lawyers pleaded a case and moved a court. Furthermore, until 1923 the Roman Dutch law contained a procedural barrier that denied access to women litigants. A married woman had no *locus standi* to appear in court without her husband.

The use of the local languages in court proceedings was introduced by a controversial provision of the Constitution of 1972. Though this law had far reaching, destructive consequences for the ethnic problems of the country, for the first time litigants could have legal proceedings conducted in a language medium they understood. The barrier to women appearing in court was removed in part in 1923, and steadily reduced as major changes in procedural laws, also benefitting women, were enacted some time later. But even today, women cannot represent their minor children as guardians in litigation.

These new laws also attempted to deprofessionalize legal services to some extent by providing for a fused legal profession in which lawyers could combine the roles of advocate/pleader and counselor with notarial and administrative work. Mediation tribunals, known as Conciliation Boards, were established in 1958, barring lawyers from appearing in them. Later legislation produced the Family Courts, which recognized the role of family counselors, and in 1978 the Legal Aid Commission was established with the Chief Justice as Chairman. These changes were intended to bring the law to the people and to provide cheaper and more accessible justice and strategies for dispute settlement. By the 1980s, the idea of helping people to use legal remedies through direct access to legal forums had attracted the concern of policy makers.

The experiment with conciliation was a failure, in part because of a lack of necessary resources. But neither clients nor lawyers were really conscious of the need to move away from the familiar adversarial orientation of legal proceedings. This contributed to the lack of interest in, and enthusiasm for, making the new system work. The change in orientation was also unaccompanied by any concern for fostering rights awareness and increasing public knowledge of law and legal processes. Lawyers continued in their traditional role, advising, counselling and on occasion providing free legal services. Thus empowerment of the citizen through knowledge of the law remained an alien concept.



In the last decade however, there has been a dramatic change. Lawyers have assumed a role in continuing legal education to update the knowledge of their own members. Even Superior Court judges have descended from Olympian heights to participate with minor judges in seminars that critique the law. Most importantly, lawyers have begun to work with nongovernmental and social organizations by providing legal services or information. They continue to play a leadership role in these programs because of the perception that counselling and disseminating information on law are a lawyer's primary responsibilities.

Consequently, literacy levels have risen with greater exposure to print and audiovisual media, even in remote parts of the island. Men and women, traditionally interested in using the legal system and asserting economic rights in land, are becoming much more aware of the need to protect or claim other legal rights. But the citizen is now at risk of government interference and losing more rights. Because of economic changes and other factors in the last few decades, the range of regulatory administrative and governmental controls has expanded. The sheer complexity of the new regulatory system has created a great sense of helplessness. To combat the need for information, thus enabling them to assert their rights, individuals are not only forming interest groups and acquiring lobbying power, but also educating themselves. Consumer organizations and organizations of taxpayers, tenants, trade unions, and even professionals like architects and engineers, have become interested in ad hoc training and programs on special areas of law.

A parallel trend has been the introduction of a legal literacy component into the work of nongovernmental sector organizations involved in community development at the grassroots level. Sri Lanka has always had a strong, service-oriented nongovernmental organization sector that has often worked with the State at the grassroots level in policy implementation and community development. These organizations have now taken on the task of providing information on laws and legal procedures to their workers and to the communities with which they work. These programs focus on rights awareness, enabling people to prevent being exploited and to obtain the relief that the law affords. Some of these organizations have also moved from legal literacy into free legal aid or counselling programs,

or have developed one aspect in combination with the other. Lawyers have played a leadership role in all these programs.

It is the ethnic crisis and the political violence of the last few years that has given a new dimension to legal literacy work in the country. Groups of lawyers and other persons have organized themselves to research and monitor the human rights situation in the country. They have developed legal literacy programs intended to create public awareness on human rights issues and even provide free legal aid to victims of violence. These legal literacy programs are often ad hoc arrangements, though more regular counselling and legal aid is available.

Women's rights cases are considered by these organizations in the general context of human rights violations and do not receive special priority.

It is evident from this review that legal literacy and legal counselling/aid programs in Sri Lanka lack structure. They have been a response to particular concerns of groups of people, at a given time. Therefore, women's rights have not attracted attention as a special focus for legal literacy and legal aid. Special programs for women are a recent development.

The international concern with women's rights and the support of aid agencies has been the catalyst for the recent focus on special legal literacy programs for women. Several governmental agencies and nongovernmental women's organizations have initiated legal literacy programs for middle class and grassroots women as an aspect of their general concern with women's issues. Some of these organizations have also attempted to bring women's rights issues before a professional audience of judges and lawyers. These groups believe that awareness raising in the legal system will help to realize women's rights to justice and equality.

Legal literacy programs for women that have developed from concern over domestic violence, or as part of human rights programs dealing with violence, are a response to the need to provide immediate relief to violence victims. These programs, influenced and supported by international concern for human rights, reflect a greater willingness to challenge the application of laws and legal controls in the Sri Lankan context. Perceived to some extent as a process for empowerment of women, awareness raising also helps in understanding the structure of the legal system and the need for change. We shall

observe that it is this dimension of legal literacy programs that is most at risk in the present political climate within the country. The capacity to sustain that dimension was seriously threatened during 1987-1989, when abductions and killings of human rights activists led many people to fear for their life and liberty.

Most women's organizations perceive awareness raising on legal rights as a women's concern and not as a general issue of justice. Consequently the linkages with professional and human rights organizations concerned with legal aid are weak and undeveloped. The relationship between informal dispute settlement and resolution of disputes through the court system remains unexplored. But to their credit, raising legal awareness has evolved into an effort to provide access to legal fora and remedies, through free legal aid and counselling.

Women's organizations involved in legal literacy usually target their programs to their membership, community workers involved in the projects, or the group in the community that they service. However, human rights organizations, universities or research centers that present similar programs on specific women's rights through conferences, seminars or in-residence workshops, reach wider audiences. They focus on sensitizing people involved in the administration of justice, policy makers and bureaucrats dealing with women's concerns and issues, and mobilizing the law and legal procedures in that context.

Legal literacy programs for women in Sri Lanka have thus originated from the efforts of a variety of governmental and nongovernmental agencies and organizations. An awareness of the wide range of organizational inputs is necessary for any critical evaluation of the Sri Lankan experience on legal literacy. The variety shows both the concern with this concept and the limitations in the common strategies and adopted approaches.

The Women's Bureau and the Department of Probation and Child Care are the main government agencies with legal literacy programs that publicize women's issues. Under its former administrative head, the Women's Bureau of the City Police initiated a legal literacy program for women police personnel, but did not sustain the effort. The Human Rights Center is a semigovernment organization that works toward creating rights awareness. The Legal Aid Commission is the sole official agency that offers free legal aid to citizens below a certain income level. It provides counselling facilities through its

program of legal aid, but does not involve itself in general or gender-specific legal literacy work.

By contrast, several nongovernmental organizations such as the Law and Society Trust, Voice of Women, Women in Need, Sarvodaya, and the Center for Society and Religion have more regular programs that combine rights awareness with legal aid clinics offering free legal counselling and assistance to clients. Organizations with a specific focus such as the International Center for Ethnic Studies, the Sri Lanka Federation of University Women, and the Muslim Women's Research and Action Committee also conduct programs on rights awareness. Two universities involved in legal education, the Open University and the Colombo University, have recently become involved in legal aid and legal literacy work involving faculty members and students.

The two major professional organizations of lawyers, the Women Lawyers Association and the Bar Association, have also recently entered the area of legal literacy. The Women Lawyers Association pioneered legal literacy programs for women and also moved into the area of legal aid. In contrast, the Bar Association, with a largely male membership, has focused on continuing legal education for judges and members of the profession. However, it has said that it will specifically take up cases involving women and children's rights in its free legal aid and counselling programs.

## **Legal Literacy Strategies in Sri Lanka**

This paper will outline the common strategies used in the many legal literacy projects relating to women. This approach seems more relevant than an indepth analysis of one program in understanding Sri Lanka's experience in the area of legal literacy. The concept underlying all the Sri Lankan programs is the assistance of women to obtain remedies and compensation through legal processes. The common strategy in all the programs is information dissemination by lawyers and discussion centered on this limited exercise. The information is passed on through a range of similar activities.

### ***Distribution of Printed Legal Literacy Materials***

Sri Lanka is a country with a high literacy rate, and most organizations involved in legal literacy work favor the print

media. The Sri Lanka Women Lawyers Association has produced a series of illustrated booklets that cover a wide range of topics of interest to the public, and specifically to women. Other organizations have produced similar manuals, pamphlets or booklets. At their best, these printed materials are informative and raise important issues concerning the application and implementation of legal controls. Printed materials invariably provide uncritical accounts of the relevant information.

They serve a limited purpose in making women aware of certain basic legal requirements. These include obtaining birth certificates, passports, and economic rights relating to land or employment. The printed materials do not have a clearly defined learning objective. They do not take a critical view of the structures or encourage interest in law as a tool for social and economic change. They often inform without provoking thought or encouraging a reassessment of given ideologies and norms. The distribution of this type of printed materials in regular classes on legal awareness for community workers or others, promotes the tradition of rote learning in education. Participants perceive the materials as printed "notes" to be memorized and stacked away.

Preparation of printed materials as short publications or leaflets on inexpensive paper are the least costly method of communication and most effective. Such materials have a wide circulation because they can be made available to the public or target audiences without difficulty. Also, they are not constrained by the censorship guidelines restricting posters or newspapers. Though posters and newspapers have greatly expanded their circulation in Sri Lanka in recent years, in times of emergencies the State can censor both with impressive force.

Occasionally, scholarly research publications receive support from legal research organizations. Their value is limited though because of their cost and small target audience, and the fact that policy makers normally want encapsulated wisdom and are unwilling to wade through scholarly publications. Furthermore, manuals and case books are more popular with students and members of the law profession; organizations involved in legal literacy work have produced a few such publications.

Lawyer-academics or lawyers invariably produce the printed legal literacy materials in Sri Lanka. Paralegal personnel do not venture into this field. Journalists are the only non-lawyers

who contribute to this work, and at times they consult with law professionals. Newspaper columnists in legal affairs often have a clear male bias. Not one organization has engaged a journalist to contribute a regular column on women's rights issues.

There is a positive feature about these printed materials. Because the lawyers who write them work with nonlegal professionals or community workers, these documents don't usually appear as dry, making them more readable and understandable.

Another interesting feature of the printed materials used in Sri Lanka is their form and style, which has attracted the interest of men, as well as women. This is true of the booklets produced by the Women Lawyers Association as well as other publications on legal literacy, including the radical feminist literature. Women's organizations in Sri Lanka are generally reluctant to take confrontational positions, and the present political climate has discouraged such a stance. As previous experiences have shown, if their advocacy strategy is to succeed, these organizations must reach the public, particularly men.

### *Discussion and Dialogue*

Most programs involve oral presentations that lead to "teaching" group work and seminar-type discussions, all with varying success. Seminars and conferences attracting the same group of middle class men and women tend to rehash familiar material and themes. Everyone is left with a sense that the rhetoric never leads to action. Essentially it is an exercise in discourse by the initiated, for the initiated! Nevertheless, there is a certain level of sophistication in the discussions, allowing for comparisons of legislative and judicial experience. Moreover, these seminars attract busy practicing lawyers and judges, who may be moved to research legal materials from other countries in the region. The concepts of public interest litigation, and giving locus standi to third parties to represent the disadvantaged sectors of the community, are new to Sri Lanka. Seminars and conferences may expose Sri Lankan judges to these ideas. Yet the vast majority of middle class participants, especially the government servants and bureaucrats, are inhibited in face-to-face discussions. It is not easy to engage their interest in specific issues or problems or provoke an uninhibited response. Lively discussions rarely follow a presentation, and workshop "reports" tend to repeat the material



distributed. Consequently, it is difficult to know whether the exposure to these activities succeeds in sensitizing people to women's rights.

Mixed audiences of men and women attend most of these sessions. The legal literacy program in the Open University Community Education program, for example, is attracting a mixed audience of community workers, whose discussions are often lively, vigorous and geared to problem solving.

These mixed group discussions, however, are sometimes dominated by middle class men whose fixed gender perceptions are difficult to dislodge. This experience suggests that all-female audiences would be better in this activity. This is not wise though, because bureaucratic decision makers and policy planners are often male.

The importance of a mixed audience becomes further apparent in regard to legal literacy programs involving discussion and debate for poor (rural or urban) communities and grassroots workers. Their experiences of trying to assert legal rights, combined with a subsequent sense of disempowerment, has generated mixed reactions. They are, on one hand, critical of accepted norms, while on the other hand, interested in using the system and exploring its alternatives. Specific groups voice particular problems such as employment rights, pollution or tenancy problems. They rarely have an interest in generalities or general legal concepts, unless they involve basic legal areas such as constitutionally guaranteed fundamental rights.

The awareness that fundamental rights are protected and can be used to prevent and challenge abuse of administrative authority, has generated special interest in constitutional rights. Many students who followed the community education classes at the Open University preferred to drop other options in the course in order to follow the program on legal literacy. A quasi state organization that conducted a legal literacy program on fundamental rights reported that it almost ended in fisticuffs when the audience vigorously criticized the government's inadequate administration and law enforcement of citizens' fundamental rights. As these experiences show, discussions and seminars at the grassroots levels can be used to create rights awareness, and ultimately to lobby the government. It appears that group participation can be harnessed to discourage self-help and introduce creative proposals for



social and legal structures to support the realization of women's rights.

Subject experts and lawyers conduct discussions and seminars for professionals and community workers. Despite the rural population's familiarity with the paralegals, known as the proctor's clerk, both rural and urban communities prefer that experts conduct the programs. There is some distrust of paralegals because of the knowledge that they are untrained and lack professional knowledge. Like a law graduate, a Colombo lawyer or legal professional may feel self-conscious about conducting a legal literacy program in a village hall, temple, or community building located in the middle of an urban slum. But he or she would receive a courteous and even enthusiastic reception. In the midst of the curfews and violence of 1988 and 1989, grassroots women in a poor rural area in Central Sri Lanka were willing to bring their own food, find hospitality for visiting lawyers, and organize a legal literacy program. Many committed young lawyers involved in legal aid and counselling have shown both their capacity and commitment for communicating with lay persons. If this potential develops and strengthens, lawyers can play a creative role in face-to-face sessions.

### *Audiovisual Materials*

Several organizations and the Open University have produced videos/films that have been broadcast on the national networks. Mainly, they have been more than documentary dramas, as they have presented rights issues by stimulating critical awareness of gaps in law enforcement and the tension between social practices and legal norms and controls. They are also problem oriented, focusing on current sociolegal issues such as domestic violence, dowry, and employment of female children. Response to these programs is often immediate, and sometimes viewers even contact the producers for details of legal aid and counselling centers for domestic violence. After one screening of a particular film, anonymous letters on child abuse in domestic service increased, according to A Children's Magistrate.

Audio programs produced by the Open University, the Law and Society Trust, and Women in Need have also evoked a similar response. In one instance, victims of violence wrote into a broadcasting station after a regular spot dealt with domestic violence. In another, an employer who wished to

challenge some views expressed in a panel discussion on the plight of women workers in the Free Trade Zone, actually assisted the same organization to produce a film on the working conditions in the zone; the radio broadcast provoked the management to protect its image as an employer.

Audio and video programs are also available for sharing within and between institutions so that they can be worked into educational and legal literacy programs. Video material on the rights of women workers are used in a variety of teaching programs. Several organizations frequently screen them in their public awareness raising programs.

Since audiovisuals are problem oriented and raise issues of law in the social and cultural context of its application, they encourage an interdisciplinary approach. Most programs draw on lawyers, bureaucrats, social scientists and members of the public as resource persons. This encourages producers to adopt a holistic approach to the particular legal problem that their discussion or program focuses on. These programs also expose professional lawyers to other viewpoints and foster a shared commitment to finding solutions for sociolegal problems of current interest. As most audiovisual programs deal with day-to-day problems that require interaction between people and the law, it is easy to engage the interest of the audience and resource personnel in these programs. Audio productions are less expensive and easy to produce if studio facilities are available, as in the Open University. However, video programs are costly.

Censorship continues to be a problem for broadcasting on the national networks. For radio broadcasts, however, these constraints usually are less severe. And in the use of audio and video material for regular educational programs or at seminars and workshops, censorship is not really a factor.

### *Data Collection and Research*

A few organizations engaged in legal literacy work also incorporate a component of research and data collection. The Center for Women's Research, the Law and Society Trust, and the International Center for Ethnic Studies have produced many research studies. They also produce newsletters and short publications that can create rights awareness and stimulate reform. Nevertheless, even these organizations have not developed structured legal literacy programs based on

research findings in important areas such as domestic violence, employment, and economic rights. For this very reason, the research has rarely percolated to grassroots workers or helped to initiate policy change or reform.

### *Monitoring the Media and the Courts*

Legal literacy programs can be developed through consistent media monitoring and linkages with newspapers, helping to sensitize journalists and legal professionals like lawyers and judges to gaps and anomalies in the law. This can also help to create women's rights awareness among law students and even policy makers.

Though many organizations maintain files of newspaper clippings, this type of media monitoring has not helped. Follow-up activities have been absent, and relationships with working journalists short.

There has been little coverage of women's issues in the newspapers, and both the local newspapers and legal literacy organizations are to blame. Investigative journalism regarding women's rights has seldom appeared. In some cases, publication of these articles has been impeded by the newspaper's editorial policy. When journalists have written informative articles on women's rights and criticized accepted legal norms, the media has not sustained their campaign. Newspapers also often carry conflicting views on controversial matters, like divorce law reform, without any clarification of the issues in their editorials.

For their part, legal literacy organizations have not incorporated the media's censorship policy into their debate. In addition, these organizations have not always been able to respond to journalists' requests for information.

Steps toward solving some of these problems have begun. The Center for Women's Research has set up a "media group," where journalists and media personnel meet and share ideas. Here they monitor media programs and newspaper articles, and influence programs and policies in their own work areas to reflect a sensitivity to women's issues. Some of these people have already produced legal literacy videos and broadcast programs on women and law. Other organizations are now beginning to provide information, especially pertaining to women and law, to journalists. Some of them are also sending representatives to monitor court cases. However, these organizations still are not linked together

and do not work closely enough with the media on a regular basis to sustain a campaign for law reform or in lobbying for change.

### *Law Enforcement, Law Reform, and Changing Cultural Practices*

This represents the weakest aspect of legal literacy work in Sri Lanka. Key issues of law enforcement, gaps in legal controls, and social and cultural practices that undermine positive laws have been publicized through these legal literacy programs. Yet none of the women's organizations or human rights organizations have been able to capitalize on this information to provoke action and change. They have not worked together to mobilize people on issues around court cases, or even instances of weak law enforcement. Thus, they have failed to attract the interest or concern of legislators, policy planners, or even the legal profession and the judiciary. Not surprisingly, their work has had no impact on legal policy formulation or change. Women's organizations, actively interested in legal awareness raising, know the need for lobbying and advocacy. Yet they have not established the linkages for this purpose or the infrastructure to lobby effectively on issues or cases of rights violation. Personality conflicts and general apathy toward adopting an activist approach has contributed to this situation. The political climate in recent years has not helped either, discouraging women's groups from taking on an overt advocacy or lobbying role. Most organizations involved in legal literacy have preferred to adopt a service oriented role, by helping to disseminate information or providing legal counselling in individual cases, while maintaining a low profile.

### *Legal Aid*

It is unusual to find legal aid programs that also have structured and regular programs on counselling and legal literacy. Organizations that began in legal literacy work have tended to move into counselling and free legal service. Consequently, interest in legal literacy as an educational component has diminished. The official Legal Aid Commission, for example, offers free legal aid to low income group clients but has never engaged in legal literacy or advocacy. Some women's organizations offer nonlegal counselling services on matters of domestic violence and psychological and family problems, but their legal literacy programs are distinct.

A panel of professionals conducts free legal aid and counselling even when the matters refer to simple administrative problems. Paralegals do not participate in this exercise. As clients do not want students to handle certain cases, students assist staff in a limited capacity in the free legal aid clinic run by the Open University's Law Department at the Central Campus. Most organizations use a coordinator, along with untrained or minimally trained lay persons to hear the circumstances of the case during the first stage of counselling. Professional lawyers are used on a referral system to advise on legal or administrative matters that have a component of law. Lawyers who help in the clinics offer their services free and require the client to pay only the fees that are absolutely necessary for filing papers.

The services offered at these clinics are often inadequate because of a lack of financial resources and a full-time staff. Litigation in particular requires administrative work and research for filing papers. Obtaining the required documents may require much effort, paper work and interviews with bureaucrats and law enforcement authorities. With delays common to legal proceedings, a case may last several years; lawyers who undertake court appearances may have to be in court on many occasions. Jurisdiction constraints require the clinic to find lawyers from their panel who practice in the same court as the client's case. This is often difficult. Lacking an adequate permanent cadre of lawyers who will handle cases free, lawyers undertake legal aid on an ad hoc basis and by virtue of personal contact. The heavy reliance on this type of informal arrangement diminishes the quality of the service offered and creates a backlog. Some organizations tend to concentrate on conciliation, with the few regular lawyers on staff persuading clients to agree on out of court settlements. Settlements are made even where clients would benefit by asserting their rights in court.

After a failed experiment in an earlier era, Mediation Boards, consisting of nonlawyers, have been established again in Sri Lanka. It is still too early to assess whether these boards will have an impact. People often come for legal aid when informal conciliation efforts have failed. Clients know when untrained personnel attempt conciliation. At this point, they reject their efforts to work out a settlement and prefer to have access to professional lawyers.

Legal aid organizations in Sri Lanka do not have the resources to offer a complete range of legal services. They are unable to follow up reports of violation publicized in the media or the press. Inevitably, there is no link between legal aid and the research and advocacy programs of legal literacy, thus diminishing their impact. At best, these organizations offer an overstretched and ineffective service.

Legal aid and counselling services are rarely based in areas outside the capital city of Colombo. However, special legal clinics occasionally function in the provinces on particular days. Most legal aid organizations handle cases involving women as an aspect of their general program. However, the Women Lawyers Association and a few others run free legal aid clinics exclusively for women and children. These clinics handle mostly matrimonial and domestic violence cases and are not equipped to deal with all cases that come to their attention. Human rights organizations offering legal aid have now moved into the controversial area of filing habeas corpus applications in respect to abducted persons.

### **Evaluation of Experience and New Directions**

The orientation of legal literacy programs in Sri Lanka is toward information distribution, using lawyers as communicators. Intrinsic to this approach is the idea that imparting legal literacy will empower women to use the legal system and enable them to receive equity and justice through the legal system. These programs work from the belief that the law is a rational and complete system, even though some laws may not be effectively enforced.

Community workers and nonlawyer professionals may sense that the law is irrelevant to the daily lives of people. They are not critical of the legal processes or norms. Their negative attitude to the law can be attributed to their perception that law is hard to understand and too complicated to solve ordinary problems. Legal literacy projects are designed to demystify the law, thereby enabling women to invent their own remedies and relief. But the lawyers in these programs invariably assume the responsibility to give redress against injustice.

As in many other third world countries, Sri Lanka has inherited first world norms and premises to form the basis of its legal



system. But they function in the context of third world realities of poverty and limited State resources. Consequently, the complicated system of family law formed by antiquated statutes and personal laws now reflects differing basic values and perceptions of rights. Therefore, creating legal awareness alone will not empower women to realize their right to equitable treatment. Legal and connected social structures must change too.

To develop legal literacy programs against the backdrop of changing legal and social structures requires an interdisciplinary approach to program development and in the use of resources. Firstly, it will be necessary to strengthen the links between lawyers, legal professionals, and others working with women at the community and grassroots level. With the lawyers on these programs sensitive to social and community issues, legal literacy can use an interdisciplinary approach to become oriented to women's rights issues. The very understanding of the limitations, constraints and gaps in the law and its implementation can then promote an interest in lobbying for creative change. Most existing programs have failed because communicators and/or participants have not been inspired to take on the next level of lobbying for change.

For legal literacy work to inspire, the legitimacy of criticism and dissent must be recognized. Women's organizations focusing on women's rights issues in legal literacy programs must understand both the importance of human rights issues and the legitimacy of dissent in the form of free speech and protest in the community. It must be understood that education can never benefit a country where a doctrine of State necessity legitimizes censorship and intolerance of dissent. Therefore, women's organizations cannot afford to focus only on issues such as domestic violence or employment, and be insensitive to broader social issues such as the free communication of ideas. It is also irresponsible to promote legal literacy and encourage criticism of existing legal norms and processes if the only prospects for change are more violent attacks. Currently, a government commission is screening the activities of non-governmental organizations. If this is an invidious act to curtail independence, it is important for organizations to recognize the danger and join in protesting the constraints on working and distributing information within the bounds of recognized legal norms. Women's organizations engaged in



legal literacy must make their contribution to creating a democratic value system within the country.

Strengthening linkages between organizations engaged in legal literacy work will encourage this common perception of goals and strategies. This will not be an easy task. But the reason individual programs failed to have an impact on policy planning or legal reform was due partly to their isolation, a missing sense of direction, and the duplication of scarce resources. Linkages may be easier to establish if some organizations play a leadership role and focus on particular issues in their legal literacy work, e.g., employment or domestic violence. Alternatively, other organizations can choose a common theme for a given year for their programs. This would require a rationalization of resources and establishing umbrella organizations to coordinate legal literacy work; some umbrella organizations already exist, and more should not be difficult to form in a small country.

Experience with legal literacy work in Sri Lanka shows that rights awareness must be raised among a variety of people in the community. The political and cultural context is such that it is difficult to effect empowerment of women through legal literacy in isolation from the rest of the community. The goal should be to educate women, while simultaneously obtaining support from other sectors for the realization of their rights. The radical stance of empowerment of women alone is unrealistic in a context where the political and cultural climate clearly discourages dissent. Women who organize protest can find themselves isolated or confronting suppression and violence. The experience with the Mother's Front in Sri Lanka, a women's group that has taken up the issue of disappearances and abductions, is informative. It shows how important it is, not only for women to organize, but also to obtain the support of other sectors, including the general public, to generate sympathy for their cause.

Legal literacy programs in Sri Lanka are not carefully structured and use the same techniques for different target audiences, effectively inhibiting the development of programs. Continuing education programs for lawyers and judges can be developed to share comparative legal and judicial developments in other jurisdictions from the region and focus on general issues. These programs should also reach different groups of lawyers rather than the same group which is already familiar

with the issues and developments. Lawyers and judges of the provincial Bar play an important role in the administration of justice, and their sensitivity to women's issues is vital. The Bar Association's Continuing Legal Education programs reach the provinces, but they have not introduced a women's rights awareness component. The Women Lawyers Association programs do not reach the provinces, nor do they target lawyers and judges. To perceive a legal problem in a holistic sense, it is important to expose these professionals to the ideas of experts from other disciplines. A recent video brought out poignantly the gap between "legalese" and social reality. The lawyers appearing for abducted persons faced with the risk of death, referred consistently to the legal rights of the "corpus" in Habeas Corpus applications!

Sri Lankan legal literacy programs have up to now targeted middle class women, community workers and grassroots women. This focus must be retained, for middle class women urgently need empowerment, either in the workplace or at home. The subjects developed for these women, however, are similar to those developed for a professional group. To engage their interest at first, there must be discussions of issues relevant to the women's own experience, rather than a study of abstract legal norms and principles.

Sri Lankan learning methods encourage the "guru-pupil" approach to study, where the student is a passive learner. Legal education programs for community workers and grassroots women can break new ground by distributing printed or audio materials in advance and stimulating students to be active. This technique helps the women focus on the legal problems that they or their own communities face. Raising these problems in a common classroom situation can provide the participants with an opportunity for an analysis in terms of stated legal norms that may lead them to criticism of the system and new thinking on the need for change.

Audiovisual materials are useful for any target group and generate lively discussion. Use of theaters and street drama is an equally important strategy for communicating ideas in the community. One series of theater workshops conducted by a Sri Lankan producer involved women participating in a legal literacy program. Using this medium, the women were able to dramatize familiar problems in regard to law and law enforcement. The

discussion with the participants that followed also stimulated interest in women's rights issues. Theater workshops and dramas also provide a basis for developing a powerful "protest" theater. To evade censors and public performance boards, Sri Lankan dramatists often write in the local languages and produce plays that subtly and cleverly critique accepted norms. Legal literacy programs have yet to draw on these dramatists, though some leading artists have worked in the area of video filming.

Legal aid is an important component of legal literacy. Awareness raising can lead to empowerment only if the participants can activate change. However, utilizing existing regulatory controls is also important. Taking up controversial cases in court and monitoring violations can be both an awareness raising and lobbying exercise. Thus, it is logical to combine legal literacy programs that can both sensitize and engage the interest of law students and lawyers in the actual functioning of the law in its real context.

Sri Lanka has not developed a system of paralegal training, nor are paralegals used in legal counselling. A new direction for the future would be to provide training for community workers, nonlawyers, and grassroots women on simple legal and administrative matters. They also can be used in the initial stages of information gathering and listening to complaints. However, professional practice requires specialized knowledge and skills, as many regulatory controls on professional practice attest. Therefore, it is not possible or wise for paralegals to take over preparation of papers and matters connected with litigation. In the context of Sri Lankan legal literacy programs, paralegal training should have a limited focus.

If the present piecemeal approach is replaced with a holistic one that combines information dissemination with critical evaluation of the law and an effort to lobby for change, then legal literacy work will achieve more than it has in the last decade. It is not difficult to develop small projects combining all these activities. If the goals are demarcated in this way, counselling and educational activities can provide a base for critical evaluation and research. Legal aid cases can provide a similar basis for research. Media monitoring can strengthen the interest and commitment to fighting test cases. The processes of education, research and free legal services can empower individual women to use the system, while strengthening their interest in

lobbying for change. Such projects may require some resources, but they are not as ambitious if the resources are channeled to these connected goals in a structured and organized manner.

Legal literacy programs in a country with law and order problems can have a rationale only if they are able to instill a belief in the relevance of the law as a method of social control. The failures of the past lie in the fact that information dissemination in legal literacy programs has continued without change, in a context where there has been growing disenchantment with the capacity of laws, lawyers and the courts to contribute to the administration of justice. The present situation requires a reassessment of the quality of these programs, whether they are conducted only for women, or for women as part of the wider community. Current economic policies and recent political trends have posed a serious threat to democratic freedoms. Empowerment through legal literacy becomes empty rhetoric if this philosophy cannot address the reality of the community's vulnerability to abuse of power. An effective legal literacy program, combined with free legal aid, must provide a voice for both individual victims of human rights violations, and legitimacy for fundamental freedoms, public interest litigation, and legal reform. It is in this wider sense that legal literacy can contribute to realizing women's rights in Sri Lanka.

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# Challenges of Promoting Legal Literacy Among Women in Uganda

Florence Butegwa

## Introduction

This paper focuses on efforts to develop legal education in Uganda and highlights the challenges of promoting legal literacy among grassroots women in Africa. The experiences of Uganda offer a case study that may serve as a prototype for further efforts in popular legal education for women on the African continent. The commitment of the present government, and numerous organizations, to facilitate the effective participation of women in the social, economic and political development of the country played an important role. However, a closer analysis of the strategies adopted reveals major flaws that obstruct the realization of the stated goals of both governmental and nongovernmental women's organizations.

### *Social conditions in Uganda*

Women in Uganda are subject to dichotomous social and legal regulatory regimes that tear them apart. Cultural or traditional norms control most adult Ugandan women from birth. These norms require women to be subservient to men—fathers, brothers or husbands. Women must always obey their men, respect them, kneel before them and go all out to please their husbands. In most communities a dowry (or bride-price) must be paid by the prospective husband before a girl receives parental consent and blessings for marriage. That same dowry must be returned to her husband's family upon divorce. In most families, the dowry that a girl fetches is used by her

brothers to pay dowry for wives of their own. Because of this, the social pressure on girls and women to get married and then to remain married is very great. A husband, having paid dowry, has absolute rights to the services, children and loyalty of his wife. If she displeases him, he may discipline her as he wishes. Traditional forms of disciplinary action by a husband include beating, refusal to share a matrimonial bed, and ultimately, the return of the wife to her family for correction and discipline.

There are also norms based on religion that most Ugandan women are brought up to accept. Almost 80 percent of Uganda's population professes the Christian faith, and the largest minority is Moslem. Religious teachings of both emphasize that women are subordinate to men. A wife must respect and obey her husband. He is the head of the family and its provider.

However, there is a "new world" to which many women have been exposed through education and travel. There are many women in diverse disciplines, with very good academic and professional qualifications. Education has exposed these women and their children to new ideas about the status of women, male-female relationships, the power of economic independence, and a whole range of possibilities and opportunities for women. Yet these same women live in a society in which repressive cultural and religious norms also operate.

Women in Uganda live amid varied political and economic contradictions. The economic reality of Uganda is that of a developing country staggering under the burden of foreign debts incurred to support huge armies fighting endemic armed insurgencies, and to fill the bellies and insatiable greed of corrupt political leaders. Structural Adjustment Programs, prescribed by international financial experts from the International Monetary Fund (IMF) and the World Bank, have only served to worsen the economic conditions in Uganda. Many families in Uganda survive below the poverty line. Few people live on their wages or on the income from one job or business, and many must live on the margins of the law. This reality has also meant that very few families can depend on the man to be the sole provider for the family. More and more women, both in the rural and urban areas, are playing a crucial role in the survival of their families. Typically, as the



economic pressures increase, men succumb to the strain and resort to alcohol addiction, leaving the women to fend not only for themselves and the children, but also for the husbands.

During the period 1981-1985, when political insecurity was at its highest in Uganda and life and property could be taken away at a moment's notice, many married men encouraged their wives to engage in business. This was to ensure that should the man be killed or forced to flee the country, the family would not be destitute. Many other women, widowed quite early in their lives, also had to learn how to survive. Although these were painful days for Uganda, they also made possible the emergence of a group of rich and successful Ugandan business women.

The question should be asked: how does a Ugandan woman reconcile the contradictions inherent in her environment? Often, she just does not! She knows, for instance, that it is detrimental to her best interests when her relatives demand dowry from her prospective suitor, yet she agrees to it. She feels devalued or even disowned by her family if there is any attempt to depart from the cultural norms. Society expects her and her people to conform. She feels pain and does not like it when her husband beats her or subjects her to other humiliating treatment, yet she does not resist him when he batters her, because either she has nowhere to go (her brothers will probably send her right back), or she thinks it is his right as her husband. She may know that she brings into the family as much money as her husband does, or perhaps even more. Yet she has no power to share in the decisions about how it should be used.

### **The Nairobi Women's Decade Conference**

These and many other contradictions were never acknowledged or discussed in a public forum (except by way of gossip among women) until the end of the Decade for Women NGO Forum in Nairobi, Kenya in 1985. The various discussion groups and workshops held at this forum constituted a landmark, especially for Ugandan participants. They awakened interest in women's potential for greater participation in development. The role that law had hitherto played in reinforcing the inferior status of women, and the role it could play in

improving their status by fostering greater participation of women in development and increasing their inherent self-respect, were among the themes that recurred in various fora.

On return to Uganda, some participants, especially women lawyers, started thinking seriously about literacy for women. They realized that most of the practices that oppressed women were illegal, and that women had a legal remedy in the courts of law. They also acknowledged that most women were not aware of this fact—still believing that everything that was acceptable under custom was the law of the land.

### **Dual System of Law**

A dual legal system operates in Uganda. The Judicature Act provides for the recognition of laws made by Parliament (or its equivalent) and of customary laws in civil matters where at least one of the parties is subject to such customs. The only limitation put on the applicability of customary law is that it must not be repugnant to natural justice and morality. Since this expression has no definite meaning, its interpretation is subject to the values of the judge/magistrate. Where customary law contradicts a statute, the latter prevails. There are many contradictions in the two sources of law, especially as regards personal law (marriage, divorce, custody of children and inheritance). The Succession Act as amended in 1972, for example, entitles a widow to a 15 percent share in her deceased husband's intestate estate; whereas, under most customary laws, she has no such right. In many communities she herself is part of the estate to be inherited by the deceased man's brother or uncle. Similarly, the law does not distinguish between female and male children in the sharing of a deceased parent's property. But under many customary laws, a daughter never inherits land or other valuable property like cattle.

For most women, especially the large proportion of women who live in the rural areas, customary laws are the only laws they know. The fact that law enforcement officers and other people who make up the structures of the legal system at this level are as steeped in custom as the women themselves, further complicates the matter. It is not, therefore, uncommon to find a magistrate who will throw out the case of a widow claiming a small portion of the property she devoted her energies

to accumulating together with her husband. There are policemen who will not register a complaint of assault made by a married woman against her husband. These are some examples of the injustices Ugandan women face and could resist if they knew the law.

### **The Legal Literacy Programs**

Legal literacy programs for Ugandan women began in earnest in 1987, after the National Resistance Movement (NRM) came to power and brought a measure of stability and security to most parts of the country. The government expressly advocated support for initiatives to improve the situation of women. The Ugandan Women Lawyers Association (FIDA-UGANDA), which is the local chapter of the International Association of Women Lawyers, and Action for Development (ACFODE), were the forerunners in developing legal literacy programs. The former, as the name implies, is a nongovernmental organization whose membership is entirely composed of women lawyers. The latter, also a nongovernmental organization, has a multidisciplinary membership. Both organizations are based in the capital, Kampala, although their work extends to most parts of the country. The Ministry of Women in Development, established by the NRM government and the Women's Desk of the NRM Secretariat, has also played an active role in promoting legal literacy, especially with regard to the constitution.

### ***Strategy and Rationale for Legal Literacy***

The main strategy these legal programs use is sharing information about law and available legal remedies with as many women as possible in the country. The initial reasoning behind the strategy was that if women knew the law, they could use it to change those aspects of their lives that are oppressive, or have kept their social and economic status below that of men. If women knew, for instance, that they had a legal right to own property, they might start working toward acquiring property so as to reduce their dependence on men. If women knew that they had a legal right to petition for a divorce on proof of certain matrimonial offenses, fewer women would continue to suffer violence, adultery and other forms of marital cruelty. If

women knew which forms of marriage are valid under the law, they would not enter cohabitational unions under the mistaken belief that they were legally married. And so, the reasoning went, if women only knew their rights and status under the law, they would be better equipped to protect themselves. The audience to be reached were women throughout Uganda.

### *Priority Areas of Law*

In Uganda, as in many parts of Africa, it is widely believed that the destiny of every girl is marriage. Ugandan society views an unmarried woman with much suspicion, ridicule and contempt. She is referred to in derogatory terms, implying that she could not get a man to marry her (e.g., *Nakyeombekedde*, *agwire hamahega*, *ahangaire*). She is regarded as a stigma to her parents. Her brothers treat her with contempt (probably for not fetching them a fat bride-price). Men do not allow their wives and daughters to associate with an unmarried woman. If such a woman remained in her parent's home she would become everybody's slave, and if she lived on her own she would be considered a prostitute.

Because of such negative stereotyping, most Ugandan women do get married and strive to stay married, even when their marriages have broken down irretrievably and there are grounds for divorce. The economic dependence of most married women on their husbands for land, income and other necessities of life compounds the situation. According to most customs, the home of a deceased man goes to his customary heir. In these circumstances, many women find themselves without even a roof over their heads, dispossessed of the property they have worked for all their lives, and their children and property distributed among various in-laws. Two harsh alternatives are available to such women. They must either start a new life from scratch, or be inherited by a brother-in-law.

Since these problems affect the majority of women in Uganda, it was felt that the most urgent requirement of a legal literacy program was to facilitate women's awareness about the laws that affect them most, available legal remedies, and how to gain access to those remedies. Thus, the priority areas of law identified as central to the legal literacy programs were marriage, divorce, custody of children, property rights during marriage, and divorce, and inheritance. It was also felt that

where the law does not adequately protect a woman, her knowledge of this fact may facilitate a conscious decision on her part to protect her own interests. Under the divorce laws, there are no provisions relating to the division of property accumulated by both parties during marriage without proof of a monetary contribution. Most married women are housewives and contribute indirectly through their services in the home and on the family land. This contribution is neither acknowledged nor evaluated in monetary terms by the judiciary, which is largely a conservative, male-dominated institution. The result is that a woman gets nothing on divorce, save a pittance by way of alimony. Typically, the wife has no evidence of what the husband's real income amounts to, and so she may receive as alimony far less than he is capable of providing. It was hoped that a legal literacy program would promote awareness about this law to encourage women to accumulate wealth and property in their own right.

Within the first year of implementing the legal literacy program, it became clear that focusing on women alone as the sole audience served little purpose. Women attending sessions organized by FIDA raised this issue openly. They pointed out that few women could confront their husbands and assert their rights. Which woman was going to tell her husband that he had no right to beat her or to marry another wife? They rightly argued that the men themselves should be there to hear what the law stated. The program was amended to reach out to both men and women, but this again raised another problem. Women whose husbands or relatives were in the audience felt unable to participate freely in the discussions for fear of retribution.

The sessions that FIDA and ACFODE conducted regularly in the rural areas soon became important to them as a source of ideas for law reform. They recorded the responses generated at the sessions and put them in a format that could be presented to the government with reform petitions. The sessions also provided an opportunity to identify the other areas of law that women wanted to learn about. The areas of greatest interest included laws relating to teenage pregnancies, AIDS, and business opportunities, including access to credit for women with no security to offer a financier.

### *Program Structure and Activities*

FIDA's legal literacy program is designed and implemented by its volunteer members, who go out in the field to conduct the sessions. Every month the program focuses attention on a single administrative district. Initially, a team of one or two FIDA members visits the district headquarters to introduce FIDA and publicize its intention to mount a legal literacy campaign in the district on specified dates. These dates run from Friday through Sunday because FIDA members are employed full-time elsewhere and can devote time to FIDA activities only on weekends. At the preliminary visit, the district administrators advise FIDA on the best location to hold each session and the route they should take to reach the more remote areas. The FIDA team then plans the sessions, that take between three and four hours, for each subcounty. A subcounty is an administrative unit consisting of several villages with a total population ranging between 8,000-20,000. The program and itinerary are drawn up in close consultation with the district administrator's office, the RC V Chairman, and the Secretary for Women.<sup>1</sup> These officials receive copies of the program and a request that they mobilize people in the district to attend the sessions on the scheduled dates and times. FIDA also makes announcements over the national radio urging people to attend the program. The local chiefs and RC Chairmen receive letters informing them of the forthcoming visit and venue, with a request that they assist in mobilizing residents of the area to turn up in large numbers.

On the scheduled date, a team of eight FIDA members leaves Kampala, the capital city of Uganda, on the long trek to the various subcounties on the itinerary. They work in pairs to ensure a diversity of approach, and since local dialects are used, the team approach allows one member to interpret if the other is not very familiar with the local dialect.

Role plays are often used to portray situations that are familiar to the people and to place the subsequent discussions in context. They are also invaluable in making the audience relax, enjoy a good laugh, and soften FIDA's intervention. Explanations of law are made as simply as possible using examples from everyday occurrences to illustrate how the law can be used by women to solve some of their problems and avoid others. Stimulating discussions always ensue, with



women asking questions that leave little doubt that they, or a person very close to them, had gone through painful experiences that may have been better resolved, had they known the law. At the end of every session, the FIDA team advises the participants about how to get in touch with the FIDA legal aid clinic for advice and representation when necessary. Usually, immediately after the legal literacy session, the team converts itself into a mobile legal advice unit. The purpose is to offer an opportunity to those with serious legal problems to consult with lawyers and be advised on appropriate courses of action.

### *FIDA Responds to Public Invitations*

Wherever FIDA has conducted its legal literacy sessions, participants are assured that FIDA is willing to come and discuss with them any problems, practices or situations they might be concerned about, or the legality of which they are uncertain. They are encouraged to invite FIDA for this purpose and as a result, the FIDA office receives many invitations from organized groups, e.g., church groups, women's local savings groups, cooperatives, local RCs, and employers concerned about the welfare of female employees. On one occasion, an employer called FIDA to advise company section managers on the law regarding the beneficiaries of an employee's death entitlement. This was prompted by an episode in which the firm had paid a large sum of money to the next of kin of a deceased employee, who claimed to be responsible for the funeral expenses. In many cases, it is often a brother of a deceased employee who reports the employee's death; in this case too, the entitlement was computed and paid over to the brother on production of proof of death. The assumption was that he would in fact pay the funeral expenses and deposit the rest of the money to take care of the deceased's widow and children. Contrary to expectations, however, the widow turned up a month or so after mourning to claim her late husband's death benefits!

Invitations such as these offer FIDA the opportunity to provide follow-up services to people, however inadequate. They also indicate a growing interest by women to know the law and to use it in their daily lives. The number of women appearing at the FIDA legal aid clinic from districts covered by legal literacy campaigns is one measure of its success.



### ***Radio and Television Programs***

Besides these subcounty visits, FIDA and ACFODE broadcast regular radio programs on women and the law. Each radio program focuses on one aspect of the law. As there are many dialects in the country, these programs are broadcast in the vernacular languages and English. Individual members commit themselves to providing this service to their people. Television programs also reach out to the people, although the population owning television sets is much smaller.

### ***Publications***

To supplement these efforts, several publications promoting the legal literacy program have been printed by the organizations. FIDA has published two booklets, one on wife-beating and the other on inheritance. They have also translated some of the laws into the local languages to make them available to the public, and especially to officials of the Resistance Committee Courts, which are the lowest courts in the judicial hierarchy<sup>2</sup>, but have the greatest contact with women in Uganda. ACFODE's pamphlet on women's legal rights exists in the major local languages. The Ministry of Women in Development has also put out a booklet on women and the law.

### **The Constitution-Making Process**

When the NRM government came to power, it made a commitment to permit Ugandans to participate in the constitution-drafting process, which aimed at securing a safe Uganda in which changes of government would be peaceful and orderly. The NRM believed that since most Ugandans never participated in making previous constitutions, they felt no moral obligation to respect them. An elaborate and laborious process was set in motion to encourage all citizens to participate in this process. A Constitutional Commission, established by statute, was charged with the duty of soliciting and placing on record suggestions from the people regarding the constitution they would like to have in Uganda. Since most people did not know what a constitution was or its importance, a major task of the Commission was to educate the public on the concept of a national constitution.

The Ministry of Women in Development, and the other organizations involved in promoting awareness of women's rights, saw this as a great opportunity for involving women in the process and ensuring that women's rights were adequately protected by the new constitution. A joint committee, set up under the auspices of the Ministry, had a mandate to work out a strategy for achieving these goals. This led to the creation of the Constitutional Consultation Project for Women. Three main activities were designated under this project:

1. *Preparing a corps of multidisciplinary trainers*, sensitized to know what was at stake for the women of Uganda, and equipped with expertise in popular education. The corp of trainers was called The National Resource Team and consisted of about thirty individuals. Its main function was to go out into the communities, talk to the women, inform them about what a national constitution is and its impact on the lives of the average woman, inform the women about the provisions of the existing constitution, and solicit ideas about the features they would like to see incorporated in the new constitution.
2. *Developing a manual on women and the constitution* to serve as a point of reference for the various groups involved in mobilizing women. These groups included members of the National Resource Team, women's representatives in the NRC and in Uganda's Parliament, trainers from each district, and members of the Constitutional Commission. The manual was expected to help women:
  - identify the status of their rights under the current legal system;
  - identify the areas in which they would like to see changes;
  - understand the current position of the law and the constitution concerning the areas of central concern to them;
  - identify the ways in which the constitution could meet their needs and rights more explicitly.
3. *Undertake a massive national legal and constitutional literacy campaign* for women after completing the manual and training of the National Resource Team. The National Resource Team would go to individual districts and train

local resource teams to ensure that all women were reached.

The publicity given to drafting the constitution by the government machinery and media provided an ideal opportunity for women to focus on their legal rights, and how the law should be used to improve on those rights and ensure greater access to legal protection. This initiative, together with the efforts of FIDA and ACFODE, ensured that information about law and the status of women reached many women in Uganda.

## Reflections

### *Deciding on a Strategy*

The question that must be raised at this stage is whether women in Uganda have been empowered through this process. Legal literacy does not refer to the acquisition of legal knowledge per se. The purpose of legal literacy is to create a critical awareness of one's status and rights in law and invoke a conscious decision to work toward positive change. Critical awareness does not mean simply knowing one's status and rights in law. It also requires an appreciation of the factors that influenced the law and formed the rational basis for the existing law. This level of critical awareness can be achieved only through systematic analysis of the legal system. Only then can the underlying problems be identified and understood. For instance, according to most customs in Uganda, a woman does not share in the inheritance of her deceased husband's or parents' estate—custom is contradictory to the law of the Act of Parliament dealing with inheritance. Nevertheless, women continue to be disinherited. Why is this so? Is it because the women do not know that this custom is not law since it contradicts an Act of Parliament? Is it because the men do not know the law? Would knowledge of the relevant law solve the problem? If that were so, how can we explain cases in which in-laws, who know the law, still deprive a woman of her inheritance, challenging her to take them to court? Can the law and the courts protect the rights of women? Do women in fact want to take their relatives to court?

These are some of the questions that should be discussed during the planning stages of a legal literacy program dealing

with inheritance rights. A critical analysis of the context and issues would help planners determine the audience to be reached, and program objectives, content, strategy and techniques to be adopted. If the objective is to change attitudes of the people, then the content of the legal literacy program must include more than mere legal information. Gender awareness, and the mutual benefits for families that would come about by changes in outlook and practice, may be important components of such a program. Moreover, it should have the capacity to draw the intended beneficiaries and participants into a similar critical analysis of the issues. Doing so would help them understand the origins of many customs and the socio-economic changes that have made the customs irrelevant. Such an approach respects the way of life of the participants and makes them part of the change processes that will benefit society. It fosters a process of critical awareness from *within*—a factor crucial for long-term empowerment of women in Africa—and avoids unproductive confrontations in the home that may leave women worse off than before.

### *Deciding on the Beneficiaries*

Should legal literacy programs for women's empowerment target women as the audience? This is an important question in a culture that does not take women seriously, in a culture where men are equally ignorant of the law, and in a culture where men still hold the key to change. When women gather as women, men automatically think it is a waste of time and a prelude to the breakdown of the moral integrity of the women concerned. The immediate reaction of most men is to prohibit their wives and daughters from attending such meetings. Knowledge that the gathering is talking about women's legal rights only serves to make male opposition worse. There is a high level of male suspicion of the law, of the present government, and of FIDA, over their intentions to promote women's rights, especially in the sphere of personal law, where traditionally men are supreme. Many men react by prohibiting their wives from taking an active part in legal literacy programs, let alone positive steps to exercise hitherto unknown legal rights. Nor do the men attend the sessions themselves or allow their wives to do so. This was recognized by FIDA from the low turnout of both women and men in the 20 to 45-year age bracket.

Some women have even confessed to hiding legal literacy materials from their husbands. This is hardly a sign of the road to empowerment.

### *Deciding on the Technique*

Ugandan legal literacy efforts have been planned and implemented by lawyers who are often uninformed about popular education methodologies. The technique most commonly used is the teacher-pupil approach, in which the lawyer has the legal information that she passes on to an audience assumed to know nothing about law. At the end of a presentation, the audience may ask questions or give appropriate answers to questions posed by the lawyer. Admittedly, there have been some attempts at using role plays, posters and pictures to stimulate the group, but the teacher-pupil approach remains primary. Some have raised questions about the impact of this technique and wondered whether the organizations doing legal literacy for women at the grassroots level shouldn't instead train their members or personnel in alternative methods. Another consideration is whether lawyers should encourage the participation of nonlawyers in the design and implementation of the programs, as both could play complementary roles. While lawyers have knowledge of the law, they may not be able to communicate that information effectively. Since adult educators are well-versed in the techniques of popular education, and social workers know how best to work with people, they may be more adept at communicating the information to the community.

### *Continuity and Follow-up Services*

The legal literacy programs in Uganda extended across the whole country to a total of thirty four districts, with a population of over 17 million. There are nearly 40 people implementing this ambitious plan. They volunteer their time, although they have full-time jobs and families. The best they can do is to visit each district once. During each visit the lawyers can spend a maximum of four hours in each subcounty. Participants hardly have time to get used to the "visitors," relax sufficiently in their presence to participate, and absorb the needed information before the team must move on to its next session forty kilometers away, or rush back to Kampala. At the rate of one visit per month, it will take an organization a minimum of

thirty-four months to cover the country before it can even consider making follow-up visits. Some districts are too large to be covered in one visit.

It is frustrating for the women, whose interest in rights has been stimulated, to be left with no follow-up support if a problem actually arises. Even simple reference materials are not left behind with the women. Many forget what they heard during the sessions, or may wonder whether they absorbed the information correctly. Others may not be believed—even by other women—when they try to pass on the message. Thus, women continue to live and suffer as before, except for those with the money and the confidence to travel to Kampala and link up with FIDA or ACFODE when they are in need. These women are few.

The design of these programs must be rethought to ensure continuity in having information and advice available within the community. Obviously, the resources available to FIDA or ACFODE, or any other single organization for that matter, do not allow them to undertake this service. Neither is it necessary or even advisable for them to do so. Despite their concern and commitment, they remain outsiders. At times, their approach to a problem or the solutions they put forward may be too legalistic and fail to take into account the concerns of the average woman. For example, when a woman complains of frequent brutal assaults by her husband, most lawyers immediately view it as a criminal assault and a matter for the police or the divorce courts. However, the complainant may be thinking of the more severe beatings she will receive from her husband when the police have finished warning him—assuming, of course, that she is hurt seriously enough to convince the police that it is not just a domestic affair. She may be wondering where she could go if he sends her out of the home. She may worry about having to leave her children if she must leave the home. Perhaps she may not be so fed up with the man—who may be a good provider to her and her children—to prosecute. She may only want him to stop hitting her.

Local legal advisors or paralegals may be the answer to a more effective program. They would know some basics of law, and yet be sensitive to the needs of the women in their communities. Uganda currently has several organizations dealing with women's rights and group rights, even at the



village level. Some are church-based organizations, others have economic objectives; all seek to improve the status of the woman and ensure that women have legal protection. Perhaps these structures could accommodate paralegal activities since social cohesion among their members already exists. A person selected by the members to receive some form of training in the basics of law, legal counselling and popular education, could ensure continued service to the group and the neighborhood. There has been some argument that law can only be understood and interpreted by lawyers, and only they can explain it to the lay person. This may be true as far as the initial training of local legal advisors is concerned. However, once that phase has passed, the advisor can continue the legal literacy program and give legal advice, knowing when to refer individual cases to a lawyer or an organization like FIDA. If this cannot be done effectively, it may be a reflection of the appropriateness of the original training, rather than a confirmation of the dogma that law is only for lawyers. This strategy would considerably enhance the impact of legal literacy programs and free the lawyers and other professionals to move on to different tasks, such as developing gender sensitivity among members of the judiciary, the police force, and other participants of the legal system. It is encouraging to know that FIDA-Uganda has started thinking along these lines and is now redesigning this aspect of the program.

### *Cooperating and Networking*

In many developing countries it is common to have uncoordinated efforts among organizations sharing common goals, a problem exacerbated by rivalry and competition among them. There is no sharing of information, experience or lessons learned. Instead, a wasteful duplication of effort has a negative impact on the intended beneficiaries, funders, and the authorities the organizations seek to lobby for support and change. Consequently, there is an urgent need to incorporate the various organizations and rationalize their activities. There is a need to network and consult with other local and regional organizations having similar objectives and activities. Networking at the national level, for instance, could lead to an agreement to concentrate effort on a single issue, with the objective of achieving a greater and more positive impact. It



could lead to a division of responsibilities by geography, subject matter, or even audience level. The important point here is that legal literacy programs should be more appreciative of the complementarity of all efforts to protect women's rights.

### *Relevance of Content and Context of Literacy Campaigns*

The literacy campaign to involve women in the process of drafting a new constitution in Uganda provided an opportunity for reflection. Despite the pomp, wide publicity, and resources spent on this exercise, it left many women unmoved. As one woman put it, they simply did not have the time to waste on such "political gimmicks." Another said that she had little concern about those who ruled the country or how they came to power. All that these and many other women wanted was to be able to lead their lives in dignity and decency. They had more concern about the rising cost of living, about harassment of widows by in-laws, and about husbands who neglected their matrimonial obligations and battered their wives if they earned more than the husbands. One woman asked:

What did Obote give me when he first came to power through elections? What difference did it make to me when Amin came to power through a coup? What did Obote do for me when he returned to power? What is the difference now that NRM came to power through what they call a people's protracted war?

The constitutional literacy campaign approached the constitution as a major political document giving legality to forms of government and its organs. This was reflected even in the contents of the women's guide and sessions which covered what constitutions normally contain, or what matters should be governed by them; what the present constitution says about these matters; what the new constitution should say about these matters, etc.

The women's sessions did explain the status of women and their rights under the current constitution. When the facilitator asked the women what they would like to see included in the new constitution, the responses were immediate and strong:

- Abolition of dowry;
- Democracy in the home;
- The right of a woman to choose the number of children she wanted to have;

- The right of a woman to get a passport without seeking the consent of a third party;
- The right of a woman to a share in the property that she has contributed to in the marriage.

During one such session, the audience, which was largely female, got quite excited about the type of provisions they would like to see incorporated in the constitution. It was appalling to hear the facilitator, who was a woman, tell the female audience that rights, such as those listed above, do not go into a constitution! According to the facilitator, the constitution provides for political parties, the return or demise of kings, and other such matters! What are the concerns of a Ugandan woman in so far as legal rights are concerned? Who determines what women should be educated about or what they should ask for by way of law reform? All the legal literacy campaigns for women should examine these questions.

### *Program Evaluation*

Legal literacy programs for women in Uganda did not incorporate periodic program evaluation into their designs. Sometimes the question of evaluation was never considered at all. As a result, the programs have been going on now for close to four years without any evaluation of content, method, technique, targeted audiences, or above all, impact. Questions must be raised about the most appropriate evaluation methods to be used in programs of this nature. How can the intended beneficiaries, the women themselves, participate in the evaluation exercise? How often should the evaluations be repeated? These questions need to be incorporated as an integral part of any legal literacy program's plan and design.

Uganda has not had any experience to speak of in this area, and can learn from those programs that have done evaluations. FIDA and ACFODE, however, do acknowledge that programs must respond to the needs and special circumstances of the particular audience. However, without reliable data from the women and men who are the target audience, it is difficult to say with confidence that the women lawyers are doing what they ought to be doing in the most appropriate manner, or that the women themselves are benefitting from the programs.

The foregoing section should not be construed as underrating the efforts, commitment and success of the women lawyers.

In creating awareness of rights among women in Uganda, they have done a commendable job on a purely voluntary basis. Although there has been no systematic evaluation of its program, the number of invitations received by FIDA from groups at the grassroots level to discuss issues with them or explain the law on a particular subject, may provide a rough indication of the positive impact of the program. It has awakened among women a real interest in their rights and the need to take positive steps to change their position in society. Similarly, the number of women who come to FIDA's Legal Aid Clinic for legal advice and receive representation shows that an important development is emerging in an otherwise conservative society, where women hitherto simply accepted their treatment, however unfair or inhuman it might be. Approximately 40 percent of the cases related to affiliation, 30 percent to inheritance, 20 percent involved marriage and divorce, and 10 percent related to business. These areas are the main focus of FIDA's legal education program.

FIDA has also enjoyed widespread recognition and respect throughout the country. Individual members of Parliament, and Ministers concerned about the status of women in their constituencies, at times have offered facilities such as vehicles and accommodations, to enable FIDA members to go and talk with women in their areas. Local authorities at the village level have also begun encouraging and advising women, who are ill-treated by their husbands or in-laws, to come to FIDA for advice and representation. Such women often receive a letter from their local chief or RC Chairman introducing them to FIDA and stating any action that the chief/RC may have taken in the matter. Sensitive officials who support FIDA's work are of tremendous value to FIDA. This support has even facilitated the execution of court orders at the local level.

FIDA has enjoyed tremendous support from the President, who is now an honorary member of the organization. At all public gatherings he has urged women to strive for greater economic independence and to take advantage of existing laws. The Minister of Justice has also been very supportive, often taking immediate administrative action in response to complaints by FIDA concerning court procedures that prejudice women, general police conduct, and sexual assaults on women at police stations. There has been support from many other quarters also, including funders who have made all this possible.

## Conclusions

Legal literacy programs have been operating in Uganda for four years. Many lessons have been learned by all participants, including the general population. Some of the lessons have helped in the dynamic growth of the programs that respond to the needs of women. Other lessons ought to have had a similar impact. All these experiences, however, bring out the challenges that are implicit in starting a legal literacy program for the benefit of women, especially at the grassroots level. How is a program to be designed in which women contribute to defining priority areas, approaches, methods of implementation, and continuity of service? How is the appropriateness of the programs to be evaluated? How is the impact of a program of this nature to be measured? The Ugandan experiences have not provided final answers about solutions, but have highlighted challenges for discussion, networking, and concerted action among all persons interested in developing successful and empowering legal literacy for women in Africa and elsewhere.

## NOTES

1. Resistance Councils and Committees (RC) are a form of local government introduced in Uganda by the National Resistance Movement (NRM) government in 1986. At the lowest level, all residents of a village form a Resistance Council I. They elect from among themselves a committee of nine people to form their executive and local government. Several RC I Committees form the Resistance Council II, and elect a committee of nine from among themselves to be the RC II executive. These in turn make up an RC Council III at subcounty level. The system goes on until several RC IV committees elect the District Local Government RC V Committee. At each level, the RC committee is headed by a Chairman, and each of the others has special duties, e.g., RC I secretary for youth, defense, information and women's affairs.
2. In 1988, a statute giving judicial powers to RCs was passed. Their jurisdiction is limited to civil disputes governed by customary laws and petty debt claims, trespass and bailments. As explained above, these

committee members are ordinary people from the communities, having no legal training. They do not know which customs have the force of law, and which are not enforceable due to their incompatibility with statutes, or due to their repugnancy to the principles of natural justice. Neither are the concepts of civil wrongs, as opposed to crimes, clear to them since there is no such distinction in the customary legal systems. Many committee members had in fact, never seen, let alone read through the statute. All they knew was that they had the power to hear and determine cases, that they were, in fact, courts. Outrageous decisions were inevitable under these circumstances, unless legal education programs targeted these committee members too.



VERC/Bangladesh

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**PART III:**  
**DEPROFESSIONALIZING**  
**THE PRACTICE OF LAW:**  
**PARALEGALS AS RESOURCES AND**  
**AGENTS OF LEGAL LITERACY**

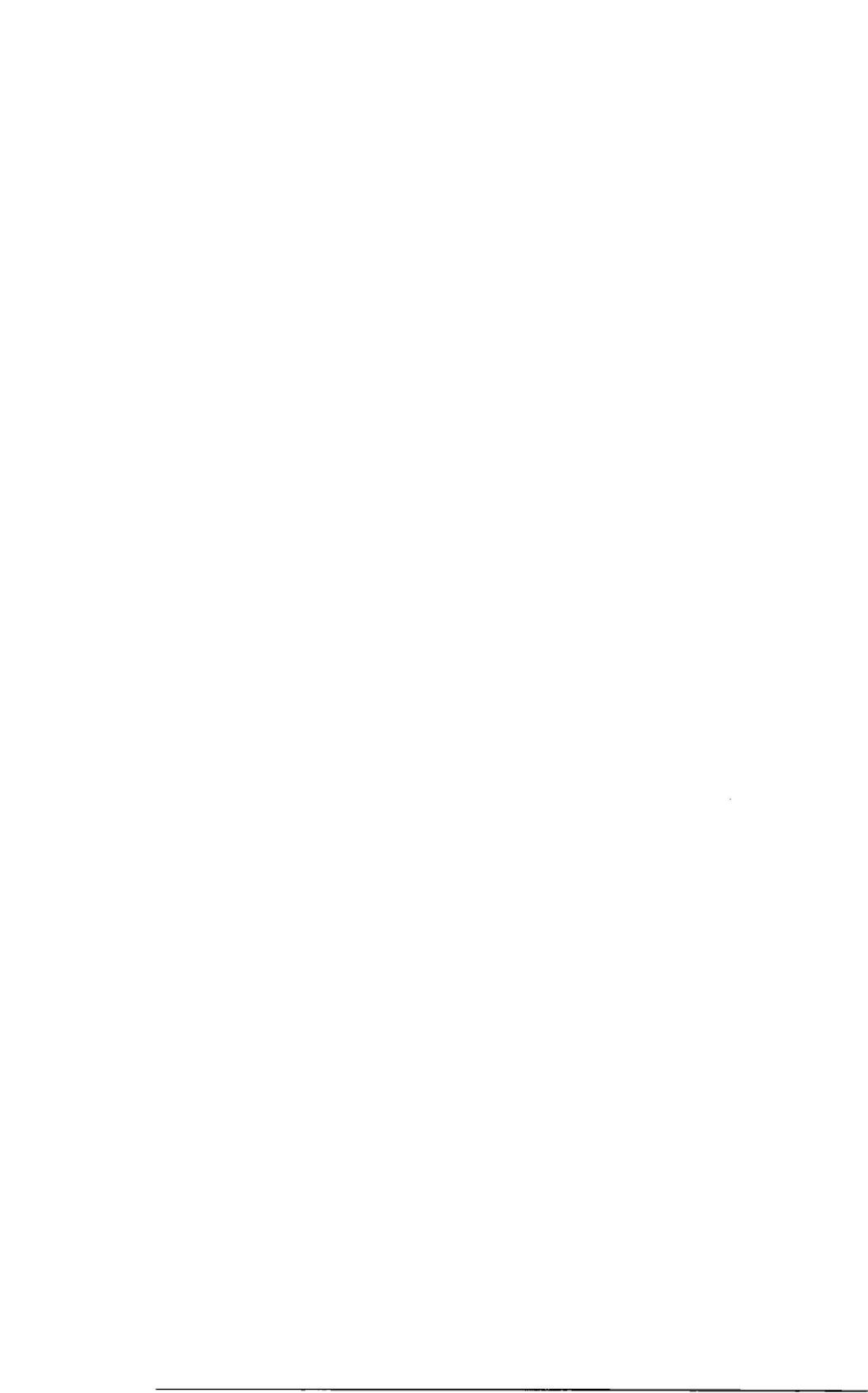
**Paralegals as Community  
Resources in Peru:**  
**Asociación Perú Mujer**  
*Elizabeth Dasso*

**Paralegals and Labor Organizing in India:**  
**The Self-Employed Women's Association**  
*Meena Patel*

**Gender, Community Development and  
Paralegal Training in the Philippines:**  
**Pilipina Legal Resources Center**  
*Emelina Quintillan*

**Legal Literacy and Community  
Development in Bangladesh:**  
**Bangladesh Rural Advancement  
Committee**  
*Salma Sobhan*





## Paralegals as Community Resources in Peru: Asociación Perú Mujer

Elizabeth Dasso

"Yes, I have changed. I have learned to value myself, I have become empowered, I have learned to interact in different environments, I feel more sure of myself and I'm happy because I have learned of another new world."

Elizabeth Vásquez, Paralegal

"Yes, there are changes. I am no longer as I was before, shy, afraid; and I want to be more than what I already am now. I feel fulfilled."

Martha Sánchez, Paralegal

In recent years, working class women in Peru have taken on an increasingly active role. The day-to-day process of solving problems caused by poverty and a protracted political crisis has brought women's abilities and intelligence to the forefront; but when empowered through training, women become even better positioned to address these problems. The grassroots women of Lima who have been trained as *promotoras legales*, or paralegals, are a testament to this process. In working to further justice and defend the rights of other women who have been victims of violence, abuse, and subordination, they are building a better future for themselves, their communities and their country.

### The Context

Peru is a multilingual, multicultural country marked by social and economic contrasts. At present its contradictions have been sharpened by political violence and by one of the

worst economic crises in its history. Peru's particular idiosyncrasies, and its pervasive tradition of racial, gender, and class prejudices, are expressed every day through male domination of women and in class domination of society. "The delicate and powerful ideological fabric that combines social and economic domination with ethnic-cultural and sexual domination needs to be deconstructed" (Oliart, 1991, p. 203).

This dominant ideology is at the basis of discrimination against people from the provinces, especially those who live in the highlands or Sierra, and are known as *serranos*. In certain sectors this term is an insult, synonymous with "stupid," "dull," "foolish." The legacy of the Spanish conquest, still present in cities such as Lima, which was the capital of the vice-royalty,<sup>1</sup> is expressed in traditional attitudes associated with the role of the "conquistador": domination of and disdain for the "subjugated;" and the dominating macho claiming "his" woman, are all part of this legacy. The white or "whitened" residents of Lima characteristically have racist attitudes. They, in turn, are treated with disdain by non-whites, who call the whites *pitucos* or *apitucados*. The language and everyday attitudes embody cultural confrontations and power clashes that have yet to be resolved on a national scale. Thus, we find in Lima arrogant individuals typical of the vice-royalty of the past, and of an increasingly provincial metropolis.

As a result, Peru still maintains practices of power in the style of the oligarchies in a context where the majority of the population is poor, mestizo, and bilingual. Although formal democracy is maintained in the midst of these unequal social, cultural, and economic relations, being white is still synonymous with being educated and having money and power.

This context shapes gender identities and has a negative impact on the development of women in Peruvian society. That is why being a woman in Peru is very difficult, especially if she is poor. Women in the marginal areas, urban settlements or *pueblos jóvenes*,<sup>2</sup> known in an earlier time as the City of Kings,<sup>3</sup> need to have great fortitude to break down myths and social barriers that limit their female identity.

The social barriers have to do with the fact that so many women are illiterate, poor, and from the provinces. These barriers also limit women's access to the administration of justice. Judges generally apply a law conditioned by a dominant

ideology that discriminates against, and undervalues persons who are not part of the group in power. All who differ are considered inferior and weak. Most women live their lives caught between solitude and poverty. However, as in all processes of emancipation, the subjects who suffer discrimination are the ones who have to organize and struggle for their liberation. Poor women in Peru are no exception. Over the last twenty years they have furthered their own process of emancipation. Women have taken initiative, participating actively in securing subsistence for their families and in developing their communities.

### **Approaches to Women and Law in Peru**

Given the social context of Peru, its law also forms part of a system that maintains values, attitudes, and customs that discriminate against the poor, those who live in the provinces, the illiterate, and women. The law serves those who have more resources, those who have more information, and those who have family ties with persons in positions of power. The equality before the law outlined in the Constitution cannot be exercised without certain economic and legal resources that are not available to all. The bankruptcy of the legal system is reflected in popular sayings such as, "justice is bought," and "if you have money, you have rights."

Legal resources refer to "the knowledge and skills which enable people themselves, working collectively to understand law and use it effectively to perceive, articulate and improve and advance or protect their interests" (Paul and Dias, 1980). The lack of access to legal defense and the low incomes of the majority of the population impede the exercise of their rights. Knowledge of the law makes it possible for people to be respected and for women to be considered human beings. Also, knowledge of our rights facilitates access to legal defense. In a country such as Peru, where the many are worth little or practically nothing, and the few are worth a great deal or practically everything, alternative legal services programs, including training in civil and political rights, contribute enormously to strengthening Peru's weak democracy.

There are different approaches and concepts of legal defense work in Peru. According to the typology (Figure 1) developed by Manuel Jacques of Chile on legal services, there are two

main categories: traditional legal services and alternative legal services. The latter, in turn, can be further subdivided into innovative legal services and transformative legal services (Jacques, 1988, p.27).

In Peru, institutions such as the Colegio de Abogados of Lima and the Law School of the Universidad Mayor de San Marcos, have entered into agreements with parishes and municipal governments of the *pueblos jóvenes* to set up legal services. A legal services center is also located at the Palace of Justice. Some NGOs also offer free legal consultations, "free" meaning that clients do not pay attorney's fees, although they still must pay procedural expenses.

These services, which are marked by a welfare-type mentality, only help to emphasize the discredited status of justice in Peru. The approach they use maintains the unequal relationship between lawyer and client; the lawyer possesses the legal knowledge and the unprotected client passively depends on the lawyer. The approach does not go beyond the "good-guy lawyer" who goes to the community to offer legal advice. Within this concept of law there is no attempt to transfer or share legal information; rather, it is an extension of the law firm to a poor setting. The lawyer-client relationship is not transformed. Lacking clear insight into the educational implications of legal work, according to Jacques, (1988) these lawyers "monopolize certain means, both material (instruments) and symbolic (language-special codes) which, legitimated and institutionalized, confer power and privilege on them, making them into a group exercising domination" (p.33).

Moreover, this approach is unable to respond to the magnitude of legal needs in the *pueblos jóvenes*, which accumulate unique but massive problems. To begin with, a large proportion of residents in these areas lack minimal legal documentation (birth certificates, identity cards, etc.) which means many families cannot gain title to their lots and children must drop out of school because they cannot produce their birth certificates. These communities also experience widespread exploitation of migrants, illiteracy, violence against women, and abandonment of the family. The case-by-case approach of traditional legal services simply cannot adequately attend to these issues. Hans-Juergen Brandt (1987, p. 26) emphasizes that:

Legal services should not be understood only as counsel and individual legal defense; legal services projects are also aimed at initiating or reinforcing a self-help process by training members and leaders of political pressure groups through which individuals or groups attain greater knowledge of their individual and collective civil, sociopolitical, economic, and social rights.

This means that legal services must give consideration to undertaking educational activities from a popular education standpoint, i.e., participatory and ongoing adult education. Organizing such activities makes legal services a more challenging proposition.

In the Jacques typology, "alternative" to the traditional approach are services that can be either innovative or transformative. Education and training play a key role in both. Alternative services provide legal orientation, rights advocacy, fostering participation and organization of the population, organizing legal training, denouncing abuses, giving advice, providing defense, and advocating legal reform. Various NGOs have programs to support women's rights that provide alternative services. Following are some of the women's NGOs providing services that fall into this category.<sup>4</sup>

*Asociación Promoción y Desarrollo de la Mujer (PRODEMU: Association for Women's Promotion and Development)* located in the city of Tarapoto (Amazon region) has a Legal Office offering advice and legal defense. PRODEMU organizes training workshops on women's rights for women's groups in the rural and marginal urban areas of the province of San Martín. The Association's radio show "Breaking the *Carahuasca*"<sup>5</sup> provides information on women's human rights. The PRODEMU team is made up of professional educators and a female lawyer. When the women in the area need legal assistance they turn to PRODEMU's Legal Office. In view of the large number of cases of abused women, the group decided to set up a shelter (*Casa Refugio*) for battered women.

*Casa de la Mujer (Women's Place)*, located in the city of Chimbote (northern coast of Peru), provides legal advisory services and organizes promotion and training activities for women of the *pueblos jóvenes* of the region. The *Casa de la Mujer* team is made up primarily of social workers and is supported by one lawyer. Some women of this zone received legal

training, but circumstances made it impossible to organize them as functioning paralegals. The NGO is now evaluating the training program with a view to taking it up again in the future.

*Grupo Mujer de Chiclayo* (Chiclayo Women's Group) in the northern coastal region has a team of social science professionals and one women lawyer. The group organized training seminars to train trainers to provide orientation on legal issues to women in the popular sectors of Chiclayo. Legal advisory services are offered at the Group's offices to those persons, especially women, who are referred by the community-based legal counselors.

*Movimiento Manuela Ramos* (Manuela Ramos Movement), based in Lima, has among its wide array of activities a legal program covered by a team of legal professionals. At the organization's main office women lawyers provide legal advice and defense to women who are the victims of assaults or sexual violence. MMR carries out various activities aimed at advocating the assertion of women's rights, with emphasis on addressing the problem of violence against women. It has trained a group of women in the Villa El Salvador in the southern part of Lima, who are members of the *Federación Popular de Mujeres de Villa El Salvador* (FEPOMUVES), to work as community counselors. They do educational work as well as activities to support, advise, and accompany battered women through the steps they need to take. In coordination with FEPOMUVES, MMR also offers legal services in Villa El Salvador.

*DEMUS* (Legal Office for the Defense of Women's Rights), located in Lima, is an association made up women lawyers whose main objective is to develop a new strategy for responding to the legal needs of women. They conceptualize their work as providing a forum for women to voice and debate expectations about the current legal regime, and in so doing, raise women's awareness about the real possibilities of exercising their rights. This process is carried on through legal advisory services, training and information dissemination. Using legal approaches to confront certain practices that reinforce discrimination and violence against women and children in our society, DEMUS aims at developing actions that will have a long term social impact on these practices. DEMUS also provides advisory services and training to the women's police unit and to the women who have turned to the unit to report abuse and seek support.



*Centro de la Mujer Peruana Flora Tristán* (Flora Tristán Peruvian Women's Center), located in Lima, includes among its various activities work on women's rights. The team is made up of women lawyers, law students, and a psychologist who provide legal advisory services to middle and lower class women. The Center has a radio program in Lima, "Short Circuit," and organizes educational activities for women's organizations in working class areas.

*Perú Mujer* is an association geared primarily to the promotion and development of grassroots women. The "Women and Law" program is staffed by a multidisciplinary team covering law, sociology, psychology, education, and social communications. Among the initiatives organized by *Perú Mujer* in the legal area are two programs: one in literacy and post-literacy in women's civil and human rights; and the other in community-based legal services. The latter has focused on providing an alternative to traditional legal services. *Perú Mujer* undertook legal defense as a social and popular educational project aimed at transferring legal services to grassroots women. In the course of the project, *Perú Mujer* has trained women paralegals from the *pueblos jóvenes* of Comas, Collique, El Ermitaño, and Independencia, to do information dissemination, advocacy, education, counselling, defense, and follow-up of legal cases. These paralegals offer legal services in their respective communities, an achievement that demonstrates the feasibility of "alternative" law. As Brandt notes:

The experience of *Perú Mujer*, in contrast to the traditional concept, [this alternative approach] has to do less with fostering the professionalism of lawyers and institutions than with placing priority on supporting the grassroots organizations of the poor and marginal sectors who represent the majority of the population (Brandt, 1987, p. 9).

When placed in the hands of grassroots women as protagonists who educate, advocate, disseminate information, and encourage people to assert their rights, this type of popular legal service poses an implicit challenge to the entire legal and political system. Considering the social, cultural, and ideological context of Peru, the *Perú Mujer* experience of community-based legal services raises the need for profound change within the system. It calls for lawyers to take on new roles as

facilitators of information and legal sponsors, and it invites judges in the administration of justice to become educators with a view to change.

### *The Peru Mujer Experience with Legal Literacy*

In 1984 Perú Mujer carried out a sociolegal study in the *pueblos jóvenes* of northern Lima. The study identified the limitations of the traditional legal services in relation to the type and magnitude of community legal problems, such as lack of civil registration, physical abuse of women and children, abandonment of the family, and lack of property titles. The lack of information about where to turn and what to do in most cases limited people from gaining access to justice. Among the most significant data from the study was the fact that 40 percent of the population did not "exist" from the standpoint of the law, which is to say they did not have a birth certificate, a requirement for exercising civil and political rights. This lack of "documentation" often went hand in hand with marginality, illegality, illiteracy, exploitation, and violence. Approximately 36 percent of the families in the communities surveyed had been abandoned by the father, with the mother assuming full responsibility for the children; most women did not know how to uphold their rights, which contributed to their subordination and oppression. Perú Mujer saw the need to develop an alternative to traditional legal services, an alternative that could respond to the need to ensure respect for the rights of poor women, children, and families. Perú Mujer wanted to contribute to women's proactive role as subjects of rights and as "agents" in facilitating the exercise of rights.

To this end, Perú Mujer invited the communities to participate in the project. The invitation and an explanation of the project reached them through street theater and puppet shows, and through informal visits and dialogues in all the neighborhood women's organizations. As a result, the interested groups chose delegates to participate in a paralegal training program. The program encompassed five to seven months of training and seven months of legal practice, concluding with a graduation ceremony in the presence of local authorities and community leaders. Through this project, Perú Mujer has trained two graduating classes of paralegals: the first took 14 months and the second took 12 months (the content was consolidated and

the sessions shortened). During their field practicum the prospective paralegals had to carry out a collective work plan in their respective communities. This involved providing legal advice to at least 20 people each month; organizing a four-month training program on the rights of women and children; taking on and following through with at least two full legal cases; and participating in the educational campaigns and in other tasks of the group of paralegals.

Criteria were established for graduation as a paralegal. Not all of the women who completed the training sessions went on to the legal practicum; this depended on their motivation, their responsibilities in their organization, and the evaluation done by *Perú Mujer's* team of facilitators. At different points in the training evaluations were done to determine progress in learning and areas needing to be strengthened. During the legal practicum the participant had to find a site for the future services, which needed at a minimum a bookcase, four chairs, a table, a typewriter, office supplies, and educational materials. Each group of paralegals received visits to their zones three times a week by a group advisor specializing in social psychology or social work, and from a legal supervisor/advisor (law students and lawyers). The group advisor helped the group deal with conflicts and problems that arose as the group developed, and with educational and organizational issues related to the work plan. The legal supervisor/advisor helped prepare documents, case follow-up, extralegal remedies, legal information, and analysis of experiences.

## **Legal Training**

The design of the legal training rested on a foundation of three theoretical supports: alternative use of law; popular education; and gender perspective. These three perspectives contribute elements for developing innovative and transformative legal services.

**Alternative Use of Law.** First, there is the need to demystify the law, making it clear that lawyers are not the only ones who know about the law, and to emphasize the power of information and legal resources. Debunking the myths regarding the law requires legal education, advocacy, dissemination, and use of the law as an instrument of struggle for working people,

women, and marginalized groups in general. Likewise, the lawyer-client relationship must be replaced by a relationship between lawyer, facilitator and user, and paralegal. It implies breaking down myths that limit the exercise of rights, as well as creating innovative approaches to developing and organizing legal defense. This requires training community members as paralegals, community counselors, advice volunteers, etc. Independent of the title or function, what is needed are active community members trained in rights advocacy and legal defense. Learning to negotiate legal procedures on one's own or with the beneficiaries—in this case women from marginal neighborhoods—assuming an active role as subjects of the law and agents of change, is part of this process. Since the strategy of generating a multiplier effect for promoting and defending the rights of women in their communities is directly beneficial to women, it is essential that an alternative approach to the law also take on gender issues, including the rights and claims of women related to sexuality, voluntary maternity, self-affirmation, leadership, and democracy in the relations between men and women.

**Popular Education.** Perú Mujer embraced popular education principles within a framework of permanent or ongoing education. From this perspective, training becomes just one of several educational activities in which the participants are active subjects. The women immersed in training also become producers of materials and methods based on their own experience and criteria. Popular education becomes a creative and expansive space in the community where participatory techniques and innovative resources, among other factors, combine to reinforce content and learning. From popular education we incorporate respect for the participants' own thinking, for everyday practices, and for commonly held attitudes regarding justice and injustice.

The reflection-action-reflection dynamic improves the learning process. Popular education is aimed at facilitating a change in attitudes and seeks to facilitate the personal transformation of women. The gender, race, and social class content of the learning is ever-present and linked to alternative use of the law throughout the educational process. In this sense, popular education contributes to a broader and more comprehensive view of the law as a body of legal regulations and as a means for

women to press the demands that must be met as part of their emancipation.

**Gender.** The contributions of feminist theory provide both theoretical and methodological inputs to training, promoting and defending women's rights. These theoretical foundations introduce to the educational process issues related to gender-based domination. The situations of subordination, domination, sexual and social myths and roles, socialization in early childhood, the treatment accorded girls/women and boys/men in the life cycle, the double workday, and domestic work, among others, provide insight into the magnitude of the issues related to women's rights.

### *Methodology*

The three-hour training sessions, held three times a week, require the use of participatory techniques involving physical movement, psychological application, and exercises in abstraction and analysis. The participants had limited practice in reading and writing, thus we had to develop innovative and validated educational materials such as illustrations, brochures, audiovisuals, table games, notebooks, etc. Those who were not used to reading and writing could develop their photographic memory to a greater extent, so we included figures with short texts, as well as coloring.

The educational process included learning new skills (such as writing, typing, etc.) and attitudes (self-confidence, self-esteem, etc.). Role playing techniques focused on the role of the paralegal in relation to judges and police officers. In a game-like setting the participants learned to anticipate situations they would be experiencing in reality. With this preparation, they would feel more secure and more in control of the situation when the time actually came to meet these individuals.

At the level of interpersonal relations, Lima's ideology and racism finds the "white man" speaking loudly and arrogantly in the face of authority, but not the "mestizo." Through role plays the paralegal could practice beforehand how to raise her voice and assert herself. The exercises were useful for debunking myths about attitudes and forms of verbal and nonverbal communication, and for reinforcing the paralegal's assertiveness both in daily life and in legal defense work.

The training was comprehensive. The sessions began with personal work among the women. Among the issues addressed were female identity, roles and myths, sex and sexuality, voluntary maternity, fears and strengths, cultural identity, migrant women and women's aspirations. The objective of the exercise was to highlight the right of women to self-affirmation.

The second step was working on women's organization and leadership. The subjects included myths and roles in organizing and leadership; conflict management within the group; power among women; distribution of responsibilities and tasks; and planning and evaluation of organizing work. The objective was to highlight the right to organize.

The third step was working on the law and rights: specific legislation; entitlements and claims; human rights; constitutional rights; and civil and criminal law. The main question addressed was: how is the law organized and how does it work? The objective was to learn of our rights as women, as workers, as mothers, and as citizens.

The fourth step in the training was working on judicial procedures. Identifying possible solutions to the most common problems women of the area face and how to use the law to benefit these women had priority in the training. Issues addressed included how to obtain a birth certificate; what happens in a proceeding before the juvenile court; how to win a suit for maintenance; what to do in the case of battering; and the elements of criminal procedure.

The fifth step was to work on the operational and technical aspects of legal defense, legal writing, filing and management of the case file, typing, selection of a locale for the community-based legal office, operationalizing the service, handling case files, and keeping tabs on legal statistics.

The sixth step was the legal practicum, or field practice. The participants formed groups based on proximity of their places of residence. Each group prepared a work plan for the seven months of practicum. The work plan included educational activities, information dissemination, counselling, and defense. To guarantee a multiplier effect, the future paralegals were expected to share what they had learned with the other women in their own organizations and throughout the community. The topics that generated greatest interest were the rights of women in conjugal unions—whether married or



consensual, relations between spouses, maintenance claims, abuse, raising and communicating with children, voluntary maternity, and separation, among others. The most successful advocacy activities were informational campaigns about obtaining identification documents and filing maintenance claims. These employed radio announcements and loudspeakers in the markets to reach the public.

Our experience affirmed the need for high-quality comprehensive and technical training to guarantee the transference to the community of self-sustaining and self-managing legal services. When appropriated by the community, such a project creates power within the community and makes the law accessible to the population. In this way, and through their own initiative, grassroots and working people generate long term social affirmation of their own human dignity.

### *The Actors*

Analysis of the Perú Mujer legal services experience reveals four agents who are critical in developing or replicating the community-based approach. These are the paralegals, the professionals, the women's organizations and the state.

**The Paralegal.** Explicitly or implicitly, women's programs always contain a goal that is functional to their conception or vision. Many of us are committed to a struggle for the respect and exercise of women's human rights. However, we do not believe that just any strategy is valid or that all activities are equally satisfactory for attaining greater respect for, and recognition of, women's rights—especially if we consider the racist, macho and arrogant attitudes of those in power. Perhaps for some colleagues in the movement for women's rights in Peru it would be better to work with lawyers, sensitizing them and encouraging them to work with alternative approaches to the law. We can imagine it would be an achievement in Peru to have some prestigious law offices with a mixed practice, as used in India by some NGOs, or in some law firms in the United States, where a certain percentage of their legal work services low-income groups or individuals. Would this resolve the need for legal advisory services and legal defense in a more practical manner? In the area of legal reform, it is certainly easier for legal professionals to draft proposed legal reforms than to work with those of us who are not lawyers, and more



difficult still to include the participation of grassroots women who have little practice reading and writing.

However, with these two examples, we must ask: What is it that really matters to us, our objective, or the process by which we attain this objective? What is the use of new laws that evidently may benefit women, even the poorest women, if they are not aware of the need for changes, if their interests are not taken into account, or if they feel that these laws have nothing to do with them? Perhaps just the process of drawing up the proposed legal reforms would mean a major change at the grassroots and in the women's organizations. We believe what is needed is a process of ongoing education, with the participation of the grassroots organizations, in which women take control of their own lives and even of the laws that benefit them. Actively involving women from the popular sectors in proposals for legal reform is one way to broaden democracy in Peru.

Community counselors and paralegals represent a qualitative leap in the effort to achieve justice by integrating participation from below with everyday practice. The counselor/paralegal has been trained and is capable of providing information, instilling confidence, and showing solidarity and understanding to other women from her own community, from her own class, and from her own culture or ethnic group.

However, a distinction should be made between the paralegal and the community counselor: the paralegal is better qualified than the community counselor to take actions that a legal professional might take. The paralegal, in addition to providing legal counselling, is trained to draft complaints, take on cases, and follow up on the respective judicial proceeding. This is generally the task of the law students. We have taken the position that it is necessary to share with grassroots women technical information on procedure in judicial cases primarily because we are interested in transferring skills. But we have another reason too: lack of information on procedures is how the official system of justice traps the unwary. Grassroots women are sufficiently intelligent and able to recognize and work with this information.

There are some, including some lawyers with a progressive or populist discourse, who do not share this approach for several reasons, one of which could be some degree of influence of the dominant ideology's arrogance. Other reasons for their

disagreement with training paralegals are based on supposed theories of gender purity:

Training paralegals in the community... far from contributing to a negotiating capability based on increased awareness before the law, creates serious distortions by functionally reproducing the law where the contradictions should foster alternatives that legitimate women's own resources (Tamayo, 1987).

This assumption forgets that the paralegal is poor, mestiza, belongs to a grassroots organization, has experience in social struggles, and lives in the community, all of which are not disadvantages, but rather tremendous advantages in dealing with the law. The paralegal is an intelligent person who uses her own judgment. In the experience of *Perú Mujer*, the paralegals have demonstrated the ability to find extrajudicial solutions to problems, and the ability to negotiate with and persuade the police authorities to benefit women seeking assistance. Moreover, for the population, and especially for women near the home of the paralegal, having community-based paralegals has generated a sense of confidence, of protection, and of security. Also, obstacles to exercising a right do not always stem from the relationship between two people: there are also problems in which one party may be an individual and the other the state. This is the case, for example, in correcting a birth certificate or obtaining one for the first time, where there is no room for women's creative efforts. Yet the paralegals decided to organize campaigns at the beginning of the school year to obtain birth certificates so as to lower the cost and thus ensure that as many children and adults as possible exist in the eyes of the law.

Thus the paralegals are a necessary "bridge" between the their community and the administration of justice. The poor, especially poor and mestiza women, are generally denied access to this space in the system. The paralegals act in and beyond the community, providing a berth for defense and for permanent education.

**Professionals.** The work of upholding women's rights goes beyond working with lawyers. It must include other perspectives, and other disciplines and professions, mainly because legal problems have their roots in the different types of relationships among people, i.e., gender relations, relationships of

couples, etc. Training the paralegals requires a multidisciplinary approach. Thus we included professionals from law, sociology, psychology, education, and social communication on the Perú Mujer team. Nonetheless, there is still a perception, fostered in the university, that having a title or more education is synonymous with being worth more, rather than personal value being based on honesty, working hard, and acting with solidarity toward others. The professional team first had to train itself in participatory and horizontal work and in analyzing the law from the perspective of gender, class, and ethnicity. From the perspective of popular education, the team had to break down the myths and arrogant attitudes associated with professionals, the myth that the professional has knowledge and will give this knowledge to grassroots women because they don't know.

**Women's Organization.** Most women in the marginal urban communities are organized. To solve the problem of subsistence they have organized clubs and committees such as the "Cup of Milk," community kitchens, common gardens, reforestation groups, food-for-work groups, etc. Here urban grassroots women have demonstrated their effectiveness in organizing and activating the community. This has made it possible for them to deal with the country's harsh economic crisis. It has even helped the community face epidemics such as cholera; no cases of cholera through contaminated food have been detected in any of the community kitchens. Nonetheless, when women are abandoned, their rights violated and abused, or if they need to exercise a right, the organization they are part of is not in a position to respond to this level of need. Women have organized to serve others—their children, their families—but there is as yet no conception of women being organized around their gender-specific interests. There have been some very small-scale experiences to advocate women's rights within organizations. Examples include the secretariats for women's rights (CODEMIs) in the district of Independencia, the committee of paralegals who work with AFEDEPROM (an organization that began with the community kitchens) in the district of Comas, the group of community legal counselors from FEPOMUVES of Villa El Salvador, and the group of paralegals PROLEIN in the district of Independencia. The work of organizing women plays a strategic

role in defending women's rights and should always be included in paralegal training. As organization helps guarantee women's rights in society, organizing becomes strategic to planning and implementing legal education and community-based legal services.

**The State.** The municipality is the local expression of the state and the part of the state that has the closest nexus with activities related to advocacy on women's rights. The new law on municipalities creates many possibilities for linking women's organizing with the community organizing efforts that already have the support of municipal governments. In Peru, long held antistate positions have become a thing of the past; developing political and social forces now requires alternative approaches that involve both private and public efforts. In legal services projects we should also involve the local and regional governments to guarantee that the work will be disseminated in such a manner as to have a multiplier effect. The paralegals have been clear on this point, establishing their own agreements with the municipal governments to work in campaigns to document the undocumented, and educating the public on the rights of women and children. The paralegals have also gained official recognition by the local governments. They each have an ID card, endorsed by the mayor, that recognizes them as paralegals. Recognition was even won from Women's Office of the Ministry of Justice, which provided an ID card endorsed by the Ministry.

The paralegals need this kind of recognition because it acknowledges their important work and represents an official endorsement of their activities. Recognition also gives them the prestige they need to function in the system. A document validated by the state goes a long way in boosting their self-confidence. This is all the more important considering that Peru is a country requiring a "membership card" to be well-attended: being treated well when dealing with official offices is still considered more a favor than a right.

### **In Balance: Lessons from the Experience**

Like all work that involves striving to attain objectives, attaining them has much to do with personal interests and aspirations. The resulting dynamic is often marked by difficulties

associated with these interests and aspirations. The paralegals had to overcome many obstacles and limitations—personal, family and social—including the very work of organizing the paralegals. We will analyze these obstacles in three groups, based on the relative importance of gender, ethnicity, and class.

### *Gender*

*"I'm smarter than you": group dynamics.* Within each group of paralegals, power struggles, rivalries, and competition emerged among the women, independent of the place, district, number of members, or ages. Such conflicts and attitudes took their toll on interpersonal relations and hindered the group's development. Traditional patriarchal roles surfaced, such as vying to "run the show," imposing ideas, challenging the group, demonstrating who knew more than the others, or who was more skillful in case follow-up. In this matter, the group adviser played a very important role, as did the weekly meetings with the multidisciplinary team to evaluate the experience. It was also helpful to have a work plan with an educational content that took into account the group process.

*"We are better": Inter-group dynamics.* Some rivalries and negative competition occurred between the two classes of paralegals, the "old ones" and the "new ones" (*las antiguas* and *las nuevas*), as they called themselves. Establishing mixed groups (from both the first and second classes) for advocacy activities, documents campaigns, recreation activities to foster positive interpersonal dynamics, and travel and outings, helped overcome this false rivalry.

*"We all work": An organization with a sense of belonging.* The women trained as paralegals had been selected originally by their organizations to participate in the training. These women had a debt to the groups they came from, which in turn, demanded of the future paralegal the same work as the other members during the training period. For example, they were still expected to participate in community actions, in preparing food in the community kitchens, or preparing the glass of milk, etc. The argument was, in the words of the organization, "those who receive training do not work; training is not work, it's easy; they just want to benefit from the organization." Education was considered a "leisure" activity because only physical work qualified as real work. Also playing into this

criticism of the future paralegals was the idea that on receiving training they would be better, "superior," which provoked jealousies and fears when it was thought that members of the women's organization might improve their knowledge and at some moment win a certain public recognition. These feelings were expressed in various ways, including demands that the trainees do more work in the organization, while being excluded from decision making. Many women did not understand the connection between training some members and the benefit that would be derived for the organization and the community. This aspect had to be worked on. The longest-standing organization, AFEDEPROM, was able to surmount this problem, forming a Committee of Paralegals as integral to its community work.

*"I too am a person": The couple.* Most of the women in the paralegal training courses were married or living in consensual unions. At the beginning of the training the women stated that they had been chosen by the organization and had their husbands' permission. Nonetheless, difficulties with the husbands ensued, as the training sessions continued over a period of five to seven months, followed by seven months of legal practicum. This period of continuous training, an experience quite out of the ordinary for the women of the zone, meant that the husbands had to share domestic tasks and help out with the children. Without exception, all the women had to deal with and overcome this problem during and after training. While the husband had "authorized" the participation of "his" wife in training, he might typically demand a meal or some special dish moments before the sessions were to start; or he would simply demand that she stay home. This indicated that the men were also fearful that their spouses would get ahead; the men were afraid of the education and knowledge "their" wives would obtain. Based on their status of husband, they wanted to have their authority over the woman prevail. However, for the woman, a hitherto unknown world was being revealed in which she discovered that she was a human being with a right to education, and not only did she understand her right, but could put forth the argument based on the Constitution and other laws. The confrontation between men and women that unfolded simultaneously called into question the traditional relationship in which the husband is right and



the woman obeys, and offered an alternative approach to relationships between men and women that requires coordination and sharing of responsibilities so that both can pursue their personal development. In the minds of the husbands this idea was "like a little worm," in one husband's words, "which will wait for the day when she meets a man who is better than me." Some admitted to their wives: "I am jealous because you know a lot of lawyers and judges and perhaps you may fall in love with one of them and leave me."

In addition, men feel jealous because of the prestige the women attain as paralegals in the community. Few men feel proud of their wives' achievements. Instead they think that programs of this sort destroy families, contribute to separation and divorce, etc. But to the surprise of many, the women of the paralegal program have continued with their spouses or companions, and the men have changed in certain ways, albeit some more than others. The paralegals have succeeded in educating their husbands in the home, through ongoing dialogue and conversation, even drawing on the notebooks and brochures they accumulated in the course of their legal training.

*"Today your turn, tomorrow my turn": The fathers.* Some of the women were single and very young. They came in place of their mothers, who were community leaders who chose to stay with their organizations. The young women faced obstacles to their continued training and to taking on the role of a paralegal. The main critics were the fathers, who argued that the work of a paralegal was not productive. Fathers felt their daughters should work and contribute economically to the household in consideration of what they, as fathers, had invested to support the daughters. Also, the fathers were jealous of the men the daughters were going to meet. The role of paralegal was seen as a "waste of time" or an adventure in "romanticism." Holding gatherings with the paralegals' families to celebrate Christmas, Father's Day, and other holidays helped to overcome this difficulty.

*"I need a lawyer": The neighbors and community.* The traditional concept of the law is still very much present in the community. It was thought that to uphold rights you had to be a lawyer. Many members of the community felt they needed the assistance of a legal professional—but not that of the women from the neighborhood. This attitude was reinforced by the



population's general preference to relate to people from outside their community in the belief that others would know more than themselves. To win recognition from their neighbors, and finally from the neighborhood organization, the paralegals had to carry out many actions to make their work known and to demonstrate their ability. At first it was easier for them to be accepted in other near-by communities than in their own. The paralegals alluded to the popular saying: "no one is a prophet in his own land." In the end, however, with their efforts, effectiveness, and swift action the paralegals did win the acceptance and affection of their neighbors.

*"Our bodies, ourselves": Age.* The role of paralegal can also condition or limit the work one can manage. The younger women entered training in a stage of their lives in which they were seeking a better future, and therefore, for them at that moment training as a paralegal was an attractive life option; but over time their interests changed and they found other interests that led some to stop working as paralegals. For the older women with a spouse and children, and a more fully completed life cycle, becoming a paralegal represented a personal and social accomplishment. They have continued working as paralegals because the experience gave them information they needed to defend themselves from abuse by their spouses, to better their families, and to teach their children. The most committed women are both mothers and wives, are over 40, and feel that working as a paralegal is an accomplishment, as reflected in their words "now I'm useful, my life has meaning."

### **Class**

*"They have no consideration for us": Resources.* Each group of paralegals covers a given zone; they have a locale to work in, which may be one of their homes, a Church, a space provided by the local government, or another state office. Not having their own office to operate from is a limitation. We believe that multiservice centers for women need to be established in the *pueblos jóvenes* to provide legal services as well as other services and resources.

*"Because we are all poor": The Paralegals and the Users.* The paralegals' work is done to meet the needs of the poorest families, the women and children with the fewest economic

resources. Those who have a stable income turn to an attorney. Even though the program offered the *pro bono* services of a female lawyer for legal defense, and a paralegal for case follow-up, there are other legal expenses, such as government stamps, publications in the official government paper, notary's fees, travel cost, and other filing fees that had to be assumed by the user. However, there were people who could not pay a part, or any, of these costs. The program considered having a fund to subsidize cases of people living in extreme poverty, the idea being that an undertaking of this scale would require a permanent fund. The paralegals are also women with limited economic resources and need to receive pay to cover their local transportation costs and an additional small sum for their personal use.

This is an intrinsic limitation to the concept of offering services in conditions of poverty, and for the poorest in a society where all services have a price. Some activities carried out in the community by the paralegals contributed, to a limited extent, to covering legal expenses; for example, selling homemade candies made by the paralegals and selling t-shirts with messages regarding the defense of rights.

### *Ethnicity*

*"I talk like someone from the provinces": Language.* More than half of the paralegals trained were women from the provinces whose sentence structure had Quechua roots, and who used phrases from their areas of origin. The provincial accent could have been a limitation in a country as racist as Peru, where people from the coastal region make fun of those who do not speak Spanish. The training addressed that aspect, debunking the myth that one must speak "correctly," and replacing it with the notion that any form of expression with which people feel comfortable is sufficient. The *mote*, as the accent is usually called, was considered to be one of many forms of expression in a multicultural country.

*"We were born outside of Lima": Migration.* Of the paralegals, 80 percent were migrants; and while they had gone through adolescence in the metropolitan area of Lima, they had little experience interacting in Lima proper. Moreover, dealing with the bureaucracy in offices of the courts, with notaries, at the Banco de la Nación, etc., provided an occasion for cultural

shock. Yet they were able to overcome this. Part of the training in legal practice included a tour through Lima and visits to public offices. To practice gaining acceptance at the offices of notaries or the courts, before they were known or had the ID cards provided by the municipal government or Ministry of Justice, some women reenacted the role-playing game worked on in the training, but this time, if at a notary's office, they would raise their voices and look up. Others took their small children because they did not have anyone who they could leave the children with, but also because "they were useful for them" helping them receive quicker service, as no one can put up with a crying baby.

*"A world without writing": Schooling.* One-third of the women were illiterate and more than half had little experience in reading and writing, a strong barrier to training. As legal documents should be written with good spelling and should be typewritten, the sessions on legal writing aroused great interest as the women discovered new skills. In addition, reading and writing, not widely practiced in the country, turned out to be a challenge. The difficulty was overcome by the women's interest in learning about their rights, since they needed to practice reading and writing to do so.

The paralegals have advanced in their personal and social development. Now they provide education and training in women's rights outside of Lima, in areas such as Virú, Piura, and Pacasmayo, among others, and have achieved a certain notoriety. In their work they have considered training paralegals themselves to help other women establish popular legal services.

### *Limitations of the Peru Mujer Team*

Human resources are fundamental for any project. High professional quality, commitment, responsibility, and motivation are all necessary. For Perú Mujer, selecting a group of young professionals was a good decision. Nonetheless, a small program for self-formation had to be held on organizing and gender issues.

Once the paralegals were trained, the members of the multidisciplinary team specialized in social sciences continued to work on similar projects for training paralegals (both men and women) in other Perú Mujer projects. Their professional development is progressive and innovative, for the most part,

involving work in marginal neighborhoods of Lima. As for the legal team, of the four law students, two went on to get their law degrees. One decided to work in activities not related to advocacy, the other continues to work as an attorney involved in legal services. The other two have not received their degrees; one plans to do so soon and is working in another Perú Mujer project, while the other decided to change professions. What prevented the team of legal professionals from continuing to work together? There are several reasons: lack of economic resources for the project; perhaps to some extent having become burned out by the experience; no longer being essential; and personal reasons. The goal of transferring the methodology to the paralegals has been achieved. However, this leads us to another reflection: it would seem that there is no room for the development of legal professionals in our approach. The legal team was motivated to empower poor and working women in legal defense, and on attaining this, perhaps had no reason to continue.

Arrogant and racist attitudes toward women paralegals are common among the authorities, attorneys, and professionals. This is why the gains made are based on comprehensive education and training, not just legal training. To implement this approach, an educational plan was drawn up that guarantees the strategy of popular legal services.

## NOTES

1. Vice-royalty, district governed by a viceroy, who was the representative of the king of Spain in the colony.
2. *Pueblos jóvenes*, or literally "young towns," are populated areas located on invaded lands in the cities, whose dwellers build their own homes. The population of such areas accounts for 60 percent of the population of Lima. Those who live in human settlements have purchased their lands. Both are located in the outskirts of Lima.
3. During the Spanish conquest Lima was the capital of the vice-royalty, which is why it was dubbed the City of Kings.
4. Information for this survey was obtained from research by the Movimiento Manuela Ramos (1987).
5. *Carahuasca* is a whip used to punish women and children.

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## **Paralegals and Labor Organizing in India: The Self-Employed Women's Association**

**Meena Patel**

### **SEWA's Origin and Vision**

The Self-Employed Women's Association (SEWA) was created in 1972 as a trade union of self-employed women. It functioned initially as a part of the Textile Labor Association (TLA), which was India's largest and oldest union of textile workers. The TLA was founded by a woman, Anasuya Sarabhai, with the inspiration of Mahatma Gandhi. Gandhiji had led a successful strike of textile workers in 1917. He believed in creating a positive force among workers by developing their individual personality and collective unity. The TLA was a pioneer, not only in expanding the functions of trade unions, but also in providing extensive social welfare services for its members.

The ideological ground provided by Gandhiji, and the feminist seed planted by Anasuya Sarabhai, led the TLA to add to its active participation in industrial relations, social work and local state and national politics by forming a women's wing in 1954. The original purpose of the new wing was to help women belonging to households of mill workers. Initially it focussed on training and welfare activities. By 1968, various centers throughout the city offered classes in sewing, knitting, embroidery, spinning, typing, stenography, and other skills for the wives and daughters of mill workers.

The scope of the activities of the women's wing expanded in the early 1970s following a survey conducted to probe complaints of women tailors alleging exploitation by contractors.



The survey brought to light other instances of exploitation of women workers. It also revealed that union activities, government legislation and policies did not touch large numbers of "informal sector" workers—a sector comprising 89 percent of the entire workforce.

In 1971, a small group of migrant women, working as cart pullers in Ahmedabad's cloth market, came to the TLA with their labor contractor. He had heard of a transport worker's union organized by the TLA and thought they might be able to help find housing for the women who were living in the streets without shelter. They went to see Ela Bhatt, who was the Head of the Women's Wing. After talking with the women, she went with them to the areas where they lived and then to the market area where they worked. At the market she met another group of women who worked as head-loaders, carrying loads of cloth between the wholesale and retail markets. As she sat with them on the steps of the warehouses where they waited for work, they discussed with her their jobs, their conditions of work, and their low and erratic wages.

Following the meeting, Ela Bhatt wrote an article to a local newspaper detailing the problems of the head-loaders. The cloth merchants countered the charges against them with a news article of their own, denying the allegations and testifying to the fair treatment of the head-loaders. The Women's Wing turned the release of this story to their own advantage by reprinting the merchant's claims on cards and distributing them for use as leverage with the merchants.

Soon, word of this effective strategy spread and a group of used-garment dealers approached the Women's Wing with their grievances. Over one hundred women attended a public meeting of used-garment dealers. During the meeting held in a public park, a woman from the crowd suggested they form an association of their own. Thus, on an appeal from the women, the Self-Employed Women's Association came into being in December 1971. The leader of the Women's Wing, Ela Bhatt, and the president of the TLA, Arvind Buch, helped with this process, but the call came from the women themselves.

The women felt that as a workers' association, SEWA should establish itself as a trade union. The first struggle SEWA undertook was to obtain official recognition as a trade union. The Labor Department refused to register SEWA, since there was no

recognized employer against whom the workers would struggle. SEWA argued that the primary purpose of a union was to foster the unity of the workers and not necessarily to struggle against an employer. Finally, SEWA registered as a trade union in April, 1972.

SEWA grew continuously from 1972, increasing its membership and including different occupations within its fold. The beginning of the Women's Decade in 1975 gave an additional boost to SEWA's growth, placing it within the women's movement. In 1981, SEWA was thrown out of TLA's fold, and since then it has grown even faster, developing many new initiatives. In particular, the growth of many cooperatives, a more militant trade union, and many supportive services gave SEWA a new shape and direction.

### *Participation in Three Movements*

SEWA has grown with the inspiration and support of three distinct movements: the labor movement; the cooperative movement; and the women's movement. It now sees itself as part of a new movement of the self-employed and the unorganized arising from the convergence of all three.

SEWA was born in the labor movement with the idea that the self-employed, like salaried employees, have rights to fair wages, decent working conditions, and protective labor laws. They deserved recognition as a legitimate group of workers with legal status, and with the right to organize and publicly represent their interests. As the bulk of workers in India are self-employed, unions must organize them if they are to be responsive to labor in the Indian context. This necessarily requires going beyond the Western model of trade unionism as practiced in industrially developed countries, where labor is mainly composed of wage earners working for large-scale manufacturers or enterprises. In India, where only eleven percent of the labor force comprises these types of workers, trade unions must expand their efforts to represent the millions of self-employed: landless laborers; small farmers; sellers; producers; and service workers. Moreover, if unions are to be responsive to women workers, they must recognize the women's concentration in this sector. SEWA believes that if labor unions want to have an impact on the mass of workers in India, especially women workers, it is essential for them to organize the self-employed and the unorganized.

SEWA believes the cooperative movement to be very important for the self-employed also. Not only is it important for the self-employed to struggle for their rights, but also they need to develop alternate economic systems. The cooperative movement points the way to an alternative where the workers themselves control their own means of production, where there is neither employer nor employee, and where all workers own what they produce. Unfortunately, the world-wide cooperative movement has not reached the poor. Workers' cooperatives have rarely been successful and cooperatives have been unable to change social and economic relations.

Nevertheless, SEWA accepts cooperative principles and sees itself as part of the cooperative movement, attempting to extend these principles to very poor women. In the present context of Indian society, the cooperative movement has not achieved its objectives because of the misuse of the cooperative structure. The poor are consciously and deliberately excluded from membership. Women are not even perceived of as part of the clientele, let alone as valid members in their own right. SEWA sees the need for bringing poor women into workers' cooperatives, but cooperative structures have to be revitalized to become true workers' organizations. In doing so the strength of the movement can be mobilized to organize and strengthen poor women.

The women's movement in India began with the social and religious movements in the late nineteenth century. During this period, women were the object of social reform. However, this changed with the onset of the nationalist movement when, under Mahatma Gandhi, women actively participated in the freedom struggle and became involved in their own liberation. In the 1970s, the women's movement took a new and more radical turn. Women participated in social movements and demanded access to opportunities in all spheres of life. The women's movement pointed out that women make up fifty percent of the world's population and they do two-thirds of the work. For this, they receive only ten percent of all wages, salaries and remuneration. At most, women share only one percent of this income. The reason for this is that women's work is not recognized as "real work," and therefore is not paid for, or is grossly underpaid. SEWA has been a part of the growing women's movement in India representing women

who are mainly poor, self-employed, and rural. In order for the movement to be successful, it must reach out to those women and make their issues—economic, social and political—the issues of the movement.

### *SEWA's Vision of a New Society*

Over the years, SEWA's vision of a new society came from the nearly fifty thousand members themselves. That vision encompasses a society where everybody enjoys a reasonable standard of living, with all nutritional needs fulfilled, safe and secure shelter, sufficient clothing, full and easily accessible health care, and education for every child. It is a society where every able-bodied adult works, each type of work accorded equal value and yielding fair and just earnings. It is a society in which there is equal access and opportunity for all to training and education so that every person's potential can be realized. Assets and resources would be equally distributed with no division into capital and labor. The needs of the weakest members would be put first, and men and women would have equal opportunities to participate in the decision-making process. Social enlightenment would be a priority and caring and sharing would be the values underpinning all social decisions. There would be a continuous process of organizing, a constant reaching out to the weak, to strengthen them and give them a voice for their concerns.

## **SEWA and the Legal System**

### *The Legal Problems of Women Workers*

SEWA's direct involvement with the legal system began several years ago while filing labor cases for its members. As the membership grew, SEWA became responsible for providing legal advice to its women members. The legal issues faced by SEWA members reflected the general issues faced by women. They fall into three categories:

**Violence:** Women in India today face increased violence in the form of wife-beating, harassment and torture from in-laws for dowry, rape — even by police while in custody, and attacks in the workplace.

**Labor:** Women workers, especially those in the unorganized sector, suffer poor wages and inhuman working conditions, but find no legal protection from the state. Women vendors not

only get beaten by the police, but their goods are destroyed by the police and municipal authorities in attempts to remove them from their vending places. The threat of removal is a form of harassment authorities use to get bribes from the vendors, who have no other means of protecting their right to work and earn a living. Nor are home-based workers and producers protected adequately by legislation. Where there is legislation, it is not implemented. Exploiters go free, despite violating all the rules in the book. Service laborers, such as agricultural workers and hand-cart pullers, working in all types of weather conditions, also earn very meager wages and are exploited by landlords and cart owners.

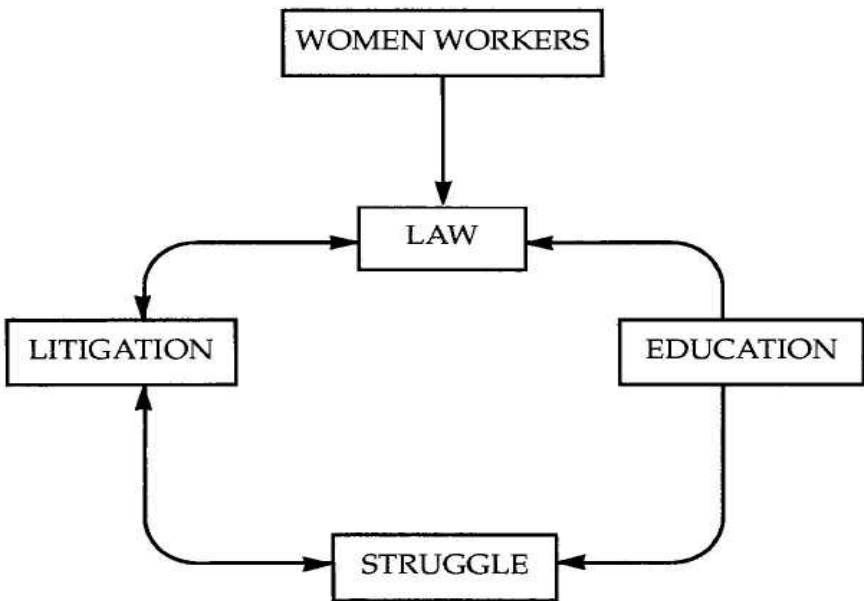
*Social:* It is only recently that cases of *sati* and dowry deaths have become public. Women also face other types of social harassment from husbands, in-laws and at times, even from their own parents. Not all harassment takes the form of violence. It may result from a husband keeping two wives and neglecting the first wife. A husband may earn a good salary but instead of contributing to the household expenses, he may use his salary to gamble and drink. There are many cases of Muslim women, who are divorced or even deserted by their husbands without any provision for maintenance. Even among other ethnic groups there is an increasing number of cases of nonpayment of maintenance by ex-husbands.

SEWA recognizes that along with organizing workers into labor unions and cooperatives, it is important that each member have basic knowledge of what law is all about; how legislation is formulated, who benefits from it, why this is so, and what is the mode of access to the law of the land. For any labor union to be successful, it has to make use of the State administrative and Judicial system. No union or cooperative organizer can be truly successful without a working knowledge of law and the legal system. For the past three years SEWA has made efforts to train its union organizers as paralegals. Today there are enough leaders emerging from the grassroots to take over organizing the unions so that SEWA organizers can devote more time and energy to learning about the law and developing successful legal strategies.

Today both the organizers and the workers are more aware of their legal rights. As an indirect result of having many legal cases in various courts, SEWA organizers and members are

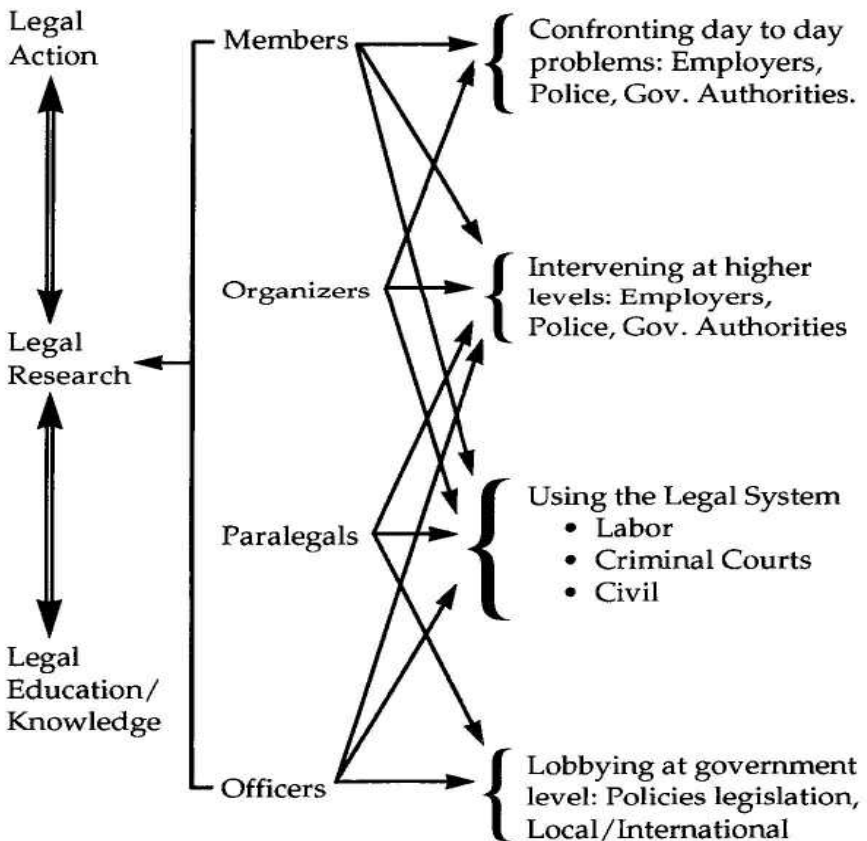
learning many practical aspects of the legal system. However, we recognize this needs to be more focused and conscious efforts have to be made to systematize legal literacy efforts.

SEWA resorted to legal action primarily to protect the rights of poor self-employed women. SEWA's legal strategy has always been in keeping with the general strategy of the movement—of putting informal sector and self-employed women workers on the same footing with mainstream workers in demanding equal rights, protection and services available to those workers.



**The Cases**

Initially, litigation was limited to labor cases. However increasing awareness among the members that legal action might advance the interests of the cooperatives and resolve other related issues concerning women led SEWA to a more widespread use of litigation. This in turn led to an involvement with the law in one way or another by the entire administrative level of the organization. Legal action led to legal education and research, enhancing legal knowledge. This knowledge was used to lobby the government and pressure the legal system to formulate and apply policies and legislation for workers in the informal sector.





SEWA has taken on legal cases of members concerning the rights of women as *workers*, as well as gender-specific issues. The fight for women's rights as workers has been a hard struggle for SEWA and has been only partially successful. One such success was the landmark case involving the women vendors of Ahmedabad, in which the Supreme Court ruled in favor of the vendors, reversing the negative position in the Bombay Hawker's Union case. There have been other cases involving home-based women workers seeking to establish their legal status as workers and not as mere buyers and sellers. One example, the Jivraj Bidi case, is described below.

### *The Jivraj Bidi Case*

The *Jivraj Bidi* case remains a classic case for many reasons: the nature of the case; the involvement in it of women workers, organizers, paralegals, lawyers and government authorities; grassroots action taken; and its culmination with paralegals taking the case over from the lawyer and securing a successful settlement with the employer. The case began in 1982 and ended in 1990—in many ways an epic struggle for eight long years.

M/S. *Jivraj Bidi* works are among the largest manufacturers of *bidis* in the state of Gujarat, producing three million per day and employing nearly 180 women directly, and 400 more through various contractors spread around the city.<sup>1</sup> The employer was a pioneer in one sense; in order to avoid the control of the Bidi and Cigar Workers Act passed in 1960 (the only Act so far applicable to home-based workers), he started a unique system known as the sale-purchase system. He maintained his books in such a way that he did not have to define the women *bidi* makers as "workers." When the women came to collect the raw materials for making *bidis*, he recorded the transaction as a *sale* of raw material to the women. When they returned the finished *bidis* and collected wages, he would record that transaction as a *purchase* of *bidis*. Thus, through his bookkeeping game, he turned the workers into self-employed entrepreneurs.

In 1982 the struggle began as an attempt to get higher wages and other benefits for these workers. In legal terms, it became a struggle to prove that they were "workers," without any material proof to support that claim. The only thing SEWA had

in its possession was an old, washed-out identity card of one woman worker. She still had that card because she was out of town when the identity cards of other women were taken away.

When SEWA took up this issue it had no idea that the sale-purchase system existed. Neither was SEWA aware that to turn it into an authentic system, the employer had registered four different companies to carry out this scheme. One company bought the raw material from the open market; the other sold the raw material to the workers; the third bought the finished product from the workers; and the fourth marketed the finished product. It was an impenetrable camouflage.

However, neither SEWA nor the women workers believed in giving up. The 180 women working directly for the employer registered their demands with the labor department. The case was finally referred to the Industrial Court for decision due to failure of conciliation. These women also approached the Provident Fund office, because the Provident Fund Act had not been implemented. Forty women workers who worked for a contractor also went to the Labor Court demanding a recovery of wages for their work, as they had received less than the minimum wage. This legal pressure was coupled with direct actions like sit-in demonstrations, and lobbying the government to void the sale-purchase system and to declare the women as workers.

The case was initially handled by a labor lawyer in consultation with another lawyer, SEWA organizers, a paralegal and the women. In late 1988 SEWA decided to take over the case, and within one and a half years, the employer agreed to negotiate a settlement with the 180 litigants, paying four million rupees as a settlement. Under pressure, the labor department called joint meetings of various other employers to bargain collectively for a wage increase. However, as mentioned before, all the actions, whether legal or extra-legal, had to be worked out simultaneously with the women. When the paralegals took over the case, they focused on setting up the human relationship between the employer and workers. That finally brought the matter to a head leading to negotiation of a settlement.

During the eight-year period there were many court dramas. When SEWA joined all four companies in the litigation, the employer hired four senior high court lawyers to appear against the SEWA paralegals! Whenever the SEWA representative

spoke to the judge, the four lawyers would start interrupting her with four or more technical points. SEWA got wise to this and developed its own strategy. The moment the paralegal began representations, the other SEWA organizers, along with the women workers, diverted the attention of the employer's lawyers by picking an argument or conducting small talk with them.

The arguments of the case developed on the following lines:

- For tax purposes, all four companies were registered as Hindu Undivided Family and the partners were all brothers and wives.
- If the companies really thought the women were not workers, they would buy *bidis* from anyone and not only from the 180 women.
- The power of rejecting the *bidis* was with the employer.
- The women had to get prior permission from the employer before a long leave.
- The *bidis* had a colored thread that symbolized their brand and like any other cigarette, their *bidis* also had a particular mix of tobacco that was a trade secret.

On the settlement of the case, negotiations were based on the following points:

- No mention would be made of the sale-purchase system. SEWA had to let go of the principle on the basis that in the long run, the written settlement in the court of law would establish these women as workers.
- The workers would get an immediate raise of three rupees per thousand *bidis*, with new wage increases worked out every six months.
- The women would collectively get four million rupees as back wages.
- In the future, the workers would establish a cooperative firm to regulate their work.

SEWA's experience with labor laws showed that most of the laws do not apply to informal sector workers. They were drafted with the formal sector workers in mind, most particularly, factory workers. Thus, SEWA has advocated Tripartite Boards for implementation of laws for the informal sector, particularly for domestic workers, agricultural workers and home-based workers. SEWA's experience with a range of women's

cooperatives (production, marketing and service) has shown the need to change the cooperative laws as well.

SEWA has been successful in gaining recognition for a third type of economic relationship besides that of employer-employee, and employer-middleman-employee, by establishing a labor cooperative of workers. In this relationship, cooperative workers enter an agreement with the employers regarding the conditions of work and wages to be paid. It appears, however, that the political system and the legal system refuse to recognize such a relationship that not only does away with intermediaries, but also establishes a direct bargaining relationship with the employers.

The difficulty of establishing women workers as an autonomous unit is evident both in the emergence and existence of SEWA. SEWA went through a nine month struggle trying to register itself as a labor union of women in the unorganized sector. Then it broke away from the Textile Labor Association, a male-dominated union from which SEWA developed. After disaffiliation from the National Labor Organization, SEWA made the decision not to join any national union federation, but to survive on its own as the only union for women workers in the informal sector. Finally, the world at large accepted the independent existence of SEWA as a women's union of informal sector workers.

### *SEWA'S Legal Achievements*

While fighting for the rights of women workers SEWA has scored some major achievements:

- SEWA campaigned both at the National and International level for protective laws for home-based workers earning piece-rate wages and this has yielded results. These toiling women workers will soon have a law at the national level and a convention at the International Labor Organization (ILO) protecting their rights.
- While working with vendors, SEWA discovered that the only laws relating to self-employed people were antiquated laws formulated during British rule in India. These laws were hostile to vendors and impeded their right to earn a living. SEWA has been campaigning both at the local and national level to change these laws and to draft a National Policy for Vendors and Hawkers.

- SEWA has indirectly supported cases of its members involving matrimonial disputes, cases of wife beating and divorce. Other instances where SEWA has supported the feminist cause have been:
  1. Joining with other women's organizations to protest against the unfairness of the Muslim Women's Bill passed by Parliament.
  2. Condemning female foeticide and helping to draft and lobby for the Amniocentesis Bill.

SEWA went to court to protect the land rights of one of its Agricultural Workers' Cooperatives. In this case, a SEWA cooperative of agricultural workers was given wasteland to cultivate fodder and fuel to save the women the necessity of going afar to collect these. This threatened the vested interests of the village leaders who took the cooperative to court. SEWA went to court to protect the rights of the women but also held several conciliatory meetings with village women and men. SEWA eventually retained the land for its original purpose.

### **The Process: Action Strategies**

In SEWA, issues are considered from a holistic perspective, not purely in terms of their "legal" or "extra legal" character. Furthermore, for SEWA it has always been important that issues be considered from the perspective of its members and that strategies or actions be worked on in partnership with the members. In short, the axiom is: "no action that we take can be right if the women themselves are not ready for it." The reason for this is that such actions more often than not fail. The strategies adopted for members involve two processes: first, organizing and education; and only then, action. To a large extent, both these processes are interlinked and cannot be carried out on their own.

#### ***Organization and Education:***

Ways to organize the self-employed may differ. They may take the form of a cooperative, a union or an informal group at the village or area level that comes together to solve common issues. Accordingly, the educational processes and methodologies adopted may also differ.

### *Cooperatives:*

For a cooperative, organizing begins with understanding the principles of cooperativism and why it is necessary to form a particular cooperative, which may be one of several types: land-based; livestock; artisan and craft; banking and credit; trading and vending. The common factors underlying all these cooperatives are their central concerns:

- increasing the income of the members
- providing an alternate economic organization
- generating employment and income
- increasing the asset base for women

These concerns are directly linked to the economic system of the country, and are explained to the members and potential members over time, either through small workshops or during daily interactions with the women.

Once the idea of forming a cooperative has taken root, then begins the second stage of educating its women members. This education mainly concerns the practical and legal aspects of registering and forming a cooperative. This involves knowing what steps have to be taken to register a cooperative and where to register it; what the prerequisites are for forming a cooperative; and how to draft by-laws and resolutions. Another aspect of this stage also involves getting to know the government and the political bureaucracy. It is necessary to meet with the relevant officials to begin the technical process of forming a cooperative. It is also necessary to convince the authorities concerned that support for such a cooperative exists, and that these poor, illiterate women can manage a cooperative and benefit from such a venture. There are many skeptics who believe that women do not understand business; that they do not know how to manage and account for money. They view an economic venture with only women in it as a "suicidal path" that can only lead to loss of money and failure.

SEWA members become familiar with all the procedures involved in setting up a cooperative. At least two members always accompany the core organizers when they are dealing with the government. There are several reasons for this. First, it educates them about the legal and administrative process. Second, it breaks their fear of government offices and officials and familiarizes them with the people with whom they must



deal in the future. Third, it enables them to communicate the stage of the cooperative's legal and administrative process to the other members. This form of communication is one hundred fold better than any other form, as cooperative members have faith in other members.

Once the legal process of registering a cooperative is over, the next stage begins in which the members learn about marketing, accounting, designing projects and about the nature of the cooperative. The first years are the toughest, with the SEWA personnel playing dual roles. On the one hand, they are sponsors struggling to turn the cooperative into a viable economic venture, and on the other hand they are trainers, helping the members to be self-reliant, to learn to run the cooperative independently, and to share the profits of this venture.

### *Unions:*

A major goal of the unions is to gain recognition of workers in the informal and the self-employed sector. Existing unions, academics, the government, legislation, and government policies are all impervious to the fact that the largest number of workers, and women workers in particular, work in this sector. Even the women do not have a distinct identity of themselves as "workers" because the nature of their work is mostly home-based and they have remained outside the purview and general recognition of the law.

The first step toward organized struggle, therefore, is to bring about the consciousness among the women themselves that they are "workers." They not only contribute to or supplement the family income (very often the women are the sole earners of the family) but also contribute toward the economy of the country. The second step is to bring all these women together on the issue of work to form a common identity as workers. This is done through worker education classes held at the union office or in the work areas where the women stay. Other topics discussed are occupational health, general health, savings, and the status of workers in other sectors of employment within the state and in other states. The focus of the classes invariably turns toward law, since eventually everyone wants to know about worker rights; how can these rights be exercised, and what workers are entitled to under the law. This is a difficult topic to deal with because most of these workers



are simply not covered under the existing laws. Ultimately for a worker, everything revolves around wages, rights and laws. For workers, there is no weapon greater than the law. Through law, workers can go into litigation, put pressure on the employer, and increase their collective bargaining power.

The purpose of worker education classes is not limited to consciousness-raising or the discussion of legal issues; it also serves to identify potential leaders. These leaders receive special inputs on how to deal with the daily problems of the members and represent them before employers, government officials and in courts of law. The classes also pinpoint issues needing immediate attention.

At special meetings members discuss possible strategies; who will participate in given programs, and how. Over time, strategies are designed to include more members. Often this involves close coordination with the members, employers and labor officers, as simultaneous pressure has to come from all sides. This may require providing certain information to the member. For example, if the strategy has a particular law in mind, the different aspects of this law have to be explained.

### ***Action Strategies:***

SEWA bases its action on the type of issue and the overall strategy worked out. The action can take the form of:

- Sit-in demonstrations or *satyagrahas*
- Taking-out processions
- Presentation of memorandums and lobbying the government
- Strikes
- Litigation

These actions are always designed and undertaken according to the needs and readiness of the members. The leaders mobilize the workers in their areas, often calling area meetings to discuss the issues and the purpose of the action. The members too, do their part in contacting other member-workers to participate in a particular action. Striking, of course, is a last resort when all other avenues have been exhausted.

When it comes to distributing memorandums of demands or lobbying the government, members and the leaders work out and then draft the list of demands and the issues. As the

workers concerned are signatories to the memorandums, they are familiar with their contents. Many of the workers accompany the core organizers to the offices and present their demands personally. When going into litigation, the mood and willingness of the litigants is gauged. Litigants are aware of the purpose, advantages and disadvantages of litigation, and other aspects of the issues involved. When lacking material proof, SEWA has to depend on witnesses to prove its cases. Grassroots organizers and the worker leaders help prepare witnesses and organizers collect material evidence.

### *Litigation*

When dealing with court cases, SEWA began by hiring lawyers. The lawyers would then work out the substantive case. With the help of a paralegal, the organizer would collect for the lawyer all the available data, any material proof available, and other required documents.<sup>2</sup> The lawyer would help prepare the witnesses prior to appearing in court. Initially, it was very important to work with the witnesses, as most of them had never been to any courts and had no experience with court cases. They were not only scared about the case and their work security, but also about what would happen on the witness stand. To help witnesses lose their fear of the unknown, SEWA initially enacted "mock courts" in the offices, and on one occasion even filmed a mock court on video to familiarize other workers. Gradually this fear disappeared.

Today SEWA's system of handling cases has changed. Whenever possible, SEWA does not hire lawyers to fight cases in the labor courts, but hires them to appear only in the high courts. Two trained paralegals appear for SEWA in the labor courts, and with the help of the organizers, they prepare and argue cases. The paralegals consult the lawyers during the preparation and running of the cases, but SEWA works out the actual arguments and strategies for the case. As a result, there is a greater need to train paralegals from among the grassroots organizers who come from the working community.

### *Paralegal Training:*

SEWA's training of organizers into paralegals began in 1988 when it took over the *Jivraj Bidi* case. At that time the core organizers, members, and the paralegals helping the lawyers knew very little of the law and legal procedures. To gain familiarity

with the issues, SEWA organizers began by preparing two-page case studies of ten of the major cases. This included describing how the issue/complaint came to SEWA's notice, how the organizer dealt with it, and how the lawyer transformed a legal issue into a legal case. The case study also contained a glossary of the government authorities who would be involved in the process of the case reaching the court. These cases were discussed in a four-day workshop. The intention was to increase the appetite of the organizers to know more about the relevant laws, to understand how problems could be transformed into legal issues, and finally, to critique the handling of the case. During three subsequent workshops, twelve laws relevant to SEWA's members were discussed. The organizers accompanied the lawyers and the paralegals dealing with the cases to court, and in the process learned the practical aspects of the judicial system.

Most of SEWA's organizers are from the working community and are not highly educated. Therefore, it will take a long time before they can handle cases directly, as this involves a great deal of writing (drafting), preparation of arguments, researching case law, and reading. However, what is important to SEWA is that the process has begun and even the judges are now accepting the presence of paralegals arguing cases. Very soon the courts must get used to the workers themselves arguing their own cases.

At this point it would be valid to ask why paralegals are more effective than lawyers, at least at the level of the labor court or evidence court. SEWA has learned that it is better to represent its own cases, not only because doing so has a positive impact on the court, but it also saves delays that result from lawyers taking successive adjournments when overloaded by other cases or to repay a favor to other lawyers. When appearing for itself, along with the group of member litigants, SEWA is able to make emotional appeals based on the suffering and victimization of the litigants—an approach most lawyers would hesitate to take. SEWA is closely involved in the issues of its own members and has a first hand understanding of their problems so that it can represent them with a greater commitment. To a lawyer the issues make up a case, to SEWA it is a cause.

At present, SEWA's legal work functions at several levels:

*Members*, who receive legal information relating to their work and daily lives during worker education classes and meetings.

*Leaders*, comprising the core group of SEWA's members, who receive specialized legal information during one-day meetings, depending on their needs and the issues relevant to them.

*Organizers*, who receive training to understand the technical aspects of law and to appear in courts. Presently they prepare cases and follow-up those cases.

*Paralegals*, who, while they may not be fully qualified or practicing lawyers, fulfill all the necessary functions of a lawyer by preparing cases, representing litigants and arguing cases in court. They also research case law and study existing laws for loopholes, and use this knowledge to lobby the government and make suggestions for legislative amendments.

*Lawyers*, who are consulted during the preparation of the case and during the hearings. They guide SEWA on court procedures and how to approach a particular case. They also handle SEWA cases in the higher courts.

In addition to specific cases, SEWA may have to lobby lawyers, judges and government authorities at all levels for changes in government policies and legislation concerning women workers. It is necessary to formulate new and more protective legislation for workers in the informal sector to make their issues and problems visible at the local, national and international level.

## Conclusions

Through interaction with women workers, SEWA's functions and actions have evolved as a response to their problems and issues. Because of this dynamic process, the strategies and actions change depending on the needs of the workers and the context. Therefore, it is difficult to draw clear cut conclusions regarding those strategies. However, there are some lessons that SEWA has drawn from experience that may be useful for discussion and debate.

SEWA perceives legal literacy as a continuous, ongoing process related to struggle, be it within a union, cooperative, or a group of women gathered to solve a common problem. To SEWA, legal literacy begins the moment a woman worker contacts the organization with her individual problem. Her problem has to be viewed in the context of the politics, economics and social structure of society. SEWA has found that legal literacy cannot be used independently, but should be part of a holistic or multipronged approach to be really effective. Legal literacy should lead to action and improvement of a person's situation, and should not just be a method of imparting information.

Neither should litigation be seen as an end by itself. It cannot become a matter of "principle" for women workers in the informal sector. In many instances there are no laws applicable to such workers. SEWA uses law to bring pressure on the government or the employer. Litigation itself may not achieve complete gains but can be used as a strategic intervention. When coupled with other grassroots actions, litigation becomes an effective weapon in increasing the bargaining and negotiating power of the workers.

A country may have the finest of laws, but ultimately the attainment of social justice is through human relationships and not through victories in the courts. Law and humanity have to coexist for any provision of law to be carried out. It is very important to SEWA that legal literacy not only empower women workers, but also reeducate academics, politicians, bureaucrats, mass media, employers and the public. Unless there is recognition that rights are rights for all, progress and development remain empty concepts.

## NOTES

1. A "*Bidi*" is a local cigarette rolled by hand. It contains processed tobacco rolled into *tendu* leaf and tied by a thread, the color of which depends on the brand of *bidi*. There are nearly eight million workers all over India who roll these *bidis* in their homes.
2. SEWA's concept of a paralegal is one who may or may not have a law degree, but does have an understanding of law and legal procedures.

## **Gender, Community Development and Paralegal Training in the Philippines: Pilipina Legal Resources Center**

**Emelina Quintillan**

The PILIPINA Legal Resources Center (PLRC) is a social development agency that uses the law as a tool for people's empowerment and community development. It has adopted the "legal resources" approach, emphasizing legal self-reliance, de-professionalization, and interest group advocacy. The PLRC defines development as the "process of increasing capabilities and reducing vulnerabilities" in order to improve the quality of life. Thus, it has adopted a holistic view of the legal system in designing its strategies. It takes into consideration the interrelationships between the substance or content of the laws or policies, the structures that implement it, and the culture in which the laws and the structures operate.

PLRC's program focuses on training and education since they are crucial to human development. The program is designed to raise the consciousness of the community for self-help, and to sensitize national and international power players and decision makers. The PLRC conducts nonformal training for paralegals in the depressed communities and nonformal training for lawyers and other professionals in the "legal resources" approach to development issues. The components of its program are advocacy litigation, legal literacy, research and publication, and networking. Its primary clientele are women and disadvantaged communities—the urban poor, rural and ethnic communities.

### *The Context*

Understanding the interrelationships of the three components of the legal system (i.e., content of the law, legal structures, and the culture) is important in the Philippine context because of the culture and justice system. The legal system that operates in the Philippines is characterized by a combination of Western Colonial laws and indigenous practices. As evolved by historical experience, three basic legal systems actually operate in the country, the Spanish-American legal system that is the legacy of the colonial period, the Islamic legal system that operates in some parts of Southern Philippines, and the indigenous customs and traditions that constitute the judicial process of various tribal groups in the country. The Muslims in Southern Philippines continue to abide by the Shari'a and *adat* laws, and the tribals continue to be governed by their indigenous practices. The pluralism of legal systems often exacerbates the conflict in the country. Yet the curriculum for a law degree has been limited to the study of the dominant legal system that is based on Roman Civil Law, and some aspects of the Anglo-Saxon Common Law which have been superimposed on the indigenous communities. Most lawyers are, therefore, limited by their legal education in addressing the sociocultural roots of many cases brought before them. Furthermore, the study of the law has been separated from other fields of knowledge (such as Anthropology, Sociology, Psychology) and the society in which the law operates. Hence, the usual legal services meant to assist the oppressed come in the form of free legal "aid," which actually means a lawyer's services for free. Such services are urban-centered, mostly one-to-one, lawyer-client based, and often litigation oriented. Often lawyers fail to fathom their client's reality and litigation alone cannot address the roots of oppression. Thus, free legal aid projects for poor and disadvantaged communities have many clients who either keep going back, or who, out of frustration, will carry out their own kind of justice because the usual legal remedies deal only with the superficial manifestations of their problem without the necessary personal or social transformation. It is also a reality that the judicial structures like the police stations, the courts, and necessary support agencies that are found in the few highly urbanized cities, are grossly inadequate



and incapable of attending to the needs of the disadvantaged communities. They are, in fact, nonexistent in more rural areas.

The complex reality of the Philippine legal system is more pronounced in Mindanao, the second largest island, located in the southern part of the country, and home of PLRC. Mindanao is populated by Christian migrants from Luzon and Visayas, Muslim Filipinos, and a variety of indigenous tribes. The island has also been the center of insurgency and fighting, from the communist rebels to the Muslim secessionist movement and the rightist military revolt. Survival under these circumstances made PLRC more sensitive to cultural diversity and people's needs, more innovative in its methods, and more flexible in its operation. Hence, the implementation of its program is less structured, as it is intended to adapt to changing circumstances and diverse communities. Members of the PLRC are also aware of the growing resistance throughout the country against the highly centralized bureaucracy, where decision making has been traditionally Manila-centered and geographically distant.

### **PLRC's Commitment**

The ideological bases of PLRC'S mandate and its working principles have been greatly influenced by the background and work experiences of its founders. One of the three founders directed a school; the second, a journalist, headed a social development agency that worked with tribal women in Mindanao. The third, a lawyer and a political scientist, had extensive experience in handling human rights cases during the martial law period, particularly concerning women victims. All three had teaching experience in universities. The founders of PLRC and the members of the Board of Directors are all members of PILIPINA, a national women's organization that works on various gender and development issues. From the perspective of the members of PILIPINA, there is no real development without women's development. The members of PLRC came together with the realization that the reality of women's access to justice cannot be fully understood and improved upon without taking into consideration their socio-cultural, economic, and political situation, as well as the characteristics of the legal system that governs their lives. Law is seen

as a political tool. It is a double-edged instrument that can promote or inhibit development and create or destroy structures. The martial law rule in the Philippines also taught the women of PLRC that what is legal is not always just. Thus, PLRC was born out of a commitment to justice and women's equality, with a multidisciplinary perspective and the legal resources approach. Knowledge and obedience of the law is not the goal; rather, knowledge of the legal system and the law are only a means to achieve women's liberation from ignorance, powerlessness, and dependency.

During the early years of PLRC, contacts with the New York-based International Center for Law in Development and the International Commission of Jurists helped clarify alternative uses of the law and various approaches to the legal system. The Women, Law and Development initiative, organized as part of the 1985 Nairobi Conference on the Women's Decade, further contributed analytical frameworks for PLRC's program for women. PLRC's program evolved from an analytical framework of class and gender—focusing on poor women outside the center. Thus, PLRC purposely kept its base outside of Metro Manila and initially worked in the depressed communities of Davao City, expanding out to the more rural areas and the nearby provinces in Mindanao.

### **The Legal Resources Approach**

"Legal Resources" refer to the knowledge and abilities that enable people to understand the law and the legal system in relation to their situation and to use it to articulate, promote, improve or protect their interests. Thus, its strategies are directed at transforming structures and changing the unequal political, social, and economic relationships in society. Advocacy litigation, drafting of bills, research for policy information, and publications can be used to educate and sensitize the bureaucracy and people in decision making positions. Organizing, popularizing the law, demystifying the legal system and its processes, and increasing capabilities of people through community-based paralegal training are ways to develop women's confidence and leadership potential, people's empowerment, and community development.

## The Paralegal Program

### *Background*

The need for a legal training program was first formally recognized after a 1981 - 1982 study by members of PILIPINA, the national organization of women concerned with gender equality of the poor, urban communities in Davao City, Philippines. Aside from the individual problems of women, the survey revealed that the women and the poor communities were unable to assert their rights and secure their entitlements due to ignorance about the legal system and lack of confidence.

The lay person's experience with the law and the legal system in the Philippines shows that lack of access to the legal system impedes their effective participation in decision making and governance:

- The institutions that produce, reproduce, and interpret state law are distant socially and geographically;
- Ordinary people seeking out lawyers and courts are handicapped by language barriers and procedural complexities;
- Legal processes generate delays and expenses which often inflict inordinate hardships for litigants;
- The processes are based on values that are often hard for poor people to understand;
- Criminal law is often effectively used by groups having superior resources and knowledge to intimidate or subjugate the poor and disadvantaged sectors;
- The poor's infrequent attempts to assert claims often produce unsatisfactory outcomes;
- Litigants go deep in debt to secure professional assistance, and even with that assistance, they incur risks (sometimes increased by lawyers) of endless rounds of litigation;
- Few lawyers, even women lawyers, understand women's issues and the context in which they suffer.

For Filipino women, particularly the urban poor and those in rural areas, the problem is compounded by the fact that they are disadvantaged economically, socially and culturally. They are doubly oppressed by national and international injustices,

and by family systems that give husbands, fathers, and brothers the leadership of the clan. Nationally, Filipino women are marginalized as their social, economic, and political contribution to the nation's development remains unrecognized, and their participation in decision making and public life is limited by sex role stereotyping. Internationally, they suffer as Third World women. The sexual and cultural inequities that women experience are legitimized by attitudes, often enshrined in law, and enforced by male violence or by judicial decisions that are hardly understood by nonlawyers. Lack of legal knowledge preserves inequalities and oppression. To be illiterate about legalities in a modern state run by complex laws and regulations, is to be at the mercy of those who know the laws and the legal system. Without legal literacy, little is known of one's rights or entitlements, and even less about how to assert them.

### *The First Training Program*

To provide legal remedies and effective modes of community intervention, a multidisciplinary staff and volunteer workers (people who would later form PLRC) met to organize a training program. For a "multiplier effect," and to develop confidence in women, it was decided that the initial trainees would be the female community organizers who lived in the communities consulted, and those connected with social development agencies which are immersed in the urban poor areas. The first batch of trainees already had organizing and leadership skills. Their knowledge contributed to the refinement of the paralegal modules that were developed with their participation. With the addition of legal skills, it was envisioned that as paralegals the community organizers would be able to effectively handle the community problems and facilitate the poor's access to their entitlements from the government and other agencies. Their legal knowledge would also enhance their skills in mobilizing the community for self-help. As paralegals, the women would gain confidence as trainers and catalyzers of community action.

A total of 85 women from the urban poor areas were trained during a 12 month period. The training was not confined to a classroom. Although some sessions were conducted indoors, there were also sessions conducted in the communities, in the open field, under the trees, under the sun, and under the stars.

The topics for paralegal training included: 1) self and community analysis; 2) gender analysis; 3) the laws, rules and regulations particularly relevant to the felt and articulated problems of the community, including information about the agencies that can help; 4) organizing skills; and 5) skills in data-gathering, evidence-gathering, and documentation which includes "affidavit" making. The participants' idea of what "law" means, their experiences, and their attitudes about law serve as starting points for the demystification of the legal system.

### **The Women's Paralegal Training Institute (WOPLI)**

Based on this experience, PLRC instituted the Women's Paralegal Institute (WOPLI) on an ongoing basis. It is designed to train, involve, and mobilize grassroots women for their own benefit. There are two levels of training: the Basic Paralegal Training and the Advanced Training Module. Of the 85 women who initially underwent the basic training, 55 opted to proceed to the advanced training. Most of those who did not proceed with the advanced training had specific tasks with social development agencies and felt that the basic paralegal training was sufficient to enhance their effectiveness.

Basic training is conducted in selected urban poor communities for three intensive weekend sessions with lawyers, women's rights advocates, and community organizers in each community, with continuous monitoring and follow-up by the PLRC community organizers for a period of 12 months. Training is in groups of 22 to 30 participants in each area. The schedule of the sessions is initially agreed upon between the participants and the PLRC staff.

The Advanced Paralegal Training module was designed with the participation of those who completed the Basic course and who showed interest and aptitude in furthering their skills. The advanced training includes:

1. *Class and gender analysis of laws.* This analyzes the impact and relevance of laws on poor women. The constitutional provisions on women's equality, the Family Code, the Labor Code, the Penal Code, and other laws dealing with persons and social relationships are studied. The U.N. Convention on the Elimination of All

Forms of Discrimination Against Women is also discussed. The situation of women and their concerns in relation to the legal norms and provisions are discussed and analyzed.

2. *The Philippine Justice system.* This theme explains the Philippine judiciary and the supporting agencies. It also looks at the special courts and their functions. The Barangay (the smallest political unit) Justice System, a neighborhood system for arbitration or conflict resolution, is given special attention because of its accessibility and practicality. This is a system that the paralegals can utilize, and in which they can play an important role.
3. *The Judicial and Administrative Procedures.* This deals with the processes of the justice system and how they can be used to assert rights. How to make a police report, how to post bail, where to make a complaint, and similar matters are studied. Evidence-gathering and documentation are activities that the participants actually experience. In places where the structures do not exist, alternative remedies are also discussed.
4. *Drafting the legal forms.* This includes execution of sworn statements, contracts, promissory notes, resolutions and petitions. Sample forms of judicial documents are also examined by the participants.
5. *Specific laws on women and organizational development.* This includes provisions of the civil code, the cooperative laws, corporation laws, and other laws that affect women in organizing and registering the legal personality of organizations or associations.
6. *Participatory research skills.* This refers to data-gathering, conducting surveys, and various methodologies used in conducting community-based research.
7. *Skills in organizing and nonformal training.* This includes techniques in community organizing—the phases, tasks, and skills. Strategies of intervention are discussed. Group dynamics and problem analysis are actually experienced and studied. Games, facilitating skills, and other methods of nonformal training are experienced. Actual strategies toward the solution of a case or a community problem are designed and undertaken by the participants.

8. *Other topics.* This refers to any issue that may be of interest to the trainees or relevant to their lives. The topics are prioritized and agreed upon by the trainees themselves. PLRC merely provides the resource persons or facilitators.

The sessions, however, are only part of the training. In the advanced training, the participants are encouraged to take up cases that arise in the community, with the assistance of senior paralegals and the supervision of the PLRC. The advanced module is more of an on-the-job training than sit-down session. Theory and action go together.

To ensure that the training addresses the community needs, a preliminary area survey and problem appraisal is made by the PLRC staff. A community needs assessment is done between May and June. The paralegals then assess the results of the survey and participate in designing their training. This is done in both the basic and advanced training.

There is an important difference in approach between the basic and advanced training modules. While the basic training is conducted by area and in smaller groups in each community, the Advanced Training Module is designed to bring together all those who completed the basic training in the previous year under one advanced module prepared between June and July by the trainees, the PLRC staff and a multidisciplinary group convened by PLRC.

After the evaluation of the Basic training module, and after the PLRC community organizers have conducted the assessment of community needs (usually between May and June), those who signified their interest to proceed with the advanced course are convened together with all the PLRC-trained paralegals at an annual general assembly. The evaluation and results of the community survey is presented to them for validation. They are asked to indicate and prioritize their personal needs and the community needs. Issues and problems are also prioritized and activities are planned. Then they group themselves by area of residence and prepare their calendar of meetings. Area representatives are elected to a Council of Leaders who will coordinate their activities. The more senior paralegals help facilitate the meeting and the workshops. Together with the PLRC staff and a corps of multidisciplinary resource persons, the Council of Leaders decides what legal information



is needed, the topics to be discussed, and the learning methodology. Thus, while the Basic Training Module is focused on the problems and issues in the immediate neighborhood, the Advanced Module enables the paralegal trainees to get to know paralegals and trainees residing in other areas, in order to exchange views, share information, develop a broader perspective, and become aware of a wider scope of issues and learning experiences. The paralegals, therefore, develop camaraderie with a bigger group outside their neighborhood and also become part of a larger "community". In the advanced training, sessions are conducted in different areas with the participants taking turns in "hosting". This way, exposure to different problems and conditions of other communities is built into the training. This provides opportunities for exchanging ideas, for the "reframing of the mind" and broadening of vision.

To date, Basic Paralegal Training has been conducted in sixteen urban poor areas in Davao City and three rural communities in the provinces of Mindanaotwo in Bu-ug, Zamboanga del Sur, and one in the Muslim Autonomous Region in Jolo, where the module focused on the Shari'a and *adat* (customary) laws. The paralegal training in Jolo was in cooperation with Filipino Muslims who run a basic literacy program for Muslim women. The assessment of community needs in preparation for a paralegal training in Butuan City, in Cagayan de Oro City, and in Kapalong, a remote rural town in Davao del Norte, are underway. In Davao City alone, there is now a cadre of 113 PLRC-trained paralegals, consisting of 108 women and five men.

## The Paralegals

### *Definition of a Paralegal*

From the perspective of PLRC, a paralegal is a person with basic knowledge of the legal system, laws, procedures and organizing skills who has the motivation and attitude to:

- conduct education programs for awareness of human rights, particularly women's rights and issues;
- facilitate the creation of people's organizations for community action;
- assist in conflict resolution in her community and prevent the use of violence;

- conduct preliminary investigations, document and gather evidence, particularly in cases of violence and violations of women's rights when referral to a lawyer becomes necessary;
- guide or assist aggrieved parties to the proper administrative or judicial forum for the redress of grievances and solution of problems.

While the primary purpose of the legal literacy program of PLRC is to enable women in disadvantaged communities to help themselves, the paralegal training gave them the capability to extend beyond themselves and help their community as well. Although the paralegal training was originally intended for women in marginalized communities in Mindanao, in some communities a few poor men asked to be included in the training. Their participation was with the consent of the women in their community.

The first group to be trained as paralegals were community organizers who were immersed in urban poor communities. Subsequent trainees, however, have been poor women, from different depressed areas. Some are full-time housewives, others have small livelihood activities. They are home-based dressmakers, vendors, fisherfolk, beauticians, community-based paramedics, and soapmakers. The common denominator is that they are all poor, they live in depressed communities, and they are interested in learning to help themselves. Although no educational qualification is required, the participants at least have to know how to read and write in the vernacular. They range in age from 18 to 60.

### *What the Paralegals Do*

The paralegal training was originally intended as a resource to enhance knowledge for women and was not intended to become their full livelihood activity. However, many of the women who were trained now spend much of their time working in the community. The paralegal training gave them the opportunity to improve their situation by knowing what their entitlements were and where to go when a problem arises. Having this knowledge, and also knowing that they have a group to support them, gave the poor women great confidence. Many of the PLRC-trained paralegals are now in the forefront of community struggles to improve their situation.

For example, after undergoing the paralegal training, Elsa from Ubalde, who occasionally sews for handicraft enterprises, convened the seamstresses in her barangay. With the endorsement of the Barangay Captain, she drafted a petition to the City Mayor and the City Council for assistance in the form of sewing machines to be donated to their barangay so that the women in their community could be taught how to sew to earn income.

In another case, a paralegal brought to the PLRC office a mother and her 13 year-old daughter who was raped by a neighbor. All the necessary evidentiary documents (i.e., medical certificate, police report, sworn statement, etc.), including a picture of the rapist and a list of witnesses willing to testify on circumstantial evidence, were brought to the PLRC. The preparation of the papers for a criminal case, the arrest of the accused, and the prosecution was greatly facilitated because of the preliminary work of the paralegal in the community.

In the depressed area of Basa, a group of women, led by a 60 year-old PLRC paralegal, filed a complaint with the National Police Commission (NAPOLCOM) against a notorious policeman, residing in their area for indiscriminate firing of his hand gun and constant harassment of the residents. Since the complaint was an administrative one and did not require the appearance of a lawyer, the paralegal argued the case for her group and succeeded in getting an order for the suspension of the police officer from the NAPOLCOM regional office, with a recommendation for his termination from service to the NAPOLCOM head office in Manila.

The experience of the paralegals are full of acts of heroism as they attend to the silent emergencies that happen every day. The following story is another case in point that would be difficult to match by lawyers in a regular law office.

An appeal for help of a mother whose son was burned by her common-law husband was referred to PLRC by the ABS-CBN, a radio-television network. Because she had to rush her son to the Davao Medical Center, the woman's two other children, aged one and two, were left behind in their shanty in the depressed town of Matanao with no one but the guilty husband, who was also a drunkard. Since the Judge of the Circuit Court sits only once a week in Matanao, the complaint against

the husband had to be filed in time for the hearing, and the issuance of the warrant of arrest against him had to be secured when the judge was in court. The PLRC lawyer immediately prepared three documents; the complaint, a letter to the Regional Office of the Department of Social Welfare (DSWD), whose jurisdiction extended up to Matanao, alerting the Regional Director of the plight of the two small children, and another letter to the Police Station Commander in Matanao asking for assistance. Armed with the woman's affidavit-complaint and the lawyer's letters, two paralegals travelled to Matanao on the appointed date and with one sweep, they filed the complaint, secured the warrant of arrest for the accused, and brought the two children to the waiting arms of the DSWD, which is authorized under the law to take custody of children who are abandoned or found in emergency situations. The whole operation took the PLRC paralegals from five o'clock in the morning when they left Davao City, to seven o'clock at night when they reached the DSWD. Recently, the mother appeared on television with her children where she told the rest of the story and thanked the PLRC. Her guilty husband is now in jail, her son is now out of the hospital, and her two younger children are doing well. With the assistance of a small loan from the Maryknoll Sisters, she is now earning an income by selling bread.

Aside from counselling and referral to the proper agencies, the paralegals handle cases of rape, incest, seduction, wife-battering, and even murder that occur in their community. The paralegals cannot argue cases in court, because only lawyers who are members of the bar and government prosecutors are allowed to do so, but they do much of the preliminary work by guiding the victims, gathering evidence, preparing documents, and accompanying them to the government agencies or to the court during the scheduled trial of the cases of their "clients". Some paralegals have moved on to more political work and now occupy positions in their barangay council.

PLRC backs up most of the activities of the paralegals, but the paralegals are free to work with other lawyers or legal aid clinics that give services to clients. Except for the few who are on the staff of PLRC and who are employed with other development agencies, the other PLRC-trained paralegals are on

their own — working with those who seek their assistance in their community. They are in the real sense of the word “community paralegals.”

### *Educational Approach*

There are principles and procedures involved in PLRC’s training methodology. The first principle is that the methods used should be empowering. This means that the educator, trainer, or facilitator must dialogue with the participants or trainers and recognize that they are equally knowledgeable, if not more so, of their situation. Furthermore, since the objective of the training is to develop confidence and empower the participants, PLRC has been careful that the methods used will not defeat the purpose. The trainees are adults and their life experiences have already left some imprints in their mind. Thus, the PLRC educators always begin by “leveling”. This means starting from where the participants are. New information becomes more relevant and is easier to grasp by the paralegal trainees if it is connected with their own life experience.

Prior to the sessions, a community survey is conducted. This is a broad-based consultation conducted for baseline data before training is actually begun. In coordination with the research staff, PLRC community organizers conduct a house-to-house survey and interview prospective participants. The survey elicits the following information:

1. The individual profile of those who have signified their interest to attend a paralegal seminar;
2. The dominant community problem and related socio-economic and political data;
3. The topics that are listed as priorities by the prospective participants;
4. The most convenient schedule and place to conduct the basic paralegal training sessions;
5. The contact persons in the community who commit to help organize the sessions.

A multidisciplinary team of training facilitators is then convened to determine the best methodology in a given context. In the advanced training, the trainees themselves participate in the planning and drafting of the content and methodology of their curriculum.

Information is given in small doses so it does not overwhelm the participants. PLRC adopts the method of action-reflection-action by the participants toward the solution of their identified community problem. PLRC is concerned with the dissemination of information, understanding of concepts, critical thinking and the use of knowledge by the participants to move an inert mass, a community that has been petrified by poverty, fear, and ignorance. Getting them to define their problem and act on their new knowledge actually makes learning more meaningful. Small successes inspire the trainees and make them seek more knowledge. The problem solving method addresses several main concerns: the promotion of critical and creative thinking for the trainees; self-awareness; team-building; and the solution to a specific community problem. The end result is the realization of a woman's potential.

Language is a crucial factor in effective communication. The medium of communication is in the language of the participants. If one is to dialogue with the participants, then the manner of speaking must be informal and conversational, not a "lecturing" tone. Instructional materials are prepared and translated by the PLRC staff, mostly in Visayan which is spoken in many urban poor and rural communities in Mindanao.

It should be noted that the language medium of higher education in the Philippines is English and all law books are published in English. Even court records and decisions are in English. Filipino, the national language, is based on the Tagalog dialect which is spoken in Manila and its surrounding provinces. The translation and preparation of instructional materials for a non-English speaking grassroots community is by itself a major activity of the PLRC. There are almost as many languages as there are ethnic groups in the Philippines. Among the Filipino Muslims alone, three distinctly different major ethnic groups with very different languages exist; the Tausog, the Maranao, and the Maguindanao. Thus, the medium of instruction for paralegal training in the Muslim areas, unlike in Davao City and the other provinces in Mindanao, is in Filipino and/or the native language of a particular ethnic group. Among the PLRC staff, the Executive Director speaks five of the major languages in the country, while the rest of the staff speak about two or three. Given the cultural and language diversity, PLRC taps local resources and experts as much as



possible. This is to ensure the appropriateness of the instructional aids used and the ease of communication between the educator/facilitator and the trainees.

Another feature of the PLRC paralegal training program is the "no grade" system. No examinations or grades are given. The effectiveness of the training is evaluated and determined by the actual behavioral change and performance of the paralegal in addressing women's problems. At the end of a program year, the participants are asked if the training helped them. The participants make a self-disclosure of reactions, fears, anxieties, or benefits derived from the training. For example, one paralegal in the advanced course was asked how the training has helped her. She said: "For one thing, I used to be so afraid even just to walk past the police station or the fiscal's (prosecutor's) office. Now I can just go in and out and talk to the people there any-time." A self-administered evaluation is conducted at the end of every session and an annual evaluation of the program is done at the end of PLRC's fiscal year. The bottom line, of course, is whether the paralegals can effectively address the problems that are brought to them. So far, behavioral change and ability to perform of the trainees have been the only indicators of success of the PLRC paralegal training. Awareness, confidence, and empowerment are intangible traits and PLRC is still struggling to find quantifiable measurements to qualitative change. For those who ask for quantifiable measurements to the effectiveness of the training, PLRC answers with a question: "How do you measure qualitative change?"

The methods used are participatory, experiential, evocative and analytical. The teacher or trainer acts merely as a facilitator or coordinator of the learning experiences. Actual experiences of the paralegals serve as case studies and are analyzed. Other methods that are used during the training include role play, songs, panel and group discussions, and other structured learning experiences such as hand-clasping, Johari window, fish bowl and other card games. Learning is easier when it is fun.

In designing the paralegal training programs, the common principles that prevail are as follows:

- A broad-based community consultation is conducted for baseline data to inform the PLRC educators or facilitators.
- A multidisciplinary group of curriculum makers and training facilitators are convened to sit with the senior paralegals.



- The teaching methodologies are experiential, evocative, and participatory.
- The training programs are responses to development issues and community needs.
- The training programs are innovations of NGOs and rely on local expertise.

Consciousness-raising, group discussions and reflection are integral to PLRC's training methodology. Women's issues and concerns are integrated in all topics discussed. The process enables the participants to understand the realities of their situation, use the law for their benefit, or challenge the relevance of the legal system.

### *Lessons From Experience*

The most important lesson learned through the years of working on a legal literacy program is that the law can be an effective tool for women's empowerment and social change if it is seen in the light of politics instead of trying to put politics into law. Changing power structures is a very political activity. Hence, knowledge of the law should not be given merely for the sake of knowledge, but to facilitate awareness and group action for change.

Poor women often cannot use the law as a resource because of legal ignorance, but when the ignorance is removed they begin to understand their situation and try to find better alternatives and solutions to their problems. Indeed, one cannot change what one does not know. However, the situation of women is not always that simple. While women may know their situation because of experience, it does not necessarily mean that they understand the structural roots of their oppression. For most women, knowledge of the law is not enough. For them to act on what they know, they must understand themselves and how the world outside their homes is structured and legitimized. Legal literacy and paralegal training shows them how the system works so that they can design their strategies and know where, when, and how to intervene. They must also know that they are not alone in the struggle. The legal literacy sessions provide women with a forum to air their views and to hear and see that their problems are not unique and that they can do something together. In other words, the meetings and exchange of ideas is planting the seed

for organizing. Their working together to solve an actual problem builds camaraderie and develops more and better skills. Thus, the intervention of PLRC is that of a catalyzer and the role of the educator/trainer is merely a facilitator. Nobody can really learn for others, they can only help another to learn for herself.

The law is a strategic tool for women's empowerment and development because it links the personal to the general and the private to the public, particularly on the issues of human rights. The PLRC paralegal training allows the examination of society's normative standards about women vis-a-vis their real life situations. Legal literacy is actually giving to the poor and disadvantaged sectors of society, in particular the women, the capacity to use the tools of the dominant groups that define the hierarchy of persons, the order of relationships, and the parameters for action.

### *Forward-Looking Strategies*

The PLRC paralegal training is a deviation from the usual legal programs for women. The common legal project of law groups for women in the Philippines is either legal "aid" or legal literacy that is merely the dissemination of legal information without the critical analysis of the laws vis-a-vis the realities of women. Most legal literacy programs do not address the structural issues that impede the development of marginalized sectors. The few "developmental" law groups that are trying to change structures do not seem to have a clue about specific women's issues, or do not seem to know what to do about this concern primarily because they are men who have not been made aware of women's issues. PLRC has attempted to address the issues of women, law and development through its legal literacy and paralegal training program. By demystifying the laws and by learning how to work through the maze of the legal system, the paralegals are able to act on women's concerns, whether it is a case of violence, violation of rights, or deprivation of benefits. The more they work with women and a variety of community problems, the more their skills are honed and their status raised.

A crucial factor that supports the paralegals is the existence of PLRC that backs up their initiatives with a network of lawyers and other professionals. PLRC is also an accredited

Corruption Prevention Unit (CPU) by the Office of the Ombudsman, a constitutional body that looks into the graft and corrupt practices of all government officials, including government lawyers and judges. To date, the paralegals in Davao City have gained a legal personality of their own by organizing themselves into the PLRC Multi-Purpose Cooperative, whereby one of the primary functions is to provide paralegal services. Through the cooperative, the paralegals can now charge fees for their services and also benefit from other aspects of the cooperative. The PLRC paralegal training is expanding, albeit slowly, because it aims for qualitative change in other parts of Mindanao, and hopefully throughout the country.



## **Legal Literacy and Community Development in Bangladesh: Bangladesh Rural Advancement Committee**

**Salma Sobhan**

It is not insignificant that in its earlier incarnation, the Women's Movement was known as the Women's Emancipation Movement, for what women were demanding when they demanded the right to vote was their freedom. As the end of the twentieth century approaches, even where women gained rights to education, to vote, to work or not to work (for most women the right not to work was even less of an option), their freedom is analogous to the emancipation of the American blacks after the American Civil War. Like the emancipated slaves, women remain second class citizens.

The incorporation of the term "empowerment" into the vocabulary of the women's movement, marks a growing awareness that without "power" women's freedoms amount to very little. The basic tenet of empowerment is that women not only have the right to make decisions concerning the fundamental issues affecting their lives, but they also need to determine the nature of these choices. It is not sufficient for women to have legal rights; it is necessary that they be able to avail themselves of those rights. It is in this context that legal literacy becomes an essential ingredient of empowerment.

While it is true that knowledge of the law, at least to the extent that it demystifies the law, serves some purpose; knowledge of one's rights alone will not make it possible to avail oneself of those rights. Teachers of religious laws may expound law clearly, but they use religious law to negate any assertion of independence in their audience. Thus for legal literacy

to function as a tool of empowerment, it must be designed to produce empowerment. The goal of empowerment can only be met if legal literacy programs are clear about this, for empowerment does not follow automatically from knowledge.

Though legal literacy is a tool of and for empowerment, a danger inherent in developing a legal literacy program is that it can end up by reinforcing the status quo rather than providing an impetus for change. Since the law is a reflection of the spirit of the people, it also reflects the strengths and weaknesses of a society. This is a problem that every activist committed to promoting legal literacy will face. It is also conceivable that the law on the statute books may be ahead of the thinking of most of the people in that society, and in these circumstances, a legal literacy program must do more than inform people of the law.

A legal literacy program must develop, therefore, at several levels. At its most basic it will be a medium for imparting information. While it is often assumed that possessing information will generate momentum, this only happens if the recipient is at a "take-off" point. A more likely result is that the information will be digested and filed away in that compartment of the mind containing information that is of no immediate relevance. This often happens even where the information should motivate people immediately and positively toward a course of action.

At another level, legal literacy can be a tool to arouse awareness against inimical customs that are contrary to the law. It can be an instrument to analyze and critique the law as well. In that context, legal literacy can be useful in legal reform campaigns. Also, legal literacy can be part of an exercise in community development, or used in women's employment struggles. Ideally, a legal literacy program should encompass all three aspects. To a certain extent there should be a spill-over from each activity to the other; a law reform campaign should result, for instance, in community development, or the struggle for women's employment may lead to a change in the law. Thus the entry point of a legal literacy program is three-fold: economic; social and legal. It is only when legal literacy interacts on all these levels that it can truly operate as a tool of empowerment. However, like the "trickle down" theory of economic development, the "spill-over" from a legal reform

campaign to community development, or community development to economic emancipation, or economic emancipation to community development and so on, may be a long time in coming. This is especially true where the legal literacy program is an entity on its own. This last proposition can be illustrated by analyzing a legal literacy program developed in Bangladesh that is now in its fifth year.

### **BRAC's Paralegal Program: A Case Study**

BRAC is the acronym of the Bangladesh Rural Advancement Committee, a nongovernmental organization that came into existence in Bangladesh in 1972, following the 1971 civil war that led to the political separation of the two wings of Pakistan into Pakistan and Bangladesh. BRAC started with relief work but soon moved on to development work and is now, perhaps, the largest NGO in Bangladesh. It works with the rural poor, essentially the landless and land-poor, who sell their labor. In 1986 BRAC began a legal literacy program, known as its paralegal program. The term "paralegal" in this context does not have the usual connotation of a worker who is ancillary to the professional. BRAC's paralegals are teachers, not legal assistants. It should also be noted that even a paralegal "proper" differs from, for example, a paramedic, in that unlike the latter, the paralegal cannot on his/her own, effect the equivalent of a cure.

The decision to start the paralegal program followed an evaluation of BRAC's programs that identified a need for legal support services at the village level. The evaluation articulated several areas requiring legal information. A further survey of the issues that produce conflicts within rural society showed that land disputes were the commonest. This was hardly surprising in a land-scarce society like Bangladesh. Land disputes all over the world are among the most complicated matters for lay persons to deal with once a dispute has arisen. Many such disputes arise from a failure to take elementary precautions against being cheated due to a lack of information about basic legal procedures. So, it is possible to preempt conflictive situations by disseminating basic information about land rights and procedures.



### *The Project Design Process*

BRAC works toward involving the rural people themselves in the planning process so that traditional roles of dependency can be changed. Group formation is the technique by which solidarity is built-up at the grassroots. In planning the paralegal program, twenty BRAC groups participated by selecting one member each from among their number to receive "training in law." At this stage, neither they nor the lawyer who was to develop the program, had any set ideas about the contents of the program. At the preplanning stage of the program, three possible roles for paralegal intervention were identified, including the roles of teacher, counselor, and intermediary. Moreover, while the survey indicated the issues causing conflict, it did not outline the villagers' expectations of a paralegal program. The program content was to be developed by the group and lawyers together.

The groups whose representatives were to form the first paralegal group, had not been given any literacy criteria for the selection of their representatives. The main criterion was that the person should not be too involved with other BRAC activities, as such a person would not be able to give sufficient time to the program. Although program designers hoped that people with leadership qualities would be selected, they did not spell out specific selection criteria for this. It was clear, however, that without basic literacy a paralegal could not really be trained as an ancillary to the professional lawyer.

Thus, while there was no deliberate decision to exclude literate people from selection, the decision not to require literacy as a criterion for selection was a deliberate one, calculated to deflect the focus from skill to character as part of the exercise of demystifying the learning of law.

Of the twenty persons selected by their respective groups for training in law, eighteen were present on the first day. There were ten women and eight men, and their ages ranged from about thirty to over forty. This group was, from the very beginning, a lively one. They were all survivors. They were articulate about their problems and although they hoped the law would be able to help them, there was also a very strong desire to learn about the law for the sake of knowledge. This intellectual curiosity was the remarkable feature of most of the

people trained as paralegals. In Bangladesh, as in other Asian societies, great emphasis is placed on academic achievement, but academic excellence is seen as the ability to learn and not the ability to analyze and critique. Thus, those who receive an education are discouraged from creativity and individual expression of views. All that is for "later." Perhaps because most of the paralegals had never been to school or only for a few grades, they had the advantage of being far more open to discussions about the nature of the law than their counterparts, who for the most part are found in the Universities or law colleges.

The first group of paralegals received training in four subjects: family law; inheritance; land and citizen's rights; constitutional law and safeguards against unlawful detention, police harassment and related issues. Altogether four groups of paralegals were trained. The subjects had been determined by the first group and were designed to be taught around the issues that had been raised in the first meetings by them. However, this process was repeated with each new group. Their similar responses were an assurance that the subject matter was addressing their articulated needs and not their needs as determined by the program developers.

The first group of paralegals was scheduled to be trained at intervals of six weeks to two months. The training started in August, but the second session was delayed because of floods. Despite the disruption caused by this, the next training session was fully attended. At the end of the first two training sessions on family law and inheritance, an evaluation surveyed perceptions of various social groups in the community. Canvassed for their opinions were the paralegals themselves, BRAC group members, other villagers, and the village elite. BRAC program officers were also asked to share their observations about the reception of the paralegals as disseminators of information. At that stage there was much skepticism about the paralegal's ability to learn about the law, which was viewed as something that even educated people did not fully understand. The village elite responded to the questionnaires positively, but the paralegals told us that off the record, they shared the general skepticism and were also unenthusiastic about the prospect of paralegals becoming privy to information. All this was soon to change.

At the end of the first training cycle, the paralegals and program personnel discussed the training program among themselves. The paralegals felt that the training could perhaps be condensed. They had received four, five-day training sessions. Including a day for travelling to the training center, they had to set aside twenty-four working days for the training program. Although their travel expenses were met and their board and lodging was free, they were not compensated in any way and this caused some hardship to their families when they were away. Although the validity of this suggestion was recognized, there were concerns that, if as was suggested, the time-frame was reduced by fifty percent, it might result in a "cramming" session. The lawyers and trainers decided to restructure the classes and test out a modified approach in which the teaching was backed up by refresher courses held in the village communities themselves, where classes could fit into the daily schedule.

During this period, the teaching materials were undergoing constant revision. Even where the content of the material had not changed, the approach to teaching was consistently amended. BRAC programs adopt a participatory method of teaching and their trainers are excellent communicators. The legal texts and messages were carefully formulated by the lawyers and trainers, who have a special orientation in participatory teaching. Although the lawyers were present throughout the sessions and participated in them, the main burden of teaching was on the trainers. A very close relationship developed between the trainers and the lawyers, although the trainers were initially skeptical about the possibilities of the law serving as an instrument of empowerment. Their field experience had demonstrated that the law was more frequently used by village elites as an instrument of oppression. It was only when they discovered from their own experience that the law could be developed as an instrument of empowerment, that their skepticism began to diminish.

The program developers also encountered some problems inherent in the law itself. Certain provisions of the family law and the law of inheritance favor men over women. While information about the law had to be given accurately, both the trainers and the lawyers felt that it could not be left at that. They decided to confront the problem directly and stimulate

discussion on the inequities of the system. The paralegals knew from their own experience that society had changed a great deal during the last thirty years. The much-desired son is no longer the succor for his aged parents nor the support for his widowed or divorced sister. A sister can seek her brother's protection only if she gives up her rights to her share of the parental property. Society has changed dramatically and the social basis for these laws no longer exists. People could find no rationale for continuing to give a son twice the share of a daughter. Since the Muslim Law of Inheritance is based on Quranic texts, none of the paralegals suggested that the laws should be changed. However, there was a discussion on how the problem should be redressed; for example, by permitting a parent to make a will in favor of the daughter, or giving her something extra by way of a gift to redress the imbalance. The paralegals themselves could cite instances of husbands gifting their wives property during their lifetime, which, the sons would claim, disentitled the wives to a share of the husbands' property on his death. It became clear that such gifts, when given, should not be assumed to be in lieu of inheritance. Nor should it be reckoned that gifts are in lieu of dower, unless specifically stated to be so by the husband.

It was integral to the strategy of the paralegal program that the legal information given should not be considered an end in itself, but regarded as a means to an end. The desired end was a change in the value system where it appeared to condone the oppression of the poor and the disenfranchised, particularly that of poor rural women.

The BRAC paralegal program was a part of BRAC's overall development program. The participants who came for the paralegal training were already active in group formation and had participated in human resource development training. To that extent, they were very receptive to the training. However, another training program, conceptualized as an introduction to the paralegal course and undertaken by the same trainers and lawyers, was not as successful.

### *Legal Awareness*

Initially, the paralegal training proceeded at a majestic pace. Between August 1986 and February 1988, about eighty-six people received the paralegal training. These eighty-six paralegals

had the responsibility of going back to their groups and disseminating the information they had acquired, and they did so with some success. The paralegal was no longer the object of amused derision. Community members sought his/her advice and some were even asked to participate in *salishis*.

In theory, the *salish* is a gathering of the village elders and elites assembled to settle disputes without having recourse to the courts of law. In practice however, the landless seldom have enough political clout to get a Salish called to settle their disputes, especially if they are in conflict with a member of the village elite. A Salish might be called by the influential members of the community to discipline someone for unconventional behavior that was unacceptable to the elites or elders. In practice, it operates more as an instrument of moral populism than as an alternative dispute resolution mechanism. Nonetheless, it is an institution that could be turned around for the benefit of the landless if only they could penetrate it at the decision making level. However rarely it happened, it was no small achievement when a member of the group that usually could not even get a hearing, was able to sit with the elite, play an advisory role, and have his/her presence at the *salish* acknowledged to be so by *right*.

Despite this success, many felt that the information dissemination was too slow and some feared that since the paralegals were so few in numbers, a privileged class might be developing. At this stage, the paralegals were still operating within their groups on a purely voluntary basis. Part of their training in land law had included a trip to the local land registration offices and local government offices. They, in turn, would accompany group members to register their land or pay their taxes. (Almost the first thing that any paralegal did on learning how land could be registered was to register whatever small holding he or she might have, however unproductive the land might be.) Some felt there was a danger that paralegals might find it more conducive to their prestige to present themselves as facilitators rather than sharers of information on a basis of equality. That there had been a great rise in their personal prestige was clear from one incident alone.

After their training ended, the first group of paralegals requested they be given something in writing by BRAC to

certify that they had received this training. Unlike the paramedics and the paravets, they were not taking back any demonstrable skills. Though this was not part of BRAC's usual practice, they made an exception and gave the certificates to the paralegals at a moving presentation ceremony. The subsequent groups of paralegals did not receive certificates. One or two of the second group wanted to know if they too were going to be given certificates, but were told that presentation had been made only to mark the starting of a new training program. By the time the second group had completed its training it was already a matter of some prestige to be a paralegal. It was this success more than anything else that prompted the second program, which focused on extending the outreach even more.

The legal awareness program was a compressed version of the paralegal plan extended to more members of BRAC groups than the paralegal program. In the new program, twenty-five people drawn from five groups, participated in a five-day training course. The rationale for this approach was to multiply the number of people in each group having information about the law; instead of only one, now five would have the information. The subjects were family law, inheritance, land law, constitutional law and criminal procedure. Each subject was covered in a day.

The experience with the first legal awareness group was not an overwhelming success. Selection of participants had not been made by the group members, but by the program officers who had not been briefed that literacy was not a criterion. Unlike the paralegals, these legal awareness trainees had not been with BRAC for long and the five-day training was like an exercise in force feeding information. With hindsight, the wisdom of concentrating on fewer subjects was recognized. There was insufficient time for the sort of interchange that had taken place between the paralegals and the trainers. This clearly was an important feature of the original paralegal training.

However, the legal awareness training provoked great enthusiasm by the trainees, also one of the most marked features of the paralegal training. Where the trainer who was going to facilitate the legal awareness training selected the candidates, it was successful. Where non-training personnel



selected the candidates, the courses were less successful. These people did not have the experience to recognize that formal education was not a necessary (or sufficient) criterion for being a successful paralegal. They fell into the trap of using, (as do law schools) skill instead of character as a basis for selection.

It would also be a mistake to think that the legal awareness classes—although relatively superficial—evoked no critical responses about the law. Under Muslim law, the custody of children of divorced parents is with the mother when the children are young (by the Hanafi school of law, which is dominant in Bangladesh, this is till the age of seven for sons and till puberty, roughly 12, for girls). This law was modified by statute. Now, the Guardian and Wards Act and the courts decide the question of the child's custody, based on what is in the child's best interest. (A value judgement, true, but at least it stops it from becoming a tussle over marital property.) However, in rural areas, it is commonplace for the father to claim custody of his male children once they are old enough to start work. The women in some legal awareness classes were fiercely critical of this law, a totally visceral reaction. They were aware that this could happen; if not to them, to sisters and cousins. What they could not stomach was the implied legal sanction. (It was only marginally reassuring to them that the courts have a discretion in this matter. Their experience of courts was not particularly good either.)

The BRAC legal awareness program ran for over a year, and about 500 group members participated. The outreach of the paralegal program, even in its first year, was considerably greater. It was at this stage that BRAC made the decision to train some paralegals formally as teachers of the law, as opposed to being mere disseminators of information.

### *Paralegals as Teachers*

The decision to train the paralegals as teachers entailed other decisions in its wake. Clearly, some paralegals would make better teachers than others. However, in making the selection for special training, it seemed harsh to exclude those paralegals who did not have inherent teaching skills, since paralegal teachers would finally be earning some money. The approach taken was that every teacher selected for specialized training would have two facilitator assistants whose job it



would be to monitor class attendance, help people get to the class, and generally make themselves administratively useful. They would also interact with the teacher before and after the classes to discuss the problems that might arise, how to handle awkward questions, etc. In other words, they would be part of a team. All three would be equally reimbursed. Eventually it was hoped, honor having been satisfied, that the facilitator could be absorbed to another program.

The next step was to start training the paralegals. This was also the stage when the program decided to produce teaching materials. Four flip charts depicting scenes relevant to the content of the training were prepared for the paralegal teachers. The pictures were to be self-explanatory, but the basic messages being conveyed were also put down in simple Bengali on the front and back covers. Each set of draft illustrations was taken to the field for evaluation by the paralegals. The communities were active in their assessments of the pictures. It was swiftly pointed out that in one picture, the artist had drawn a person eating with his left hand—a social taboo. How had this passed by unnoticed? A picture showing a husband “divorcing” his wife by word of mouth (such a divorce is no longer legal) evoked both practical and emotional reactions. Some women burst into tears, out of empathy or because they remembered a similar unhappy incident. Respondents also noticed details and pointed out that in such a situation the husband would not remain primly clad in a shirt but would have symbolically thrown it to ground—this being the equivalent of spitting on one’s palms before a fight.

The Paralegals received training in teaching techniques by BRAC trainers who had used participatory methods to train the paralegals over the years. Although the techniques were adopted by the paralegals themselves, there was little real appreciation of the theory behind the method. In the new program the training sessions focusing on the theory and practice of participatory education became a revelation. Some of the “best” paralegals, despite their familiarity with the subjects, were less competent as communicators. Others blossomed as never before. Altogether, the process of developing the material and training the paralegals took a year, although the paralegal teachers themselves were in the field after the first two flip charts were ready.

### *The Legal Education Classes*

In Bangladesh, it is customary for men and women to be trained in separate classes, the men's groups meeting at night and the women's groups in the morning. Apart from the timing of the classes, in BRAC's program to train paralegals as teachers, there was no difference in the information or techniques for the two groups. The gender of the participants, however, was a factor determining their reactions to the information they received.

BRAC made the decision that the group would have to pay to attend the classes, only after considerable introspection and anxiety. Although BRAC levied no direct fees, members covered the cost through their contribution to a collective group fund for various group needs. This was part of the exercise of group formation and the generation of group savings. The contribution to the group fund increased to accommodate the paralegal teachers' honorarium. The importance of determining whether the paralegal had a marketable skill was a part of the rationale for not calling upon BRAC to subsidize the program—although determination of marketability in this area was not a simple matter. Given the importance of BRAC to its landless group members, it was probable that the paralegal teachers' classes would be filled, less by the eager ranks of seekers after knowledge, than by group members who felt that attending these classes was part of the duty of a BRAC group member. The program finally decided, however, that a message affirming the marketability of knowledge had value, notwithstanding an element of doubt about the degree of marketability of paralegal teaching skills.

When the paralegals first started teaching, their classes attracted great interest from people outside the BRAC network. One teacher reported that when he began teaching the Muslim Law of Inheritance, one of the members of his audience was the self-appointed local religious pundit. He sat there with the firm expectation that the paralegal would make a mistake, as the Muslim Law of Inheritance, is a highly complicated mathematical construct. Given that most of BRAC's members are the landless poor, it was assumed that the law of inheritance would be of little interest to them. This was not the case at all. It was one subject that all groups wanted to learn

about. At the end of the session, the religious pundit congratulated the paralegal and asked if the BRAC books were available to outsiders. BRAC was proud to confirm that they were!

By the middle of 1989, approximately thirty teaching teams were holding classes for twenty-five people on a monthly basis. At that rate, just under 9,000 group members would be participating in these classes every year. The problem of outreach was finding a solution. What remained to be seen was the impact that these classes would have on community development. That impact could only be measured after more time had elapsed. In April and May of 1991, BRAC evaluated the paralegal program. The evaluation, carried out by BRAC's social anthropologist and a member of BRAC's research team, along with a team of field workers, assessed the information retention of participants and found that those who had attended the classes had a high rate of knowledge retention. The case studies generated in this evaluation are of great interest, since they sparked discussions on law, obstacles to the proper implementation of law, and how to fight these obstacles.

### *The Evaluation*

The evaluation instruments measured the amount of information that the participants had absorbed in their twenty-eight days of classes on family law, inheritance, land law and citizen's rights. The evaluation team conducted the study in five areas where the first courses had been taught two or more years previously. One hundred fifty participants were randomly chosen for interviews (100 women and 50 men). The control group consisted of fifty people, of which twenty-four were men and twenty-six were women. They were all BRAC group members, but had not attended the legal education classes.

Structured questionnaires based on the course material evaluated the knowledge retention of the participants. The researchers also added case studies that developed following informal exchanges with the participants. The control group included members from BRAC groups who were relatively far away from those whose members had attended the classes. However, all factors that might account for access to legal knowledge could not be taken into account.

The evaluation team discovered high levels of knowledge retention and noted that every person interviewed and every legal class observed convinced them that there was a demonstrable desire for legal education. Tarabibi from Baliertek said: "I am a widow and have to do all the family work myself. To make time for the legal classes in spite of all the work was very difficult. Still, I went every day. I know that learning about the law will be useful to me one day."

Others were less sanguine. Concerning the giving of dowry, which is a recent phenomenon in Bangladesh, most people felt that knowing the law was of little use. As Saleha from Betila expressed it: "If I or other members of the *Samity* (organization) did not pay a dowry for our daughters, they would remain unmarried because there are many people who will pay the dowry." Another woman made the point: "Suppose I don't take a dowry for my son's wedding and then find I am forced to pay a dowry for my daughter's wedding? If that is the case, then of course we will take a dowry."

However, as the evaluation team pointed out in their report, a positive effect of legal conscientization is that at least people are beginning to discuss such issues. As Rizia from Gorpara put it: "We talk about dowry either with other *Samity* members or with neighbors. We share personal stories or have heated arguments. Some people think dowry will never be removed from society, others are more optimistic."

When the respondents were asked to offer some solutions to the problems of dowry, they came up with several recommendations. These included the suggestion that more people needed to be educated about the law. They also said the government should take positive steps to enforce the law. Upaton from Gorpara commented: "If one demands/pays dowry, they are supposed to be punished by law. Let the government start punishing them because only then will we be able to rid society of dowry." Though still very much in the minority, people are taking active steps to fight the evil of dowry. Sufia from Krishnapur is philosophical. She says, "These things cannot be achieved in one night. It will take time. Today I am saying that we will not accept a poisa cent for my son's wedding. A couple of years hence more people will be saying this."

Though the fight against dowry still has a long way to go, other evils, such as unilateral divorce and *hila* (intermediate) marriage, are being combatted more effectively. A man can no longer validly divorce his wife by proclaiming three times that he has divorced her. In order to divorce his wife legally, he must send a written notice to the local government authority of her village, and she too must receive a notice. Time will only start running once she receives the notice, and he is legally bound to maintain her till the divorce is finalized, some 90 days after the notice is received by her. Husband and wife may reconcile within that period.

Under the traditional law, when unilateral divorce could be proclaimed orally, the rule was that if there was no reconciliation within three months and ten days after the pronouncement of the divorce, the husband and wife could not subsequently remarry unless the wife had, in the meantime, married someone else and had either been widowed or divorced. This was meant to be a deterrent to the husband's exercise of his right of unilateral divorce, which could otherwise be used to play a cat and mouse game with a wife. The rule requiring an intermediate marriage for the wife before she can remarry her former husband has been nullified by statute. Though the Act governing oral divorces and intermediate marriages was passed in 1961, none of the paralegals knew this in August of 1986. Today however, most of the participants are aware of these changes in the law.

The evaluation report recounted an incident in Balirtek, where a man wanting to divorce his wife made an oral proclamation in the traditional way. A few days later, the husband and wife decided to start anew. The villagers however, would not let them. They insisted that the wife must first make an intervening marriage. On hearing this, all the students of the paralegal class went to the chairman of the village and informed him that no divorce had taken place in the first instance, and even if there had been a valid divorce there was no need for an intervening marriage. They put pressure on the community, and the husband and wife were allowed to live together again.

One case study related how one of the paralegal's students used the legal knowledge she acquired to oust her uncle from his usurpation of her deceased father's property.

We were six sisters with no brothers. When my father died my paternal uncle took all our land and property. [In the absence of a brother the girls were entitled to 2/3 of their father's property. The uncle was only entitled to 1/3, not everything]. A few years later when I went to these law classes, I learned that we were entitled to a share of our father's land. We took the matter to court. That season we planted on our land. When we went to harvest my uncle tried to stop us. He even had one of my sister's and me beaten up and we had to go to the hospital. But we fought hard for our rights and the land is ours.

Awareness of the limitations of police power has increased the confidence of the people. Tarabibi said,

Before I took the law course I was very scared whenever I saw a policeman. Now that I have learned the laws I can speak out. If they come near my gate I have the confidence to ask who they want, and where their warrant is, and to tell them that they cannot take us away so easily any more.

A paralegal told the team that in November 1990 (when the regime was engineering incidents against the Hindu minority in Bangladesh in an attempt to defuse the popular movement that was gathering momentum against it) a Hindu family was harassed in Balirtek. Their property was burnt. In fear and disgust the family thought of migrating. All the paralegal's students went to the family and said "Why should you leave just because you are Hindus. You are citizens of Bangladesh and as such you have equal rights. You must stay and fight."

Though the guilty people got away the family stayed on, and because of the solidarity shown by the other villagers, there was no further harassment. What is interesting here is not merely that the other villagers were supportive of a minority, (for that, happily, does happen) but that they used legal arguments drawn from their constitutional law classes to support their positions.

The evaluation report noted that of the participants whom they interviewed, only two said that the program did not benefit them in any way. For the others, legal conscientization enabled them to identify and articulate their oppression and exploitation. This is the first stage in the people's fight to a more just and equitable society. The majority of the people believed that access to the knowledge was in itself empowering.



World Vision International



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**PART IV:  
LEGAL LITERACY AND  
POLITICAL ORGANIZING**

**Women's Legal Rights Organizing and  
Political Participation in Africa**

*Lisa VeneKlasen*

**Feminist Organizing in Mexico:  
From consciousness Raising to Action**

*Ximena Bedregal*



# Women's Legal Rights Organizing and Political Participation in Africa

Lisa VeneKlasen

## Introduction

During the last decade, improving women's legal rights has become a priority of women's organizations in Africa. Until recent years, most legal rights initiatives have concentrated on changing laws, and many significant gains have been achieved. Nevertheless, discriminatory attitudes and deeply rooted cultural practices continue to maintain women in an inferior role and limit basic freedoms and access to decision making in the family, community and at the national level. In order for positive laws to have a more practical impact on the day-to-day lives of women, legal rights programs have begun to concentrate on changing attitudes through legal education.

With more and more experience working with grassroots women, legal rights groups have recognized that legal education is not merely the provision of information about the law. Many women do not know their rights, but even those who do, lack the self-confidence and support to exercise them in the face of social and family pressures. Moreover, women meet the same negative cultural biases in dealing with the courts, police and governmental agencies which define and implement policy. Although a growing number of legal aid schemes for women in African countries have increased women's access to fair legal remedies, the full exercise of rights is too large a task for a one-on-one approach to handle completely. In order to address cultural and other obstacles to women's rights adequately, groups have seen that legal education must combine

information with consciousness-raising and community organization to encourage collective action and mutual support at the local level. This is a challenge not only at the grassroots level, but also at the national level in the media and policy-making circles, where tradition is consistently upheld as the foundation of stability, unity and national identity.

Improving legal programs for women and making a visible impact on women's situation is a slow and delicate process. Most legal education programs are fairly sporadic and not well-suited to reach the intended audience. Frequently, legal information is offered in lecture style to women who lack the confidence and resources to use it. Competition and conflicts within and between women's groups often contribute to their ineffectiveness. There is a gap between urban-based professional women who run legal rights programs and "grassroots" women. This situation breeds disunity and the absence of a common vision for women, which is a requirement for influencing the policymaking arena.

Furthermore, challenging cultural attitudes is a highly sensitive political matter. Because of the general unresponsiveness and inaccessibility of most African states, most women's rights groups have tended to avoid direct political confrontation at the local and national levels, opting for more circuitous strategies to affect change. It has been argued that these indirect routes represent risk calculations that anticipate limited success because of authoritarian governments (Parpart & Staudt, 1989). However, this ingrained cautiousness limits the ability of women's rights groups to develop and implement effective strategies, and undermines the impact of their efforts.

Despite these problems and difficulties, women's rights efforts are making significant strides forward. Some groups are evaluating and refining their approach and networking, on the national and regional levels, has strengthened the impact of individual initiatives. The political changes occurring throughout Africa provide an important stimulus and an opening for more political women's rights strategies.

Growing discontent with the failure of independent African governments to achieve economic stability and a measure of accountability, as well as pressures from donors and international agencies, have generated demands for more participation in decision making by all sectors. Efforts toward

democratization in several countries have carved out new opportunities for women's groups to forge both a national agenda, and stimulate grassroots participation through legal education and organizing. Taking advantage of these opportunities will necessitate stronger, more accountable organizations and leadership, comprehensive legal strategies, and more direct political action. The fundamental task of changing attitudes underscores the importance of effective legal education.

### **The State, Law, Culture and Women's Rights**

The legal systems of African countries contribute to women's exclusion from public arenas. Most African states are governed by a dual legal system in which customary law exists side-by-side with general or state law. Customary law, rooted in the traditions and practices of tribal and ethnic groups, tends to govern the private domain dealing with family, marriage, the home and domestic life, while general law, based on western law, regulates the public arena (economic and criminal matters). Although laws have been modernized in line with western egalitarian thinking, customary law continues to restrict women's freedom and opportunities.

This public vs. private perspective also influences the narrow ideological framework for political debate in many African states. African tradition, institutionalized by customary law, is revered as the foundation for social cohesion and national identity. Women are expected to maintain the cultural traditions. Part of that role requires that women stay in rural areas to maintain the link with ancestral roots. Urban women, and women who assert economic independence, are considered suspicious and often the cause of social ills. From this viewpoint, the promotion of women's legal rights is divisive and a threat to national identity.

Official statements often suggest that women are the source of family problems, women wage-earners are lazy and incompetent, women mismanage and are financially inept. Women are morally depraved and are responsible for the spread of AIDS. Domestic violence is frequently attributed to women's desire for autonomy, involvement in economic activities, and failure to maintain a perfect domestic environment. Any attempt at self-reliance and economic independence is

interpreted as a challenge to male supremacy, and therefore bad for African society (Obbo, 1981, p. 9).

These attitudes are reflected in the low numbers of women in decision making positions. During the mid-1980s, women represented only six percent of the national legislative members in Africa, and 10 percent at the local level. Women made up two percent of the national cabinet or equivalent positions, and 50 percent of African states have no women in cabinet positions at all (Staudt et al, 1989, p. 8-9). Little has changed in the last few years.

Women's active role in struggles for independence did not translate into political posts for women. Since 1985, many African governments have established women's ministries and women's bureaus, and most ruling parties have a women's wing. In some countries (Zimbabwe, Namibia, Mozambique, Uganda among others) these institutions reflect an acknowledgement of women's contribution to independence, and a sincere attempt to incorporate women's issues in the policymaking process. More often, however, women's "machineries" represent token gestures that mask the absence of women's issues and women from the policy arena. Set up in response to pressures from international donors and NGOs, generally they have insufficient resources, staff and importantly, they lack clout. Their role varies depending on the government in power, but for the most part, they mobilize women at the community-level in electoral activities, and support or legitimize government policies that do not necessarily benefit women.

In their study entitled "The Role of Women in Popular Participation: The Case of Tanzania," Koda and Sendaro (1990) offer seven factors that contribute to women's marginal participation in household, community and state structures that are relevant to many African countries.

1. Women have less access to vital information.
2. They lack self-confidence.
3. They are overburdened (hence lack time for meetings, travel, etc.).
4. Some are illiterate.
5. Some are prevented by husbands from participating in political issues.



6. The majority are not mobilized (they do not belong to any formal organization).
7. Some are demotivated/demoralized by leaders' inability to guide and defend democracy (p. 14).

The undemocratic nature of most African states is a key factor which limits women's rights organizing and women's participation in decision making at all levels. With little or no opportunity to voice women's concerns within formal political structures, women tend to take action that does not directly deal with the state. At the same time, women's avoidance of politics reinforces the marginalization of women's issues and the scarcity of women in decision making positions.

In the African state political authority is often based on individual power and backed by ethnic ties. The state is not institutionalized and there is little accountability. Civil society has practically no role in governance.

Compliance is often the result of coercion not consensus, and popular resistance is seldom frontal and revolutionary. Resistance takes the form of withdrawal from the public realm rather than confrontational assaults on the state. Not surprisingly, women whose independent access to the state is limited, and whose struggle for sexual emancipation is neglected, tend to exit from the conventional political arena (Fatton, 1989, p. 55-62).

The marginalization of women is both a political and economic phenomenon. This is reflected by the predominance of women in the informal sector, many of whom engage in illegal activities as the only profitable alternative (Obbo, 1981). Development programs and policies reinforce women's inferior economic roles by excluding them from training opportunities and resources, particularly in the agricultural sector, despite the fact that 90 percent of the food consumed in Africa is produced by women (Munachonga, 1989). Development projects for women tend to concentrate on unprofitable, small scale income generating projects based on traditional domestic activities, such as sewing and baking. Development policies rarely take into account women's economic contribution, both to the household and in the community, and ignore the legal and cultural barriers which limit women's access to land, credit and control over their income. This lack of access to

resources reflects women's lack of power with families, courts, development agencies and elsewhere (Paul, 1989, p. 61). Two vivid examples of how women's rights were confronted with the strong cultural attitudes which permeate the entire fabric of society and the political process, were law reform experiences in Kenya and Zimbabwe.

In Kenya, the Law of Marriage and Divorce has been defeated twice since it was raised in Parliament in 1976. The existing law on marriage includes Customary Law, Islamic Law, Hindu Law and relevant acts of Parliament. The proposed Act would create a uniform law of marriage and divorce for all women in Kenya. Developed by a Commission established by President Kenyatta in 1968, the new law was to be based on recognition of human dignity, regardless of sex, and that marriage should be designed to cause minimum distress and humiliation (Asiyo, 1989, p. 42).

During the first debate on the bill, one MP argued that a better title for the Bill would be Abolition of Polygamy in Kenya. He opposed the Bill because it required a wife's consent to a second marriage and he felt that this would lead to many divorces. This MP differed with the section of the Bill dealing with corporal punishment because he felt it was a necessity for disciplining one's wife... in order to teach wives manners since it was not only very African and normal, but necessary" (Asiyo, 1989, p. 43). The Minister of Health opposed the Bill's stipulation on polygamy because he said that the right to marry a second wife was automatic for various reasons, such as having a wife who is childless, too old, or rude" (Asiyo, 1989, p. 43). Some MPs commended the bill for limiting the legal age of marriage and increasing women's opportunities and equal rights, and for bringing Kenya into the modern era.

The contributions of women MPs were quite different from their male counterparts. One supported the bill for outlining the social responsibility of the family and the children, ensuring that children were given consideration no matter what domestic problems might occur... She asked the African men not to panic simply because their women are getting educated and earning a salary," because this made them more responsible." One MP asserted that men exhibit an inferiority complex when they resort to beating... in order to discipline (their wives)" (Asiyo, 1989, p. 46).

Following this debate, the Bill was shelved. In 1985 it was amended to take into account the main objections concerning a wife's power to object to a second marriage, corporal punishment, and adultery as a civil wrong. As of 1989, the bill had not yet come to the floor for discussion.

The Zimbabwean experience demonstrates the failure of law reform by itself to alter prevalent attitudes toward women. Zimbabwe's Independence in 1980 created expectations for change, and during the first years the political climate was ripe for major legislative initiatives. One significant gain for women was the passage of the Legal Age of Majority Act (LAMA) which made all Zimbabwean women legally adult majors at the age of 18, conferring on them the right to sign and enter into contracts, etc. Prior to this time, women (except white European women who were not governed by customary law) were perpetually dependent on the permission and authority of an adult male, either a husband or a father. An additional official motivation for government to pass this law was to enable all citizens to vote.

Nearly ten years later, debate in Parliament continues to reflect opposition to this important legislation for women. The Zimbabwe daily, *The Herald*, reported on September 5, 1991 that one MP referred to LAMA as the most unwanted piece of legislation in the country since 1980, while another added that the Act destroyed families and undermined African customary law. A woman MP added that there were hardly any 18 year-old virgins left in the country today because of the Act. Another MP added that the Act had set ablaze the black personality, and asked the Minister (of Justice) what plans he had to restore black dignity and culture by amending the Act. The Act was vehemently defended by the Justice Minister, who stated that the act had brought dignity to the nation.

The Act has also met with a mixed reception among men and women throughout Zimbabwe. This is partly because the law was passed with minimal public consultation and education. In response to the urgent need for change, only a small number of urban elite, well-intentioned as they were, were involved in the process. Women's rights supporters were deliberately cautious about framing the issue in the context of the emancipation of women because of political sensitivity.

Thus, when questions arose on the matter of seduction damages<sup>1</sup> that treat women's sexuality as the property of husbands and fathers, rather than eliminating it, the relevant court decision simply clarified that adult women were entitled to claim seduction damages for themselves.

The mixed and confused reaction of Zimbabweans to this important law convinced legal rights and women's groups of the crucial role of legal education in relation to substantive legal changes. In 1987, one Zimbabwean organization, the Legal Resources Foundation (LRF), launched a community-based legal education scheme which has made a significant contribution to increasing people's understanding and use of this and other laws. The program trains "Advice Volunteers" at the village level in the basics of the law and equips them with legal information pamphlets to assist communities to understand the law.

It is worth noting that the pamphlets occasionally provoked resistance since their legalistic approach tended to reinforce the idea that the law is imposed on people and disregards their opinions. Steps are being taken to modify the methodology of the program to encourage people to express their views, identify problems, and learn about law as a tool for problem solving rather than an end in itself (Chinamana, 1988; Tsanga, 1989). Despite its limitations, next to South Africa LRF's program is the most comprehensive legal literacy program in Africa. The lessons gleaned from their experiences, and those of others, are relevant to newer legal literacy programs elsewhere in Africa (Butegwa, 1990). It has shown that legal information alone does not enable ordinary citizens to exercise their rights.

The two examples of law reform illustrate critical constraints on women's rights organizing. The sensitivity of custom, perceived as the cornerstone of African identity, is often used to dismiss women's issues and close off possibilities for change. Since women's issues provoke conflict, women's groups are reluctant to question the delicate cultural issues that are fundamental obstacles to women's ability to participate and exercise their rights. The mere presence of women in decision making positions does not guarantee that they will defend women's rights, although they can play a valuable role in the public arena. As in the Kenyan example, without a

mobilized base of support and pressure, women in positions of power lack the backing of a constituency. This would require the direct involvement of women's groups in the political arena.

Important political changes occurring in many African countries during the last five years are creating opportunities to broaden political participation and to question discriminatory attitudes and practices. Growing dissatisfaction with persistent official corruption, economic stagnation, and unresponsive political systems have stimulated political activism. Reinforced by increasing pressure from donor and international agencies, NGOs have emerged at the forefront of demands for greater accountability, democracy and respect for human rights.

At a conference in Arusha in 1990, African NGOs drafted the African Charter for Popular Participation which calls for the emergence of a new era in Africa—an Africa in which democracy, accountability, economic justice and development for transformation becomes internalized, and the empowerment of the people, initiative and enterprise, and the democratization of the development process are the order of the day (1990, p. 1-2).

In August 1991, a follow-up conference, *Empowering People: Civil Associations and Democratic Development in Sub-Saharan Africa*,<sup>2</sup> further clarified the role that NGOs should play in building participation. Their resolutions highlighted the need to build strong organizations, based on democratic principles, to enable people to participate in the electoral and decision making processes. They called for the removal of legal and political constraints and the promotion of human rights and women's rights.

These statements reflect an important shift in the thinking of NGOs toward a more political role. Their endorsement of women's rights and emphasis on building grassroots participation is a source of encouragement for women's rights groups.

### **Women's Initiatives in Eight African Countries**

An examination of existing efforts of women's groups in several African countries illustrates how women are responding to

new opportunities. Legal education or literacy features prominently in these emerging strategies. In some countries the transformation from war to peace has created a political opening, while in others, a combination of internal political and external economic pressures have led to rewriting constitutions, or moves from single party to multiparty political systems. These steps are not necessarily perfect answers to economic and political problems, particularly in light of the external causes of underdevelopment. But they have opened the political arena to women and created more favorable conditions for questioning the attitudes and values which deny women their rights. Legal literacy features prominently in the emerging efforts, although with few exceptions, it is too early to see visible results.

### *Uganda*

After more than twenty five years of successive brutal dictatorships and war, Uganda has experienced relative peace since 1986. Facing the daunting task of building national unity and economic reconstruction, the Ugandan government, under the leadership of President Museveni, has demonstrated a commitment to promoting women's rights and expanding women's roles in decision making at all levels.

In 1989 special elections for women were held for thirty-three positions in the National Resistance Council (Parliament) which were opened up for a woman representative from each of the districts in the country. This dramatic move to include women in decision making processes has injected a gender perspective in education and health policies and facilitated the introduction of radical legislation on issues such as rape and domestic violence. In addition, there is a Directorate for Women's Affairs within the National Resistance Movement, the ruling party, and the government has created a Ministry for Women in Development and appointed women to key cabinet posts.

Opportunities for meaningful participation have been institutionalized at the community level by establishing local Resistance Councils and Committees which are charged with decision making on local issues, including some legal problems. They are mandated to have at least one woman out of nine members, who are elected at the village level.



The process of rewriting the constitution has, as a matter of deliberate policy, involved women. There are two women out of twenty-one members on the Constitutional Commission, which is responsible for drafting the new document. The Commission also coordinated with women's and other community groups to carry out a nationwide grassroots consultation process on the new constitution. This enabled men and women from all sectors and classes to discuss legal problem and gain a better understanding of the role of law.

The presence of women's issues on the national agenda and in policy debate is primarily attributed to a few outspoken individuals, and not the product of a unified voting block among the women MPs. At this early stage, women MPs have not articulated a coherent position on women in Uganda. Without a women in development policy, the Ministry for Women in Development remains poorly funded, with insufficient staff, like its counterparts in other African countries.

The practical outcomes of these political changes are taking effect gradually, and there are still important structural, legal and attitude changes necessary to achieve real equality for women. At the village level, Resistance Council (RC) members often do not know the law, and administer justice based on loose interpretation of custom or a general sense of fairness. This occasionally works against women, as in the example of one RC's decision to make an elderly man marry a young girl whom he had raped. However, preliminary research indicates that women use the courts extensively to solve domestic problems in relation to marriage, divorce, maintenance, custody, battery, etc. The accessibility of legal remedies at the community level appears to have increased their willingness to pursue external remedies. Despite their limitations, the creation of local problem solving institutions seems to have fostered greater participation of women, both as users and as decision makers (Okumo-Wengi, 1991).

Realizing the potential benefit of these new institutions and positions to women depends on the role of women's NGOs. Some women's rights activists believe that they have not taken full advantage of their representatives in Parliament or other policy making bodies. Women at the local level have not been mobilized around common priorities in order to direct and



support the initiatives of their new representatives, or to influence the RCs.

Most women's groups operate under the umbrella of the National Council of Women. Established in 1978, the Council has played a supportive role for its members and has been directly involved in women's legal rights education. The two active legal rights organizations are Action for Development (ACFODE), and the Ugandan Women Lawyers Association, an affiliate of the International Federation of Women Lawyers (FIDA). Both have extensive education programs, and FIDA-Uganda runs a legal aid clinic.

Both ACFODE and FIDA are in the process of refining their education programs to build the capacity of local communities to understand and address legal issues. Two pilot schemes are presently being designed—one to develop community legal promoters, and another to combine legal services and credit for women.

While they have both made an important contribution to legal rights for women, weaknesses in both the programs and organizations have limited their results. ACFODE's program has focused on producing simple legal materials, but their distribution and the difficulties most women have applying legal information to their lives, have diminished their effectiveness. For both programs, legal education sessions have tended to follow a lecture-style, whereby two to three lawyers (accompanied by other professionals in the case of ACFODE) visit a village or community to provide information and answer questions. The organizers have recognized that this approach is inadequate. They have not provided sufficient education to the local RCs, despite the evidence that increased understanding of gender issues would greatly benefit women.

At the national level, women's organizations have been involved in policy debate sporadically and without a unified position. More solidarity and unity among women's organizations is necessary to take full advantage of the opportunities. Women's groups are now taking steps to meet this challenge. Despite difficulties, women's rights groups have managed to make women's rights a topic of conversation on the bus, in the street and in the home. Both FIDA and ACFODE are recognized by lawyers, politicians and citizens as a force to reckon with.

## *Zambia*

Under the umbrella of the NGO Coordinating Committee, women's organizations and activists have lobbied successfully for law reform during the last decade. Two noteworthy examples are changes in succession laws to expand protection of the rights of widows and children to inherit from the deceased husband, and the ratification of the UN Convention on the Elimination of All Forms of Discrimination Against Women. Both legislative battles were waged with activities such as seminars, workshops, public discussions and lobbying. The activists cooperated closely with the government's Law Development Commission and other Ministries. Since there were sparse educational activities involving grassroots women, the activists faced the difficult task of ensuring that substantive legal changes have a practical impact (Longwe, 1990).

In the last two years, two workshops were held for the purpose of designing the education strategy on inheritance rights. A local affiliate of the regional organization, WiLDAF, has been formed to direct the strategy. Some sporadic education activities have been carried out. Their aim is to counter prevalent customary practices whereby the relatives of the deceased husband claim all of the property from the widow; customarily she is part of the matrimonial property. This practice leaves widows and families destitute. Because she is bereaved and dependent on the extended family for subsistence, she rarely challenges their actions. Their innovative approach is to educate and strengthen local funeral committees to enable them to protect and assist widows to defend their rights.

The strategy has not progressed very far because of poor organization and planning, the absence of a strong institutional base, and the limited time that key activists can dedicate to the project. The NGOCC is a useful organ to facilitate cooperation, but is not viable as an implementing agent. The key legal rights activists primarily operate as individuals, frequently without coordination among themselves. There is little accountability and programs are not sustained or systematic. The legal rights group has not sufficiently coordinated with other more established women's organizations like the YWCA, church groups, and women's clubs to utilize their staff and

structures to reach grassroots women. The gap between the urban-based activists and semiliterate women in rural and urban areas kept them from forging a broad coalition to mobilize on women's issues (Munachonga, 1989).

The preparations for the recent multiparty elections in Zambia stimulated political participation, and women's rights efforts in particular. Many of the women involved in legal rights created a Women's Forum to develop a gender position with which to influence each of the party platforms. The sweeping victory of the MMD is an encouraging sign for many African countries. However, the mobilization around the elections raised strong conservative, traditional voices as well as ones favorable to women's rights. Traditional influences have gained a stronger voice as a result of the emphasis on grassroots participation, and have the potential for reversing some of the gains women's rights activists have achieved, unless women's groups are able to use the momentum to do effective legal education to encourage new thinking about customary practices.

### *Tanzania*

Economic stagnation, and external and internal pressures from Tanzanian intellectuals have pushed the Tanzanian government to undergo a serious evaluation. They have taken measures to decentralize and democratize, including rewriting the constitution and establishing a multiparty democracy.

Women also stand to benefit from these changes. Independent women's groups are relatively new, inexperienced. Many of them are outgrowths of state organizations. Several are collaborating on women's legal rights issues through the local affiliate of WILDAF, and its primary organization, the Legal Aid Scheme for Women, has initiated a modest legal aid and education program. The government has called on them to help review laws to identify discriminatory content and propose change. They are aware that substantive changes must be accompanied by legal rights education efforts, although they have not yet succeeded in developing a viable strategy. The individuals involved are dedicated to their task and realize that they must consolidate and overcome any leadership problems in order to utilize new opportunities.

## *Nigeria*

Nigerian women have a reputation in Africa for being strong, outspoken and assertive. Nigerian market women and others involved in petty commercial activity operate within an impressive informal network. Despite the large number of well-educated professional women in Nigeria, formal women's organizations tend to be weak. Women's groups involved in credit schemes, education, health, and legal rights activities have had some successes. They have not tapped into the extensive informal organization of women or developed a women's agenda.

The Nigerian Women Lawyers Association, an affiliate of FIDA, has carried out publicity campaigns to raise awareness and educate the public on issues such as sexual harassment, taxation and drug abuse. Some of these problems are more relevant to professional women and at times, have not attracted the support of a broader base. FIDA-Nigeria has also carried out sporadic legal rights education efforts, conferences and seminars. They have also been involved, on a limited basis, in legal aid schemes and plan to launch their own legal services program soon.

Recently, the Nigerian government committed itself to elections and a return to civilian rule. Despite skepticism about the government's commitment to democracy, preparations for the upcoming elections have increased political activity. One product of government's desire to be more responsive was the establishment of the National Council of Women in early 1991. Since it is new and still lacks sufficient resources, it is difficult to assess its potential.

These measures have facilitated the establishment of various human rights organizations, including the Civil Liberties Organization and the Constitutional Rights Project. They monitor and document human rights abuses, and their vocal criticism of the government has landed some of the leaders in jail. They have expressed interest in women's rights issues, but no specific program has been developed.

These human rights groups and political changes provide many opportunities for women's legal rights organizing. To meet this challenge, organizational and leadership problems must be overcome. There is very little coordination among

NGOs; competition for funds and prestige, both within and among organizations, continues to breed disunity and ineffective programs. The leadership is composed exclusively of urban-based elites, and given the rigid class divisions in Nigerian society, there have been few attempts to bridge the gap to join forces with the informal women's groups. The upcoming elections will inevitably enable the emergence of prominent women and raise women's issues. Nigerian women have the added advantage of a large urban population that could facilitate mobilization to take full advantage of the political opportunity.

### *South Africa*

Although the political situation in South Africa remains unpredictable, concrete steps to dismantle apartheid, and negotiations between the African National Congress (the primary opposition group) and President DeKlerk, have created expectations and increased popular action at all levels. Women's organizations have held workshops and seminars to begin to articulate a gender positions to be proposed to the contending political parties. Possible collaboration between women's groups, human rights groups, and other organizations is being pursued. Political pressure has also highlighted leadership problems and created schisms between and within organizations.

One of the challenges women's organizations face is to forge alliances across race and ideological lines. Some women's groups are run primarily by white, educated women and have been effective in addressing problems such as domestic violence and rape; while others, like the Black Sash, have greater ability to mobilize at the community level on a range of issues, many of which are not strictly women's issues.

Since human rights have been a major feature of the political struggles, there is generally a high level of awareness of political rights. Women's groups and community groups have now initiated efforts to broaden education and understanding of rights to encompass social and economic rights. Several groups have recently initiated women's legal rights programs to enable women to deal with family problems common to the rest of Africa, as well as mobilizing grassroots women to assert women's issues into national political debate.

Because the situation in South Africa is highly politicized, most organizations have not been able to avoid political involvement, as have their counterparts in other parts of Africa. Their ability to unify and agree on a basic women's agenda will be critical to women's participation in future policy making processes.

### *Mozambique*

In the last two years, the Mozambican government has taken significant steps toward political decentralization with the creation of a multiparty system and the rewriting of the constitution. These changes were made in the context of prolonged externally-supported destabilization which has devastated its economy and split its society.

Although the FRELIMO government has maintained a strong commitment to the emancipation of women, persistent instability, insufficient resources, and a monolithic political structure limited the practical possibilities for women to organize. The Organization of Mozambican Women (OMM) was perhaps the only women's organization, and while it has supported important legal changes and periodically raised women's concerns on the national agenda, it was not agile or well-funded enough to implement community-based programs that would enable women to articulate their demands. The government's gradual dismantling of this apparatus is expected to foster the creation of independent organizations for community projects.

One organization that is in the process of establishing itself is WiLDAF-Mozambique. Its founders are academics, lawyers, members of the judiciary, social workers, community development workers, and government employees who have been involved in legal rights research (through the Women and Law in Southern Africa Research Project) and legislative efforts. They plan to launch a legal education program and set up a legal aid clinic.

### *Zimbabwe*

In Zimbabwe, women's legal rights organizing is expanding, not as a result of a political opening, but rather out of the realization that the government's commitment to women has few concrete outcomes. In the last decade since Zimbabwe's



Independence, numerous legal reforms and decisions have expanded women's legal rights substantially. Those years have also witnessed the establishment of numerous women's organizations involved in health, literacy, income-generation and legal rights education. They have maintained a constructive, cooperative relationship with the governmental Women's Affairs Department.

There has not been sufficient or effective education and organizing at the grassroots level to make these legal changes real in women's lives. Professional urban women running organizations have been involved in sporadic advocacy, but they have not mobilized women at the community level to be involved in the process. The conclusions and recommendations of seminars and workshops have been critical of this problem, but until recently, women's groups often expected the government to assume this responsibility. More recently, as women recognize that women's issues are marginal to the national political agenda, women's groups have explored possible ways to collaborate in reaching out to rural and poor urban women with legal education. Since most women's organizations do not have a rural constituency, this will necessitate broader alliances with church groups and women's clubs.

On the other hand, women's groups have actively used the media to challenge negative cultural views. Women's Action Group (WAG) puts out a regular magazine called *Speakout*, aimed at semiliterate and literate women in urban and rural areas. It regularly features critical discussion of customary practices and provides simple legal information. Women journalists and rights activists often submit commentaries on rights issues to a variety of publications, including the national newspaper. A comparable legal research effort at the regional level is the Women and Law in Southern Africa Research Project (WLSA), which also uses public fora and the media to disseminate its research findings on maintenance. The findings deal primarily with cultural attitudes.

The issue of inheritance rights has brought women's groups together under the leadership of WiLDAF-Zimbabwe. Although inheritance laws have been improved, there are still some contradictions that render the law less effective in defending women's rights. The primary problem is women do not know their rights and are unwilling to defend them



because of pressures from the extended family to follow customary practices. Recently, women's groups agreed on a strategy to combine community legal education with lobbying activities to raise public awareness, primarily through radio programs to reach rural and urban audiences.

## **Recommendations and Conclusions**

Women's rights organizers have agreed that challenging negative customary practices and cultural attitudes is the key to improving the status of women. Legal education has become the focus of their programs. Through experience, there is a growing realization that effective legal education involves community organizing and national-level action, and is necessarily political. Political changes in many African countries is making it possible for women's rights groups to carry out more comprehensive programs to better address the causes of women's subordination.

More effective legal rights education will involve several significant improvements in strategies, programs and women's organizations and leadership. The joint proposals developed during recent NGO conferences, and endorsed by international agencies, offer useful guidelines and a foundation for building and expanding legal rights organizing for women. The following suggestions and recommendations are the product of discussions, workshops and seminars with African women's rights groups involved in the regional network, Women in Law and Development in Africa (WiLDAF). The establishment and purpose of this network reflects their recognition of the need to improve and redouble their efforts.

### ***Being Strategic***

Until recently, many legal rights efforts have emerged in response to government willingness to make adjustments, small or large, in a particular law affecting women. Taking advantage of these opportunities, women's groups have achieved important gains. These gains often have not translated into practical, long-term benefit for women because the issues they address may affect a small number of women, or the process of addressing the issue is not systematic or well-planned.

The political changes occurring in many countries open the possibility for women's rights groups to take the initiative. Taking the initiative will involve a thorough assessment of the situation of women, taking into account class and gender, for the purpose of selecting critical problems that affect large numbers of women. Strategies require clear, achievable objectives grounded in a long-term vision of change for all women. Being strategic involves a variety of activities geared to influencing institutions that enforce and administer policies, and educating and organizing women.

### *Addressing a Single Issue with a Comprehensive Approach*

Like the well-known saying, "think globally, act locally," addressing the overwhelming problem of inequality and oppression of women is a process of chipping away at one problem at a time. The process of eliminating the problem is as important as the result. In order for law reform to lead to practical change for women, many women must participate in that change. Women's subordination is not only due to lack of legal protection or ignorance of legal rights, but also to low self-esteem, isolation, disunity and inability to solve problems. Legal information is an important ingredient for enabling women to solve problems. However, legal education must also improve women's ability to analyze their own situation and seek solutions. The overwhelming power of social and cultural pressures on African women inhibits them from defending themselves individually. The process of promoting women's legal rights must therefore involve building organization, unity and solidarity among women at all levels to provide the support and confidence women need to use their rights on a single problem, and to make local institutions more accountable to women. A successful strategy confronts a single issue, but importantly, it also creates the consciousness and the structures for future collective action.

### *Selecting Strategic Issues*

By taking the initiative, women's groups can select issues that affect large numbers of women and challenge basic institutional and attitudinal obstacles for women. Occasionally, women's groups have taken up issues that affect only a small

sector, usually urban professionals. It is important to note that some campaigns carried out by women's groups, e.g., on taxation (Nigeria), employment opportunities, sexual harassment (Ghana) and citizenship (Botswana), have effectively drawn public attention to women rights, but gained minimal practical benefits.

Thus far, a major focus of women's legal rights organizing has been in the area of family law. A primary objective has been to increase women's legal protection and eliminate contradictions and conflicts between customary and general/state law. Issues such as maintenance and custody of children, divorce and division of property, consent and age of marriage, and inheritance all touch on the delicate turf of decision making and roles within the family that are central to women's sense of self and freedom to enter the public arena. Women's understanding that they have rights and the ability to use them to resolve domestic disputes is crucial for changing women's roles outside the home.

There are two critical areas where women's groups have not ventured: economic and reproductive rights. Both are highly controversial and political because they affect the vast majority of women in African countries. Furthermore, issues such as access to land, credit and housing call into question national policies, and challenge the distribution of wealth. Since women's leadership is primarily from the elites, their class alignment frequently inhibits them from taking up these issues and facing the inevitable political confrontation.

Expanding women's economic rights and access to resources is essential for eliminating the economic dependency that is central to their inferiority and sense of powerlessness. The political changes and economic decentralization that some states are undergoing open the possibility of addressing economic issues. Sometimes, laws pertaining to these issues are fair and adequate, but the local institutions that allocate resources exclude women under the pretext that the male head of household should receive the benefit (Tenga, 1990). Women don't challenge these discriminatory practices because they don't know their rights. Women defer to their husbands and fathers, although many times the men have migrated to urban areas for work and rely on their wives and daughters for labor.

Another area of economic rights that affects a large number of women is in the informal sector. A visit to almost any African market will show the large number of women engaged in the informal sector. Economic activities range from petty trading, to beer-brewing, to domestic work. Existing laws are often a constraint, restricting the profitability of these activities through complex systems of licensing, registration, etc. There is minimal legal protection against exploitation. Informal sector activities often involve extensive networking among women that offers a conducive organizational base for mobilization and political action. Legal protection and support for informal sector women becomes increasingly possible and necessary with the introduction of Structural Adjustment Policies. The reduction in formal sector jobs increases competition in the informal sector and may undercut the opportunities that women have carved out for themselves. Structural adjustment is also expected to lead to a measure of deregulation in the informal sector, thus expanding the potential for profitability. Women's ability to maintain their turf will depend on legal rights education and strengthening local organization, as well as establishing links with professional women who are capable of and willing to defend their interests in the policy making arena.

While family planning is a well-funded, extensive program in most African countries, there has been little action on reproductive rights. This has diminished the success of family planning; some programs continue to require a husband's consent for a woman to receive contraceptives. Although abortion is an untouchable issue in most countries, illegal abortions are common. The outgrowth of keeping the issue invisible is the phenomenon of "baby-dumping," a common pretext for condemning urban women. As the birthrate continues to soar in Africa and family size has a direct bearing on women's participation, reproductive rights become an urgent matter for attention. In addition, given the epidemic of AIDS and persistent unsafe sexual practices, health rights may be a useful vehicle around which to organize. These extremely private matters will inevitably create a stir when they are brought into the public sphere.

Some women's groups have entered the sacred ground of the private realm by beginning to challenge domestic violence

and rape. In some countries (Zimbabwe and Uganda) laws have been changed to increase the criminal penalties against rapists. As these are extremely controversial topics rooted in cultural beliefs, programs to educate and organize around these issues are rare. With the exception of South Africa, where there are several programs dealing with domestic violence, Zimbabwe has the only project specifically dealing with wife-battering. While domestic violence, rape and incest are widespread problems, the fact that they touch on sensitive cultural ground has inhibited women's groups from developing effective responses.

### *Developing an Analysis and Challenging the Sanctity of Culture*

The selection of appropriate, strategic issues to challenge requires much more research and in-depth analysis from women's groups. The leadership of many women's groups is only vaguely aware of what most women consider to be major problems, or how those problems affect them. A review of the objectives and activities of many women's programs reflects little research about the women the programs are intended to benefit. It is often only after a couple of years that organizers realize that their activities are not dealing with the full extent of the problem.

A thorough analysis of how class, gender, culture and the legal system interact to cause the problem is an important first step to improving legal rights organizing. This includes scrutinizing certain cultural practices that women's groups have heretofore shied away from. Two pillars of women's inferiority and subordination in the family are polygamy and bride price. Many African women's rights activists oppose bride price and polygamy because they treat women as property, but say that they probably will demand bride price for their own daughters. Some argue that they don't want to alienate their own mothers, many feel they should be respectful of some cultural traditions, others fear retribution from the ancestors, and some believe that bride price stabilizes marriages. Above all, they believe the changes would meet resistance among village women. However, research with rural communities in different countries reveals that rural women believe polygamy is one of the major causes of domestic disputes and family

problems (Okumu-Wengi, 1991). Moreover, it contributes to the lack of solidarity among women at the community level. Avoiding critical discussion on these sensitive issues diminishes the impact of legal reform and legal education on rights in relation to the family.

Deference to African culture is central to controlling political discussion in most African countries. Political sensitivity has constrained women's groups from developing a cogent gender analysis and vision for the emancipation of women. Uncritical respect for culture also reinforces the privacy of the family that works against women in domestic violence, rape, incest, and reproductive rights. Unless these "private" areas are brought into public discussion, changes will be incremental at best. Privacy is often manipulated to reinforce disunity among women.

While single-issue organizing is the most effective approach to organizing women, comprehensive strategies need to be guided by a coherent vision, an African Feminism, if you will, that articulates what the emancipation of women signifies. Since women's oppression is caused by a complex mixture of personal, legal, political, economic and cultural factors, this vision or "ideology" must incorporate an understanding of and articulate aspirations for women in relation to their sexuality, role in the family, class, and economic opportunities and political participation. The prevalent rejection of western feminist thinking by African women intellectuals and women's rights activists can be constructively translated into the development of an African women's liberation agenda, which is not a diatribe against men, but rather reflects a gender perspective for both men and women to work for a more just society. One African theorist writes, "the liberation of women hinges therefore on the emergence of a feminist consciousness as a source of moral anger and self-affirmation, as an alternative to the male-constructed reality" (Fatton, 1989, p. 53). Because this entails treading on sensitive cultural and political ground, women's groups must rely on networks and collaboration across organizational and national boundaries to reinforce each other.



### ***Community-Based Approaches and Building Local Leadership***

The few African women's groups that have been involved in legal education efforts for more than four years have realized that legalistic, lecture-style, one-shot approaches are not terribly effective. They are taking steps to change their approach. Unfortunately, the new projects that are emerging are reinventing the wheel and facing the same problems by beginning with the same approaches. Legal information alone does not enable women to exercise their rights, although it is a critical ingredient. Using information depends on how it is communicated. Popular education methods that facilitate a collective process of problem identification, analysis and problem solving are better suited to help women identify and examine their problems, realize that they can make changes, and consider possible solutions. Legal rights is a tool to help them solve problems. The popular education process is geared to strengthening people's sense of self and creating awareness that their predicament is shared by others. Songs, drama, games and other techniques help people to stand back from the difficulties and complexities of their situation. This consciousness-raising process is incomplete however, unless tools are developed to use the new information. One tool is an understanding of rights and legal procedures, but in most communities, the social pressures and paucity of resources means that it is unlikely they will be able to act on them alone. An important tool is community organization to facilitate collaborative action.

Access to formal legal remedies is costly and often involves travelling long distances. Legal rights education strategies should also identify, utilize and build on community leadership and institutions to enable them to be "gender-sensitive" and improve their ability to support women's rights through extralegal solutions. Legal education should also encourage women to use local organizations or form groups to provide support to individual women who have legal problems, and to pressure local institutions for fairer treatment.

Frequently in communities and villages, when men are present, women do not speak. In order to build the self-confidence



and to express their concerns, it is necessary to work with women separately in small groups. However, since a more active role for women is beneficial to the entire community, it is important to carry out awareness-raising educational activities with men, particularly the male leadership such as chiefs, political leaders, traditional healers and others. Many women's legal rights education programs emphasize numbers, rather than outcome. The community-based education and organizing approach implies a more sustained, concentrated program directed at a few communities.

The training of community legal promoters or advisors has been adopted by organizations in Latin America and Asia to enable communities to make legal information more accessible on a day-to-day basis, and to encourage independent action. The Legal Resources Foundation (LRF) in Zimbabwe has also followed this model and is currently improving their training program for "legal advice volunteers" to increase its effectiveness. The Ugandan Women Lawyers and Action for Development is now considering this approach as well.

Many legal rights education programs have made the production and dissemination of legal information materials their primary activity. Written materials are costly and should be used only with strict criteria. The low literacy levels in most communities limits the usefulness of this approach. Furthermore, materials cannot educate by themselves. Many of the materials contain information about laws, without providing an explanation that people have rights and how to use the legal information. To ensure that the content is useful, it is essential to test them with that audience for comments and suggestions before mass publication and distribution.

### *Legal Rights and Civic Education*

Generally, the content of legal rights education consists of information on different laws and legal procedures that are considered important to women. Taking advantage of the political opportunity to strengthen civil society, legal rights information should be broadened to include civic education. Civic education consists of information about the structure and decision making processes of the state at all levels. In several countries, the process of rewriting the Constitution provides an ideal chance to introduce civics for women. However, some

women's groups have not taken full advantage because they consider the Constitution an abstract document. Learning about the purpose and contents of a Constitution can help people understand the concept of rights and obligations of the state to its people.

### ***Mobilization***

Education, empowerment and strengthening local organization are the basic ingredients of social and political mobilization. The dictionary defines mobilize as "to get people, resources, etc. ready for some urgent reason." People mobilize around a reason—a common issue. If the issue is relevant to grassroots women, mobilization is a process of providing information and strengthening organization. It is the task of the urban-based women's groups to design a strategy that involves women within communities in law reform or policy debate, by giving them information and organizing. Being involved in a larger process reinforces women's and communities' participation, and demands more responsiveness from national institutions and policy making bodies. Understanding and communicating with local decision making bodies, if they exist as in the case of Uganda, is a critical step in learning participation.

### ***Organizers and Activists in Legal Rights Organizing***

Most of the legal rights programs in Africa are run by lawyers. More recently, as programs expand, other professionals, such as social and community development workers, educators, academics, etc., have become involved. Comprehensive strategies require the collaboration of different disciplines. Many activists continue to believe that legal rights work should and can only be done by lawyers. Although lawyers are essential for understanding the law and legal procedures, they may not always be the most effective educators and organizers at the community level. An organizer need only be equipped with a simple, basic understanding of law to educate others. Lawyers must make a greater effort to let go of their expertise and provide the necessary information to achieve their goals.

### ***Bridging the Gap***

In African countries, there are practically no organizational connections between women leaders at the village and community level, and the professional, urban women who

direct NGOs and women's projects. Occasionally, village women are "beneficiaries" of the projects carried out by professionals, but the relationship is often paternalistic and welfare-oriented. Women's activists refer to their work in rural areas as "helping," or "enlightening," with little recognition that the outcome may be mutually beneficial for all women.

This gap between urban and rural, elite and poor is a product of class allegiances and is reinforced by the policies of the African state. Since rural women are often viewed by urban men and women and the state as the guardians of African culture and the source of stability of the extended family, women's legal rights are considered disruptive and even women's rights activists feel ambivalent about change.

However, achieving equality and justice for women will require forging a common front and recognizing the parallels in women's experiences, regardless of class or demographics. While understanding how class affects women's experience, it is important to locate similar problems, interests and experiences in order to forge a common vision and exert group pressure to make governments and institutions more responsive, and to enable women to participate more effectively at all levels. For example, the constraints and abuses of women within the family, and with regard to sexuality, is an experience that cuts across class.

### *Leadership and Organization: Self-Evaluation and Improvement*

Bridging the gap will necessitate a process of self-criticism, self-evaluation and rethinking on the part of women leaders and women's organizations. At present, competition for funds, employment opportunities, and chances for international travel create conflicts between organizations and within organizations that undermine their capacity to carry out effective programs. Because there are a relatively small number of women's organizations in Africa, funds are distributed with less scrutiny in terms of outcomes and accountability. Also, because organizations are not as established and clear about their own priorities and goals, donors intervene more than is acceptable in Latin America and Asia. As a consequence, organizations do not operate as institutions under the sometime capricious direction of individuals. Organizations function

bureaucratically, paying more attention to form and structure than to action and results.

Women's organizations and their leaders are only beginning to identify and place themselves in the same struggle as their "beneficiaries" programs. In order to convert this vision into better organizations and programs, there is a need for improved skills in planning, project design and methodologies for working with grassroots women. Organizational decision making processes and structures need to be reshaped according to the recommendations from the conference, *Empowering People—Civil Associations and Democratic Development in Sub-Saharan Africa*. We must build strong and autonomous NGOs founded on internal democratic principles and processes, to achieve a measure of accountability.

Where the political climate permits, women's groups should be encouraged to rethink their role in relation to the policy-making processes. With more responsive programs, women's groups can become representative institutions to articulate and assert women's issues and concerns within policy making discussions—to represent their constituencies (not beneficiaries) to demand more resources, opportunities and benefits at a national level.

### *Lobbying*

Women have succeeded in changing laws by using lobbying. They have gained experience and have also recognized that lobbying must be more systematic to have a broader impact on political institutions. Frequently, women lobbied politicians they knew personally, making the lobbying effort ad hoc, with each person explaining the issue differently. In a more open political environment, an effective lobbying strategy is based on an assessment of the institutions and individual decision makers. Lobbyists develop one message that they communicate similarly. The process is evaluated periodically and the message and approach adjusted accordingly.

### *Coalitions and Alliances With Other Interest Groups*

The marginalization of women's issues has been so effective as to be ingrained in the mentality of the leadership of women's organizations. They continue to operate on a small-scale on the margins of economic and political processes.

In some countries there is an opportunity to integrate women's issues into an overall platform for change. Women's groups will be called upon to provide a framework for incorporating gender into the work of other NGOs and social movements. To broaden the impact of their own efforts, women's groups should form alliances and coalitions with other issue-oriented organizations such as trade unions, peasant organizations, environmentalists, etc. Increased political participation from civil society will test the African state, which underscores the importance of gaining strength through numbers and unity.

### *Regional Networking*

In view of the sensitive, controversial nature of women's rights and the fragile, unpredictable political moment, effective organizing on legal rights must rely on networking across boundaries. Particularly at this moment of political change and potential change, governments observe and follow the lead of other governments to make changes. Women's networks can facilitate coordination and collaboration, drawing on the positive decisions and responses of some governments to influence others. Since women's rights organizing is relatively new—and indeed, just beginning in some countries, networks facilitate learning from one another to avoid reinventing the wheel. Those networks exist—Women in Law and Development in Africa (WiLDAF), and Women and Law in Southern Africa Research Project, FEMNET, to name but a few—and should be strengthened.

### NOTES

1. Under customary law the male guardian of a woman is entitled to damages for the defilement of her sexuality. Most frequently, the male is either a husband or a father, although there are cases when a distant male relative appears from nowhere to claim damages after a rape or "seduction" of a young woman. (See Ncube, W. in A. Armstrong, & W. Ncube (Eds). *Women and the Law in Africa*.)
2. The conference was sponsored by the International Centre for Human Rights and Democratic Development (Canada),

the Canadian International Development Agency, the Ford Foundation and Friederick Ebert, and coorganized with Institute for Development Studies, University of Dar es Salaam, and the Development Studies Group, University of Toronto. About 40 participants were drawn from a few NGOs operating in Botswana, Ghana, Kenya, Nigeria, Tanzania, Uganda, Zambia and Zimbabwe. The aim of the conference was to "discuss the empowerment of the poor and marginalized as part of the whole process of making a reality of democracy."

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## **Feminist Organizing in Mexico: From Consciousness Raising to Action**

**Ximena Bedregal Sáez**

The Center for Women's Research and Training, founded in mid-1989, was a response to the issues raised at a crucial moment in the history of the Mexican women's movement. In the late 1980s, several new issues emerged in the movement that called for new approaches. Achievements of the previous 10 years of feminist work were beginning to pay off. Emerging forms of dialogue and exchange among different social and political sectors showed promise, and a widespread acknowledgment of women's subordinate status was recognizable in the theory and practice of key social actors. However, evaluations of the women's movement from 1975 to 1990 revealed unresolved problems and issues posed by its particular style of political work. Clearly, the achievements and difficulties of the women's movement did not emerge from a vacuum, but are the outcome of its history, its particular vision of reality, and its unique approach to transforming that reality.

### **The Mexican Women's Movement: Historical Overview**

The Mexican women's movement has gone through three major stages, which roughly coincide with stages in the struggle to stop violence against women, initially taken up in the mid-1970s. The first stage began with the movement's pioneer groups, which formed in the early 1970s. Their founders had read the literature produced by first world feminists and found a basic explanation of the concerns and contradictions they had experienced in their own daily lives as women of the 1960's

generation. That literature also gave them an incentive to deal with and continue working on the challenges implicit in that analysis. Their first activities focused on small groups where women read, analyzed, and shared their own experiences. Not surprisingly, they analyzed the poverty, marginality, and underdevelopment characteristic of their country, since women bear the brunt of these harsh conditions.

The International Women's Year Conference, held in Mexico in 1975, was a milestone for the women's movement. The state introduced a series of modernizing legal reforms in some sections of the Constitution to guarantee equality between men and women. These reforms led to a social debate and the first involvement of the feminist movement in public debate. Simultaneously, the Women's Conference inspired Mexico's incipient feminist movement to develop new analyzes of the issues discussed at the Conference, devise new responses, and move toward greater coordination. As a result, many new groups were formed, as were the first mechanisms for coordinating the work of different groups and for broadening the perspective of the work to encompass other issues. This first stage of the women's movement (1970s) was the most prolific period for creating knowledge, discovering streams of analysis and work, designing organizational structures, and laying the groundwork for the key demands that continue to be the driving force behind Mexican feminism to this day.

From the beginning, Mexican feminism drew on two major currents of social thought. One placed top priority on gender contradictions, while the other sought to link the issue of class relations to the social status of women. Socialists embraced the latter approach and incorporated it into their programs. Toward the end of the first stage these two major currents influencing women's issues in the broader social and political context gained strength. The debate on class and gender was ever-present; an effort was made to consolidate the class-gender linkage through coordination and alliances with leftist political parties (in which some feminists were activists) and with trade unions. While these efforts failed to achieve their immediate goals, and many people burned out, they did succeed in giving many women activists of these parties new perspectives on women's issues.

The second stage of the women's movement began in the early 1980s, with the breakup of the original groups and the rise of new groups (especially in the provinces). The results of the first actions to uphold women's right to free and voluntary maternity and to be free of violence spurred on this process. Reproductive rights and an end to violence against women were the main demands. The struggle against rape won more support and had less opposition than the demand for abortion. While legal representation was provided for many rape victims, activities focused more on solidarity with the victims, denunciation of rape cases, and the demand for punishment. Legal aspects were generally neglected; not a single case resulted in a victory. Denunciation and political pressure, however, had a major impact on the public. These efforts around violence were based on the knowledge, analysis, and proposals generated by the previous stage. New proposals focused changing the criminal code related to sex crimes and culminated in 1983 with limited legal reforms.

Almost all the feminist work of the early 1980s was done by the new groups and the younger feminist activists. The former activists, either burned out by the internal debates of the previous stage, or motivated by a personal desire to work in new areas, spread out in any number of other arenas, especially academia, where they began to create study groups on women's issues, focusing on research and removing themselves from politics.

As Mexico's economic policies failed to meet the population's basic needs, new social actors appeared, most prominently the urban popular movement and relatives of the disappeared, both made up almost exclusively of women, but directed almost exclusively by men. Some feminists (especially university students) and other women (generally leftist political activists who, without being feminists, had contacts with the movement) began to work in these organizations, where they tried to highlight the predominant role of women. At this stage, the urban popular movements had only limited contact with the feminist movement.

Work with women of the popular organizations picked up in 1984 and consolidated through civic organizing in response to the September 1985 earthquake. This marked the beginning

of a third stage in the history of the Mexican feminist movement. Some popular movements had already felt how their predominantly female composition made a critical difference. The women, often motivated by advisers who had some contact with feminism, began to examine their own leading role and to create incipient women's structures within their organizations—even though their demands were still for better material living conditions and did not include gender demands.

In the course of their work, these women gradually discovered the specificities of women's issues, and began to draw closer to and identify with feminism in an effort to find new explanations for the reality of the women with whom they worked. The women making contact with the feminist groups were mostly staff members of popular education institutions, suddenly strengthened by relief funding that began to come in after the earthquake, and from their work with earthquake victims in the popular sectors. They used popular education methods to train the organizations. The more they embraced feminism, the more they included basic feminist perspectives in the training techniques. Thus from 1985 to 1990, hundreds of workshops were given in the popular organizations on the social status of women, female sexuality, and violence against women. By 1986, these institutions declared themselves to be feminist groups, and began to assume leadership of the movement. Many independent feminists are active in, and on the fringes of, these groups.

The result of all this work has been the emergence of a broad women's movement, which includes many new women's organizations and trends that have incorporated aspects of the feminist approach into their work, and which have embraced, to a greater or lesser degree, the key demands for free and voluntary maternity and for an end to violence against women. Violence against women is the main focus of concern, given the levels of violence in these sectors. For the first time, priority was placed on the question of domestic violence.

This represents still another stage in which the feminist movement diversified, penetrated new social sectors, and made its aims better known in society at large. In this recent stage, new women's organizations formed and leadership developed in the institutions with the most resources for undertaking such work.

## Analysis of the Process

We can draw several conclusions from this historical overview that explain the current features of the feminist movement. Mexican feminism emerged in the 1970s, when the movement was most involved in theoretical work. In that period feminists defined the demands that would give direction to the movement throughout the 1980s. In the 1980s the movement focused on extensive dissemination of the knowledge developed in the previous stage about the most general causes of women's oppression. Such knowledge was simplified and even schematized so that it could be transmitted to popular sectors through basic workshops. This became the preferred working methodology of the feminist movement.

This type of work, focused almost exclusively on the popular sectors and aimed at fostering awareness of gender status, alerted many other social movements to the status of women. The feminist movement found new areas of work, won relative social recognition of women's status, transformed the outlooks of many people, and boosted women's self-esteem. But it also meant trapping feminism in the logic of denunciation, dissemination, and consciousness-raising, thereby hindering recognition of new aspects of the gender question, and limiting the movement's ability to develop specific approaches.

The fact that one group of activists set out to strengthen organizing efforts, and another to further academic work disconnected from political opportunities, resulted in a sharp division between theory and practice and made it difficult to undertake a comprehensive analysis of women's social status. This division has impeded drawing out the lessons of organizing work, determining the various collective meanings construed by a variety of female identities, and relating those many particularities of everyday life to their contexts and to the various ways in which patriarchy is produced and reproduced. As a result, it has been very difficult to define particular interlocutors to work with to bring about specific changes in the sociopolitical structures, to organize social alternatives for destructuring, and to create specific ways for women working in different areas to get to know and identify with one another.



The type of popular education work implemented with women during this period—entailing dozens of consciousness-raising workshops repeating the same content for different women time and again—also became an obstacle to improving the quality of work. Insofar as the content of these workshops can be repeated in more or less the same way and always have an impact, there is no need to look back at past experiences, no need to reflect on achievements and limitations. Each goal established becomes disconnected from all others, making it necessary to start from scratch each time, repeating the same mistakes, running up against the same problems, and attaining the same results. The failure to evaluate and analyze the movement's experiences, the creation and dissolution of many groups repeating the same stages and experiencing the same conflicts, are emblematic of a process of noncumulative movement-building.

The institutionalization of feminist groups has contributed to professionalizing the work, making more time available with less effort. But it has also centralized the work and the leadership into the larger institutions with more fundraising contacts, specifically, those located in and around Mexico City. The women and women's groups in the provinces are relatively isolated, have less communication with other groups, and receive less support. Thus the problems noted above are accentuated in those groups.

Finally, the approach of the women's movement reflects economistic styles of struggle (typical of the Mexican left) seeking improved material conditions rather than the creation of a *sui generis* feminist form of politics. This dynamic is a product not only of a certain steam within Latin American feminism, but of the situation of poverty and marginality of the great majority of Mexicans whom the feminist movement is trying to empower. The approach has made it difficult for feminists to break with a concept of autonomy that focuses solely on the official party and the state.

The feminist movement's association with left parties and their historical opposition to the official party (PRI), has led it to place priority on bringing political pressure to bear on the government. Given the PRI's proven capacity for coopting social movements, this has not been an inappropriate strategy. However, it has wed the movement to a concept of autonomy

that hinders negotiation, thereby making the movement more marginal. The movement's fear of being coopted has superseded any drive to have an impact, resulting in an inclination to denounce injustice rather than to propose alternatives.

### **The Movement's Principle Characteristics Today**

The feminist movement is at a decisive point today, in a difficult transition from social movement to political movement, from ideological movement to cultural movement. There are two main features of the current growth crisis. First, considerable diversity both within the movement and its work, while offering the potential for broad representation, is a weak foundation for growth. Second, the conventional demands of feminism have begun to expand beyond feminism per se, emerging both as a new form of social discourse, and as government programs about which the movement has had little to say.

Because of the different currents of feminism and the wide-ranging work of feminists, the movement has incorporated such a wide array of foci, concepts, strategies, working methods, and experiences, that it is barely possible to continue speaking of just one feminist movement. Its diversity substantially bolsters its potential for constructing different ways of seeing reality, responding to alternative projects, and attending to different needs of women. As new areas of movement-building and work have been developed, so have new relational bonds and communication channels with different sectors of civil and political society.

This diversity has quickly proven to be a critical factor. Not only has it become very difficult to acquire new knowledge and systematically evaluate experience, but it has also become an obstacle to deciphering the movement's own diversity. Lacking interaction among the movement's various spheres, there is no appreciation of experiences and histories—a necessary condition for crafting explicit agreements. This makes the politics of movement-building a constant improvisation, with each part operating in relative isolation from the others; as a result, the same mistakes are made over and over.

In recent years, this problem has become more explicit. Tensions have arisen between feminism and the broad women's movement without clarification of what is similar

and what is different in their codes of interaction, in their identities, and in the limits and possibilities of joint work. One result is that at key moments the movement has been struck by paralysis, unable to act in unison.

On the other hand, this opening to the feminist movement by the *Movimiento Amplio de Mujeres* (feminists plus women from other social movements who take up certain feminist demands), and the relative social recognition of women's subordinate status, have situated the conventional feminist demands beyond its scope, making them an issue of broad political debate. The women's movement, by having assumed feminist demands in their most general form, has been unable to mobilize around them, even though many such demands are deeply-felt by large numbers of women. The movement has not been able to transform its feelings and awareness into political action. This has produced a critical result; not only have other social movements taken up feminist demands, but so has the state.

The present government came into power with its neoliberal and modernizing political project amid widespread doubts about the legitimacy of official election results. Its need to create legitimacy and credibility has forced the current government to seek new areas of consensus and to incorporate into its own social project the transformation of dysfunctional aspects of the culture. In this context, women have been one of the sectors to receive priority attention from the administration of President Carlos Salinas de Gortari. The government is now implementing a series of projects aimed at responding to some of the demands that the feminist movement has put on the social agenda. The subject of violence against women is among those receiving the largest share of resources and programs. Several states have opened offices that specialize in sex crimes, and the Criminal Code incorporated reforms on the same subject. While projects on violence against women are the most numerous and have the greatest impact, they are not the only ones; producer and organizational projects are also under way.

Though the feminist movement has always called on the state to assume its proper role concerning these issues, the movement's conception of autonomy led it to distance itself

from these projects. In doing so, it failed to develop oversight policies or measures to ensure that these programs actually promote change, reflect feminist perspectives, and do not become mere mechanisms for post-electoral posturing. Nonetheless, many groups and women join these programs without having sorted out the issues because they do not require as great an investment of time and energy as the autonomous projects. They thus enter into relations with the state in which they are isolated and lack the political or analytical support of the movement. These projects will continue to be launched, but feminists have had little to say about how to implement and further develop them. In sum, its inability to put forth its own proposals is hindering the development and use of the very spaces for dialogue the feminist movement forged over the last 20 years.

### **The Basic Contours for a Project**

Based on this analysis, the Center for Women's Training and Research (CICAM) was designed to address three fundamental issues: 1) the feminist movement's inability to acknowledge and recall its own experience and history and reverse the lack of communication and relations with divergent streams; 2) the repetitive and ineffective methods used for diffusion; and 3) the imbalance between the capital and the provinces in terms of support and resources.

In addressing the first issue, CICAM seeks to bring together academics, organizers, and service providers in nongovernmental projects and in new state-sponsored projects. We believe it is vital for the different sectors to provide feedback to one another, make known the results of their work, analyze their experiences in light of other points of view, and incorporate into their own projects the useful aspects of other approaches.

The tradition of each group working within its own confines, not relating to others beyond what might be required for its own activity, impedes the exchange of ideas and experiences. A forum that fosters debate, that seeks ways of bringing several groups together around a single issue, and that can organize activities for analysis of these diversities, should prove useful in the new stage of the women's movement.

In addressing methodological limitations, CICAM proposes to develop new approaches. Typically, diffusion or educational work involves repetition of the same content, recycling methods that require a great investment of energy, but yield limited results. Arising from a defensive stance that limits their impact and defines interlocutors in the most general terms, their goal is denunciation; with the state and patriarchy as the political and ideological targets. This approach circumscribes movement objectives to broad generalities, such as calling for an end to violence against women, or the right to free and voluntary maternity. Implicit in this approach is the idea that consciousness automatically transforms practice; it fails to recognize that gender identity is an intricate network of subjectivities and cultures.

Thus it is essential that new practices be based on a different kind of relationship and unity between already existing practices and theory. The organizational and activist dynamics of most of the experiences are so overwhelming as to hinder their evaluation and analysis. To develop a more constructive relationship between theory and practice, a mechanism is needed to articulate the impact of practice with analysis and theory.

There is an immediate need for a team to analyze new theoretical and sociopolitical data on society in general, and feminism in particular. With a view to building the movement, its function would be to develop communication methods for making accessible to the grassroots, new knowledge and analyzes of politically relevant issues. These methods would facilitate and promote critical evaluation of individual and group experiences. The essential interaction and feedback among different levels would permit all sectors of the movement to assimilate the knowledge that has been gained.

Thus, we have defined the Center for Research and Training as an institution that straddles grassroots practice and academic work. CICAM's research work entails the analysis of currently relevant issues for the feminist movement. Training is understood as the transmission of techniques, methods, and tools that enable groups to incorporate into their daily practice skills in analysis and observation.

Concerning the resource imbalance, CICAM proposes to be a source of support for provincial groups. The difference

between Mexico City and the provinces in their levels of support, interchange opportunities, and resources has impeded the women's movement from becoming truly national in character. The imbalance retards the development of the provincial groups and requires them to expend more energy than groups in the capital. They are marginalized from the relative benefits of receiving program grants and the knowledge about how to get these grants. This reality is distressing, since activities in the provinces have a greater potential impact than those in Mexico City, although the more traditional and conservative culture of these regions makes the work more difficult. Therefore, it is important for an institution, such as CICAM, to direct most of its efforts to supporting these groups, to creating networks among them, and to designing specific ways of increasing their impact and diminishing the risks they run by having a public presence.

## **CICAM'S Projects**

Based on these general objectives, we defined the areas in which CICAM can contribute to building the feminist movement and designed specific projects for each. The underlying approach to all of CICAM's activities is participatory action research, a methodology that makes all organizational activities opportunities for research and knowledge generation. In this combination of research and training, training is conceived of as a means of transmitting new tools for understanding reality and research as the means for designing (and redesigning) practice. All our projects have both objectives, but to expedite our work, we have divided the projects into three areas: research; training; and dissemination.

### ***Research***

Research encompasses three types of projects: research per se; evaluation and assimilation of lessons learned; and documentation.

CICAM's main research project encompasses three aspects. The first covers general aspects of the history of the feminist movement; the second examines women's groups, their methods, difficulties, and objectives; and the last focuses on the impact of feminism, especially in changing the subordinated identity of women who have had contact with the feminist movement.



The experience and interests of CICAM's core team, composed of four researchers/trainers, one archivist, and one secretary, was already focused on the issue of violence and women's rights, leading to the decision to work from that knowledge base. Throughout 1989, the team worked on the issue of violence against women on these three levels. The first outcome was the book *Hilos, nudos y colores en la lucha contra la violencia hacia las mujeres* (Threads, Knots, and Colors in the Struggle to Combat Violence Against Women).

In this project, an effort was made to fill various gaps by studying the history of this struggle; analyzing groups specialized in providing care to victims of sexual and domestic violence; compiling the experiences, ranging from autonomous feminist projects, to those undertaken with the state; and gathering proposed legal reforms. All these subjects are addressed in the book. A series of roundtable discussions was organized to coincide with publication of the book to engage researchers and activists who are using the book's content to analyze different approaches to ending violence against women.

Subsequent work will build on the valuable materials collected during the research process. Shaping future work are a series of new questions that arose in the search for linkages between violence and other issues, and a desire to broaden the concept of violence beyond the limits of sexual and domestic violence. As a result of this interest, a series of smaller research projects was organized to look into the relationship between violence and health. The most important was a compilation and analysis of the Mexican government's family planning policies, and research on reproductive technologies being developed by different Mexican institutions. The result is a dossier (to be turned into a book) that is being disseminated, primarily to those groups working on health issues, to foster discussion on the relationship between the demand to end violence against women, and the demand for free and voluntary maternity.

### *Evaluation*

A critical element in our concept of participatory action research is evaluating and assimilating the lessons from experience. Part of CICAM's main research project on the history of the struggle against violence has this objective. There are two



other evaluations planned: one of CICAM's own work, and the other of the feminist movement's postelectoral political participation.

Evaluating our own work involved analyzing three years of providing advisory services and training to a group from the provinces (the Colectivo Coatlicue of Colima). This group runs the longest standing government center providing support services for women. A lengthy process of working with this group had a significant impact on professionalizing their work, and in understanding the lessons of their own experience and practices. This interaction served to encourage other groups based in the provinces.

Evaluating the feminist movement's recent behavior in relation to the state involved detailed follow-up on the independent feminist movement's participation in the recent elections. This evaluation clarified important achievements and difficulties of feminism, and will no doubt require further analysis. A complete account of this process is being prepared.

### *Documentation*

Approaching action from a research perspective requires access to various support materials that are often either unavailable or too difficult for grassroots feminist groups to interpret. To respond to this need and provide groups with a point of reference, CICAM prepares information packets with statistical and documentary information. One series of dossiers documented the temporary decriminalization of abortion in the state of Chiapas in southeastern Mexico. Bibliographical, journalistic, and documentary dossiers are also included in other activities and in the training projects themselves.

### *Training and Technical Assistance*

The "Feminist School for Methodological Training" is the main training project. It provides midlevel study opportunities to women from provincial groups and aims to train feminist activists in an integral and rigorous fashion. This project was initiated in November of 1991. The course included 120 hours of work, through four curriculum modules corresponding to different levels of the research methodology:

**The Movement:** This module provides information and support materials on the history of the movement, its forms of

action, and its achievements and stages, analyzing the relations between feminist claims and the historical opportunities, between the state and the movement, and between work methods and contexts.

**Group Performance:** This module provides the basic tools for identifying and acting on issues of internal relations, structure, and group dynamics.

**Gender Identity:** This module provides criteria for analyzing the impact of the work, sociocultural determinants of change processes, tools for observing women's collective social contexts, and the tools for evaluating these experiences.

A second type of training develops women's capacity to use technologies that facilitate and increase the effectiveness of dissemination, documentation, training, and handling of information. Short workshops are offered on the use of computers and programs for layout to facilitate production of publications; databases that facilitate organizing and easy handling of information; and original, didactic, and replicable presentations on certain aspects of dissemination and training. These workshops, available to many groups, greatly improve the efficiency of their work, helping them make better use of their equipment. Some groups already work with computers, for which they are given advisory services on an ongoing basis. Also, images and drawings are computerized for them as needed.

Besides formal training, advisory services are offered to groups specialized in working to oppose violence against women. Advisory services are provided directly through site visits or in seminars and workshops organized to analyze the groups' working methodology. For example, one seminar on psychological approaches to providing care in specific cases was organized in coordination with several groups.

### *Dissemination*

This is a recently established area for the Center. Closely related to the documentation projects, its main objective is to devise new ways of disseminating information to the provinces. After confirming that the provincial groups need more information, a newsletter was launched for the states of the interior. It is published by CICAM, but its content comes from the provincial groups with which CICAM works.

## Difficulties

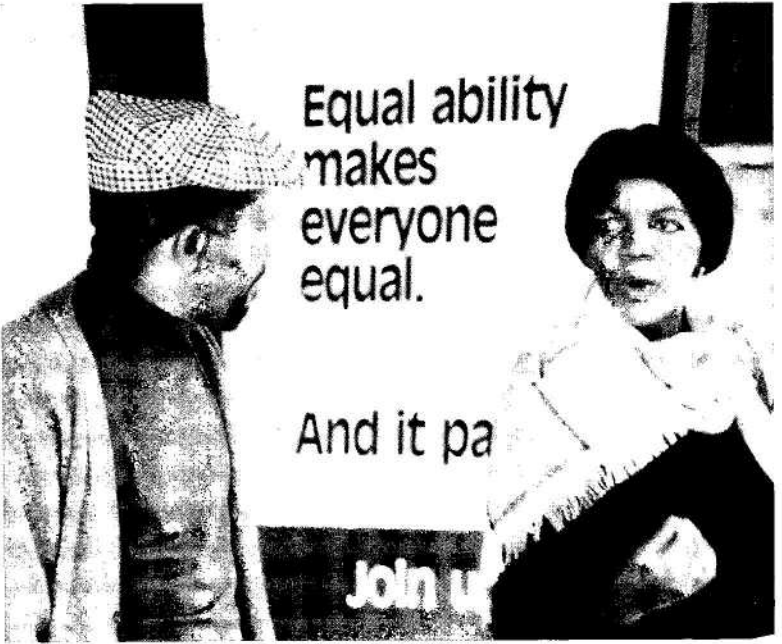
The project's main difficulties relate to the development of adequate human and material resources. The necessary task of organizing a team possessing both research experience and real knowledge of the feminist reality has been most difficult. This is related to the profound division in the movement between theory and practice that inspired the creation of CICAM in the first place.

Feminists who have a highly developed analytical capacity, or have enough experience that they do not need to be trained, have either focused their work on certain highly specialized aspects of women's reality and do not wish to emerge from their specialty, or they have already developed work that has won greater social recognition than CICAM.

A project in the process of development like ours—straddling already existing, yet nonoverlapping areas of work, and seeking to bring together theory and practice, and academic and social promotion work from within the feminist movement—has a hard time competing with the prestige of recognized institutions who offer additional benefits and specialized work. These factors have made the process of pulling together a team slower and more difficult than anticipated.

The second difficulty, related to the first, is obtaining financial support for a project of this type. The economic and material solidarity offered by financial institutions is often more focused on supporting projects involving grassroots promotion, community organizing, and economic betterment, than projects for analysis, furthering of knowledge, and midlevel training. It would appear that the general view is that the Third World should prioritize its need to think and create, and that the latter should be limited to highly renowned academic institutions and universities, as if civil society and social movements were unable to create their own spaces for analysis and conceptualizing.

Despite the difficulties, the Center for Women's Training and Research continues to work to bring about more just and egalitarian relations between men and women.



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everyone  
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**PART V:**  
**EDUCATIONAL CONCERNS:**  
**PROBLEMS AND METHODS**

**Legal Literacy and Law Enforcement  
Agencies in Ghana**

*Akua Kuenyehia*

**Fostering Rights Awareness through  
Community Publishing in Zimbabwe**

*Kathy Bond Stewart*



# Legal Literacy and the Law Enforcement Agencies in Ghana

Akua Kuenyehia

## The Ghanaian Context

The premise that the law plays an important role in improving women's status when it becomes vital and integral to their lives justifies most legal literacy or rights awareness initiatives with women around the world. If women understand their rights, so the reasoning goes, they will be better able to protect themselves or find redress in the courts. However, one of the problems with this premise is its assumption of nondiscrimination in the law itself, and in its administration and enforcement. Unfortunately, gender bias in the application of the law is a very real problem and one that limits the usefulness of the law to women. Knowledge of rights is of very little use if the system as a whole is not sensitive to gender issues.

This paper addresses the legal problems confronting women in Ghana that are due to the ineffectiveness and gender insensitivity of law enforcement agencies, such as the police and the courts. In Ghana, the police and the courts pose a major obstacle to the realization of women's rights. The following examples, based on actual cases, illustrate common problems that Ghanaian women often confront.

*Case one:* After 30 years of marriage, a woman obtains a divorce and applies to the court for the transfer to her name of one of the buildings acquired by the husband during the marriage. The courts hold that, although she probably did contribute to the acquisition of the property, if she could not show any concrete evidence of her



contribution to the acquisition of the house in question, or indeed to any of the matrimonial property, she could not have the house transferred to her name (*Oddoteye V. Oddoteye*, 1986, p. 61).

*Case two:* The police refuse a mother permission to post bail for her son arrested and detained on suspicion, although she is able to meet all the legal requirements for posting bail. The rationale for this refusal is that a woman cannot bail a person, for it will be too much of a problem for a woman to come to the police station as often as the various procedures require. Frustrated, the mother has to turn to her brother to get her son out. It is important to note however, that the criminal laws of Ghana do not exclude a woman from posting bail.<sup>1</sup>

*Case three:* A woman wanting to boost her sagging business applies to a financial institution for credit. Since she has the necessary collateral, she should be able to get credit as a matter of routine. However, the financial institution insists on her husband being a signatory to the transaction before approving her application for credit. She has to struggle to convince the institution that she has legal contractual capacity in her own right and does not require her husband's signature to obtain credit. She finally succeeds, albeit after a long struggle. This particular woman was enlightened, knew the rules, and had the financial and personal resources to get her way. Many other women would have been too intimidated to assert themselves.<sup>2</sup>

*Case four:* A woman who is badly beaten up by her husband files a complaint with the police. The police record her statements and those of her husband, and a few days later the police inform her that they do not intend to prosecute the husband for the assault committed on her because they believe that it is a family matter that ought to be settled at home. None of the woman's arguments were of any use to convince the police that her rights were infringed, and she is forced to give up the struggle in frustration.<sup>3</sup>

*Case five:* A young woman who was the victim of rape, when cross-examined by counsel for the accused person,

gets so upset that she begins to cry. The judge bellows at her that this is a trial and that she is obliged to answer the questions put to her if the court is to make any headway with the case. This intimidates and upsets the young woman further, and as a result, she is unable to give coherent evidence. With the main witness cracking under the strain of cross-examination the prosecution is unable to establish beyond all reasonable doubt, as required by law, that a rape was committed. The culprit is acquitted and discharged (*Rep. V. X [Criminal Assizes]*, Unreported).

The five situations are not atypical or hypothetical. They represent real life experiences of individual women and occur frequently. These cases illustrate the limited use of rights awareness if the legal system as a whole is not sensitive to gender issues. An unenlightened legal system can pose serious problems to any program directed toward raising legal awareness. The areas of major dysfunction are the judiciary and law enforcement agencies. The possible ways these state agencies can be harnessed to enhance rather than impede rights awareness programs needs to be explored.

## The Judiciary

The social mores and the cultural values of a society play an important role in shaping the attitudes of individuals. It is therefore conceivable, that even in the courts, where rules ought to be applied objectively and impartially, social and cultural norms will have an impact on the interpretation and application of rules. The attitudes of judges and magistrates are also shaped by society and they carry these attitudes into the courtroom.

In this critique of the Ghanaian judiciary, distinctions must be made between two institution groupings. The magistrates and circuit judges, who make up the lower courts, form one group, and the other group comprises the judges of the higher courts, namely the High Court, Court of Appeal and the Supreme Court. On examination, it can be seen how each group of judges helps or hinders the process of rights awareness within society. Suggestions will be made about how they can be brought to play a positive rather than negative role in this important process.

### *The Lower Courts*

In Ghana, the lower courts comprise the Circuit Courts (the highest of these courts) and (in a descending order) the District Magistrates Courts Grade I and Grade II. These courts are important in that every district has at least one magistrate court, and these courts have the greatest contact with the rural population. Because most women who are the target of rights awareness programs in Ghana are rural dwellers, the role that these courts play in women's acquisition of rights awareness must be appreciated.

The question that must be considered then, is whether these magistrate courts have the necessary sensitivity to gender issues to be able to help women, who have taken the initiative to assert their rights, to realize them in actuality. Experience would support the contention that at present, these magistrates lack the necessary sensitivity or commitment to gender issues to be able to have a positive impact on a rights awareness program. They have no knowledge of the agenda or developmental goals of women, and more often than not, serve as stumbling blocks to women's attempts to assert their rights. The magistrate courts continue to be influenced by a mixture of cultural and religious stereotypes of women that result in their confining women to the traditional cultural roles assigned to them.

In Ghana, there are two types of magistrates: lay magistrates with no legal training; and Grade I magistrates who are trained lawyers. The Ghanaian common law system consists of both customary law and the received laws of her former colonial governors (Courts Act, 1971). These two systems operate side-by-side and neither takes precedence over the other, except in cases where there is a direct conflict with legislation, in which case legislation takes precedence over the common law as defined above. It is obvious, therefore, that anyone involved in the operation of the legal system has to contend with influences that go far beyond the letter and spirit of the law, and may also exercise a fair amount of discretion in applying and interpreting the law and resolving issues. Furthermore, the jurisdiction of the magistrate court is wide and covers minor criminal cases as well as minor civil cases.

The following case, based on commonly found real life experiences, clearly demonstrates magisterial attitudes and approaches to the legal problems experienced by women.

A woman who has suffered repeated physical abuse from her husband is eventually able to persuade the police to take action. The husband is charged with assault and battery and arraigned before court. After the prosecution opens its case and calls witnesses, the evidence is found to be sufficiently compelling to convict the accused husband. However, in the middle of the trial, the magistrate suggests to the prosecution that since this is a "delicate" family matter, the parties ought to be persuaded to try to settle the matter at home as enjoined by the Courts Act, 1971. The prosecutor accepts the idea, and despite the protests of the complainant wife, her head of family steps in and undertakes to settle the matter at home and report to the court. Shortly thereafter, the court is told that the matter has been settled "amicably" and the prosecution enters a "nolle prosequi."

What the magistrate perceives he has done in this case is to prevent a family matter from being dragged through the courts; thus, preserving family unity. This approach accords with the letter of the law. The magistrate is quite satisfied with himself because within his frame of reference, his role in society is to preserve the status quo. In actuality, he has condemned the wife to a life of misery and suffering.

If the magistrate in this case had the necessary social awareness and gender sensitivity, he would have realized that domestic violence should not be countenanced under any circumstance. He would have realized that family unity is best served by bringing culprit husbands to justice, and that no wife should be made to endure violence in the name of "family unity." What this approach does to the wife is to reduce her to a state of helplessness, shattering her confidence in the ability of the law to protect her. In the case cited, the woman was sufficiently enlightened to approach the courts for a divorce in order to escape the tyranny of her marriage. Many women, unfortunately, stay within their marriages and suffer abuse, and after such a debacle in court many more would be discouraged from taking action.

It could be argued, however, that since the magistrate acted within the scope of the Criminal Procedure Code, the magistrate did no more than he was required to do by law. It could be said that he was only following the procedure laid down by the law, and thus was not necessarily influenced by the stereotyping that is endemic in society. While it may have been functional at the time it was promulgated, this provision the judge chose to apply does not serve the best interest of women. In recent times, when domestic violence is on the upsurge, one cannot justify the continued existence of such a provision. Perhaps the magistrate, if he were sensitive to current issues affecting women, would have helped alleviate the woman's hardship by exercising the discretion vested in him by the law, and permitted the case to take its natural course. There is no denying, however, that if the law were amended, the magistrate would be less of a stumbling block, irrespective of his level of gender sensitivity and awareness.

It is true that women in such cases do come under very sharp criticism from some social sectors, because Ghanaian society is still largely a traditional society that does not take kindly to wives, or husbands for that matter, who insist on having their partners prosecuted and punished publicly. But in this irreconcilable situation, it is better for the woman to escape from the tyranny of her marriage and be ostracized socially, than to stay within her marriage and be a victim of violence.

### *The Higher Courts*

In the higher courts there have been many cases, especially relating to matrimonial issues, in which the judgments given by the courts were quite discouraging to women because of the negative effects of these judgments on rights awareness. The Ghanaian Matrimonial Causes Act does not guarantee any fixed portion of matrimonial property to spouses on divorce, and therefore, the High Court has discretion, after hearing the evidence, in apportioning matrimonial property between spouses (1971). This apportionment is based on the principle of contribution to the acquisition of the property. Running through all the cases is the basic presumption that, lacking evidence to the contrary, the husband acquired the property. Therefore, any wife claiming a share after divorce has to show clear evidence of her contribution to the acquisition

(*Achiampong V. Achiampong*, 1983, p. 104; *Bentsi-Enchill V. Bentsi-Enchill*, 1976, p. 303).

The presumption is that the husband, as the head of the family, is the principle provider, a presumption that is totally wrong and unfair to Ghanaian women. The courts do admit that wives make a contribution, and yet, they are unwilling to assign to them what is due without concrete evidence of what they actually contributed. Admittedly, in recent times, the Court of Appeal and the Supreme Court have overturned some of these rulings made by the High Courts, and have thus reassured women that the courts are not unaware of the tangible contribution they make to all aspects of family life.

The point underscored here is that if the courts were thoroughly versed in gender issues, some of these situations would not arise, even in the absence of clear legal provisions. If judges were sensitive to gender issues, they would look beyond the letter of the law in divorce matters and make sure that women would not be adversely affected by, for example, failure to keep receipts during the happy and stable phase of the marriage. Admittedly, in the particular situation of divorce, legislation can help solve many of the problems alluded to. However, at the moment, there are no legislative provisions pertaining to the apportionment of property, and in this context it is particularly important that the bench be sensitive to gender issues when resolving these problems.

## **The Law Enforcement Agencies**

Agencies like the police play a crucial role in the success of rights awareness efforts by the messages their behavior communicates. Most often they are the first to come into contact with people in distress and their attitudes, especially on gender issues, either encourage or discourage women to assert their rights. Therefore, it is as important as it is for the judiciary, that the police have the right attitude. At present, it cannot be said that the police are gender sensitive in a way that encourages women's assertion of rights. On the contrary, the attitude of the police is such that they are more likely to dampen the enthusiasm of women eager to assert their rights. For example, in matters of domestic violence, the police are very reluctant to intervene because they consider family matters to

belong to the realm of private law. However, with the proper orientation, the police could play a positive role in alleviating the anguish domestic violence causes women.

Examples of police behavior toward women standing surety or posting bail have already been discussed (Criminal Procedure Code, 1960). Clearly their attitude stems from stereotypical conceptions of the role and abilities of women in society and is not based on the law. There are many other instances in which such attitudes held by the police hinder both the processes of rights awareness, and the assertion of legal rights.

For example, the Intestate Succession Law of Ghana (PNDCL.111) guarantees a fixed proportion of the estate of a deceased spouse to the surviving spouse and children (1985a). It further states that it is a criminal offense for anyone to interfere with such property upon the death of a spouse (1985b). Often, however, the police have failed to take action where such interference has occurred, leading to the loss or dissipation of property that should have gone to a surviving spouse and children. The Intestate Succession Law is a reaction to the Customary law dealing with the matrilineal systems. In matrilineal societies, a wife and children are not necessarily a part of the husband's family, and therefore do not succeed to his property if he dies intestate. This situation caused untold hardship to widows and children.<sup>4</sup> There is a need therefore, for the police to take their role seriously if the inequity that the law seeks to redress is to be eliminated. However, in spite of the existence of this law, there have been many instances where the families of deceased husbands have come in and appropriated property, either through ignorance of the law, or in defiance of a law that they consider an unacceptable usurpation of their customary rights. Whatever the reason, the success of the law in protecting the rights of widows and children especially, depends on the active co-operation of the police.

### **Possible Solutions**

It is possible to set in motion a process of educating magistrates to make them sensitive to gender issues. Magistrates have their own association, and under the umbrella of this association, the Judicial Service conducts a program of continuing education geared toward enhancing the performance of



magistrates. It is therefore possible to incorporate into this program of continuing education, a curriculum on gender issues that will expose the magistrates to some of the issues touched upon in this paper, and even explore broader issues not dealt with specifically here. This is likely to be an acceptable method because it will not be seen as an alien imposition. The curriculum dealing with gender issues, however, should be run by people who are well versed in the area. If this is done, it will contribute much to raising the consciousness of the magistrates to the problems facing disempowered people in general, and the problem of women's rights in particular. This consciousness will enable them to make a positive impact on programs designed to foster rights awareness, and on efforts to secure rights through the courts.

Judges also have an umbrella organization, and under its auspices, they hold annual meetings and seminars. Although no programs for the continuing education of judges are conducted, this body can be used as a forum to raise their awareness about pressing social and legal issues. It must be noted that the issue of legal literacy and the rights of women has many dimensions to it and therefore must be approached as a multidimensional problem. Besides incorporating programs on gender sensitivity into the seminars and meetings conducted for judges, it would also be strategic to use the human rights platform to sensitize the higher echelons of the judiciary on women's rights. Lawyers who are human rights activists ought to be encouraged to see women's rights as an essential part of the human rights program, and to utilize every opportunity to educate the public in general, and judges in particular, on this subject.

It must be emphasized that this educational effort should not be limited only to judges and magistrates, but should include the entire judicial machinery. The various sectors of administration within the judicial system must also be targeted for education so as to enhance the whole process of rights awareness.

The police and allied agencies can play an important role in this respect too. The police service has many programs geared toward enhancing the role of the police in society, and an important strategy will be to utilize these programs to build up within the service, an awareness of gender issues, especially

women's rights. It is necessary to fashion a program for the police that will expose them to the importance of women's issues, the special problems confronting women, and the critical role that they, as a service, can play in helping women realize their rights. The program must also address the dilemmas stemming from the division between private law and public law that sometimes inhibits the police from taking action in domestic issues.

It is suggested that rights awareness programs be incorporated into the police training program and be continued throughout the various levels of continuing education. Carefully constructed and rigorously applied training program for the police service will go a long way in shaping the attitudes of the police in relation to women. Because the police have more contact with the public than judges or magistrates, they have the potential to encourage or sabotage the efforts of women who are pursuing their rights. If their initial training and continuing education equips them to deal appropriately with the problems confronting women, the police service could play an invaluable role in safeguarding women's rights.

## **Conclusions**

If the law is to be an effective instrument for development, it must be understood fully and utilized for social action. Law can play a crucial role in the effort to improve the status of women in society. However, it is necessary that women themselves regard the law as an integral part of their daily lives. Ordinarily, law does not play any visible role in the lives of most women. It does not impinge on their daily lives, nor are their familiar problems articulated in terms of the law. This is clearly an unsatisfactory situation. Women ought to be aware of their rights and obligations and utilize this knowledge in their lives to challenge those aspects of the legal system that work against their progress.

What needs to be done, therefore, is not only to raise women's awareness about their rights and obligations, but to put into place legal, political and administrative structures that will enable them to utilize this knowledge to their advantage. In addition, to make women's exercise of the law effective, law enforcement machineries ought to be sensitized to gender

issues. The role of law enforcement agencies, especially the judiciary, in ensuring the success of any rights awareness program must be underscored. Their failure to respond positively to women's efforts to employ the knowledge they have gained about their rights will only negate the process of advancing women's rights. The failure of the judiciary to respond positively to the efforts of women in enforcing their rights will result in women losing the fragile confidence gained through increased awareness of their rights. The courts are the ultimate testing grounds for individual rights and when, due to ignorance or bias, the judiciary is unable or unwilling to translate rights and obligations into reality, these rights become meaningless.

This paper examined problems posed by the judiciary and the law enforcement agencies in Ghana to rights awareness programs for women. A judiciary insensitive to the dynamics of rights awareness will hinder rather than enhance the process of legal literacy. Various means have been suggested to deal with this issue, but as this is a largely uncharted course, the recommendations made are not foolproof. This is largely because the problems are more complex than is evident from this analysis, and only by trying some of them will it be possible to discover their pitfalls and correct them. While the basic training given to lawyers is also in urgent need of review; at present, what is being advocated is a re-orientation of the judiciary and law enforcement agencies.

## NOTES

1. The experience of an interviewee.
2. The experience of an interviewee.
3. The experience of an interviewee.
4. For further reading on this issue see Dankwa, University of Ghana Law Journal & Kuenyehia, University of Ghana Law Journal.

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## **Fostering Rights Awareness through Community Publishing**

**Kathy Bond-Stewart**

### **The Community Publishing Program**

The Community Publishing Program began in 1986 with the Ministry of Community and Cooperative Development, which until 1989 included the Department of Women's Affairs. The aim of the program is to build up the confidence, creativity, practical and analytical skills of development workers and local leaders through books and workshops. The program was set up to support the new decentralized development structures that were being established: elected village and ward development committees serviced by six thousand locally chosen Village Community Workers; and about 500 Ward Community Coordinators. These structures exist in the communal areas in Zimbabwe, where 56 percent of the population live. Although the Community Publishing Program serves a wide range of development workers, its main focus is the multipurpose Village Community Workers, about 95 percent of whom are women. Most of them are farmers who had participated in the Liberation struggle. They receive a small allowance from the government.

One of the main inequalities in Zimbabwe (with its economy based largely on agriculture) is the gap between the communal farmers, mainly women, who live on the worst land with the least resources; and the commercial farmers (mainly white and male) who live on the best land with the most resources. Although communal farmers have received more support since Independence, and now produce more than 70

percent of the country's marketed maize and sunflowers, the average income of a communal farmer is still fifty times less than that of a commercial farmer. Also the situation of farm workers on the commercial farms is very difficult as this is where most malnutrition in Zimbabwe occurs. The rate is as high as 33 percent among children.

Although men in the communal areas, and male workers on commercial farms, are disadvantaged, the most disadvantaged sector of Zimbabwe's population consists of the women and children in these two areas. The Community Publishing Program focuses mainly on the communal areas, but we are gradually beginning to include farm worker families and low income urban communities as well.

## **Program Methodology and Guiding Principles**

### ***Process***

We were very fortunate to begin this program under the guidance of a few, enabling senior women officials in the Ministry. They simply told us "Go out and study the reality and shape a process on the basis of what you find." We were also given a list of six tentative book titles, and asked to begin with a basic manual on community development. Initially I was hired as a writer and coordinator, with a young male artist. Later our book team expanded to include three more women.

We thought that the most effective way to train people was to enable them to develop their own curriculum and training materials. So we began by developing the community publishing network to assist us with the books. It began with eight people, one from each province, and expanded with our second book to 300 people, with a variety of backgrounds, from all fifty-five districts.

The books are produced collectively and democratically. First, the book team travels around Zimbabwe *listening* to what people want in a book. They meet a wide range of people at province, district, ward and village level to get ideas and information on themes for the books. The visits are followed up through correspondence. The book team then puts together a first draft, based on their research journeys and documentary research.



To get a national consensus on the final form of the book, the first draft is widely tested. After this, the books are translated, printed, and distributed. Workshops are used as a vehicle for testing and distribution. Participants learn how to use the books effectively and to create their own media on local themes not covered in the books.

### *Principles*

There are five principles that guide community publishing.

- **The process is as important as the product**

The books are not only produced for training, but book production is an essential part of training.

- **Method should reinforce content**

We not only write about democratic organization, but practice democracy in producing the books.

- **Two-way communication**

Readers are active participants and contributors rather than passive recipients. Visits, workshops and correspondence facilitate two way communication.

- **Accessibility**

Basing the program on village community workers ensures that the books will be available in every village and accessible in terms of language level.

- **Decentralization and coordination**

At the national level, books are on national themes, with contributors from all fifty-five districts. At the local level, production of local media on local issues is encouraged.

The Community Publishing Program uses participatory methods because democracy promotes the quality and popularity of our books while it prepares our participants to take



up leadership roles in society. Participatory methods are *generative* and in keeping with our aim of promoting creativity. In the end, what convinces people is the experience of these methods, not rhetoric. We have seen that workshops using these methods mobilize people for change, for they offer participants a positive experience and a taste of what the future should be like. Unfortunately, participatory methods are not yet widely practiced in Zimbabwe, and this blocks development in every sector.



## Products of Community Publishing

### *People*

Our main product is **people**. As we said in our earlier books, development is not about projects, it is about building people, so they can build a future for themselves... Development is the change of relationships between people... Development is about enabling people to take control of their lives. The end product of development is people—knowing what they want and getting it.

### *Books*

As a way of developing people we use books, which are of two types. **National books** are coordinated by the National Development Book Team. Four national books have been or are being produced through this method.

*Let's Build Zimbabwe Together*, published in 1989, is a community development manual about building strong democratic organizations at village and ward level.

*Building Wealth in our Villages*, published in 1990, is about economic development.

*Building Whole Communities*, to be published in 1992, is still in the production stage.

*An Introduction to Co-operatives for Youth*, is in the planning stage.

Reading needs have been researched, and three more titles are planned, including a book on *civics*, and a book on *how to produce a book*, using community publishing methods.

**Local books** are coordinated by local book teams. Three such teams were selected in some remote and underdeveloped parts of Zimbabwe (Chipinge District, Chegutu District and Mashonaland Central Province) where they are working on their own books about the development of their areas. In addition, eight provincial book teams are working on technical pamphlets about community and cooperative development. All are using community publishing methods.

*Building Whole Communities*, our third book, is the most relevant one to people working on women's rights. It developed in a similar way to the early books, but we greatly expanded the number of people and agencies involved. At every stage we worked in an integrated way with women and men in communities and different development agencies.

For the first time we asked participants to actually write their contributions. The rural response was overwhelming and we received hundreds of stories, poems and drawings, mainly by village community workers. As a result, *Building Whole Communities*, which will be launched through nationwide workshops in 1992, became larger than our earlier books. With contributions from about two thousand people, it has seven volumes and more than six hundred pages covering all aspects of women's lives:

- Volume 1    *An Introduction to Women in Development*  
(Introduction and a chapter on history)
- Volume 2    *Women's Economic Situation Part One*  
(Overview, Agriculture, Employment, Self-Employment)
- Volume 3    *Women's Economic Situation Part Two*  
(Domestic work, Environment, Living Conditions, Health)

- Volume 4 *Women's Social and Cultural Situation*  
(Education, Media, The Family, Culture  
Tradition and Religion)
- Volume 5 *Women's Legal and Political Situation*
- Volume 6 *Women With Special Needs* (Disabled Women,  
Elderly Women, Young Women, Prostitution)
- Volume 7 *Organizing for the Future*

Each chapter is designed to be both confidence-building and problem-posing. We begin with achievements, then deal with problems, and finally strategies and action planning. For each of the many problems raised in the book, we provide readers a framework for combining economic, social and cultural, and political and legal aspects in devising effective strategies for dealing with the problem.

### **Response to the Community Publishing Program**

The program is still new but the initial response to it has been very encouraging. Although we have had lots of problems (mainly transportation, insufficient numbers of books, and overwork), in every way the outcome of the program has been better than we anticipated. The program is very popular in rural Zimbabwe, and the books have had a much wider readership than the target readership. They are read not only by local leaders and grassroots development workers, but by policy makers, researchers, donors and international readers. The Community Publishing Network is expanding with every book. The decentralization of the program and the transference of skills and responsibility has occurred even faster than we had hoped, and local book teams and local books are mushrooming. The program is not only building confidence and skills, but dealing with the much deeper human need for recognition, meaning, creativity, belonging, and fulfillment.

An evaluation of the Community Publishing Program, done with 100 rural participants in 1989, shows the kind of impact the program is beginning to have. Words used most frequently by participants in the review were "happy," "honored," "confident," "stimulated," and "fulfilled."

Other comments included:

"I really feel great. I feel I am contributing to the writing of books geared toward transforming society."

I feel contented, fulfilled, satisfied... I also have something I know that motivates and mobilizes communities."

"I feel happy, and by contributing to the books I feel honored locally and nationally. The books have really changed my work situation and life since now I have seen the barriers to development in my area and how to deal with them."

"The way these books have helped us as communities is very important. They have changed our attitudes and working style. These books were an eye opener to the community leaders and to us as development workers."

"The books have given me the confidence to be myself."

"The books have given us courage."

"The program has made human problems at my workplace (a village development committee and a school) easier to solve."

"It has been a challenge and a golden opportunity. The books have really opened up our intellectual horizons."

"In this program we practice democracy at its maximum."

"It is really very challenging to be involved in the building up of the program. It is a pride to see your contribution being used locally as well as nationally. The books have given us direction. We now know where to go and what to do."

"We see the whole nation contributing to the program. The books then belong to the whole people."

"The CPP (Community Publishing Program) will greatly assist in the development of Zimbabwe socially, economically and politically."



"The books improve the working standards of development workers and the community at large. An improved rural Zimbabwe can be built out of this."

"The forthcoming generation in Zimbabwe is not going to sweat over development programs."

"The CPP should be an everlasting program. The books will bring about a precise direction toward success."

"The CPP will become the fastest most effective way of spreading any ideas or messages nationally."

"The books will raise the awareness of the people at the top, and help them improve their attitudes."

"The CPP helps everyone to understand his/her rights, so that there can be effective participation for everybody. If the program can continue to grow, in the future in our area, there will be no more poverty and suicide because everyone will be satisfied."

## **The Legal Dimension in Women's Lives**

Community publishing offers a methodology for empowering people to take charge of their own lives and build a future based on new roles and new relationships. Since the purpose of legal literacy is empowerment, this methodology has many implications for developing women's awareness of the law and the skills they need to participate in defining or defending their rights. Unfortunately, many well-intentioned efforts related to women and the law have not used empowering methods or principles. Here is a case study that demonstrates how disastrous the "top down" approach can be when used with law.

The Legal Age of Majority Act (LAMA) was introduced in 1982 to grant black women majority status when they turned eighteen. Although the law was clearly intended to benefit women, it was introduced with insufficient research and consultation. As a consequence, many women rejected it and most of the population was very confused about it. To make matters worse, several agencies produced legal education materials on LAMA, again using top down methods. Some rural communities were so angry about these pamphlets that they burned them. They had cost thousands of dollars to produce, yet by excluding

the target readership from planning, researching, writing and testing the pamphlets, the well-intentioned materials ended up being expensive mistakes. Fortunately, more agencies are now rapidly learning the importance of participatory methods.

The following cartoon illustrates what rural communities are saying about LAMA and the new maintenance provisions. It is based on the results of our meeting in 1989, attended by 700 people.

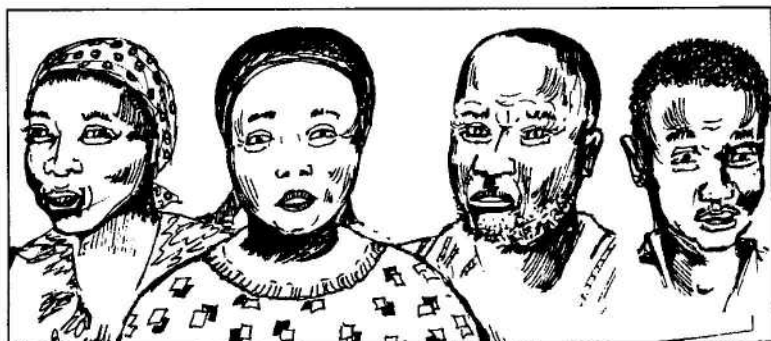
"The new laws have helped us a lot. They have raised women up the ladder. We would like to thank our men for accepting these laws."

"I don't agree. The new equal rights laws are a threat to our society. They have led to increased marriage breakdown and prostitution."

"The new laws provide some protection for women, but some women have misinterpreted and abused their new rights. Whatever we get we should use responsibly. "Some men are also misinterpreting equal rights, for example they leave a pregnant woman standing on a bus while they are seated."

"Many people fail to accept women's new legal situation or misinterpret it. Not enough research and consultation was done concerning the new laws, so people feel they are an imposition (something that was forced on them)."

"We don't understand these new laws. They are very confusing. What makes it harder is that there are two kinds of law in Zimbabwe, new laws and old laws. So which laws are we supposed to follow, for example, when we are getting married?"



"Maintenance has reduced divorce country wide. Irresponsible men can no longer reject their children. Maintenance has reunited husbands and wives."

"Maintenance benefits some women, but goes against others. If a man working in town has to pay maintenance for the child of his urban girlfriend, the rural wife at home gets left with nothing for her children."

"The legal Age of Majority Act has been difficult for most people. Parents complain that they weren't prepared for this law. Yet without this law, the situation of women in all spheres would never have improved."

"This law should be revised because it is affecting us negatively as parents. We no longer know whether our children belong to us or not. Raising a child from babyhood to eighteen is no joke. Yet according to this law, if my daughter is spoiled by a boyfriend, we, her parents, are no longer allowed to claim damages for the pregnancy. She might be too young to stand up for herself in court. Or, if she does succeed in getting the money, her father and I, who struggled to bring her up, will get nothing. Our daughters also have the right to get married without our consent. How can I honor my daughter's marriage, if her husband never paid *lobola* (bride price) to us? What will happen if the marriage breaks down, and she has nowhere to go? Her husband might kill her, and we will only be called when there is a dead body to collect."

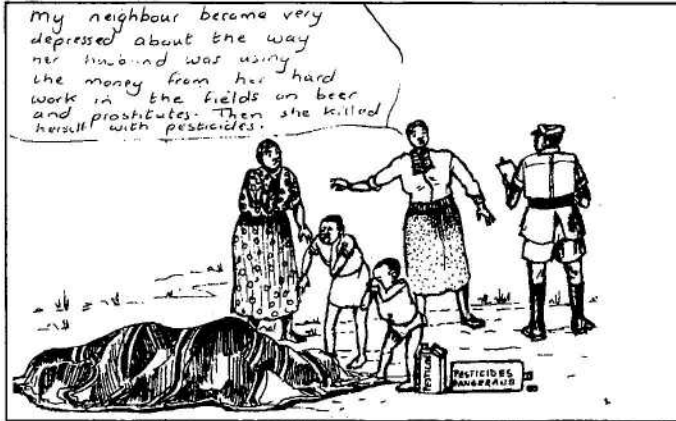
The approach we take to LAMA is to begin with what people are saying about the laws, help them analyze positive and negative aspects of the new laws in relation to their main concerns, and then show them how to implement what they like and agree on, and change what they don't like. Such an approach is functional not just for LAMA, but for any aspect of the law.

Reflecting the holistic approach taken in community publishing, every chapter of the *Building Whole Communities* book touches aspects of the law and echoes the participant's concerns. It also reflects our discovery that it is more effective in our work to focus on **human rights** than on women's rights in an isolated fashion. Here are some of the problems raised in the book. They show that problems are complex and involve many dimensions, only one of which is legal.



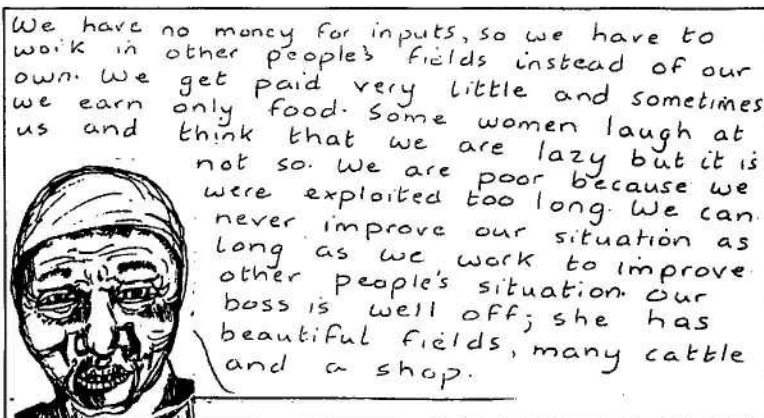
### *Suicide of women farmers*

"My neighbor became very depressed about the way her husband was using the money from her hard work in the fields on beer and prostitutes. Then she killed herself with pesticides."



### *Increasing differences between women farmers in communal areas*

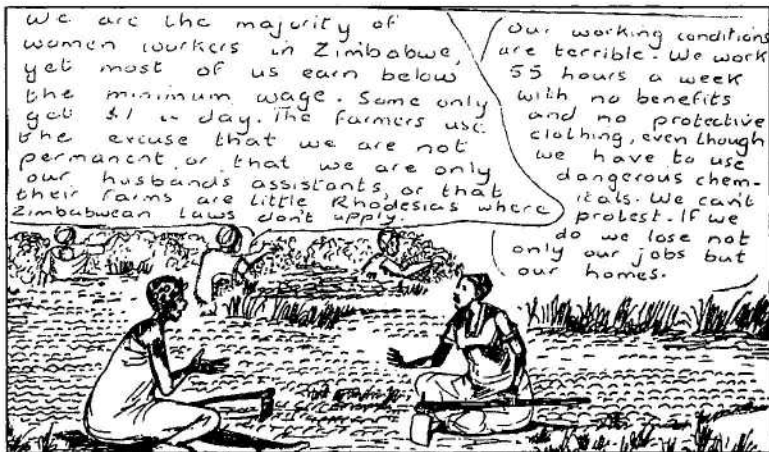
We have no money for inputs, so we have to work in other people's fields instead of our own. We get paid very little and sometimes we only earn food. Some women can laugh at us and think that we are lazy but it is not so . . . We are poor because we were exploited for too long . . . We can never improve our situation as long as we work to improve other people's situation. Our boss is well off, she has beautiful fields, many cattle, and a shop.



### The situation of women farm workers

"We are the majority of women workers in Zimbabwe, yet most of us earn below the minimum wage. Some only get \$1 a day. The farmers use the excuse that we are not permanent, or that we are only our husbands' assistants, or that their farms are 'Little Rhodesias' where Zimbabwean laws don't apply."

"Our working conditions are terrible. We work fifty-five hours a week with no benefits and no protective clothing, even though we have to use dangerous chemicals. We can't protest. If we do we lose not only our jobs but our homes."



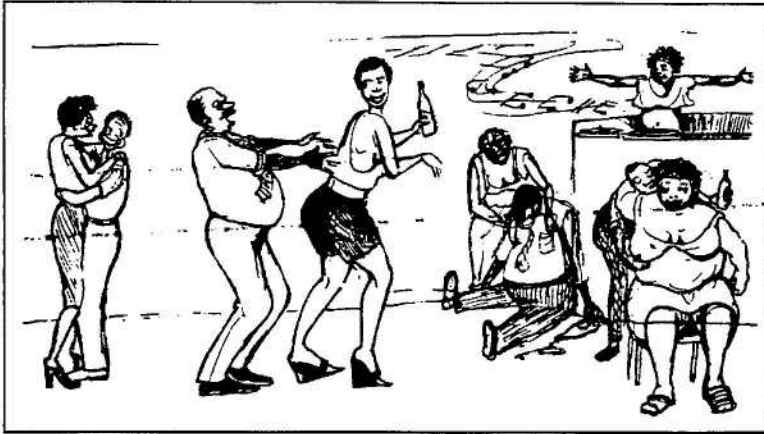
### Child brides

"I am only thirteen and I have to leave school and marry that horrible old man, who has two wives already. What can I do? My father decides everything for me."



(According to the Reproductive Health Survey of 1984, 1140 of the women interviewed had married under the age of 15, and 39 percent between the ages of 15 and 17.)

## *Prostitution*



Another interesting point to note about these problems—all major problems—is that not one development agency or women's organization is dealing with them. The common, top-down approach often fails even to identify problems accurately. Our book is full of problems and information that have never been publicly discussed in Zimbabwe. This is especially true of the chapter on the family, one of the most important chapters in the book. Some rural participants say it is lifting the roof off Zimbabwe and enabling people to see the hidden things that were blocking development, as well as the hidden potential in village women.

## **Lessons from the Experience**

There are many lessons we have learned through community publishing. Although they look simple, they were learned through much struggle. While they relate to community education in the context of development, any program attempting to integrate rights education could benefit from this experience. Some of what we learned has to do with designing a program, some with methods or approaches to education, and some with the content and skills people need to acquire if they are to develop their potential as active participants in the process of positive social change.

### *Choosing the right starting point*

By basing the women's book on village community workers and those they work with, we are able to reach a large proportion of the population. To begin with, the community workers allowed us to obtain a great deal of information from communities across Zimbabwe to develop the book. Now that it is being published, the village community workers will introduce the book to six thousand villages, assuring that the majority of the population will be reached by it and benefit from the process.

In the course of the project, we have been very inspired by the energy, creativity, commitment and intelligence of the village women we worked with. In the past, their capacities were not recognized. As two of our women contributors said: "Tradition did not permit women to show their intellectual strength" (Mrs. Ndlovu, Gwanda); "Exploitation, you swallowed women's wisdom." (Mrs. R. Sibanda, Lupane).

One of the most exciting aspects of post independent Zimbabwe is the emergence of more and more women with a new consciousness. In remote villages in Zimbabwe, women are discovering that they are not only productive farmers and capable mothers, but also community leaders, poets, artists and thinkers. As Mrs. Chitumba from Wedza said when describing the restoration of women's wisdom, "Women's brains have been sharpened. They can now tackle problems as an axe chops wood." Mrs. Dube from Lupane described the new consciousness in the following way: "Women today have got equal rights, they know what is theirs and they are fighting to get it. Women now have the pride of showing that they are equals. This new way of life is very exciting for women."

Choosing the right starting point also involves **starting with people, not things** (as all development begins with intellectual development). However, so often a development program in Zimbabwe begins with a large, expensive, well-furnished office in Harare, with computers, land cruisers and a large staff. Since running a big office is time consuming and expensive, the organization is left without enough energy to really serve its rural clients effectively. The Community Publishing Program began with two people; even now we have only one part-time and four full-time staff persons. For the first four

years we had no office or equipment, and we still have no transport of our own. Yet we have managed to root the program deeply and widely across rural Zimbabwe.

Choosing the right starting point also means **working on a sufficiently large scale to have an impact**. Many women's projects have been too small or too far outside the mainstream to be effective. However, once the project works on a large scale with thousands of people, it is critical at each step to work with a manageable number to allow for two-way communication and maximum participation.

### *Using participatory methods*

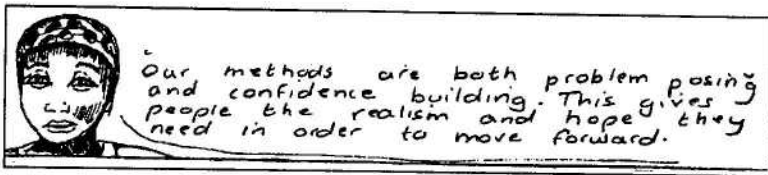
I have already emphasized the importance of this. Our participatory methods are explained in detail in all our books. I just want to add that **the process used should be appropriate to the goals to be achieved**. Too often in history, and in the women's movement, ineffective methods were used and the goals never reached.



### *Recognizing the positive and negative in people and situations*

We train people to recognize the positive and negative in all people and situations, and to build on the positive while dealing with the negative. This helps them to base their development work firmly on reality, rather than on "shallow fashions" and theories which distort much development thinking. Also, organizations and plans that take into account both the worst and best aspects of people and their behavior (including our own), and the seasons (ups and downs) in people's lives, are much stronger. Our methods are both problem-posing and

confidence-building. This gives people the realism and hope they need in order to move forward.



### *Accepting that criticism is essential*

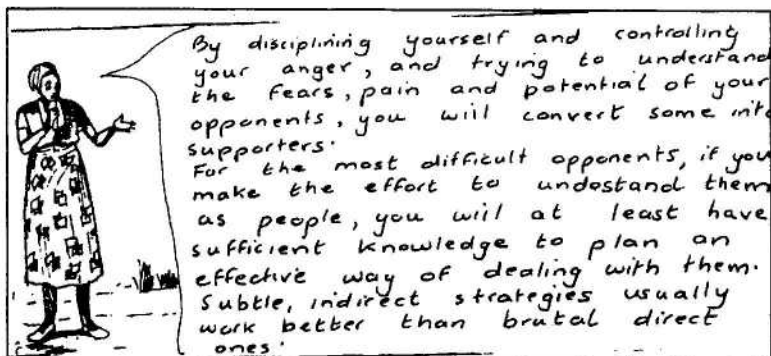
The Community Publishing Program gets a lot of energy from giving and receiving criticism. We teach participants methods of constructive criticism. Encouraging constructive criticism and accepting doubts is one of the main differences between socialization and manipulation (which we analyze in the Culture chapter of our book). Socialization is essential for building a new society, but it is much less widely practiced than manipulation. By socialization we mean enabling people to discover for themselves, search for the truth together, evaluate and act effectively. By manipulation we mean forcing people to think in a particular way, assuming that there is only one truth and one way of doing things, not allowing doubts and criticisms, and expecting passive obedience. By using socialization we avoid the dangerous assumption that "we are always right and they are always wrong. It helps us realize that reality is complex and that there are many different ways of promoting social change. The use of manipulative methods and the refusal to accept criticism have destroyed many potentially good projects, agencies and movements working for social change.

### *Dealing with opposition, problems and conflicts constructively*

We only gain wisdom by learning to deal with increasingly difficult problems. In dealing with opposition, the most useful lesson the book team has learned is that it is necessary to recognize the humanity of our opponents and deal with conflicts humanely. Pure aggression does not help. It often harms the attackers more than the attacked. A drawing from the book summarizes this point.

By disciplining yourself, controlling your anger, and trying to understand the fears, pain and potential of your opponents, you will convert some into supporters. For the most difficult opponents, if you make the effort to

understand them as people, you will at least have sufficient knowledge to plan an effective way of dealing with them. Subtle, indirect strategies usually work better than brutal direct ones.



Our understanding that men are disadvantaged in many ways and internally “wounded,” enabled us to get an extraordinary amount of male support for the women’s book. The same approach helped us convert some unhelpful bureaucrats into useful supporters. So although we have had many problems, our methods have given the program a lot of strength and makes our process unstoppable.

### *Using an inter-agency, inter-sectoral approach*

We work with all the agencies relating to women and development and we focus on women’s communities, relationships and workplaces. We link different sectors and examine the economic, social and cultural, and political and legal aspects of each issue we deal with. This is much more fruitful than concentrating on legal issues, women’s issues and women’s organizations alone.

### *Building unity while acknowledging diversity*

The Community Publishing Program has learned that unity can be built by developing a common vision and shared values, by accepting diversity as stimulating, and by developing individual talents within a common framework. Many rural readers have mentioned that the books have helped to build unity. The CPP district book launching events (with up to 500 local leaders, ranging from village women such as village community workers and project leaders, to extension workers, NGO field workers, church leaders, party leaders, district



counselors and the district administrator, school principals, chiefs and traditional leaders) have been unity building. Many participants said they were the best events they had ever attended.

Unity has to be chosen rather than enforced. The unity building process requires not only tolerance of diversity, but encouragement of it, as reality and social change are so complex and many sided, that a diversity of views on how to reach a common goal can be enriching. Organizations are more willing to work together if they know they can retain their identity and independence, while working for a common purpose. For implementing change and building unity we need to be very clear about who our potential allies are. We also need to know who has not yet made up their minds and who is responsible for making policies on the issues around which we are organizing. We also need to be aware of our potential opponents. Then we can work systematically at building strong, widespread alliances with those who share our views, motivating those not previously involved, reaching the policy makers with well worked out proposals, and dealing with opponents constructively.

Working on women in development is a challenge to all forms of domination in society, since women experience these most deeply. Therefore, the more people and agencies we can get to work against domination and injustice, the better. Links between people working at different levels (e.g., village women, extension workers, researchers, policy makers and donors), are particularly important. Unity building can only work well through a coordinated, decentralized approach.

### *Developing coordination skills*

Different people and agencies have to be convinced that they will gain rather than lose by working together. They need to see that coordination will enable them to do what they are already doing better, and that they have no need to fear that others will "steal" their territory. Several conditions are needed for effective coordination:

- Good group-building skills such as trust-building, shared leadership, listening skills, consensus, etc.
- A clear definition of a common goal (it is easier to collaborate on a particular issue or project than on everything).
- A clear description of roles and tasks.

- Regular two-way communication and well organized meetings when needed.
- An overview of the situation.

Most of these skills can be improved through training. Also, since people and agencies respond with different degrees of energy, commitment and speed, the coordination process should allow time for people to respond in their own way, at their own pace. Finally, it is important for people working on women in development issues to recognize each other's talents, support each other, console and help each other in times of difficulty, share joy and celebrate small achievements, and be aware not only of each other's work, but of each other's lives.

### *Having a long term time frame*

The changes we are working for are deep and difficult, and will take a long time. So while being encouraged at small successes, we need to build up the patience and strength to keep going for many years. This long term approach is still unusual, as many agencies are in a hurry. Village Community Workers in Kezi, in a beautiful song, indicate the approach we should take:

“People are slow to change  
but they do change  
so go slowly  
and they will change.”

### **Final Thoughts**

To sum up, participatory methods are very fruitful. Trust in the intellectual capacity of low income men and women as a great resource for development. Effective programs should give people a taste of what a fuller life, based on enabling relationships, will be like in the future. This includes recognizing the humanity of both supporters and opponents, and dealing with problems, opposition, and conflicts constructively. Finally, women need to be supported as part of communities; all issues are “women's issues,” and law is important, but it is only part of an integrated approach (linking economic, cultural, social, political and legal) that is needed to effectively promote women in development.



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# Index

---

- Action for Development (ACFODE), 143, 145, 148, 150, 153, 156, 260.
- Action Strategies, 204, 205.  
for change, 51, 81.
- Adivasi*, 102, 103, 112.
- Africa:  
Also see: *Ghana, Kenya, Mozambique, Nigeria, Tanzania, Uganda, Zambia, Zimbabwe.*  
law reform in, 254-256, 261.  
legal rights organizing in, 13-14, 249-278.
- African Charter for Popular Participation, 257.
- Alternative law, 34-35, 169.
- Alternative lawyering, 34-35.  
Also see *Legal Services.*
- Alternative legal processes, 108.  
see *Salish*, 236.  
Traditional tribunals, 117.
- Alternative legal services, 166, 167.  
examples of, 167-170.
- Asociación Promoción y Desarrollo de la Mujer* (PRODEMU):  
Association for Women's Promotion and Development, 167.
- Antigua, 91. See *Caribbean.*
- Bangladesh, 229-245.
- Bangladesh Rural Advancement Committee (BRAC), 231.  
evaluation of empowerment by, 38.  
project design, 12, 232.
- Barbados, 79, 90. See *Caribbean.*
- Belize, 77. See *Caribbean.*
- Caribbean, 73-91.
- Caribbean Association for Feminist Research and Action (CAFRA), 6, 73.  
Women and the Law project, 81-89.  
project design, 83.  
problems and constraints of, 88.
- Casa de la Mujer*, 167. See *Alternative legal services.*
- Cases:  
*Achiampong v Achiampong*, 307.  
*All India Democratic Women's Association and Janwadi Samiti: Union of India & Others*, 94.  
*Bentsi-Enchill v Bentsi-Enchill*, 307.  
Bombay Hawkers Union case, 197.  
Jivraj Bidi Case, 197-199.  
*Sareetha V.T. Venkata Subbaih*, 106-107.  
*Smt. Saroj Rani Sudarshan Kumar Chadha*, 107.  
*Sushil Kumar Verma Usha*, 106.
- Centro de la Mujer Peruana Flora Tristán* (Flora Tristán Peruvian Women's Center), 169.
- Center for Women's Training and Research (CICAM), 14, 283, 291-297.
- Cooperatives, 202.  
agricultural workers, 202.  
labor workers, 200, 202.
- Cooperative movement, 191, 192, 203.
- Community based development, 120.  
education, 99, 313-331.  
Also see *Legal literacy.*
- Community counselors, 175.  
Also see *Paralegal.*

- Community publishing program, 313-331. See *Critical awareness, Methodology for empowerment and Teaching techniques*.
- Conscientization: Also see *transformative learning and legal literacy*.  
 Civic education, 274.  
 collective consciousness, 35.  
 Critical awareness, 48, 150.  
 Critical consciousness, 41-42, 100-101.  
 education and, 43.  
 emergence of, 44.  
 feminist consciousness raising, 44-45, 272-273.  
 gender and, 42.  
 methodological aspects of, 45-47.
- Courts, 31, 118. See *Judiciary*.
- Culture:  
 challenging, 272.
- Cultural politics, 23.  
 of gender, 23. See *Critical Literacy*.
- Decade for Women NGO Forum, Nairobi, 141-142.
- DEMUS (Legal Office for the Defence of Women's Rights), 168-169.
- Devadasi*, 104, 105, 112.
- Dominica, 77, 91. See *Caribbean*.
- Education:  
 civic, 275.  
 community and, 53.  
 forming cooperatives, 202-203.  
 gender focused rights strategies and, 52, 65, 273.  
 judges, 15-16, 54, 308-309.  
 lawyers, 120.  
 lay professionals, 54.  
 legal, 249-250.  
 legal professionals and, 9, 54.  
 police, 15-16, 54, 309.  
 public and, 52.  
 Training and technical assistance, 295-296.  
 workers, 203-204.  
 Also see *Conscientization, Legal literacy and Pedagogy*.
- Educators:  
 role of, 7, 12, 47, 97.
- Educational methodology, 16, 313-331.
- Educational interventions, 56.
- Empowering People: Civil Associations and Democratic Development in Sub-Saharan Africa, 257.
- Empowerment:  
 as a collective process, 37.  
 as spectrum of political activity, 37.  
 as a specific goal, 230.  
 aspects/indices of, 38-40.  
 components of, 39-40.  
 economic, 100.  
 framework of, 39.  
 legal literacy as a tool of, 47, 229.  
 methodology for, 320.  
 of women through the law, 1, 96.  
 power as social relations, 37.  
 rights as a tool of, 109.  
 strategies of, 17, 320.  
 tenets of, 229.  
 Also see *Conscientization & Participation*.
- Entitlement, 33. See *Rights*.
- Facilitators:  
 role of, 97, 109.
- Feminist movements: See *Women, Women's movements*.
- FIDA: See *International Federation of Women Lawyers*.

- Gender: See *Women*.  
 consciousness, 102.  
 focused strategy of rights, 56.  
 insensitivity, 15.  
 issues, 74-77, 173.  
 oppression, 109, 110.
- Ghana, 15-16, 301-311.
- Grameen Bank, 38.
- Grenada, 77, 79, 90, 91. See *Caribbean*.
- Group formation: See *Mobilization and Organization*.
- Grupo Mujer de Chiclayo* (Chiclayo Women's Group), 168.
- Home based workers, 197.
- India, 93-111, 189-208.
- Informal sector workers, 199.
- Information, 48, 52, 268. See *Knowledge of laws and Critical Awareness*.
- International Association for Women Lawyers, 143.
- International Federation of Women Lawyers (FIDA), 145-147, 150-154, 157, 260, 262-263.
- Jamaica, 77. See *Caribbean*.
- Judges, 8, 15, 31, 120, 125, 170, 304-307.
- Judiciary, 303-311.
- Justice:  
 women's right to, 121.  
 gender bias in delivery of, 259, 301-303. Also see *Customary laws*.
- Kenya, 60, 254. See *Africa*.
- Labor:  
 issues, 193-194.  
 labor cases, 196-199.  
 movement, 191.
- Law:  
 customary, 26, 142, 251, 278, 304, 308.  
 demystification of, 118.  
 development of parallel, 26-27.  
 family, 75.  
 functions of, 28.  
 gender bias and, 28, 34, 79-80, 259, 301-303.  
 in Africa, 26, 142, 251, 254-256.  
 in Asia, 26.  
 labor, 74-75, 193.  
 knowledge of, 268.  
 limitations of knowledge of law, 22, 97, 229.  
 limits of, 31, 95, 110.  
 need for knowledge of, 229.  
 social values and, 28.
- Lawyers:  
 as agents of legal literacy, 4, 5, 9.  
 as communicators, 133, 169-170.  
 reaction to paralegal, 177.  
 and the rights discourse, 30.  
 and social change, 31, 32.  
 traditional role of, 119.
- Law reform, 94, 254-6, 261. Also see *Lobbying*.
- Legal aid:  
 clinics, 83, 120, 130.  
 nonstrategic, 60.
- Legal awareness programs, 235-238.
- Legal defense work, 165, 166, 167. Also see *Legal services*.
- Legal education, 201, 240, 249-250, 267, 268, 274.  
 for judges, 120. Also see *Judges*.  
 for lawyers, 120.
- Legal Literacy:  
 agents of, 5, 9. Also see *Lawyers, Educators, Organizers, Paralegal*.  
 approaches to legal literacy in:



- Africa, 7-8, 139-159, 258-267.  
 Bangladesh, 231-241.  
 Caribbean, 81.  
 India, 6-7, 10-11, 99-111.  
 Mexico, 14.  
 Peru, 9, 10.  
 Sri Lanka, 8-9, 123-132.  
 as a strategy for empowerment, 36, 96, 230.  
 as planned educational process, 49-55, 98. Also see *Education* and *Pedagogy*.  
 as transformative learning, 40-41.  
 connection between literacy and, 21-22.  
 community and, 53.  
 critical consciousness and, 49, 101.  
 critical literacy, 23.  
 critique of legal literacy programs:  
   Bangladesh, 235-238.  
   Peru, 179-186.  
   Sri Lanka, 132-137.  
   Uganda, 150-154.  
 definition of, 2, 36.  
 deprofessionalization of, 9.  
 developmental approach to, 99-101.  
 effective approaches to, 37, 57-58.  
 feminist approach to, 97-98.  
 information-giving approach to, 101-106.  
 lawyers approach to, 57, 64-65.  
 legal professionals and, 9, 54.  
 levels of, 231.  
 parameters of, 2.  
 perspectives of, 22, 96.  
 political organizing and, 4, 13.  
 political process and, 36.  
 political role of, 48.  
 problems with, 230.  
 processes of, 37.  
   programmatic aspect of, 5.  
   theory of, 96.  
   women and, 36, 121-123.  
 Legal profession:  
   deprofessionalizing the, 35.  
 Legal resources, 34-35, 165, 212.  
 Legal services:  
   deprofessionalizing, 35.  
   traditional, 9.  
 Legal strategies, 33-34.  
 Legal training, 173-175.  
 Legislation:  
   Bidi and Cigar Workers Act, 197.  
   Dowry Prohibition Act & succeeding acts, 93.  
   Indian Forests Act, 102.  
   Indian Penal Code, 93.  
   Intermeddlers Ordinance, 118.  
   Intestate Succession Law: Ghana, 308.  
   Judicature Act, 142.  
   Karnataka Devadasi Act, 102.  
   Law of Marriage and Divorce (Kenya), 254.  
   Legal Age of Majority Act (Zimbabwe), 16, 255, 320-322.  
   Succession Act, 142.  
 Litigation, 31, 194-200, 204.  
   social change through, 31.  
   See *Action strategies* and *Cases*.  
 Lobbying, 277. See also *Law reform*.  
 Methodology, 173, 215-218, 222-223, 225.  
   See *Teaching techniques* and *Community Publishing*.  
 Mexico, 14, 283-297.  
 Mobilization: 14, 275.  
   grass roots, 35.  
   See *Organizing*.

- political perspective on, 32.  
problems with, 95.  
reproductive, 269, 270, 294.
- Salish*, 236.
- Self-Employed Women's  
Association (SEWA), 191-208.
- Social change, 29.  
political perspectives on, 32.  
consciousness and, 35.
- South Africa, 264-265. *See Africa*.
- Sri Lanka, 8, 117-137.
- Strategies:  
strategic issues, 268-272.  
strategic planning, 268.  
in CAFRA, 6, 83-87.  
in Uganda, 150-151.  
women's movement in  
India, 94.
- St. Croix, 77. *See Caribbean*.
- St. Lucia, 77, 79, 91. *See Caribbean*.
- St. Vincent, 79, 91. *See Caribbean*.
- Teaching materials, 16, 123-128,  
239-241, 313-331.
- Teaching techniques, 101-111.
- Transferring skills, responsibility,  
318.  
Also see *Community publishing program, Educational methodology and Pedagogy*.
- Trade Unions, 189, 191, 194, 203.
- Traditional legal services, 166.
- Traditional tribunals, 117.
- Trinidad and Tobago, 77, 90 91.  
*See Caribbean*.
- Uganda, 139-158, 258-260.
- UN Convention on the  
Elimination of All Forms of  
Discrimination Against  
Women, 215-216.
- UN Decade for Women, 33, 212.
- Unions, 203-204.  
absence of, 75.  
recognizing informal sector  
workers, 203.
- Women:  
ideological domination of,  
164.  
important issues facing,  
193-194.  
justice for, 259.  
law and the subordination  
of, 24-28, 34.  
legal problems of, 193-194.  
proactive social agents, 1.  
subordination of, 24, 78.  
violence against, 76-77, 194,  
324.  
workers, 74-75, 190, 194, 197.
- Women's movements:  
in India, 93, 111, 192.  
in Mexico, 283-291.  
through SEWA, 191.
- Women's rights:  
as an aspect of human  
rights, 121.  
in law, 25.  
strategy, 52.  
to justice and equality, 121.
- Women's status:  
attitudes towards, 24.  
in Africa, 15, 251-256, 261,  
301-308.  
in Asia, 94, 241-243.  
in law, 25.  
in society, 24, 35.
- Women in Law and  
Development in Africa  
(WiLDAF), 262, 265,  
266, 278.
- Zambia, 261-262.
- Zimbabwe, 16, 255-256, 265-267.

- Movimiento Manuela Ramos*  
(Manuela Ramos  
Movement) 168.
- Mozambique, 265.
- Nairobi Women's Conference, 1,  
141, 212.
- National Resistance  
Movement, 143, 148, 258.
- Nongovernment organizations  
(NGO's) 120, 133, 257.  
political role of, 122-123.  
Also see *Women's movement*  
and *Alternative legal*  
*services*.
- Networking, 134, 154, 278.  
regional, 278. Also see  
*CAFRA*, 88-90.
- Organization: See *Mobilization*.  
leadership and, 276-277.  
women's, 178-179, 257,  
266-267, 277.
- Organizing, 263, 272.
- Organizers, 9, 275.
- Paralegal:  
and the State, 179.  
community paralegal, 35,  
58-63, 274.  
development of, 10, 11, 12.  
different concepts of, 59-60,  
208.  
in Peru, 60, 163, 170-171,  
175-177.  
in Philippines, 60, 209,  
218-222.  
in SEWA, 9, 60, 194,  
198-199, 205-207.  
problems faced by, 180-186.  
reactions to, 177.  
training of, 10, 61-62.  
as communicators, 118, 274.  
as educators, 12.  
as teachers, 231, 238.  
value of, 60.
- Paralegal programs:  
content of, 62.  
Evaluation of, 241-245.  
in Bangladesh, 12, 231,  
232-238  
in India, 205-207.  
in Peru, 9-10, 171-175.  
in the Philippines, 213-218.
- Participation: See *Mobilization*.
- Participatory methods, 83,  
240-241, 293.  
processes, 176.  
evaluation of, 241-245, 294.  
See *Teaching techniques*.
- Pedagogy, 22, 96, 97.
- Peru, 163-187.
- Peru Mujer, 169-178, 185-186.  
Also see *Alternative legal*  
*services*.
- Philippines, 209-227.
- Pilipina Legal Resources Center  
(PLRC), 11, 209, 211.
- Popular education, 8, 10, 172.
- Pueblos jóvenes*, 17, 164, 169, 186.
- Puerto Rico, 77, 90. See  
*Caribbean*.
- Research, 73, 81, 128-129, 293-294.
- Rights:  
as a political resource, 32-33.  
as a strategy, 110.  
as a tool for empowerment,  
109.  
discourse, 29, 30, 31, 94-95.  
economic, 269, 270.  
judicial remedies for, 31.  
of self-employed workers,  
195.  
of women, 25, 52, 121.  
limits of rights strategy, 30,  
31, 95.  
myth of rights, 31, 32. See  
also *Law, limits of*.  
politics of rights, 32.